

## Council Members

District 1: Terry Graham  
District 2: Charlene McGriff, Vice-Chair  
District 3: Billy Mosteller  
District 4: Larry Honeycutt, Secretary  
District 5: Steve Harper, Chair  
District 6: Allen Blackmon  
District 7: Brian Carnes



**County Attorney**  
John K. DuBose III

**Clerk to Council**  
Sherrie Simpson

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**December 9, 2019**

**6:00 PM**

**101 North Main Street  
Lancaster, SC 29720**

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**LANCASTER COUNTY COUNCIL**  
**County Council Chambers, County Administration**  
**Building, 101 North Main Street, Lancaster, SC 29720**

## **AGENDA**

**1. Call to Order Regular Meeting - Chairman Steve Harper**

**2. Welcome and Recognition - Chairman Steve Harper**

**3. Pledge of Allegiance and Invocation - Brian Carnes**

**4. Approval of the Agenda**

*[deletion and additions of non-substantive matter]*

**5. Special Presentations**

**6. Citizens Comments**

*[Speakers are allowed approximately 3 minutes. If there are still people on the list who have not spoken at the end of thirty (30) minutes, Council may extend the citizen comments section or delay it until a later time in the agenda]*

**7. Consent Agenda**

*[Items listed under the Consent Agenda have previously been discussed by Council and approved unanimously. As such, these items are normally voted on as a group through a single vote rather than with a Council vote for each individual item. However, any Council member may remove any item on the Consent Agenda for individual discussion and vote]*

- a. Minutes from the November 25, 2019 County Council Regular Meeting
- b. Minutes from the November 27, 2019 County Council Special Meeting
- c. 3rd Reading of Ordinance 2019-1622 regarding Amending the Unified Development Ordinance To Require Sketch Plans For Major Subdivisions, Mixed Use Developments and Certain Site Plans  
Ordinance Title: An Ordinance To Amend Ordinance 2016-1442, The Unified Development Ordinance ("UDO"), Chapter 9.2, Review Procedures, To Require Sketch Plans For Major Subdivisions, Mixed Use Developments, And Certain Site Plans. - **Planning Department Case Number: UDO-TA-019-0587. Planning Commission recommended approval by a vote of 7-0. Passed 7-0 at the November 12, 2019 County Council Meeting. Passed 6-0 at the November 25, 2019 County Council Meeting. - Rox Burhans**

- d. 2nd Reading of Ordinance 2019-1631 regarding Authorization of a Fee Agreement with Project Boom

Ordinance Title: An Ordinance To Authorize The Execution And Delivery Of A Fee Agreement By And Between Lancaster County And Project Boom Providing For The Payment Of A Fee-In-Lieu Of Taxes And The Provision Of Special Source Revenue Credits; And To Express The Intention Of Council To Provide Monies To The Economic Development Fund. - ***Passed 6-0 at the November 25, 2019 County Council Meeting. - Jamie Gilbert***

8. **Non-Consent Agenda**

- a. Resolution 1077-R2019 regarding Authorizing the Acquisition of Self Contained Breathing Apparatus

Resolution Title: A Resolution to Authorize County Staff to Acquire Self Contained Breathing Apparatus Pending Adoption of a Budget Amendment Ordinance; And Other Matters Related Thereto. - ***(Positive Recommendation - Administration Committee). (Favorable Recommendation - Public Safety Committee). - Steve Willis***

- b. Resolution 1078-R2019 regarding Amending The Employee Substance Abuse And Testing Policy to Include CBD Products

Resolution Title: A Resolution To Amend The Lancaster County Employee Substance Abuse And Testing Policy To Update County Policy Regarding The Use Of Medical Marijuana, Cannabidiol (CBD), And Similar Products - ***(Positive Recommendation - Administration Committee). - Alison Alexander***

- c. 3rd Reading of Ordinance 2019-1620 regarding Amending the Unified Development Ordinance to Permit Three & Four Family Dwellings

Ordinance Title: An Ordinance To Amend Ordinance 2016-1442, The Unified Development Ordinance ("UDO"), Chapter 2.4, District Development Standards; Chapter 4, Aviation Overlay; Chapter 5, Use Regulations; Chapter 7.2.4, Parking; And Chapter 10, Definitions, To Allow Three Family (Triplex) Dwellings And Four Family (Quadraplex) Dwellings As Permitted Dwelling Unit Types. - ***Planning Department Case Number: UDO-TA-2019-0517. Planning Commission recommended approval by a vote of 7-0. Passed 6-0-1 at the November 12, 2019 County Council Meeting (Recusal by Steve Harper). Passed 5-0-1 at the November 25, 2019 County Council Meeting (Recusal by Steve Harper). - Rox Burhans***

- d. 3rd Reading of Ordinance 2019-1621 regarding Rezoning Property Owned by MG Williams Limited Partnership located on McIlwain Road

Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County To Rezone A 1.18 Acre Tract Of Property Owned By Cane Mill Associates Of Elgin, LP And Located East Of McIlwain Road, Lancaster, South Carolina (TMS # 0087-00-096.05) From NB, Neighborhood Business District, To PB, Professional Business District. - ***Planning Department Case Number: RZ-019-0231. Planning Commission recommended approval by a vote of 7-0. Passed 6-0-1 at the November 12, 2019 County Council Meeting (Recusal by Steve Harper). Passed 5-0-1 at the November 25, 2019 County Council Meeting (Recusal by Steve Harper). - Rox Burhans***

- e. 3rd Reading of Ordinance 2019-1623 regarding Amending the Unified Development Ordinance To Expand the Availability Of Development Agreements For Land Development Projects

Ordinance Title: An Ordinance To Amend Ordinance 2016-1442, The Unified Development Ordinance ("UDO"), Chapter 4 And Chapter 9 To Expand The Availability Of Development Agreements For Land Development Projects - ***Planning Department Case Number: UDO-TA-019-0596. Planning Commission recommended approval by a vote of 7-0. Passed 7-0 at the November 12, 2019 County Council Meeting. Passed 6-0 at the November 25, 2019 County Council Meeting. - Rox Burhans***

- f. 3rd Reading of Ordinance 2019-1624 regarding Amending the FY 2019-2020 Budget

Ordinance Title: An Ordinance To Amend Ordinance No. 2019-1594, Relating To The Appropriation Of Funds And The Approval Of A Detailed Budget For Lancaster County For The



Fiscal Year Beginning July 1, 2019 And Ending June 30, 2020 (FY 2019-2020), To Further Provide For Revenues And Expenditures During The Fiscal Year; And To Provide For Matters Related Thereto. - ***(Positive Recommendation - Administration Committee). Passed 4-2 at the October 28, 2019 County Council Meeting (Terry Graham and Billy Mosteller opposed). Passed 4-3 at the November 12, 2019 County Council Meeting (Brian Carnes, Terry Graham and Billy Mosteller opposed). At the November 25, 2019 County Council Meeting, Council deferred the 3rd Reading of the Ordinance until December 9, 2019. - Steve Willis***

- g. Public Hearing will be held; however, 3rd Reading of Ordinance 2019-1626 will be Postponed (Authorization of a Fee Agreement with Project Dumping)

Ordinance Title: An Ordinance To Authorize The Execution And Delivery Of A Fee Agreement By And Between Lancaster County And Project Dumping Providing For The Payment Of A Fee-In-Lieu Of Taxes And The Provision Of Special Source Revenue Credits; To Authorize A Ten-Year Extension Of The Term Of An Existing Fee Agreement; And To Express The Intention Of Council To Provide Monies To The Economic Development Fund. - ***Passed 7-0 at the November 12, 2019 County Council Meeting. Passed 6-0 at the November 25, 2019 County Council Meeting. - Jamie Gilbert***

- h. Public Hearing and 3rd Reading of Ordinance 2019-1627 regarding Authorizing the First Amendment to the Special Source Revenue Credit Agreement for Synergy Steel Holdings, Inc., and Golden Spike, LLC

Ordinance Title: An Ordinance To Authorize The Execution And Delivery Of The First Amendment To The Special Source Revenue Credit Agreement, By And Among Lancaster County, Synergy Steel Holdings, Inc., And Golden Spike, LLC. - ***Passed 7-0 at the November 12, 2019 County Council Meeting. Passed 6-0 at the November 25, 2019 County Council Meeting. - Jamie Gilbert***

- i. Public Hearing and 3rd Reading of Ordinance 2019-1628 regarding Approval of a First Amendment to the Fee Agreement for RV-Imagitas, LLC and Lancaster Real Estate Group, LLC

Ordinance Title: An Ordinance To Authorize And Approve The Execution And Delivery Of A First Amendment To Fee Agreement By And Among Lancaster County, South Carolina, RV-Imagitas, LLC And Lancaster Real Estate Group, LLC So As To Provide For Additional Land For The Project. - ***Passed 7-0 at the November 12, 2019 County Council Meeting. Passed 6-0 at the November 25, 2019 County Council Meeting. - Jamie Gilbert***

- j. Public Hearing and 3rd Reading of Ordinance 2019-1629 regarding Granting an Easement to Comporium Communications

Ordinance Title: An Ordinance To Approve A Right Of Way Agreement Between Lancaster County And Comporium Communications, Providing An Easement To Comporium Communications To Be Located Along Grace Avenue; And To Authorize County Officials To Take Such Actions As Necessary To Effectuate The Purposes Of This Ordinance. - ***Passed 7-0 at the November 12, 2019 County Council Meeting. Passed 6-0 at the November 25, 2019 County Council Meeting. - Steve Willis***

- k. Public Hearing and 3rd Reading of Ordinance 2019-1630 regarding Amending Chapter 7 of the County Code to Adopt Updated Uniform Building Codes

Ordinance Title: An Ordinance To Amend Chapter 7 Of The Lancaster County Code To Adopt Updated Uniform Codes As Mandated By The South Carolina Building Codes Council, To Adopt Certain Permissive Uniform Codes, And To Provide For Other Matters Related Thereto. - ***Passed 6-0 at the November 25, 2019 County Council Meeting. Passed 6-0 at the November 27, 2019 County Council Special Meeting. - John DuBose***

- l. 1st Reading of Ordinance 2019-1632 regarding Rezoning Property Owned By Crossridge Center, LLC

Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County To Rezone A 11.04 Acre Tract Of Property Owned By Crossridge Center, LLC And Located At 8546 & 8574 Charlotte Highway (TMS # 0010-00-056.00 & 0010-00-057.00) From MX, Mixed-Use District, To RB, Regional Business District. - ***Planning Department Case Number: RZ-019-0816. Planning Commission recommended approval by a vote of 7-0. - Rox Burhans***

- m. 1st Reading of Ordinance 2019-1633 regarding Rezoning Property Owned By Ramon J. Salazar  
Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County To Rezone A 3.08 Acre Tract Of Property Owned By Ramon J. Salazar And Located East Of The Intersection Of Kershaw Camden Highway And Lineberger Industrial, Lancaster, South Carolina (TMS # 0081N-0A-017.00) From GB, General Business District, To MH, Manufactured Home District. - ***Planning Department Case Number: RZ-019-0717. Planning Commission recommended denial by a vote of 6-1. - Rox Burhans***
- n. 1st Reading of Ordinance 2019-1634 regarding Amending the Unified Development Ordinance (UDO) To Add Utilities - Class 3 as a Permitted Use In Property Zoned Institutional District (INS)  
Ordinance Title: An Ordinance To Amend Ordinance 2016-1442, The Unified Development Ordinance ("UDO"), To Add Utilities - Class 3 As A Permitted Use In Property Zoned Institutional District (INS) And To Provide Protection For The Continued Operation And Expansion Of Utility Facilities - ***Planning Department Case Number: UDO-TA-019-0953. Planning Commission recommended approval by a vote of 7-0. - Rox Burhans***
- o. 1st Reading of Ordinance 2019-1635 regarding Amending the Unified Development Ordinance (UDO) To Allow Child Daycare and Adult Daycare Facilities in Light Industrial  
Ordinance Title: An Ordinance To Amend Ordinance 2016-1442, The Unified Development Ordinance ("UDO"), To Allow Child Daycare And Adult Daycare Facilities For Six (6) Or More Persons In The Light Industrial District (LI). - ***Planning Department Case Number: UDO-TA-019-0875. Planning Commission recommended approval by a vote of 4-3. - Rox Burhans***
- p. 1st Reading of Ordinance 2019-1636 regarding Rezoning Seven Parcels of Property Owned by Lancaster County Water & Sewer District  
Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County To Rezone Seven (7) Parcels Of Real Property Totaling Approximately 9.28 Acres In Size Owned By Lancaster County Water & Sewer District And Located At River Road, Near 7864 River Road-LCWSO- Sewer Facility, Lancaster, South Carolina (TMS # 0013-00-085.00; TMS # 0013-00-088.00; TMS # 0013-00-88.01; TMS No. 0013-00-088.02; TMS # 0013-00-089.00; TMS # 0013-00-090.00; And TMS # 0013-00-091.00) From LDR, Low Density Residential, MDR, Medium Density Residential, And RN, Rural Neighborhood District, To INS, Institutional District. - ***Planning Department Case Number: RZ-019-0952. Planning Commission recommended approval by a vote of 7-0. - Rox Burhans***

## 9. Discussion and Action Items

- a. Pending Projects Update for New Construction and Major Renovation Projects - Alison Alexander
- b. Appointment to the Construction Board of Appeals
  - Brent Funderburk as an Alternate on the Construction Board of Appeals for a four year term that will expire on 06/30/2023 (4th Term - requires a super majority vote of Council)
- c. Notice of Community Development Block Grant Award for DSS Building Renovation - Steve Willis

## 10. Status of items tabled, recommitted, deferred or held

- a. RECOMMITTED TO PLANNING - 1st Reading of Ordinance 2019-1613 regarding Rezoning Property Owned By Gus and Chrisoula Kanos that is Located at 9330 Charlotte Highway  
Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County To Rezone A 3.00 Acre Tract Of Property Owned By Gus Kanos And Chrisoula P. Kanos - Located At 9330 Charlotte Highway, Fort Mill, SC 29707 (TMS# 0008-00-085.00) From LDR, Low Density Residential District, To GB, General Business District. - ***Planning Department Case Number: RZ-019-0171. Planning Commission recommended denial by a vote of 5-1. The Ordinance appeared on the October 14, 2019 County Council agenda, where it was referred back to the Planning Commission for further consideration and another Public Hearing pursuant to UDO Section 9.2.15.C.2.d.***

- b. HELD - Planning Case Number UDO-TA-0169 - Held at the Request of the Applicant - Ordinance Not Yet Prepared

11. **Miscellaneous Reports and Correspondence**

12. **Citizens Comments**

*[If Council delays until end of meeting]*

13. **Executive Session**

14. **Adjournment**

*Anyone requiring special services to attend this meeting should contact 285-1565 at least 24 hours in advance of this meeting. Lancaster County Council agendas are posted at the Lancaster County Administration Building and are available on the Website: [www.mylancastersc.org](http://www.mylancastersc.org)*

## Agenda Item Summary

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Ordinance # / Resolution #: N/A

Contact Person / Sponsor: Sherrie Simpson/Clerk to Council

Department: County Clerk

Date Requested to be on Agenda: 12/9/2019

**Issue for Consideration:**

Approve or amend the minutes from the November 25, 2019 County Council regular meeting.

**Points to Consider:**

The draft minutes from the November 25, 2019 County Council regular meeting are attached for Council's review and approval.

**Funding and Liability Factors:**

N/A

**Council Options:**

Council can approve or amend the minutes.

**Recommendation:**

Approve the minutes as written.

**ATTACHMENTS:**

Description	Upload Date	Type
Draft Minutes from the 11-25-2019 County Council Regular Meeting	12/5/2019	Backup Material

**Council Members**

District 1: Terry Graham  
District 2: Charlene McGriff, Vice-Chair  
District 3: Billy Mosteller  
District 4: Larry Honeycutt, Secretary  
District 5: Steve Harper, Chair  
District 6: Allen Blackmon  
District 7: Brian Carnes



**County Attorney**  
John K. DuBose III

**Clerk to Council**  
Sherrie Simpson

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**November 25, 2019**

**6:00 PM**

**101 North Main Street  
Lancaster, SC 29720**

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**LANCASTER COUNTY COUNCIL  
County Council Chambers, County Administration  
Building, 101 North Main Street, Lancaster, SC 29720**

**MINUTES**

**DRAFT**

Council Members present at the regular meeting of County Council were Allen Blackmon, Brian Carnes, Terry Graham, Steve Harper, Larry Honeycutt and Billy Mosteller; however, Council Member Charlene McGriff was absent from the meeting. Also present at the meeting were County Administrator Steve Willis, Deputy County Administrator Alison Alexander, County Attorney John DuBose, acting Deputy Clerk to Council Angie Estridge, Planning Director Rox Burhans, Chief Financial Officer Veronica Thompson, Budget Analyst Kim Belk, various Department Heads, various elected officials, various staff, the press and spectators. A quorum of Lancaster County Council was present for the meeting.

The following press were notified of the meeting by e-mail in accordance with the Freedom of Information Act: *The Lancaster News*, *Kershaw News Era*, *The Rock Hill Herald*, Cable News 2, Channel 9 and the local Government channel. The agenda was posted in the lobby of the County Administration Building and also on the county website the required length of time.

**Call to Order Regular Meeting - Chairman Steve Harper**

Steve Harper called the regular meeting of County Council to order at approximately 6:00 p.m.

**Welcome and Recognition - Chairman Steve Harper**

Steve Harper welcomed everyone to the Council meeting. He announced that Councilwoman McGriff was out of town at a Conference. He also announced that the County had a special guest from the town of Heath Springs, Town Administrator Jason Truesdale.

**Pledge of Allegiance and Invocation - Billy Mosteller**

Billy Mosteller led the Pledge of Allegiance to the American Flag and delivered the Invocation.

**Approval of the Agenda**

Brian Carnes moved to approve the agenda. The motion was seconded by Terry Graham.

Terry Graham moved to amend the agenda and defer **Item 8d.**, as listed in the agenda packet and which is,

the **3rd Reading of Ordinance 2019-1624**, until the December 9, 2019 Council meeting. The motion was seconded by Billy Mosteller. The motion to amend the agenda and defer the 3rd Reading of Ordinance 2019-1624 until the December 9, 2019 Council meeting passed by a vote of 6-0.

Council approved the agenda as amended by a vote of 6-0.

**DRAFT**

### **Special Presentations**

David Irwin, Certified Public Accountant (CPA) from Mauldin & Jenkins, LLC, presented an overview of the results of Lancaster County's audit for the fiscal year ended June 30, 2019. The Comprehensive Annual Financial Report For the Fiscal Year Ended June 30, 2019 For Lancaster County, South Carolina has been attached as Schedule A to the written minutes in the Clerk to Council's office and can be found on the Lancaster County website at [www.mylancastersc.org](http://www.mylancastersc.org). David Irwin reviewed a handout entitled, "Auditor's Discussion & Analysis (AD&A) Financial & Compliance Audit Summary June 30, 2019," which summarized the audit results and is attached as Schedule B to the written minutes in the Clerk to Council's office. He also provided a handout entitled, "To The Members of the Lancaster County Council, Lancaster, South Carolina," which is attached as Schedule C to the written minutes in the Clerk to Council's office. Steve Willis noted, for the record, that the audits are on the Lancaster County website.

### **Citizens Comments**

There were no citizens who signed up for nor came forward to speak during Citizens Comments.

### **Consent Agenda**

Billy Mosteller moved to approve Consent Agenda Item **7a., 7b., 7c., 7d. and 7e.** (*as listed in the agenda packet, which are the same as Item a., Item b., Item c., Item d. and Item e. below*). The motion was seconded by Brian Carnes. Council approved Consent Agenda Items **a., b., c., d. and e.** below by a vote of 6-0.

**a. Minutes from the November 12, 2019 County Council Regular Meeting**

**b. 2nd Reading of Ordinance 2019-1626 regarding Authorization of a Fee Agreement with Project Dumping**

Ordinance Title: An Ordinance To Authorize The Execution And Delivery Of A Fee Agreement By And Between Lancaster County And Project Dumping Providing For The Payment Of A Fee-In-Lieu Of Taxes And The Provision Of Special Source Revenue Credits; To Authorize A Ten-Year Extension Of The Term Of An Existing Fee Agreement; And To Express The Intention Of Council To Provide Monies To The Economic Development Fund.

**c. 2nd Reading of Ordinance 2019-1627 regarding Authorizing the First Amendment to the Special Source Revenue Credit Agreement for Synergy Steel Holdings, Inc., and Golden Spike, LLC**

Ordinance Title: An Ordinance To Authorize The Execution And Delivery Of The First Amendment To The Special Source Revenue Credit Agreement, By And Among Lancaster County, Synergy Steel Holdings, Inc., And Golden Spike, LLC.

**d. 2nd Reading of Ordinance 2019-1628 regarding Approval of a First Amendment to the Fee Agreement for RV-Imagitas, LLC and Lancaster Real Estate Group, LLC**

Ordinance Title: An Ordinance To Authorize And Approve The Execution And Delivery Of A First Amendment To Fee Agreement By And Among Lancaster County, South Carolina, RV-Imagitas, LLC,



And Lancaster Real Estate Group, LLC So As To Provide For Additional Land For The Project.

e. **2nd Reading of Ordinance 2019-1629 regarding Granting an Easement to Comporium Communications**

Ordinance Title: An Ordinance To Approve A Right Of Way Agreement Between Lancaster County And Comporium Communications, Providing An Easement To Comporium Communications To Be Located Along Grace Avenue; And To Authorize County Officials To Take Such Actions As Necessary To Effectuate The Purposes Of This Ordinance.

**DRAFT**

**Non-Consent Agenda**

**Resolution 1075-R2019 regarding Commitment To Enter Into A Fee Agreement With Project Boom**

Resolution Title: A Resolution To State The Commitment Of Lancaster County To Enter Into A Fee Agreement With Project Boom; To Provide The General Terms Of The Fee Agreement Including The Provision Of Special Source Revenue Credits; To Provide That This Resolution Is An Inducement Resolution For Purposes Of The Fee In Lieu Of Tax Simplification Act; And To State The Commitment Of Lancaster County To Place Project Boom Property In A Multi-County Park.

Terry Graham moved to approve Resolution 1075-R2019. The motion was seconded by Larry Honeycutt. Jamie Gilbert reviewed the Resolution, which was detailed in the Agenda Item Summary in the Agenda packet. Council approved Resolution 1075-R2019 by a vote of 6-0.

**Resolution 1076-R2019 regarding Recognizing the Retirement of Sergeant Joel Hinson**

Resolution Title: A Resolution Expressing Appreciation To Sheriff's Animal Control Sergeant Joel Hinson And Authorizing A Gift To Him By Lancaster County Of His Service Sidearm On The Occasion Of His Retirement.

Brian Carnes moved to approve Resolution 1076-R2019. The motion was seconded by Billy Mosteller. Steve Willis reviewed the Resolution, which was detailed in the Agenda Item Summary in the Agenda packet. Council approved Resolution 1076-R2019 by a vote of 6-0.

**3rd Reading of Ordinance 2019-1619 regarding Adoption of the Solid Waste Management Plan**

Ordinance Title: An Ordinance Adopting And Approving The Lancaster County Solid Waste Management Plan As Revised And Set Forth In Exhibit "A" Attached Hereto.

Allen Blackmon moved to approve the 3rd Reading of Ordinance 2019-1619. The motion was seconded by Brian Carnes.

Steve Willis explained that the scrivener's errors had been corrected and that the Ordinance had been updated to change the date of the Plan. He requested that a motion to amend Ordinance 2019-1619 be made to reflect the version of the Solid Waste Plan dated November 25, 2019 as the version to be adopted. Larry Honeycutt stated that he made that motion. The motion was seconded by Billy Mosteller. The motion to amend passed by a vote of 6-0.

Council passed the 3rd Reading of Ordinance 2019-1619 as amended by a vote of 6-0.

**3rd Reading of Ordinance 2019-1624 regarding Amending the FY 2019-2020 Budget**

Ordinance Title: An Ordinance To Amend Ordinance No. 2019-1594, Relating To The Appropriation Of Funds And The Approval Of A Detailed Budget For Lancaster County For The Fiscal Year Beginning July 1, 2019 And Ending June 30, 2020 (FY 2019-2020), To Further Provide For Revenues And Expenditures During The Fiscal Year; And To Provide For Matters Related Thereto.

The 3rd Reading of Ordinance 2019-1624 was deferred to the December 9, 2019 Council meeting during the **Approval of the Agenda**. Please see that section for the specifics regarding the vote on the deferral.



DRAFT

### **Public Hearing and 3rd Reading of Ordinance 2019-1625 regarding Authorizing the First Amendment to the Lease Agreement for Cardinal Health 200, LLC**

Ordinance Title: An Ordinance To Authorize The Execution And Delivery Of The First Amendment To Lease Agreement, By And Between Lancaster County And Allegiance Healthcare Corporation, Now Known As Cardinal Health 200, LLC.

Allen Blackmon recused himself from the discussion and vote on Ordinance 2019-1625. His Statement of Recusal is attached as Schedule D to the written minutes in the Clerk to Council's office. He left the Council Chambers at approximately 6:27 p.m. prior to the discussion of the Ordinance.

Brian Carnes moved to approve the 3rd Reading of Ordinance 2019-1625. The motion was seconded by Terry Graham.

Jamie Gilbert reviewed the Ordinance, which was detailed in the Agenda Item Summary in the Agenda packet. Council did not have any questions for staff.

Steve Harper opened the floor for the Public Hearing for the 3rd Reading of Ordinance 2019-1625 at approximately 6:29 p.m. There were approximately fifteen (15) citizens in attendance during the Public Hearing for Ordinance 2019-1625. No citizens signed up to speak for the Public Hearing and no one came forward to speak when Chairman Harper asked if anyone wanted to speak regarding the Ordinance. Steve Harper closed the Public Hearing at approximately 6:30 p.m.

Council approved the 3rd Reading of Ordinance 2019-1625 by a vote of 5-0-1. Brian Carnes, Larry Honeycutt, Steve Harper, Billy Mosteller and Terry Graham voted to approve the 3rd Reading of Ordinance 2019-1625, no one opposed and Allen Blackmon recused himself from the discussion and vote.

Allen Blackmon came back into Council Chambers at approximately 6:31 p.m. and re-joined the meeting.

### **Public Hearing and 2nd Reading of Ordinance 2019-1620 regarding Amending the Unified Development Ordinance to Permit Three & Four Family Dwellings**

Ordinance Title: An Ordinance To Amend Ordinance 2016-1442, The Unified Development Ordinance ("UDO"), Chapter 2.4, District Development Standards; Chapter 4, Aviation Overlay; Chapter 5, Use Regulations; Chapter 7.2.4, Parking; And Chapter 10, Definitions, To Allow Three Family (Triplex) Dwellings And Four Family (Quadraplex) Dwellings As Permitted Dwelling Unit Types.

Steve Harper stated that he was recusing himself from the discussion and vote for Ordinances 2019-1620 and 2019-1621. His Statement of Recusal for Ordinance 2019-1620 is attached as Schedule E and his Statement of Recusal for Ordinance 2019-1621 is attached as Schedule F to the written minutes in the Clerk to Council's office. He left the Council Chambers at approximately 6:31 p.m. Larry Honeycutt took over as Chair during the time that Steve Harper recused himself from the meeting.

Rox Burhans clarified the fire code requirements for three and four family dwellings and explained that these structures are treated like townhomes and that there are fire separation walls required between the individual units that create two hour fire separation. Council did not have any questions for staff.

Larry Honeycutt opened the floor for the Public Hearing for the 2nd Reading of Ordinance 2019-1620 at approximately 6:33 p.m. There were approximately fifteen (15) citizens in attendance during the Public Hearing for Ordinance 2019-1620. No citizens signed up to speak for the Public Hearing and no one came forward to speak when Larry Honeycutt asked if anyone wanted to speak regarding the Ordinance. Larry Honeycutt closed the Public Hearing at approximately 6:33 p.m.

Allen Blackmon moved to approve the 2nd Reading of Ordinance 2019-1620. The motion was seconded by Billy Mosteller. There was no further discussion. Council approved the 2nd Reading of Ordinance 2019-1620 by a

vote of 5-0-1. Allen Blackmon, Brian Carnes, Larry Honeycutt, Billy Mosteller and Terry Graham voted to approve the 2nd Reading of Ordinance 2019-1620, no one opposed and Steve Harper recused himself from the discussion and vote.

**Public Hearing and 2nd Reading of Ordinance 2019-1621 regarding Rezoning Property Owned by MG Williams Limited Partnership located on McIlwain Road**

Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County To Rezone A 1.18 Acre Tract Of Property Owned By Cane Mill Associates Of Elgin, LP And Located East Of McIlwain Road, Lancaster, South Carolina (TMS # 0087-00-096.05) From NB, Neighborhood Business District, To PB, Professional Business District.

Larry Honeycutt opened the floor for the Public Hearing for the 2nd Reading of Ordinance 2019-1621 at approximately 6:34 p.m. There were approximately fifteen (15) citizens in attendance during the Public Hearing for Ordinance 2019-1621. No citizens signed up to speak for the Public Hearing and no one came forward to speak when Larry Honeycutt asked if anyone wanted to speak regarding the Ordinance. Larry Honeycutt closed the Public Hearing at approximately 6:34 p.m.

Rox Burhans explained that Ordinance 2019-1621 had not had any changes. Council did not have any questions for staff.

Terry Graham moved to approve the 2nd Reading of Ordinance 2019-1621. The motion was seconded by Brian Carnes. There was no further discussion. Council approved the 2nd Reading of Ordinance 2019-1621 by a vote of 5-0-1. Allen Blackmon, Brian Carnes, Larry Honeycutt, Billy Mosteller and Terry Graham voted to approve the 2nd Reading of Ordinance 2019-1621, no one opposed and Steve Harper recused himself from the discussion and vote.

Steve Harper came back into Council Chambers at approximately 6:36 p.m. and re-joined the meeting and resumed his duties as Chair.

**Public Hearing and 2nd Reading of Ordinance 2019-1622 regarding Amending the Unified Development Ordinance To Require Sketch Plans For Major Subdivisions, Mixed Use Developments and Certain Site Plans**

Ordinance Title: An Ordinance To Amend Ordinance 2016-1442, The Unified Development Ordinance ("UDO"), Chapter 9.2, Review Procedures, To Require Sketch Plans For Major Subdivisions, Mixed Use Developments, And Certain Site Plans.

Rox Burhans explained that he did not have any new additional information regarding Ordinance 2019-1622. Council did not have any questions for staff.

Steve Harper opened the floor for the Public Hearing for the 2nd Reading of Ordinance 2019-1622 at approximately 6:37 p.m. There were approximately fifteen (15) citizens in attendance during the Public Hearing for Ordinance 2019-1622. No citizens signed up to speak for the Public Hearing and no one came forward to speak when Chairman Harper asked if anyone wanted to speak regarding the Ordinance. Steve Harper closed the Public Hearing at approximately 6:37 p.m.

Terry Graham moved to approve the 2nd Reading of Ordinance 2019-1622. The motion was seconded by Allen Blackmon. There was no further discussion. Council approved the 2nd Reading of Ordinance 2019-1622 by a vote of 6-0.

**Public Hearing and 2nd Reading of Ordinance 2019-1623 regarding Amending the Unified Development Ordinance To Expand the Availability Of Development Agreements For Land Development Projects**

Ordinance Title: An Ordinance To Amend Ordinance 2016-1442, The Unified Development Ordinance ("UDO"),



Chapter 4 And Chapter 9 To Expand The Availability Of Development Agreements For Land Development Projects

Rox Burhans explained that he did not have any new additional information regarding Ordinance 2019-1623. Council discussed Development Agreements.

Steve Harper opened the floor for the Public Hearing for the 2nd Reading of Ordinance 2019-1623 at approximately 6:47 p.m. There were approximately fifteen (15) citizens in attendance during the Public Hearing for Ordinance 2019-1623. No citizens signed up to speak for the Public Hearing and no one came forward to speak when Chairman Harper asked if anyone wanted to speak regarding the Ordinance. Steve Harper closed the Public Hearing at approximately 6:47 p.m.

Billy Mosteller moved to approve the 2nd Reading of Ordinance 2019-1623. The motion was seconded by Brian Carnes. There was no further discussion. Council approved the 2nd Reading of Ordinance 2019-1623 by a vote of 6-0.

### **1st Reading of Ordinance 2019-1630 regarding Amending Chapter 7 of the County Code to Adopt Updated Uniform Building Codes**

Ordinance Title: An Ordinance To Amend Chapter 7 Of The Lancaster County Code To Adopt Updated Uniform Codes As Mandated By The South Carolina Building Codes Council, To Adopt Certain Permissive Uniform Codes, And To Provide For Other Matters Related Thereto.

Larry Honeycutt moved to approve the 1st Reading of Ordinance 2019-1630. The motion was seconded by Terry Graham. John DuBose reviewed the Ordinance, which was detailed in the Agenda Item Summary found in the Agenda packet. Council approved the 1st Reading of Ordinance 2019-1630 by a vote of 6-0.

Steve Willis announced, for the record, that the 2nd Reading of Ordinance 2019-1630 would be held during a Special Meeting of County Council that will be held on Wednesday, November 27, 2019 at 1:00 p.m.

### **1st Reading of Ordinance 2019-1631 regarding Authorization of a Fee Agreement with Project Boom**

Ordinance Title: An Ordinance To Authorize The Execution And Delivery Of A Fee Agreement By And Between Lancaster County And Project Boom Providing For The Payment Of A Fee-In-Lieu Of Taxes And The Provision Of Special Source Revenue Credits; And To Express The Intention Of Council To Provide Monies To The Economic Development Fund.

Billy Mosteller moved to approve the 1st Reading of Ordinance 2019-1631. The motion was seconded by Brian Carnes. Jamie Gilbert reviewed the Ordinance, which was detailed in the Agenda Item Summary found in the Agenda packet. Allen Blackmon asked for several scrivener's errors to be corrected in the documents. Council approved the 1st Reading of Ordinance 2019-1631 by a vote of 6-0.

### **Discussion and Action Items**

#### **Committee Reports:**

Larry Honeycutt reported that the Infrastructure and Regulation (I & R) Committee met on November 14, 2019 and discussed the operation of the Lancaster County Airport and recommended a change in the operating procedures at the Airport. He noted that the County has three (3) options regarding the operations at the Airport and he explained that the I & R Committee recommended operating the Airport as a County Department with an Advisory Board.

Brian Carnes stated that he was on vacation for the Public Safety Committee meeting and so he deferred to Council Member Billy Mosteller for the report. Billy Mosteller reported that the Public Safety Committee met on November 14, 2019 and discussed that the Sheriff's Office received a grant from Palmetto Pride, which was for

information only. He explained that the Committee also had a presentation from the Emergency Management Director Darren Player regarding the potential purchase of Self Contained Breathing Apparatus, which the Committee referred to full Council with a favorable recommendation. He reported that the Committee also reviewed the 2020 Calendar for potential changes.

Brain Carnes reported that the Trail Advisory Committee would not meet again until January of 2020.

Allen Blackmon reported that the Administration Committee meeting began with a monthly budget report from Finance. He explained that the Committee also discussed Project Boom and had a presentation from the Finance Department regarding the Code of Ethics for finance officers. He reported that the Committee also discussed: (1) a potential fee study for Planning and Zoning; (2) the Employee Substance Abuse and Testing policy; (3) potential purchase of the Self Contained Breathing Apparatus, which the Committee referred to full Council with a favorable recommendation; and (4) the 2020 Calendar.

### **Appointments to the Construction Board of Appeals**

- Jerry Carnes as the District 3 Representative on the Construction Board of Appeals for a four year term that will expire on 06/30/2023 (4th Term - requires a super majority vote of Council)
- Chad Catledge as an Alternate on the Construction Board of Appeals for a four year term that will expire on 06/30/2023 (3rd Term - requires a super majority vote of Council)

Billy Mosteller moved to approve the appointments for Item **9b.** and Item **9c.** (*as listed in the agenda packet, which are the same as **Appointments to the Construction Board of Appeals** and **Appointment to the Community Relations Commission***). The motion was seconded by Larry Honeycutt. Brian Carnes noted that Jerry Carnes was not an immediate relative. Council approved the appointments of Jerry Carnes and Chad Catledge to the Construction Board of Appeals and George Sellers to the Community Relations Commission by a vote of 6-0.

### **Appointment to the Community Relations Commission**

- George Sellers as the District 5 Representative on the Community Relations Commission for a four year term that will expire on 06/30/2023 (3rd Term - requires a super majority vote of Council)

Please see **Appointments to the Construction Board of Appeals** for the motions and vote on approving George Sellers as the District 5 Representative to the Community Relations Commission.

### **Adoption of the 2020 Calendar - Meeting and Holiday Schedule for Council, Committees, Boards and Commissions and Advisory Boards**

Allen Blackmon moved to approve the adoption of the 2020 Calendar for the Lancaster County Meeting and Holiday Schedule for Council, Committees, Boards and Commissions and Advisory Boards. The motion was seconded by Terry Graham. Steve Willis noted, for the record, that once adopted, the Calendar would be published in the newspaper as required. Council approved the adoption of the 2020 Calendar for the Lancaster County Meeting and Holiday Schedule by a vote of 6-0.

### **Library Renovations - Budget Approval - Cathy McDaniel**

Cathy McDaniel reviewed and explained the budget and the value engineering for the library renovations, which was detailed in the Lancaster County Library Renovations - Total Estimated Project Budget attachment found in the Agenda. Staff, Council and Chad Catledge of Perception Builders discussed the budget, the shelving for the projects and the roofing for the project. Steve Harper noted, for the record, that Allen Blackmon had vast experience in commercial roofing. Brian Carnes moved to approve the budget as presented with the additional costs of \$213,000 for adding the upgraded roofing back in to the budget. The motion was seconded by Larry Honeycutt. The motion to approve the amended budget with the roof upgrades passed by a vote of 6-0. The amended and updated Lancaster County Library Renovations - Total Estimated Project Budget is attached as



Schedule G to the written minutes in the Clerk to Council's office.

### **Information only regarding Notification of Award for the Palmetto Pride Grant - Steve Willis/Sheriff Barry Faile**

Steve Willis explained that the Sheriff's Office has received a Litter Task Force Grant from Palmetto Pride. He noted that the item was for information only and that no action was needed from Council regarding the grant.

### **Status of items tabled, recommitted, deferred or held**

- a.** RECOMMITTED TO PLANNING - 1st Reading of Ordinance 2019-1613 regarding Rezoning Property Owned By Gus and Chrisoula Kanos that is Located at 9330 Charlotte Highway
- Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County To Rezone A 3.00 Acre Tract Of Property Owned By Gus Kanos And Chrisoula P. Kanos - Located At 9330 Charlotte Highway, Fort Mill, SC 29707 (TMS# 0008-00-085.00) From LDR, Low Density Residential District, To GB, General Business District. - ***Planning Department Case Number: RZ-019-0171. Planning Commission recommended denial by a vote of 5-1. The Ordinance appeared on the October 14, 2019 County Council agenda, where it was referred back to the Planning Commission for further consideration and another Public Hearing pursuant to UDO Section 9.2.15.C.2.d. - Rox Burhans***

This item was not discussed during the meeting. This item was for information only for Council and citizens so that they are aware of the status of the Ordinance.

- b.** HELD - Planning Case Number UDO-TA-0169 - Held at the Request of the Applicant - Ordinance Not Yet Prepared

This item was not discussed during the meeting and was for information only for Council.

### **Miscellaneous Reports and Correspondence**

- a.** Supplemental Local Emergency Management Performance Grant

This item was not discussed during the meeting and was for information only for Council.

### **Citizens Comments**

There were no citizens who signed up for nor came forward to speak during Citizens Comments.

### **Executive Session**

Two Items:

- 1. Economic Development Discussion: Project Magnet. SC Code 30-4-70(a)(5).**
- 2. Discussion of Personnel Matter: Administrator's Evaluation. SC Code 30-4-70(a)(1).**

Brian Carnes moved to go into Executive Session. The motion was seconded by Billy Mosteller. The motion to go into Executive Session passed by a vote of 6-0. Council went into Executive Session at approximately 7:14 p.m. to receive a briefing on an Economic Development Project named Project Magnet, pursuant to South Carolina Code 30-4-70(a)(2), and to discuss a personnel matter, pursuant to South Carolina Code 30-4-70(a)(1).

Brian Carnes moved to come out of Executive Session. The motion was seconded by Allen Blackmon.

Upon returning to open session, John DuBose noted, for the record, that Council discussed an Economic Development Project and that, during that session, no action was taken and no votes were made. He noted that the other matter discussed during Executive Session was a personnel matter involving the County Administrator and so he was not present during that discussion. Steve Harper noted that no votes were taken during Executive Session regarding the Administrator's evaluation.

The motion to come out of Executive Session passed by a vote of 6-0. Council came out of Executive Session at approximately 8:45 p.m.

### Adjournment

Larry Honeycutt moved to adjourn the Council meeting. The motion was seconded by Brian Carnes. The motion to adjourn passed by a vote of 6-0. There being no further business, the regular meeting of Council adjourned at approximately 8:46 p.m.

## Agenda Item Summary

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Ordinance # / Resolution #: N/A

Contact Person / Sponsor: Sherrie Simpson/Clerk to Council

Department: County Clerk

Date Requested to be on Agenda: 12/9/2019

**Issue for Consideration:**

Approve or amend the minutes from the November 27, 2019 County Council Special meeting.

**Points to Consider:**

The draft minutes from the November 27, 2019 County Council Special meeting are attached for Council's review and approval.

**Funding and Liability Factors:**

N/A

**Council Options:**

Council can approve or amend the minutes.

**Recommendation:**

Approve the minutes as written.

**ATTACHMENTS:**

Description	Upload Date	Type
Draft Minutes from the 11-27-2019 County Council Special Meeting	12/3/2019	Backup Material



**Council Members**

District 1: Terry Graham  
District 2: Charlene McGriff, Vice-Chair  
District 3: Billy Mosteller  
District 4: Larry Honeycutt, Secretary  
District 5: Steve Harper, Chair  
District 6: Allen Blackmon  
District 7: Brian Carnes



**County Attorney**  
John K. DuBose III

**Clerk to Council**  
Sherrie Simpson

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**November 27, 2019**

**1:00 PM**

**101 North Main Street  
Lancaster, SC 29720**

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**LANCASTER COUNTY COUNCIL  
County Council Chambers, County Administration  
Building, 101 North Main Street, Lancaster, SC 29720**

**SPECIAL MEETING MINUTES**

**DRAFT**

Council Members present at the special meeting of County Council were Allen Blackmon, Brian Carnes, Steve Harper, Larry Honeycutt, Charlene McGriff and Billy Mosteller; however, Council Member Terry Graham was absent from the meeting. Also present at the meeting were County Administrator Steve Willis, Deputy County Administrator Alison Alexander, Acting Deputy Clerk to Council Angie Estridge, Public Works Director Jeff Catoe and spectators. A quorum of Lancaster County Council was present for the meeting.

The following press were notified of the meeting by e-mail in accordance with the Freedom of Information Act: *The Lancaster News*, *Kershaw News Era*, *The Rock Hill Herald*, Cable News 2, Channel 9 and the local Government channel. The agenda was posted in the lobby of the County Administration Building and also on the county website the required length of time.

**Call to Order Special Meeting - Chairman Steve Harper**

Steve Harper called the special meeting of County Council to order at approximately 1:00 p.m.

**Welcome and Recognition - Chairman Steve Harper**

Steve Harper welcomed everyone to the Council Special meeting.

**Pledge of Allegiance and Invocation - Allen Blackmon**

Allen Blackmon led the Pledge of Allegiance to the American Flag and delivered the Invocation.

**Approval of the Agenda**

Brian Carnes moved to approve the agenda. The motion was seconded by Billy Mosteller. There was no further discussion. Council approved the agenda by a vote of 6-0.

**DRAFT**

### Citizens Comments

There were no citizens who signed up for nor came forward to speak during Citizens Comments.

### Non-Consent Agenda

#### **2nd Reading of Ordinance 2019-1630 regarding Amending Chapter 7 of the County Code to Adopt Updated Uniform Building Codes**

Ordinance Title: An Ordinance To Amend Chapter 7 Of The Lancaster County Code To Adopt Updated Uniform Codes As Mandated By The South Carolina Building Codes Council, To Adopt Certain Permissive Uniform Codes, And To Provide For Other Matters Related Thereto.

Allen Blackmon moved to approve the 2nd Reading of Ordinance 2019-1630. The motion was seconded by Larry Honeycutt. Steve Willis noted, for the record, that there were no changes since the 1st Reading of the Ordinance. Council approved the 2nd Reading of Ordinance 2019-1630 by a vote of 6-0. Steve Harper noted that the 3rd Reading of the Ordinance would be at the December Council meeting.

### Citizens Comments

There were no citizens who signed up for nor came forward to speak during Citizens Comments.

### Adjournment

Larry Honeycutt moved to adjourn the Council meeting. The motion was seconded by Brian Carnes. The motion to adjourn passed by a vote of 6-0. There being no further business, the special meeting of Council adjourned at approximately 1:10 p.m.

## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1622/UDO-TA-019-0587

Contact Person / Sponsor: Ashley Davis / Planning

Department: Planning

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

Chapter 9.2 does not require submittal of a preliminary sketch plan for staff review in advance of a formal site/construction plan submittal. The UDO is also not clear as to if sketch plans are required for mixed-use developments and major subdivisions.

This text amendment proposes adding sketch plans as a requirement for site plans involving properties with over 40,000 square feet of building space. This amendment would also clarify the requirement of sketch plans for all mixed-use developments and major subdivisions (i.e. 6-lots or more).

### **Points to Consider:**

By adding sketch plans as a requirement for site plans involving properties with over 40,000 square feet of building space, and clarifying the requirement of sketch plans for all mixed-use developments and major subdivisions this will enable staff the ability to provide early feedback to developers regarding code compliance issues, which should help speed up the overall permitting process and save money for the developer.

### **Funding and Liability Factors:**

N/A

### **Council Options:**

To approve or deny the text amendment.

### **Recommendation:**

Planning staff recommends **approval** of this text amendment.

Planning Commission voted on October 15, 2019 to **approve** this request by a vote of 7-0.

### **ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1622	11/4/2019	Ordinance
Exhibit A to Ordinance 2019-1622	11/6/2019	Exhibit
Planning Staff Report: Sketch Plans	11/1/2019	Planning Staff Report
Exhibit 1: Application	11/1/2019	Exhibit
Exhibit 2: Proposed Text Amendment	11/1/2019	Exhibit

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STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2019-1622

COUNTY OF LANCASTER

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**AN ORDINANCE**

**TO AMEND ORDINANCE 2016-1442, THE UNIFIED DEVELOPMENT ORDINANCE (“UDO”), CHAPTER 9.2, REVIEW PROCEDURES, TO REQUIRE SKETCH PLANS FOR MAJOR SUBDIVISIONS, MIXED USE DEVELOPMENTS, AND CERTAIN SITE PLANS**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings and Determinations.**

The Council finds and determines that:

- (a) The UDO does not require sketch plans for site plans, and the UDO is unclear as to whether sketch plans are required for mixed use developments and major subdivisions.
- (b) Requiring sketch plans for all mixed use developments, all major subdivisions, and those site plans involving properties with over 40,000 cumulative square feet of building space will allow planning staff more time to review those larger projects and provide greater feedback to developers earlier in the development process.
- (c) Increasing the substantive feedback and communication between planning staff and developers in the early stages of development project review will aid both Lancaster County and developers by reducing the number of outstanding, conditional requirements for approval that currently exist on certain development projects presented for consideration to the Planning Commission and to County Council.
- (d) Sound planning principles advocate that major subdivisions, mixed use developments, and development projects involving large site plans undergo a more thorough review in the early stages of the development process so that those projects are more fully conceived when considered by the Planning Commission and by County Council.

**Section 2. Amendment of Ordinance 2016-1442**

Ordinance 2016-1442 (Unified Development Ordinance) Chapter 9.2, Review Procedures, is amended as set forth on Exhibit “A” attached hereto.

**Section 3.      Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 4.      Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 5.      Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading:            November 12, 2019  
Second Reading:        November 25, 2019  
Public Hearing:           November 25, 2019  
Third Reading:          December 9, 2019

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

## D. NEIGHBORHOOD MEETING

Neighborhood meetings are optional, but may be encouraged by the Administrator for certain applications prior to any public hearing or review by a board or commission. Neighborhood meetings allow the applicant to explain the proposed project and hear the concerns of the neighborhood. A summary of the meeting in the form of meeting notes or minutes along with a list and contact information for all attendees may be submitted to the Administrator and/or the appropriate board or commission for their review. Lancaster County is not responsible for organizing or coordinating such neighborhood meetings.

### 9.2.5 APPLICATION REQUIREMENTS

The following general standards for various applications are intended to require only that data/information necessary to render an informed decision by the reviewing agency. The County has determined that it is unnecessary to require a full set of architectural or engineering drawings for review by the various review and decision-making boards unless the application is such that a specific level of detail is necessary (e.g., floodplain/stormwater variance). The "Application Submittal Requirements" list on file in the Planning Department is intended to provide further guidance to applicants as to the necessary level of detail for each application component listed below.

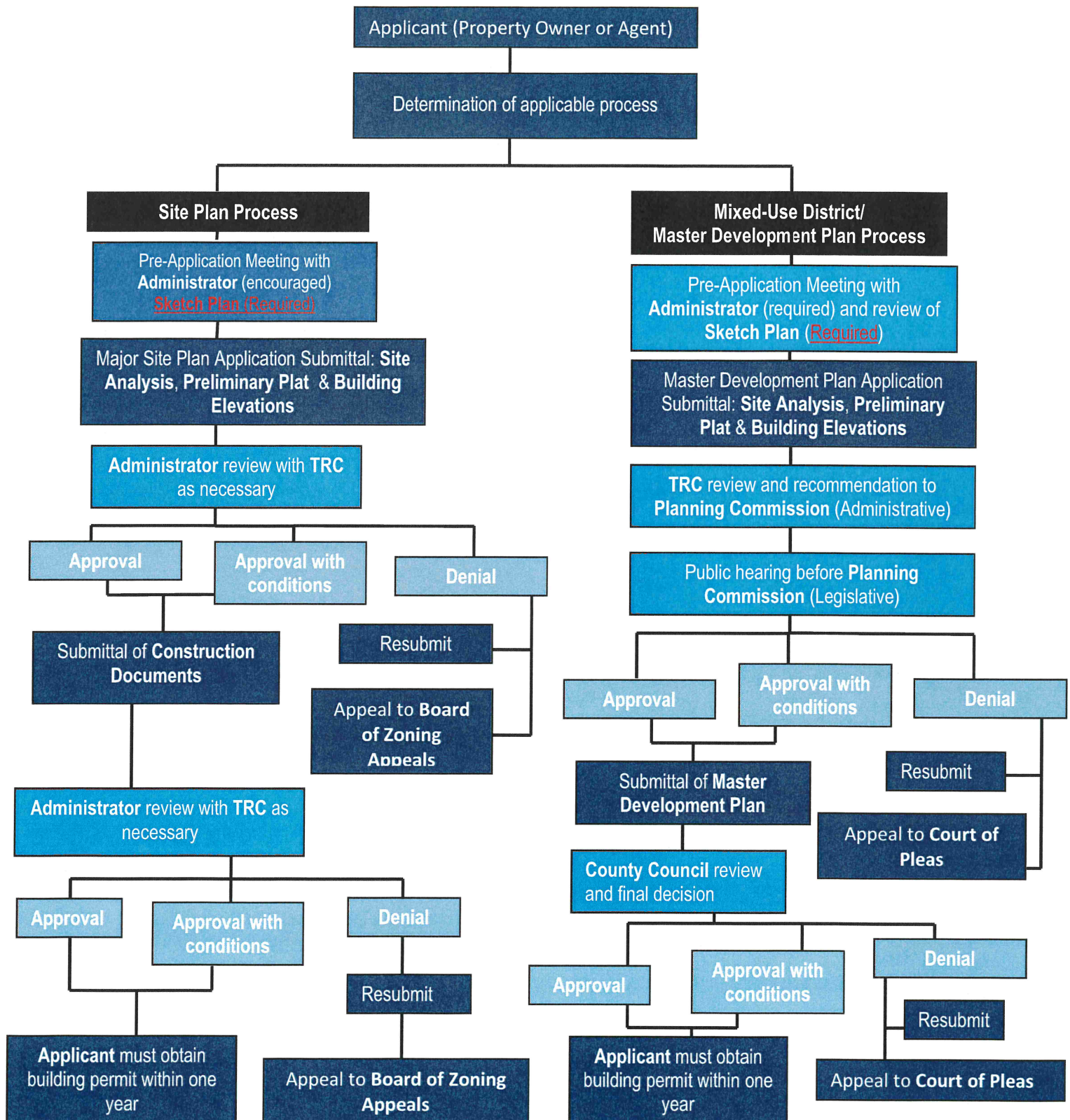
Permit/ Process Type	Section	Site Analysis	Sketch Plan *	Preliminary Plat	Construction Documents	As-Built Drawings	Final Plat	Building Elevations	Sedimentation & Erosion Control Plan	Floodplain Development Plan
UDO Zoning Permit	9.2.7.A		X (a)							
Temporary Use Permit	9.2.7.B		X (a)							
Certificate of Occupancy	9.2.7.C	See Administrator								
Modification of Dimensional Standards	9.2.7.D		X							
Sedimentation & Erosion Control Plan/Grading Permit	9.2.8.A	X			X				X	
Stormwater Management Permit	9.2.8.B	X			X	X	X (a)		X	
Floodplain Development Permit	9.2.8.C	X			X	X				X
Site Plan	9.2.9.A	X	X (a)	X	X			X (a)		
Subdivision (Minor & Recombination)	9.2.10.A	X	X (a)	X			X			
Subdivision (Major) – Preliminary Plat	9.2.10.B	X	X	X	X					
Subdivision (Major) – Final Plat	9.2.10.C					X	X			
Street Name Changes	9.2.11	See Administrator								
Variances	9.2.12	See Administrator								
Special Exceptions	9.2.13	X (a)		X (a)				X (a)		
Appeal of Administrative Decisions	9.2.14	See Administrator								
Text Amendments & Rezoning	9.2.15	See Administrator								
Conditional Use	9.2.16	See Administrator								
Mixed-Use District/Master Development Plan	9.2.9.B	X	X	X				X	X	X
Vested Rights	9.2.17			X						
Development Agreements	9.2.18	See Administrator								

X - Required | X (a) – on an "as needed" basis as determined by the Administrator

\*Sketch Plans shall be reviewed as binding documents for Unified Development Ordinance Zoning Permit (Zoning Permits), and for any other permits or approvals for which the Administrator requires only a Sketch Plan to be submitted with the application. Sketch Plans shall be used for non-binding review for all other development application processes in which they are required.



### 9.2.9 SITE PLAN & MASTER DEVELOPMENT PLAN PROCESS CHART





## A. SITE PLAN

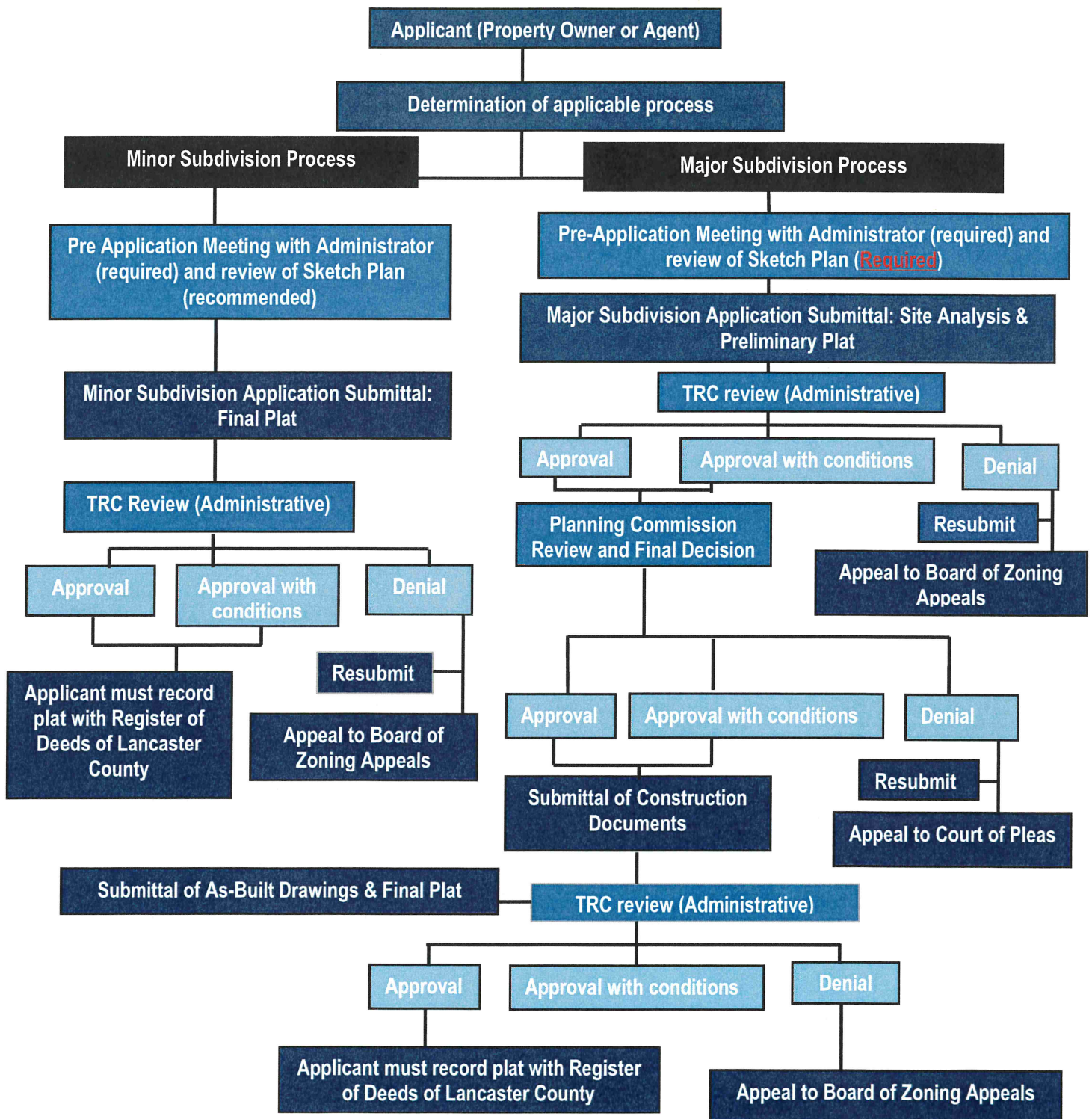
1. **Applicability:** The Site Plan process shall apply to all development types for which discretionary review is NOT required unless a discretionary review is requested by the applicant.
2. **Process Type:** Administrative.
3. **Pre-Application Procedure:** No meeting is required, but applicants are encouraged to call or visit the Administrator to determine what information is required for the application. If the site plan involves a property or properties which plan to have more than 40,000 square feet of building space a sketch will be required.
4. **Required Application Information:** Site Analysis, Preliminary Plat & Building Elevations, (may be waived by Administrator as appropriate) and a Stormwater Permit shall be required as prerequisite approvals.
5. **Determination of Compliance:** Once an application is deemed complete by the Administrator, the Administrator and TRC shall review the application and approve, deny, or approve with conditions the Site Plan based on compliance with the standards contained in this ordinance. All decisions shall be in writing. Following an approval or approval with conditions, the applicant shall be directed to prepare detailed Construction Documents for final approval by the Administrator and TRC (as necessary).
6. **Public Notification:** None required.
7. **Appeals:** Appeals of the decisions of the Administrator or TRC shall be heard by the Board of Zoning Appeals.
8. **Permit Validity:** Upon the approval of the Site Plan, the applicant shall have one year to obtain a building permit. Failure to secure building permits for the permitted work within this time shall render the compliance void. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the Site Plan and any subsequent building permits.
9. **Permit Extension:** The Administrator may grant a single extension of this time period of up to one year upon submittal by the applicant of sufficient justification for the extension.

## B. MIXED-USE DISTRICT/MASTER DEVELOPMENT PLAN

1. **Applicability:** The Mixed-Use District/Master Development Plan process shall apply to all development types for which discretionary review is required, and in any other instance where discretionary review is requested by the applicant.
2. **Process Type:** Legislative.
3. **Pre-Application Procedure:** It is required that every applicant for a Mixed-Use District/Master Development Plan meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. ~~It is recommended that~~ The applicant will be required provide a Sketch Plan to the Administrator prior to ~~or at~~ the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Site Plan.
4. **Required Application Information:** Site Analysis, Preliminary Plat & Building Elevations for Design Review (may be waived by Administrator as appropriate) and a Schematic Stormwater Design shall be required as prerequisite approvals as per the following table (Ord. No. 2017-1468, 9.25.17):

9.2.10 SUBDIVISIONS

SUBDIVISION PROCESS CHART





10. **Revisions of Plat After Approval:** Where minor lot line measurements or other minor deviations from the approved Minor Subdivision Plat occur in association with in-the-field construction adjustments, such minor modifications may be approved at the discretion of the Administrator before the plat is recorded. Changes other than minor ones associated with in the field construction adjustments shall be subject to approval by the TRC.

## B. SUBDIVISION (MAJOR) – PRELIMINARY PLAT

1. **Process Type:** Administrative.
2. **Permit Required Before Any Land Disturbing Activity:** No land-disturbing activity shall take place until a Preliminary Plat has been approved.
3. **Pre-Application Procedure:** It is required that every applicant for a Major Subdivision meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. ~~It is recommended that~~ The applicant will be required to provide a Sketch Plan to the Administrator prior to ~~or at~~ the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Subdivision Plan.
4. **Required Application Information:** Site Analysis & Preliminary Plat and a Stormwater Permit shall be required as prerequisite approvals.
5. **Determination of Compliance:** Once an application is deemed complete by the Administrator, the TRC shall review the application and approve, deny, or approve with conditions the Preliminary Plat based on compliance with the land development standards contained in this ordinance within 65 working days of its submittal. If no action is taken by the Planning Commission within this time period, the Preliminary Plat shall be deemed approved.
6. **Public Notification:** 1, 2, and 3.
7. **Decisions:** Following an approval or approval with conditions of the Preliminary Plat by the Planning Commission, the applicant will be directed to prepare detailed Construction Documents for review by the Administrator and members of the TRC (as necessary). If the TRC disapproves or approves the Construction Documents, the reasons for such action shall be stated in writing. The applicant may make changes and submit a revised plan which revision shall be submitted, reviewed and acted on in accordance with the procedures set forth in this section. Once the applicant secures an approved Preliminary Plat and Construction Documents, the applicant will be directed to proceed to the preparation of a Final Plat.
8. **Appeals:** Appeals of the decisions of the TRC shall be heard by the Board of Zoning Appeals. Such an appeal must be made in writing within 30 days of the receipt of the decision by the property owner or the property owner's agent.
9. **Permit Validity:** Approval of a Preliminary Plat shall be valid for 2 years from the date of approval. If the approved Preliminary Plat provides for multiple phases within the subdivision, a Final Plat approval for any one phase shall extend the Preliminary Plat approval for all other phases for a period of up to 2 years from the date of the Final Plat approval for that phase. If a Final Plat approval has not been obtained prior to the end of this 2 year period, the Preliminary Plat approval shall become void.
10. **Permit Extension:** The Administrator may grant a single extension of this time period of up to one year upon submittal by the applicant of sufficient justification for the extension.

**Proposal:** To require sketch plans for major subdivisions and any site plan for properties planning for over 40,000 cumulative square feet of building space.

**Applicable Chapter(s):** Chapter 9.2, Review Procedures

**Applicant:** Lancaster County

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### **Project Summary & Proposal**

Currently Chapter 9.2 does not require sketch plans for site plans, and is unclear as to if sketch plans are required for mixed-use developments and major subdivisions.

This text amendment proposes adding sketch plans as a requirement for site plans involving properties planning for over 40,000 cumulative square feet of building space. This amendment would also clarify the requirement of sketch plans for all mixed-use developments and major subdivisions.

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### **Outline of Text Amendment**

The following chapters of the UDO have been amended or created:

- *Chapter 9.2.5, Application Requirements:* to require sketch plans as needed for site plans.
- *Chapter 9.2.9, Site Plan and Master Plan Process Chart:* to add sketch plans as needed for site plans under the pre-application portion, and correct the pre-application portion of the flow cart for the mixed-use district to require sketch plans.
- *Chapter 9.2.9-A.3, Site Plan Process:* to require sketch plans for site plans involving properties planning for over 40,000 cumulative square feet of building space.
- *Chapter 9.2.9-B.3, Mixed-Use and Master Plan Process:* to require a sketch plan for all mixed use and master plan developments.
- *Chapter 9.2.10, Subdivision Process Chart:* to correct the flow chart and show sketch plans as required for all major subdivisions.
- *Chapter 9.2.10- B.3, Subdivision Process:* to correct the pre-application procedure to require sketch plans for all major subdivisions.

Based on staff's findings, we offer the modifications attached to the Draft Ordinance for the Board's consideration. For ease of reference, new text is referenced in red/underlined font and deletions are referenced in ~~striketrough~~ font. The proposed language is found in **Exhibit 2**.

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**Findings and Conclusions**

By adding sketch plans as a requirement for site plans involving properties planning for over 40,000 cumulative square feet of building space, and clarifying the requirement of sketch plans for all mixed-use developments and major subdivisions this should allow staff more time to review large projects and provide feedback to developers earlier in the process.

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**Planning Staff Recommendation**

Staff recommends **approval** of the request.

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**Exhibits**

1. Application
2. Proposed Text Amendment

**Staff Contact**

Ashley Davis, Planner

[adavis@lanastercountysc.net](mailto:adavis@lanastercountysc.net)



**Planning Department**

P.O. Box 1809, 101 N. Main Street, Lancaster, SC 29721

Phone: 803.285.6005, [planning@lanastercountysc.net](mailto:planning@lanastercountysc.net)

[www.mylanastersc.org](http://www.mylanastersc.org)

## TEXT AMENDMENT APPLICATION

### SUBMITTAL REQUIREMENTS

- Completed Application
- Signatures of Applicant
- Fees associated with Application

### GENERAL INFORMATION

UDO Section(s) Proposed to be Amended Chapter 9.2, Review Procedures

Current Text Chapter 9.2.5 does not currently require sketch plans for site plans,  
Ch. 9.2.9, does not require sketch plans for site plans or mixed use developments,  
Ch. 9.10, does not require sketch plans for major subdivisions.

Proposed Text Chapter 9.2.5, require sketch plans as needed for site plans, Ch. 9.2.9-A.3, require site plans over  
40,000 cumulative square feet of building space to provide a sketch plan as part of the pre-application procedure,  
Ch.9.2.9-B.3, require sketch plans as part of the pre-application procedure for mixed use developments,  
Ch.9.2.10-B.3, require sketch plans as part of the pre-application procedure for major subdivisions.

Description of Need for Proposed Text To require sketch plans for all major subdivisions and any  
site plans which are over 40,000 cumulative square feet.

☐ Additional pages attached for more information

### CONTACT INFORMATION

Applicant Name Lancaster County

Address 101 N. Main St.

City Lancaster State SC Zip 29721 Phone 803-285-6005

Fax \_\_\_\_\_ Email \_\_\_\_\_

### APPLICATION CERTIFICATIONS

I hereby certify that I have read this application and the information supplied herein is true and correct to the best of my knowledge. I agree to comply with all applicable County ordinances and state laws related to the use and development of the land. I further certify that I am the property owner, or his/her authorized agent, or the subject property. I understand that falsifying any information herein may result in rejection or denial of this request.

Rox Burham  
Applicant

9/9/19  
Date

\_\_\_\_\_  
Property Owner(s)

\_\_\_\_\_  
Date

Attach owner's notarized written authorization with property information if the applicant is not the owner.

### LANCASTER COUNTY OFFICE USE ONLY

Application Number \_\_\_\_\_ Date Received \_\_\_\_\_ Receipt Number \_\_\_\_\_

Amount Paid \_\_\_\_\_ Check Number \_\_\_\_\_ Cash Amount \_\_\_\_\_

Received By \_\_\_\_\_ Planning Commission Meeting Date \_\_\_\_\_

### SCHEDULE/PROCESS

#### 1. Submit Application

- The deadline for this application is at least 30 days prior to the Planning Commission meeting, held every third Tuesday of the month.
- Once an application is submitted, it is placed on the Planning Commission agenda for the following month.
- An application withdrawal should be made in writing and received prior to public notice in order to receive a refund.

#### 2. Planning Commission

- Conducts a public hearing on the application to receive input from Lancaster County citizens, applicant, and other interested parties.
- Reviews the application to ensure it is consistent with the Lancaster County Unified Development Ordinance, Comprehensive Plan, and all adopted County plans.
- Makes a recommendation to the County Council.

#### 3. County Council

- Approves, denies, or submits application to the Planning Commission for further study.
- Action requires three readings for approval.



**D. NEIGHBORHOOD MEETING**

Neighborhood meetings are optional, but may be encouraged by the Administrator for certain applications prior to any public hearing or review by a board or commission. Neighborhood meetings allow the applicant to explain the proposed project and hear the concerns of the neighborhood. A summary of the meeting in the form of meeting notes or minutes along with a list and contact information for all attendees may be submitted to the Administrator and/or the appropriate board or commission for their review. Lancaster County is not responsible for organizing or coordinating such neighborhood meetings.

**9.2.5 APPLICATION REQUIREMENTS**

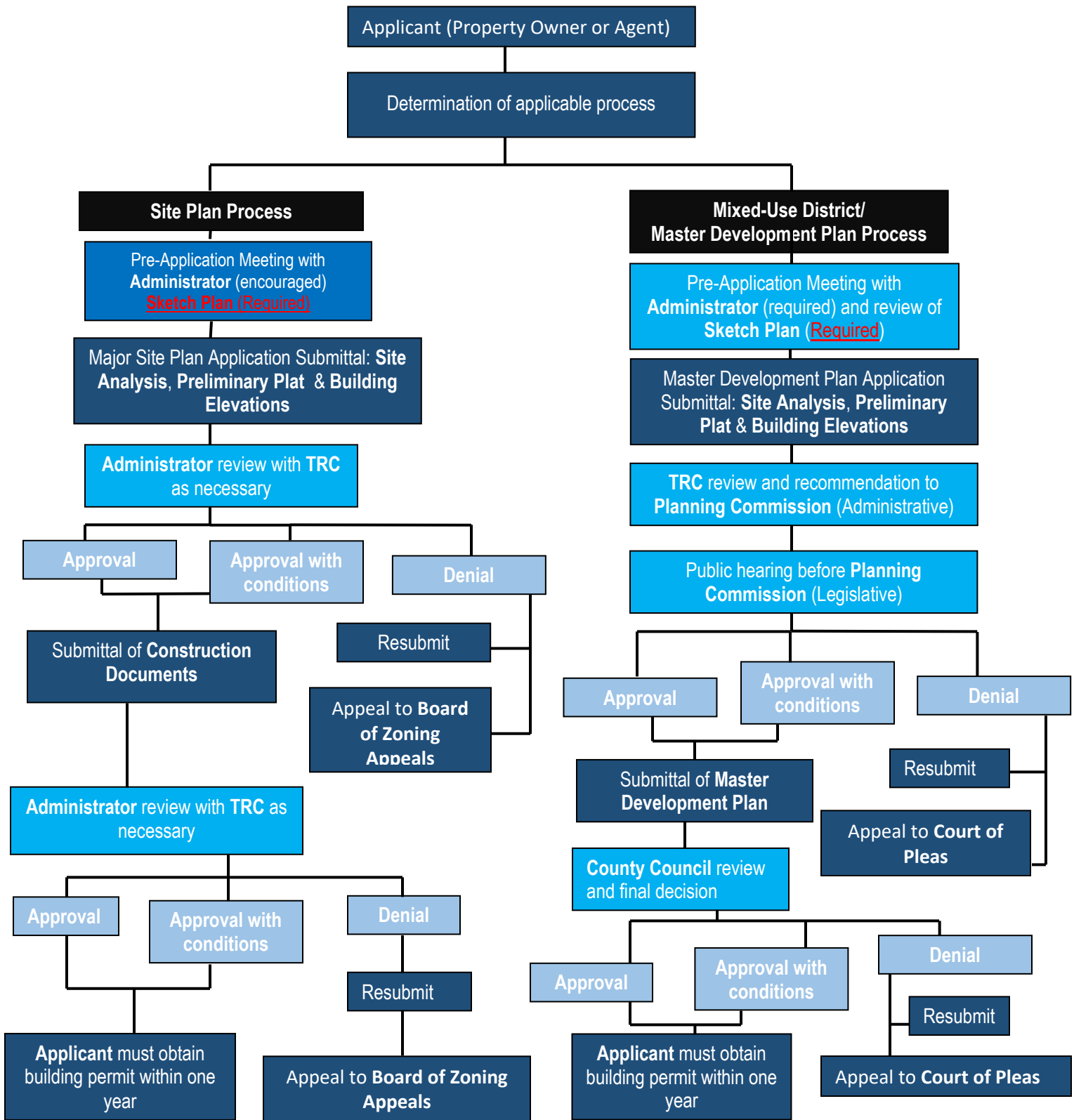
The following general standards for various applications are intended to require only that data/information necessary to render an informed decision by the reviewing agency. The County has determined that it is unnecessary to require a full set of architectural or engineering drawings for review by the various review and decision-making boards unless the application is such that a specific level of detail is necessary (e.g., floodplain/stormwater variance). The "Application Submittal Requirements" list on file in the Planning Department is intended to provide further guidance to applicants as to the necessary level of detail for each application component listed below.

Permit/ Process Type	Section	Site Analysis	Sketch Plan *	Preliminary Plat	Construction Documents	As-Built Drawings	Final Plat	Building Elevations	Sedimentation & Erosion Control Plan	Floodplain Development Plan
UDO Zoning Permit	9.2.7.A		X (a)							
Temporary Use Permit	9.2.7.B		X (a)							
Certificate of Occupancy	9.2.7.C	See Administrator								
Modification of Dimensional Standards	9.2.7.D		X							
Sedimentation & Erosion Control Plan/Grading Permit	9.2.8.A	X			X				X	
Stormwater Management Permit	9.2.8.B	X			X	X	X (a)		X	
Floodplain Development Permit	9.2.8.C	X			X	X				X
Site Plan	9.2.9.A	X	X (a)	X	X			X (a)		
Subdivision (Minor & Recombination)	9.2.10.A	X	X (a)	X			X			
Subdivision (Major) – Preliminary Plat	9.2.10.B	X	X	X	X					
Subdivision (Major) – Final Plat	9.2.10.C					X	X			
Street Name Changes	9.2.11	See Administrator								
Variances	9.2.12	See Administrator								
Special Exceptions	9.2.13	X (a)		X (a)				X (a)		
Appeal of Administrative Decisions	9.2.14	See Administrator								
Text Amendments & Rezoning	9.2.15	See Administrator								
Conditional Use	9.2.16	See Administrator								
Mixed-Use District/Master Development Plan	9.2.9.B	X	X	X				X	X	X
Vested Rights	9.2.17			X						
Development Agreements	9.2.18	See Administrator								

X - Required | X (a) – on an "as needed" basis as determined by the Administrator

\*Sketch Plans shall be reviewed as binding documents for Unified Development Ordinance Zoning Permit (Zoning Permits), and for any other permits or approvals for which the Administrator requires only a Sketch Plan to be submitted with the application. Sketch Plans shall be used for non-binding review for all other development application processes in which they are required.

## 9.2.9 SITE PLAN & MASTER DEVELOPMENT PLAN PROCESS CHART



**A. SITE PLAN**

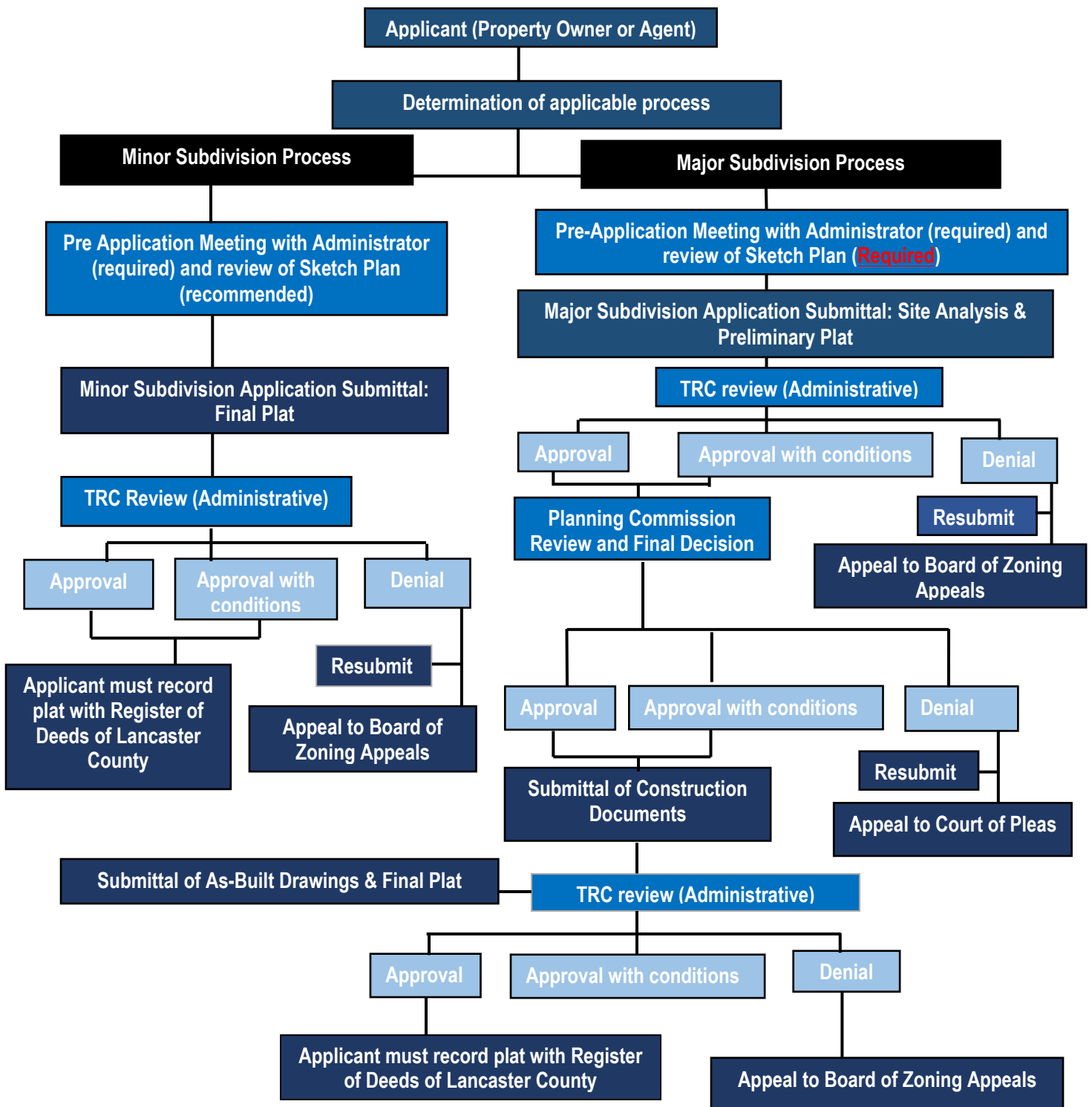
1. **Applicability:** The Site Plan process shall apply to all development types for which discretionary review is NOT required unless a discretionary review is requested by the applicant.
2. **Process Type:** Administrative.
3. **Pre-Application Procedure:** No meeting is required, but applicants are encouraged to call or visit the Administrator to determine what information is required for the application. If the site plan involves a property or properties which plan to have more than 40,000 square feet of building space a sketch will be required.
4. **Required Application Information:** Site Analysis, Preliminary Plat & Building Elevations, (may be waived by Administrator as appropriate) and a Stormwater Permit shall be required as prerequisite approvals.
5. **Determination of Compliance:** Once an application is deemed complete by the Administrator, the Administrator and TRC shall review the application and approve, deny, or approve with conditions the Site Plan based on compliance with the standards contained in this ordinance. All decisions shall be in writing. Following an approval or approval with conditions, the applicant shall be directed to prepare detailed Construction Documents for final approval by the Administrator and TRC (as necessary).
6. **Public Notification:** None required.
7. **Appeals:** Appeals of the decisions of the Administrator or TRC shall be heard by the Board of Zoning Appeals.
8. **Permit Validity:** Upon the approval of the Site Plan, the applicant shall have one year to obtain a building permit. Failure to secure building permits for the permitted work within this time shall render the compliance void. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the Site Plan and any subsequent building permits.
9. **Permit Extension:** The Administrator may grant a single extension of this time period of up to one year upon submittal by the applicant of sufficient justification for the extension.

**B. MIXED-USE DISTRICT/MASTER DEVELOPMENT PLAN**

1. **Applicability:** The Mixed-Use District/Master Development Plan process shall apply to all development types for which discretionary review is required, and in any other instance where discretionary review is requested by the applicant.
2. **Process Type:** Legislative.
3. **Pre-Application Procedure:** It is required that every applicant for a Mixed-Use District/Master Development Plan meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. ~~It is recommended that~~ The applicant will be required provide a Sketch Plan to the Administrator prior to ~~or at~~ the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Site Plan.
4. **Required Application Information:** Site Analysis, Preliminary Plat & Building Elevations for Design Review (may be waived by Administrator as appropriate) and a Schematic Stormwater Design shall be required as prerequisite approvals as per the following table (Ord. No. 2017-1468, 9.25.17):

## 9.2.10 SUBDIVISIONS

### SUBDIVISION PROCESS CHART





10. **Revisions of Plat After Approval:** Where minor lot line measurements or other minor deviations from the approved Minor Subdivision Plat occur in association with in-the-field construction adjustments, such minor modifications may be approved at the discretion of the Administrator before the plat is recorded. Changes other than minor ones associated with in the field construction adjustments shall be subject to approval by the TRC.

## B. SUBDIVISION (MAJOR) – PRELIMINARY PLAT

1. **Process Type:** Administrative.
2. **Permit Required Before Any Land Disturbing Activity:** No land-disturbing activity shall take place until a Preliminary Plat has been approved.
3. **Pre-Application Procedure:** It is required that every applicant for a Major Subdivision meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. ~~It is recommended that~~ The applicant will be required to provide a Sketch Plan to the Administrator prior to ~~or at~~ the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Subdivision Plan.
4. **Required Application Information:** Site Analysis & Preliminary Plat and a Stormwater Permit shall be required as prerequisite approvals.
5. **Determination of Compliance:** Once an application is deemed complete by the Administrator, the TRC shall review the application and approve, deny, or approve with conditions the Preliminary Plat based on compliance with the land development standards contained in this ordinance within 65 working days of its submittal. If no action is taken by the Planning Commission within this time period, the Preliminary Plat shall be deemed approved.
6. **Public Notification:** 1, 2, and 3.
7. **Decisions:** Following an approval or approval with conditions of the Preliminary Plat by the Planning Commission, the applicant will be directed to prepare detailed Construction Documents for review by the Administrator and members of the TRC (as necessary). If the TRC disapproves or approves the Construction Documents, the reasons for such action shall be stated in writing. The applicant may make changes and submit a revised plan which revision shall be submitted, reviewed and acted on in accordance with the procedures set forth in this section. Once the applicant secures an approved Preliminary Plat and Construction Documents, the applicant will be directed to proceed to the preparation of a Final Plat.
8. **Appeals:** Appeals of the decisions of the TRC shall be heard by the Board of Zoning Appeals. Such an appeal must be made in writing within 30 days of the receipt of the decision by the property owner or the property owner's agent.
9. **Permit Validity:** Approval of a Preliminary Plat shall be valid for 2 years from the date of approval. If the approved Preliminary Plat provides for multiple phases within the subdivision, a Final Plat approval for any one phase shall extend the Preliminary Plat approval for all other phases for a period of up to 2 years from the date of the Final Plat approval for that phase. If a Final Plat approval has not been obtained prior to the end of this 2 year period, the Preliminary Plat approval shall become void.
10. **Permit Extension:** The Administrator may grant a single extension of this time period of up to one year upon submittal by the applicant of sufficient justification for the extension.

## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1631  
Contact Person / Sponsor: Jamie Gilbert/Economic Development  
Department: Economic Development  
Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

Project Boom is a construction products company that is considering establishing a new facility in Indian Land. The operation would include the company's manufacturing, administrative, sales and service operations. Project Boom would create 22 new jobs in Lancaster County over five years with an hourly wage of at least \$16. The capital investment is expected to be \$3,200,000, which includes land, building and equipment.

The Lancaster County Department of Economic Development (LCDED) has assisted the company with its site search, county/state incentives, tax issues and workforce development.

LCDED is recommending that Project Boom receive the following county incentives, should the company locate the new project to Indian Land:

- A 20 Year Fee-In-Lieu-of-Taxes (FILOT) agreement that will provide an assessment rate of 6% for real and personal property with a fixed millage rate of 325.4 mills.
- A 5 Year Special Source Revenue Credit (SSRC) that will reduce the company's annual FILOT payment by 50% annually.

The following will be required by Project Boom:

- Maintain 10 full time jobs and a capital investment of \$2.5 million at the facility in order to receive the FILOT annually. If the project falls below either in a given year, the FILOT will be calculated to reflect the ad valorem payment that would be due for that year.
- Employ an average of 10 new full time jobs (NFTJ) at the facility in Year 1, 13 NFTJ in Year 2, 15 NFTJ in Year 3, 17 NFTJ in Year 4 and 18 NFTJ in Year 5 at an hourly wage of at least \$16 during each of the corresponding years of the SSRC. Failure to do will result in the 50% SSRC being reduced in the same proportion that the jobs requirement was not met.

### **Points to Consider:**

Project Boom is an excellent industrial project for Lancaster County. The project is competitive as the company has considered several states for the new facility. South Carolina's property taxes are higher than other states for industrial projects and the FILOT/SSRC are important to addressing this issue and to securing the project in Lancaster County. The recommended incentives for the project follow LCDED's incentive guidelines for new businesses.

### **Funding and Liability Factors:**

There are no funding or liability factors associated with Project Boom.

### **Council Options:**

Council can approve, deny or table with changes.

### **Recommendation:**

LCDED recommends approval of the Project Boom Ordinance.

**ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1631	11/18/2019	Ordinance
Exhibit A to Ordinance 2019-1631 - Fee Agreement by and between Lancaster County, South Carolina and Project Boom	11/18/2019	Exhibit

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STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2019-1631

COUNTY OF LANCASTER

)

)

**AN ORDINANCE**

**TO AUTHORIZE THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BY AND BETWEEN LANCASTER COUNTY AND PROJECT BOOM PROVIDING FOR THE PAYMENT OF A FEE-IN-LIEU OF TAXES AND THE PROVISION OF SPECIAL SOURCE REVENUE CREDITS; AND TO EXPRESS THE INTENTION OF COUNCIL TO PROVIDE MONIES TO THE ECONOMIC DEVELOPMENT FUND.**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings.**

The Lancaster County Council finds that:

(a) Lancaster County, South Carolina (the "County") acting by and through its County Council (the "Council") is authorized and empowered pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976 (the "Code"), as amended (the "Act"), to enter into fee-in-lieu of tax ("FILOT") agreements with any industry, with said agreements identifying certain properties of such industries as economic development property, through which powers the industrial development of the State of South Carolina (the "State") and the County will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate, remain, and expand in the State and the County and thus utilize and employ the workforce, products, and natural resources and benefit the general public welfare of the State and County by providing services, employment, or other public benefits not otherwise adequately provided locally;

(b) the County is authorized by Sections 4-1-175 and 4-29-68 of the Code, as amended, and Section 12-44-70 of the Act to provide special source revenue credits ("SSRCs") for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County;

(c) Project Boom, a limited liability company organized and existing under the laws of the State of \_\_\_\_\_ (the "Sponsor") is considering investing, through itself and/or one or more existing or to be formed affiliated entities, in personal property and certain real estate improvements located in the County which would result in the creation of approximately twenty-two (22) new, full-time jobs and which would constitute a project within the meaning of the Act and which investments are eligible for inclusion as economic development property, the cost of which is estimated to be approximately Three Million Four Hundred Thousand Dollars (\$3,400,000) (the "Project");



(d) pursuant to Resolution No. 1075-R2019, adopted November 25, 2019, the Council approved an Inducement Resolution providing for, among other things, (i) the agreement of the County to enter into a FILOT incentive with the Sponsor, and (ii) the provision of SSRCS against the FILOT payments to be made by the Sponsor in connection with the Project;

(e) the Sponsor has caused to be prepared and presented to the Council the form of a Fee Agreement by and between the County and the Sponsor (the "Fee Agreement"), which provides for FILOT payments utilizing (i) a six percent (6%) assessment ratio, (ii) a fixed millage rate of 325.4 mills, and (iii) a term of twenty (20) years for the Project;

(f) it appears that the Fee Agreement, which is attached to this ordinance, is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

## **Section 2.      Approval of Fee Agreement.**

Subject to the provisions of Section 4 of this ordinance, and, in order to promote industry, develop trade, and utilize and employ the workforce, products, and natural resources of the State by assisting the Sponsor to expand or locate an industrial facility in the State, the Fee Agreement is hereby authorized, ratified, and approved.

## **Section 3.      Statutory Findings.**

Council makes the following additional findings:

(a) The Project will constitute a "project" as the term is referred to and defined in the Act, and the County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Act.

(b) The Project and the payments in lieu of taxes set forth herein are beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made.

(c) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.

(d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.

(e) The purposes to be accomplished by the Project, *i.e.*, economic development and addition to the tax base of the County, are proper governmental and public purposes.

(f) The inducement of the location or expansion of the Project within the County and State is of paramount importance.

(g) The benefits of the Project to the public will be greater than the costs to the public.

**Section 4.      Approval and Execution of Fee Agreement.**

The form of the Fee Agreement, attached hereto as Exhibit A, is approved. The terms and provisions of the Fee Agreement are approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the Fee Agreement was set out in this ordinance in its entirety. The Council Chair and Council Secretary are authorized, empowered, and directed to execute and acknowledge the Fee Agreement in the name of and on behalf of the County, and thereupon to cause the Fee Agreement to be delivered to the Sponsor. The Fee Agreement is to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such officer's execution thereof to constitute conclusive evidence of such officer's approval of any and all changes or revisions therein from the form of the Fee Agreement attached to this ordinance.

**Section 5.      Economic Development Fund.**

(A) Council finds that (i) by passage of Ordinance No. 2014-1260, Council created an Economic Development Fund with the intent to make monies available to the fund from new revenues to the County derived from new and expanded businesses and industry, and (ii) the ability to make monies available to the Economic Development Fund can be difficult because of complexities and legalities applicable to FILOT arrangements and multi-county parks.

(B) It is the intent of Council, in the annual County budget, to appropriate monies to the Economic Development Fund based on the new revenue that the County receives pursuant to the Fee Agreement. Specifically, it is Council's intent to appropriate from the General Fund of the County an amount based on the following formula: Seven percent (7%) times the amount of money received pursuant to the Fee Agreement by the County after distribution to other taxing entities in the most recently completed tax year.

**Section 6.      Authority to Act.**

The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement and the performance of all obligations of the County under and pursuant to the Fee Agreement.

**Section 7.      Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 8.      Controlling Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, resolutions or orders, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 9.      Effective Date.**

This ordinance is effective upon Third Reading.

SIGNATURES FOLLOW ON NEXT PAGE.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**LANCASTER COUNTY, SOUTH CAROLINA**

---

Steve Harper, Chair, County Council

---

Larry Honeycutt, Secretary, County Council

ATTEST:

---

Sherrie Simpson, Clerk to Council

First Reading:	November 25, 2019
Second Reading:	December 9, 2019
Public Hearing:	January 13, 2020
Third Reading:	January 13, 2020

Approved as to form:

---

John DuBose, County Attorney

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**Exhibit A to Ordinance No. 2019-1631**

**Fee Agreement**

See attached.

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FEE AGREEMENT

by and between

LANCASTER COUNTY, SOUTH CAROLINA,

and

PROJECT BOOM

Dated as of January 13, 2020

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## FEE AGREEMENT

This FEE AGREEMENT (this “Agreement”) is dated as of January 13, 2020, by and between LANCASTER COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”) and PROJECT BOOM, a limited liability company organized and existing under the laws of the State of \_\_\_\_\_ (“Sponsor” and “Company” and, together with any subsequently joined Sponsor Affiliate(s), the “Companies”).

### WITNESSETH:

WHEREAS, the County, acting by and through its County Council, is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the “Act”) of the Code of Laws of South Carolina 1976, as amended (the “Code”) and Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution (the “Multi-County Park Act”): (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain industrial and commercial properties through which the economic development of the State of South Carolina (the “State”) will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the workforce, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain payments in lieu of *ad valorem* taxes with respect to the project (a “FILOT”); and (iii) to maintain, create or expand, in conjunction with one or more other counties, a multi-county industrial park in order to afford certain enhanced income tax credits to such investors; and

WHEREAS, the Companies propose to acquire, construct and install new facilities in the County (the “Project”); and

WHEREAS, the Companies anticipate that the Project will result in the creation of twenty-two (22) new, full-time jobs and an investment of approximately \$3,400,000 in the County; and

WHEREAS, the County Council approved on November 25, 2019, Resolution No. 1075-R2019 (the “Inducement Resolution”) to identify, reflect and induce the Project under the Act and to state the commitment of the County to, among other things, enter into this Agreement; and

WHEREAS, as a result of the Companies locating the Project in the County, the Companies requested that the County complete the FILOT arrangement referred to in the Inducement Resolution by entering into this Agreement with the Companies pursuant to the Act, and the Companies elect to enter into such FILOT arrangement with the County in an effort to implement the terms of the Project and allow the Companies to make FILOT payments pursuant to the Act; and

WHEREAS, it is presently anticipated, but not required, that Sponsor will initially own that portion of the Project comprised of the Land (as defined herein), certain real property improvements, and personal property now or hereafter constructed thereon; and



WHEREAS, for the Project, the parties have also determined that Sponsor is a Project Sponsor, and that the Project constitutes Economic Development Property within the meaning of the Act; and

WHEREAS, for the purposes set forth above, the County has determined that it is in the best interests of the County to enter into this Agreement with the Companies, subject to the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, and the sum of \$1.00 in hand, duly paid by the Companies to the County, the receipt and sufficiency of which are hereby acknowledged, the County and the Companies agree as follows:

## ARTICLE I

### DEFINITIONS AND RECAPITULATION

#### Section 1.01. Statutorily Required Recapitulation.

(a) Pursuant to Section 12-44-55(B) of the Act, the County and the Companies agree to waive the recapitulation requirements of Section 12-44-55 of the Act. Subsection (b) of this section is inserted for convenience only and does not constitute a part of this Agreement or a summary compliant with Section 12-44-55 of the Act.

#### (b) Summary of Agreement.

1. Legal name of each initial party to this Agreement:  
**[to come]**; Lancaster County, South Carolina.
2. County, street address, parcel number or other location identifier of the Project and property to be subject to this Agreement:  
  
**[to come]**  
Lancaster County, South Carolina  
Tax Map No. **[to come]**
3. Minimum investment agreed upon: N/A.
4. Length and term of this Agreement: 20 years.
5. Assessment ratio applicable for each year of this Agreement: 6%, except as otherwise provided in the Agreement.
6. Millage rate applicable for each year of this Agreement: 325.4 mills.
7. Statements

(a) The Project is to be located in a multi-county park;

- (b) Disposal of property subject to payments-in-lieu-of-taxes is allowed;
- (c) Special Source Revenue Credits shall be given to the Economic Development Property in amounts equal to 50% of Negotiated FILOT Payments for each of the first five (5) consecutive years in which Negotiated FILOT Payments are required to be made hereunder;
- (d) Payment will not be modified using a net present value calculation; and
- (e) Replacement property provisions will apply.

Section 1.02. Definitions. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings, unless the context or use indicates another or different meaning or intent.

“*Act*” or “*Simplified FILOT Act*” shall mean Title 12, Chapter 44 of the Code, as amended through the date of this Agreement.

“*Act Minimum Investment Requirement*” shall have the meaning set forth in Section 5.01(i).

“*Administration Expense*” shall mean the reasonable and necessary out-of-pocket expenses, including attorneys’ fees, incurred by the County with respect to: (i) the preparation, review, approval and execution of this Agreement, (ii) the preparation, review, approval and execution of other documents related to this Agreement and any multi-county park documents; and (iii) the fulfillment of its obligations under this Agreement and any multi-county park documents.

“*Affiliate*” shall mean any person or entity directly or indirectly controlling, controlled by, or under common control with such other person or entity, whether existing on the date of this Agreement or created in the future. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the person or entity, whether through the ownership of voting securities, by contract, or otherwise.

“*Agreement*” shall mean this Fee Agreement by and among the County and the Companies, as originally executed and from time to time supplemented or amended as permitted herein, and dated as of January 13, 2020.

“*Code*” shall mean the Code of Laws of South Carolina 1976, as amended through the date of this Agreement.

“*Company*” shall mean the Sponsor, as defined in the first sentence of this Agreement.

“*Companies*” shall mean the Sponsor together with any Sponsor Affiliate(s).

“*County*” shall mean Lancaster County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, and its successors and assigns.

“*County Council*” shall mean the governing body of the County and its successors.

“*Department of Revenue*” shall mean the South Carolina Department of Revenue.

“*Economic Development Property*” shall mean each item of real and tangible personal property comprising the Project, except Non-Qualifying Property, within the meaning of that term as defined and used in Sections 12-44-30(6) and 12-44-40(C) of the Code and in this Agreement.

“*Equipment*” shall mean all machinery, equipment, furnishings, and other personal property acquired by Sponsor and installed as part of the Project during the Investment Period in accordance with this Agreement.

“*Event of Default*” shall mean an Event of Default as defined in Section 12.01 hereof.

“*Existing Property*” shall mean property proscribed from becoming Economic Development Property pursuant to Section 12-44-110 of the Code, including, without limitation, property which has been subject to *ad valorem* taxes in the State prior to the execution and delivery of this Agreement and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not include: (a) the Land; (b) property acquired or constructed by Sponsor during the Investment Period which has not been placed in service in this State prior to the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property; or (c) modifications which constitute an expansion of Existing Property.

“*FILOT*” shall mean the fee-in-lieu of taxes, which Sponsor is obligated to pay to the County pursuant to Section 5.01 hereof.

“*FILOT Payments*” shall mean the payments to be made by Sponsor pursuant to Section 5.01 hereof.

“*FILOT Revenues*” shall mean the revenues received by the County from the payment of the FILOT.

“*Investment Period*” shall mean the period beginning with the first day that Economic Development Property is purchased or acquired and ending on the date that is five (5) years from the end of the property tax year in which this Agreement is executed by the Companies and the County.

“*Jobs Commitment*” shall mean the commitment of Sponsor to create jobs with respect to the Project as set forth in Section 4.01(b) of this Agreement.

“*Land*” shall mean the real estate upon which the Project will be located, as identified and described in Exhibit A attached hereto. Notwithstanding the provisions of Section 4.03(i), real

estate other than the real estate identified in Exhibit A may be included in the Project only by amendment to this Agreement as provided in Section 13.12 of this Agreement.

“*Multi-County Park*” means the multi-county park established pursuant to the Amended and Restated Master Multi-County Park Agreement, Amended and Restated as of November 9, 2019, between the County and Chesterfield County, South Carolina, as authorized by the Multi-County Park Act or such other multi-county park established in accordance with the Multi-County Park Act.

“*Multi-County Park Act*” shall mean Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution, as amended through the date hereof.

“*Negotiated FILOT Payment*” shall mean the FILOT due pursuant to Section 5.01(b) hereof with respect to that portion of the Project consisting of Economic Development Property.

“*New Full-Time Job*” means a new, full-time job (*i.e.*, at least thirty (30) hours per week), with health care benefits. Full-time jobs relocated from other states to the Project shall be counted as New Full-Time Jobs if the relocated jobs meet the Wage Requirement. All persons filling the New Full-Time Job positions must be authorized pursuant to state and federal law to be employed in the United States.

“*Non-Qualifying Property*” shall mean that portion of the Project consisting of: (i) property as to which Sponsor incurred expenditures prior to the Investment Period or, except as to Replacement Property, after the end of the Investment Period; (ii) Existing Property; and (iii) any Released Property or other property which fails or ceases to qualify for Negotiated FILOT Payments, including without limitation property as to which the Companies have terminated the Negotiated FILOT pursuant to Section 4.03(iii) hereof.

“*Person*” shall mean and include any individual, association, unincorporated organization, corporation, partnership, limited liability company, joint venture, or government or agency or political subdivision thereof.

“*Project*” shall mean, collectively herein, the Project, and shall include the Land and the buildings and other improvements on the Land to the extent placed thereon by or on behalf of the Companies, including water, sewer treatment and disposal facilities, and other machinery, apparatus, equipment, office facilities, and furnishings which are necessary, suitable, or useful, including the Equipment, and any Replacement Property.

“*Released Property*” shall mean any portion of the Project removed, scrapped, traded in, sold, or otherwise disposed of pursuant to Section 4.03 hereof, any portion of the Project stolen, damaged, destroyed, or taken by condemnation or eminent domain proceedings as described in Article VII hereof, and any infrastructure which any Company dedicates to the public use (within the meaning of that phrase as used in Section 12-6-3420(C) of the Code).

“*Replacement Property*” shall mean all property installed in or on the Land in substitution of, or as replacement for, any portion of the Project, but only to the extent that such property may

be included in the calculation of the Negotiated FILOT pursuant to Section 5.01(g) hereof and Section 12-44-60 of the Code.

*“Special Source Revenue Credits”* or *“SSRCs”* shall mean the Special Source Revenue Credits described in Section 5.01 hereof.

*“Sponsor”* shall have the meaning set forth in the first sentence of this Agreement.

*“Sponsor Affiliate”* shall mean any entity who agrees to be bound by the terms and provisions of this Agreement and is approved by the County pursuant to the provisions of Section 9.04 of this Agreement.

*“State”* shall mean the State of South Carolina.

*“Term”* shall mean the term of this Agreement, as set forth in Section 11.01 hereof.

*“Transfer Provisions”* shall mean the provisions of Section 12-44-120 of the Code.

*“Wage Requirement”* means Sixteen Dollars (\$16.00) per hour, and, for purposes of satisfying the Wage Requirement, it is applicable in Years 1 through 5 with Year 1 being the first year in which Special Source Revenue Credits are taken.

Section 1.03. References to Agreement. The words “hereof”, “herein”, “hereunder”, and other words of similar import refer to this Agreement as a whole.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations and Warranties by County. The County represents and warrants that: (i) it is a body politic and corporate and a political subdivision of the State and acts through its County Council as its governing body; (ii) it is authorized by the Act to enter into this Agreement; (iii) it has approved this Agreement in accordance with the procedural requirements of the Act and any other applicable state law; and (iv) it has authorized its officials to execute and deliver this Agreement.

Section 2.02. Representations and Warranties by Sponsor. The Sponsor makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Sponsor is a limited liability company, validly existing and in good standing under the laws of [to come] and authorized to do business in the State; has all requisite power to enter into this Agreement; and by proper action has been duly authorized to execute and deliver this Agreement.

(b) The agreements with the County with respect to the FILOT have been instrumental in inducing Sponsor to locate its portion of the Project within Lancaster County and the State.



(c) Except as otherwise disclosed to the County, no actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of Sponsor are pending or threatened against or affecting Sponsor in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

(d) The income tax year of Sponsor for federal and state income tax purposes ends [December 31].

(e) No event has occurred and no condition currently exists with respect to Sponsor, which would constitute a Default or an “Event of Default” as defined herein.

(f) Sponsor intends to operate the Project for [to come] purposes and any related purposes. The Project constitutes a “project” and “economic development property” as provided under the Act.

### ARTICLE III

#### UNDERTAKINGS OF THE COUNTY

Section 3.01. Agreement to Accept FILOT Payments. The County hereby agrees to accept FILOT Payments made by the Companies in accordance with Section 5.01 hereof in lieu of *ad valorem* taxes with respect to the Project until this Agreement expires or is sooner terminated.

Section 3.02. No Warranties by County. Each Company acknowledges that the County has made no warranties or representations, either express or implied, as to the condition or state of the Project or as to the design or capabilities of the Project or that it will be suitable for such Company’s purposes or needs. No representation of the County is hereby made with regard to compliance by the Project or any Person with laws regulating: (i) the construction or acquisition of the Project; (ii) environmental matters pertaining to the Project; (iii) the offer or sale of any securities; or (iv) the marketability of title to any property.

Section 3.03. Invalidity. The parties acknowledge that the intent of this Agreement is to afford the Companies the benefits of the Negotiated FILOT Payments in consideration of the Companies’ decision to locate the Project within Lancaster County and that this Agreement has been entered into in reliance upon the enactment of the Simplified FILOT Act. In the event that, for any reason, the Act and/or the Negotiated FILOT or any portion thereof is, by a court of competent jurisdiction following allowable appeals, declared invalid or unenforceable in whole or in part, or the portion of the Project consisting of Economic Development Property is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Companies and the County express their intentions that such payments be reformed so as to afford the Companies benefits commensurate with those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under the Code, to the extent allowed by law, including but not limited to the provision of additional and/or increased Special Source Revenue Credits. Absent the legal authorization to effect such reformation, the Companies and the County agree that there shall be due hereunder, with respect to the portion of the Economic Development

Property affected by such circumstances, *ad valorem* taxes and that, to the extent permitted by law, each Company shall be entitled: (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Article X, Section 3 of the Constitution of the State, and any other exemption allowed by law; (2) to enjoy all allowable depreciation; and (3) to receive other tax credits which would be due if the Company were obligated to pay *ad valorem* taxes hereunder. To the extent that under such circumstances the Negotiated FILOT Payments hereunder are required by law to be subject to retroactive adjustment, then there shall be due and payable by each Company to the County with respect to the portion of the Economic Development Property in question an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid and the amount which would have been paid as *ad valorem* taxes, together with, but only if required by law, interest on such deficiency as provided in Section 12-54-25(D) of the Code. If this Agreement is reformed as provided in this Section or if retroactive adjustments are made, then under no circumstances shall the County be required to refund or pay any monies to any of the Companies. Notwithstanding anything in this Section 3.03 to the contrary, the Companies shall be entitled to the benefits and rights provided or referenced in Section 5.01(h).

In addition to and notwithstanding the foregoing paragraph, the County shall not be obligated to perform any of its obligations or promises under this Section 3.03 unless the Companies have otherwise complied with or provided satisfactory evidence to the County that it intends to comply with its obligations and responsibilities under this Agreement.

Section 3.04. Multi-County Park. The County agrees to take action to place the Land in the Multi-County Park until the date this Agreement is terminated. If it becomes necessary to move the Land from one multi-county park to another prior to the termination of this Agreement, the County agrees to use its best efforts to place the Land in a multi-county park established pursuant to the Multi-County Park Act and to maintain the multi-county park designation until the date this Agreement is terminated. The parties acknowledge and agree that the County's agreement to place and maintain the Land in a multi-county park may be subject to the exercise of discretion by a governmental entity other than the County and the exercise of that discretion is not controlled by the County.

## ARTICLE IV

### NEW JOB CREATION BY COMPANIES RELATING TO PROJECT; MAINTENANCE AND MODIFICATION OF PROJECT

#### Section 4.01. New Job Creation by Companies Relating to Project.

(a) Jobs created by Sponsor and Sponsor Affiliates shall be included in any determination whether the Jobs Commitment made by the Company in this Section has been met.

(b) For the Project, together with any Sponsor Affiliates, the Sponsor agrees and commits to the following Jobs Commitment: the creation and maintenance of the number of New Full-Time Jobs, paying an hourly wage rate not less than the Wage Requirement, at the following employment levels and in the designated timeframes with the "Year" number referring to the year that corresponds with the earlier of either (i) the year following the year in which the new facility

is first placed in service or (ii) the first year Special Source Revenue Credits are taken, with Year 1 being the first year (thus, for example, if the Company first places its new facility in service in 2021 and includes the new facility on its Schedule S to Department of Revenue Form PT-300 for 2022, and first takes the Special Source Revenue Credit in 2021 (the FILOT Payment for which would be due by January 15, 2023), then 2022 would be “Year 1”):

(1) to have employed in New Full-Time Jobs meeting the Wage Requirement an average of not less than ten (10) during Year 1,

(2) to have employed in New Full-Time Jobs meeting the Wage Requirement an average of not less than thirteen (13) during Year 2,

(3) to have employed in New Full-Time Jobs meeting the Wage Requirement an average of not less than fifteen (15) during Year 3,

(4) to have employed in New Full-Time Jobs meeting the Wage Requirement an average of not less than seventeen (17) during Year 4, and

(5) to have employed in New Full-Time Jobs meeting the Wage Requirement an average of not less than eighteen (18) during Year 5.

The number of New Full-Time Jobs meeting the Wage Requirement shall be based on the average number of New Full-Time Jobs meeting the Wage Requirement for each month during the year.

#### Section 4.02. Reporting and Filing.

(a) Each Company agrees to provide a copy of Form PT-443 filed with the Department of Revenue no later than thirty (30) days after execution and delivery of this Agreement to the Auditor, Treasurer and Assessor of the County and any multi-county park partner county and the Economic Development Director of the County. Each year during the term of this Agreement, each Company shall deliver to the Auditor, Treasurer and Assessor of the County and any multi-county park partner county and the Economic Development Director of the County a copy of their most recent annual filings made with the Department of Revenue with respect to the Project, no later than thirty (30) days following delivery thereof to the Department of Revenue.

(b) (1) Sponsor agrees, as soon as reasonably practicable following the end of each tax year of the Sponsor, to submit to the County Economic Development Director a certification on Sponsor letterhead listing the aggregate New Full-Time Jobs paying an hourly wage rate not less than the Wage Requirement maintained by the Companies at the end of such tax year.

(2) For purposes of determining compliance with the Jobs Commitment, Sponsor agrees to provide to the County Economic Development Director, by March 31 of each year, a copy of all of Sponsor’s filings with the State (if required to file by the State) for the preceding calendar year including: (i) reports submitted to the South Carolina Coordinating Council for Economic Development with respect to any Job Development Credits awarded in connection with the Project; (ii) Department of Revenue Form SC SCH. TC 4 (New Jobs Credit); and (iii) South

Carolina Department of Employment and Workforce quarterly contribution and wage reports (such as Form UCE 120). Company agrees to redact any personally identifying information and proprietary and confidential information prior to submitting any form to the County Economic Development Director. In lieu of providing any of the forms specifically identified in this subsection, Company and the County Economic Development Director may agree on an alternative method for the Company to demonstrate compliance with the Jobs Commitment.

(c) (1) Each Company agrees to maintain such books and records with respect to the Project as will permit the identification of those portions of the Project placed in service in each property tax year during the Investment Period, the amount of investment with respect thereto and its computations of all FILOT Payments made hereunder and will comply with all reporting requirements of the State and the County applicable to property subject to FILOT Payments under the Act, including the reports described in subsection (a) and (b) of this Section (collectively, “Filings”).

(2) Each Company agrees that the County and its authorized agents have the right at all reasonable times and upon prior reasonable written notice to enter upon and examine and inspect the Project and to have access to and examine and inspect all of the Companies’ books and records pertaining to the Project and the Filings. The right of examination and inspection shall be exercised only upon reasonable and necessary terms and conditions prescribed by any Company to protect such Company’s confidentiality and proprietary rights. Any such entrance upon and examination and inspection of the Project and Filings shall be at the County’s expense.

(d) The County acknowledges and understands that the Companies may have and maintain at the Project certain confidential and proprietary information, including, but not limited to, trade secrets, financial, sales or other information concerning the Companies’ operations and processes (“Confidential Information”) and that any disclosure of the Confidential Information could result in substantial harm to the Companies and could have a significant detrimental impact on the Companies’ employees and also upon the County. Except as required by law, including, without limitation, court orders, the County agrees to use its best reasonable efforts to keep confidential, and to cause employees, agents and representatives of the County to keep confidential, the Confidential Information which may be obtained from the Companies, their agents or representatives, when the Confidential Information is clearly marked and identified as Confidential Information and known to the County to be Confidential Information. The County shall not knowingly and willfully disclose and shall cause all employees, agents and representatives of the County not to knowingly and willfully disclose the marked and identified Confidential Information to any person or entity other than in accordance with the terms of this Agreement. If a demand is made for the release, under color of law, to a third party of any Confidential Information, the County shall notify the Companies and give the Companies the opportunity to contest the release.

#### Section 4.03 Modification of Project.

As long as no event of default exists hereunder, the Companies shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) Each Company may, at its own expense, add to the Project any real and personal property as such Company in its discretion deems useful or desirable.

(ii) In any instance where a Company, in its discretion, determines that any items included in the Project have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, such Company may remove such items or portions from the Project and sell, trade in, exchange, or otherwise dispose of them (as a whole or in part) without the consent of the County and as such may be permitted under the Simplified FILOT Act.

(iii) Each Company may, at any time in its discretion by written notice to the County, remove any real or personal property from the Negotiated FILOT (as defined in Section 5.01) set forth in this Agreement, and thereafter such property will be considered Non-Qualifying Property and will be subject to FILOT Payments as set forth in Section 5.01(b)(i) hereof.

## ARTICLE V

### PAYMENTS IN LIEU OF TAXES

#### Section 5.01. Payments in Lieu of *Ad Valorem* Taxes.

(a) In accordance with the Act, the parties hereby agree that, during the Term of the Agreement, the Companies shall pay annually, with respect to the Project, a FILOT in the amount calculated as set forth in this Section, to be collected and enforced in accordance with Section 12-44-90 of the Act. Notwithstanding anything to the contrary in this Agreement, the Company shall be entitled to determine, subject to applicable law, the first year in which the Negotiated FILOT shall apply by means of the Company's annual filing with the Department of Revenue of Schedule S to Department of Revenue Form PT-300, a copy of which shall be provided by each Company to the officials and counties as required by Section 4.02(a) of this Agreement.

(b) The FILOT Payment due with respect to each property tax year shall equal:

(i) With respect to any portion of the Project consisting of undeveloped land, land under development, other property not yet placed in service or Non-Qualifying Property, as long as such property is located in the Multi-County Park, a payment equal to the *ad valorem* taxes that would otherwise be due on such undeveloped land, land under development, other property not yet placed in service or Non-Qualifying Property if it were taxable giving effect to all credits, exemptions, rebates and abatement that would be available if such undeveloped land, land under development, other property not yet placed in service or Non-Qualifying Property were taxable; and

(ii) With respect to those portions of the Project consisting of Economic Development Property, for each of the twenty (20) consecutive years beginning with the first year in which the Negotiated FILOT applies as determined in accordance with paragraph (a) of this Section 5.01, a payment calculated each year as set forth in paragraphs (c) and (d) of this Section 5.01 (a "Negotiated FILOT Payment").



(c) The Negotiated FILOT Payments shall be calculated with respect to each property tax year based on: (1) the fair market value (determined in accordance with Section 12-44-50(A)(1)(c) of the Code) of the improvements to real property and Equipment included within the Project theretofore placed in service (less, for Equipment, depreciation allowable for property tax purposes as provided in Section 12-44-50(A)(1)(c) of the Code), (2) a fixed millage rate equal to 325.4 mills, for the Term, and (3) an assessment ratio of six percent (6%). All such calculations shall take into account all deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the exemption allowed pursuant to Section 3(g) of Article X of the Constitution of the State of South Carolina and the exemptions allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code.

(d) Special Source Revenue Credits shall be granted with respect to the Economic Development Property in amounts equal to fifty percent (50%) of Negotiated FILOT Payments for the first five (5) consecutive years in which Negotiated FILOT Payments are required to be made hereunder.

(e) The FILOT Payments are to be recalculated:

(i) to reduce such payments in the event a Company disposes of any part of the Project within the meaning of Section 12-44-50(B) of the Code and as provided in Section 4.03 hereof, by the amount applicable to the Released Property;

(ii) to increase such payments, based on the methodology set forth in Section 5.01(c) hereof, in the event a Company adds property (other than Replacement Property) to the Project; or

(iii) to adjust such payments if a Company elects to convert any portion of the Project from the Negotiated FILOT to the FILOT required by Section 5.01(b)(i) above, as permitted by Section 4.03(iii).

(f) To the extent permitted by law, because the FILOT Payments agreed to herein are intended to be paid by the Companies to the County in lieu of taxes, it is agreed that said FILOT Payments shall not, as to any year, be in any amount greater than what would otherwise be payable by the Companies to the County in property taxes if the Companies had not entered into a fee-in-lieu of taxes arrangement with the County (except it is not intended that said FILOT Payments would necessarily be less than such property taxes to the extent that the constitutional abatement of property taxes set forth in Section 3(g) of Article X of the Constitution of the State of South Carolina would otherwise apply).

(g) Upon any Company's installation of any Replacement Property for any portion of the Project removed under Section 4.03 hereof and sold, scrapped, or disposed of by any Company, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by law, subject to the following rules:

(i) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. Replacement Property is deemed to replace the

oldest property subject to the FILOT, whether real or personal, which is disposed of in the same property tax year as the Replacement Property is placed in service. Replacement Property qualifies for Negotiated FILOT Payments up to the original income tax basis of the Economic Development Property which it is replacing. More than one piece of property can replace a single piece of property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to payments equal to the *ad valorem* taxes which would have been paid on such property but for this Agreement. Replacement property is entitled to the FILOT Payment for the period of time remaining on the FILOT period for the property which it is replacing.

(ii) The new Replacement Property which qualifies for the Negotiated FILOT Payment shall be recorded using its income tax basis, and the Negotiated FILOT Payment shall be calculated using the millage rate and assessment ratio provided on the original property subject to FILOT Payment.

(h) In the event that the Act or the FILOT or any portion thereof, are declared, by a court of competent jurisdiction following allowable appeals, invalid or unenforceable, in whole or in part, for any reason, the Companies and the County express their intentions that such payments be reformed so as to afford the Companies the maximum benefit then permitted by law, including, at the Company's election, without limitation, (i) an additional and/or increased Special Source Revenue Credit to approximate the net (after application of Special Source Revenue Credits) FILOT Payments intended under this Agreement, and/or (ii) the benefits afforded under Section 12-44-50 of the Code and, specifically, that the Companies may, at the Companies' expense, exercise the rights granted by Section 12-44-160 of the Code. If the Project is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Companies and the County agree that the Companies shall pay an alternate fee-in-lieu of tax calculated in the manner set forth in Section 5.01(b)(i) hereof. In such event, the Companies shall be entitled, to the extent permitted by law: (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Section 3(g) of Article X of the Constitution of the State of South Carolina, and any other exemption allowed by law; and (2) to enjoy all allowable depreciation. The Companies agree that if the FILOT Payments or this Agreement is reformed pursuant to this subsection (h), that under no circumstance shall the County be required to refund or pay any monies to the Companies.

(i) For the Project, this Agreement is automatically terminated in the event that the investment in the Project in land, buildings, and personal property, including machinery and equipment, by Sponsor does not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) by the end of the Investment Period ("Act Minimum Investment Requirement"). If terminated pursuant to this subsection (i), the Negotiated FILOT Payments shall revert retroactively to payments equivalent to what the *ad valorem* taxes would have been with respect to the property absent this Agreement. At the time of termination, the Companies shall pay to the County an additional fee equal to the difference between the total amount of property taxes that would have been paid by the Companies had the project been taxable, taking into account exemptions from property taxes that would have been available to the Companies, and the total amount of fee payments actually made by the Companies. This additional amount is subject to interest as provided in Section 12-54-25. The Companies agree, if the Negotiated FILOT

Payments revert to payments equivalent to what the *ad valorem* taxes would be pursuant to this subsection (i), that under no circumstance shall the County be required to refund or pay any monies to any Company.

(j) The Companies agree that the Special Source Revenue Credits for a year shall be reduced to the extent that the Companies fail to meet the Jobs Commitment. Specifically, in any year in which the Company fails to meet the Jobs Commitment, the annual Special Source Revenue Credit shall be reduced in the same proportion that the Company failed to meet the Jobs Commitment. For example, if in Year 3 (as referenced in Section 4.01(b) hereof), the Company should have employed in New Full Time Jobs paying an hourly wage rate not less than the Wage Requirement, an average of twelve (12) (rather than the fifteen (15) referenced in Section 4.01(b)(3) hereof), then the Special Source Revenue Credit would be set at 80% (12 divided by 15 equals 80%) of 50% which results in a Special Source Revenue Credit in Year 3 of 40% (80% times 50% equals 40%).

(k) In any year after Year 1 (as referenced in Section 4.01(b)) in which the Company fails to have employed in New Full-Time Jobs an average of not less than ten (10) jobs at the Project, the Company shall pay to the County an additional fee equal to the difference between the Negotiated FILOT Payments made by the Company and the FILOT Payment that would be due for the Economic Development Property if calculated, notwithstanding the provisions of Section 5.01(c), using the then current millage rate and the assessment ratios that would be applicable to the Economic Development Property if it were subject to *ad valorem* taxes (the "Hypothetical FILOT Payment").

As an example of the calculation set forth in this subsection (k), and by way of example only, (i) assuming the new facility is placed in service with respect to the Project in 2019 and that the Special Source Revenue Credit is first taken in 2020 (which would be "Year 1" as referenced in Section 4.01(b) hereof), and that in the year ending December 31, 2022 (which would be "Year 3" as referenced in Section 4.01(b) hereof), that the maintained number of New Full-Time Jobs was eight (8), that the millage rate applicable for tax bills to be sent in the following year is 375, and all of the Economic Development Property classified as personal property would have a 10.5% assessment ratio applied if such property were subject to *ad valorem* taxation, then (ii) the Hypothetical FILOT Payment for the year ending December 31, 2023 (which would be "Year 4" as referenced in Section 4.01(b) hereof) would be computed using the millage rate of 375 (instead of the millage rate set forth in Section 5.01(c) hereof) and the 10.5% assessment ratio for the Economic Development Property classified as personal property (instead of the 6% assessment ratio set forth in Section 5.01(c) hereof).

(l) Unless otherwise provided by the Act, any amounts due to the County under this Section 5.01 by virtue of the application of subsections (h) through (k) shall be paid within 90 days following written notice thereof from the County to the Companies.

(m) Notwithstanding any other provision of this Agreement, the Companies acknowledge and agree that County's obligation to provide the Negotiated FILOT incentive and the Special Source Revenue Credits ends, and this Agreement is terminated, if the Companies cease operations. Such termination shall not require the Companies to refund or pay any monies

to the County, except as set forth in Section 11.02 hereof. For purposes of this Section 5.01(m), “cease operations” means permanent closure of the primary facilities comprising the Project. The Companies agree that if this Agreement is terminated pursuant to this Section 5.01(m), that under no circumstance shall the County be required to refund or pay any monies to the Companies.

## ARTICLE VI

### OTHER COUNTY SUPPORT OF COMPANY

Section 6.01. Grants and Other Incentives. The County shall use its best efforts to (i) assist the Company in locating potential grants, in-kind, or other economic assistance or non-economic assistance from state and federal authorities and utilities for costs associated with the Project, including but not limited to public infrastructure costs, (ii) assist the Company in applying for state and federal economic development incentives that flow through the County, and (iii) assist the Company in obtaining job recruitment and training assistance through the ReadySC program. As used in this Section 6.01, “best efforts” include, without limitation, filing all required and necessary documents and applications relating to the grants or assistance, formally recommending approval of the grants or assistance, making the grants or assistance available at the commencement of the construction of the Project if provided by the granting or assisting entity, and giving the Company written evidence of the grants or assistance when approved.

## ARTICLE VII

### PAYMENTS BY COMPANIES

Section 7.01. Defaulted Payments. In the event any Company should fail to make any of the payments required under this Agreement, the item or installment so in default shall continue as an obligation of such Company until the amount in default shall have been fully paid. The Companies agree that the collection and enforcement of the defaulted payment shall be as provided in Section 12-44-90 of the Code.

## ARTICLE VIII

### CASUALTY AND CONDEMNATION

Section 8.01. Adjustments in the Event of Damage and Destruction or Condemnation. In the event that the Project or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings, any Company, in its sole discretion, may determine whether or not to repair or replace the same. The parties hereto agree that if the Companies decide not to repair or replace all or any portion of the Project pursuant to this Section, the FILOT required pursuant to Section 5.01 hereof shall be abated in the same manner and in the same proportion as if *ad valorem* taxes were payable with respect to the Project.

## ARTICLE IX

### PARTICULAR COVENANTS AND AGREEMENTS

Section 9.01. Use of Project for Lawful Activities. During the Term of this Agreement, each Company shall use the Project for the purposes identified in Section 2.02(f) of this Agreement and for any lawful purpose that is authorized pursuant to the Act.

Section 9.02. Assignment. The County agrees that, to the maximum extent allowable under the Act, each Company may assign (including, without limitation, absolute, collateral, and other assignments) all or a part of its rights or obligations under this Agreement, and any lease agreement, lease purchase agreement, or fee agreement, as the case may be, or any other agreement related hereto or thereto, or transfer any and all assets of such Company, to one or more Related Entities (as defined in Section 10.01 below) without adversely affecting the benefits of such Company or its assignees pursuant to any such agreement or the Act, and, to the extent required by the Act, the County hereby provides its consent with respect to any and all such assignments and transfers. Such Company shall provide the County and the Department of Revenue with notice of any such assignment, transfer, or investment in accordance with the Act, and the County agrees, upon the request of such Company, to take all further action necessary to implement such assignment, transfer, or investment in accordance with the provisions of the Act. With respect to any assignments not consented to pursuant to this Section 9.02 and which require consent, approval or ratification under the Act, the County agrees to not unreasonably withhold its consent, approval or ratification, as applicable; and the County shall provide any such consent, approval or ratification by a resolution of County Council.

Section 9.03. Indemnification. Sponsor releases the County, including the members of the governing body of the County, and the employees, officers, attorneys and agents of the County (herein collectively referred to as the “Indemnified Parties”) from, agrees that the Indemnified Parties shall not be liable for, and agrees to hold the Indemnified Parties harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to this Agreement, the Project or the use thereof, except for that occasioned by negligent or intentional acts of an Indemnified Party. Sponsor further agrees to indemnify and save harmless Indemnified Parties against and from any and all costs, liabilities, expenses, and claims arising from any breach or default on the part of the Companies in the performance of any covenant or agreement on the part of the Companies to be performed pursuant to the terms of this Agreement or arising from any act or negligence of, or negligent failure to act where there is a duty to do so by any Company, or any of their agents, attorneys, contractors, servants, employees, or licensees, and from and against all cost, liability, and expenses incurred in or in connection with any such claim or action or proceeding brought thereon.

All covenants, stipulations, promises, agreements, and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements, and obligations of the County and not of any member of the County Council or any officer, agent, attorney, servant, or employee of the County in his or her individual capacity, and no recourse shall be had for the payment of any moneys hereunder or the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon against any member of the governing body of the County or any officer, attorney, agent, servant, or employee of the County.

Notwithstanding the fact that it is the intention of the Indemnified Parties hereto that none of them shall incur any pecuniary liability by reason of the terms of this Agreement, any related



agreements or the undertakings required of the County hereunder by reason of the performance of any act requested of the County by any Company, including all claims, liabilities, or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if any Indemnified Party shall incur any such pecuniary liability, then in such event the Sponsor shall indemnify and hold them harmless against all claims by or on behalf of any Person, firm, or corporation or other legal entity arising out of the same and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, provided, however, that nothing herein shall absolve the Indemnified Parties from, or entitle the Indemnified Parties to indemnification from, any obligation such Indemnified Party has specifically agreed to undertake (including, without limitation, the obligation to place and maintain the Land within a multi-county park and to provide the benefits set forth in this Agreement). If any action, suit, or proceeding is brought against any Indemnified Party to which such Indemnified Party is entitled to indemnification, such Indemnified Party shall promptly notify the Companies, and the Companies shall have the sole right and duty to assume, and shall assume, the defense thereof, at its expense, with full power to litigate, compromise, or settle the same in its sole discretion; provided the Companies shall obtain the prior written consent of the County to settle any such claim unless such claim is for monetary damages for which the Companies have the ability to, and do, pay. Notwithstanding the foregoing, if the Indemnified Party is the County, in the event the County reasonably believes there are defenses available to it that are not being pursued or that the counsel engaged by the Companies reasonably determines that a conflict of interest exists between the County and the Companies, the County may, in its sole discretion, hire independent counsel to pursue its own defense, and the Companies shall be liable for the reasonable cost of such counsel.

The indemnity specified in this Section shall be in addition to any heretofore extended by the Companies to any Indemnified Party and shall survive the termination of this Agreement with respect to liability arising out of any event or act occurring prior to such termination.

#### Section 9.04. Sponsors and Sponsor Affiliates.

(a) Sponsor may designate from time to time, without the need for any additional County consent, Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the Simplified FILOT Act, which Sponsor Affiliates shall be Persons who join with the Companies and make investments with respect to the Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions of this Agreement and who shall be Related Entities (as defined in Section 10.01 below). The County consents to any and all designations made pursuant to this subsection (a).

(b) All Sponsor Affiliates, other than those designated pursuant to subsection (a) of this Section 9.04, who otherwise meet the requirements of Section 12-44-30(19) or (20) and Section 12-44-130 of the Simplified FILOT Act, must be approved by the County Council by passage of a resolution to that effect.

(c) The designation of an additional Sponsor Affiliate pursuant to this Section 9.04 shall be evidenced by the additional Sponsor Affiliate executing and delivering a joinder agreement, the form of which is attached to this Agreement as Exhibit B. County execution of the

joinder agreement is required only for the additional Sponsor Affiliates with respect to which the County is required by the Act to give its consent.

(d) To the extent that the aggregate investment in the Project by the end of the Investment Period by the Sponsor exceeds \$5,000,000, to the extent permitted by Section 12-44-30(19) of the Simplified FILOT Act, all investment by the Sponsor and such Sponsor Affiliates during the Investment Period shall qualify for the Negotiated FILOT pursuant to Section 5.01 of this Agreement (subject to the other conditions set forth therein) regardless of whether each such entity invested amounts equal to the Act Minimum Investment Requirement by the end of the Investment Period.

(e) Sponsor shall provide the County and the Department of Revenue with written notice of any Sponsor Affiliate designated pursuant to this Section 9.04 within ninety (90) days after the end of the calendar year during which any such Sponsor Affiliate has placed in service property to be used in connection with the Project and subject to the Negotiated FILOT Payment, all in accordance with Section 12-44-130(B) of the Simplified FILOT Act.

## ARTICLE X

### FINANCING ARRANGEMENTS; CONVEYANCES; ASSIGNMENTS

Section 10.01. Conveyance of Liens and Interests; Assignment. Each Company may at any time: (a) transfer all or any of its rights and interests hereunder or with respect to the Project to any Person; or (b) enter into any lending, financing, security, or similar arrangement or succession of such arrangements with any financing entity with respect to the Agreement or the Project, including without limitation any sale, leaseback, or other financing lease arrangement; provided that, in connection with any of the foregoing transfers: (i) except in connection with any transfer to Sponsor or Sponsor Affiliate or Affiliate of the Sponsor or Sponsor Affiliate (collectively, the “Related Entities”) (as to which such transfers the County hereby consents), or transfers pursuant to clause (b) above (as to which such transfers the County hereby consents), such Company shall obtain the prior written consent or subsequent ratification of the County; (ii) where a financing entity, which is the income tax owner of all or part of the Project, is the transferee pursuant to clause (b) above and such transferee or financing entity assumes in writing the obligations of such Company hereunder, or where the County consents in writing, no such transfer shall affect or reduce any of the obligations of such Company hereunder, but all obligations of such Company hereunder shall continue in full force and effect as the obligations of a principal and not of a guarantor or surety; (iii) such Company, transferee, or financing entity shall, within 60 days thereof, furnish or cause to be furnished to the County and the Department of Revenue a true and complete copy of any such transfer agreement; and (iv) such Company and the transferee shall comply with any additional requirements (i.e., requirements not addressed in this paragraph) of the Transfer Provisions.

Each Company acknowledges that such a transfer of an interest under this Agreement or in the Project may cause the Project to become ineligible for a Negotiated FILOT Payment or result in penalties under the Act absent compliance by the Companies with, as applicable, this Section 10.01 or the Transfer Provisions.

Section 10.02. Relative Rights of County and Financing Entities as Secured Parties. The parties acknowledge the application of the provisions of Section 12-44-90 of the Act, and that the County's right to receive FILOT Payments hereunder shall be the same as its rights conferred under Title 12, Chapter 49 and 54, among others, of the Code relating to the collection and enforcement of *ad valorem* property taxes. The County's rights under this Agreement, except for its rights to receive FILOT Revenues, shall be subordinate to the rights of any secured party or parties under any financing arrangements undertaken by the Companies with respect to the Project pursuant to Section 10.01 hereof, such subordination to be effective without any additional action on the part of the County; provided, however, that the County hereby agrees, at the Companies' expense, to execute such agreements, documents, and instruments as may be reasonably required by such secured party or parties to effectuate or document such subordination.

## ARTICLE XI

### TERM; TERMINATION

Section 11.01. Term. Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date on which the Companies execute this Agreement, and ending at midnight on the last day of the property tax year in which the last Negotiated FILOT Payment is due hereunder. The Project has a term of 20 years, as calculated pursuant to the respective dates when the relevant portions of the Project are placed in service, and as discussed in greater detail in this Agreement. The County's rights to receive indemnification and payment of Administration Expenses pursuant hereto shall survive the expiration or termination of this Agreement.

Section 11.02. Termination. The County and the Companies may agree to terminate this Agreement at any time, or the Sponsor may, at its option, terminate this Agreement at any time upon providing the County 30 days' notice of such termination, in which event the Project shall be subject to *ad valorem* taxes from the date of termination. In the event that this Agreement is terminated by the operation of this Section 11.02 at any time during the initial Investment Period prior to the Companies' meeting the Jobs Commitment, amounts due to the County as a result thereof, if any, shall be calculated as provided in Section 5.01(i) hereof. The County's rights to receive payment for such *ad valorem* taxes and its rights to enforce the terms of this Agreement shall survive termination of this Agreement.

## ARTICLE XII

### EVENTS OF DEFAULT AND REMEDIES

Section 12.01. Events of Default by Companies.

(a) Subject in all events to Section 13.14 hereof, any one or more of the following events (herein called an "Event of Default", or collectively "Events of Default") shall constitute an Event of Default by the Companies:

(1) if default shall be made in the due and punctual payment of any FILOT Payments, indemnification payments, or Administration Expenses, which default shall not have been cured within 60 days following receipt of written notice thereof from the County; or

(2) if default shall be made by any Company in the due performance of or compliance with any of the terms hereof, including payment, other than those referred to in the foregoing paragraph (1), and such default shall continue for 90 days after the County shall have given the Companies written notice of such default, provided, such Company shall have such longer period of time as necessary to cure such default if such Company proceeds promptly to cure such default and thereafter to prosecute the curing of such default with due diligence; and provided further, that no Event of Default shall exist under this paragraph (2) during any period when there is pending, before any judicial or administrative tribunal having jurisdiction, any proceeding in which such Company has contested the occurrence of such default.

(b) The failure of the Companies to meet the Jobs Commitment set forth herein shall not be deemed to be an Event of Default under this Agreement.

Section 12.02. Remedies on Event of Default by Company. Upon the occurrence of any Event of Default, the County may exercise any of the following remedies, any of which may be exercised at any time during the periods permitted under the following clauses:

(a) terminate this Agreement by delivery of written notice to the Companies not less than 30 days prior to the termination date specified therein;

(b) have access to and inspect and examine the books, records, and accounts of the Companies pursuant to Section 4.02(c); or

(c) take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due or to enforce observance or performance of any covenant, condition, or agreement of the Companies under this Agreement.

Section 12.03. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, any Company may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation, a suit for mandamus or specific performance; provided, however, that anything herein to the contrary notwithstanding, any financial obligation the County may incur hereunder, including for the payment of money, shall not be deemed to constitute a pecuniary liability or a debt or general obligation of the County.

## ARTICLE XIII

### MISCELLANEOUS

Section 13.01. Rights and Remedies Cumulative. Each right, power, and remedy of the County or of the Companies provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights,

powers and remedies are sought to be enforced; and the exercise by the County or by the Companies of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Companies of any or all such other rights, powers or remedies.

Section 13.02. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns as permitted hereunder.

Section 13.03. Intentionally Omitted.

Section 13.04. Administration Expenses.

(a) The Companies agree to reimburse the County from time to time for its Administration Expenses promptly upon written request therefore, but in no event later than thirty (30) days after receiving the written request from the County; provided, however, that in no event shall the Companies be responsible for reimbursing the County in excess of \$8,000 for any Administration Expenses incurred in the form of attorneys' fees or otherwise with respect to any matter relating to (i) the preparation, review, approval and execution of this Agreement, or (ii) the preparation, review, approval and execution of any other documents related to this Agreement and any multi-county park documents. The written request shall include a description of the nature of the Administration Expenses.

(b) The Companies agree to reimburse the County for expenses incurred by the County for accountants and similar experts used by the County in the computation, preparation and verification of the annual FILOT Payments and any special source revenue credits, *provided, however*, the maximum annual reimbursement pursuant to this subsection is capped at One Thousand and No/100 dollars (\$1,000.00).

Section 13.05. Rules of Construction. The County and the Companies acknowledge and agree that each has been represented by legal counsel of its choice throughout the negotiation and drafting of this Agreement, that each has participated in the drafting hereof and that this Agreement will not be construed in favor of or against either party solely on the basis of such party's drafting or participation in the drafting of any portion of this Agreement.

Section 13.06. Notices; Demands; Requests. All notices, demands and requests to be given or made hereunder to or by the County or the Companies shall be in writing and shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows or to such other persons and places as may be designated in writing by such party in accordance with this Section 13.06.

(a) As to the County:

County of Lancaster, South Carolina  
ATTN: Steve Willis, County Administrator



101 N. Main St. (29720)  
P.O. Box 1809 (29721-1809)  
Lancaster, South Carolina  
Phone: (803) 416-9300  
Email: [swillis@lancastercountysc.net](mailto:swillis@lancastercountysc.net)

With a copy to (which shall not constitute notice):

Mr. Jamie Gilbert  
Economic Development Director, Lancaster County  
P.O. Box 1809  
Lancaster, South Carolina 29721  
Telephone: (803) 286-3633  
Fax: (803) 416-9497  
Email: [jgilbert@lancastercountysc.net](mailto:jgilbert@lancastercountysc.net)

(b) As to the Sponsor:

**[to come]**

With a copy, in each case, to (which shall not constitute notice):

**[to come]**

Section 13.07. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.

Section 13.08. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 13.09. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 13.10. Headings and Table of Contents; References. The headings of the Agreement and any Table of Contents annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular articles or Sections or paragraphs of this Agreement are references to the designated articles or Sections or paragraphs of this Agreement.

Section 13.11. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

Section 13.12. Amendments. Subject to the limitations set forth in the Act, this Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by both parties.

Section 13.13. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

Section 13.14. Force Majeure. The Companies shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, labor shortages, fire, floods, inability to obtain materials, conditions arising from government orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Companies' reasonable control.

***[SIGNATURE PAGE TO FOLLOW]***

IN WITNESS THEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and behalf by the Council Chair and Council Secretary and to be attested by the Clerk to Council; and the Companies have caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

**LANCASTER COUNTY, SOUTH CAROLINA**

---

Steve Harper, Chair, County Council

---

Larry Honeycutt, Secretary, County Council

ATTEST:

---

Sherrie Simpson, Clerk to Council

**PROJECT BOOM**

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

Its: \_\_\_\_\_

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

Its: \_\_\_\_\_

**EXHIBIT A**

Land

Land upon which Project will be located:

Description:

Tax Map No.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

**EXHIBIT B (see Section 9.4)**

**FORM OF JOINDER AGREEMENT**

Reference is hereby made to the Fee Agreement, dated as of January 13, 2020 ("Fee Agreement"), between Lancaster County, South Carolina ("County") and \_\_\_\_\_ ("Company").

**1. Joinder to Fee Agreement.**

\_\_\_\_\_, a [state] [corporation]/[limited liability company]/[limited partnership] authorized to conduct business in the State of South Carolina, hereby (a) joins as a party to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement as if it were a Company [except the following: \_\_\_\_\_]; (b) shall receive the benefits and be subject to the obligations as provided under the Fee Agreement with respect to the Economic Development Property placed in service by the Sponsor Affiliate as if it were the Company [except the following \_\_\_\_\_]; (c) acknowledges and agrees that (i) according to the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Company for purposes of the Project; and (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(20) and Section 12-44-130 of the Act.

**2. Capitalized Terms.**

Each capitalized term used, but not defined, in this Joinder Agreement has the meaning of that term set forth in the Fee Agreement.

**3. Representations of the Sponsor Affiliate.**

The Sponsor Affiliate represents and warrants to the County as follows:

(a) The Sponsor Affiliate is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Joinder Agreement, and has duly authorized the execution and delivery of this Joinder Agreement.

(b) The Sponsor Affiliate's execution and delivery of this Joinder Agreement, and its compliance with the provisions of this Joinder Agreement, does not result in a default, not waived or cured, under any agreement or instrument to which the Sponsor Affiliate is now a party or by which it is bound.

(c) The execution and delivery of this Joinder Agreement and the availability of the FILOT and other incentives provided by this Joinder Agreement has been instrumental in inducing the Sponsor Affiliate to join with the Company in the Project in the County.

**4. Governing Law.**

This Joinder Agreement is governed by and construed according to the laws, without regard to principles of choice of law, of the State of South Carolina.

**5. Notice.**

Notices under Section 13.06 of the Fee Agreement shall be sent to:

[\_\_\_\_\_]

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Entity

By:

Its:

County Acknowledgement

[REQUIRED ONLY FOR THOSE ADDITIONAL SPONSOR AFFILIATES FOR WHICH COUNTY CONSENT IS REQUIRED BY THE FEE IN LIEU OF TAX SIMPLIFICATION ACT]

IN WITNESS WHEREOF, the County acknowledges it has consented to the addition of the above-named entity as a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

**LANCASTER COUNTY, SOUTH CAROLINA**

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

Its:



## Agenda Item Summary

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Ordinance # / Resolution #: Resolution 1077-R2019

Contact Person / Sponsor: Steve Willis/Administration and Darren Player/Director of Fire/Emergency Services

Department: Administration

Date Requested to be on Agenda: 12/9/2019

**Issue for Consideration:**

Acquisition of Self Contained Breathing Apparatus (SCBA) for Lancaster County Fire Rescue.

**Points to Consider:**

This Resolution would authorize the acquisition of 376 SCBA units (air packs); 709 cylinders (15 year carbon wrapped 45 minute - 4,500 PSI), and 756 facemasks (AV 300 model). This will supply every fire department in Lancaster County.

This will be included on a future budget amendment ordinance. We were already past the public hearing on the current ordinance.

**Funding and Liability Factors:**

The total cost is not to exceed two million six hundred and nine thousand eight hundred and twenty three (\$2,609,823) dollars.

This is a minimum savings of \$415,000 as guaranteed by the manufacturer (Scott). The individual dealers (3 in SC) will offer additional incentive savings in an effort to be the low bidder. That is why we have a "not to exceed" amount listed. It cannot go higher but will most certainly be lower.

**Council Options:**

Approve or reject the Resolution.

**Recommendation:**

This comes to Council with a positive recommendation from both the Administration Committee and the Public Safety Committee.

**ATTACHMENTS:**

Description	Upload Date	Type
Resolution 1077-R2019	12/2/2019	Resolution
SCBA Proposal to Admin Comm.	12/2/2019	Exhibit

STATE OF SOUTH CAROLINA       )  
  )  
COUNTY OF LANCASTER        )

**RESOLUTION NO. 1077-R2019**

**A RESOLUTION**

**TO AUTHORIZE COUNTY STAFF TO ACQUIRE SELF CONTAINED BREATHING APPARATUS PENDING ADOPTION OF A BUDGET AMENDMENT ORDINANCE; AND OTHER MATTERS RELATED THERETO.**

Be it resolved by the Council of Lancaster County, South Carolina:

**Section 1.     Findings.**

WHEREAS, the self contained breathing apparatus operated by Lancaster County Fire Rescue are nearing the end of their life cycle with the cylinders timing out over the next 12 to 24 months, and

WHEREAS, there exist at the current time the opportunity to acquire replacement equipment at a savings in excess of \$415,000 (minimum guaranteed by manufacturer with dealers competing for the bid with additional incentives) while obtaining free manufacturer system upgrades for the life of the equipment, and

WHEREAS, the Administration Committee and Public Safety Committee are recommending that county funding be authorized to acquire this equipment.

**Section 2.     Authorization by County Council.**

By way of Resolution Number 1077-R2019 the Lancaster County Council hereby authorizes the county staff to acquire the self contained breathing apparatus at a cost not to exceed two million six hundred and nine thousand eight hundred and twenty three dollars (\$2,609,823) pending the

adoption of a budget amendment ordinance to appropriate the necessary funding from the General Fund fund balance.

**Section 3.     Effective date.**

This Resolution is effective December 9, 2019.

**AND IT IS SO RESOLVED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

(SEAL)

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

**ATTEST:**

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney



## **Lancaster County Fire Rescue**

**PO Box 1809  
Lancaster, SC  
29721**

**Business Phone  
803-283-8888**

**Fax  
803-283-6333**

**E-mail  
LCFR@comporium.net**



*Proud and Progressive*

November 21, 2019

### **Self-Contained Breathing Apparatus (SCBA) Replacement Proposal**

The Lancaster County Fire Commission, during its November 7, 2019 meeting, voted unanimously, to request County Council move forward with a purchase that will replace all SCBA within the county along with cylinders and facemasks. This purchase would consist of:

376 – SCBA Units

709 – 15 Year Carbon Wrapped 45 Minute 4500PSI Cylinders

756 – Facemasks (AV-3000 HT Five Point Harness)

The initial planning figure for this purchase was \$3,086,373.24 with 30 year cylinders.

Discussion with the Southeaster Rep for Scott SCBA resulted in a probable savings of at least \$415,000.00 with 15 year cylinders (\$2,609,822.10 total cost including sales tax) or a savings of at least \$298,000.00 with 30 year cylinders (\$2,768,505.66 total cost including sales tax). There could possibly be more savings on the 15 year cylinder cost when the bid is actually submitted by vendors depending on PO Issue Date. The 15 year cylinders are readily available therefore can be sold at a deeper discount, whereas 30 year cylinders are manufactured after an order is placed and have a 120 day lead time minimum and are not as easily discounted.

Discussions with an SCBA unit reseller resulted, for planning purposes, in a probable \$28,200.00 sale by the county.

Should Council decide not to take the Fire Commission recommendation the following costs will occur over the next several years:

56 – 15 Year Cylinders, 45 minute, 4500 PSI, purchased immediately for Pleasant Valley FD to meet the current NFPA1981, Revision 2019, standard for reserve air capacity at a cost of \$1,167.00 Ea. (Total Cost of \$70,580.16 including sales tax, however shipping costs are unavailable.)

169 – 15 Year Cylinders, 45 minute, 4500 PSI, 2006 purchase, expire 2021, current replacement cost \$1,167.00 Ea. (Total Cost of \$213,000.84 including sales tax but no price increase or shipping costs.)

484 – 15 Year Cylinders, 45 minute, 4500 PSI, 2007 purchase, expire 2022, current replacement cost \$1,167.00 Ea. (Total Cost of \$610,014.24 including sales tax but no price increase or shipping costs.)

Total cost of cylinders after 3 year with complete replacement \$893,595.24. This includes sales tax at today's replacement cost with no increase or shipping.

Maintenance costs will be ongoing with existing SCBA units. Current annual costs are approximately \$24,000.00 per year and can increase with the passing of time. (\$144,000.00 possible maintenance costs while replacing SCBA Units) Replacement parts will be less available and ultimately not available based on a January 2019 bulletin stating replacement parts for the SCBA units we currently have will not be manufactured past January 2019 and availability will be based on current stock.

If a scaled replacement of SCBA units is begun in the 20/21 budget assuming a 15 to 20 year life span for the existing units:

FY 20-21 76 – replaced at a current cost of \$4,817.00 Ea. \$395,379.36 incl. tax

FY 21-22 75 – replaced at a current cost of \$4,817.00 Ea. \$390,177.00 incl. tax

FY 22-23 75 – replaced at a current cost of \$4,817.00 Ea. \$390,177.00 incl. tax

FY 23-24 75 – replaced at a current cost of \$4,817.00 Ea. \$390,177.00 incl. tax

FY 24-25 75 – replaced at a current cost of \$4,817.00 Ea. \$390,177.00 incl. tax

A delay of the purchase at today's pricing could result in an expenditure of approximately \$3,236,993.00 (including facemask replacement) minimum based on all figures are at today's cost per unit without price increases and no information on shipping costs. (The cost of facemask replacement is not included in any of the prior totals and they are approximately \$300.00 each resulting in another \$243,311.04 including tax at today's pricing.)

There is no guarantee the extensive warranty available today that covers the SCBA unit for electronic parts replacement/repair and any upgrades will continue past an introductory period.

## Agenda Item Summary

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Ordinance # / Resolution #: Resolution 1078-R2019

Contact Person / Sponsor: Alison Alexander/Deputy County Administrator

Department: Administration

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

CBD, or cannabidiol, is one of several compounds found in cannabis plants, including marijuana (which is illegal in South Carolina) and hemp (which is regulated in South Carolina). Under federal and South Carolina law, CBD is generally legal to use and possess as long as it contains no more than .3% of the psychoactive compound delta-9 tetrahydrocannabinol (THC).

CBD products, including CBD-infused food and drink are widely available. However, they are not regulated by the U.S. Food and Drug Administration, which still considers them to be illegal when added to food and drink. In addition, little to no research has been done to determine the effects of use of CBD. The result is a lack of consistency in the cannabinoid concentrations, manufacturing processes, and recommended dosing or serving sizes. In addition, CBD is not regulated in vaping or topical oils. These inconsistencies could lead to CBD or other hemp-based products having THC concentrations high enough to result in a positive result for marijuana on a drug screen.

On October 3, 2019 County Staff received a memo informing them that the a positive finding of drug use is conclusive for all employment-related purposes, regardless of whether the positive result is claimed to be caused by CBD or use of marijuana in a state where it is legal. The attached policy has been updated by the County's employment attorney to include this information for County employees.

### **Points to Consider:**

The Drug/Alcohol Policy should be adopted with the recommended updates to be consistent with state and federal law.

### **Funding and Liability Factors:**

n/a

### **Council Options:**

n/a

### **Recommendation:**

To approve the policy as presented (or amended).

### **ATTACHMENTS:**

Description	Upload Date	Type
Resolution1078-R2019	12/2/2019	Resolution
Employee Substance Abuse & Testing Polic, as updated November 2019	11/27/2019	Exhibit



**A RESOLUTION**

**TO AMEND THE LANCASTER COUNTY EMPLOYEE SUBSTANCE ABUSE AND TESTING POLICY TO UPDATE COUNTY POLICY REGARDING THE USE OF MEDICAL MARIJUANA, CANNABIDIOL (CBD), AND SIMILAR PRODUCTS**

**Section 1. Findings and Determinations**

The County Council finds and determines that:

- (a) Cannabidiol (CBD) products raise special concerns for drug testing protocols because, in certain forms they are legal for use, but they are unregulated and little research has been done to standardize dosing, study outcomes, or regulate production.
- (b) CBD and hemp products that are legal for consumption may not contain more than .3% THC (tetrahydrocannabinol), the psycho-active compound in marijuana. However, it is possible for some of these CBD products to contain more than the legal limit. Therefore, it is possible for employees using CBD or hemp products to test positive for marijuana because of their use.
- (c) It is not possible to determine whether a positive test for marijuana is the result of using CBD or hemp products, or from using marijuana. Therefore, the County will consider any confirmed positive test for marijuana to be conclusive for employment drug testing purposes, even if an employee claims to have used CBD or hemp, and even if the employee has a prescription or other physician's order for its use.
- (d) While marijuana has been legalized for medical or recreational use in other states, it remains illegal in South Carolina and under federal law. Employees who use recreational or "medical" marijuana in states where it is legal remain subject to discipline, up to and including discharge, under County policy.
- (e) There are certain substances that are designed to mimic the effect of illegal drugs, but due to differences in chemical composition are not classified as Schedule I drugs or otherwise be expressly illegal. Examples are K2, or Spice, synthetic cannabinoids. "Illegal drugs or substances", as used in the county policy, shall include synthetic cannabinoids and other substances designed to mimic illegal drugs.

**Section 2. Amendment of Employee Substance Abuse Testing Policy**

The Employee Substance Abuse Testing Policy is amended in the form reflected in Exhibit "A" to this Resolution.

**Section 3.     Conflicting Provisions**

To the extent that this Resolution contains provisions that conflict with provisions contained elsewhere in adopted bylaws or procedures, the provisions contained in this Resolution supersede all other provisions and this Resolution is controlling.

**Section 5.     Effective Date.**

This Resolution is effective upon its adoption.

**THEREFORE, BE IT RESOLVED** by the Council of Lancaster County, South Carolina that the Employee Substance Abuse Testing Policy is amended as set forth herein.

**AND IT IS SO RESOLVED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

Attest:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

## **EMPLOYEE SUBSTANCE ABUSE AND TESTING POLICY**

### **AT-WILL DISCLAIMER**

**NOTHING CONTAINED IN THIS POLICY OR IN ANY OTHER AUTHORITY POLICY CREATES A CONTRACT RIGHT. CONSISTENT WITH SOUTH CAROLINA LAW, ALL EMPLOYEES ARE EMPLOYED "AT WILL" WHICH MEANS THAT THE EMPLOYEE HAS THE RIGHT TO TERMINATE HIS OR HER EMPLOYMENT AT ANY TIME, WITH OR WITHOUT NOTICE OR CAUSE, AND THAT THE COUNTY RETAINS THE SAME RIGHT. EXCEPTIONS TO THE POLICY THAT ALL EMPLOYEES ARE EMPLOYED "AT WILL" MAY BE MADE ONLY BY WRITTEN AGREEMENT SIGNED BY THE COUNTY ADMINISTRATOR AND THE EMPLOYEE, AND APPROVED BY VOTE OF COUNTY COUNCIL.**

It is well-recognized that substance abuse has a harmful effect on public health and safety, on the welfare of employees, on morale, and on productivity. Furthermore, it is the policy of the County to comply with the Drug Free Workplace Act, to comply with applicable federal regulations, to establish and maintain alcohol and drug-free workplaces, to provide guidance on County policy regarding the use of "medical" marijuana, cannabidiol (CBD), similar products, and to prohibit the unauthorized or unlawful manufacture, distribution, dispensation, possession, and the use of controlled substances on or off the job.

For these reasons, the County adopts the following policy:

#### **I. GENERAL RULE**

All employees of the County are prohibited from swallowing, inhaling, injecting, dealing in, or otherwise using illegal drugs and substances (such as marijuana, cocaine, LSD, heroin, etc.). Further, this prohibition applies to the misuse, abuse or any unlawful use or possession of otherwise legal drugs. This prohibition applies to use at any time, both on the job and off the job. County employees are permitted to possess any substance when required by their jobs or for the purpose of lawful delivery to another person.

As used in this policy, "illegal drugs and substances" includes substances that are designed to mimic the effects of illegal drugs, but that due to differences in chemical composition may not be classified as Schedule I drugs or otherwise be expressly illegal. Examples include K2, or spice, which are synthetic cannabinoids. Cannabidiol (CBD) products raise special concerns because, in certain forms they are legal for use, but they

are unregulated and little research has been done to standardize dosing, study outcomes, or regulate production. CBD and hemp products, by law, may not contain more than .3% THC (tetrahydrocannabinol), the psycho-active compound in marijuana. However, it is possible for some of these products to contain more than the legal limit. Therefore, it is possible for employees using CBD or hemp products to test positive for marijuana because of their use. It is not possible to determine whether a positive test for marijuana was a result of using CBD or hemp products, or from using marijuana. **Therefore, the County will consider any confirmed positive test for marijuana to be conclusive for employment purposes – even if an employee claims to have used CBD or hemp, and even if the employee has a prescription or other physician’s order for its use.** Employees should also be aware that, while marijuana is increasingly being legalized for medical or recreational use in other states, it remains illegal in South Carolina and under federal law. **Employees who use recreational or “medical” marijuana in states where it is legal remain subject to discipline, up to and including discharge, under County policy.**

All employees of the County are prohibited from using or possessing alcoholic beverages on County premises or time. (The term “County premises or time” includes: County vehicles and private vehicles on County premises; parking lots and recreation areas; and any circumstances in which an employee is representing the County, such as attending off-premises business meetings or conferences. Employees are not prohibited, however, from having unopened containers of alcoholic beverages in their personal vehicles.) The County Administrator may approve moderate alcohol use at designated social or business functions.

All employees of the County are prohibited from reporting to or being at work while under the influence of alcohol. **(An employee is considered to be “under the influence of alcohol” if he has any detectable amount of alcohol in his system.)** An employee taking prescribed medication which might affect his ability to perform his job is required to advise his supervisor. The County will determine whether the employee may continue to work. Employees may be required to submit to a drug screen.

These prohibitions also apply to leased employees and contractors employed by the County or working on County property. **Employees of elected and appointed officials are subject to this policy only to the extent that it may be adopted, in whole or in part, by the employing official.**

## II. APPLICANTS FOR EMPLOYMENT

Applicants tentatively selected for employment must undergo a pre-employment drug test. The County does not hire applicants tentatively selected for employment who refuse to submit to a drug test or who test positive for use of illegal or unauthorized substances or the illegal use of authorized substances. An applicant who is rejected under this policy may be considered for future vacancies if he can demonstrate that he is no longer a user of any such substances. For example, the applicant may successfully complete a drug

abuse treatment program and pass a more thorough drug test conducted at the applicant's expense. (This may include participation in and successful completion of a rehabilitation program as well as a negative drug test result on a more thorough drug test.)

### III. CURRENT EMPLOYEES

A. All County employees are subject to drug testing by urinalysis where "particularized suspicion" of drug use in violation of this policy exists or under other lawful conditions.

1. Particularized suspicion is deemed to exist when:

a. Information that an employee has used drugs or substances in violation of this policy is provided by a reliable informant;

b. An accident occurs:

"accident" is defined as:

(1) an accident involving a fatality;

(2) an accident causing personal injury; or

(3) an accident involving significant property damage.

NOTE: DOT regulated employees (CDL Drivers) are subject to special rules for post-accident testing and will be tested following an accident in accordance with DOT regulations.

c. An employee exhibits any of the following:

(1) extreme mood swings;

(2) slurred speech;

(3) unusual clumsiness;

(4) staggering;

(5) dilation of pupils;

(6) sleeping on the job or lethargy;

(7) excessive unexplained sweating;

(8) other aberrational behavior;

- (9) an employee has been arrested for or convicted of a violation of drug laws; or
    - (10) an employee has tested positive for drugs or otherwise violated this policy within the past five years.
- B. All County employees are subject to alcohol testing where “particularized suspicion” of alcohol use in violation of this policy exists.
  - 1. Particularized suspicion is deemed to exist when:
    - a. information that an employee has used or possessed alcohol in violation of this policy is provided by a reliable informant;
    - b. an accident occurs. “An accident” is defined in the same manner as it is in section (III) A of this policy.
    - c. an employee exhibits behavior consistent with alcohol use such as but not limited to:
      - (1) erratic behavior (mood swings, slurred speech, staggering, bloodshot eyes, sleeping on the job or lethargy, excessive unexplained sweating, etc.);
      - (2) the apparent odor of an alcoholic beverage on an employee’s breath;
      - (3) other aberrational behavior such as but not limited to excessive absenteeism or tardiness, significant deterioration in job performance, repeated errors or rules violations, etc.
    - d. an employee has admitted violating the County’s alcohol policy;
    - e. an employee is arrested for or convicted of an alcohol related offense; or,
    - f. an employee has tested positive for alcohol in violation of this policy, or otherwise violated this policy, within the past five years.
- C. Particularized suspicion testing is conducted upon the approval of the County Administrator or his designee.
- D. All sworn law enforcement officers, employees who are required by their jobs to possess a Commercial Driver’s License or employees whose jobs the County



regards as “safety-sensitive” are subject to random testing to determine compliance with this policy. A list of safety sensitive positions is attached as Appendix A. Random selection testing is unannounced.

- E. Employees may be tested for the use of controlled substances as part of any “fitness for duty” physical examination mandated by federal/state law or by the County, or as otherwise allowed by law.
- F. Employees who refuse to submit to an alcohol or drug test when ordered to do so or who adulterate or substitute test samples are in violation of this policy and subject to disciplinary action, up to and including discharge. Refusal to test includes failure to appear for a test, failure to remain until testing is complete, failure to provide an adequate amount of urine, saliva or breath, failure to undergo a medical examination to evaluate your ability to provide an adequate urine, saliva or breath specimen, or failure to sign a required certification form.

#### IV. TESTING PROCEDURE

- A. Drug testing.
  - 1. Drug testing will be by urinalysis.
  - 2. The collection of urine samples is performed under reasonable and sanitary conditions.
  - 3. Urine is normally collected under conditions of semi-privacy – that is, a person of the same gender will be in a position to observe obvious attempts to substitute or adulterate a urine sample. Collection of the urine sample may be directly observed by a person of the same gender, however, where the person supervising the collection believes an employee has tampered with an earlier urine sample or the employee has previously admitted or been proved to have used drugs in violation of this rule. In addition, direct observation will be used in DOT-mandated testing for DOT-regulated employees when allowed or required by DOT regulations.
  - 4. Urine samples are sealed, labeled, and documented in accordance with the procedure of the drug testing collector or laboratory. Tests performed pursuant to DOT regulations will follow the procedures required by those regulations. Labeling, storage, and transportation of samples are performed so as reasonably to preclude the probability of erroneous identification, sample contamination, or sample adulteration.
  - 5. Specimens are checked for at least the following six drugs:

- a. marijuana
- b. cocaine
- c. opiates
- d. amphetamines
- e. phencyclidine
- f. barbiturates

**NOTE:** Tests performed pursuant to DOT regulations check for only those substances mandated by the DOT regulations.

- 6. Applicants and employees are provided an opportunity to provide any information which they consider relevant to the test, including identification of currently used prescription or nonprescription drugs, or other relevant information.
- 7. Samples which initially result in a positive finding for drug use are re-tested by the gas chromatography/mass spectrometry (GCMS) or an equivalent method. If the confirmatory test results in a positive finding of drug use, and is verified by the Medical Review Officer, the written report of the Medical Review Officer is conclusive for all employment-related purposes.
- 8. **IMPORTANT:** The County's Medical Review Officer (MRO) normally allows an employee whose drug test results have been confirmed as positive the opportunity to justify the result before the Medical Review Officer notifies the County. Typically, contact by the MRO is by phone. **Employees must respond to attempts to contact them by the MRO. Failure to do so will result in discipline, up to and including discharge.**
- 9. A sample that is determined to be positive dilute will be treated as positive under this policy. A sample that is negative dilute will result in another screen. If the subsequent screen is also negative dilute, it will be considered adulterated and the employee is subject to discipline, up to and including discharge. Negative dilute results in tests conducted under DOT regulations will be handled in accordance with those regulations.

B. Alcohol Testing.

1. A non-evidential screening device may be utilized to initially determine compliance with this policy. If the screening device indicates the presence of alcohol, or if the results of the screening device are deemed questionable by the County, then a confirmatory test is conducted utilizing an EBT (evidential breath testing) device or blood test. The County uses only DOT approved non-evidential screening devices and DOT approved evidential breath testing (EBT) devices for DOT-mandated alcohol testing. The County reserves the right to utilize blood testing for non-DOT alcohol tests.
2. Employees will have an opportunity to provide any information which they consider to be relevant to the test.
3. The EBT confirmatory test is conducted by an individual properly certified to use the equipment. (In situations involving DOT regulated employees, the EBT operator should be properly certified in accordance with applicable DOT regulations.)
4. A confirmatory test result generated through the use of an EBT or blood test which indicates a presence of alcohol in violation of this policy is conclusive for purposes of this policy.

V. NOTICE TO EMPLOYEES

The County attempts to distribute to all employees a copy of this policy. Additional copies of this policy are available upon request. By continuing to work, the employee agrees to abide by the policy as a condition of employment.

VI. NOTICE TO EMPLOYER, STATE AND FEDERAL GRANTOR/CONTRACTING AGENCIES, AND LAW ENFORCEMENT AUTHORITIES

- A. As a condition of employment, employees agree to notify the County within five calendar days after any criminal conviction for the workplace manufacture, distribution, dispensation, possession, or use of illegal drugs and prescription drugs not prescribed for the individual employee's use. The County will notify all state and federal grantors/contracting agencies of such employee convictions as required by the state and federal Drug Free Workplace Acts. "Conviction" means a finding of guilt, imposition of a sentence, an *Alford* plea, a plea of no contest, or a plea of guilty.
- B. The County will notify law enforcement authorities whenever illegal drugs are found in the workplace.

## VII. CONSEQUENCES OF VIOLATING THIS POLICY

- A. Employees who violate this policy are subject to immediate termination of employment.
- B. Except for sworn law enforcement officers, in lieu of terminating an employee, the County may condition the continued or future employment of an employee who tests positive for or admits to the use of illegal drugs, upon the successful completion of an alcohol or drug counseling/rehabilitation program.
- C. If the County, after considering all of the relevant circumstances, agrees to allow an employee who is found to be in violation of this policy to continue as an employee, the employee's continued employment will be subject to the following:
  - 1. Referral of the employee for alcohol or drug abuse counseling;
  - 2. Retesting the employee for alcohol or controlled substances before allowing the employee to return to duty;
  - 3. Requiring the employee to authorize any rehabilitation facility to report periodically to the County during the course of treatment/counseling;
  - 4. Placing the employee on probation for at least six months following the employee's return to duty; and
  - 5. Requiring the employee to submit to unannounced follow-up alcohol and/or drug testing for a period of up to five years.
- D. An employee whose continued or future employment is conditioned upon the successful completion of a counseling or rehabilitation program and who refuses or fails to participate in a single counseling or treatment session is in violation of this policy and subject to immediate termination.
- E. An employee whose return to duty test sample does not indicate that the employee has discontinued illegal use of drugs or indicates that the employee is in violation of this policy is subject to immediate termination.

## VIII. COMING FORWARD WITH SUBSTANCE ABUSE PROBLEMS

- A. Employees, other than sworn law enforcement officers, who have substance abuse problems and report them to the County before being

selected for testing, and before the occurrence of an event which normally would result in testing, in the County's sole discretion may be upon the first violation be subject to Part VII (B) - (E) of this policy in lieu of termination.

- B. An employee who admits to a violation of this policy or tests positive for drugs in violation of this policy, but seeks counseling and remains an employee of the County, is subject to immediate termination if he again either admits to, or is otherwise found to be in violation of this policy.

#### IX. CONFIDENTIALITY

Any alcohol or drug test results or information supplied by employees and applicants as part of the County's alcohol and drug testing program are kept as confidential as possible, consistent with the purposes of this policy.

#### X. TESTING COSTS

The County is responsible for the costs of all drug tests to which the County requires an employee to submit. However, an employee subject to unannounced follow-up testing pursuant to Part VII(B) – (E) is solely responsible for the cost of all follow-up tests.

#### XI. NOTIFICATION OF TEST RESULTS

- A. Applicants are notified of the results of a pre-employment drug test, provided the applicant requests the results within 60 days of being notified of the disposition of the employment application.
- B. Employees are notified of the results (including the drug(s) discovered) of all positive drug tests.

#### XII. EMPLOYEE ASSISTANCE PROGRAM/DRUG FREE AWARENESS

The use of illegal drugs and similar substances is a serious threat to our nation's collective health, safety, and welfare. Drug and alcohol abuse in the workplace is dangerous because it leads to physical impairment, loss of judgment, safety violations, and the risk of injury and death. In order to prevent these consequences of drug abuse, the County has implemented this policy. Employees who feel they have a problem with controlled substances should seek assistance.

The County has also made available to its employees an Employee Assistance Program. The program provides employees with professional help for problems such as alcohol and drug abuse, emotional stress, money management difficulties and unpleasant

family situations. The County's Employee Assistance Program is coordinated through **First Sun EAP**. Information about the Employee Assistance Program is available through the Human Resources Department.

For more information on where to obtain treatment or assistance for drug or alcohol problems, one of the best places to look is to search the internet or your phone book's Yellow Pages for "Drug Abuse & Addiction Information & Treatment Centers" or "Alcoholism Information & Treatment Centers." Under these headings, there is often a listing for a local "Council on Alcohol and Drug Abuse." These organizations are most helpful, as are Alcoholics Anonymous (AA) and Narcotics Anonymous (NA), in identifying sources for treatment and assistance. Set forth below is a list of organizations that may provide information or referrals.

1. National Clearinghouse on Alcohol and Drug Information  
1-800-729-6686  
[nnlm.gov](http://nnlm.gov)
2. National Council on Alcoholism and Drug Dependence  
1-800-622-2255  
[ncadd.org](http://ncadd.org)
3. Substance Abuse and Mental Health Services Administration  
National Helpline  
1-800-662-HELP (4347)  
[sahmsa.gov/find-help/national-helpline](http://sahmsa.gov/find-help/national-helpline)
3. Counseling Services of Lancaster  
803-285-6911  
[Counselingserviceslancaster.org](http://Counselingserviceslancaster.org)

Periodically, the County may make available to employees information regarding substance abuse. All employees are encouraged to attend such programs and to review any material supplied. Some employees may be required to attend such programs or to review such material.

## APPENDIX A

### SAFETY-SENSITIVE POSITIONS SUBJECT TO RANDOM TESTING

Individuals whose position requires them to hold a commercial drivers license (CDL)

Sworn Law Enforcement Officers

Corrections/Detention Officers

Emergency Dispatch Personnel

Fire Suppression Personnel

Emergency Medical Technicians and Paramedics

Heavy Equipment Operators

Parks and Recreation Employees who have custody and control of, or work unsupervised around, minor children



## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1620/Planning Case Number: UDO-TA-2019-0517

Contact Person / Sponsor: Katie See/Planning

Department: Planning

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

This is a request to amend UDO Chapter 2.4, District Development Standards; Chapter 4, Aviation Overlay; Chapter 5, Use Regulations to add regulations for building location, lot standards, exterior appearance, buffer and density; Chapter 7.2.4, Parking and Chapter 10, Definitions. This amendment proposes permitting triplex and quadraplex dwelling units.

### **Points to Consider:**

The current UDO permits two-family dwellings, townhomes and multi-family apartments, in addition to single-family dwellings. Multi-family dwellings are only permitted in the Regional Business (RB) District and Mixed-Use (MX) districts. The applicant intends on constructing four-unit apartments on approximately 1.18 acres just south of Lancaster. A companion rezoning case (RZ-019-0231) was submitted with this request.

Permitting three-family (triplexes) and four-family (quadraplexes) would provide another housing option in Lancaster County. Staff believes there is a need to permit three-family and four-family uses for more rural areas within the County, as well as small lots. These uses would permit multi-family uses that are common in many areas both in Lancaster County and throughout the country.

### **Funding and Liability Factors:**

N/A

### **Council Options:**

Approve or deny text amendment request.

### **Recommendation:**

Planning staff recommends **approval** of this text amendment.

Planning Commission recommended **approval** of this text amendment on October 15, 2019 by a unanimous vote.

### **ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1620	11/5/2019	Ordinance
Exhibit 1 to Ordinance 2019-1620	11/6/2019	Exhibit
Staff Report	10/30/2019	Planning Staff Report
Ex 1: Proposed Text Change	10/30/2019	Exhibit
Ex 2: Application	10/30/2019	Exhibit

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STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2019-1620

COUNTY OF LANCASTER

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**AN ORDINANCE**

**TO AMEND ORDINANCE 2016-1442, THE UNIFIED DEVELOPMENT ORDINANCE (“UDO”), CHAPTER 2.4, DISTRICT DEVELOPMENT STANDARDS; CHAPTER 4, AVIATION OVERLAY; CHAPTER 5, USE REGULATIONS; CHAPTER 7.2.4, PARKING; AND CHAPTER 10, DEFINITIONS, TO ALLOW THREE FAMILY (TRIPLEX) DWELLINGS AND FOUR FAMILY (QUADRAPLEX) DWELLINGS AS PERMITTED DWELLING UNIT TYPES.**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings and Determinations.**

The Council finds and determines that:

- (a) The UDO currently permits two-family dwellings, townhomes and multi-family, in addition to single-family dwellings.
- (b) Permitting three-family (triplex) and four-family (quadrplex) dwellings will provide another housing option in Lancaster County.
- (c) There appears to be a need and a desire for three-family and four-family uses in rural areas within the County and on smaller lots and multi-family uses are common throughout the county.
- (d) The proposed text amendments accommodate three-family (triplex) and four-family (quadrplex) dwelling unit types while providing consideration and protection to adjacent low-density residential properties.

**Section 2. Amendment of Ordinance 2016-1442**

Ordinance 2016-1442 (Unified Development Ordinance) Chapter 2.4, District Development Standards; Chapter 4, Aviation Overlay; Chapter 5, Use Regulations; Chapter 7.2.4, Parking; Chapter 10, Definitions are amended as reflected on **Exhibit 1** attached to this Ordinance and incorporated herein by reference. The amendments are generally described as follows:

*Chapter 2.4, District Development Standards:* Amend table by permitting three-family and four-family uses within the Professional Business (PB) District.

*Chapter 4.2.1, McWhirter Field Aviation Overlay District:* Amend to add three-family and four-family.

*Chapter 5.2, Use Regulations:* Amend chapter to add three-family and four-family to Residential Uses section.

*Chapter 7.2.4, Parking:* Amend to add three-family and four-family.

*Chapter 10, Definitions:* Add applicable definitions.

**Section 3. Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 4. Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 5. Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading: November 12, 2019  
Second Reading: November 25, 2019  
Public Hearing: November 25, 2019  
Third Reading: December 9, 2019

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

Section 2.5.3 Use Table (For detailed Use Definitions see Chapter 10.)

USE TYPES	RURAL					TRANSITIONAL								SPECIAL					NEIGHBORHOOD					
	AR	RR	RR	RN	RN	RUB	MH	LDR	MDR	PB	NB	GB	RB	INS	OSP	LI	HI	M	UR	HDR	RMX	MX	IMX	REF
A. RESIDENTIAL	AR	RR	RR	RN	RN	RUB	MH	LDR	MDR	PB	NB	GB	RB	INS	OSP	LI	HI	M	UR	HDR	RMX	MX	IMX	REF
Dwelling - Single Family	P	P	P	P	P	-	P	P	P	P	-	-	-	-	-	-	-	-	P	-	P	-	-	-
Dwelling - Two Family	-	-	-	-	-	-	-	-	PR	PR	-	-	-	-	-	-	-	-	-	PR	-	-	-	5.2.1
Dwelling – Three Family, Four Family	-	-	-	-	-	-	-	-	-	PR	-	-	-	-	-	-	-	-	-	-	-	-	-	5.2.3
Dwelling - Townhome	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	P	P	P	P	P	-
Dwelling - Multifamily	-	-	-	-	-	-	-	-	-	-	-	-	PR	-	-	-	-	-	-	PR	PR	PR	-	5.2.2
Dwelling - Accessory	PR	PR	PR	PR	PR	-	-	PR	PR	PR	-	-	-	-	-	-	-	-	PR	PR	-	-	-	5.2.3
Halfway Homes	-	-	-	-	-	-	-	-	-	-	-	SE	-	SE	-	-	-	-	-	-	-	-	-	5.2.4
Live-Work Units	-	-	-	-	-	PR	-	-	-	PR	PR	-	-	-	-	-	-	-	-	-	PR	PR	PR	5.2.5
Manufactured Housing	PR	PR	PR	-	-	-	PR	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5.2.6
Manufactured Home Park	SE	-	-	-	-	-	SE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5.2.6
Residential/Family Care Home (5 or fewer residents)	P	P	P	P	P	-	P	P	P	-	-	-	-	-	-	-	-	-	-	P	P	P	P	-
Residential Care Facilities (6 or more residents)	-	-	-	-	-	PR	-	-	-	-	PR	PR	PR	PR	-	-	-	-	-	-	-	PR	PR	5.2.7

\*\*\*

## 4 OVERLAY DISTRICTS

### 4.2.1 MCWHIRTER FIELD AVIATION OVERLAY DISTRICT (MFA0)

\*\*\*

Table 3: Conditional Land Uses											
Zone Type	Top Elev.	General Characteristics of Permissible Base Zoning	Residential	Commercial	Industrial	Institutional	Recreational	Fuel Sales, Storage & Distribution	Wildlife Attractants	Condition Summary	
Airport Safety Zones	A	None	None								
	B1& C2	Medium density commercial uses medium density industrial uses	Medium density residential uses such as: apartment complexes, duplexes, <u>triplexes</u> , <u>quadraplexes</u> , townhomes	Medium density commercial uses such as: fast food restaurants, small cafés, small restaurants/bars, small & medium size offices	Medium density industrial uses such as: machine shops, general manufacturing, recycling centers	Low and medium density institutional uses except for: schools, hospitals, nursing homes, day-cares, libraries, museums, religious assemblies, municipal/county administration offices, public community centers, convention	Low & medium density recreational uses such as: bowling alleys, skating rinks, tennis/swimming facilities, sports parks, small gyms, dance studios	None	None	Part 77 Avigation Easement + Hold Harmless Agreement	
		C1	Low density residential uses (lots less than 1 acre) medium density uses	Medium density residential uses such as: apartment complexes, duplexes, <u>triplexes</u> , <u>quadraplexes</u> , townhomes	Medium density commercial uses such as: fast food restaurants, small cafés, small restaurants/bars, small & medium size offices	Medium density industrial uses such as: machine shops, general manufacturing, recycling centers	Medium density institutional uses such as: small libraries, small museums, small religious assemblies	Medium density recreational uses such as: bowling alleys, skating rinks, tennis/swimming facilities, sports parks	None	Detention ponds	Avigation Easement if necessary for current/planned instrument approaches + Disclosure Letter
	Airport Land Use	B2	Medium density residential uses medium density institutional uses	Medium density residential uses such as: apartment complexes, duplexes, <u>triplexes</u> , <u>quadraplexes</u> , townhomes	None	None	Medium density institutional uses such as: small libraries, small museums, small religious assemblies	None	Medium size fueling facilities such as: local fuel distribution facilities	All wildlife attractants except for landfills, water treatment facilities and open mining operations with water bodies	Disclosure Letter

\* \* \*

Residential							
Single Family Residential	-	C 2,4,7	C 2,4,7	-	C 7	P	P
Multi-Family Residential, Mobile Home Units/Parks	-	C 2,4,7	C 2,4,7	-	C 2,6,7	P	P
Group Homes, Convalescent Facilities, Nursing/Family Care	-	-	-	-	C 2,6,7	P	P
Apartments, Duplexes, <u>Triplex</u> , <u>Quadraplex</u> , Townhomes, Condominiums	-	C 2,4,7	C 2,4,7	-	C 2,6,7	P	P
Temporary Housing	-	C 2,4,7	C 2,4,7	-	C 2,6,7	P	P
(P) Permitted Land Use		(C) Conditional Land Use		(-) Prohibited Land Use		* See Table Key on page 4-6	

\* \* \*



## 5 USE REGULATIONS

### 5.2 RESIDENTIAL USES

\*\*\*

#### 5.2.3 DWELLING – THREE FAMILY (TRIPLEX) AND FOUR FAMILY (QUADRAPLEX) [PB]

- A. **Building Location:** Three family and four family dwellings shall be limited to two per block face.
- B. **Lot Standards:**
  - 1. May only be located on pre-existing lots in existence as of the date of this ordinance (xxx date).
  - 2. May not exceed a development size of five acres.
- C. **Exterior Appearance:**
  - 1. Three family dwellings shall be designed such that a maximum of three main entrances are on the fronting façade. Additional building entrances may be provided on the side and rear of the building.
  - 2. Four family dwellings shall be designed such that a maximum of three main entrances are on the fronting façade. Additional building entrances may be provided on the side and rear of the building.
  - 3. Dwelling units on corner lots must be designed such that a building entrance is on each façade fronting a street.
- D. **Buffer:** Type A buffer shall be installed as required in Section 7.1.5. Buffers and Screening of this Ordinance.
- E. **Density:** Developments shall be limited to a density of eight dwelling units per acre.

\*\*\*



## 7 GENERAL DEVELOPMENT STANDARDS

### 7.2.4 OFF-STREET PARKING AND LOADING REQUIREMENTS

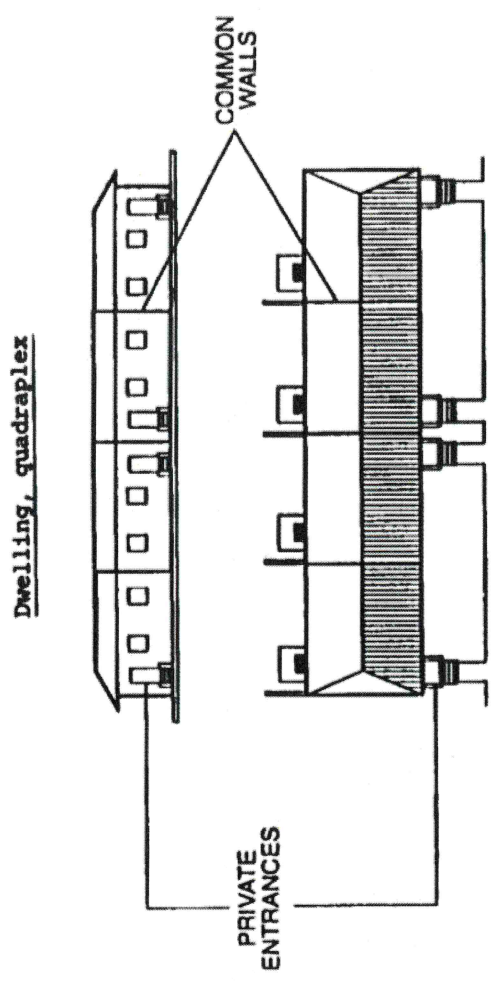
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Use Category	Minimum Required Auto Spaces
<b>Residential</b>	
Dwelling - Single Family & Two Family	1 per unit
<b>Dwelling – Three Family &amp; Four Family</b>	<b>1.5 per unit</b>
Dwelling - Multifamily & Townhome	1.5 per unit
Dwelling - Accessory	1 space per unit
Live-Work Units	1 per 500 sf
Residential Care Facilities	1 per 2 units
All Other Residential Uses	1 per unit
<b>Lodging – All Uses</b>	1 per room
<b>Office/Service</b>	
Medical Clinic	1 per 350 sf
All Other Office/Service Uses	1 per 500 sf
<b>Commercial/Entertainment</b>	
Amusements (Indoor & Outdoor)	No requirement
Restaurant	1 per 250 sf
Theater (Indoor & Outdoor)	1 per 80 sf in auditorium
All Other Commercial/Entertainment Uses	1 per 400 sf
<b>Civic</b>	
Places of Assembly (Residential Districts)	No requirement
Places of Assembly (All Other Districts)	1 per 80 sf in main assembly hall
Private Recreational Facility	1 per 250 sf
All Other Civic Uses	1 per 500 sf
<b>Educational/Institutional</b>	
Child/Adult Day Care Centers (6 of more persons)	1 per 500 sf
All Other Educational/Institutional Uses	1 per 1000 sf
<b>Automotive</b>	
Vehicle Services – Minor Maintenance/Repair	1 per gas pump and repair bay
Vehicle Services – Major Repair/Body Work	2 per repair bay
All Other Automotive Uses	1 per 400 sf of office space
<b>Industrial/Wholesale/Storage – All Uses</b>	No requirement
<b>Agricultural – All Uses</b>	No requirement
<b>Infrastructure – All Uses</b>	No requirement

\*\*\*

## 10 DEFINITIONS

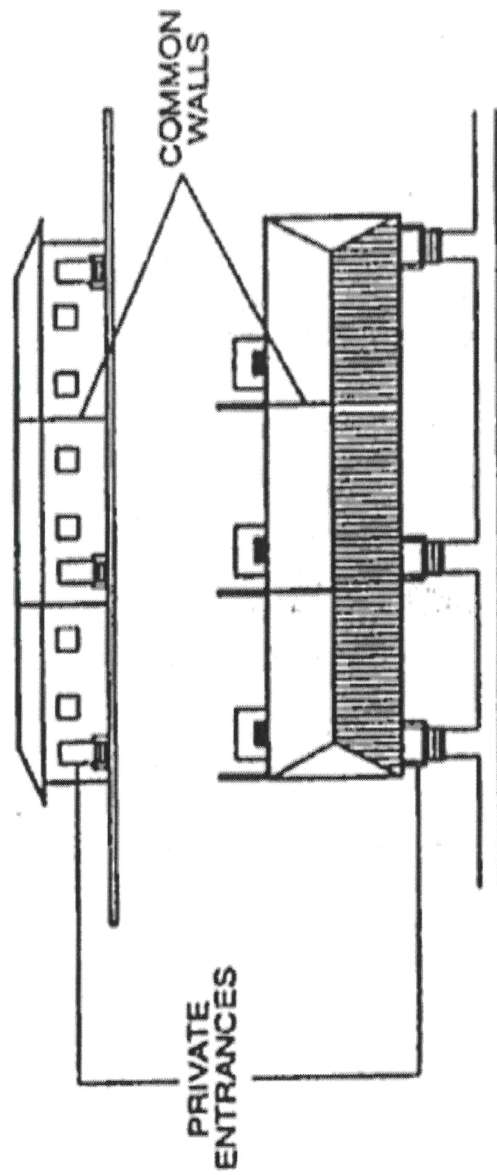
**Dwelling – Four Family (Quadrplex):** Four dwelling units, including modular homes, attached side by side or one on top of another and sharing common walls or common floors and ceilings.



\*\*\*

## Exhibit 1

**Dwelling – Three Family (Triplex):** Three dwelling units, including modular homes, attached side by side or one on top of another and sharing common walls or common floors and ceilings.



\*\*\*

**Proposal:** To amend permitted dwelling unit types to accommodate three family and four family dwellings.

**Applicable Chapters:** Chapter 2.4, District Development Standards; Chapter 4, Aviation Overlay; Chapter 5, Use Regulations; Chapter 7.2.4, Parking; Chapter 10, Definitions

**Applicant:** Mike Williams

---

### **Project Summary & Proposal**

The current UDO permits two-family dwellings, townhomes and multi-family, in addition to single-family dwellings. Multi-family dwellings are only permitted in the Regional Business (RB) District and Mixed-Use (MX) districts. The applicant intends on constructing four-unit apartments on approximately 1.18 acres just south of Lancaster. He submitted a rezoning request to permit one-story, handicap accessible apartments. Staff does not recommend the RB district in this area since it is defined as generally being located on major thoroughfares. The MX district is not permitted since the parcel does not meet the 25 acre minimum requirement.

Permitting three-family (triplexes) and four-family (quadrplexes) would provide another housing option in Lancaster County. Staff believes there is a need to permit three-family and four-family uses for more rural areas within the County, as well as small lots. These uses would permit multi-family uses that are common in many areas both in Lancaster County and throughout the country.

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### **Outline of Text Amendment**

Use regulations, including lot width, number of doors facing front façade and buffer, have been proposed to be added to Chapter 5 in order to accommodate this use type. The Parking and Definition chapters will also be amended. See Exhibit 2.

The following chapter(s) of the UDO have been amended or created:

*Chapter 2.4, District Development Standards:* Amend table by permitting three-family and four-family uses within the Professional Business (PB) District.

*Chapter 4.2.1, McWhirter Field Aviation Overlay District:* Amend to add three-family and four-family.

*Chapter 5.2, Use Regulations:* Amend chapter to add three-family and four-family to Residential Uses section.

*Chapter 7.2.4, Parking:* Amend to add three-family and four-family.

*Chapter 10, Definitions:* Add applicable definitions.

Based on staff's findings, we offer the modifications attached to the Draft Ordinance for the Board's consideration. For ease of reference, new text is referenced in **red/underlined** font and deletions are referenced in ~~striketrough~~ font. The proposed language is found in Exhibit 2.

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### **Findings and Conclusions**

The proposed three-family (triplex) and four-family (quadraplex) use type would accommodate smaller developments while also being mindful of adjacent low-density residential properties.

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### **Planning Staff Recommendation**

Staff recommends **Approval** of the proposed changes.

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### **Exhibits**

1. Proposed Text Amendment
2. Application

### **Staff Contact**

Katie See, Senior Planner

[ksee@lancastrcountysc.net](mailto:ksee@lancastrcountysc.net)

803-285-6005

Section 2.5.3 Use Table (For detailed Use Definitions see Chapter 10.)

	RURAL					TRANSITIONAL						SPECIAL					NEIGHBORHOOD					
USE TYPES	AR	RR	RN	RUB	MH	LDR	MDR	PB	NB	GB	RB	INS	OSP	LI	HI	M	UR	HDR	RMX	MX	IMX	REF

A. RESIDENTIAL	AR	RR	RN	RUB	MH	LDR	MDR	PB	NB	GB	RB	INS	OSP	LI	HI	M	UR	HDR	RMX	MX	IMX	REF
Dwelling - Single Family	P	P	P	-	P	P	P	P	-	-	-	-	-	-	-	-	P	-	P	-	-	
Dwelling - Two Family	-	-	-	-	-	-	PR	PR	-	-	-	-	-	-	-	-	-	PR	-	-	-	5.2.1
<del>Dwelling - Three Family, Four Family</del>	-	-	-	-	-	-	-	<del>PR</del>	-	-	-	-	-	-	-	-	-	-	-	-	-	<del>5.2.3</del>
Dwelling - Townhome	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	P	P	P	P	P	
Dwelling - Multifamily	-	-	-	-	-	-	-	-	-	-	PR	-	-	-	-	-	-	PR	PR	PR	-	5.2.2
Dwelling - Accessory	PR	PR	PR	-	-	PR	PR	PR	-	-	-	-	-	-	-	-	PR	PR	-	-	-	5.2.3
Halfway Homes	-	-	-	-	-	-	-	-	-	SE	-	SE	-	-	-	-	-	-	-	-	-	5.2.4
Live-Work Units	-	-	-	PR	-	-	-	PR	PR	-	-	-	-	-	-	-	-	-	PR	PR	PR	5.2.5
Manufactured Housing	PR	PR	-	-	PR	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5.2.6
Manufactured Home Park	SE	-	-	-	SE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5.2.6
Residential/Family Care Home (5 or fewer residents)	P	P	P	-	P	P	P	-	-	-	-	-	-	-	-	-	-	P	P	P	P	
Residential Care Facilities (6 or more residents)	-	-	-	PR	-	-	-	-	PR	PR	PR	PR	-	-	-	-	-	-	-	PR	PR	5.2.7

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## 4 OVERLAY DISTRICTS

### 4.2.1 MCWHIRTER FIELD AVIATION OVERLAY DISTRICT (MFA0)

\* \* \*

Table 3: Conditional Land Uses											
Zone Type		Top Elev.	General Characteristics of Permissible Base Zoning	Residential	Commercial	Industrial	Institutional	Recreational	Fuel Sales, Storage & Distribution	Wildlife Attractants	Condition Summary
Airport Safety Zones	A	Tallest height of structure (or vegetation) falls between Part 77 surfaces and TSS	None	None							
	B1& C2		Medium density commercial uses medium density industrial uses	Medium density residential uses such as: apartment complexes, duplexes, <u>triplexes</u> , <u>quadraplexes</u> , townhomes	Medium density commercial uses such as: fast food restaurants, small cafés, small restaurants/bars, small & medium size offices	Medium density industrial uses such as: machine shops, general manufacturing, recycling centers	Low and medium density institutional uses except for: schools, hospitals, nursing homes, day-cares, libraries, museums, religious assemblies, municipal/county administration offices, public community centers, convention	Low & medium density recreational uses such as: bowling alleys, skating rinks, tennis/swimming facilities, sports parks, small gyms, dance studios	None	None	Part 77 Avigation Easement + Hold Harmless Agreement
	C1		Low density residential uses (lots less than 1 acre) medium density uses	Medium density residential uses such as: apartment complexes, duplexes, <u>triplexes</u> , <u>quadraplexes</u> , townhomes	Medium density commercial uses such as: fast food restaurants, small cafés, small restaurants/bars, small & medium size offices	Medium density industrial uses such as: machine shops, general manufacturing, recycling centers	Medium density institutional uses such as: small libraries, small museums, small religious assemblies	Medium density recreational uses such as: bowling alleys, skating rinks, tennis/swimming facilities, sports parks	None	Detention ponds	Avigation Easement if necessary for current/planned instrument approaches + Disclosure Letter
Airport Land Use	B2		Medium density residential uses medium density institutional uses	Medium density residential uses such as: apartment complexes, duplexes, <u>triplexes</u> , <u>quadraplexes</u> , townhomes	None	None	Medium density institutional uses such as: small libraries, small museums, small religious assemblies	None	Medium size fueling facilities such as: local fuel distribution facilities	All wildlife attractants except for landfills, water treatment facilities and open mining operations with water bodies	Disclosure Letter

\* \* \*

## Exhibit 1

Residential							
Single Family Residential	-	C 2,4,7	C 2,4,7	-	C 7	P	P
Multi-Family Residential, Mobile Home Units/Parks	-	C 2,4,7	C 2,4,7	-	C 2,6,7	P	P
Group Homes, Convalescent Facilities, Nursing/Family Care	-	-	-	-	C 2,6,7	P	P
Apartments, Duplexes, <u>Triplex, Quadraplex</u> , Townhomes, Condominiums	-	C 2,4,7	C 2,4,7	-	C 2,6,7	P	P
Temporary Housing	-	C 2,4,7	C 2,4,7	-	C 2,6,7	P	P

(P) Permitted Land Use

(C) Conditional Land Use

(-) Prohibited Land Use

\* See Table Key on page 4-6

\* \* \*



## 5 USE REGULATIONS

### 5.2 RESIDENTIAL USES

\*\*\*

#### 5.2.3 DWELLING – THREE FAMILY (TRIPLEX) AND FOUR FAMILY (QUADRAPLEX) [PB]

- A. Building Location: Three family and four family dwellings shall be limited to two per block face.
- B. Lot Standards:
  - 1. May only be located on pre-existing lots in existence as of the date of this ordinance (xxx date).
  - 2. May not exceed a development size of five acres.
- C. Exterior Appearance:
  - 1. Three family dwellings shall be designed such that a maximum of three main entrances are on the fronting façade. Additional building entrances may be provided on the side and rear of the building.
  - 2. Four family dwellings shall be designed such that a maximum of three main entrances are on the fronting façade. Additional building entrances may be provided on the side and rear of the building.
  - 3. Dwelling units on corner lots must be designed such that a building entrance is on each façade fronting a street.
- D. Buffer: Type A buffer shall be installed as required in Section 7.1.5, Buffers and Screening of this Ordinance.
- E. Density: Developments shall be limited to a density of eight dwelling units per acre.

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## 7 GENERAL DEVELOPMENT STANDARDS

### 7.2.4 OFF-STREET PARKING AND LOADING REQUIREMENTS

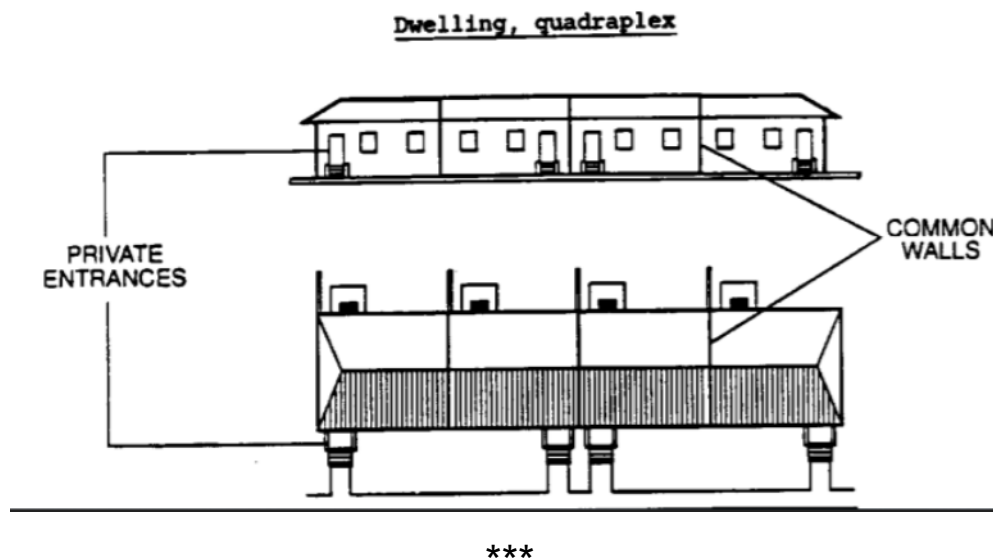
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Use Category	Minimum Required Auto Spaces
<b>Residential</b>	
Dwelling - Single Family & Two Family	1 per unit
<u>Dwelling – Three Family &amp; Four Family</u>	<u>1.5 per unit</u>
Dwelling - Multifamily & Townhome	1.5 per unit
Dwelling - Accessory	1 space per unit
Live-Work Units	1 per 500 sf
Residential Care Facilities	1 per 2 units
All Other Residential Uses	1 per unit
<b>Lodging – All Uses</b>	1 per room
<b>Office/Service</b>	
Medical Clinic	1 per 350 sf
All Other Office/Service Uses	1 per 500 sf
<b>Commercial/Entertainment</b>	
Amusements (Indoor & Outdoor)	No requirement
Restaurant	1 per 250 sf
Theater (Indoor & Outdoor)	1 per 80 sf in auditorium
All Other Commercial/Entertainment Uses	1 per 400 sf
<b>Civic</b>	
Places of Assembly (Residential Districts)	No requirement
Places of Assembly (All Other Districts)	1 per 80 sf in main assembly hall
Private Recreational Facility	1 per 250 sf
All Other Civic Uses	1 per 500 sf
<b>Educational/Institutional</b>	
Child/Adult Day Care Centers (6 of more persons)	1 per 500 sf
All Other Educational/Institutional Uses	1 per 1000 sf
<b>Automotive</b>	
Vehicle Services – Minor Maintenance/Repair	1 per gas pump and repair bay
Vehicle Services – Major Repair/Body Work	2 per repair bay
All Other Automotive Uses	1 per 400 sf of office space
<b>Industrial/Wholesale/Storage – All Uses</b>	No requirement
<b>Agricultural – All Uses</b>	No requirement
<b>Infrastructure – All Uses</b>	No requirement

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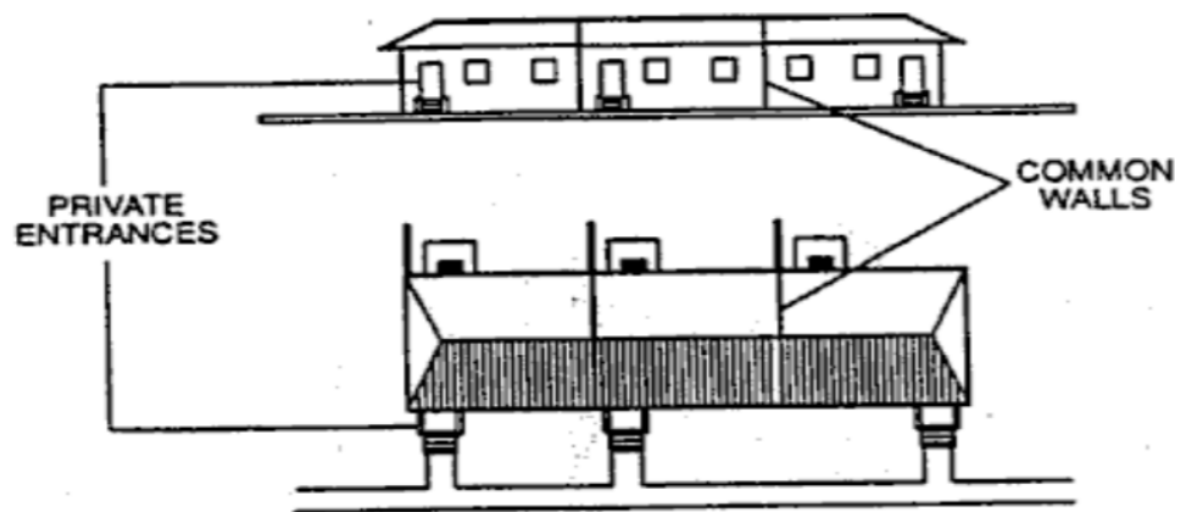
## 10 DEFINITIONS

**Dwelling – Four Family (Quadraplex):** Four dwelling units, including modular homes, attached side by side or one on top of another and sharing common walls or common floors and ceilings.



## Exhibit 1

**Dwelling – Three Family (Triplex):** Three dwelling units, including modular homes, attached side by side or one on top of another and sharing common walls or common floors and ceilings.



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Planning Department  
P.O. Box 1809, 101 N. Main Street, Lancaster, SC 29721  
Phone: 803.285.6005, [planning@lancastercountysc.net](mailto:planning@lancastercountysc.net)  
[www.mylancastersc.org](http://www.mylancastersc.org)

## TEXT AMENDMENT APPLICATION

### SUBMITTAL REQUIREMENTS

- Completed Application
- Signatures of Applicant
- Fees associated with Application

### GENERAL INFORMATION

UDO Section(s) Proposed to be Amended Ch 2, Section 2.5.3 Use Table & Ch 10, Definitions

Current Text Current use table does not list triplexes or quadraplexes as permitted residential uses. Therefore, no definitions are provided.

Proposed Text Include triplex and quadraplex as permitted residential uses in Section 2.5.3 Use Table under A. Residential section. Also provide definition for both uses in Chapter 10, Definitions.

Description of Need for Proposed Text There is a need to accommodate other multi-family residential uses throughout Lancaster County.

☐ Additional pages attached for more information

### CONTACT INFORMATION

Applicant Name Mike Williams

Address 1351 Charlotte Highway

City Lancaster State SC Zip 29721 Phone 803-283-9961

Fax \_\_\_\_\_ Email beau2@comporium.net

### APPLICATION CERTIFICATIONS

I hereby certify that I have read this application and the information supplied herein is true and correct to the best of my knowledge. I agree to comply with all applicable County ordinances and state laws related to the use and development of the land. I further certify that I am the property owner, or his/her authorized agent, or the subject property. I understand that falsifying any information herein may result in rejection or denial of this request.

Michael G. Williams  
Applicant

8-28-19  
Date

Michael G. Williams  
Property Owner(s)

8-28-19  
Date

Attach owner's notarized written authorization with property information if the applicant is not the owner.

### LANCASTER COUNTY OFFICE USE ONLY

Application Number UDO-TA-019-0517 Date Received 8-28-19 Receipt Number 848529

Amount Paid \$325.00 Check Number 2968 Cash Amount —

Received By JB Planning Commission Meeting Date 10-15-19

### SCHEDULE/PROCESS

#### 1. Submit Application

- The deadline for this application is at least 30 days prior to the Planning Commission meeting, held every third Tuesday of the month.
- Once an application is submitted, it is placed on the Planning Commission agenda for the following month.
- An application withdrawal should be made in writing and received prior to public notice in order to receive a refund.

#### 2. Planning Commission

- Conducts a public hearing on the application to receive input from Lancaster County citizens, applicant, and other interested parties.
- Reviews the application to ensure it is consistent with the Lancaster County Unified Development Ordinance, Comprehensive Plan, and all adopted County plans.
- Makes a recommendation to the County Council.

#### 3. County Council

- Approves, denies, or submits application to the Planning Commission for further study.
- Action requires three readings for approval.

## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1621/Planning Case Number: RZ-019-0231

Contact Person / Sponsor: Katie See/Planning

Department: Planning

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

This is a request to amend the zoning map from Neighborhood Business (NB) to Professional Business (PB) District. The purpose of the request is to construct handicap accessible quadplex (four-plex) apartments.

Companion case: UDO-TA-019-0517

### **Points to Consider:**

The requested Professional Business (PB) District is generally located adjacent to neighborhoods and provides opportunities for the provision of office and professional services that do not adversely impact the surrounding communities.

The future land use designation of this property is the Place Type known as Transitional, which, according to the 2024 Comprehensive Plan is synonymous to the Community Type “Suburban SF/MF Residential & Commercial”.

### **Funding and Liability Factors:**

N/A

### **Council Options:**

To approve or deny this proposed zoning map amendment request.

### **Recommendation:**

Planning staff recommends **approval** of this zoning map amendment.

Planning commission recommended **approval** of this request on October 15, 2019 by a unanimous vote.

### **ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1621	11/5/2019	Ordinance
Staff Report	10/29/2019	Planning Staff Report
Ex 1: Application	10/29/2019	Exhibit
Ex 2: Zoning Map	10/29/2019	Exhibit

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STATE OF SOUTH CAROLINA

(

ORDINANCE NO. 2019-1621

COUNTY OF LANCASTER

(

(

**AN ORDINANCE**

**TO AMEND THE OFFICIAL ZONING MAP OF LANCASTER COUNTY TO REZONE A 1.18 ACRE TRACT OF PROPERTY OWNED BY CANE MILL ASSOCIATES OF ELGIN, LP AND LOCATED EAST OF McILWAIN ROAD, LANCASTER, SOUTH CAROLINA (TMS # 0087-00-096.05) FROM NB, NEIGHBORHOOD BUSINESS DISTRICT, TO PB, PROFESSIONAL BUSINESS DISTRICT.**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings and Determinations.**

The Council finds and determines that:

(a) Mike Williams applied to rezone a 1.18-acre parcel of property owned by Cane Mill Associates of Elgin, LP, located East of McIlwain Road, Lancaster, South Carolina (TMS #0087-00-096.05), from NB, Neighborhood Business District, to PB, Professional Business District.

(b) On October 15, 2019, the Lancaster County Planning Commission held a public hearing on the proposed rezoning and, by a vote of (7-0), recommended approval of the rezoning.

(c) The Future Land Use Map identifies this property as Transitional based on the *Lancaster County Comprehensive Plan 2014-2024*. Rezoning the property from NB, Neighborhood Business District, to PB, Professional Business District, is compatible with the Comprehensive Plan.

**Section 2. Rezoning.**

The Official Zoning Map is amended by changing the zoning district classification from NB, Neighborhood Business District, to PB, Professional Business District, for the following property as identified by tax map number or other appropriate identifier:

Tax Map No. 0087-00-096.05 (1.18 acres, more or less)



**Section 3.      Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 4.      Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 5.      Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading:            November 12, 2019  
Second Reading:        November 25, 2019  
Public Hearing:           November 25, 2019  
Third Reading:          December 9, 2019

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

**Proposal:** Request to rezone one parcel approximately 1.18 acres in size. The purpose of this request is to construct handicap accessible quadraplex apartments similar to the building located on the adjacent lot to the east (TM # 0087-00-096.06)

**Property Location:** East of McIlwain Road (TM # 0087-00-096.05)

**Current Zoning District:** Neighborhood Business (NB)

**Proposed Zoning District:** Professional Business (PB)

**Applicant:** Mike Williams

**Council District:** District 5, Steve Harper

## Overview

### Site Information

*Site Description:* This parcel is currently vacant and cleared.

### Compatibility with Surrounding Area

The current zoning for the surrounding area is General Business (GB), High Density Residential (HDR), Mobile Home (MH) and Medium Density Residential (MDR). The parcel located immediately to the east of this property is improved with similar low-intensity apartments. Existing zoning for the subject property as well as surrounding properties can be seen in *Attachment 3*. The proposed zoning of PB is generally consistent with the area. See table below for adjacent property zoning and use comparison.

### Summary of Surrounding Zoning and Uses

Surrounding Property	Municipality	Zoning District	Use
North	Lancaster County	Mobile Home (MH)	Mobile Homes
South	Lancaster County	Med Density Residential (MDR)	Single-Family Residential
East	Lancaster County	High Density Residential (HDR)	Apartments
West	Lancaster County	General Business (GB)	Convenience Store & Gas Station

Recent Rezoning in Surrounding Area			
Case #	Description	Date	Outcome
	None		

## Photos of Project Area

LOOKING DIRECTLY AT PROPERTY



LOOKING DIRECTLY ACROSS McILWAIN ROAD



LOOKING NORTH ALONG McILWAIN ROAD



LOOKING SOUTH ALONG MCLWAIN ROAD



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### Analysis & Findings

The property is currently zoned General Business (GB) District, which is *generally located on thoroughfares and provides opportunities for the provision of offices, services, and retail goods in proximity to generally auto-dependent, community neighborhoods. The regulations for this district are intended to accommodate the predominantly auto-oriented pattern of existing development while encouraging the transition to pedestrian-friendly, mixed-use areas that avoid strip commercial development* (UDO section 2.3).

The requested Professional Business (PB) District *is generally located adjacent to neighborhoods and provides opportunities for the provision of office and professional services that do not adversely impact the surrounding communities.*

### Companion Case: UDO-TA-019-0517

The applicant will be constructing apartments which consist of four, single-story dwelling units connected by shared walls. The current UDO permits two-family dwellings, townhomes and multi-family, in addition to single-family dwellings. Multi-family dwellings are only permitted in the Regional Business (RB) District and Mixed-Use (MX) districts. Staff does not recommend the RB district in this area since it is defined as generally being located on major thoroughfares. The MX district is not permitted since the parcel does not meet the 25 acre minimum requirement. Therefore, the applicant proposes a companion text amendment be considered in order to accommodate a quadplex multi-family dwelling unit, which is less intense, and staff believes, a better fit for the existing neighborhood.

### COMPREHENSIVE PLAN CONSISTENCY & CONCLUSION

The future land use designation of this property is the Place Type known as Transitional, which, according to the 2024 Comprehensive Plan is synonymous to the Community Type “Suburban SF/MF Residential & Commercial”. The Comp Plan states that suburban commercial centers serve the daily needs of surrounding residential neighborhoods. They typically locate near high-volume roads and key intersections, and are designed to be accessible primarily by automobile. Buildings are set back from the road behind large surface parking lots, with little connectivity between adjacent businesses. Common

types of suburban centers in the region include multi-tenant strip centers, big box stores, small outparcels with a drive-through, and large shopping malls.

The requested Professional Business District is consistent with the Transitional future land use category.

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### **Staff Recommendation**

Staff recommends **approval** of this rezoning request.

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### **Attachments**

1. Rezoning Application
2. Location Map/ Zoning Map

### **Staff Contact**

Katie See  
Senior Planner  
[ksee@lancastercountysc.net](mailto:ksee@lancastercountysc.net)  
803-416-9395





Planning Department

P.O. Box 1809, 101 N. Main Street, Lancaster, SC 29721  
Phone: 803.285.6005, [planning@lanastercountysc.net](mailto:planning@lanastercountysc.net)  
[www.mylanastersc.org](http://www.mylanastersc.org)

ZONING MAP AMENDMENT APPLICATION

SUBMITTAL REQUIREMENTS

- Completed Application
- Signatures of Applicant and Property Owner
- Deed and survey plat or boundary survey
- Fees associated with review

GENERAL INFORMATION

Property Address M<sup>c</sup>Ilwain Rd  
City Lancaster State SC Zip 29720 Tax Parcel ID 0087-00-096.05  
Current Zoning Neighborhood/Business Current Use Vacant  
Proposed Zoning Multi Family RB Total Acres 1.18  
Project Description one bedroom apartments

Surrounding Property Description Back side Mobile Homes, Front side Highway.  
Side on right looking at lot is Multi family apartments,  
side on left looking at lot is convenience store.

CONTACT INFORMATION

Applicant Name Mike Williams  
Address 1351 Charlotte Hwy  
City Lancaster State SC Zip 29720 Phone 803-283-9961  
Fax 803-283-9962 Email beau2@comporium.net  
Property Owner Name Cane Mill Associates of Elgin  
Address P.O. Box 1146  
City Lancaster State SC Zip 29721 Phone 803-283-9961  
Fax 803-283-9962 Email beau2@comporium.net

I hereby certify that I have read this application and the information supplied herein is true and correct to the best of my knowledge. I agree to comply with all applicable County ordinances and state laws related to the use and development of the land. I further certify that I am the property owner, or his/her authorized agent, or the subject property. I understand that falsifying any information herein may result in rejection or denial of this request.

Cane Mill Associates of Elgin  
Applicant

7-31-19  
Date

Michael H. Wallace  
Property Owner(s)

7-31-19  
Date

Attach owner's notarized written authorization with property information if the applicant is not the owner.

**LANCASTER COUNTY OFFICE USE ONLY**

Application Number RZ-019-0231 Date Received 8-1-19 Receipt Number 848503

Amount Paid \$325.00 Check Number 2905 Cash Amount —

Received By JB Planning Commission Meeting Date 9-17-19

**SCHEDULE/PROCESS 1. Submit Application**

- The deadline for this application is at least 30 days prior to the Planning Commission meeting, held every third Tuesday of the month.
- Once an application is submitted, it is placed on the Planning Commission agenda for the following month.
- An application withdrawal should be made in writing and received prior to public notice in order to receive a refund.

- \* ☒ Rezoning Application Fee – single parcel \$325.00
- Rezoning Application Fee – multi parcel \$500.00

**2. Planning Commission**

- Conducts a public hearing on the application to receive input from Lancaster County citizens, applicant, and other interested parties.
- Reviews the application to ensure it is consistent with the Lancaster County Unified Development Ordinance, Comprehensive Plan, and all adopted County plans.
- Makes a recommendation to the County Council.

**3. County Council**

- Approves, denies, or submits application to the Planning Commission for further study.
- Action requires three readings for approval.
- Subsequent to final County Council action on rezoning, notice of action will be provided to the applicant, owner, and adjacent property owners.
- If applicant would like to request a special presentation, please notify the County Clerk @ (803) 416-9307 before 5:00pm on the first Monday of the month to make arrangements.

STATE OF SOUTH CAROLINA  
SECRETARY OF STATE**COPY**CERTIFIED TO BE A TRUE AND CORRECT COPY  
AS TAKEN FROM AND COMPARED WITH THE  
ORIGINAL ON FILE IN THIS OFFICEARTICLES OF AMENDMENT FOR A SOUTH CAROLINA  
LIMITED PARTNERSHIP

JAN 05 2005

## TYPE OR PRINT CLEARLY IN BLACK INK

Pursuant to Ch. 42, Title 33 of the 1976 South Carolina Code of Laws, as amended, the undersigned registered limited partnership hereby applies to amend its application to become a registered limited partnership, and for that purpose, hereby submits the following statement:

Mark Hammond  
SECRETARY OF STATE OF SOUTH CAROLINA

1. The name of the registered limited liability partnership, which was filed in the original application is MG Williams Limited Partnership
2. The date of the original application for registration as a limited partnership is December 23, 2003
3. The original application by the registered limited liability partnership is amended in the following manner (of which all provisions may be lawfully contained in an application to become a registered limited partnership in this state):  
change name of limited partnership to: Cane Mill Associates of Elgin, LP

4. This application is signed by a person with authority to do so under the laws of the State of South Carolina.

Date 12-27-04Michael G. Williams  
SignatureMichael G. Williams, General Partner  
Type or Print Name

Signature

Type or Print Name

Signature

Type or Print Name

050119-0082

FILED: 01/05/2005

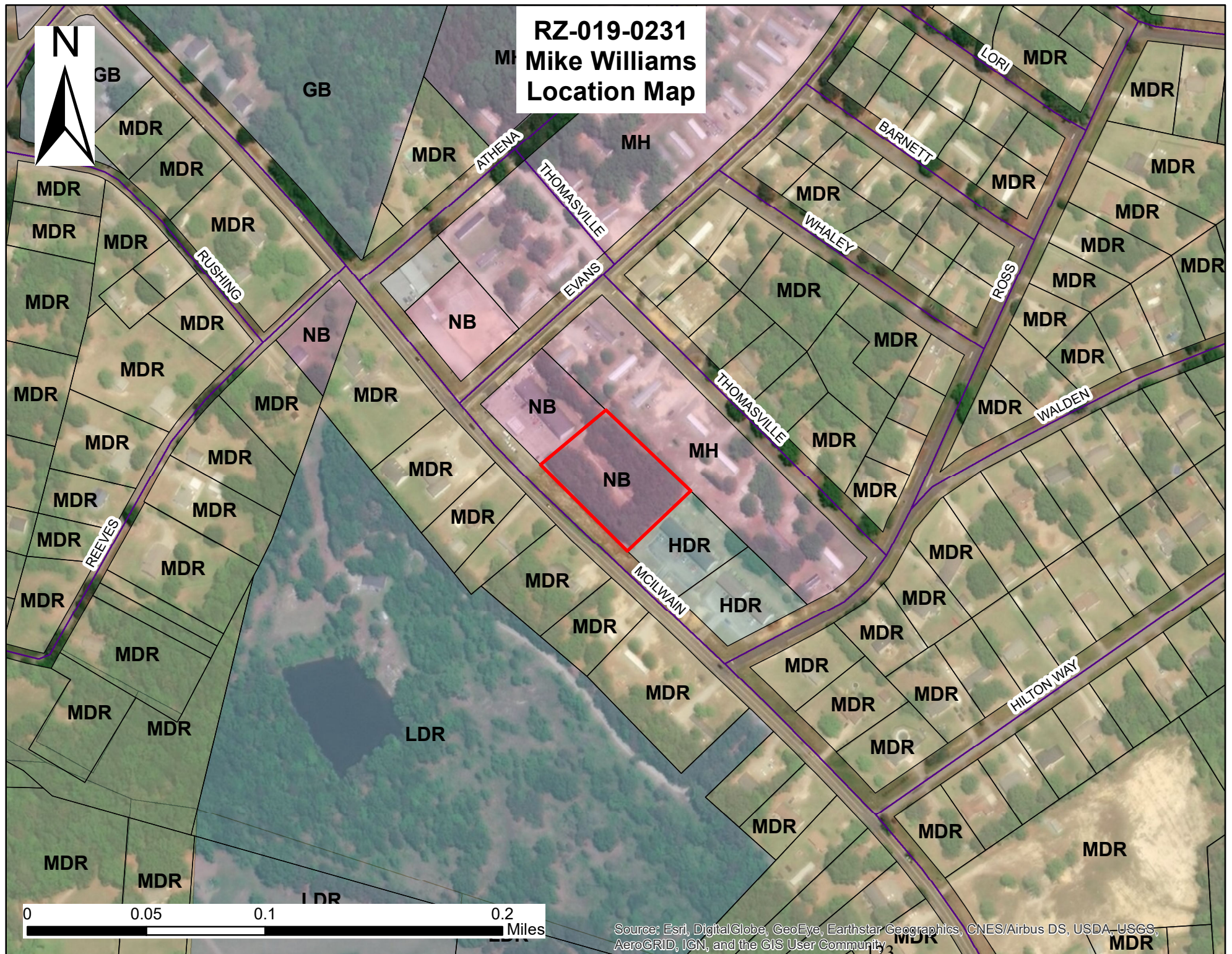
CANE MILL ASSOCIATES OF ELGIN, LP

Filing Fee: \$10.00 ORIG

Mark Hammond

South Carolina Secretary of State







## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1623/Planning Case Number: UDO-TA-019-0596

Contact Person / Sponsor: Ashley Davis / Planning

Department: Planning

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

The proposed text amendment is intended to clarify the ability to process development agreements in all residential zoning districts. The amendment also requires a development agreement for properties developed in the Cluster Subdivision Overlay District. The amendment further clarifies existing UDO language that a development agreement for mixed-use zoned properties shall be submitted with the rezoning application. The amendment also specifies that a conceptual master plan and a traffic study (if required) shall be included in the development agreement submittal.

### **Points to Consider:**

The proposed amendment provides the County the ability to enter into a development agreement with a property owner for residentially zoned properties, which will provide the County with an additional tool to better manage growth. The amendment will require development agreements for projects in the Cluster Subdivision Overlay District, which have smaller lots and can result in higher achievable densities versus conventionally developed subdivisions. The amendment also clarifies within the UDO regarding when development agreements are submitted for mixed-use zoned properties and submittal requirements for all development agreements.

### **Funding and Liability Factors:**

N/A

### **Council Options:**

To approve or deny the text amendment.

### **Recommendation:**

Planning staff recommends **approval** of this text amendment.

Planning Commission voted on October 15, 2019 to **approve** this request by a vote of 7-0.

### **ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1623	11/4/2019	Ordinance
Exhibit A to Ordinance 2019-1623	11/6/2019	Exhibit
Exhibit B to Ordinance 2019-1623	11/6/2019	Exhibit
Planning Staff Report: Development Agreements	11/1/2019	Planning Staff Report
Exhibit 1: Application	11/1/2019	Exhibit
Exhibit 2: Proposed Text Amendment	11/1/2019	Exhibit

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STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2019-1623

COUNTY OF LANCASTER

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**AN ORDINANCE**

**TO AMEND ORDINANCE 2016-1442, THE UNIFIED DEVELOPMENT ORDINANCE (“UDO”), CHAPTER 4 AND CHAPTER 9 TO EXPAND THE AVAILABILITY OF DEVELOPMENT AGREEMENTS FOR LAND DEVELOPMENT PROJECTS**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings and Determinations.**

The Council finds and determines that:

- (a) In the past Lancaster County has utilized Development Agreements to allow flexibility for land development projects and to provide certainty to developers that applicable ordinances for a particular development do not change during the course of the development project.
- (b) Development Agreements allow Lancaster County make provisions that the impact of development projects on public health and safety be offset by fees paid by developers.
- (c) Expanding the availability of Development Agreements for land development projects will be beneficial to Lancaster County for land use planning purposes and will bolster public health and safety by providing additional funding to offset the impacts of growth from land development projects.
- (d) The Unified Development Ordinance (“UDO”) Section 9.2.18 requires Development Agreements be submitted upon application of landowners for a rezoning to a mixed use zoning designation.
- (e) Development Agreements shall be expanded as a permissible development method in residential zoning districts, shall become a requirement for land development projects utilizing the Cluster Subdivision Overlay District (Section 4.4.1), and shall remain a requirement for all properties rezoned to a mixed-use zoning district, Chapter 3.

**Section 2. Amendment of Ordinance 2016-1442**

Ordinance 2016-1442 (Unified Development Ordinance) Chapter 4, Overlay Districts, Section 4 Character Protection Overlays, Subsection 1, Cluster Subdivision Overlay District (CSO), is amended as set forth on Exhibit “A” attached hereto.

Ordinance 2016-1442 (Unified Development Ordinance) Chapter 9, Administration, Section 2, Review Procedures, Subsection 18, Development Agreements, is amended as set forth on Exhibit "B" attached hereto.

**Section 3. Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 4. Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 5. Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading: November 12, 2019  
Second Reading: November 25, 2019  
Public Hearing: November 25, 2019  
Third Reading: December 9, 2019

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

## EXHIBIT “A”

~~Indicates Matter Stricken~~

Indicates New Matter

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### 4.4 CHARACTER PROTECTION OVERLAYS

#### 4.4.1 CLUSTER SUBDIVISION OVERLAY DISTRICT(CSO)

The Cluster Subdivision Overlay District, is hereby established. Cluster subdivisions are residential developments which offer an alternative to traditional subdivision design, with the principle purpose being to encourage open space in medium density residential districts. Cluster subdivisions shall be designed using a site planning technique that concentrates buildings and structures to the most buildable areas of a site in order to preserve the remaining area as open space for recreation and preservation of significant site features. Reductions below the minimums otherwise required by the UDO for lot area, lot width, and setbacks are allowed within a CSO, and such reductions are only permissible within a CSO. By preserving open space, a cluster subdivision will provide another tool by which the County shall preserve its rural character. Cluster subdivisions are permitted in moderate density single family residential districts, specifically, Medium Residential District. Cluster subdivisions are not permitted in any other zoning districts. Development of a Cluster Subdivision requires submission of a Development Agreement (see UDO 9.2.18). The following general provisions apply to the Cluster Subdivision Overlay District:

##### A. MINIMUM ACREAGE

The minimum tract area for a cluster subdivision shall be 30 gross acres ~~[unless a larger minimum acreage is required as part of the Development Agreement Process (i.e. 25-acres of highland)]~~, shall consist of contiguous parcels, and must adjoin or have direct access to at least one collector street.

##### B. MINIMUM LOT AREA

The minimum lot area (in square feet) per dwelling unit within a cluster subdivision shall be 5,000 square feet. This shall be the minimum lot area allowed for any lot with the minimum lot width of 50 feet, as defined in Section C below. The minimum lot area per dwelling unit shall increase proportionately with an increase in lot width.

##### C. MINIMUM LOT WIDTH

In a cluster subdivision, where both central water and sewer services are available and adequate, the minimum lot width shall be 50 feet.

#### D. VARIETY OF LOT SIZES

Individual lots in a cluster subdivision shall vary in size and layout. No more than 34 percent of the lots in a cluster subdivision shall have a single designated lot width. The following shall also apply:

1. The minimum separation between any two designated lot widths shall be 10 feet. For example, if 34 percent of the total number of lots has a lot width of 50 feet, 34 percent could have a lot width of 60 feet, and the remaining could have a lot width of 70 feet or greater.
2. The Planning Commission may allow a developer to vary the width of individual lots to accommodate site restrictions (i.e., easements, corner lot widths, etc). However, such lots shall be counted with the nearest designated lot width.

#### E. SETBACKS

The following minimum setbacks are required for individual lots within a cluster subdivision:

1. Front Yard: The minimum front yard setback shall be 20 feet. The front yard setback for a corner lot shall be as set forth in Chapters 2 and 3 of the UDO;
2. Rear Yard: The minimum rear yard setback shall be 30 feet;
3. Side Yard: The minimum side yard setback shall be 7 ½ feet.

#### F. OPEN SPACE REQUIREMENT

For a cluster subdivision, no less than 25 percent of the site acreage, not including primary conservation areas as defined in Item 3 below, shall be set aside in perpetuity as open space. Open space shall be clearly labeled as such on any preliminary or final plat (including sketch plans) submitted for review. Open space in a cluster subdivision is also subject to the following:

1. ~~Open space shall be defined as set forth in Chapter 7 of the UDO.~~ Open space may include, but is not limited to, passive recreation, natural preservation of important scenic vistas, environmentally sensitive lands, habitat for wildlife, and historically or archaeologically significant areas. Structures, swimming pools, and athletic facilities shall not count as open space. However, structures are permitted in the open space when they serve an accessory function, such as a gazebo, fishing dock, playground equipment, or play structures;
2. The amount of open space required to be set aside shall be determined by the following formula:

Open Space Set Aside = Total Parcel minus Primary Conservation Areas multiplied by Open Space Percentage then added to Primary Conservation Areas

$$TO = ((TP - PC) \text{ OSP}) + PC$$

TO	= Total Open Space Set Aside	(acres)
TP	= Total Parcel	(acres)
PC	= Primary Conservation Areas	(acres)
OSP	= Open Space Percentage	(% of Improvable Area)

3. Primary Conservation area includes those areas that cannot otherwise be built upon or improved and therefore would be preserved in a conventional development. Such areas specifically include wetlands, surface waters, and intermittent stream channels;
4. To fulfill the requirements of this item (f), the following shall be included in the required open space where practicable:
  - a. Wooded areas;
  - b. Scenic vistas;
  - c. Streams, ponds, wetlands, and floodplains;
  - d. Buffers, including landscaped, perimeter, river, and stream;
  - e. Areas containing slopes in excess of 25 percent;
  - f. Other areas containing unusual natural site features (such as major rock formations); and
  - g. Other environmentally, historically, or archaeologically significant or unique areas;
5. Open space shall be contiguous to the extent practicable when not restricted by topography, existing water body, and other natural features;
6. Pedestrians shall have access to open space;
7. Open space shall be deed restricted and shall not be developed for use other than open space;
8. Open space shall remain under the ownership and control of the developer (or successors) or a homeowners association or similar organization. The person or entity identified as having the right of ownership and control over such open space shall be responsible for the continuing upkeep and proper maintenance of the open space. The County shall have no responsibility for the maintenance of open space areas. If open space location meets a need in the County comprehensive plan, the County and developer may consider conveyance of completed open space to the County, upon Planning Commission and Council approval.

The person or entity having the right of ownership and control over such recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same. It shall not be the responsibility of the County to maintain these areas.
9. A cluster subdivision shall include provisions for the protection of trees and other natural amenities within the area or areas designated for open space. The removal of trees and natural vegetation in designated open space is strongly discouraged, though it is permitted during the development phases for the purpose of trails and other such recreational improvements as approved by planning staff. All open space shall be clearly labeled as such on any preliminary or final plat (including sketch plans) submitted for review. Trees over 24 inches in diameter (DBH) shall be preserved and incorporated in designated open space where practicable, and upon the request of planning staff such trees existing within areas designated for trails and other such recreational improvements may also need to be shown and labeled. Upon completion of development phases, no person or entity shall remove or destroy any trees or natural vegetation from designated open space without approval from the Administrator. However, normal maintenance and removal of dead or fallen trees are permitted and recommended, and shall be the responsibility of the person or entity identified as having the right of ownership as outlined in Item 8 above.

G. MAXIMUM DENSITY

The maximum number of dwelling units allowed per acre for a cluster subdivision shall not exceed the maximum for the residential use district in which it is located, as set forth in Chapter 2 of the UDO, where the total number of dwelling units allowed shall be based on the gross acreage of the site. For example, when the CSO is located within the MDR, Medium Density Residential, where the maximum density is two dwelling units per acre, a 100-acre parcel of land shall be allowed to have no more than 200 dwelling units built on the site.

H. COMMERCIAL REQUIREMENT: There shall be no required commercial within a cluster subdivision.

I. SITE PLANNING REVIEW STANDARDS: A cluster subdivision shall follow the site plan review standards and procedures as set forth in Chapter 9 of the UDO, including but not limited to Section 9.2. Furthermore, planning staff shall also include the following in their review:

1. Overall site design shall be harmonious in terms of landscaping, enclosure of principal and accessory uses, sizes of structures, street patterns, and use relationships;
2. The site layout shall accommodate and preserve any features of historic, cultural, archaeological, or sensitive environmental value. Individual lots, buildings, structures, streets, parking areas, utilities, and infrastructure shall be designed and sited to minimize the alteration of natural features, vegetation, and topography;
3. Where practicable, individual lots, buildings, structures, streets, parking areas, utilities, and infrastructure should be designed and sited to be compatible with surrounding development patterns;
4. Where practicable, open space shall be located on a site in such a manner so that view sheds from existing public right-of-way are not obstructed, but are enhanced by the open space;
5. Private streets are permitted in a cluster subdivision, provided such streets meet the construction standards of Chapter 6 and Appendix C of the UDO. The following shall apply:
  - a. As required in Chapter 6 of the Lancaster County Code, as amended, the minimum right-of-way and pavement width shall be as follows:

Road Type	Right-of-Way (feet)	Pavement (feet)
Local (closed drainage)	50	22
Local (open drainage)	66	22
Collector	66	24

- b. On-street parking is permitted in a cluster subdivision where adequate right-of-way and pavement width is provided in accordance with standards of the South Carolina Department of Transportation; and
  - c. To ensure adequate clearance for emergency vehicles in a cluster subdivision, the Planning Commission may require signage and/or pavement markings to clearly indicate areas where on-street parking is prohibited;
6. Installing sidewalks on both sides of local streets in a cluster subdivision is encouraged. At a minimum, a sidewalk will be required on at least one side of every local street, with a



sidewalk required on both sides of arterial and collector streets. Local, arterial, and collector streets shall be clearly labeled as such on any preliminary or final plat submitted for review;

7. In general, landscaping requirements for a cluster subdivision shall comply with the requirements of Chapter 7 of the UDO. However, the Planning Commission may vary such requirements in response to applications demonstrating alternative landscaping based on creative site planning. Existing trees and natural vegetation shall be retained wherever possible and shall count towards meeting the landscaping requirements;
8. The following buffer requirements shall apply for a cluster subdivision:
  - a. In general, buffer requirements for a cluster subdivision shall comply with the requirements of Chapter 7 of the UDO where a buffer yard may be required between adjacent zoning districts;
  - b. Existing trees and natural vegetation shall be retained wherever possible and shall count towards meeting the buffer requirements;
  - c. Ingress/egress to the property shall be allowed within a buffer, as well as utility easements and sidewalks;
  - d. A 50 foot buffer shall be required on the frontage of all existing public streets. Where there is insufficient natural vegetation to provide a visual buffer for principal structures, plantings shall be installed by the developer. A minimum of 25 percent of the trees and 75 percent of the shrubs shall be evergreens;
  - e. The Planning Commission may allow a developer to vary the buffer requirement to preserve view sheds from existing view sheds, as required in Item 4 above.
  - f. Buffer requirements within a cluster subdivision shall count as open space where it is contiguous with other areas designated as open space.
9. Variety in architecture and building materials shall be encouraged within a cluster subdivision. It is encouraged that buildings are constructed using quality finish materials (i.e., brick, masonry, stone, concrete siding, or stucco). Vinyl siding is permissible if in combination with other building materials.

#### J. OTHER ZONING REQUIREMENTS

The Cluster Subdivision Overlay District, may contain zoning and development standards and requirements that are inconsistent with or conflict with zoning and development standards and requirements contained elsewhere in the UDO. The standards and requirements contained in the Cluster Subdivision Overlay District supersede all other zoning and development standards and requirements. The Cluster Subdivision Overlay District is deemed controlling. If the Cluster Subdivision Overlay District is inconsistent with or conflicts with zoning and development standards and requirements contained elsewhere in Chapter 4, then the zoning and development standards and requirements contained in Chapter 4 supersede the standards and requirements contained in the Cluster Subdivision Overlay District and the provisions contained in Chapter 4 are deemed controlling.

#### K. EXAMPLES OF APPLYING FORMULAS

Below are examples of applying formulas to determine the total number of dwelling units allowed and the amount of the site acreage to be set aside as open space within a Cluster Subdivision Overlay District.

Example: Assume that a 50 acre parcel is being developed. The residential use district is MDR, Medium Density Residential District, where the maximum density is 2.5 dwelling units per acre. Assume that there are 5 acres of Primary Conservation area. The open space percentage is 25 percent (or as a decimal, .25).

## EXHIBIT “B”

~~Indicates Matter Stricken~~

Indicates New Matter

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### 9.2.18 DEVELOPMENT AGREEMENTS

#### A. APPLICABILITY

1. Development Agreements are permitted in all residential zoning districts and in association with all residential uses or developments regardless of zoning districts.

2. Development Agreements are required for all land development projects that wish to develop property utilizing the Cluster Subdivision Overlay District.

3. Development Agreements are required for all land development projects that seek rezoning to a mixed-use zoning district.

~~1- 4.~~ At the time a developer makes application ~~for mixed-use zoning district~~ a development agreement, the developer shall submit to the clerk:

a. A letter stating that the developer is seeking a development agreement ~~mixed-use zoning district~~;

b. A proposed agreement containing, at a minimum, the information required by Section 9.2.18.C; and

c. A check as required by Section 9.2.18.F.

~~2- 5.~~ Upon receipt by the clerk, the clerk shall provide copies of the developer's letter and proposed agreement to each member of the council.

~~3- 6.~~ Council may, in its discretion:

a. Provide for the appointment of an ad hoc committee of the council, to review and make recommendations to the council on the content and disposition of the proposed agreement;

b. Request the review by and comment of any county agency, department, board or commission and such agency, department, board or commission shall, upon request of the council, make appropriate resources and personnel available to the council to facilitate the council's review and consideration of the proposed agreement;

c. Make arrangements as may be necessary or proper to enter into agreements, including negotiating and drafting of agreements; and

d. Engage such consultants and professional service providers as may be needed including, but not limited to, engineering, financial, legal or other special services.

~~4-7.~~ The clerk shall forward a copy of the proposed agreement to the planning commission. The planning commission shall review the proposed agreement and make recommendations to the council not later than the time the planning commission makes its recommendations to the council on any proposed rezoning sought by the developer, if any rezoning request is applicable.  
~~the proposed mixed-use zoning district.~~

~~5-8.~~ At least two public hearings on the proposed agreement shall be conducted. One of the two required public hearings shall be held by the planning commission and the other shall be held by council. Not less than 15 days' notice of the time and place of each hearing shall be published in at least one newspaper of general circulation in the county. The notices published for the public hearings must include the information required to be published by Code Section 6-31-50(B).

~~6-9.~~ No agreement may be entered into by the county unless the agreement has been approved by council through the adoption of an ordinance. Any agreement approved by council must contain the information required by Section 9.2.18.C.

## **B. FILING PROCEDURES**

**1. Process Type:** Legislative.

**2. Public Notification:** Level 1 and 2.

## **C. REQUIRED AGREEMENT INFORMATION**

The proposed agreement filed by the developer, as provided in Section 9.2.18.A, must include:

1. A legal description of the property subject to the agreement and the names of the property's legal and equitable owners;
2. The duration of the agreement which must comply with Code Section 6-31-40;
3. A representation by the developer of the number of acres of highland contained in the property subject to the agreement (minimum 25-acres highland);
4. The then current zoning of the property and a statement, if applicable, of any proposed rezoning of the property;
5. The development uses that would be permitted on the property pursuant to the agreement, including population densities, building intensities and height;
6. A description of the public facilities that will service the development, including who provides the facilities, the date any new facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development construction timeline for those facilities. If the agreement provides that the county shall provide certain public facilities, the agreement shall provide that the delivery date of the public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer;

- 7.** A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the agreement;
- 8.** A description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions;
- 9.** A finding that the development permitted or proposed is consistent, or will be consistent by the time of execution of the agreement, with the county's comprehensive plan and land development regulations;
- 10.** A description, where appropriate, of any provisions for the preservation and restoration of historic structures;
- 11.** A development schedule including commencement dates and interim completion dates at no greater than five year intervals;
- 12.** If more than one local government is made party to the agreement, a provision stating which local government is responsible for the overall administration of the agreement;
- 13.** A listing of the laws and land development regulations that will apply to the development of the property subject to the agreement, including citation to specific ordinance numbers or portions of the County Code of Ordinances or both;
- 14.** A provision, consistent with Code Section 6-31-80, addressing the circumstances under which laws and land development regulations adopted subsequent to the execution of the agreement apply to the property subject to the agreement;
- 15.** A provision stating whether the agreement continues to apply to the property or portions of it that are annexed into a municipality or included in a newly-incorporated area and, if so, that the provisions of Code Section 6-31-110 apply;
- 16.** A provision that:
  - a.** The agreement may be amended or cancelled by mutual consent of the parties to the agreement or their successors in interest;
  - b.** If the amendment constitutes a major modification of the agreement, the major modification may occur only after public notice and a public hearing by the council, provided, that, for purposes of this sub item, a "major modification" means: (i) significant changes to the development scheduled time-frames set forth in the agreement; (ii) density modifications; (iii) land use changes; (iv) any major miscalculations of infrastructure or facility needs which create demand deficiencies; or (v) any other significant deviation from the development as contained in the agreement;
  - c.** If the developer requests an amendment to the development schedule, including commencement dates and interim completion dates, then the dates must be modified

by the council if the developer is able to demonstrate and establish that there is good cause to modify those dates; and

d. The agreement must be modified or suspended as may be necessary to comply with any state or federal laws or regulations enacted after the agreement is entered into which prevents or precludes compliance with one or more of the provisions of the agreement;

17. A provision for periodic review, consistent with the provisions of Section 9.2.18.G;

18. A provision addressing the effects of a material breach of the agreement, consistent with the provisions of Section 9.2.18.E;

19. A provision that the developer, within 14 days after the county enters into the agreement, will record the agreement with the county clerk of court;

20. A provision that the burdens of the agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement; and

21. A provision addressing the conditions and procedures by which the agreement may be assigned; and

22. For properties proposed to be rezoned to one of the Mixed Use Districts in UDO Chapter 3, a complete Mixed-Use District Master Development Plan prepared in accordance with UDO Chapter 9.2.9(B); and

23. For properties proposed to be rezoned to a non-mixed use residential district, a conceptual master plan showing the overall design intent of the project including, but not limited to subject property boundary, proposed street and pedestrian network, proposed lots, proposed open space and amenity features, preliminary stormwater improvements, environmentally sensitive areas, and any offsite improvements; and

24. A traffic impact analysis prepared in accordance with UDO Chapter 6.8 and SCDOT standards.

#### **D. OPTIONAL AGREEMENT INFORMATION**

The agreement approved by the council must include the information listed in Section 9.2.18.C and, in addition, may include:

1. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the council for the public health, safety, or welfare of the county's citizens;

2. Requirements that the entire development or any phase of it be commenced or completed within a specified period of time;

3. Defined performance standards to be met by the developer;

4. Identification of any laws or land development regulations anticipated to be adopted by the council subsequent to the execution of the agreement and made applicable to the property subject to the agreement;

5. Any other matter not inconsistent with the Act not prohibited by law.

#### **E. BREACH OF AGREEMENT**

1. If, as a result of the periodic review provided for in Section 9.2.178.G, the zoning administrator finds and determines that the developer has committed a material breach of the terms or conditions of the agreement, the zoning administrator shall serve notice in writing, within 30 days after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer 30 days to respond with a corrective action plan to cure the material breach. The zoning administrator may approve a corrective action plan which provides for a cure of the material breach in one year or less. Corrective action plans providing for a cure of the material breach in excess of one year must be reviewed and approved by the council. The zoning administrator and council may establish a time for the cure of the material breach different from that proposed by the developer.

2. If the developer fails to respond to the zoning administrator's notice within 30 days or cure the material breach within the time approved by the zoning administrator or council, the council unilaterally may terminate or modify the agreement, provided, that the council has first given the developer the opportunity:

a. To rebut the finding and determination; or

b. To consent to amend the agreement to meet the concerns of the council with respect to the findings and determinations.

3. The failure of a developer to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the agreement, but must be judged based on the totality of the circumstances.

#### **F. COST OF CONSIDERATION**

The developer must pay a fee, to defray the cost of consideration of the proposed agreement by the council, and the amount of the fee shall be determined in the following manner: \$25.00 per acre for each acre of highland proposed to be included in the agreement with the total fee not to exceed twenty thousand dollars. The developer shall pay the fee by check made payable to Lancaster County and the check shall be included with the material submitted to the clerk as provided in Section 9.2.178.A. The fee shall be deposited in a special account and used at the direction of the council only for the purpose of defraying expenses incurred by the county in the review and consideration of the proposed agreement. Any unused fee shall be returned to the developer within six months of the county's disposition of the proposed agreement.

#### **G. REVIEW BY ADMINISTRATOR**

At least every 12 months, the zoning administrator must review compliance with the agreement by the developer. At the time of review, the developer must demonstrate good faith compliance with the terms of the agreement.

**Proposal:** To expand the ability to use development agreements and clarify existing Unified Development Ordinance (UDO) language for same.

**Applicable Chapter(s):** UDO Chapters 9.2.18, Development Agreements & 4.4, Cluster Subdivision Overlay District

**Applicant:** Lancaster County

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### **Project Summary & Proposal**

The proposed text amendment is intended to clarify the ability to process development agreements in all residential zoning districts. The amendment also requires a development agreement for properties developed in the Cluster Subdivision Overlay District. The amendment further clarifies existing UDO language that a development agreement for mixed-use zoned properties shall be submitted with the rezoning application. The amendment also specifies that a conceptual master plan and a traffic study (if required) shall be included in the development agreement submittal.

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### **Outline of Text Amendment**

The following chapters of the UDO have been amended or created:

- *Chapter 9.2.18, Development Agreements:* To require development agreements for any property developed under the Cluster Subdivision Overlay.
- *Chapter 9.2.18, Development Agreements:* To clarify existing language that development agreements for any property intending to rezone to a Mixed Use District be submitted with the rezoning application. To further clarify that a conceptual master plan and traffic study will be submitted with a proposed development agreement.
- *Chapter 9.2.18, Development Agreements:* To allow the use of development agreements for all residential districts.
- *Chapter 9.2.18-C, Required Agreement Information:* To require master plans with all development agreements.
- *Chapter 4.4.1, Cluster Subdivision Overlay:* To require development agreements for any property intending to develop under the Cluster Subdivision Overlay (reference within overlay district standards).

Based on staff's findings, we offer the modifications attached to the Draft Ordinance for the Board's consideration. For ease of reference, new text is referenced in red/underlined font and deletions are referenced in ~~strikethrough~~ font. The proposed language is found in **Exhibit 2**.



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### **Findings and Conclusions**

The proposed amendment provides the County the ability to enter into a development agreement with a property owner for residentially zoned properties, which will provide the County with an additional tool to better manage growth. The amendment will require development agreements for projects in the Cluster Subdivision Overlay District, which have smaller lots and can result in higher achievable densities versus conventionally developed subdivisions. The amendment also clarifies within the UDO regarding when development agreements are submitted for mixed-use zoned properties and submittal requirements for all development agreements.

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### **Planning Staff Recommendation**

Staff recommends **approval** of the request.

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### **Exhibits**

1. Application
2. Proposed Text Amendment

### **Staff Contact**

Ashley Davis, Planner

[adavis@lancastercountysc.net](mailto:adavis@lancastercountysc.net)

## TEXT AMENDMENT APPLICATION

### SUBMITTAL REQUIREMENTS

- Completed Application
- Signatures of Applicant
- Fees associated with Application

### GENERAL INFORMATION

UDO Section(s) Proposed to be Amended Chapter 9.2.18, Development Agreements & 4.4 Cluster Subdivision Overlay

Current Text Chapter 9.2.18 (Development Agreements ) does not currently  
contemplate development agreements outside the Mixed Use districts.

Chapter 4.4 (CSOD) does not currently require a development agreement for  
cluster subdivisions.

Proposed Text Chapter 9.2.18, to allow development agreements in all residential districts,  
Ch. 9.2.18, to require development agreements for all developments within the  
the Cluster Subdivision Overlay District, as well as all  
properties rezoning to a mixed-use zoning district (clarify existing verbiage).  
Chapter 4.4.1, reference development agreements required for any property  
intending to develop under the Cluster Subdivision Overlay District.

Description of Need for Proposed Text To require development agreements in association  
with projects in the Cluster Subdivision Overlay District and to clarify the ability to process  
development agreements in all residential districts. Clarify existing verbiage that  
Development Agreements are processed at time of rezoning for MX districts.

☐ Additional pages attached for more information

### CONTACT INFORMATION

Applicant Name Lancaster County

Address 101 N. Main St.

City Lancaster State SC Zip 29721 Phone 803-285-6005

Fax \_\_\_\_\_ Email \_\_\_\_\_

### APPLICATION CERTIFICATIONS

I hereby certify that I have read this application and the information supplied herein is true and correct to the best of my knowledge. I agree to comply with all applicable County ordinances and state laws related to the use and development of the land. I further certify that I am the property owner, or his/her authorized agent, or the subject property. I understand that falsifying any information herein may result in rejection or denial of this request.

Rox Burhan  
Applicant

9/11/19  
Date

\_\_\_\_\_  
Property Owner(s)

\_\_\_\_\_  
Date

Attach owner's notarized written authorization with property information if the applicant is not the owner.

### LANCASTER COUNTY OFFICE USE ONLY

Application Number \_\_\_\_\_ Date Received \_\_\_\_\_ Receipt Number \_\_\_\_\_

Amount Paid \_\_\_\_\_ Check Number \_\_\_\_\_ Cash Amount \_\_\_\_\_

Received By \_\_\_\_\_ Planning Commission Meeting Date \_\_\_\_\_

### SCHEDULE/PROCESS

#### 1. Submit Application

- The deadline for this application is at least 30 days prior to the Planning Commission meeting, held every third Tuesday of the month.
- Once an application is submitted, it is placed on the Planning Commission agenda for the following month.
- An application withdrawal should be made in writing and received prior to public notice in order to receive a refund.

#### 2. Planning Commission

- Conducts a public hearing on the application to receive input from Lancaster County citizens, applicant, and other interested parties.
- Reviews the application to ensure it is consistent with the Lancaster County Unified Development Ordinance, Comprehensive Plan, and all adopted County plans.
- Makes a recommendation to the County Council.

#### 3. County Council

- Approves, denies, or submits application to the Planning Commission for further study.
- Action requires three readings for approval.

## EXHIBIT “A”

~~Indicates Matter Stricken~~

Indicates New Matter

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### 4.4 CHARACTER PROTECTION OVERLAYS

#### 4.4.1 CLUSTER SUBDIVISION OVERLAY DISTRICT(CSO)

The Cluster Subdivision Overlay District, is hereby established. Cluster subdivisions are residential developments which offer an alternative to traditional subdivision design, with the principle purpose being to encourage open space in medium density residential districts. Cluster subdivisions shall be designed using a site planning technique that concentrates buildings and structures to the most buildable areas of a site in order to preserve the remaining area as open space for recreation and preservation of significant site features. Reductions below the minimums otherwise required by the UDO for lot area, lot width, and setbacks are allowed within a CSO, and such reductions are only permissible within a CSO. By preserving open space, a cluster subdivision will provide another tool by which the County shall preserve its rural character. Cluster subdivisions are permitted in moderate density single family residential districts, specifically, Medium Residential District. Cluster subdivisions are not permitted in any other zoning districts. Development of a Cluster Subdivision requires submission of a Development Agreement (see UDO 92.18). The following general provisions apply to the Cluster Subdivision Overlay District:

##### A. MINIMUM ACREAGE

The minimum tract area for a cluster subdivision shall be 30 gross acres ~~[unless a larger minimum acreage is required as part of the Development Agreement Process (i.e. 25-acres of highland)]~~, shall consist of contiguous parcels, and must adjoin or have direct access to at least one collector street.

##### B. MINIMUM LOT AREA

The minimum lot area (in square feet) per dwelling unit within a cluster subdivision shall be 5,000 square feet. This shall be the minimum lot area allowed for any lot with the minimum lot width of 50 feet, as defined in Section C below. The minimum lot area per dwelling unit shall increase proportionately with an increase in lot width.

##### C. MINIMUM LOT WIDTH

In a cluster subdivision, where both central water and sewer services are available and adequate, the minimum lot width shall be 50 feet.

#### D. VARIETY OF LOT SIZES

Individual lots in a cluster subdivision shall vary in size and layout. No more than 34 percent of the lots in a cluster subdivision shall have a single designated lot width. The following shall also apply:

1. The minimum separation between any two designated lot widths shall be 10 feet. For example, if 34 percent of the total number of lots has a lot width of 50 feet, 34 percent could have a lot width of 60 feet, and the remaining could have a lot width of 70 feet or greater.
2. The Planning Commission may allow a developer to vary the width of individual lots to accommodate site restrictions (i.e., easements, corner lot widths, etc). However, such lots shall be counted with the nearest designated lot width.

#### E. SETBACKS

The following minimum setbacks are required for individual lots within a cluster subdivision:

1. Front Yard: The minimum front yard setback shall be 20 feet. The front yard setback for a corner lot shall be as set forth in Chapters 2 and 3 of the UDO;
2. Rear Yard: The minimum rear yard setback shall be 30 feet;
3. Side Yard: The minimum side yard setback shall be 7 ½ feet.

#### F. OPEN SPACE REQUIREMENT

For a cluster subdivision, no less than 25 percent of the site acreage, not including primary conservation areas as defined in Item 3 below, shall be set aside in perpetuity as open space. Open space shall be clearly labeled as such on any preliminary or final plat (including sketch plans) submitted for review. Open space in a cluster subdivision is also subject to the following:

1. ~~Open space shall be defined as set forth in Chapter 7 of the UDO.~~ Open space may include, but is not limited to, passive recreation, natural preservation of important scenic vistas, environmentally sensitive lands, habitat for wildlife, and historically or archaeologically significant areas. Structures, swimming pools, and athletic facilities shall not count as open space. However, structures are permitted in the open space when they serve an accessory function, such as a gazebo, fishing dock, playground equipment, or play structures;
2. The amount of open space required to be set aside shall be determined by the following formula:

Open Space Set Aside = Total Parcel minus Primary Conservation Areas multiplied by Open Space Percentage then added to Primary Conservation Areas

$$TO = ((TP - PC) \text{ OSP}) + PC$$

TO	= Total Open Space Set Aside	(acres)
TP	= Total Parcel	(acres)
PC	= Primary Conservation Areas	(acres)
OSP	= Open Space Percentage	(% of Improvable Area)

3. Primary Conservation area includes those areas that cannot otherwise be built upon or improved and therefore would be preserved in a conventional development. Such areas specifically include wetlands, surface waters, and intermittent stream channels;
4. To fulfill the requirements of this item (f), the following shall be included in the required open space where practicable:
  - a. Wooded areas;
  - b. Scenic vistas;
  - c. Streams, ponds, wetlands, and floodplains;
  - d. Buffers, including landscaped, perimeter, river, and stream;
  - e. Areas containing slopes in excess of 25 percent;
  - f. Other areas containing unusual natural site features (such as major rock formations); and
  - g. Other environmentally, historically, or archaeologically significant or unique areas;
5. Open space shall be contiguous to the extent practicable when not restricted by topography, existing water body, and other natural features;
6. Pedestrians shall have access to open space;
7. Open space shall be deed restricted and shall not be developed for use other than open space;
8. Open space shall remain under the ownership and control of the developer (or successors) or a homeowners association or similar organization. The person or entity identified as having the right of ownership and control over such open space shall be responsible for the continuing upkeep and proper maintenance of the open space. The County shall have no responsibility for the maintenance of open space areas. If open space location meets a need in the County comprehensive plan, the County and developer may consider conveyance of completed open space to the County, upon Planning Commission and Council approval.

The person or entity having the right of ownership and control over such recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same. It shall not be the responsibility of the County to maintain these areas.
9. A cluster subdivision shall include provisions for the protection of trees and other natural amenities within the area or areas designated for open space. The removal of trees and natural vegetation in designated open space is strongly discouraged, though it is permitted during the development phases for the purpose of trails and other such recreational improvements as approved by planning staff. All open space shall be clearly labeled as such on any preliminary or final plat (including sketch plans) submitted for review. Trees over 24 inches in diameter (DBH) shall be preserved and incorporated in designated open space where practicable, and upon the request of planning staff such trees existing within areas designated for trails and other such recreational improvements may also need to be shown and labeled. Upon completion of development phases, no person or entity shall remove or destroy any trees or natural vegetation from designated open space without approval from the Administrator. However, normal maintenance and removal of dead or fallen trees are permitted and recommended, and shall be the responsibility of the person or entity identified as having the right of ownership as outlined in Item 8 above.

G. MAXIMUM DENSITY

The maximum number of dwelling units allowed per acre for a cluster subdivision shall not exceed the maximum for the residential use district in which it is located, as set forth in Chapter 2 of the UDO, where the total number of dwelling units allowed shall be based on the gross acreage of the site. For example, when the CSO is located within the MDR, Medium Density Residential, where the maximum density is two dwelling units per acre, a 100-acre parcel of land shall be allowed to have no more than 200 dwelling units built on the site.

H. COMMERCIAL REQUIREMENT: There shall be no required commercial within a cluster subdivision.

I. SITE PLANNING REVIEW STANDARDS: A cluster subdivision shall follow the site plan review standards and procedures as set forth in Chapter 9 of the UDO, including but not limited to Section 9.2. Furthermore, planning staff shall also include the following in their review:

1. Overall site design shall be harmonious in terms of landscaping, enclosure of principal and accessory uses, sizes of structures, street patterns, and use relationships;
2. The site layout shall accommodate and preserve any features of historic, cultural, archaeological, or sensitive environmental value. Individual lots, buildings, structures, streets, parking areas, utilities, and infrastructure shall be designed and sited to minimize the alteration of natural features, vegetation, and topography;
3. Where practicable, individual lots, buildings, structures, streets, parking areas, utilities, and infrastructure should be designed and sited to be compatible with surrounding development patterns;
4. Where practicable, open space shall be located on a site in such a manner so that view sheds from existing public right-of-way are not obstructed, but are enhanced by the open space;
5. Private streets are permitted in a cluster subdivision, provided such streets meet the construction standards of Chapter 6 and Appendix C of the UDO. The following shall apply:
  - a. As required in Chapter 6 of the Lancaster County Code, as amended, the minimum right-of-way and pavement width shall be as follows:

Road Type	Right-of-Way (feet)	Pavement (feet)
Local (closed drainage)	50	22
Local (open drainage)	66	22
Collector	66	24

- b. On-street parking is permitted in a cluster subdivision where adequate right-of-way and pavement width is provided in accordance with standards of the South Carolina Department of Transportation; and
  - c. To ensure adequate clearance for emergency vehicles in a cluster subdivision, the Planning Commission may require signage and/or pavement markings to clearly indicate areas where on-street parking is prohibited;
6. Installing sidewalks on both sides of local streets in a cluster subdivision is encouraged. At a minimum, a sidewalk will be required on at least one side of every local street, with a

sidewalk required on both sides of arterial and collector streets. Local, arterial, and collector streets shall be clearly labeled as such on any preliminary or final plat submitted for review;

7. In general, landscaping requirements for a cluster subdivision shall comply with the requirements of Chapter 7 of the UDO. However, the Planning Commission may vary such requirements in response to applications demonstrating alternative landscaping based on creative site planning. Existing trees and natural vegetation shall be retained wherever possible and shall count towards meeting the landscaping requirements;
8. The following buffer requirements shall apply for a cluster subdivision:
  - a. In general, buffer requirements for a cluster subdivision shall comply with the requirements of Chapter 7 of the UDO where a buffer yard may be required between adjacent zoning districts;
  - b. Existing trees and natural vegetation shall be retained wherever possible and shall count towards meeting the buffer requirements;
  - c. Ingress/egress to the property shall be allowed within a buffer, as well as utility easements and sidewalks;
  - d. A 50 foot buffer shall be required on the frontage of all existing public streets. Where there is insufficient natural vegetation to provide a visual buffer for principal structures, plantings shall be installed by the developer. A minimum of 25 percent of the trees and 75 percent of the shrubs shall be evergreens;
  - e. The Planning Commission may allow a developer to vary the buffer requirement to preserve view sheds from existing view sheds, as required in Item 4 above.
  - f. Buffer requirements within a cluster subdivision shall count as open space where it is contiguous with other areas designated as open space.
9. Variety in architecture and building materials shall be encouraged within a cluster subdivision. It is encouraged that buildings are constructed using quality finish materials (i.e., brick, masonry, stone, concrete siding, or stucco). Vinyl siding is permissible if in combination with other building materials.

#### J. OTHER ZONING REQUIREMENTS

The Cluster Subdivision Overlay District, may contain zoning and development standards and requirements that are inconsistent with or conflict with zoning and development standards and requirements contained elsewhere in the UDO. The standards and requirements contained in the Cluster Subdivision Overlay District supersede all other zoning and development standards and requirements. The Cluster Subdivision Overlay District is deemed controlling. If the Cluster Subdivision Overlay District is inconsistent with or conflicts with zoning and development standards and requirements contained elsewhere in Chapter 4, then the zoning and development standards and requirements contained in Chapter 4 supersede the standards and requirements contained in the Cluster Subdivision Overlay District and the provisions contained in Chapter 4 are deemed controlling.

#### K. EXAMPLES OF APPLYING FORMULAS

Below are examples of applying formulas to determine the total number of dwelling units allowed and the amount of the site acreage to be set aside as open space within a Cluster Subdivision Overlay District.

Example: Assume that a 50 acre parcel is being developed. The residential use district is MDR, Medium Density Residential District, where the maximum density is 2.5 dwelling units per acre. Assume that there are 5 acres of Primary Conservation area. The open space percentage is 25 percent (or as a decimal, .25).



## EXHIBIT “B”

~~Indicates Matter Stricken~~

Indicates New Matter

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### 9.2.18 DEVELOPMENT AGREEMENTS

#### A. APPLICABILITY

1. Development Agreements are permitted in all residential zoning districts and in association with all residential uses or developments regardless of zoning districts.

2. Development Agreements are required for all land development projects that wish to develop property utilizing the Cluster Subdivision Overlay District.

3. Development Agreements are required for all land development projects that seek rezoning to a mixed-use zoning district.

~~1- 4.~~ At the time a developer makes application ~~for mixed-use zoning district~~ a development agreement, the developer shall submit to the clerk:

a. A letter stating that the developer is seeking a development agreement ~~mixed-use zoning district~~;

b. A proposed agreement containing, at a minimum, the information required by Section 9.2.18.C; and

c. A check as required by Section 9.2.18.F.

~~2- 5.~~ Upon receipt by the clerk, the clerk shall provide copies of the developer's letter and proposed agreement to each member of the council.

~~3- 6.~~ Council may, in its discretion:

a. Provide for the appointment of an ad hoc committee of the council, to review and make recommendations to the council on the content and disposition of the proposed agreement;

b. Request the review by and comment of any county agency, department, board or commission and such agency, department, board or commission shall, upon request of the council, make appropriate resources and personnel available to the council to facilitate the council's review and consideration of the proposed agreement;

c. Make arrangements as may be necessary or proper to enter into agreements, including negotiating and drafting of agreements; and

d. Engage such consultants and professional service providers as may be needed including, but not limited to, engineering, financial, legal or other special services.

~~4. 7.~~ The clerk shall forward a copy of the proposed agreement to the planning commission. The planning commission shall review the proposed agreement and make recommendations to the council not later than the time the planning commission makes its recommendations to the council on any proposed rezoning sought by the developer, if any rezoning request is applicable.  
~~the proposed mixed-use zoning district.~~

~~5. 8.~~ At least two public hearings on the proposed agreement shall be conducted. One of the two required public hearings shall be held by the planning commission and the other shall be held by council. Not less than 15 days' notice of the time and place of each hearing shall be published in at least one newspaper of general circulation in the county. The notices published for the public hearings must include the information required to be published by Code Section 6-31-50(B).

~~6. 9.~~ No agreement may be entered into by the county unless the agreement has been approved by council through the adoption of an ordinance. Any agreement approved by council must contain the information required by Section 9.2.18.C.

## **B. FILING PROCEDURES**

**1. Process Type:** Legislative.

**2. Public Notification:** Level 1 and 2.

## **C. REQUIRED AGREEMENT INFORMATION**

The proposed agreement filed by the developer, as provided in Section 9.2.18.A, must include:

- 1.** A legal description of the property subject to the agreement and the names of the property's legal and equitable owners;
- 2.** The duration of the agreement which must comply with Code Section 6-31-40;
- 3.** A representation by the developer of the number of acres of highland contained in the property subject to the agreement (minimum 25-acres highland);
- 4.** The then current zoning of the property and a statement, if applicable, of any proposed rezoning of the property;
- 5.** The development uses that would be permitted on the property pursuant to the agreement, including population densities, building intensities and height;
- 6.** A description of the public facilities that will service the development, including who provides the facilities, the date any new facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development construction timeline for those facilities. If the agreement provides that the county shall provide certain public facilities, the agreement shall provide that the delivery date of the public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer;

- 7.** A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the agreement;
- 8.** A description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions;
- 9.** A finding that the development permitted or proposed is consistent, or will be consistent by the time of execution of the agreement, with the county's comprehensive plan and land development regulations;
- 10.** A description, where appropriate, of any provisions for the preservation and restoration of historic structures;
- 11.** A development schedule including commencement dates and interim completion dates at no greater than five year intervals;
- 12.** If more than one local government is made party to the agreement, a provision stating which local government is responsible for the overall administration of the agreement;
- 13.** A listing of the laws and land development regulations that will apply to the development of the property subject to the agreement, including citation to specific ordinance numbers or portions of the County Code of Ordinances or both;
- 14.** A provision, consistent with Code Section 6-31-80, addressing the circumstances under which laws and land development regulations adopted subsequent to the execution of the agreement apply to the property subject to the agreement;
- 15.** A provision stating whether the agreement continues to apply to the property or portions of it that are annexed into a municipality or included in a newly-incorporated area and, if so, that the provisions of Code Section 6-31-110 apply;
- 16.** A provision that:
  - a.** The agreement may be amended or cancelled by mutual consent of the parties to the agreement or their successors in interest;
  - b.** If the amendment constitutes a major modification of the agreement, the major modification may occur only after public notice and a public hearing by the council, provided, that, for purposes of this sub item, a "major modification" means: (i) significant changes to the development scheduled time-frames set forth in the agreement; (ii) density modifications; (iii) land use changes; (iv) any major miscalculations of infrastructure or facility needs which create demand deficiencies; or (v) any other significant deviation from the development as contained in the agreement;
  - c.** If the developer requests an amendment to the development schedule, including commencement dates and interim completion dates, then the dates must be modified

by the council if the developer is able to demonstrate and establish that there is good cause to modify those dates; and

d. The agreement must be modified or suspended as may be necessary to comply with any state or federal laws or regulations enacted after the agreement is entered into which prevents or precludes compliance with one or more of the provisions of the agreement;

17. A provision for periodic review, consistent with the provisions of Section 9.2.18.G;

18. A provision addressing the effects of a material breach of the agreement, consistent with the provisions of Section 9.2.18.E;

19. A provision that the developer, within 14 days after the county enters into the agreement, will record the agreement with the county clerk of court;

20. A provision that the burdens of the agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement; and

21. A provision addressing the conditions and procedures by which the agreement may be assigned; and

22. For properties proposed to be rezoned to one of the Mixed Use Districts in UDO Chapter 3, a complete Mixed-Use District Master Development Plan prepared in accordance with UDO Chapter 9.2.9(B); and

23. For properties proposed to be rezoned to a non-mixed use residential district, a conceptual master plan showing the overall design intent of the project including, but not limited to subject property boundary, proposed street and pedestrian network, proposed lots, proposed open space and amenity features, preliminary stormwater improvements, environmentally sensitive areas, and any offsite improvements; and

24. A traffic impact analysis prepared in accordance with UDO Chapter 6.8 and SCDOT standards.

#### **D. OPTIONAL AGREEMENT INFORMATION**

The agreement approved by the council must include the information listed in Section 9.2.18.C and, in addition, may include:

1. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the council for the public health, safety, or welfare of the county's citizens;
2. Requirements that the entire development or any phase of it be commenced or completed within a specified period of time;
3. Defined performance standards to be met by the developer;
4. Identification of any laws or land development regulations anticipated to be adopted by the council subsequent to the execution of the agreement and made applicable to the property subject to the agreement;

5. Any other matter not inconsistent with the Act not prohibited by law.

#### **E. BREACH OF AGREEMENT**

1. If, as a result of the periodic review provided for in Section 9.2.178.G, the zoning administrator finds and determines that the developer has committed a material breach of the terms or conditions of the agreement, the zoning administrator shall serve notice in writing, within 30 days after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer 30 days to respond with a corrective action plan to cure the material breach. The zoning administrator may approve a corrective action plan which provides for a cure of the material breach in one year or less. Corrective action plans providing for a cure of the material breach in excess of one year must be reviewed and approved by the council. The zoning administrator and council may establish a time for the cure of the material breach different from that proposed by the developer.

2. If the developer fails to respond to the zoning administrator's notice within 30 days or cure the material breach within the time approved by the zoning administrator or council, the council unilaterally may terminate or modify the agreement, provided, that the council has first given the developer the opportunity:

a. To rebut the finding and determination; or

b. To consent to amend the agreement to meet the concerns of the council with respect to the findings and determinations.

3. The failure of a developer to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the agreement, but must be judged based on the totality of the circumstances.

#### **F. COST OF CONSIDERATION**

The developer must pay a fee, to defray the cost of consideration of the proposed agreement by the council, and the amount of the fee shall be determined in the following manner: \$25.00 per acre for each acre of highland proposed to be included in the agreement with the total fee not to exceed twenty thousand dollars. The developer shall pay the fee by check made payable to Lancaster County and the check shall be included with the material submitted to the clerk as provided in Section 9.2.178.A. The fee shall be deposited in a special account and used at the direction of the council only for the purpose of defraying expenses incurred by the county in the review and consideration of the proposed agreement. Any unused fee shall be returned to the developer within six months of the county's disposition of the proposed agreement.

#### **G. REVIEW BY ADMINISTRATOR**

At least every 12 months, the zoning administrator must review compliance with the agreement by the developer. At the time of review, the developer must demonstrate good faith compliance with the terms of the agreement.

## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1624  
Contact Person / Sponsor: Steve Willis/Administration  
Department: Finance  
Date Requested to be on Agenda: 12/9/2019

**Issue for Consideration:**

Amendment to the Fiscal Year 2020 budget.

**Points to Consider:**

The proposed amendments are attached. They include two departments who are requesting fee changes as well as additional funding requests for several projects and other items. Most requests will be funded through general fund fund balance except for the additional staff for the Indian Land Fire Dept. which will come from its own fund reserve. Several items have already been approved by Council via prior action, but this will catch up the budget.

**Funding and Liability Factors:**

Requests are to change the overall budget for the fiscal year and will impact fund balance.

**Council Options:**

Approve or reject the amendments.

**Recommendation:**

Staff recommends approval and positive recommendation from the Administration Committee.

**ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1624	12/3/2019	Ordinance

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

)  
)  
)

ORDINANCE NO. 2019-1624

~~Indicates Matter Stricken~~

Indicates New Matter

**AN ORDINANCE**

**TO AMEND ORDINANCE NO. 2019-1594, RELATING TO THE APPROPRIATION OF FUNDS AND THE APPROVAL OF A DETAILED BUDGET FOR LANCASTER COUNTY FOR THE FISCAL YEAR BEGINNING JULY 1, 2019 AND ENDING JUNE 30, 2020 (FY 2019-2020), TO FURTHER PROVIDE FOR REVENUES AND EXPENDITURES DURING THE FISCAL YEAR; AND TO PROVIDE FOR MATTERS RELATED THERETO.**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Appropriations; Detailed Budget.**

(a) Section 2 and Section 4. of Ordinance No. 2019-1594 are amended to read:

/A. Subject to the terms and conditions of this ordinance, the sums of money set forth below, if so much is necessary, are appropriated from the General Fund of the County and other applicable funds as specified, to meet the ordinary expenses, including debt service, of county government for the fiscal year beginning July 1, 2019 and ending June 30, 2020 (FY 2019-2020):

Airport Fund	239,863
Capital Improvement Fund	2,600,000
Capital Project Sales Tax 2	17,530,162
County Debt	8,233,643
County Transportation Committee Fund	1,800,000
Court Mandated Security	1,504,706
Development Agreement Fund	1,305,801
E-911 Fund	734,013
General Fund	60,213,597
	64,919,386
	<u>64,979,386</u>
Hospitality Tax Fund	1,280,000
Indian Land Fire Protection District Fund	850,000
	<u>1,011,420</u>
Local Accommodations Tax Fund	100,000
Pleasant Valley Fire Protection District Fund	786,933
Victims Services Fund	76,500
State Accommodations Tax Fund	381,550
Stormwater Fund	1,316,505

(b) The County Administrator is authorized to adjust the detailed operating budget for the County, as contained in the Annual Financial Plan, as previously approved by Council in Section 2A) and Section 4 of Ordinance No. 2019-1594, for the following items:

General Fund		Revenue	Expense
	Supplemental Revenue-State Department of Natural Resources	\$100,000	
	Springs Boat Landing Upgrades/Renovations		\$100,000
	Supplemental Revenue-Fund Balance	\$4,665,789	
	Springs Boat Landing Upgrades/Renovations		\$301,795
	Ongoing Maintenance for Springs Boat Landing		\$64,065
	Assistant Solicitor (grant ending)		\$85,241
	EMS Station 4/9 Construction Costs		\$730,063
	Old Bailes Road Grant Match		\$424,625
	EMS Headquarters Design		\$700,000
	Land Acquisition, <u>initial design</u> <u>work, engineering, &amp; surveying</u>		<u>\$2,300,000</u> <u>\$2,360,000</u>
Indian Land Fire District Fund	Supplemental Revenue- Fund Balance	\$161,420	
	Three Additional Full-time Staff and related costs		\$161,420

## 14.00 Planning

<b>14.04</b>	<b>Subdivision Fees</b>		
	Final plat	Per plat	\$100 plus- \$25 <u>for each lot</u>
	Civil Construction Plan Review	Per-plat	\$300 plus- \$25 <u>for each lot</u>

<b>14.05</b>	<b>Zoning Fees</b>		
	Rezoning application- single parcel		<u>325</u> <u>435</u>
	Rezoning application- multi parcel		<u>500</u> <u>610</u>
	2nd rezoning fee (within 1 month)		<u>250</u> <u>360</u>
	Text amendment & Future Land Use Map Amendment Fee		<u>325</u> <u>435</u>

<b>14.06</b>	<b>Miscellaneous Fees</b>		
	<b>Item</b>	<b>Unit</b>	<b>Amount</b>



<u>Commercial Review Fee</u>		<u>\$300 plus- \$150</u> <u>per disturbed</u> <u>acre</u>
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## **26.00 Airport**

<b>Item</b>	<b>Unit</b>	<b>Amount</b>
<u>Open Airport hangar rental</u>	<u>Per Month</u>	<u>400-150.00</u>
<u>Airport Callout Fee</u>	<u>Per Hour,</u> <u>minimum 3</u>	<u>\$100.00</u>
<u>Ramp Tie Down Over Night</u>		<u>\$20.00</u>
<u>Ramp Tie Down Monthly</u>		<u>\$75.00</u>
<u>Small-Medium Turboprops/Light Jets Facility Fee</u>	<u>Per Day</u>	<u>\$75.00</u>
<u>Large Turboprops/Medium Jets Facility Fee</u>	<u>Per Day</u>	<u>\$150.00</u>
<u>Large Jets Facility Fee</u>	<u>Per Day</u>	<u>\$250.00</u>
<u>Lavatory Services</u>		<u>\$100.00</u>

### **Section 4. Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

### **Section 5. Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

### **Section 6. Effective Date.**

This ordinance is effective upon Third Reading.

SIGNATURES FOLLOW ON NEXT PAGE.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading:        October 28, 2019  
Second Reading:     November 12, 2019  
Public Hearing:       November 12, 2019  
Third Reading:       December 9, 2019

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

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## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1626

Contact Person / Sponsor: Jamie Gilbert/Economic Development

Department: Economic Development

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

Project Dumping is a well respected corporation that is seeking to invest and create new jobs in Lancaster County. The project is expected to invest \$20,000,000 and create 200 new jobs over five years. The project has looked at locations in Lancaster County, the Charlotte Region and throughout the United States. The Lancaster County Department of Economic Development (LCDED) and South Carolina Department of Commerce (SCDOC) have worked with Project Dumping to secure the project in Lancaster County. LCDED has assisted the project with site selection, incentives, transportation issues and other related items.

Three inducement resolutions were passed by County Council on August 27, 2018, November 26, 2018 and April 8, 2019 reflecting the county's commitment to provide property tax and infrastructure incentives for Project Dumping. The following are the recommended incentives for the project:

- A 30 Year Fee-In-Lieu-of-Taxes (FILOT) agreement that provides a property tax assessment rate of 6%, a locked in millage rate of 317.6 mills and a ten year investment period.
- A 15 Year Special Source Revenue Credit (SSRC) of 70% for the first six years that the property is placed in service during the investment period, 65% for years seven through eleven, and 60% for years twelve through fifteen.
- A ten-year extension of the term for an existing FILOT agreement between Lancaster County and the company.
- Securing of funds through one or more sources including but not limited to grants, utility tax credits, enhanced property tax credits and general appropriations to assist with the construction of all road improvements required for approval of Project Dumping.
- Reimbursement to the company for road improvement costs the company incurs, up to \$194,500.

### **Points to Consider:**

- Project Dumping will result in a large number of new jobs and substantial investment coming to Lancaster County.
- The company is well respected and a leader in their industry.
- The road improvements will be beneficial to both businesses and residents in the area in which the project is located.
- The direct cost to the County of the road improvements is less than what was initially projected at the time the resolutions were approved.

### **Funding and Liability Factors:**

The only direct funding/liability factors for Lancaster County are associated with the county road improvements. The following outlines the potential funding/liability factors for the County.

- The road improvement costs are estimated to be \$1,195,5000
- LCDED has secured \$350,000 in grant funding from Comporium, South Carolina Department of Commerce and Duke Energy for the road improvements.

- The County has applied to the U.S. Economic Development Administration (EDA) for a grant. If approved the grant could fund up to \$724,400 of the county road improvement costs.
- If the EDA grant is awarded, the balance of the road improvement costs will be approximately \$121,100 which would be paid by County.
- If the EDA grant is not awarded, the County will seek other grants to offset the costs. In the event no other grants are available, the County will provide the balance of the \$845,500 in county road improvement costs.

**Council Options:**

County Council can approve, deny or table for additional changes, the Project Dumping Incentive Ordinance and Agreement.

**Recommendation:**

LCDED recommends the County Council approve the Project Dumping Incentive Ordinance and Agreement.

**ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1626	12/5/2019	Ordinance
Exhibit A to Ordinance 2019-1626 - Fee Agreement by and between Lancaster County, South Carolina and Project Dumping - Dated as of December 9, 2019	11/1/2019	Agreement
Notice of Public Hearing for Ordinance 2019-1626	12/2/2019	Public Hearing Notices

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STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2019-1626

COUNTY OF LANCASTER

)

AN ORDINANCE

**TO AUTHORIZE THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BY AND BETWEEN LANCASTER COUNTY AND PROJECT DUMPLING PROVIDING FOR THE PAYMENT OF A FEE-IN-LIEU OF TAXES AND THE PROVISION OF SPECIAL SOURCE REVENUE CREDITS; TO AUTHORIZE A TEN-YEAR EXTENSION OF THE TERM OF AN EXISTING FEE AGREEMENT; AND TO EXPRESS THE INTENTION OF COUNCIL TO PROVIDE MONIES TO THE ECONOMIC DEVELOPMENT FUND.**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings.**

The Lancaster County Council finds that:

(a) Lancaster County, South Carolina (the "County") acting by and through its County Council (the "Council") is authorized and empowered pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976 (the "Code"), as amended (the "Act"), to enter into fee-in-lieu of tax ("FILOT") agreements with any industry, with said agreements identifying certain properties of such industries as economic development property, through which powers the industrial development of the State of South Carolina (the "State") and the County will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate, remain, and expand in the State and the County and thus utilize and employ the workforce, products, and natural resources and benefit the general public welfare of the State and County by providing services, employment, or other public benefits not otherwise adequately provided locally;

(b) the County is authorized by Sections 4-1-175 and 4-29-68 of the Code, as amended, and Section 12-44-70 of the Act to provide special source revenue credits ("SSRCs") for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County;

(c) Project Dumping, a limited liability company organized and existing under the laws of the State of \_\_\_\_\_ (the "Sponsor") is considering investing, through itself and/or one or more existing or to be formed affiliated entities, in personal property and certain real estate improvements located in the County which would result in the creation of approximately two hundred (200) new, full-time jobs and which would constitute a project within the meaning of the Act and which investments are eligible for inclusion as economic development property, the cost of which is estimated to be approximately Twenty Million Dollars (\$20,000,000) (the "Project");

(d) pursuant to Resolution No. 1050-R2019, adopted April 8, 2019, the Council approved an Inducement Resolution providing for, among other things, (i) the agreement of the County to enter into a FILOT incentive with the Sponsor, (ii) the provision of SSRCs against the FILOT payments to be made by the Company in connection with the Project, (iii) certain road improvements and other incentive support, and (iv) the extension by ten (10) years of the term of an existing FILOT agreement between the Sponsor and the County, dated \_\_\_\_\_ (“Existing Fee Agreement”);

(e) the Sponsor has caused to be prepared and presented to the Council the form of a Fee Agreement by and between the County and the Sponsor (the “Fee Agreement”), which provides for FILOT payments utilizing (i) a six percent (6%) assessment ratio, (ii) a fixed millage rate of 317.6 mills, (iii) a term of thirty (30) years for the Project or each component thereof placed in service during the Investment Period (as defined in the Fee Agreement), including any extension to the Investment Period to which the County and the Sponsor agree, (iv) SSRCs equal to (x) seventy percent (70%) of the FILOT payments for the first six (6) consecutive years in which FILOT payments are required to be made thereunder, (y) sixty-five (65%) of such payments for years seven (7) through eleven (11), and (z) sixty percent (60%) of such payments for years twelve (12) through fifteen (15), and (v) certain additional special source revenue credits (up to a maximum of \$194,500) and/or reimbursements for certain road-related expenditures by the Sponsor; and

(f) it appears that the Fee Agreement, which is attached to this ordinance, is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

## **Section 2.      Approval of Fee Agreement.**

Subject to the provisions of Section 4 of this ordinance, and, in order to promote industry, develop trade, and utilize and employ the workforce, products, and natural resources of the State by assisting the Sponsor to expand or locate an industrial facility in the State, the Fee Agreement is hereby authorized, ratified, and approved.

## **Section 3.      Statutory Findings.**

Council makes the following additional findings:

(a) The Project will constitute a “project” as the term is referred to and defined in the Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Act.

(b) The Project and the payments in lieu of taxes set forth herein are beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made.

(c) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.

(d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.

(e) The purposes to be accomplished by the Project, *i.e.*, economic development and addition to the tax base of the County, are proper governmental and public purposes.

(f) The inducement of the location or expansion of the Project within the County and State is of paramount importance.

(g) The benefits of the Project to the public will be greater than the costs to the public.

**Section 4.      Approval and Execution of Fee Agreement.**

The form, terms, and provisions of the Fee Agreement, attached hereto as Exhibit A, are approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the Fee Agreement was set out in this ordinance in its entirety. The Council Chair and Council Secretary are authorized, empowered, and directed to execute and acknowledge the Fee Agreement in the name of and on behalf of the County, and thereupon to cause the Fee Agreement to be delivered to the Sponsor. The Fee Agreement is to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such officer's execution thereof to constitute conclusive evidence of such officer's approval of any and all changes or revisions therein from the form of the Fee Agreement attached to this ordinance.

**Section 5.      Extension of Term of Existing Fee Agreement.**

Consistent with its commitment in Resolution No. 1050-R2019, adopted April 8, 2019, Council hereby ratifies, approves and confirms the extension by ten (10) years of the term of the Existing Fee Agreement.

**Section 6.      Economic Development Fund.**

(A) Council finds that (i) by passage of Ordinance No. 2014-1260, Council created an Economic Development Fund with the intent to make monies available to the fund from new revenues to the County derived from new and expanded businesses and industry, and (ii) the ability to make monies available to the Economic Development Fund can be difficult because of complexities and legalities applicable to FILOT arrangements and multi-county parks.

(B) It is the intent of Council, in the annual County budget, to appropriate monies to the Economic Development Fund based on the new revenue that the County receives pursuant to the Fee Agreement. Specifically, it is Council's intent to appropriate from the General Fund of the County an amount based on the following formula: Seven percent (7%) times the amount of money received pursuant to the Fee Agreement by the County after distribution to other taxing entities in the most recently completed tax year.

**Section 7.      Authority to Act.**

The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement and the performance of all obligations of the County under and pursuant to the Fee Agreement.

**Section 8.      Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 9.      Controlling Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, resolutions or orders, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 10.      Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading:                      November 12, 2019  
Second Reading:                  November 25, 2019  
Public Hearing:                     December 9, 2019  
Third Reading:

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

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**Exhibit A to Ordinance No. 2019-1626**

**Fee Agreement**

See attached.

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FEE AGREEMENT

by and between

LANCASTER COUNTY, SOUTH CAROLINA,

and

PROJECT DUMPLING

Dated as of December 9, 2019

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## FEE AGREEMENT

This FEE AGREEMENT (this “Agreement”) is dated as of December 9, 2019, by and between LANCASTER COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”) and PROJECT DUMPLING, a limited liability company organized and existing under the laws of the State of \_\_\_\_\_ (“Sponsor” and “Company” and, together with any subsequently joined Sponsor Affiliate(s), the “Companies”).

### WITNESSETH:

WHEREAS, the County, acting by and through its County Council, is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the “Act”) of the Code of Laws of South Carolina 1976, as amended (the “Code”) and Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution (the “Multi-County Park Act”): (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain industrial and commercial properties through which the economic development of the State of South Carolina (the “State”) will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the workforce, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain payments in lieu of *ad valorem* taxes with respect to the project (a “FILOT”); and (iii) to maintain, create or expand, in conjunction with one or more other counties, a multi-county industrial park in order to afford certain enhanced income tax credits to such investors; and

WHEREAS, the Companies propose to expand the Company’s existing facilities in the County (the “Project”); and

WHEREAS, the Companies anticipate that the Project will result in the creation of two hundred (200) new, full-time jobs and an investment of at least \$20,000,000 in the County; and

WHEREAS, the County Council approved on April 8, 2019, Resolution No. 1050-R2019 (the “Inducement Resolution”) to identify, reflect and induce the Project under the Act and to state the commitment of the County to, among other things, enter into this Agreement; and

WHEREAS, as a result of the Companies locating the Project in the County, the Companies requested that the County complete the FILOT arrangement referred to in the Inducement Resolution by entering into this Agreement with the Companies pursuant to the Act, and the Companies elect to enter into such FILOT arrangement with the County in an effort to implement the terms of the Project and allow the Companies to make FILOT payments pursuant to the Act; and

WHEREAS, it is presently anticipated, but not required, that Sponsor will initially own that portion of the Project comprised of the Land (as defined herein), certain real property improvements, and personal property now or hereafter constructed thereon; and

WHEREAS, for the Project, the parties have also determined that Sponsor is a Project Sponsor, and that the Project constitutes Economic Development Property within the meaning of the Act; and

WHEREAS, for the purposes set forth above, the County has determined that it is in the best interests of the County to enter into this Agreement with the Companies, subject to the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, and the sum of \$1.00 in hand, duly paid by the Companies to the County, the receipt and sufficiency of which are hereby acknowledged, the County and the Companies agree as follows:

## ARTICLE I

### DEFINITIONS AND RECAPITULATION

#### Section 1.01. Statutorily Required Recapitulation.

(a) Pursuant to Section 12-44-55(B) of the Act, the County and the Companies agree to waive the recapitulation requirements of Section 12-44-55 of the Act. Subsection (b) of this section is inserted for convenience only and does not constitute a part of this Agreement or a summary compliant with Section 12-44-55 of the Act.

(b) Summary of Agreement.

1. Legal name of each initial party to this Agreement:  
**[to come]**; Lancaster County, South Carolina.
2. County, street address, parcel number or other location identifier of the Project and property to be subject to this Agreement:  
  
**[to come]**  
Lancaster County, South Carolina  
Tax Map No. **[to come]**
3. Minimum investment agreed upon: N/A.
4. Length and term of this Agreement: 30 years for each annual increment of investment in the Project during the Investment Period.
5. Assessment ratio applicable for each year of this Agreement: 6%, except as otherwise provided in the Agreement.
6. Millage rate applicable for each year of this Agreement: 317.6 mills.
7. Statements

- (a) The Project is to be located in a multi-county park;
- (b) Disposal of property subject to payments-in-lieu-of-taxes is allowed;
- (c) Special Source Revenue Credits shall be given to the Economic Development Property in amounts equal to 70% of Negotiated FILOT Payments for each of the first six (6) consecutive years in which Negotiated FILOT Payments are required to be made hereunder; 65% of such payments for years seven (7) through eleven (11); and 60% of such payments for years twelve (12) through fifteen (15); plus additional special source revenue credits (up to a maximum of \$194,500) for certain road improvement expenditures by the Sponsor;
- (d) Payment will not be modified using a net present value calculation; and
- (e) Replacement property provisions will apply.

Section 1.02. Definitions. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings, unless the context or use indicates another or different meaning or intent.

“*Act*” or “*Simplified FILOT Act*” shall mean Title 12, Chapter 44 of the Code, as amended.

“*Act Minimum Investment Requirement*” shall have the meaning set forth in Section 5.01(i).

“*Administration Expense*” shall mean the reasonable and necessary out-of-pocket expenses, including attorneys’ fees, incurred by the County with respect to: (i) the preparation, review, approval and execution of this Agreement, (ii) the preparation, review, approval and execution of other documents related to this Agreement and any multi-county park documents; and (iii) the fulfillment of its obligations under this Agreement and any multi-county park documents.

“*Affiliate*” shall mean any person or entity directly or indirectly controlling, controlled by, or under common control with such other person or entity, whether existing on the date of this Agreement or created in the future. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the person or entity, whether through the ownership of voting securities, by contract, or otherwise.

“*Agreement*” shall mean this Fee Agreement by and among the County and the Companies, as originally executed and from time to time supplemented or amended as permitted herein, and dated as of December 9, 2019.

“*Code*” shall mean the Code of Laws of South Carolina 1976, as amended.

“*Company*” shall mean the Sponsor, as defined in the first sentence of this Agreement.

“*Companies*” shall mean the Sponsor together with any Sponsor Affiliate(s).

“*County*” shall mean Lancaster County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, and its successors and assigns.

“*County Council*” shall mean the governing body of the County and its successors.

“*Department of Revenue*” shall mean the South Carolina Department of Revenue.

“*Economic Development Property*” shall mean each item of real and tangible personal property comprising the Project, except Non-Qualifying Property, within the meaning of that term as defined and used in Sections 12-44-30(6) and 12-44-40(C) of the Code and in this Agreement.

“*Equipment*” shall mean all machinery, equipment, furnishings, and other personal property acquired by Sponsor and installed as part of the Project during the Investment Period in accordance with this Agreement.

“*Event of Default*” shall mean an Event of Default as defined in Section 12.01 hereof.

“*Existing Property*” shall mean property proscribed from becoming Economic Development Property pursuant to Section 12-44-110 of the Code, including, without limitation, property which has been subject to *ad valorem* taxes in the State prior to the execution and delivery of this Agreement and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not include: (a) the Land; (b) property acquired or constructed by Sponsor during the Investment Period which has not been placed in service in this State prior to the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property; or (c) modifications which constitute an expansion of Existing Property.

“*FILOT*” shall mean the fee-in-lieu of taxes, which Sponsor is obligated to pay to the County pursuant to Section 5.01 hereof.

“*FILOT Payments*” shall mean the payments to be made by Sponsor pursuant to Section 5.01 hereof.

“*FILOT Revenues*” shall mean the revenues received by the County from the payment of the FILOT.

“*Investment Period*” shall mean the period beginning with the first day that Economic Development Property is purchased or acquired and ending on the date that is ten (10) years from the end of the property tax year in which this Agreement is executed by the Companies and the County.

“*Jobs Commitment*” shall mean the commitment of Sponsor to create jobs with respect to the Project as set forth in Section 4.01(b) of this Agreement.



“*Land*” shall mean the real estate upon which the Project will be located, as identified and described in Exhibit A attached hereto. County and Company agree that during the Investment Period, the Company may, in its sole discretion, identify the portions of the land identified and described in Exhibit A for inclusion in the Project. Company shall identify the portions of Land identified and described in Exhibit A for inclusion in the Project as part of the Company’s annual filing with the Department of Revenue on the forms or schedules required by the Department of Revenue to be filed for projects subject to the Act. The portions of the Land included in the Project must be distinctly identified in the records of the County tax officials, including having a unique parcel or tax map number. Any portions of the land that has not been identified by the Company for inclusion in the Project shall not be treated as being in the Project and shall not receive the benefits of this Agreement. Notwithstanding the provisions of Section 4.03(i), real estate other than the real estate identified in Exhibit A may be included in the Project only by amendment to this Agreement as provided in Section 13.12 of this Agreement.

“*Multi-County Park*” means the multi-county park established pursuant to the Amended and Restated Master Multi-County Park Agreement, Amended and Restated as of November 9, 2019, between the County and Chesterfield County, South Carolina, as authorized by the Multi-County Park Act or such other multi-county park established in accordance with the Multi-County Park Act.

“*Multi-County Park Act*” shall mean Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution, as amended through the date hereof.

“*Negotiated FILOT Payment*” shall mean the FILOT due pursuant to Section 5.01(b) hereof with respect to that portion of the Project consisting of Economic Development Property.

“*New Full-Time Job*” means a new, full-time job (*i.e.*, at least thirty (30) hours per week), with health care benefits. As used in this definition and as applicable to the Project, “New Full-Time Job” includes those jobs created on or after April 1, 2017 for the Project. Jobs relocated from other states to the Project shall be counted as New Full-Time Jobs. All persons filling the New Full-Time Job positions must be authorized pursuant to state and federal law to be employed in the United States.

“*Non-Qualifying Property*” shall mean that portion of the Project consisting of: (i) property as to which Sponsor incurred expenditures prior to the Investment Period or, except as to Replacement Property, after the end of the Investment Period; (ii) Existing Property; and (iii) any Released Property or other property which fails or ceases to qualify for Negotiated FILOT Payments, including without limitation property as to which the Companies have terminated the Negotiated FILOT pursuant to Section 4.03(iii) hereof.

“*Person*” shall mean and include any individual, association, unincorporated organization, corporation, partnership, limited liability company, joint venture, or government or agency or political subdivision thereof.

“*Project*” shall mean, collectively herein, the Project, and shall include the Land and the buildings and other improvements on the Land to the extent placed thereon by or on behalf of the

Companies, including water, sewer treatment and disposal facilities, and other machinery, apparatus, equipment, office facilities, and furnishings which are necessary, suitable, or useful, including the Equipment, and any Replacement Property.

*“Project Commitment”* shall mean the Jobs Commitment.

*“Released Property”* shall mean any portion of the Project removed, scrapped, traded in, sold, or otherwise disposed of pursuant to Section 4.03 hereof, any portion of the Project stolen, damaged, destroyed, or taken by condemnation or eminent domain proceedings as described in Article VII hereof, and any infrastructure which any Company dedicates to the public use (within the meaning of that phrase as used in Section 12-6-3420(C) of the Code).

*“Replacement Property”* shall mean all property installed in or on the Land in substitution of, or as replacement for, any portion of the Project, but only to the extent that such property may be included in the calculation of the Negotiated FILOT pursuant to Section 5.01(g) hereof and Section 12-44-60 of the Code.

*“Special Source Revenue Credits”* or *“SSRCs”* shall mean the Special Source Revenue Credits described in Sections 5.01 and 6.01 hereof.

*“Sponsor”* shall have the meaning set forth in the first sentence of this Agreement.

*“Sponsor Affiliate”* shall mean any entity who agrees to be bound by the terms and provisions of this Agreement and is approved by the County pursuant to the provisions of Section 9.04 of this Agreement.

*“State”* shall mean the State of South Carolina.

*“Term”* shall mean the term of this Agreement, as set forth in Section 11.01 hereof.

*“Transfer Provisions”* shall mean the provisions of Section 12-44-120 of the Code.

*“Wage Requirement”* means Seventeen Dollars (\$17.00) per hour, and, for purposes of satisfying the Wage Requirement, it is applicable in Years 1 through 5 with Year 1 being the first year in which Special Source Revenue Credits are taken (the “Initial Hourly Wage”). The County shall change the Initial Hourly Wage at the end of the first five-year period to not more than eighty-three percent (83%) of the Department of Revenue’s then most recently published average hourly wage rate for the County and the changed Wage Requirement shall apply to Years 6-10 and at the end of Year 10 the County shall change the Wage Requirement to not more than eighty-three percent (83%) of the Department of Revenue’s then most recently published average hourly wage rate for the County and the changed Wage Requirement shall apply to years after Year 10 during which the Special Source Revenue Credit is applicable. The County shall provide notice to the Sponsor and Sponsor Affiliate of any adjustment to the Wage Requirement.

Section 1.03. References to Agreement. The words “hereof”, “herein”, “hereunder”, and other words of similar import refer to this Agreement as a whole.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations and Warranties by County. The County represents and warrants that: (i) it is a body politic and corporate and a political subdivision of the State and acts through its County Council as its governing body; (ii) it is authorized by the Act to enter into this Agreement; (iii) it has approved this Agreement in accordance with the procedural requirements of the Act and any other applicable state law; and (iv) it has authorized its officials to execute and deliver this Agreement.

Section 2.02. Representations and Warranties by Sponsor. The Sponsor makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Sponsor is a corporation, validly existing and in good standing under the laws of [to come] and authorized to do business in the State; has all requisite power to enter into this Agreement; and by proper action has been duly authorized to execute and deliver this Agreement.

(b) The agreements with the County with respect to the FILOT have been instrumental in inducing Sponsor to locate its portion of the Project within Lancaster County and the State.

(c) Except as otherwise disclosed to the County, no actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of Sponsor are pending or threatened against or affecting Sponsor in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

(d) The income tax year of Sponsor for federal and state income tax purposes ends December 31.

(e) No event has occurred and no condition currently exists with respect to Sponsor, which would constitute a Default or an “Event of Default” as defined herein.

(f) Sponsor intends to operate the Project for [to come] purposes and any related purposes. The Project constitutes a “project” and “economic development property” as provided under the Act.

## ARTICLE III

### UNDERTAKINGS OF THE COUNTY

Section 3.01. Agreement to Accept FILOT Payments. The County hereby agrees to accept FILOT Payments made by the Companies in accordance with Section 5.01 hereof in lieu of *ad valorem* taxes with respect to the Project until this Agreement expires or is sooner terminated.

Section 3.02. No Warranties by County. Each Company acknowledges that the County has made no warranties or representations, either express or implied, as to the condition or state of the Project or as to the design or capabilities of the Project or that it will be suitable for such Company's purposes or needs. No representation of the County is hereby made with regard to compliance by the Project or any Person with laws regulating: (i) the construction or acquisition of the Project; (ii) environmental matters pertaining to the Project; (iii) the offer or sale of any securities; or (iv) the marketability of title to any property.

Section 3.03. Invalidity. The parties acknowledge that the intent of this Agreement is to afford the Companies the benefits of the Negotiated FILOT Payments in consideration of the Companies' decision to locate the Project within Lancaster County and that this Agreement has been entered into in reliance upon the enactment of the Simplified FILOT Act. In the event that, for any reason, the Act and/or the Negotiated FILOT or any portion thereof is, by a court of competent jurisdiction following allowable appeals, declared invalid or unenforceable in whole or in part, or the portion of the Project consisting of Economic Development Property is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Companies and the County express their intentions that such payments be reformed so as to afford the Companies benefits commensurate with those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under the Code, to the extent allowed by law, including but not limited to the provision of additional and/or increased Special Source Revenue Credits. Absent the legal authorization to effect such reformation, the Companies and the County agree that there shall be due hereunder, with respect to the portion of the Economic Development Property affected by such circumstances, *ad valorem* taxes and that, to the extent permitted by law, each Company shall be entitled: (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Article X, Section 3 of the Constitution of the State, and any other exemption allowed by law; (2) to enjoy all allowable depreciation; and (3) to receive other tax credits which would be due if the Company were obligated to pay *ad valorem* taxes hereunder. To the extent that under such circumstances the Negotiated FILOT Payments hereunder are required by law to be subject to retroactive adjustment, then there shall be due and payable by each Company to the County with respect to the portion of the Economic Development Property in question an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid and the amount which would have been paid as *ad valorem* taxes, together with, but only if required by law, interest on such deficiency as provided in Section 12-54-25(D) of the Code. If this Agreement is reformed as provided in this Section or if retroactive adjustments are made, then under no circumstances shall the County be required to refund or pay any monies to any of the Companies. Notwithstanding anything in this Section 3.03 to the contrary, the Companies shall be entitled to the benefits and rights provided or referenced in Section 5.01(h).

In addition to and notwithstanding the foregoing paragraph, the County shall not be obligated to perform any of its obligations or promises under this Section 3.03 unless the Companies have otherwise complied with or provided satisfactory evidence to the County that it intends to comply with its obligations and responsibilities under this Agreement.

Section 3.04. Multi-County Park. The County agrees to take action to place the Land in the Multi-County Park until the date this Agreement is terminated. If it becomes necessary to move the Land from one multi-county park to another prior to the termination of this Agreement,

the County agrees to use its best efforts to place the Land in a multi-county park established pursuant to the Multi-County Park Act and to maintain the multi-county park designation until the date this Agreement is terminated. The parties acknowledge and agree that the County's agreement to place and maintain the Land in a multi-county park may be subject to the exercise of discretion by a governmental entity other than the County and the exercise of that discretion is not controlled by the County.

#### ARTICLE IV

##### NEW JOB CREATION BY COMPANIES RELATING TO PROJECT; MAINTENANCE AND MODIFICATION OF PROJECT

###### Section 4.01. New Job Creation by Companies Relating to Project.

(a) Jobs created by Sponsor and Sponsor Affiliates shall be included in any determination whether the Job Commitment made by the Company in this Section has been met.

(b) For the Project, together with any Sponsor Affiliates, the Sponsor agrees and commits to the following Jobs Commitment: the creation and maintenance of the number of New Full-Time Jobs, paying an hourly wage rate not less than the Wage Requirement, at the following employment levels and in the designated timeframes with the "Year" number referring to the year that corresponds with the earlier of either (i) the year following the year in which the new facility is first placed in service or (ii) the first year Special Source Revenue Credits are taken, with Year 1 being the first year (thus, for example, if the Company first places its new facility in service in 2021 and includes the new facility on its Schedule S to Department of Revenue Form PT-300 for 2022, and first takes the Special Source Revenue Credit in 2021 (the FILOT Payment for which would be due by January 15, 2023), then 2022 would be "Year 1"):

(1) to have employed, as measured over the base number of employees of **[to come]** (the "Base Number of Employees"), in New Full-Time Jobs an average of not less than twenty-four (24) during Year 1, for a total of **[to come]** jobs at the Project,

(2) to have employed, over the Base Number of Employees, in New Full-Time Jobs an average of not less than forty-eight (48) during Year 2, for a total of **[to come]** jobs at the Project,

(3) to have employed, over the Base Number of Employees, in New Full-Time Jobs an average of not less than seventy-two (72) during Year 3, for a total of **[to come]** jobs at the Project,

(4) to have employed, over the Base Number of Employees, in New Full-Time Jobs an average of not less than ninety-six (96) during Year 4, for a total of **[to come]** jobs at the Project, and

(5) to have employed, over the Base Number of Employees, in New Full-Time Jobs an average of not less than one hundred twenty (120) during Year 5 and each year thereafter

in which the Company is receiving a special source revenue credit, for a total of **[to come]** jobs at the Project.

The number of New Full-Time Jobs shall be based on the average number of New Full-Time Jobs for each month during the year.

Section 4.02. Reporting and Filing.

(a) Each Company agrees to provide a copy of Form PT-443 filed with the Department of Revenue no later than thirty (30) days after execution and delivery of this Agreement to the Auditor, Treasurer and Assessor of the County and any multi-county park partner county and the Economic Development Director of the County. Each year during the term of this Agreement, each Company shall deliver to the Auditor, Treasurer and Assessor of the County and any multi-county park partner county and the Economic Development Director of the County a copy of their most recent annual filings made with the Department of Revenue with respect to the Project, no later than thirty (30) days following delivery thereof to the Department of Revenue.

(b) (1) Sponsor agrees, as soon as reasonably practicable following the end of each tax year of the Sponsor, to submit to the County Economic Development Director a certification on Sponsor letterhead listing the aggregate New Full-Time Jobs paying an hourly wage rate not less than the Wage Requirement maintained by the Companies at the end of such tax year.

(2) For purposes of determining compliance with the Jobs Commitment, Sponsor agrees to provide to the County Economic Development Director, by March 31 of each year, a copy of all of Sponsor's filings with the State (if required to file by the State) for the preceding calendar year including: (i) reports submitted to the South Carolina Coordinating Council for Economic Development with respect to any Job Development Credits awarded in connection with the Project; (ii) Department of Revenue Form SC SCH. TC 4 (New Jobs Credit); and (iii) South Carolina Department of Employment and Workforce quarterly contribution and wage reports (such as Form UCE 120). Company agrees to redact any personally identifying information and proprietary and confidential information prior to submitting any form to the County Economic Development Director. In lieu of providing any of the forms specifically identified in this subsection, Company and the County Economic Development Director may agree on an alternative method for the Company to demonstrate compliance with the Jobs Commitment.

(c) (1) Each Company agrees to maintain such books and records with respect to the Project as will permit the identification of those portions of the Project placed in service in each property tax year during the Investment Period, the amount of investment with respect thereto and its computations of all FILOT Payments made hereunder and will comply with all reporting requirements of the State and the County applicable to property subject to FILOT Payments under the Act, including the reports described in subsection (a) and (b) of this Section (collectively, "Filings").

(2) Each Company agrees that the County and its authorized agents have the right at all reasonable times and upon prior reasonable written notice to enter upon and examine and inspect the Project and to have access to and examine and inspect all of the Companies' books and records pertaining to the Project and the Filings. The right of examination and inspection shall be

exercised only upon reasonable and necessary terms and conditions prescribed by any Company to protect such Company's confidentiality and proprietary rights. Any such entrance upon and examination and inspection of the Project and Filings shall be at the County's expense.

(d) The County acknowledges and understands that the Companies may have and maintain at the Project certain confidential and proprietary information, including, but not limited to, trade secrets, financial, sales or other information concerning the Companies' operations and processes ("Confidential Information") and that any disclosure of the Confidential Information could result in substantial harm to the Companies and could have a significant detrimental impact on the Companies' employees and also upon the County. Except as required by law, including, without limitation, court orders, the County agrees to use its best reasonable efforts to keep confidential, and to cause employees, agents and representatives of the County to keep confidential, the Confidential Information which may be obtained from the Companies, their agents or representatives, when the Confidential Information is clearly marked and identified as Confidential Information and known to the County to be Confidential Information. The County shall not knowingly and willfully disclose and shall cause all employees, agents and representatives of the County not to knowingly and willfully disclose the marked and identified Confidential Information to any person or entity other than in accordance with the terms of this Agreement. If a demand is made for the release, under color of law, to a third party of any Confidential Information, the County shall notify the Companies and give the Companies the opportunity to contest the release.

#### Section 4.03 Modification of Project.

As long as no event of default exists hereunder, the Companies shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) Each Company may, at its own expense, add to the Project any real and personal property as such Company in its discretion deems useful or desirable.

(ii) In any instance where a Company, in its discretion, determines that any items included in the Project have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, such Company may remove such items or portions from the Project and sell, trade in, exchange, or otherwise dispose of them (as a whole or in part) without the consent of the County and as such may be permitted under the Simplified FILOT Act.

(iii) Each Company may, at any time in its discretion by written notice to the County, remove any real or personal property from the Negotiated FILOT (as defined in Section 5.01) set forth in this Agreement, and thereafter such property will be considered Non-Qualifying Property and will be subject to FILOT Payments as set forth in Section 5.01(b)(i) hereof.

### ARTICLE V

#### PAYMENTS IN LIEU OF TAXES

##### Section 5.01. Payments in Lieu of *Ad Valorem* Taxes.

(a) In accordance with the Act, the parties hereby agree that, during the Term of the Agreement, the Companies shall pay annually, with respect to the Project, a FILOT in the amount calculated as set forth in this Section, to be collected and enforced in accordance with Section 12-44-90 of the Act. Notwithstanding anything to the contrary in this Agreement, the Company shall be entitled to determine, subject to applicable law, the first year in which the Negotiated FILOT shall apply by means of the Company's annual filing with the Department of Revenue of Schedule S to Department of Revenue Form PT-300, a copy of which shall be provided by each Company to the officials and counties as required by Section 4.02(a) of this Agreement.

(b) The FILOT Payment due with respect to each property tax year shall equal:

(i) With respect to any portion of the Project consisting of undeveloped land, land under development, other property not yet placed in service or Non-Qualifying Property, as long as such property is located in the Multi-County Park, a payment equal to the *ad valorem* taxes that would otherwise be due on such undeveloped land, land under development, other property not yet placed in service or Non-Qualifying Property if it were taxable giving effect to all credits, exemptions, rebates and abatement that would be available if such undeveloped land, land under development, other property not yet placed in service or Non-Qualifying Property were taxable; and

(ii) With respect to those portions of the Project consisting of Economic Development Property, for each of the thirty (30) consecutive years beginning with the first year in which the Negotiated FILOT applies as determined in accordance with paragraph (a) of this Section 5.01, a payment calculated each year as set forth in paragraphs (c) and (d) of this Section 5.01 (a "Negotiated FILOT Payment").

(c) The Negotiated FILOT Payments shall be calculated with respect to each property tax year based on: (1) the fair market value (determined in accordance with Section 12-44-50(A)(1)(c) of the Code) of the improvements to real property and Equipment included within the Project theretofore placed in service (less, for Equipment, depreciation allowable for property tax purposes as provided in Section 12-44-50(A)(1)(c) of the Code), (2) a fixed millage rate equal to 317.6 mills, for the Term, and (3) an assessment ratio of six percent (6%). All such calculations shall take into account all deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the exemption allowed pursuant to Section 3(g) of Article X of the Constitution of the State of South Carolina and the exemptions allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code.

(d) Special Source Revenue Credits shall be granted with respect to the Economic Development Property in amounts equal to seventy percent (70%) of Negotiated FILOT Payments for the first six (6) consecutive years in which Negotiated FILOT Payments are required to be made hereunder; sixty-five percent (65%) of such payments for years seven (7) through eleven (11); and sixty percent (60%) of such payments for years twelve (12) through fifteen (15). Notwithstanding anything to the contrary in this Agreement, the Company shall be entitled, by providing written notice to the County no later than June 1 of the applicable year, to defer the



commencement of the Special Source Revenue Credits to not later than the third year in which a Negotiated FILOT Payment is required to be made hereunder.

Additional Special Source Revenue Credits shall be granted as set forth in Section 6.01 hereof.

(e) The FILOT Payments are to be recalculated:

(i) to reduce such payments in the event a Company disposes of any part of the Project within the meaning of Section 12-44-50(B) of the Code and as provided in Section 4.03 hereof, by the amount applicable to the Released Property;

(ii) to increase such payments, based on the methodology set forth in Section 5.01(c) hereof, in the event a Company adds property (other than Replacement Property) to the Project; or

(iii) to adjust such payments if a Company elects to convert any portion of the Project from the Negotiated FILOT to the FILOT required by Section 5.01(b)(i) above, as permitted by Section 4.03(iii).

(f) To the extent permitted by law, because the FILOT Payments agreed to herein are intended to be paid by the Companies to the County in lieu of taxes, it is agreed that said FILOT Payments shall not, as to any year, be in any amount greater than what would otherwise be payable by the Companies to the County in property taxes if the Companies had not entered into a fee-in-lieu of taxes arrangement with the County (except it is not intended that said FILOT Payments would necessarily be less than such property taxes to the extent that the constitutional abatement of property taxes set forth in Section 3(g) of Article X of the Constitution of the State of South Carolina would otherwise apply).

(g) Upon any Company's installation of any Replacement Property for any portion of the Project removed under Section 4.03 hereof and sold, scrapped, or disposed of by any Company, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by law, subject to the following rules:

(i) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest property subject to the FILOT, whether real or personal, which is disposed of in the same property tax year as the Replacement Property is placed in service. Replacement Property qualifies for Negotiated FILOT Payments up to the original income tax basis of the Economic Development Property which it is replacing. More than one piece of property can replace a single piece of property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to payments equal to the *ad valorem* taxes which would have been paid on such property but for this Agreement. Replacement property is entitled to the FILOT Payment for the period of time remaining on the FILOT period for the property which it is replacing.

(ii) The new Replacement Property which qualifies for the Negotiated FILOT Payment shall be recorded using its income tax basis, and the Negotiated FILOT Payment shall be calculated using the millage rate and assessment ratio provided on the original property subject to FILOT Payment.

(h) In the event that the Act or the FILOT or any portion thereof, are declared, by a court of competent jurisdiction following allowable appeals, invalid or unenforceable, in whole or in part, for any reason, the Companies and the County express their intentions that such payments be reformed so as to afford the Companies the maximum benefit then permitted by law, including, at the Company's election, without limitation, (i) an additional and/or increased Special Source Revenue Credit to approximate the net (after application of Special Source Revenue Credits) FILOT Payments intended under this Agreement, and/or (ii) the benefits afforded under Section 12-44-50 of the Code and, specifically, that the Companies may, at the Companies' expense, exercise the rights granted by Section 12-44-160 of the Code. If the Project is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Companies and the County agree that the Companies shall pay an alternate fee-in-lieu of tax calculated in the manner set forth in Section 5.01(b)(i) hereof. In such event, the Companies shall be entitled, to the extent permitted by law: (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Section 3(g) of Article X of the Constitution of the State of South Carolina, and any other exemption allowed by law; and (2) to enjoy all allowable depreciation. The Companies agree that if the FILOT Payments or this Agreement is reformed pursuant to this subsection (h), that under no circumstance shall the County be required to refund or pay any monies to the Companies.

(i) For the Project, this Agreement is automatically terminated in the event that the investment in the Project in land, buildings, and personal property, including machinery and equipment, by Sponsor does not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) by the end of the Investment Period ("Act Minimum Investment Requirement"). If terminated pursuant to this subsection (i), the Negotiated FILOT Payments shall revert retroactively to payments equivalent to what the *ad valorem* taxes would have been with respect to the property absent this Agreement. At the time of termination, the Companies shall pay to the County an additional fee equal to the difference between the total amount of property taxes that would have been paid by the Companies had the project been taxable, taking into account exemptions from property taxes that would have been available to the Companies, and the total amount of fee payments actually made by the Companies. This additional amount is subject to interest as provided in Section 12-54-25. The Companies agree, if the Negotiated FILOT Payments revert to payments equivalent to what the *ad valorem* taxes would be pursuant to this subsection (i), that under no circumstance shall the County be required to refund or pay any monies to any Company.

(j) The Companies agree that the Special Source Revenue Credits for a year shall be reduced to the extent that the Companies fail to meet the Jobs Commitment. Specifically, in any year in which the Company fails to meet the Jobs Commitment, the annual Special Source Revenue Credit shall be reduced in the same proportion that the Company failed to meet the Jobs Commitment. For example, if in Year 3 (as referenced in Section 4.01(b) hereof), the Company should have employed, over the Base Number of Employees, in New Full-Time Jobs paying an

hourly wage rate not less than the Wage Requirement, an average of fifty-eight (58) (rather than the seventy-two (72) referenced in Section 4.01(b)(3) hereof), then the Special Source Revenue Credit would be set at 80.56% (58 divided by 72 equals 80.56%) of 70%, which results in a Special Source Revenue Credit in Year 3 of 56.39% (80.56% times 70% equals 56.39%).

(k) In any year after Year 1 (as referenced in Section 4.01(b)) in which the Company fails to have employed, as measured over the Base Number of Employees, as defined in Section 4.01(b), in New Full-Time Jobs an average of not less than ten (10), for a total of not less than **[to come]** jobs at the Project, the Company shall pay to the County an additional fee equal to the difference between the Negotiated FILOT Payments made by the Company and the FILOT Payment that would be due for the Economic Development Property if calculated, notwithstanding the provisions of Section 5.01(c), using the then current millage rate and the assessment ratios that would be applicable to the Economic Development Property if it were subject to *ad valorem* taxes (the "Hypothetical FILOT Payment").

As an example of the calculation set forth in this subsection (k), and by way of example only, (i) assuming the new facility is placed in service with respect to the Project in 2019 and that the Special Source Revenue Credit is first taken in 2020 (which would be "Year 1" as referenced in Section 4.01(b) hereof), and that in the year ending December 31, 2022 (which would be "Year 3" as referenced in Section 4.01(b) hereof), that the maintained number of New Full-Time Jobs was eight (8), that the millage rate applicable for tax bills to be sent in the following year is 375, and all of the Economic Development Property classified as personal property would have a 10.5% assessment ratio applied if such property were subject to *ad valorem* taxation, then (ii) the Hypothetical FILOT Payment for the year ending December 31, 2023 (which would be "Year 4" as referenced in Section 4.01(b) hereof) would be computed using the millage rate of 375 (instead of the millage rate set forth in Section 5.01(c) hereof) and the 10.5% assessment ratio for the Economic Development Property classified as personal property (instead of the 6% assessment ratio set forth in Section 5.01(c) hereof).

(l) Unless otherwise provided by the Act, any amounts due to the County under this Section 5.01 by virtue of the application of subsections (h) through (k) shall be paid within 90 days following written notice thereof from the County to the Companies.

(m) Notwithstanding any other provision of this Agreement, the Companies acknowledge and agree that County's obligation to provide the Negotiated FILOT incentive and the Special Source Revenue Credits ends, and this Agreement is terminated, if the Companies cease operations. Such termination shall not require the Companies to refund or pay any monies to the County, except as set forth in Section 11.02 hereof. For purposes of this Section 5.01(m), "cease operations" means permanent closure of the primary facilities comprising the Project. The Companies agree that if this Agreement is terminated pursuant to this Section 5.01(m), that under no circumstance shall the County be required to refund or pay any monies to the Companies.

## ARTICLE VI

### OTHER COUNTY SUPPORT OF COMPANY

#### Section 6.01. Road Improvements.

(a) County commits to secure and provide all funding for road improvements and road related improvements and costs, with the exception of those road improvements which are for direct ingress to and egress from the Project site, required to receive site plan approval and a building permit for each phase of the Project during the Investment Period (the “Road Improvements”). The source of the monies to fund the Road Improvements shall be at the discretion of the County and may include grants, in-kind, or other economic assistance or non-economic assistance from state and federal authorities and utilities.

(b) (i) In furtherance of the County’s commitment in subsection (a) of Section 6.01, the County commits to reimburse the Company not more than \$194,500 for expenses incurred by the Company associated with the Road Improvements. The source of monies to reimburse the Company shall be from one or more of the following sources: grants made by state and federal authorities and utilities for the Road Improvements, monies received by the County from FILOT Payments for the Project, and by an increase in the SSRCs set forth in Section 5.01(d) hereof.

(ii) The County’s commitment in subsection (b)(i) of this Section 6.01 to reimburse the Company is subject to the Company entering into an agreement with Alliance Consulting Engineers, Inc. (“Alliance”) with respect to certain professional services rendered or to be rendered by Alliance with respect to the Road Improvements (the “Alliance Agreement”) and under which the Company’s obligation to pay Alliance is limited to no more than \$194,500.

(iii) The County’s commitment in subsection (b)(i) of this Section 6.01 includes the commitment to reimburse \$44,600 of the \$194,500 through an increase in the SSRC under Section 5.01(d) hereof by \$22,300 in each of the first two years of such SSRC.

(iv) The County’s commitment in subsection (b)(i) of this Section 6.01 includes the commitment that if, by August 31, 2020, the County has not fully reimbursed the Company for the balance of the reimbursement commitment, \$149,900 (\$194,500 minus \$44,600), then the SSRC under Section 5.01(d) hereof shall automatically be increased in an amount equal to such unreimbursed amount (the “Additional SSRC”). The Additional SSRC shall be applied after the application of (A) the SSRC referenced in Section 5.01(d) hereof and (B) the \$22,300 SSRC referenced in subsection (b)(iii) of this Section 6.01, such that the total SSRC shall be equal to, if so much be necessary, up to 99% of the FILOT Payments until such unreimbursed amount is fully recovered by the Company. For clarity, to the extent the dollar amount of the SSRC for the unreimbursed amount together with all other applicable SSRCs exceeds 99% of the FILOT in any given year, the overage shall be carried over to the following year or years as needed, to fully reimburse the Company for the unreimbursed amount.

(v) In making its commitments in this Section 6.01, the County recognizes that the Company would be agreeing to pay up to \$194,500 to Alliance as set forth in subsection

(b)(ii) of this Section 6.01, and the County recognizes that the Company is not required to make, and has not agreed to make, any other payment that the County is required to make under subsection (a) of this Section 6.01.

(vi) In making its commitment in this Section 6.01, the County recognizes that the Company would be entering into the Alliance Agreement as an accommodation to the County, and that neither the County nor Company is a licensed engineering firm and neither typically provide such services to third parties. It is the County's intention that neither the County nor the Company will attempt to hold the other liable for any issues or problems that may arise in connection with the services provided under the Alliance Agreement.

Section 6.02. Grants and Other Incentives. The County shall use its best efforts to (i) assist the Company in locating potential grants, in-kind, or other economic assistance or non-economic assistance from state and federal authorities and utilities for costs associated with the Project, including but not limited to public infrastructure costs (for public infrastructure in addition to the Road Improvements addressed in Section 6.01 hereof), (ii) assist the Company in applying for state and federal economic development incentives that flow through the County, and (iii) assist the Company in security job recruitment and training through the ReadySC program.

As used in this Section 6.02, "best efforts" include, without limitation, filing all required and necessary documents and applications relating to the grants or assistance, formally recommending approval of the grants or assistance, making the grants or assistance available at the commencement of the construction of the Project if provided by the granting or assisting entity, and giving the Company written evidence of the grants or assistance when approved.

Section 6.03. Assignment of Sections 6.01 and 6.02. The County agrees that the Company may assign all or part of the rights and benefits provided by the County to the Company under Sections 6.01 and 6.02 hereof to any new owner or lessee of all or part of the Project or the Land, where such new owner or lessee agrees to use the Land or Project, as applicable, for the purposes stated in Section 2.02(f).

## ARTICLE VII

### PAYMENTS BY COMPANIES

Section 7.01. Defaulted Payments. In the event any Company should fail to make any of the payments required under this Agreement, the item or installment so in default shall continue as an obligation of such Company until the amount in default shall have been fully paid. The Companies agree that the collection and enforcement of the defaulted payment shall be as provided in Section 12-44-90 of the Code.

## ARTICLE VIII

### CASUALTY AND CONDEMNATION

Section 8.01. Adjustments in the Event of Damage and Destruction or Condemnation. In the event that the Project or any portion thereof is damaged or destroyed, lost

or stolen, or the subject of condemnation proceedings, any Company, in its sole discretion, may determine whether or not to repair or replace the same. The parties hereto agree that if the Companies decide not to repair or replace all or any portion of the Project pursuant to this Section, the FILOT required pursuant to Section 5.01 hereof shall be abated in the same manner and in the same proportion as if *ad valorem* taxes were payable with respect to the Project.

## ARTICLE IX

### PARTICULAR COVENANTS AND AGREEMENTS

Section 9.01. Use of Project for Lawful Activities. During the Term of this Agreement, each Company shall use the Project for the purposes identified in Section 2.02(f) of this Agreement and for any lawful purpose that is authorized pursuant to the Act.

Section 9.02. Assignment. The County agrees that, to the maximum extent allowable under the Act, each Company may assign (including, without limitation, absolute, collateral, and other assignments) all or a part of its rights or obligations under this Agreement, and any lease agreement, lease purchase agreement, or fee agreement, as the case may be, or any other agreement related hereto or thereto, or transfer any and all assets of such Company, to one or more Related Entities (as defined in Section 10.01 below) without adversely affecting the benefits of such Company or its assignees pursuant to any such agreement or the Act, and, to the extent required by the Act, the County hereby provides its consent with respect to any and all such assignments and transfers. Such Company shall provide the County and the Department of Revenue with notice of any such assignment, transfer, or investment in accordance with the Act, and the County agrees, upon the request of such Company, to take all further action necessary to implement such assignment, transfer, or investment in accordance with the provisions of the Act. With respect to any assignments not consented to pursuant to this Section 9.02 and which require consent, approval or ratification under the Act, the County agrees to not unreasonably withhold its consent, approval or ratification, as applicable; and the County shall provide any such consent, approval or ratification by a resolution of County Council.

Section 9.03. Indemnification. Sponsor releases the County, including the members of the governing body of the County, and the employees, officers, attorneys and agents of the County (herein collectively referred to as the “Indemnified Parties”) from, agrees that the Indemnified Parties shall not be liable for, and agrees to hold the Indemnified Parties harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to this Agreement, the Project or the use thereof, except for that occasioned by negligent or intentional acts of an Indemnified Party. Sponsor further agrees to indemnify and save harmless Indemnified Parties against and from any and all costs, liabilities, expenses, and claims arising from any breach or default on the part of the Companies in the performance of any covenant or agreement on the part of the Companies to be performed pursuant to the terms of this Agreement or arising from any act or negligence of, or negligent failure to act where there is a duty to do so by any Company, or any of their agents, attorneys, contractors, servants, employees, or licensees, and from and against all cost, liability, and expenses incurred in or in connection with any such claim or action or proceeding brought thereon.

All covenants, stipulations, promises, agreements, and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements, and obligations of the County and not of any member of the County Council or any officer, agent, attorney, servant, or employee of the County in his or her individual capacity, and no recourse shall be had for the payment of any moneys hereunder or the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon against any member of the governing body of the County or any officer, attorney, agent, servant, or employee of the County.

Notwithstanding the fact that it is the intention of the Indemnified Parties hereto that none of them shall incur any pecuniary liability by reason of the terms of this Agreement, any related agreements or the undertakings required of the County hereunder by reason of the performance of any act requested of the County by any Company, including all claims, liabilities, or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if any Indemnified Party shall incur any such pecuniary liability, then in such event the Sponsor shall indemnify and hold them harmless against all claims by or on behalf of any Person, firm, or corporation or other legal entity arising out of the same and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, provided, however, that nothing herein shall absolve the Indemnified Parties from, or entitle the Indemnified Parties to indemnification from, any obligation such Indemnified Party has specifically agreed to undertake (including, without limitation, the obligation to place and maintain the Land within a multi-county park and to provide the benefits set forth in this Agreement). If any action, suit, or proceeding is brought against any Indemnified Party to which such Indemnified Party is entitled to indemnification, such Indemnified Party shall promptly notify the Companies, and the Companies shall have the sole right and duty to assume, and shall assume, the defense thereof, at its expense, with full power to litigate, compromise, or settle the same in its sole discretion; provided the Companies shall obtain the prior written consent of the County to settle any such claim unless such claim is for monetary damages for which the Companies have the ability to, and do, pay. Notwithstanding the foregoing, if the Indemnified Party is the County, in the event the County reasonably believes there are defenses available to it that are not being pursued or that the counsel engaged by the Companies reasonably determines that a conflict of interest exists between the County and the Companies, the County may, in its sole discretion, hire independent counsel to pursue its own defense, and the Companies shall be liable for the reasonable cost of such counsel.

The indemnity specified in this Section shall be in addition to any heretofore extended by the Companies to any Indemnified Party and shall survive the termination of this Agreement with respect to liability arising out of any event or act occurring prior to such termination.

#### Section 9.04. Sponsors and Sponsor Affiliates.

(a) Sponsor may designate from time to time, without the need for any additional County consent, Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the Simplified FILOT Act, which Sponsor Affiliates shall be Persons who join with the Companies and make investments with respect to the Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions

of this Agreement and who shall be Related Entities (as defined in Section 10.01 below). The County consents to any and all designations made pursuant to this subsection (a).

(b) All Sponsor Affiliates, other than those designated pursuant to subsection (a) of this Section 9.04, who otherwise meet the requirements of Section 12-44-30(19) or (20) and Section 12-44-130 of the Simplified FILOT Act, must be approved by the County Council by passage of a resolution to that effect.

(c) The designation of an additional Sponsor Affiliate pursuant to this Section 9.04 shall be evidenced by the additional Sponsor Affiliate executing and delivering a joinder agreement, the form of which is attached to this Agreement as Exhibit B. County execution of the joinder agreement is required only for the additional Sponsor Affiliates with respect to which the County is required by the Act to give its consent.

(d) To the extent that the aggregate investment in the Project by the end of the Investment Period by the Sponsor exceeds \$5,000,000, to the extent permitted by Section 12-44-30(19) of the Simplified FILOT Act, all investment by the Sponsor and such Sponsor Affiliates during the Investment Period shall qualify for the Negotiated FILOT pursuant to Section 5.01 of this Agreement (subject to the other conditions set forth therein) regardless of whether each such entity invested amounts equal to the Act Minimum Investment Requirement by the end of the Investment Period.

(e) Sponsor shall provide the County and the Department of Revenue with written notice of any Sponsor Affiliate designated pursuant to this Section 9.04 within ninety (90) days after the end of the calendar year during which any such Sponsor Affiliate has placed in service property to be used in connection with the Project and subject to the Negotiated FILOT Payment, all in accordance with Section 12-44-130(B) of the Simplified FILOT Act.

## ARTICLE X

### FINANCING ARRANGEMENTS; CONVEYANCES; ASSIGNMENTS

Section 10.01. Conveyance of Liens and Interests; Assignment. Each Company may at any time: (a) transfer all or any of its rights and interests hereunder or with respect to the Project to any Person; or (b) enter into any lending, financing, security, or similar arrangement or succession of such arrangements with any financing entity with respect to the Agreement or the Project, including without limitation any sale, leaseback, or other financing lease arrangement; provided that, in connection with any of the foregoing transfers: (i) except in connection with any transfer to Sponsor or Sponsor Affiliate or Affiliate of the Sponsor or Sponsor Affiliate (collectively, the “Related Entities”) (as to which such transfers the County hereby consents), or transfers pursuant to clause (b) above (as to which such transfers the County hereby consents), such Company shall obtain the prior written consent or subsequent ratification of the County; (ii) where a financing entity, which is the income tax owner of all or part of the Project, is the transferee pursuant to clause (b) above and such transferee or financing entity assumes in writing the obligations of such Company hereunder, or where the County consents in writing, no such transfer shall affect or reduce any of the obligations of such Company hereunder, but all



obligations of such Company hereunder shall continue in full force and effect as the obligations of a principal and not of a guarantor or surety; (iii) such Company, transferee, or financing entity shall, within 60 days thereof, furnish or cause to be furnished to the County and the Department of Revenue a true and complete copy of any such transfer agreement; and (iv) such Company and the transferee shall comply with any additional requirements (i.e., requirements not addressed in this paragraph) of the Transfer Provisions.

Each Company acknowledges that such a transfer of an interest under this Agreement or in the Project may cause the Project to become ineligible for a Negotiated FILOT Payment or result in penalties under the Act absent compliance by the Companies with, as applicable, this Section 10.01 or the Transfer Provisions.

Section 10.02. Relative Rights of County and Financing Entities as Secured Parties. The parties acknowledge the application of the provisions of Section 12-44-90 of the Act, and that the County's right to receive FILOT Payments hereunder shall be the same as its rights conferred under Title 12, Chapter 49 and 54, among others, of the Code relating to the collection and enforcement of *ad valorem* property taxes. The County's rights under this Agreement, except for its rights to receive FILOT Revenues, shall be subordinate to the rights of any secured party or parties under any financing arrangements undertaken by the Companies with respect to the Project pursuant to Section 10.01 hereof, such subordination to be effective without any additional action on the part of the County; provided, however, that the County hereby agrees, at the Companies' expense, to execute such agreements, documents, and instruments as may be reasonably required by such secured party or parties to effectuate or document such subordination.

## ARTICLE XI

### TERM; TERMINATION

Section 11.01. Term. Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date on which the Companies execute this Agreement, and ending at midnight on the last day of the property tax year in which the last Negotiated FILOT Payment is due hereunder. The Project has a term of 30 years, as calculated pursuant to the respective dates when the relevant portions of the Project are placed in service, and as discussed in greater detail in this Agreement. The County's rights to receive indemnification and payment of Administration Expenses pursuant hereto shall survive the expiration or termination of this Agreement.

Section 11.02. Termination. The County and the Companies may agree to terminate this Agreement at any time, or the Sponsor may, at its option, terminate this Agreement at any time upon providing the County 30 days' notice of such termination, in which event the Project shall be subject to *ad valorem* taxes from the date of termination. In the event that this Agreement is terminated by the operation of this Section 11.02 at any time during the initial Investment Period prior to the Companies' meeting the Project Commitment, amounts due to the County as a result thereof, if any, shall be calculated as provided in Section 5.01(i) hereof. The County's rights to receive payment for such *ad valorem* taxes and its rights to enforce the terms of this Agreement shall survive termination of this Agreement.

## ARTICLE XII

### EVENTS OF DEFAULT AND REMEDIES

#### Section 12.01. Events of Default by Companies.

(a) Subject in all events to Section 13.14 hereof, any one or more of the following events (herein called an “Event of Default”, or collectively “Events of Default”) shall constitute an Event of Default by the Companies:

(1) if default shall be made in the due and punctual payment of any FILOT Payments, indemnification payments, or Administration Expenses, which default shall not have been cured within 60 days following receipt of written notice thereof from the County; or

(2) if default shall be made by any Company in the due performance of or compliance with any of the terms hereof, including payment, other than those referred to in the foregoing paragraph (1), and such default shall continue for 90 days after the County shall have given the Companies written notice of such default, provided, such Company shall have such longer period of time as necessary to cure such default if such Company proceeds promptly to cure such default and thereafter to prosecute the curing of such default with due diligence; and provided further, that no Event of Default shall exist under this paragraph (2) during any period when there is pending, before any judicial or administrative tribunal having jurisdiction, any proceeding in which such Company has contested the occurrence of such default.

(b) The failure of the Companies to meet any Project Commitment set forth herein shall not be deemed to be an Event of Default under this Agreement.

Section 12.02. Remedies on Event of Default by Company. Upon the occurrence of any Event of Default, the County may exercise any of the following remedies, any of which may be exercised at any time during the periods permitted under the following clauses:

(a) terminate this Agreement by delivery of written notice to the Companies not less than 30 days prior to the termination date specified therein;

(b) have access to and inspect and examine the books, records, and accounts of the Companies pursuant to Section 4.02(c); or

(c) take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due or to enforce observance or performance of any covenant, condition, or agreement of the Companies under this Agreement.

Section 12.03. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, any Company may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation, a suit for mandamus or specific performance; provided, however, that anything herein to the contrary notwithstanding, any financial obligation the County may incur hereunder,

including for the payment of money, shall not be deemed to constitute a pecuniary liability or a debt or general obligation of the County.

## ARTICLE XIII

### MISCELLANEOUS

Section 13.01. Rights and Remedies Cumulative. Each right, power, and remedy of the County or of the Companies provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers and remedies are sought to be enforced; and the exercise by the County or by the Companies of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Companies of any or all such other rights, powers or remedies.

Section 13.02. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns as permitted hereunder.

Section 13.03. Intentionally Omitted.

Section 13.04. Administration Expenses.

(a) The Companies agree to reimburse the County from time to time for its Administration Expenses promptly upon written request therefore, but in no event later than thirty (30) days after receiving the written request from the County; provided, however, that in no event shall the Companies be responsible for reimbursing the County in excess of \$8,000 for any Administration Expenses incurred in the form of attorneys' fees or otherwise with respect to any matter relating to (i) the preparation, review, approval and execution of this Agreement, or (ii) the preparation, review, approval and execution of any other documents related to this Agreement and any multi-county park documents. The written request shall include a description of the nature of the Administration Expenses.

(b) The Companies agree to reimburse the County for expenses incurred by the County for accountants and similar experts used by the County in the computation, preparation and verification of the annual FILOT Payments and any special source revenue credits, *provided, however*, the maximum annual reimbursement pursuant to this subsection is capped at One Thousand and No/100 dollars (\$1,000.00).

Section 13.05. Rules of Construction. The County and the Companies acknowledge and agree that each has been represented by legal counsel of its choice throughout the negotiation and drafting of this Agreement, that each has participated in the drafting hereof and that this Agreement will not be construed in favor of or against either party solely on the basis of such party's drafting or participation in the drafting of any portion of this Agreement.

Section 13.06. Notices; Demands; Requests. All notices, demands and requests to be given or made hereunder to or by the County or the Companies shall be in writing and shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows or to such other persons and places as may be designated in writing by such party in accordance with this Section 13.06.

(a) As to the County:

County of Lancaster, South Carolina  
ATTN: Steve Willis, County Administrator  
101 N. Main St. (29720)  
P.O. Box 1809 (29721-1809)  
Lancaster, South Carolina  
Phone: (803) 416-9300  
Email: [swillis@lancastercountysc.net](mailto:swillis@lancastercountysc.net)

With a copy to (which shall not constitute notice):

Mr. Jamie Gilbert  
Economic Development Director, Lancaster County  
P.O. Box 1809  
Lancaster, South Carolina 29721  
Telephone: (803) 286-3633  
Fax: (803) 416-9497  
Email: [jgilbert@lancastercountysc.net](mailto:jgilbert@lancastercountysc.net)

(b) As to the Sponsor:

**[to come]**

With a copy, in each case, to (which shall not constitute notice):

**[to come]**

Section 13.07. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.

Section 13.08. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 13.09. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 13.10. Headings and Table of Contents; References. The headings of the Agreement and any Table of Contents annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular articles or Sections or paragraphs of this Agreement are references to the designated articles or Sections or paragraphs of this Agreement.

Section 13.11. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

Section 13.12. Amendments. Subject to the limitations set forth in the Act, this Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by both parties.

Section 13.13. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

Section 13.14. Force Majeure. The Companies shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, labor shortages, fire, floods, inability to obtain materials, conditions arising from government orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Companies' reasonable control.

***[SIGNATURE PAGE TO FOLLOW]***

IN WITNESS THEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and behalf by the Council Chair and Council Secretary and to be attested by the Clerk to Council; and the Companies have caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

**LANCASTER COUNTY, SOUTH CAROLINA**

---

Steve Harper, Chair, County Council

---

Larry Honeycutt, Secretary, County Council

ATTEST:

---

Sherrie Simpson, Clerk to Council

**PROJECT DUMPLING**

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

Its: \_\_\_\_\_

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

Its: \_\_\_\_\_

**EXHIBIT A**

Land

Land upon which Project will be located:

Description:

Tax Map No.

Additional Land upon which Project may be located:

Description:

Tax Map No.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

**EXHIBIT B (see Section 9.4)**

**FORM OF JOINDER AGREEMENT**

Reference is hereby made to the Fee Agreement, effective December 9, 2019 (“Fee Agreement”), between Lancaster County, South Carolina (“County”) and \_\_\_\_\_ (“Company”).

**1. Joinder to Fee Agreement.**

[\_\_\_\_\_] , a [state] [corporation]/[limited liability company]/[limited partnership] authorized to conduct business in the State of South Carolina, hereby (a) joins as a party to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement as if it were a Company [except the following: \_\_\_\_\_]; (b) shall receive the benefits and be subject to the obligations as provided under the Fee Agreement with respect to the Economic Development Property placed in service by the Sponsor Affiliate as if it were the Company [except the following \_\_\_\_\_]; (c) acknowledges and agrees that (i) according to the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Company for purposes of the Project; and (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(20) and Section 12-44-130 of the Act.

**2. Capitalized Terms.**

Each capitalized term used, but not defined, in this Joinder Agreement has the meaning of that term set forth in the Fee Agreement.

**3. Representations of the Sponsor Affiliate.**

The Sponsor Affiliate represents and warrants to the County as follows:

(a) The Sponsor Affiliate is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Joinder Agreement, and has duly authorized the execution and delivery of this Joinder Agreement.

(b) The Sponsor Affiliate’s execution and delivery of this Joinder Agreement, and its compliance with the provisions of this Joinder Agreement, does not result in a default, not waived or cured, under any agreement or instrument to which the Sponsor Affiliate is now a party or by which it is bound.

(c) The execution and delivery of this Joinder Agreement and the availability of the FILOT and other incentives provided by this Joinder Agreement has been instrumental in inducing the Sponsor Affiliate to join with the Company in the Project in the County.

**4. Governing Law.**

This Joinder Agreement is governed by and construed according to the laws, without regard to principles of choice of law, of the State of South Carolina.

**5. Notice.**

Notices under Section 13.06 of the Fee Agreement shall be sent to:



[\_\_\_\_\_]

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Entity

By:

Its:

County Acknowledgement

[REQUIRED ONLY FOR THOSE ADDITIONAL SPONSOR AFFILIATES FOR WHICH COUNTY CONSENT IS REQUIRED BY THE FEE IN LIEU OF TAX SIMPLIFICATION ACT]

IN WITNESS WHEREOF, the County acknowledges it has consented to the addition of the above-named entity as a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

**LANCASTER COUNTY, SOUTH CAROLINA**

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

Its:

# The Lancaster News

701 North White Street  
PO Box 640  
Lancaster, SC 29721  
803-283-1133

NOTICE OF PUBLIC  
HEARING  
Lancaster County Council  
A public hearing has been  
scheduled by the Lancaster  
County Council for Monday,  
December 9, 2019, at 6:00  
p.m. in the Lancaster County  
Council Chambers, second  
floor, County Administration  
Building, 101 North Main  
Street, Lancaster, South  
Carolina, or at such other  
location in or around the  
complex posted at the main  
entrance. The purpose  
of the public hearing is to  
receive public comment on  
Ordinance No. 2019-1626,  
titled "AN ORDINANCE  
TO AUTHORIZE THE  
EXECUTION AND  
DELIVERY OF A FEE  
AGREEMENT BY AND  
BETWEEN LANCASTER  
COUNTY AND PROJECT  
DUMPLING PROVIDING  
FOR THE PAYMENT OF  
A FEE-IN-LIEU OF TAXES  
AND THE PROVISION  
OF SPECIAL SOURCE  
REVENUE CREDITS; TO  
AUTHORIZE A TEN-YEAR  
EXTENSION OF THE  
TERM OF AN EXISTING  
FEE AGREEMENT;  
AND TO EXPRESS THE  
INTENTION OF COUNCIL  
TO PROVIDE MONIES  
TO THE ECONOMIC  
DEVELOPMENT FUND."  
~#4815-9986-4490  
v.1-10/29/19  
361-108-1W-NelsonMullins-  
bill.

This is to certify that the attached Legal Notice was published in The Lancaster News in the issue of *November 13, 2019*

*Berita G. Gault*

Notary Public of South Carolina

My Commission Expires  
January 13, 2021

## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1627

Contact Person / Sponsor: Jamie Gilbert/Economic Development

Department: Economic Development

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

Synergy Steel Holdings, Inc. (Company), and Golden Spike, LLC, a South Carolina limited liability company (Landlord), entered into a Special Source Revenue Credit Agreement on August 27, 2018 (SSRC Agreement) with Lancaster County (County), as an incentive to invest in a new manufacturing facility that would create new jobs and investments (Project) in the County.

The Company has requested that Lancaster County approve an amendment to the SSRC Agreement that adds Synergy Manufacturing, LLC, Synergy Construction, LLC, and Synergy Insulation, LLC, each a South Carolina single member limited liability company owned by the Company, as parties to the SSRC Agreement (Synergy Named Entities). Additionally, the Company has requested that Lancaster County approve an amendment to the SSRC Agreement that adds BMI Properties, LLC, a South Carolina limited liability company and an affiliated entity of the Company (**BMI**) as a party to the SSRC Agreement in anticipation of BMI purchasing the real estate owned by Landlord and continuing the lease of such real estate to the Company and/or the Synergy Named Entities.

### **Points to Consider:**

The requested amendments changes will allow the Company to continue their expansion and growth of the Lancaster facility; therefore, providing significant economic benefits to Lancaster County.

### **Funding and Liability Factors:**

There are no funding or liability issues associated with these amendments.

### **Council Options:**

County Council can vote to approve, deny or table Ordinance 2019-1627.

### **Recommendation:**

The Lancaster County Department of Economic Development recommends County Council approve Ordinance 2019-1627.

### **ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1627	11/4/2019	Ordinance
Exhibit A to Ordinance 2019-1627 - First Amendment To SSRC Agreement	11/4/2019	Exhibit
Notice of Public Hearing for Ordinance 2019-1627	12/2/2019	Public Hearing Notices

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STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2019-1627

COUNTY OF LANCASTER

)

)

AN ORDINANCE

TO AUTHORIZE THE EXECUTION AND DELIVERY OF THE FIRST AMENDMENT TO THE SPECIAL SOURCE REVENUE CREDIT AGREEMENT, BY AND AMONG LANCASTER COUNTY, SYNERGY STEEL HOLDINGS, INC., AND GOLDEN SPIKE, LLC.

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1.** Findings.

The Council finds that:

(a) The County is authorized by Section 4-1-170 of the Code of Laws of South Carolina 1976, as amended and Article VIII, Section 13(D) of the South Carolina Constitution (the “MCP Laws”) and by Sections 4-1-175, 4-29-68 and 12-44-70, Code of Laws of South Carolina 1976, as amended (the “SSRC Law”) (collectively, the MCP Laws and SSRC Law are referred to as the “Acts”) to (i) create multi-county industrial parks with contiguous counties; (ii) include the property of eligible companies within such parks as an inducement to locate within the County, which inclusion under the terms of the MCP Laws makes such property exempt from *ad valorem* property taxes, therefore changing the character of the annual receipts from such properties from *ad valorem* property taxes to fees-in-lieu of *ad valorem* property taxes; and (iii) grant an annual credit against such fee-in-lieu of tax receipts in order to assist a company in paying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the property of any company located within such multi-county industrial parks or for improved or unimproved real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise located within such multi-county parks in order to enhance the economic development of the County;

(b) Pursuant to the Acts, the County, Synergy Steel Holdings, Inc., a South Carolina corporation (the “Company”), and Golden Spike, LLC, a South Carolina limited liability company (“Landlord”) entered into a Special Source Revenue Credit Agreement, dated August 27, 2018 (the “SSRC Agreement”), as an incentive for the Company and Landlord to invest in the location of a facility in the County and to create new jobs (the “Project”);

(c) The Company has requested that the County approve an amendment to the SSRC Agreement that adds Synergy Manufacturing, LLC, Synergy Construction, LLC, and Synergy Insulation, LLC, each a South Carolina single member limited liability company owned by the Company, as parties to the SSRC Agreement (the “Synergy Named Entities”);

(d) The Company has furthermore requested the County approve an amendment to the SSRC Agreement that adds BMI Properties, LLC, a South Carolina limited liability company and an affiliated entity of the Company (“BMI”) as a party to the SSRC Agreement in anticipation of BMI purchasing the real estate owned by Landlord and continuing the lease of such real estate to the Company and/or the Synergy Named Entities.

(e) Section 9.4 of the SSRC Agreement provides that the SSRC Agreement may be amended, changed or modified with the written consent of the County and Company;

(f) Section 6.3 of the SSRC Agreement provides that the County’s consent is required for the transfer or assignment of the Company’s interest in the SSRC Agreement to entities other than affiliates of the Company; and

(g) The Company has caused to be prepared and presented to the Council the form of an amendment to the SSRC Agreement and it appears that the amendment, which is attached to this ordinance as Exhibit A, is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended (the “First Amendment to SSRC Agreement”).

## **Section 2.      Approval of Amendment.**

Subject to the provisions of Section 4 of this ordinance, and, in order to promote industry, develop trade, and utilize and employ the workforce, products, and natural resources of the State by assisting the Company to expand or locate an industrial facility in the State, the First Amendment to SSRC Agreement is authorized, ratified, and approved.

## **Section 3.      Statutory Findings.**

Council makes the following additional findings:

(a) The County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Acts.

(b) The Project and the First Amendment to SSRC Agreement are anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.

(c) The Project and the First Amendment to SSRC Agreement give rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.

(d) The purposes to be accomplished by the Project and the First Amendment to SSRC Agreement, *i.e.*, economic development and addition to the tax base of the County, are proper governmental and public purposes.

(e) The inducement of the location, expansion and retention of the Project within the County and State is of paramount importance.

(f) The benefits of the Project and the First Amendment to SSRC Agreement to the public will be greater than the costs to the public.

**Section 4.      Approval and Execution of Amendment.**

The form of the First Amendment to SSRC Agreement is approved, and all of the terms, provisions, and conditions thereof are approved and incorporated herein by reference as if the First Amendment to SSRC Agreement was set out in this ordinance in its entirety. The Council Chair and Council Secretary are authorized, empowered, and directed to execute and acknowledge the First Amendment to SSRC Agreement in the name of and on behalf of the County, and thereupon to cause the First Amendment to SSRC Agreement to be delivered to the Company. The First Amendment to SSRC Agreement is to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such officer's execution thereof to constitute conclusive evidence of such officer's approval of any and all changes or revisions therein from the form of the First Amendment to SSRC Agreement attached to this ordinance.

**Section 5.      Consent to Assignment or Transfer.**

A.      The County consents to the assignment or transfer of the Company's interest in the SSRC Agreement to the Synergy Named Entities.

B.      The County consents to the assignment or transfer of the Landlord's interest in the SSRC Agreement to BMI.

**Section 6.      Authority to Act.**

The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized and directed to do any and all things necessary to effect the execution and delivery of the First Amendment to SSRC Agreement and the performance of all obligations of the County under and pursuant to the First Amendment to SSRC Agreement.

**Section 7.      Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 8.      Controlling Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, resolutions or orders, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 9.      Effective Date.**

This ordinance is effective upon Third Reading.

SIGNATURES FOLLOW ON NEXT PAGE.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading:	November 12, 2019
Second Reading:	November 25, 2019
Public Hearing:	December 9, 2019
Third Reading:	December 9, 2019

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

**Exhibit A to Ordinance No. 2019-1627**

**First Amendment to SSRC Agreement**

See attached.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.



October 30, 2019

## FIRST AMENDMENT TO SSRC AGREEMENT

This FIRST AMENDMENT TO SSRC AGREEMENT (this “Amendment”) is dated this 9th day of December, 2019, by and among LANCASTER COUNTY, SOUTH CAROLINA (the “County”), a body politic and corporate and political subdivision of the State of South Carolina (the “State”), acting by and through its County Council (the “County Council”) as governing body of the County, SYNERGY STEEL HOLDINGS, INC., a South Carolina corporation (“Synergy Holdings”), GOLDEN SPIKE, LLC, a South Carolina limited liability company (“Landlord”), SYNERGY MANUFACTURING, LLC, a South Carolina limited liability company (“Manufacturing LLC”), SYNERGY CONSTRUCTION, LLC, a South Carolina limited liability company (“Construction LLC”), SYNERGY INSULATION, LLC, a South Carolina limited liability company (“Insulation LLC”), and BMI PROPERTIES, LLC, a South Carolina limited liability company (“BMI”).

### WITNESSETH:

**WHEREAS**, the County is authorized by Section 4-1-170 of the Code of Laws of South Carolina 1976, as amended and Article VIII, Section 13(D) of the South Carolina Constitution (the “MCP Laws”) and by Sections 4-1-175, 4-29-68 and 12-44-70, Code of Laws of South Carolina 1976, as amended (the “SSRC Law”) (collectively, the MCP Laws and SSRC Law are referred to as the “Acts”) to (i) create multi-county industrial parks with contiguous counties; (ii) include the property of eligible companies within such parks as an inducement to locate within the County, which inclusion under the terms of the MCP Laws makes such property exempt from *ad valorem* property taxes, therefore changing the character of the annual receipts from such properties from *ad valorem* property taxes to fees-in-lieu of *ad valorem* property taxes; and (iii) grant an annual credit against such fee-in-lieu of tax receipts in order to assist a company in paying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the property of any company located within such multi-county industrial parks or for improved or unimproved real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise located within such multi-county parks in order to enhance the economic development of the County;

**WHEREAS**, County, Synergy Holdings and Landlord entered into a Special Source Revenue Credit Agreement, dated August 27, 2018 (the “SSRC Agreement”), as an incentive for the Synergy Holdings and Landlord to invest in the location of a facility in the County and to create new jobs (the “Project”);

**WHEREAS**, Synergy Holdings has requested that County approve an amendment to the SSRC Agreement that adds Manufacturing LLC, Construction LLC, and Insulation LLC, as parties to the SSRC Agreement (the “Synergy Named Entities”);

**WHEREAS**, Synergy Holdings has furthermore requested the County approve an amendment to the SSRC Agreement that adds BMI as a party to the SSRC Agreement in

anticipation of BMI purchasing the real estate owned by Landlord and continuing the lease of such real estate to Synergy Holdings and/or the Synergy Named Entities;

**WHEREAS**, Section 9.4 of the SSRC Agreement provides that the SSRC Agreement may be amended, changed or modified with the written consent of the County and Synergy Holdings and Section 6.3 of the SSRC Agreement provides that the County's consent is required for the transfer or assignment of Synergy Holdings interest in the SSRC Agreement to entities other than affiliates of Synergy Holdings; and

**WHEREAS**, by enactment of Ordinance No. 2019-1627, the County Council has authorized the County to enter into this Amendment.

**NOW, THEREFORE**, in view of the respective agreements contained in this Amendment and other consideration, the parties hereby agree as follows:

#### **SECTION 1. ADDITION OF PARTIES.**

Effective with property tax year 2019 (the tax year in which fee-in-lieu of *ad valorem* property tax payments are due without penalty by January 15, 2020), Manufacturing LLC, Construction LLC, Insulation LLC, and BMI are, each, added as a party to the SSRC Agreement. Each of the Synergy Named Entities and BMI is entitled to the benefits of the SSRC Agreement and each of the Synergy Named Entities and BMI is responsible for the burdens of the SSRC Agreement.

#### **SECTION 2. CONSENT TO ASSIGNMENT OR TRANSFER.**

County acknowledges that County Council, by passage of Section 5 of Ordinance No. 2019-\_\_\_\_, consented to the assignment or transfer of Synergy Holding's interest in the SSRC Agreement to the Synergy Named Entities and consented to the assignment or transfer of Landlord's interest in the SSRC Agreement to BMI.

#### **SECTION 3. DEFINITIONS.**

The definitions in Section 1.2 of the SSRC Agreement for "Company" and "Landlord" are amended to read:

"'Company' means Synergy Steel Holdings, Inc., a South Carolina corporation, and its successors and assigns Synergy Manufacturing, LLC, a South Carolina limited liability company, Synergy Construction, LLC, a South Carolina limited liability company, and Synergy Insulation, LLC, a South Carolina limited liability company, and their successors and assigns."

"'Landlord' means Golden Spike, LLC, a South Carolina limited liability company, that is the owner of the Real Property, and its successors and assigns BMI Properties, LLC, a South Carolina limited liability company, and its successors and assigns."

#### **SECTION 4. MINIMUM JOBS COMMITMENT**

Section 4.3(a) of the SSRC Agreement is amended by adding at the end:

“For purposes of determining if the Jobs Commitment, as set forth above, has been met, all Qualified Full-Time Jobs paying an hourly wage rate not less than the Wage Requirement of the Company and its successors and assigns and Landlord and its successors and assigns shall be included.”

#### **SECTION 5. NOTICE ADDRESSES**

Section 9.1 of the SSRC Agreement, relating to Notices, is amended to read:

“All notices, approvals, consents, requests and other communications hereunder shall be in writing and may be delivered personally, or may be sent by certified mail, return receipt requested, to the following addresses, unless the parties are subsequently notified of any change of address in accordance with this Section 9.1:

If to the Company:

Synergy Steel Holdings, Inc.  
1312 Camp Creek Road  
Lancaster, SC 29720

Synergy Manufacturing, LLC  
1312 Camp Creek Road  
Lancaster, SC 29720

Synergy Construction, LLC  
1312 Camp Creek Road  
Lancaster, SC 29720

Synergy Insulation, LLC  
1312 Camp Creek Road  
Lancaster, SC 29720

With a copy to:

Nelson Mullins Riley & Scarborough, LLP  
Attn: Edward Kluiters  
1320 Main Street, 17th Floor  
Columbia, SC 29211

If to Landlord:

Golden Spike, LLC  
c/o Fab Fours  
2213 Industrial Park Road  
Lancaster, SC 29720

BMI Properties, LLC  
1312 Camp Creek Road  
Lancaster, SC 29720

To the County:

County of Lancaster, South Carolina  
ATTN: Steve Willis, County Administrator  
101 N. Main St. (29720)  
P.O. Box 1809 (29721-1809)  
Lancaster, South Carolina  
Phone: (803) 416-9300  
Email: [swillis@lanastercountysc.net](mailto:swillis@lanastercountysc.net)

With a copy to (which shall not constitute notice):

Mr. Jamie Gilbert  
Economic Development Director, Lancaster County  
P.O. Box 1809  
Lancaster, South Carolina 29721  
Telephone: (803) 286-3633  
Fax: (803) 416-9497  
Email: [jgilbert@lanastercountysc.net](mailto:jgilbert@lanastercountysc.net)

Any notice shall be deemed to have been received as follows: (1) by personal delivery, upon receipt; or (2) by certified mail, three (3) business days after delivery to the U.S. Postal authorities by the party serving notice.”

## **SECTION 6. PERSONAL PROPERTY**

Pursuant to Section 1.2 of the SSRC Agreement, definition of “Infrastructure Improvements,” the Synergy Named Entities are electing to include the personal property, including Equipment as defined in the SSRC Agreement, in the definition of “Infrastructure Improvements.” County acknowledges and agrees that this Section 6 constitutes written notice of the election to include the personal property and Equipment in the definition of “Infrastructure Improvements.”

## **SECTION 7. COUNTY AND COMPANY REPRESENTATIONS.**

A. The County represents that it has approved this Amendment by adoption of Ordinance No. 2019-1627 and in accordance with the procedural requirements of the County Council and any other applicable law.

B. Synergy Holdings, Manufacturing LLC, Construction LLC, and Insulation LLC, each, represent that (i) it is a corporation or limited liability company organized, validly existing, and in good standing under the laws of the State, (ii) it has the power to enter into this Amendment, (iii) it has by proper action approved this Amendment, and (iv) it has authorized its officials to execute and deliver this Amendment.

C. Landlord and BMI, each, represent that (i) it is a limited liability company organized, validly existing, and in good standing under the laws of the State, (ii) it has the power to enter into this Amendment, (iii) it has by proper action approved this Amendment, and (iv) it has authorized its officials to execute and deliver this Amendment. Landlord and BMI, each, represent and covenant that it will pass on any savings resulting from the Agreement and this Amendment to the Company, it being agreed by the Landlord and BMI that the incentives provided for in the SSRC Agreement and this Amendment are in consideration for the Company investing in the County.

## **SECTION 8. COUNTERPARTS.**

This Amendment may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

## **SECTION 9. COST REIMBURSEMENT.**

Company agrees to reimburse the County its administrative expenses related to this Amendment promptly upon written request therefore, but in no event later than thirty (30) days after receiving the written request from the County; *provided, however*, that in no event shall Company be responsible for reimbursing the County in excess of \$2500 for any administrative expenses incurred in the form of attorneys' fees or otherwise with respect to any matter relating in any way to the preparation, review, approval and execution of this Amendment. The written request shall include a description of the nature of the administrative expenses.

## **SECTION 10. EFFECTIVE DATE.**

This Amendment is effective as of the date first above written.

SIGNATURES FOLLOW ON NEXT PAGE.

**IN WITNESS WHEREOF**, the parties have executed this Amendment as of the date first above written.

**LANCASTER COUNTY, SOUTH CAROLINA**

By: \_\_\_\_\_  
Steve Harper, Chair, County Council

By: \_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

**ATTEST:**

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

COMPANY AND LANDLORD SIGNATURES FOLLOW ON NEXT PAGE.

**SYNERGY STEEL HOLDINGS, INC.**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SYNERGY MANUFACTURING, LLC**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SYNERGY CONSTRUCTION, LLC**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SYNERGY INSULATION, LLC**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

LANDLORD SIGNATURES FOLLOW ON NEXT PAGE.

**BMI PROPERTIES, LLC**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**GOLDEN SPIKE, LLC**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_



# The Lancaster News

701 North White Street  
PO Box 640  
Lancaster, SC 29721  
803-283-1133

NOTICE OF PUBLIC  
HEARING  
Lancaster County Council  
A public hearing has been  
scheduled by the Lancaster  
County Council for Monday,  
December 9, 2019, at 6:00  
p.m. in the Lancaster County  
Council Chambers, second  
floor, County Administration  
Building, 101 North Main  
Street, Lancaster, South  
Carolina, or at such other  
location in or around the  
complex posted at the main  
entrance. The purpose  
of the public hearing is to  
receive public comment on  
Ordinance No. 2019-1627,  
titled "AN ORDINANCE  
TO AUTHORIZE THE  
EXECUTION AND  
DELIVERY OF THE  
FIRST AMENDMENT TO  
THE SPECIAL SOURCE  
REVENUE CREDIT  
AGREEMENT, BY AND  
AMONG LANCASTER  
COUNTY, SYNERGY  
STEEL HOLDINGS, INC.,  
AND GOLDEN SPIKE,  
LLC."  
374-109-1S-NelsonMullins-  
Bill

This is to certify that the attached Legal Notice was published in The Lancaster News in the issue of November 17, 2019.

Benisa G. Gush  
Notary Public of South Carolina

My Commission Expires  
January 13, 2021

## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1628  
Contact Person / Sponsor: Jamie Gilbert/Economic Development  
Department: Economic Development  
Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

Red Ventures, operating under the company names RV-Imagitas, LLC and Lancaster Real Estate Group, LLC, entered into a fee agreement with Lancaster County on September 12, 2016 to generate new jobs and investments.

The companies seek to add certain real property for the project which is not currently set forth in the definition of “Land” in the fee agreement. The companies seek to amend the fee agreement to incorporate the additional land as part of the project, pursuant to the terms and conditions of a first amendment to fee agreement. The ordinance approves the first amendment to the agreement.

The amendment will add the following properties to the agreement:

<b><u>Parcel ID</u></b>	<b><u>Property Address</u></b>	<b><u>Acreage</u></b>
0008B-0A-001.00	Overhill Drive Lancaster, SC	0.34 acres
0008B-0A-002.00	105 Cedarbrook Lane Indian Land, SC	0.8 acres
0008B-0B-003.00	126 Fairview Road Lancaster, SC	0.8 acres
0008B-0A-003.00	117 Cedarbrook Lane Indian Land, SC	0.47 acres
0008B-0A-004.00	133 Cedarbrook Lane Indian Land, SC	1 acres
0005-00-110.01	406 Potts Lane Indian Land, SC	1 acre

### **Points to Consider:**

The parcels were acquired to provide for a secondary access road to the Red Ventures campus from US 521 and SC 160. It will allow better traffic flow and overall development of the property. The request is standard for large development projects and Lancaster County Council has historically added properties to fee agreements when requested.

### **Funding and Liability Factors:**

There are no funding or liability issues caused by this amendment to the fee agreement.

### **Council Options:**

County Council can vote to approve, deny or table the requested amendment to the Red Ventures 2016 fee agreement.

### **Recommendation:**

The Lancaster County Department of Economic Development recommends County Council approve the requested amendment to the Red Ventures 2016 fee agreement.

### **ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1628	11/5/2019	Ordinance
Exhibit A to Ordinance 2019-1628 - First Amendment To Fee Agreement	11/5/2019	Exhibit

Proposed Amended Exhibit A to Ordinance 2019-1628 - First Amendment 12/2/2019  
to Fee Agreement

Exhibit

Notice of Public Hearing for Ordinance 2019-1628

12/2/2019

Public Hearing Notices

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STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2019-1628

COUNTY OF LANCASTER

)

)

**AN ORDINANCE**

**TO AUTHORIZE AND APPROVE THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO FEE AGREEMENT BY AND AMONG LANCASTER COUNTY, SOUTH CAROLINA, RV-IMAGITAS, LLC AND LANCASTER REAL ESTATE GROUP, LLC SO AS TO PROVIDE FOR ADDITIONAL LAND FOR THE PROJECT.**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings and Purpose.**

A. The Lancaster County Council finds that:

1. Lancaster County, South Carolina (the “County”) acting by and through its County Council (the “Council”) is authorized and empowered pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976 (the “Code”), as amended (the “Act”) to enter into fee-in-lieu of tax agreements with any industry, with said agreements identifying certain properties of such industries as economic development property, through which powers the industrial development of the State of South Carolina (the “State”) and the County will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate, remain, and expand in the State and the County and thus utilize and employ the workforce, products, and natural resources and benefit the general public welfare of the State and County by providing services, employment, or other public benefits not otherwise adequately provided locally; and

2. RV-Imagitas, LLC and Lancaster Real Estate Group, LLC (collectively, the “Companies”), are party to that certain Fee Agreement, dated as of September 12, 2016, by and among the Companies and the County, pursuant to which the Companies committed to making investments in real and personal property located in the County (the “Project”); and

3. The Companies are considering the addition of certain real property to the Project (the “Additional Land”), which Additional Land is not currently set forth in the definition of “Land” in the Fee Agreement; and

4. The Companies and the County desire to amend the Fee Agreement to incorporate the Additional Land as part of the Project, pursuant to the terms and conditions of a First Amendment to Fee Agreement by and among the Companies and the County, attached to this ordinance as Exhibit A (the “First Amendment”).

B. It is the purpose of this ordinance to effectuate the approval of the First Amendment.

## **Section 2.      Approval of First Amendment.**

Subject to the provisions of Section 4 of this ordinance, and, in order to promote industry, develop trade, and utilize and employ the workforce, products, and natural resources of the State by assisting the Company to expand or locate a facility in the State, the County hereby authorizes, ratifies, and approves the First Amendment.

## **Section 3.      Statutory Findings.**

Council makes the following additional findings:

(a) The Project will constitute a “project” as the term is referred to and defined in the Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Act.

(b) The Project and the payments in lieu of taxes and other agreements set forth herein are beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made.

(c) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.

(d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.

(e) The purposes to be accomplished by the Project, *i.e.*, economic development and addition to the tax base of the County, are proper governmental and public purposes.

(f) The inducement of the location or expansion of the Project within the County and State is of paramount importance.

(g) The benefits of the Project to the public will be greater than the costs to the public.

## **Section 4.      Approval and Execution of First Amendment.**

The form of the First Amendment is approved. All of the terms, provisions, and conditions of the First Amendment are incorporated herein by reference as if the First Amendment were set out in this ordinance in their entirety. The Council Chair and Council Secretary are authorized, empowered, and directed to execute and acknowledge the First Amendment in the name of and on behalf of the County, and thereupon to cause the First Amendment to be delivered to the Company. The First Amendment is to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such officer’s execution thereof to constitute conclusive evidence of such officer’s approval of any and all changes or revisions therein from the form of the First Amendment attached to this ordinance.

## **Section 5.      Authority to Act.**

The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized and directed to do any and all things necessary to

effect the execution and delivery of the First Amendment and the performance of all obligations of the County under and pursuant to the First Amendment.

**Section 6.      Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 7.      Controlling Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, resolutions or orders, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 8.      Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading:            November 12, 2019  
Second Reading:        November 25, 2019  
Public Hearing:           December 9, 2019  
Third Reading:          December 9, 2019

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

**Exhibit A to Ordinance No. 2019-1628**

**First Amendment to Fee Agreement**

See attached.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

## **FIRST AMENDMENT TO FEE AGREEMENT**

This FIRST AMENDMENT TO FEE AGREEMENT (“First Amendment”) is made and entered into as of December 9, 2019, by and among LANCASTER COUNTY, SOUTH CAROLINA (the “County”), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council (the “County Council”) as the governing body of the County, RV-IMAGITAS, LLC, a North Carolina limited liability company (“RV-Imagitas”) and LANCASTER REAL ESTATE GROUP, LLC, a North Carolina limited liability company (“LREG”) (RV-Imagitas and LREG are collectively referred to herein as the “Companies”).

### **RECITALS**

WHEREAS, the Companies and the County are party to that certain Fee Agreement, dated as of September 12, 2016, by and among the Companies and the County (the “Fee Agreement”); and

WHEREAS, the County, acting by and through the County Council and pursuant to Title 12, Chapter 44 (the “Act”), agreed to enter into the Fee Agreement concerning certain investments in real and personal property to be made by the Companies in the County (the “Project”); and

WHEREAS, the Companies are considering the addition of certain real property to the Project (the “Additional Land”), which Additional Land is not currently set forth in the definition of “Land” in the Fee Agreement; and

WHEREAS, the Fee Agreement provides that additional real property may be included as part of the land subject to the Fee Agreement by an amendment to the Fee Agreement signed by the Companies and the County; and

WHEREAS, the Companies and the County desire to amend the Fee Agreement to include the Additional Land as part of the “Land” upon which the Project is located; and

WHEREAS, the County Council, by passage of Ordinance No. 2019-1628, authorized and approved the execution and delivery of this First Amendment; and

### **FIRST AMENDMENT**

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective representations and agreements hereinafter contained and other value given and delivered, the parties hereto agree as follows:

Section 1.     *Incorporation of Recitals.* The above recitals are incorporated into this First Amendment as if the recitals were set out in this First Amendment in their entirety.



Section 2.     *Additional Land.* A. Exhibit A to the Fee Agreement, Land, is amended by adding:

<i>Parcel ID</i>	<i>Property Address</i>	<i>Acreage</i>
0008B-0A-001.00	Overhill Drive Lancaster, SC	0.34 acres
0008B-0A-002.00	105 Cedarbrook Lane Indian Land, SC	0.8 acres
0008B-0B-003.00	126 Fairview Road Lancaster, SC	0.8 acres
0008B-0A-003.00	117 Cedarbrook Lane Indian Land, SC	0.47 acres
0008B-0A-004.00	133 Cedarbrook Lane Indian Land, SC	1 acres
0005-00-110.01	406 Potts Lane Indian Land, SC	1 acre

B. The real property added to the Fee Agreement in subsection A above shall be treated as “Land” for all purposes of the Fee Agreement.

Section 3.     *Payment of Expenses.* Upon submission by the County of appropriate documentation of the expenditure, the Companies agree to reimburse the County, not later than sixty (60) days following such submission, for the County’s reasonable unreimbursed actual costs incurred related to this First Amendment. The cost reimbursement is limited to County payments to third-party vendors, including, but not limited to, payments for attorney’s fees. The total amount of the Companies’ reimbursement obligations with respect to the actual costs incurred related to this First Amendment and the documents negotiated and executed in connection therewith shall not exceed Three Thousand and 00/100 Dollars (\$3,000.00).

Section 4.     *Representations and Warranties.* (A) Each of the Companies represents and warrants, as the basis for the undertakings on its part contained in this First Amendment, that it (i) is a limited liability company organized and existing under the laws of North Carolina, (ii) is authorized to do business in South Carolina, (iii) has all requisite power to enter into this First Amendment, and (iv) by proper action has approved this First Amendment and authorized its officials to execute and deliver it.

(B) County represents and warrants, as the basis for the undertakings on its part contained in this First Amendment, that it (i) is a body politic and corporate and a political subdivision of the State of South Carolina, (ii) is authorized by the Act to enter into this First Amendment, (iii) has approved this First Amendment in accordance with the procedural requirements of the Act and any other applicable state law, and (iv) has authorized its officials to execute and deliver this First Amendment.

Section 5.     *Fee Agreement.* Except as specifically modified in this First Amendment, the Fee Agreement shall remain unchanged and in full force and effect.

Section 6.     *Multiple Counterparts.* This First Amendment may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the County and each Company, pursuant to due authority, have duly executed this First Amendment, all as of the date first above written.

LANCASTER COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Steve Harper, Chair, County Council

By: \_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

**ATTEST:**

By: \_\_\_\_\_  
Sherrie Simpson, Clerk to Council

*(company signatures follow on next page)*

**RV-IMAGITAS, LLC,**  
a North Carolina limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LANCASTER REAL ESTATE GROUP, LLC,**  
a North Carolina limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **FIRST AMENDMENT TO FEE AGREEMENT**

This FIRST AMENDMENT TO FEE AGREEMENT (“First Amendment”) is made and entered into as of December 9, 2019, by and among LANCASTER COUNTY, SOUTH CAROLINA (the “County”), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council (the “County Council”) as the governing body of the County, RV-IMAGITAS, LLC, a North Carolina limited liability company (“RV-Imagitas”) and LANCASTER REAL ESTATE GROUP, LLC, a North Carolina limited liability company (“LREG”) (RV-Imagitas and LREG are collectively referred to herein as the “Companies”).

### **RECITALS**

WHEREAS, the Companies and the County are party to that certain Fee Agreement, dated as of September 12, 2016, by and among the Companies and the County (the “Fee Agreement”); and

WHEREAS, the County, acting by and through the County Council and pursuant to Title 12, Chapter 44 (the “Act”), agreed to enter into the Fee Agreement concerning certain investments in real and personal property to be made by the Companies in the County (the “Project”); and

WHEREAS, the Companies are considering the addition of certain real property to the Project (the “Additional Land”), which Additional Land is not currently set forth in the definition of “Land” in the Fee Agreement; and

WHEREAS, the Fee Agreement provides that additional real property may be included as part of the land subject to the Fee Agreement by an amendment to the Fee Agreement signed by the Companies and the County; and

WHEREAS, the Companies and the County desire to amend the Fee Agreement to include the Additional Land as part of the “Land” upon which the Project is located; and

WHEREAS, the County Council, by passage of Ordinance No. 2019-1628, authorized and approved the execution and delivery of this First Amendment; and

### **FIRST AMENDMENT**

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective representations and agreements hereinafter contained and other value given and delivered, the parties hereto agree as follows:

Section 1.     *Incorporation of Recitals.* The above recitals are incorporated into this First Amendment as if the recitals were set out in this First Amendment in their entirety.

Section 2.     *Additional Land.* A. Exhibit A to the Fee Agreement, Land, is amended by adding:

<i>Parcel ID</i>	<i>Property Address</i>	<i>Acreage</i>
0008B-0A-001.00	Overhill Drive Lancaster, SC	0.34 acres
0008B-0A-002.00	105 Cedarbrook Lane Indian Land, SC	0.8 acres
0008B-0B-003.00	126 Fairview Road Lancaster, SC	0.8 acres
0008B-0A-003.00	117 Cedarbrook Lane Indian Land, SC	0.47 acres
0008B-0A-004.00	133 Cedarbrook Lane Indian Land, SC	1 acres
A portion of 0005-00-106.01 (formerly 0005-00-110.01) (a/k/a Lot A, Plat Book 2000 at Page 143)	406 Potts Lane Indian Land, SC	1 acre

B. The real property added to the Fee Agreement in subsection A above shall be treated as “Land” for all purposes of the Fee Agreement.

Section 3.     *Payment of Expenses.* Upon submission by the County of appropriate documentation of the expenditure, the Companies agree to reimburse the County, not later than sixty (60) days following such submission, for the County’s reasonable unreimbursed actual costs incurred related to this First Amendment. The cost reimbursement is limited to County payments to third-party vendors, including, but not limited to, payments for attorney’s fees. The total amount of the Companies’ reimbursement obligations with respect to the actual costs incurred related to this First Amendment and the documents negotiated and executed in connection therewith shall not exceed Three Thousand and 00/100 Dollars (\$3,000.00).

Section 4.     *Representations and Warranties.* (A) Each of the Companies represents and warrants, as the basis for the undertakings on its part contained in this First Amendment, that it (i) is a limited liability company organized and existing under the laws of North Carolina, (ii) is authorized to do business in South Carolina, (iii) has all requisite power to enter into this First Amendment, and (iv) by proper action has approved this First Amendment and authorized its officials to execute and deliver it.

(B) County represents and warrants, as the basis for the undertakings on its part contained in this First Amendment, that it (i) is a body politic and corporate and a political subdivision of the State of South Carolina, (ii) is authorized by the Act to enter into this First Amendment, (iii) has approved this First Amendment in accordance with the procedural requirements of the Act and any other applicable state law, and (iv) has authorized its officials to execute and deliver this First Amendment.

Section 5.     *Fee Agreement.* Except as specifically modified in this First Amendment, the Fee Agreement shall remain unchanged and in full force and effect.

Section 6.     *Multiple Counterparts.* This First Amendment may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the County and each Company, pursuant to due authority, have duly executed this First Amendment, all as of the date first above written.

LANCASTER COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Steve Harper, Chair, County Council

By: \_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

**ATTEST:**

By: \_\_\_\_\_  
Sherrie Simpson, Clerk to Council

*(company signatures follow on next page)*

**RV-IMAGITAS, LLC,**  
a North Carolina limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LANCASTER REAL ESTATE GROUP, LLC,**  
a North Carolina limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

# The Lancaster News

701 North White Street  
PO Box 640  
Lancaster, SC 29721  
803-283-1133

NOTICE OF PUBLIC  
HEARING  
Lancaster County Council  
The Lancaster County  
Council has scheduled a  
public hearing for Monday,  
December 9, 2019, at 6:00  
p.m. in the Lancaster County  
Council Chambers, second  
floor, County Administration  
Building, 101 North Main  
Street, Lancaster, South  
Carolina, or at such other  
location in or around the  
complex posted at the main  
entrance. The purpose  
of the public hearing is to  
receive public comment on  
Ordinance No. 2019-1628,  
titled "AN ORDINANCE  
TO AUTHORIZE  
AND APPROVE THE  
EXECUTION AND  
DELIVERY OF A FIRST  
AMENDMENT TO FEE  
AGREEMENT BY AND  
AMONG LANCASTER  
COUNTY, SOUTH  
CAROLINA, RV-IMAGITAS,  
LLC AND LANCASTER  
REAL ESTATE GROUP,  
LLC, SO AS TO PROVIDE  
FOR ADDITIONAL LAND  
FOR THE PROJECT." At  
the public hearing and any  
adjournment of it, all inter-  
ested persons may be heard  
either in person or by their  
designee.  
376-110-1W-Womble  
BondDickinson-Bill

This is to certify that the attached Legal Notice was published in The Lancaster News in the issue of *November 20, 2019*

*Bevera G. Gault*

Notary Public of South Carolina

My Commission Expires  
January 13, 2021



## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1629  
Contact Person / Sponsor: Steve Willis/Administration  
Department: Administration  
Date Requested to be on Agenda: 12/9/2019

**Issue for Consideration:**

Comporium has requested an easement to install communications lines across county owned property (parcel # 0083-00-007.01) located just off Grace Avenue. This would be along a driveway that serves the Natural Gas Authority.

**Points to Consider:**

Attached is the easement document, plat to go with the easement, and a map of the general area. This parcel is a part of the Air Rail Park but has no future plans due to the proximity of the houses on Stribling Circle.

**Funding and Liability Factors:**

N/A

**Council Options:**

Approve or reject granting the easement.

**Recommendation:**

Due to time constraints this matter will go to the Administration Committee on November 14th. Staff recommends approval.

**ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1629	11/4/2019	Ordinance
Exhibit A to Ordinance 2019-1629 - General Easement	10/31/2019	Exhibit
Exhibit A to the General Easement - Easement Plat	10/31/2019	Exhibit
Map of general area	10/31/2019	Exhibit
Notice of Public Hearing for Ordinance 2019-1629	12/2/2019	Public Hearing Notices

---

STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2019 - 1629

COUNTY OF LANCASTER

)

)

**AN ORDINANCE**

**TO APPROVE A RIGHT OF WAY AGREEMENT BETWEEN LANCASTER COUNTY AND COMPORIUM COMMUNICATIONS, PROVIDING AN EASEMENT TO COMPORIUM COMMUNICATIONS TO BE LOCATED ALONG GRACE AVENUE; AND TO AUTHORIZE COUNTY OFFICIALS TO TAKE SUCH ACTIONS AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS ORDINANCE.**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings and determinations.**

Council finds and determines that:

(1) Lancaster County (the "County") owns the land adjacent to Grace Avenue identified further as Tax Map No. 0083-00-007.01;

(2) Comporium Communications ("Comporium") is the provider of communications service to Lancaster County and Comporium proposes to install communications facilities in the area to serve their customers; and

(3) It is the purpose of this ordinance to approve a right of way agreement providing an easement to so that Comporium may upgrade communications service in the area.

**Section 2. Approval of right-of-ways agreement.**

(A) Council authorizes and approves the Right of Way Agreement granting an easement to Comporium as described in Section 1. The form of the Right of Way Agreement is attached to this ordinance as Exhibit A and all terms, provisions and conditions of the Right of Way Agreement are incorporated herein by reference as if the Right of Way Agreement were set out in this ordinance in its entirety. The County Administrator is authorized to execute and deliver the Right of Way Agreement on behalf of the County. By adoption of this ordinance, Council approves the Right of Way Agreement and all of its terms, provisions and conditions. The Right of Way Agreement is to be in substantially the form as attached to this ordinance and hereby approved, or with such minor changes therein as shall be approved by the officials of the County executing the Right of Way Agreement, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Right of Way Agreement attached to this ordinance.

(B) Council approves the granting of an easement as described and provided for in the Right of Way Agreement.

**Section 3.**      **Authority to act.**

The Council Chair, Secretary and Clerk, the County Administrator and County Attorney each are authorized to take such actions and to execute such documents as may be necessary to effectuate the purposes of this ordinance.

**Section 4.**      **Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 5.**      **Conflicting provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, resolutions or orders, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 6.**      **Effective date.**

This ordinance is effective upon Third Reading.

SIGNATURES FOLLOW ON NEXT PAGE.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading: November 12, 2019  
Second Reading: November 25, 2019  
Public Hearing: December 9, 2019  
Third Reading: December 9, 2019

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

**Exhibit A to Ordinance No. 2019 - 1629**

**Form of Right-of-Way Agreement  
Lancaster County and Comporium Communications  
Grace Avenue Easement**

See attached.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

E-7  
(02/17)

GENERAL EASEMENT

STATE SOUTH )  
CAROLINA )  
COUNTY OF Lancaster )

\$ 1.00

Received of Comporium Communications

One and 00/100 Dollars, in consideration of which the undersigned hereby grants unto said Company, its respective successors, assigns, lessees, and agents, a right-of-way and easement to construct, reconstruct, and maintain lines for communications purposes consisting of such wires and cables mounted on poles, placed in conduit, and/or buried, and such poles, guys, anchors, conduits, terminal housings, and other fixtures and appurtenances as the grantee may from time to time require upon, across, over, and/or under the property which they own or in which they have any interest in the Township of Lancaster County of Lancaster, State of South Carolina, said right-of-way and easement to be located as follows:  
A right of way, ten (10) feet in width, to place communications facilities as required within the property as shown on the attached detail drawing "Exhibit A" for the property (county parcel # 0083-00-007.01) along Grace Avue, Dated October 1, 2019 recorded in Plat Book at page in the RMC Office of Lancaster County, SC (which drawing is hereby incorporated as part hereof).

and upon, along, and/or under the roads, streets, or highways adjoining or through said property, together with the following rights: to clear and keep clear all trees, under-growth, or other obstructions within said right of way; to trim any trees along said lines so as to keep the wires and cables cleared at least thirty-six inches; to permit the attachment of, and/or carry in conduit, wires and cables of any other person or company for communication purposes or for the transmission and distribution of electric power; and, on the property adjacent to said line for any and all anchors and guy wires that may be reasonably necessary; and of ingress and egress to said line at all times for the purposes herein granted. The grantor for themselves, their heirs, executors, administrators, successors, and assigns hereby covenants that no wire line will be erected or permitted on said property which in the judgment of the grantee, its successors, and assigns, will interfere with its service or endanger its lines. Reserving however, to the grantor the right to cultivate and use the ground within the limits of said right of way, provided that such use does not interfere with or obstruct the rights herein granted, and provided further, that the grantor shall not build, create, or construct, nor permit others to build, create or construct, any building or other structure or obstruction on, over, or under said line or lines which may interfere with the construction, operation, or maintenance thereof. Said sum being received in full payment for the rights herein granted.

The undersigned warrants that it is the sole, fee simple owner of the Property, that it has the unqualified right and power regarding the Property to grant the easement and right-of-way set forth herein and that it will defend and indemnify the grantee against any and all persons who may claim otherwise.

WITNESS his/her hand and seal as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Witness:

\_\_\_\_\_  
(1<sup>st</sup> Witness Signature)

By: (sign) \_\_\_\_\_  
(Grantor)

\_\_\_\_\_  
(2<sup>nd</sup> Witness Signature)

(print name) \_\_\_\_\_  
(Grantor)

STATE OF SOUTH )  
CAROLINA )  
COUNTY OF Lancaster )

PROBATE

Personally appeared before me \_\_\_\_\_ and made  
(1<sup>st</sup> Witness Name)

oath that he saw the within named \_\_\_\_\_  
(Grantor)

sign, seal, and as their act and deed deliver the within written instrument; and that together he/she  
with the other witness who signed above witnessed the execution thereof.

SWORN to before me this \_\_\_\_\_

\_\_\_\_\_  
(1<sup>st</sup> Witness Signature)

day of \_\_\_\_\_ A.D. 20\_\_\_\_\_

\_\_\_\_\_  
(SEAL)

Notary Public (affix seal)

My commission expires: \_\_\_\_\_

STATE OF SOUTH )  
CAROLINA )  
COUNTY OF Lancaster )

PROBATE

TELEPHONE COMPANY REFERENCE DATA

Serial No. \_\_\_\_\_ File No. \_\_\_\_\_

Name and Address of Grantor(s) \_\_\_\_\_

Location \_\_\_\_\_

Line \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_



# Exhibit A

0083-00-006.02

DHE CRD

0083-00-007.02

0083-00-007.01

0083-00-008.00

0083-00-007.00

GRACE AV

STRIBLING CIR

2457

295 ft

COMP. 10' EASEMENT

## Legend

COMP. 10' EASEMENT

COMPORIUM INC.

Exhibit A

PARCEL NUMBER: # 0083-00-007.01

233 10/1/2019

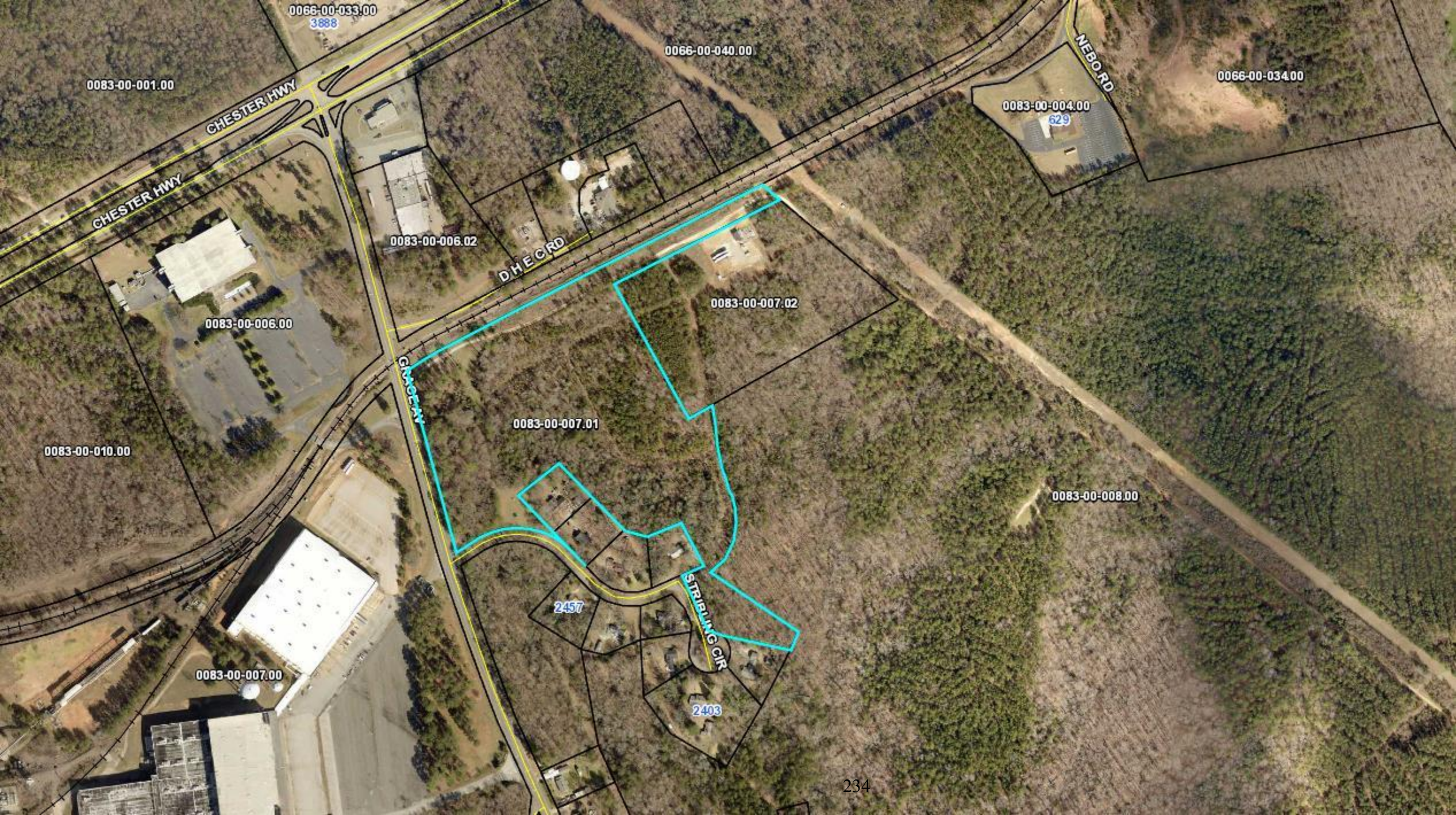
DFTM:  
ZSA

ENG:  
ZSA

AP'D

PG: 1  
OF 1





0083-00-001.00

0066-00-033.00  
3888

0066-00-040.00

0066-00-034.00

0083-00-004.00  
629

0083-00-006.02

0083-00-006.00

0083-00-010.00

0083-00-007.02

0083-00-007.01

0083-00-008.00

0083-00-007.00

2457

2403



# The Lancaster News

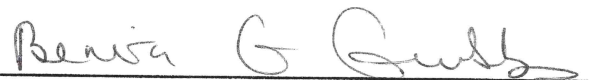
701 North White Street  
PO Box 640  
Lancaster, SC 29721  
803-283-1133

## NOTICE OF PUBLIC HEARING

### Lancaster County Council

A public hearing has been scheduled by the Lancaster County Council for Monday, December 9, 2019, at 6:00 p.m. in the Lancaster County Council Chambers, second floor, County Administration Building, 101 North Main Street, Lancaster, South Carolina, or at such other location in or around the complex posted at the main entrance. The purpose of the public hearing is to receive public comment on Ordinance No. 2019-1629, an ordinance titled "AN ORDINANCE TO APPROVE A RIGHT OF WAY AGREEMENT BETWEEN LANCASTER COUNTY AND COMPORIUM COMMUNICATIONS, PROVIDING AN EASEMENT TO COMPORIUM COMMUNICATIONS TO BE LOCATED ALONG GRACE AVENUE; AND TO AUTHORIZE COUNTY OFFICIALS TO TAKE SUCH ACTIONS AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS ORDINANCE." At the public hearing and any adjournment of it, all interested persons may be heard either in person or by their designee.

This is to certify that the attached Legal Notice was published in The Lancaster News in the issue of *November 10, 2019*



Notary Public of South Carolina

My Commission Expires  
January 13, 2021

## Agenda Item Summary

---

Ordinance # / Resolution #: Ordinance 2019-1630

Contact Person / Sponsor: John DuBose/County Attorney and Steve Willis/Administration

Department: Attorney

Date Requested to be on Agenda: 12/9/2019

**Issue for Consideration:**

The South Carolina Building Code Council has mandated that certain new codes be adopted effective January 1, 2020, and the County's ordinance must be updated to reflect the new codes.

**Points to Consider:**

The County's ordinance must be updated to reflect the new building codes, as required by state law. Staff will continue to educate contractors and design professionals on the new code adoption and requirements.

**Funding and Liability Factors:**

N/A

**Council Options:**

N/A

**Recommendation:**

To adopt the ordinance as presented.

**ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1630	11/18/2019	Ordinance
Notice of Public Hearing for Ordinance 2019-1630	12/2/2019	Public Hearing Notices

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STATE OF SOUTH CAROLINA

)

COUNTY OF LANCASTER

)

ORDINANCE NO. 2019-1630

**AN ORDINANCE**

**TO AMEND CHAPTER 7 OF THE LANCASTER COUNTY CODE TO ADOPT UPDATED UNIFORM CODES AS MANDATED BY THE SOUTH CAROLINA BUILDING CODES COUNCIL, TO ADOPT CERTAIN PERMISSIVE UNIFORM CODES, AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1.**      *Findings and determinations; Purpose.*

The Council finds and determines that:

(1)      The State of South Carolina mandates that local governments adopt the applicable codes as dictated by the South Carolina Building Code Council;

(2)      The South Carolina Building Code Council has mandated that certain new codes be adopted effective January 1, 2020; and

(3)      A public hearing must be conducted related to the adoption of the following codes.

**Section 2.**      *Amendment of County Code.*

Article I of Chapter 7 of the County Code of Lancaster, South Carolina is amended as follows:

~~Indicates Matter Stricken~~

Indicates New Matter

**Sec. 7-1. - Standard codes adopted.**

The following codes, as promulgated by the International Code Council and in the version most recently adopted by the State of South Carolina's Department of Labor, Licensing and Regulation, shall constitute and become an ordinance of the county, and are hereby adopted as fully as though set out at length herein, excluding the appendices and including Chapter One, except as further provided herein. Provided, however, that the provisions of the codes which concern the qualification, removal, dismissal, duties, responsibilities of, and administrative procedures for all building officials, deputy building officials, chief inspectors, and other inspectors and assistants are not adopted herein.

Amendments to these codes shall become effective in the county on the effective date specified by the state.

~~2015~~ 2018 Editions:

International Building Code, with South Carolina amendments;  
International Residential Code, with South Carolina amendments;  
International Mechanical Code, including Chapter One, with South Carolina amendments;  
International Plumbing Code, including Chapter One, with South Carolina amendments;  
International Fire Code, with South Carolina amendments;  
International Fuel Gas Code, with South Carolina amendments;

~~2014~~ 2017 Edition:

National Electric Code, with South Carolina amendments;  
ICC A 117.1 Accessible and Usable Buildings and Facilities

2009 Edition:

International Energy Conservation Code.

## **Sec. 7-2. - Optional codes adopted.**

The following permissive codes, as promulgated by the International Code Council and in the version most recently adopted by the State of South Carolina's Department of Labor, Licensing and Regulation, shall constitute and become an ordinance of the county, and are hereby adopted as fully as though set out at length herein, excluding the appendices and including Chapter One, except as further provided herein. Provided, however, that the provisions of the codes which concern the qualification, removal, dismissal, duties, responsibilities of, and administrative procedures for all building officials, deputy building officials, chief inspectors, and other inspectors and assistants are not adopted herein.

Amendments to these codes shall become effective in the county on the effective date specified by the state.

~~2015~~ 2018 Editions:

International Existing Building Code.  
International Property Maintenance Code.  
International Swimming Pool and Spa Code.  
International Performance Code for Buildings and Facilities

## **Secs. 7-3—7-20. - Reserved.**

### **Section 3.      *Severability.***

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

**Section 4.**      *Conflicting provisions.*

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, orders and resolutions, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 5.**      *Effective date.*

This ordinance is effective January 1, 2020.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

Attest:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading:	November 25, 2019
Second Reading:	November 27, 2019
Public Hearing:	December 9, 2019
Third Reading:	December 9, 2019

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

# The Lancaster News

701 North White Street  
PO Box 640  
Lancaster, SC 29721  
803-283-1133

## NOTICE OF PUBLIC HEARING

### Lancaster County Council

A public hearing has been scheduled by the Lancaster County Council for Monday, December 9, 2019, at 6:00 p.m. in the Lancaster County Council Chambers, second floor, County Administration Building, 101 North Main Street, Lancaster, South Carolina, or at such other location in or around the complex posted at the main entrance. The purpose of the public hearing is to receive public comment on Ordinance No. 2019-1630, an ordinance titled **"AN ORDINANCE TO AMEND CHAPTER 7 OF THE LANCASTER COUNTY CODE TO ADOPT UPDATED UNIFORM CODES AS MANDATED BY THE SOUTH CAROLINA BUILDING CODES COUNCIL, TO ADOPT CERTAIN PERMISSIVE UNIFORM CODES, AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO."** At the public hearing and any adjournment of it, all interested persons may be heard either in person or by their designee.

This is to certify that the attached Legal Notice was published in The Lancaster News in the issue of November 20, 2019

Berita G. Gush

Notary Public of South Carolina

My Commission Expires  
January 13, 2021

## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1632/Planning Case Number:RZ-019-0816

Contact Person / Sponsor: Ashley Davis / Planning

Department: Planning

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

A request to rezone two parcels from Mixed-Use (MX) to Regional Business (RB) District. The properties are located at 8546 & 8574 Charlotte Hwy (TM # 0010-00-056.00 & 0010-00-057.00) and total approximately 11.04 acres in size.

### **Points to Consider:**

The requested Regional Business (RB) District is generally located on the major thoroughfares in the community and provides opportunities for the provision of offices, services, and retail goods to meet the surrounding region. The regulations for this district are intended to accommodate the predominately auto-oriented pattern of existing development until such time that transportation network is retrofitted to accommodate more urban development patterns.

The requested Regional Business District is consistent with the Neighborhood Mixed-Use future land use category.

The Mixed-Use districts require that properties include a minimum of 25 acres of highland property. This property does not meet the minimum development requirement, which makes it a non-conforming lot. In order to develop the property, the applicant has requested to rezone the property to RB.

### **Funding and Liability Factors:**

N/A

### **Council Options:**

To approve or deny the rezoning request.

### **Recommendation:**

The Planning Commission voted 7-0 on November 19, 2019 to recommend **approval** of the rezoning request.

Staff recommends **approval** of this rezoning request.

### **ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1632	12/2/2019	Ordinance
Staff Report - RZ-019-0816	11/15/2019	Planning Staff Report
Exhibit 1 - Zoning Map Amendment Application	11/15/2019	Exhibit
Location Map	11/15/2019	Exhibit



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STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2019-1632

COUNTY OF LANCASTER

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**AN ORDINANCE**

**TO AMEND THE OFFICIAL ZONING MAP OF LANCASTER COUNTY TO REZONE A 11.04 ACRE TRACT OF PROPERTY OWNED BY CROSSRIDGE CENTER, LLC AND LOCATED AT 8546 & 8574 CHARLOTTE HIGHWAY (TMS # 0010-00-056.00 & 0010-00-057.00) FROM MX, MIXED-USE DISTRICT, TO RB, REGIONAL BUSINESS DISTRICT.**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings and Determinations.**

The Council finds and determines that:

(a) CrossRidge Center, LLC applied to rezone 11.04 acres parcel of property, located at 8546 & 8574 Charlotte Hwy., Lancaster, South Carolina (TMS # 0010-00-056.00 & 0010-00-057.00) from MX, Mixed-Use District (Highway Corridor Overlay and Carolina Heel Splitter Overlay), to RB, Regional Business District (No change to overlay districts).

(b) On November 19, 2019, the Lancaster County Planning Commission held a public hearing on the proposed rezoning and, by a vote of (7-0), recommended approval of the rezoning.

(c) The Future Land Use Map identifies this property as MX, Mixed-Use District (Highway Corridor Overlay and Carolina Heel Splitter Overlay), based on the *Lancaster County Comprehensive Plan 2014-2024*. Rezoning the property from MX, Mixed-Use District (Highway Corridor Overlay and Carolina Heel Splitter Overlay), to RB, Regional Business District (No change to overlay districts), is compatible with the Comprehensive Plan.

**Section 2. Rezoning.**

The Official Zoning Map is amended by changing the zoning district classification from MX, Mixed-Use District (Highway Corridor Overlay and Carolina Heel Splitter Overlay) to RB, Regional Business District (No to change overlay districts), for the following property as identified by tax map number or other appropriate identifier:

Tax Map No. 0010-00-056.00 & 0010-00-057.00 (11.04 acres, more or less)

**Section 3. Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 4. Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 5. Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**LANCASTER, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading: December 9, 2019  
Public Hearing: January 13, 2020  
Second Reading: January 13, 2020  
Public Hearing: January 27, 2020

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

**Proposal:** Request to rezone two parcels totaling approximately 11.04 acres in size. The purpose of this request is to develop the properties for commercial uses and to eliminate the MX zoning district.

**Property Location:** 8546 & 8574 Charlotte Hwy (TM # 0010-00-056.00 & 0010-00-057.00)

**Current Zoning District:** Mixed-Use (MX), Highway Corridor Overlay, and Carolina Heel Splitter Overlay

**Proposed Zoning District:** Regional Business (RB). No Change to the overlay districts.

**Applicant:** CrossRidge Center, LLC

**Council District:** District 7, Brian Carnes

## Overview

### Site Information

*Site Description:* These parcels are currently vacant.

### Compatibility with Surrounding Area

The current zoning for the surrounding area is Regional Business (RB), General Business (GB), PDD-26, and Mixed-Use (MX). Existing zoning for the subject property as well as surrounding properties can be seen in *Attachment 2*. The proposed zoning of RB is generally consistent with the area. See table below for adjacent property zoning and use comparison.

### Summary of Surrounding Zoning and Uses

Surrounding Property	Municipality	Zoning District	Use
North	Lancaster County	Regional Business (RB)	CrossRidge
South	Lancaster County	Mixed-Use (MX)	Vacant
East	Lancaster County	PDD-26	Commercial; YMCA Site
West	Lancaster County	General Business (GB)	Single-Family Residential (For Sale)

Recent Rezoning in Surrounding Area			
Case #	Description	Date	Outcome
	No Recent Rezoning		

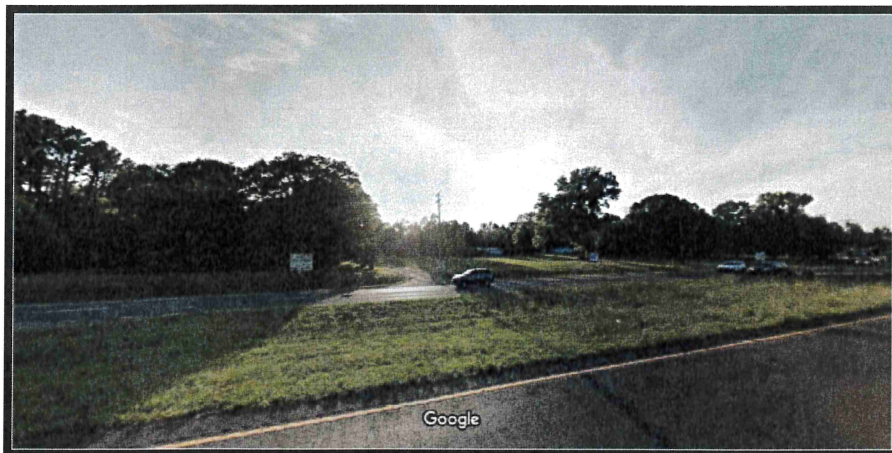
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## Photos of Project Area

LOOKING DIRECTLY AT PROPERTY FROM CHARLOTTE HIGHWAY



LOOKING DIRECTLY ACROSS PROPERTY — ON CHARLOTTE HIGHWAY

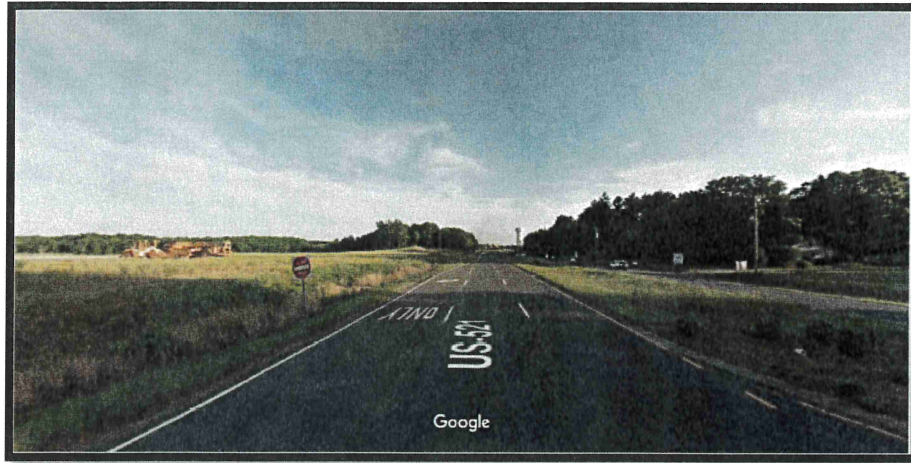


LOOKING NORTH ALONG CHARLOTTE HIGHWAY





LOOKING SOUTH ALONG CHARLOTTE HIGHWAY



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### Analysis & Findings

The property is currently zoned Mixed-Use (MX) District. The Mixed-Use (MX) zoning district *is established as a pedestrian-scaled, mixed-use district which caters to the everyday needs of nearby neighborhoods, stressing accessibility by automobiles, bicycles and pedestrians. This district accommodates an active, pedestrian-friendly area of community-scale commercial, residential, office and civic uses in both vertically mixed-use, as well as free-standing* (UDO section 2.3).

The requested Regional Business (RB) District *is generally located on the major thoroughfares in the community and provides opportunities for the provision of offices, services, and retail goods to meet the surrounding region. The regulations for this district are intended to accommodate the predominately auto-oriented pattern of existing development until such time that transportation network is retrofitted to accommodate more urban development patterns* (UDO section 2.3).

#### *Development Requirements*

The Mixed-Use districts require that properties include a minimum of 25 acres of highland property. This property does not meet the minimum development requirement, which makes it a non-conforming lot. In order to develop the property, the applicant has requested to rezone the property to RB.

### COMPREHENSIVE PLAN CONSISTENCY & CONCLUSION

The future land use designation of this property is the Place Type known as Neighborhood Mixed-Use, which, according to the 2024 Comprehensive Plan is synonymous to the Community Type “Walkable Neighborhood”. The Comp Plan states that this Community Type has *very specific characteristics that set it apart from most other Place Types by virtue of its deliberately structured mix of dwelling types in a development context that often operates through the separation of uses, densities and/or land value.*

*This Place Type and Community Type have their roots in the traditional character of American communities during the early part of the 20<sup>th</sup> century, and has been revived in recent decades as a relevant option for future development.*

The requested Regional Business District is consistent with the Neighborhood Mixed-Uses future land use category. The proposed RB zoning district will provide more consistent zoning across the CrossRidge property.

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#### **Staff Recommendation**

Staff recommends **approval** of this rezoning request.

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#### **Attachments**

1. Rezoning Application
2. Location Map/ Zoning Map

#### **Staff Contact**

Ashley Davis  
Planner  
[adavis@lancastersc.net](mailto:adavis@lancastersc.net)  
803-416-9433



## Planning Department

P.O. Box 1809, 101 N. Main Street, Lancaster, SC 29721  
 Phone: 803.285.6005, [planning@lanastercountysc.net](mailto:planning@lanastercountysc.net)  
[www.mylancastersc.org](http://www.mylancastersc.org)

## ZONING MAP AMENDMENT APPLICATION

## SUBMITTAL REQUIREMENTS

- Completed Application
- Signatures of Applicant and Property Owner
- Deed and survey plat or boundary survey
- Fees associated with review

## GENERAL INFORMATION

Property Address 8546 & 8574 Charlotte Highway

City Indian Land State SC Zip 29707 Tax Parcel ID 0010-00-056.000 & 010-00-057.00

Current Zoning MX Current Use Vacant

Proposed Zoning RB Total Acres 11.04 Acres (Approximate)

Project Description The proposed project is to be consistent with adjacent parcel zoning (RB) and eliminate non-conforming zoning (MX).

Surrounding Property Description The surrounding zoning consists of RB and PDD with GB across Charlotte Highway.

## CONTACT INFORMATION

Applicant Name CrossRidge Center, LLC, Attn: Ben Cerullo

Address 3000 Worldreach Drive

City Indian Land State SC Zip 29707 Phone (803) 578-1000

Fax \_\_\_\_\_ Email BCerullo@bencerullo.com

Property Owner Name Same as above

Address Same as above

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

Fax \_\_\_\_\_ Email \_\_\_\_\_

I hereby certify that I have read this application and the information supplied herein is true and correct to the best of my knowledge. I agree to comply with all applicable County ordinances and state laws related to the use and development of the land. I further certify that I am the property owner, or his/her authorized agent, or the subject property. I understand that falsifying any information herein may result in rejection or denial of this request.

Bruce Calkins

Applicant

9/26/19

Date

Bruce Calkins

Property Owner(s)

9/26/19

Date

Attach owner's notarized written authorization with property information if the applicant is not the owner.

**LANCASTER COUNTY OFFICE USE ONLY**

Application Number RZ-019-0816 Date Received 9-30-19 Receipt Number 848568

Amount Paid \$500.00 Check Number 161607 Cash Amount —

Received By QB Planning Commission Meeting Date 11-19-19

**SCHEDULE/PROCESS 1. Submit Application**

- The deadline for this application is at least 30 days prior to the Planning Commission meeting, held every third Tuesday of the month.
- Once an application is submitted, it is placed on the Planning Commission agenda for the following month.
- An application withdrawal should be made in writing and received prior to public notice in order to receive a refund.
- Rezoning Application Fee – single parcel \$325.00
- Rezoning Application Fee – multi parcel \$500.00

**2. Planning Commission**

- Conducts a public hearing on the application to receive input from Lancaster County citizens, applicant, and other interested parties.
- Reviews the application to ensure it is consistent with the Lancaster County Unified Development Ordinance, Comprehensive Plan, and all adopted County plans.
- Makes a recommendation to the County Council.

**3. County Council**

- Approves, denies, or submits application to the Planning Commission for further study.
- Action requires three readings for approval.
- Subsequent to final County Council action on rezoning, notice of action will be provided to the applicant, owner, and adjacent property owners.
- If applicant would like to request a special presentation, please notify the County Clerk @ (803) 416-9307 before 5:00pm on the first Monday of the month to make arrangements.

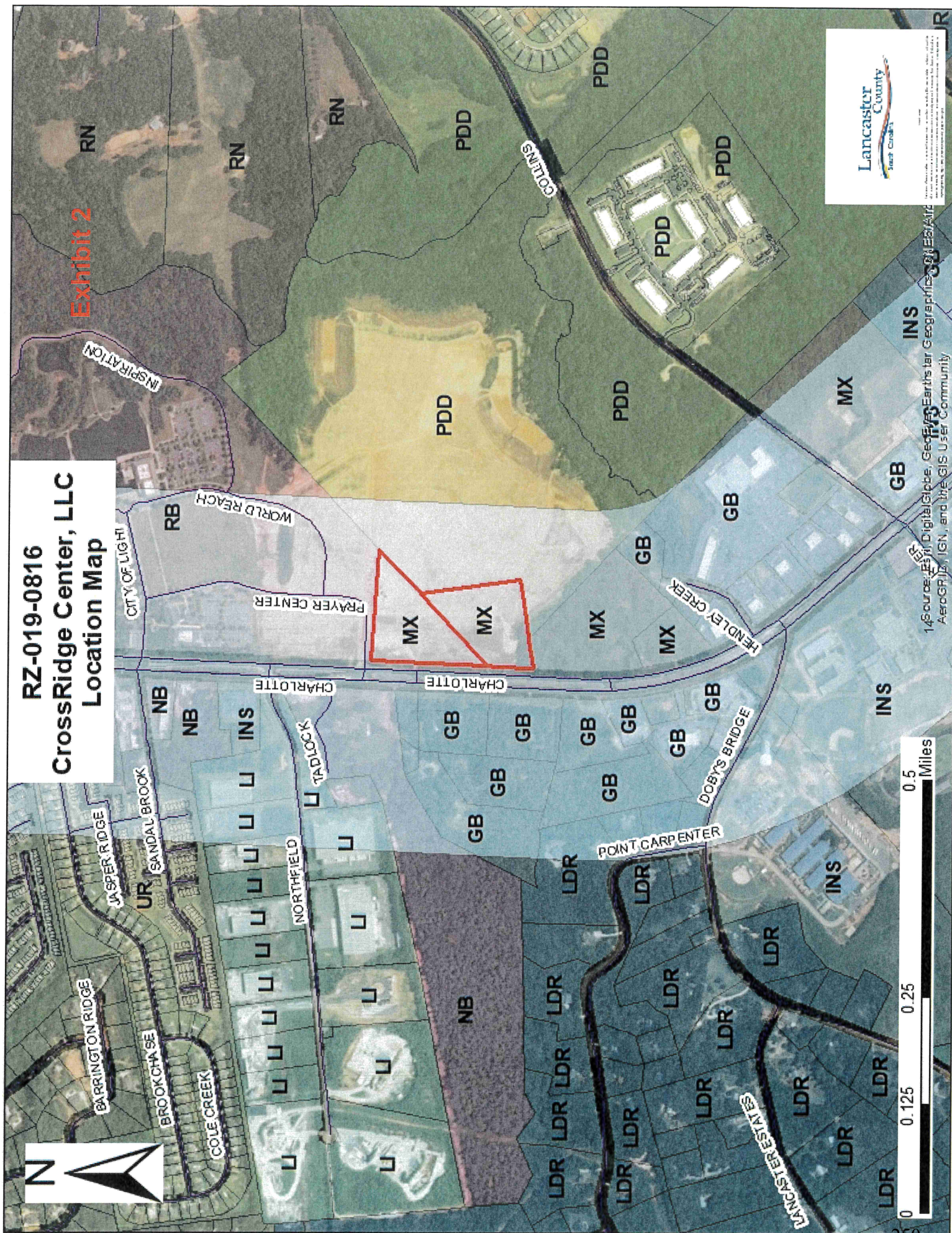


**RZ-019-0816**

## Exhibit 2



145 Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Air





## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1633/Planning Case Number: RZ-019-0717

Contact Person / Sponsor: Ashley Davis / Planning

Department: Planning

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

A request to rezone TM # 0081N-0A-017.00 from General Business (GB) to Manufactured Home (MH) District. The property is located east of the intersection of Kershaw Camden Highway and Lineberger Industrial and is approximately 3.08 acres in size.

### **Points to Consider:**

The current zoning for the surrounding area is Neighborhood Business (NB), General Business (GB) and Institutional (INS). The proposed zoning of MH is not consistent with the area.

The requested Manufactured Home District is inconsistent with the Comprehensive Plan. As reflected in Exhibit 2, the rezoning site and its surrounding parcels comprise a commercial/institutional node. Rezoning a single parcel in this area to the Manufactured Home District without a broader change in the overall character of the area would be inconsistent with the underlying intent of the Comprehensive Plan to ensure a well-organized growth pattern. As a means for reference, the closest manufactured home district appears to be approximately 1,000 linear feet away located at the intersection of Stevens Hill Road and Old Camden Road (see Exhibit 2).

### **Funding and Liability Factors:**

N/A

### **Council Options:**

To approve or deny the rezoning request.

### **Recommendation:**

Staff recommends **denial** of this rezoning request.

The Planning Commission voted 6-1 on November 19, 2019 to recommend **denial** of the rezoning request.

Planning Commission concerns on rezoning to MH generally focused on the commercial nature of this area.

### **ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1633	12/3/2019	Ordinance
Staff Report - RZ-019-0717	11/15/2019	Planning Staff Report
Exhibit 1 - Zoning Map Amendment Application	11/15/2019	Exhibit
Location Map	11/15/2019	Exhibit

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STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2019-1633

COUNTY OF LANCASTER

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**AN ORDINANCE**

**TO AMEND THE OFFICIAL ZONING MAP OF LANCASTER COUNTY TO REZONE A 3.08 ACRE TRACT OF PROPERTY OWNED BY RAMON J. SALAZAR AND LOCATED EAST OF THE INTERSECTION OF KERSHAW CAMDEN HIGHWAY AND LINEBERGER INDUSTRIAL, LANCASTER, SOUTH CAROLINA (TMS # 0081N-0A-017.00) FROM GB, GENERAL BUSINESS DISTRICT, TO MH, MANUFACTURED HOME DISTRICT.**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings and Determinations.**

The Council finds and determines that:

(a) Ramon J. Salazar applied to rezone a 3.08 acres parcel of property, located East of the intersection of Kershaw County Highway and Lineberger Industrial, Lancaster, South Carolina (TMS # 0081N-0A-017.00) from GB, General Business District (Aviation Overlay) to MH, Manufactured Home District (No Change to Overlay Districts).

(b) On November 19, 2019, the Lancaster County Planning Commission held a public hearing on the proposed rezoning and, by a vote of (6-1), recommended denial of the rezoning.

(c) The Future Land Use Map identifies this property as GB, General Business, based on the *Lancaster County Comprehensive Plan 2014-2024*. Rezoning the property from GB, General Business District to MH, Manufactured Home District, is compatible with the Comprehensive Plan.

**Section 2. Rezoning.**

The Official Zoning Map is amended by changing the zoning district classification from GB, General Business District, to MH, Manufactured Home District, for the following property as identified by tax map number or other appropriate identifier:

Tax Map No. 0081N-0A-017.00 (3.08 acres, more or less)

**Section 3.      Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 4.      Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 5.      Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**LANCASTER, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading:            December 9, 2019  
Second Reading:        January 13, 2020  
Public Hearing:           January 13, 2020  
Third Reading:          January 27, 2020

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

**Proposal:** Request to rezone one parcel approximately 3.08 acres in size. The purpose of this request is to permit a manufactured home.

**Property Location:** East of the intersection of Kershaw Camden Hwy and Lineberger Industrial (TM # 0081N-OA-017.00)

**Current Zoning District:** General Business (GB), Aviation Overlay

**Proposed Zoning District:** Manufactured Home (MH). No Change to the overlay districts.

**Applicant:** Ramon Salazar

**Council District:** District 5, Steve Harper

## Overview

### Site Information

*Site Description:* This parcel is currently unimproved and wooded.

### Compatibility with Surrounding Area

The current zoning for the surrounding area is Neighborhood Business (NB), General Business (GB) and Institutional (INS). Existing zoning for the subject property as well as surrounding properties can be seen in *Attachment 2*. The proposed zoning of MH is not consistent with the area. See table below for adjacent property zoning and use comparison.

### Summary of Surrounding Zoning and Uses

Surrounding Property	Municipality	Zoning District	Use
North	Lancaster County	Neighborhood Business (NB)	Vacant
South	Lancaster County	General Business (GB)	Single Family Residence
East	Lancaster County	General Business (GB)	Commercial, Salvage Yard
West	Lancaster County	Institutional (INS)	Canaan Free Will Baptist Church

Recent Rezoning in Surrounding Area			
Case #	Description	Date	Outcome
	No Recent Rezoning		

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## Photos of Project Area

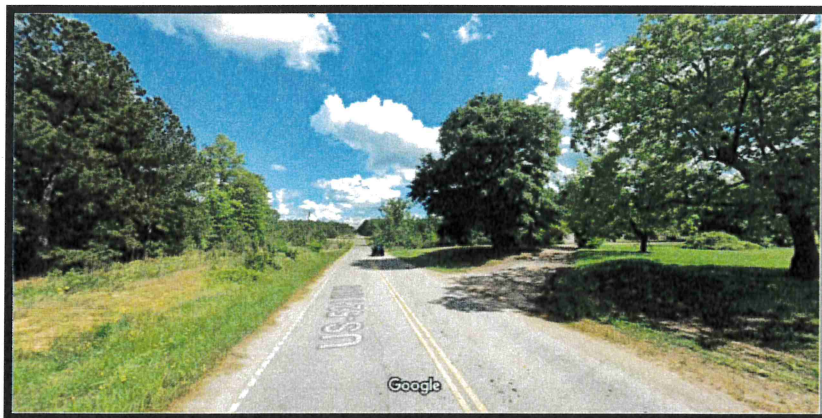
LOOKING DIRECTLY AT PROPERTY FROM KERSHAW CAMDEN HIGHWAY



LOOKING DIRECTLY ACROSS PROPERTY — ON KERSHAW CAMDEN HIGHWAY



LOOKING EAST ALONG KERSHAW CAMDEN HIGHWAY





LOOKING WEST ALONG KERSHAW CAMDEN HIGHWAY



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**Analysis & Findings**

The property is currently zoned General Business (GB) District. The General Business (GB) zoning district *is generally located on thoroughfares and provides opportunities for the provision of offices, services, and retail goods in proximity to generally auto-dependent, community neighborhoods. The regulations for this district are intended to accommodate the predominately auto-oriented pattern of existing development while encouraging the transition to pedestrian-friendly, mixed-use areas that avoid strip commercial development.* (UDO section 2.3).

The requested Manufactured Home (MH) District *accommodates manufactured homes in a variety of settings, including manufactured home parks, manufactured home subdivisions, and a single-lot mobile home district.*

**COMPREHENSIVE PLAN CONSISTENCY & CONCLUSION**

The future land use designation of this property is the Place Type known as Urban, which, according to the 2024 Comprehensive Plan is synonymous to the Community Type “Walkable Neighborhood”. The Comp Plan states that this Community Type has *very specific characteristics that set it apart from most other Place Types by virtue of its deliberately structured mix of dwelling types in a development context that often operates through the separation of uses, densities and/or land value. This Place Type and Community Type have their roots in the traditional character of American communities during the early part of the 20<sup>th</sup> century, and has been revived in recent decades as a relevant option for future development.*

The requested Manufactured Home District is inconsistent with the Comprehensive Plan. As reflected in Exhibit 2, the rezoning site and its surrounding parcels comprise a commercial/institutional node. Rezoning a single parcel in this area to the Manufactured Home District without a broader change in the overall character of the area would be inconsistent with the underlying intent of the Comprehensive Plan to ensure a well-organized growth pattern. As a means for reference, the closest manufactured home district appears to be approximately 1,000 linear feet away located at the intersection of Stevens Hill Road and Old Camden Road (see Exhibit 2).

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#### **Staff Recommendation**

Staff recommends **denial** of this rezoning request.

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#### **Attachments**

1. Rezoning Application
2. Location Map/ Zoning Map

#### **Staff Contact**

Ashley Davis  
Planner  
[adavis@lancastercountysc.net](mailto:adavis@lancastercountysc.net)  
803-416-9433





## Planning Department

P.O. Box 1809, 101 N. Main Street, Lancaster, SC 29721  
 Phone: 803.285.6005, [planning@lanastercountysc.net](mailto:planning@lanastercountysc.net)  
[www.mylanastersc.org](http://www.mylanastersc.org)

## ZONING MAP AMENDMENT APPLICATION

## SUBMITTAL REQUIREMENTS

- Completed Application
- Signatures of Applicant and Property Owner
- Deed and survey plat or boundary survey
- Fees associated with review

## GENERAL INFORMATION

Property Address Hwy. 521  
 City Lancaster State SC Zip 29720 Tax Parcel ID 0081N-0A-017.00  
 Current Zoning GB Current Use No use  
 Proposed Zoning MH Total Acres 3.08  
 Project Description Wooded

Surrounding Property Description Church, General Business

## CONTACT INFORMATION

Applicant Name Ramon Salazar  
 Address 1953 Springdale Road  
 City Lancaster State SC Zip 29720 Phone 803-804-6475  
 Fax \_\_\_\_\_ Email \_\_\_\_\_  
 Property Owner Name Ramon Salazar  
 Address 1953 Springdale Road  
 City Lancaster State SC Zip 29720 Phone 803-804-6475  
 Fax \_\_\_\_\_ Email \_\_\_\_\_

I hereby certify that I have read this application and the information supplied herein is true and correct to the best of my knowledge. I agree to comply with all applicable County ordinances and state laws related to the use and development of the land. I further certify that I am the property owner, or his/her authorized agent, or the subject property. I understand that falsifying any information herein may result in rejection or denial of this request.

Ramon J Salazar  
Applicant

Sept 6 2019  
Date

Ramon J Salazar  
Property Owner(s)

Sept 10 - 2019  
Date

Attach owner's notarized written authorization with property information if the applicant is not the owner.

#### LANCASTER COUNTY OFFICE USE ONLY

Application Number RZ-019-0717 Date Received 9-20-19 Receipt Number 848552

Amount Paid \$325.00 Check Number — Cash Amount \$325.00

Received By JB Planning Commission Meeting Date 11-19-19

#### SCHEDULE/PROCESS 1. Submit Application

- The deadline for this application is at least 30 days prior to the Planning Commission meeting, held every third Tuesday of the month.
- Once an application is submitted, it is placed on the Planning Commission agenda for the following month.
- An application withdrawal should be made in writing and received prior to public notice in order to receive a refund.
- Rezoning Application Fee – single parcel \$325.00
- Rezoning Application Fee – multi parcel \$500.00

#### 2. Planning Commission

- Conducts a public hearing on the application to receive input from Lancaster County citizens, applicant, and other interested parties.
- Reviews the application to ensure it is consistent with the Lancaster County Unified Development Ordinance, Comprehensive Plan, and all adopted County plans.
- Makes a recommendation to the County Council.

#### 3. County Council

- Approves, denies, or submits application to the Planning Commission for further study.
- Action requires three readings for approval.
- Subsequent to final County Council action on rezoning, notice of action will be provided to the applicant, owner, and adjacent property owners.
- If applicant would like to request a special presentation, please notify the County Clerk @ (803) 416-9307 before 5:00pm on the first Monday of the month to make arrangements.



**RZ-019-0717  
Ramon Salazar  
Location Map**

**Exhibit 2**



Sources: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNR AeroGlobe, IGN, and the GIS User Community





## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1634/Planning Case Number: UDO-TA-019-0953

Contact Person / Sponsor: Katie See/Planning

Department: Planning

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

This is a request to amend UDO Chapters 2, District Standards; Chapter 5, Use Regulations; and Chapter 10, Definitions. The purpose of this request is to accommodate sewer treatment facilities.

### **Points to Consider:**

The Lancaster County Water & Sewer District (LCWSD) has been operating a sewer facility on the River Road location since it was constructed in 2001. The previous UDO permitted water and sewer facilities as a permitted use with Planning Commission review in the property's previous zoning district, R-30P. When the UDO was rewritten in 2016 and the companion zoning map was updated, the property was rezoned Institutional (INS). The UDO did not include water and sewer facilities as permitted uses in the Institutional (INS) district, which therefore resulted in the use being designated non-conforming.

Non-conforming uses cannot be expanded or made more non-conforming. The applicant has requested that the INS district be amended to permit Utilities – Class 3 as a permitted use.

### **Companion Case RZ-019-0952**

The applicant has requested a zoning map amendment for seven parcels totaling approximately 9.28 acres in size.

### **Funding and Liability Factors:**

N/A

### **Council Options:**

Approve or deny the proposed text amendment.

### **Recommendation:**

Planning Commission voted unanimously to recommend **approval** on November 19, 2019.

Staff recommends **approval** of the proposed changes.

### **ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1634	12/3/2019	Ordinance
Exhibit A to Ordinance 2019-1634	12/3/2019	Exhibit
Exhibit B to Ordinance 2019-1634	12/3/2019	Exhibit
Exhibit C to Ordinance 2019-1634	12/3/2019	Exhibit
Staff Report	11/15/2019	Planning Staff Report
Ex 1: Proposed Text Change	11/27/2019	Exhibit
Ex 2: Text Amendment Application	11/15/2019	Exhibit

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STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2019- 1634

COUNTY OF LANCASTER

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**AN ORDINANCE**

**TO AMEND ORDINANCE 2016-1442, THE UNIFIED DEVELOPMENT ORDINANCE (“UDO”), TO ADD UTILITIES - CLASS 3 AS A PERMITTED USE IN PROPERTY ZONED INSTITUTIONAL DISTRICT (INS) AND TO PROVIDE PROTECTION FOR THE CONTINUED OPERATION AND EXPANSION OF UTILITY FACILITIES**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings and Determinations.**

The Council finds and determines that:

- (a) Utility facilities are vital to the infrastructure needs and the public health of the citizens, businesses, and industries within Lancaster County.
- (b) The Institutional District (INS) is intended to allow for the continued and future use, expansion, and new development of academic and religious campuses and of governmental and health facilities and to promote the many varied uses of such institutions.
- (c) Utilities Class 1 and Utilities Class 2 are currently permitted uses (P) within the Institutional District (INS)
- (d) Utilities Class 3 are appropriate facilities to allow as a permitted with review use (PR) for property zoned Institutional District (INS)
- (e) Utilities serve a vital role in promoting and protecting public health and welfare and this important purpose requires that utility facilities, once established, be allowed to operate and reasonably expand to anticipate and accommodate future utility demands without threat of being found a public or private nuisance by reason of operation or expansion and it is appropriate and necessary that utilities be granted appropriate protection from nuisance allegations as also required by State law.

**Section 2. Amendment of Ordinance 2016-1442**

Ordinance 2016-1442 (Unified Development Ordinance) Chapter 2.3, Districts, and Chapter 2.5 Use Table, is amended as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

Ordinance 2016-1442 (Unified Development Ordinance) Chapter 10, Definitions, is amended as set forth in Exhibit “B” attached hereto and incorporated herein by reference.

Ordinance 2016-1442 (Unified Development Ordinance) Chapter 5, Use Regulations, is amended as set forth in Exhibit "C" attached hereto and incorporated herein by reference.

**Section 3. Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 4. Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 5. Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading: December 9, 2019  
Second Reading: January 13, 2020  
Public Hearing: January 13, 2020  
Third Reading: January 27, 2020

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

# EXHIBIT A

Indicates Matter Stricken

Indicates New Matter

\*\*\*

<b>Institutional District (INS)</b>	<p>This Institutional District is intended to allow for the continued and future use, expansion, and new development of academic and religious campuses, <del>and of</del> governmental and health facilities, <del>and public and private utility infrastructure</del>. The goal is to promote the many varied uses associated with such institutions while maintaining the overall design integrity of the campus setting and minimizing any adverse impacts on the neighboring residential areas. In the attempt to meet this goal numerous requirements are included, such as but not limited to buffers, landscaping, outdoor lighting, parking, signage, building height, setbacks, open space, and the like.</p>
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J. INFRASTRUCTURE	A R	R R	R N	R U B	M H	L D R	M D R	P B	N B	G B	R B	IN S	O S P	LI	HI	M	U R	H D R	R M X	M X	IM X	RE F
Airstrip/Airport	-	-	-	-	-	-	-	-	-	-	-	P R	-	-	P R	-	-	-	-	-	-	5.1 1.1
Geothermal Energy Systems	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	5.1 1.2
Solar Energy Systems	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	5.1 1.3
Solar Farms	C U	*** *	*** *	-	-	-	-	-	-	-	-	-	-	*** *	*** *	-	-	-	-	-	-	5.1 1.4
Utilities – Class 1	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Utilities – Class 2	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Utilities – Class 3	P	P	-	-	-	-	-	-		-	-	P R	-	P	P	-	-	-	-	-	-	5.1 1.6
Wireless Communication Facility (Concealed)	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	-	P R	P R	P R	P R	P R	P R	P R	P R	5.1 1.5
Wireless Communication Facility (Up to 60.00')	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	-	P R	P R	P R	P R	P R	P R	P R	P R	5.1 1.5
Wireless Communication Facility (60.01'to 199.99')	S E	S E	S E	S E	S E	S E	S E	P R	P R	P R	P R	P R	-	P R	P R	P R	S E	S E	S E	S E	S E	5.1 1.5
Wireless Communication Facility (200' and Over)	-	-	-	-	-	-	-	-	-	-	-	-	-	S E	S E	S E	-	-	-	-	-	5.1 1.5



## EXHIBIT B

~~Indicates Matter Stricken~~

Indicates New Matter

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**UTILITIES** Facilities or systems for the distribution of gas, electricity, steam, or water, the collection, treatment and disposal of sewage or refuse; the transmission of communications; of similar functions necessary for the provision of public services. Radio transmission facilities less than 180 feet in height for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not utilities. Utilities are divided into 3 classes:

**Class 1:** Distribution, transmission and collection lines (above and below ground) including electrical, solar panels, telephone/broadband internet, natural gas, waste water collection, and water distribution lines; pumping stations, lift stations, and telephone/broadband switching facilities (up to 200 square feet).

**Class 2:** Elevated water storage tanks; above ground natural gas facilities including regulator stations and Point of Delivery stations; package treatment plants; telephone/broadband switching facilities (over 200 square feet); substations; or other similar facilities in connection with telephone, electric, natural gas, steam, and water facilities, not including cellular communication towers.

**Class 3:** Generation, production, or treatment facilities such as power plants, water and sewage plants.

A utility facility, or expansion of such a facility, may not be found to be a public or private nuisance by reason of the operation of that facility if the utility facility:

(1) is operating pursuant to and in compliance with the requisite licenses, permits, certifications, or authorizations under the applicable federal and state environmental laws and county and municipal (if applicable) zoning ordinances; and

(2) commenced operations before the landowner alleging the nuisance acquired, moved onto, or improved the affected property.

If a utility facility seeks to expand its operations or facility and maintain its protected status, then the utility facility may reasonably expand its operation or facilities without losing its protected status if it is in compliance with all county, municipal, state, and federal environmental codes, laws, or regulations at the time of expansion. This protected status of a utility facility, once acquired is assignable, alienable, and inheritable, provided the utility facility is operating for the same use as when it commenced operations or a reasonable expansion thereof as provided heretofore and the protected status may not be waived by the temporary cessation of operation for a period not to exceed two years or by diminishing the size of the operation.



## EXHIBIT C

~~Indicates Matter Stricken~~

Indicates New Matter

### 5.11.6 CLASS 3 UTILITY FACILITIES [AR, RR, INS, LI, HI]

A class 3 utility facility shall comply with the following:

- A. Buffers: A type C buffer yard is required for class 3 utility facilities.

**Proposal:** Amend Chapter 2 to permit Utilities – Class 3 as a permitted with review use in Institutional District

**Applicable Chapters:** Chapter 2, District Standards; Chapter 5, Use Regulations; Chapter 10, Definitions

**Applicant:** Lancaster County

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### **Project Summary & Proposal**

The Lancaster County Water & Sewer District (LCWSD) has been continuously operating a wastewater treatment plant on the River Road since 2001. The previous UDO permitted water and sewer facilities as a permitted use with Planning Commission review in the property's previous zoning district, R-30P. When the UDO was rewritten in 2016 and the companion zoning map was updated, the property was rezoned Institutional (INS). The UDO reclassified water and sewer facilities as Utilities-Class 3 and did not identify them as a permitted use in the Institutional (INS) district. The existing facility is currently operating as a legal non-conforming use.

Non-conforming uses cannot be expanded or made more non-conforming. The applicant has requested that the INS district be amended to permit Utilities – Class 3 as a permitted use. This will also enable improvements to be made at the plant in conformance with State and County requirements.

### **Companion Case RZ-019-0952**

The applicant has requested a zoning map amendment for eight parcels totaling approximately 12.31 acres in size. The properties are currently zoned LDR, MDR, and RN and the requested zoning district is INS.

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### **Outline of Text Amendment**

Chapter 2 will be amended to permit Utilities – Class 3 as a permitted use in the Institutional District. The Use Regulations and Definition chapters will also be amended. See Exhibit 2.

The following chapter(s) of the UDO have been amended or created:

*Chapter 2, District Standards:* Amend table by permitting Utilities – Class 3 as permitted use in Institutional (INS) District. Also amending INS description.

*Chapter 5, Use Regulations:* Amend chapter to add supplemental regulations for Class 3 utility facilities.

*Chapter 10, Definitions:* Add applicable definitions.

Based on staff's findings, we offer the modifications attached to the Draft Ordinance for the Board's consideration. For ease of reference, new text is referenced in red/underlined font and deletions are referenced in ~~striketrough~~ font. The proposed language is found in Exhibit 2.

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### **Findings and Conclusions**

The proposed amendment will enable the wastewater treatment plant to operate as a conforming use, which will make it possible for the LCWSD to make improvements and expansions as necessary, with applicable approvals.

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### **Planning Staff Recommendation**

Staff recommends **Approval** of the proposed changes.

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### **Exhibits**

1. Proposed Text Amendment
2. Application

### **Staff Contact**

Katie See, Senior Planner  
[ksee@lanastercountysc.net](mailto:ksee@lanastercountysc.net)  
803-285-6005

Indicates Matter Stricken

Indicates New Matter

## 10 DEFINITIONS

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<b>Institutional District (INS)</b>	This Institutional District is intended to allow for the continued and future use, expansion, and new development of academic and religious campuses, <del>and of</del> governmental and health facilities, <del>and public and private utility infrastructure</del> . The goal is to promote the many varied uses associated with such institutions while maintaining the overall design integrity of the campus setting and minimizing any adverse impacts on the neighboring residential areas. In the attempt to meet this goal numerous requirements are included, such as but not limited to buffers, landscaping, outdoor lighting, parking, signage, building height, setbacks, open space, and the like.
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J. INFRASTRUCTURE	A R	R R	R N	R U B	M H	L D R	M D R	P B	N B	G B	R B	IN S	O S P	LI	HI	M	U R	H D R	R M X	M X	IM X	RE F
Airstrip/Airport	-	-	-	-	-	-	-	-	-	-	-	P R	-	-	P R	-	-	-	-	-	-	5.1 1.1
Geothermal Energy Systems	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	5.1 1.2
Solar Energy Systems	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	5.1 1.3
Solar Farms	C U	*** *	*** *	-	-	-	-	-	-	-	-	-	-	*** *	*** *	-	-	-	-	-	-	5.1 1.4
Utilities – Class 1	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Utilities – Class 2	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Utilities – Class 3	P	P	-	-	-	-	-	-		-	-	P R	-	P	P	-	-	-	-	-	-	
Wireless Communication Facility (Concealed)	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	-	P R	P R	P R	P R	P R	P R	P R	P R	5.1 1.5
Wireless Communication Facility (Up to 60.00')	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	P R	-	P R	P R	P R	P R	P R	P R	P R	P R	5.1 1.5
Wireless Communication Facility (60.01' to 199.99')	S E	S E	S E	S E	S E	S E	S E	P R	P R	P R	P R	P R	-	P R	P R	P R	S E	S E	S E	S E	S E	5.1 1.5
Wireless Communication Facility (200' and Over)	-	-	-	-	-	-	-	-	-	-	-	-	-	S E	S E	S E	-	-	-	-	-	5.1 1.5

## **5 USE REGULATIONS**

### **5.11.6 CLASS 3 UTILITY FACILITIES [AR, RR, INS, LI, HI]**

A class 3 utility facility shall comply with the following:

- A. Buffers:** A class C buffer yard is required for class 3 utility facilities.
- B. Cutoff Lighting:** Only cutoff lighting fixtures shall be in used in all areas within 100 feet of adjacent residential property .

~~Indicates Matter Stricken~~

Indicates New Matter

## 10 DEFINITIONS

\*\*\*

**UTILITIES** Facilities or systems for the distribution of gas, electricity, steam, or water, the collection, treatment and disposal of sewage or refuse; the transmission of communications; of similar functions necessary for the provision of public services. Radio transmission facilities less than 180 feet in height for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not utilities. Utilities are divided into 3 classes:

**Class 1:** Distribution, transmission and collection lines (above and below ground) including electrical, solar panels, telephone/broadband internet, natural gas, waste water collection, and water distribution lines; pumping stations, lift stations, and telephone/broadband switching facilities (up to 200 square feet).

**Class 2:** Elevated water storage tanks; above ground natural gas facilities including regulator stations and Point of Delivery stations; package treatment plants; telephone/broadband switching facilities (over 200 square feet); substations; or other similar facilities in connection with telephone, electric, natural gas, steam, and water facilities, not including cellular communication towers.

**Class 3:** Generation, production, or treatment facilities such as power plants, water and sewage plants.

A utility facility, or expansion of such a facility, may not be found to be a public or private nuisance by reason of the operation of that facility if the utility facility:

(1) is operating pursuant to and in compliance with the requisite licenses, permits, certifications, or authorizations under the applicable federal and state environmental laws and county and municipal (if applicable) zoning and nuisance ordinances; and

(2) commenced operations before the landowner alleging the nuisance acquired, moved onto, or improved the affected property.

If a utility facility seeks to expand its operations or facility and maintain its protected status, then the utility facility may reasonably expand its operation or facilities without losing its protected status if it is in compliance with all county, municipal, state, and federal environmental codes, laws, or regulations at the time of expansion. This protected status of a utility facility, once acquired is assignable, alienable, and inheritable, provided the utility facility is operating for the same use as when it commenced operations or a reasonable expansion thereof as provided heretofore and the protected status may not be waived by the temporary cessation of operation for a period not to exceed two years or by diminishing the size of the operation.



Planning Department  
P.O. Box 1809, 101 N. Main Street, Lancaster, SC 29721  
Phone: 803.285.6005, [planning@lanastercountysc.net](mailto:planning@lanastercountysc.net)  
[www.mylanastercountysc.org](http://www.mylanastercountysc.org)

## TEXT AMENDMENT APPLICATION

### SUBMITTAL REQUIREMENTS

- Completed Application
- Signatures of Applicant
- Fees associated with Application

### GENERAL INFORMATION

UDO Section(s) Proposed to be Amended Ch 2.5, Ch 5, Ch 10

Current Text Utilities - Class 3: only permitted in AR, RR, LI & HI districts

Proposed Text Permit Utilities - Class 3 in Institutional district  
Add supplemental regulations to Ch 5 and update definition in Ch 10

Description of Need for Proposed Text Use is currently non-conforming since it  
is not listed as a permitted use in the Institutional district.

☐ Additional pages attached for more information

### CONTACT INFORMATION

Applicant Name Lancaster County Water + Sewer District - Stephen White  
Address P.O. Box 1009  
City Lancaster State SC Zip 29721 Phone 803-285-6919  
Fax 803-285-8037 Email SWhite@lcwsd.org



#### APPLICATION CERTIFICATIONS

I hereby certify that I have read this application and the information supplied herein is true and correct to the best of my knowledge. I agree to comply with all applicable County ordinances and state laws related to the use and development of the land. I further certify that I am the property owner, or his/her authorized agent, or the subject property. I understand that falsifying any information herein may result in rejection or denial of this request.

Lancaster County Water & Sewer District - Stephen White  
Applicant

10-14-19  
Date

Stephen White  
Property Owner(s)

10-14-19  
Date

Attach owner's notarized written authorization with property information if the applicant is not the owner.

#### LANCASTER COUNTY OFFICE USE ONLY

Application Number \_\_\_\_\_ Date Received \_\_\_\_\_ Receipt Number \_\_\_\_\_

Amount Paid \_\_\_\_\_ Check Number \_\_\_\_\_ Cash Amount \_\_\_\_\_

Received By \_\_\_\_\_ Planning Commission Meeting Date \_\_\_\_\_

#### SCHEDULE/PROCESS

##### 1. Submit Application

- The deadline for this application is at least 45 days prior to the Planning Commission meeting, held every third Tuesday of the month.
- Once an application is submitted, it is placed on the Planning Commission agenda for the following month.
- An application withdrawal should be made in writing and received prior to public notice in order to receive a refund.
- Text Amendment Application Fee - \$325.00

##### 2. Planning Commission

- Conducts a public hearing on the application to receive input from Lancaster County citizens, applicant, and other interested parties.
- Reviews the application to ensure it is consistent with the Lancaster County Unified Development Ordinance, Comprehensive Plan, and all adopted County plans.
- Makes a recommendation to the County Council.

##### 3. County Council

- Approves, denies, or submits application to the Planning Commission for further study.
- Action requires three readings for approval.



## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1635/ Planning Case Number: UDO-TA-019-0875

Contact Person / Sponsor: Ashley Davis/Planning

Department: Planning

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

Application of Clyde Tant to amend UDO Chapter 5.7.2 (update of Section 2.5.3 Use Table) to allow child/adult daycare centers in the Light Industrial District. This is a request to amend UDO Chapters 2.5.3, Use Table; and Chapter 5, Use Regulations. The purpose of this request is to allow child/adult daycare centers for 6 or more persons in the Light Industrial District.

### **Points to Consider:**

Currently Chapter 5.7.2 does not allow daycares in the Light Industrial zoning district. The applicant has asked that child/ adult daycare centers be added as “permitted with review” to the Light Industrial District. This text amendment would allow the ability to provide adult/child care services within close proximity to the larger businesses within the County’s business parks and other Light Industrial areas.

Currently child/adult daycare centers are permitted with review in the following zoning districts, Neighborhood Business (NB), General Business (GB), Regional Business (RB), Institutional (INS), Mixed-Use (MX), and Industrial Mixed Use (IMX).

### **Funding and Liability Factors:**

N/A

### **Council Options:**

To approve or deny the text amendment.

### **Recommendation:**

Due to the complex nature of Light Industrial Districts, Planning Staff recommends Child/Adult Daycare Centers be subject to a **Special Exception** process through the Lancaster County Board of Zoning Appeals and not permitted with review as requested by the applicant (see attached Special Exception criteria).

This would enable a site-specific examination of the use to ensure it was compatible with the surrounding area to prevent public safety related impacts. While many industrial businesses operate with relatively minimal external impacts, some may produce unhealthy sounds, lighting, vibrations, odors, gases, dust, and/or have significant large vehicle traffic that may make them incompatible with an adjacent child/adult daycare center use.

Staff also recommends adding a new finding criteria in UDO Section 9.2.13 for child/adult daycare center uses within Light Industrial districts to ensure the above noted factors are specifically taken into account in the Special Exception review. In addition to requiring a Special Exception permit, staff also recommends that any outdoor play or recreation space be screened with a solid wood or vinyl fence (min. 6-ft in height).

Planning Commission voted 4 - 3 to recommend **approval** with the additional conditions that a Special Exception Permit be required and the installation of a solid fence around the outdoor play or recreation areas. The applicant indicated their support of the modifications to the UDO amendment.

### **ATTACHMENTS:**

Description	Upload Date	Type
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Ordinance 2019-1635	12/3/2019	Ordinance
Exhibit A to Ordinance 2019-1635	12/3/2019	Exhibit
Staff Report	11/15/2019	Planning Staff Report
Exhibit 1 - Text Amendment Application	11/15/2019	Exhibit
Exhibit 2 - Proposed Text	12/2/2019	Exhibit

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STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2019- 1635

COUNTY OF LANCASTER

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**AN ORDINANCE**

**TO AMEND ORDINANCE 2016-1442, THE UNIFIED DEVELOPMENT ORDINANCE (“UDO”),  
TO ALLOW CHILD DAYCARE AND ADULT DAYCARE FACILITIES FOR SIX (6) OR  
MORE PERSONS IN THE LIGHT INDUSTRIAL DISTRICT (LI).**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings and Determinations.**

The Council finds and determines that:

- (a) Currently child/adult daycare centers are permitted with review in the following zoning districts, Neighborhood Business (NB), General Business (GB), Regional Business (RB), Institutional (INS), Mixed-use (MX), and Industrial Mixed-Use (IMX).
- (b) Enabling daycare center uses in close proximity to Lancaster County’s largest employers will provide convenience to employees of those businesses while also reducing traffic on adjacent streets.
- (c) Enabling daycare center uses within Light Industrial Districts (LI), if properly sited, might increase the competitiveness of a particular business park or industrial area.
- (d) The assure the child/adult daycare centers are appropriately sited it is necessary and desirable that daycare uses are subject to a Special Exception process to provide for site specific review to ensure compatibility.
- (e) In addition to site specific review process under a Special Exception it is necessary and desirable that daycare centers located in Light Industrial Districts provide fencing for outdoor play or recreation spaces.

**Section 2. Amendment of Ordinance 2016-1442**

Ordinance 2016-1442 (Unified Development Ordinance) Chapter 2.5 Use Table, is amended as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

Ordinance 2016-1442 (Unified Development Ordinance) Chapter 5.7, Use Regulations, is amended as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

Ordinance 2016-1442 (Unified Development Ordinance) Chapter 9.2, Review Procedures is amended as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

**Section 3. Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 4. Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 5. Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading: December 9, 2019  
Second Reading: January 13, 2020  
Public Hearing: January 13, 2020  
Third Reading: January 27, 2020

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

# EXHIBIT A

## Ordinance 2019-1635

DISTRICT STANDARDS  
2.5 USES PERMITTED

2

Lancaster County Unified Development Ordinance – Use Table

USE TYPES	RURAL					TRANSITIONAL					SPECIAL					NEIGHBORHOOD					REF	
	AR	RR	RN	RUB	MH	LDR	MDR	PB	NB	GB	RB	INS	OSP	LI	HI	M	UR	HDR	RMX	MX		IMX
E. CIVIC	AR	RR	RN	RUB	MH	LDR	MDR	PB	NB	GB	RB	INS	OSP	LI	HI	M	UR	HDR	RMX	MX	IMX	REF
Cemetery	PR	PR	PR	PR	-	PR	PR	-	PR	PR	PR	PR	-	-	-	-	PR	-	-	PR	PR	5.6.1
Conference/Convention Center	-	-	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-	-	-	P	P	
Cultural or Community Facility	-	-	-	P	-	-	-	-	P	P	P	P	-	-	-	-	-	-	-	P	P	
Event Venue/Banquet Hall	P	P	PR	PR	-	PR	PR	PR	PR	PR	PR	PR	-	-	-	-	-	-	-	PR	PR	5.6.2
Places of Assembly	PR	PR	PR	PR	CU	CU	CU	PR	PR	PR	PR	PR	-	PR	-	-	-	CU	-	CU	CU	5.6.3
Private Recreation Facilities	-	-	-	PR	-	-	-	-	PR	PR	PR	PR	-	-	-	-	-	-	-	PR	PR	5.6.4
Public Recreation Facilities	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	-	-	-	PR	PR	PR	PR	PR	5.6.5
Public Safety Station	P	P	P	P	-	-	-	P	P	P	P	P	-	P	P	-	-	-	-	P	P	
Sports Arena/Stadium (1,000 or more seats)	-	-	-	-	-	-	-	-	-	-	CU	CU	-	CU	-	-	-	-	-	-	CU	5.6.6
F. EDUCATIONAL/INSTITUTIONAL	AR	RR	RN	RUB	MH	LDR	MDR	PB	NB	GB	RB	INS	OSP	LI	HI	M	UR	HDR	RMX	MX	IMX	REF
Child/Adult Day Care Home (5 or fewer persons)	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	-	-	-	-	PR	PR	-	PR	PR	5.7.1
Child/Adult Day Care Home (6 or more persons)	-	-	-	-	-	-	-	-	PR	PR	PR	PR	-	SE	-	-	-	-	-	PR	PR	5.7.2
College/University	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	P	P	
Community Support Facility	-	-	-	PR	-	-	-	-	-	PR	PR	PR	-	-	-	-	-	-	-	-	-	
Correctional Institution	-	-	-	-	-	-	-	-	-	-	-	CU	-	SE	SE	-	-	-	-	-	-	5.7.3
Day Treatment Center	-	-	-	-	-	-	-	-	-	PR	PR	PR	-	PR	-	-	-	-	-	-	-	5.7.4
Hospital	-	-	-	-	-	-	-	-	-	-	P	P	-	P	-	-	-	-	-	-	-	5.7.5
Schools – Elementary and Secondary	PR	PR	PR	PR	-	PR	CU	CU	CU	CU	CU	PR	-	-	-	-	CU	CU	CU	CU	CU	5.7.6
Schools – Vocational/Technical	-	-	-	P	-	-	-	-	P	P	P	P	-	P	P	-	-	-	-	P	P	
Studio – Art, dance, martial arts, music	P	-	-	P	-	-	-	P	P	P	P	P	-	P	-	-	-	-	-	P	P	
G. AUTOMOTIVE	AR	RR	RN	RUB	MH	LDR	MDR	PB	NB	GB	RB	INS	OSP	LI	HI	M	UR	HDR	RMX	MX	IMX	REF
Drive-Thru/Drive-In Facility	-	-	-	PR	-	-	-	-	CU	PR	PR	-	-	PR	PR	-	-	-	-	PR	PR	5.8.1
Electric Vehicle Charging Stations	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	5.8.2
Heavy Equipment/Manufactured Home Rental/Sales/Repair	-	-	-	-	-	-	-	-	-	-	SE	-	-	PR	PR	-	-	-	-	-	-	5.8.3
Parking Lot/Structure – Principal Use	-	-	-	-	-	-	-	-	-	PR	PR	PR	-	PR	PR	-	-	-	-	PR	PR	5.8.4
Vehicle Rental/Leasing/Sales	-	-	-	PR	-	-	-	-	-	PR*	PR	-	-	-	-	-	-	-	-	CU	CU	5.8.5
Vehicle Services – Minor Maintenance/Repair	-	-	-	P	-	-	-	-	CU	CU	PR	-	-	PR	PR	-	-	-	-	CU	CU	5.8.6
Vehicle Services – Major Repair/Body Work	-	-	-	PR	-	-	-	-	-	CU	PR	***	-	PR	PR	-	-	-	-	-	-	5.8.7

P – Permitted by Right

PR – Permitted with Review

CU – Conditional Use Required

SE – Special Exception Required



- B. **Location:** Child/Adult Day Care Homes shall be permitted only in a private residence occupied by the authorized operator.
- C. **Separation Requirement:** All Child/Adult Day Care Homes shall be located at least 500 feet from another Child/Adult Day Care Home.

#### 5.7.2 CHILD/ADULT DAY CARE CENTER (6 OR MORE PERSONS) [NB, GB, RB, INS, MX, IMX, UI]

- A. **Compliance with State Requirements:** Child/Adult Day Care Centers shall meet the requirements of the South Carolina Department of Health and Human Service's "Adult Day Care and Day Health Services Standards for Certification" and/or the "Child Care Center Regulations." Such uses provide an organized program of services during the day in a community group setting. Where such uses are part of a "recreation facility" offering community recreational opportunities to a wide range of age groups or residents, the day-care center may be considered part of the "recreation facility" as provided for and regulated by this ordinance.
- B. **Passenger Loading Space:** Adequate access meeting accessibility requirements to and from the site, as well as adequate off-street space must be provided for the pickup and discharge of children and adults.
- C. **Child Day Care:** Child day care facilities shall comply with all relevant state requirements. Child day care facilities shall also comply with the following:
  - 1. **Outdoor Play Areas:** Outdoor play areas shall be provided and shall be safely segregated from parking, loading, or service areas.
  - 2. **Buffering:** A landscaped hedge or solid fence shall be provided along any rear or side property line adjoining a residential lot. The hedge or fence shall be designed and/or planted to be at least 4 feet in height at maturity.
  - 3. **Parking Area, Vehicular Circulation, and Drop-Off and Pick-Up:** The parking areas and vehicular circulation for the child day care shall be designed to:
    - a. Ensure the safety of children as they arrive at and leave the facility;
    - b. Provide a designated pickup and delivery area that is located in such a way that children do not have to cross vehicular travel ways to enter or exit the center and traffic congestion is minimized.
  - 4. **Light Industrial District:**
    - a. Will require a special exception permit.
    - b. Any outdoor play or recreation areas must be screened with a solid wood or vinyl fence.

#### 5.7.3 COMMUNITY SUPPORT FACILITY [RUB, GB, RB, INS]

Any Community Support Facility which includes facilities that provide overnight shelter shall be subject to the following additional standards.

- A. **Temporary Shelter Only:** Lodging facilities shall be limited to temporary shelter for no more than 12 individuals for a period not to exceed 90 days.
- B. **Separation Requirement:** No Community Support Facility with lodging facilities may be located within 1,320 feet (or ¼ mile) of another such use as measured by a straight line on a map unless as part of an accessory use to an existing religious institution.

#### 5.7.4 CORRECTIONAL INSTITUTION [INS, LI, HI]

- A. **Buffering:** Correctional institutions shall be buffered from adjoining property with a Type C buffer as set forth in Section 7.1.5.
- B. **County Jail Permitted in the INS District:** The only correctional institutions allowed in the

- vii. **Findings:** Findings listed above shall be submitted to the BZA, in writing, and included in the application for a variance. Additionally, comments from the Department of Natural Resources, Land, Water, and Conservation Division, State Coordinator's Office, must be taken into account and included in the permit file.

#### D. APPEALS

An appeal from the decision of the Board of Zoning Appeals regarding a variance request may be made by an aggrieved party and shall be made to the Court of Common Pleas in the nature of certiorari. Any such petition to the Court of Common Pleas shall be filed with the court no later than 30 days after the applicant receives the written copy of the decision of the Board of Zoning Appeals.

#### E. LEGAL STATUS PROVISIONS

1. **Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance:** This Ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted March 23, 2011 and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Lancaster County enacted on March 23, 2011, as amended, which are not reenacted herein, are repealed.
2. **Effect upon Outstanding Building Permits:** Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Building Official or authorized agents before the time of passage of this ordinance; provided, however, that when start of construction has not occurred under such outstanding permit within a period of 60 days subsequent to passage of this ordinance, construction or use shall be in conformity with the provisions of this ordinance.

#### 9.2.13 SPECIAL EXCEPTIONS (SE)

Special exceptions are land uses that are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special exceptions ensure the appropriateness of the use at a particular location within a given zoning district. Applications requiring a Special Exception Permit are noted in the Use Table – Section 2.5.3. Specific additional standards related to Special Exception Permit approval are located in Chapter 3.

#### A. APPLICATION PROCEDURES

1. **Process Type:** Quasi-Judicial.
2. **Pre-Application Meeting:** Every applicant for a Special Exception Permit is required to meet with the Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.
3. **Required Application Information:** An application for a Special Exception Permit may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Each application for a Special Exception Permit shall contain, at a minimum, a Site Analysis, Preliminary Plat and Building Elevations for Design Review (may be waived by Administrator as appropriate). Other information necessary to show that the



use or structure complies with the standards set forth in this ordinance shall also be provided.

4. **Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Board of Zoning Appeals.

## B. REVIEW PROCESS

1. **Public Notification:** Level 1, 2, and 3.
2. **Neighborhood Meeting:** Optional.
3. **Public Hearing:** The Board of Zoning Appeals shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
4. **Board of Zoning Appeals Decision:** Following the public hearing, the Board of Zoning Appeals may approve, deny, or approve with conditions the application for a Special Exception Permit within 35 days of the date of the public hearing.
5. **Findings of Fact:** In addition to determining that the application meets all other requirements of this ordinance (no variances are permitted), the Board of Zoning Appeals must find the following:
  - a. That the proposed special exception conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site;
  - b. That adequate measures will be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads;
  - c. That adequate utilities (water, sewer, drainage, electric, etc.) are available for the proposed use;
  - d. That the proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas;
  - e. That the establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the land development district; and
  - f. That the establishment, maintenance and/or operation of the proposed use will not be detrimental to or endanger the public health, safety or general welfare.
  - g. That the establishment will be operated in compliance with all local, state and federal laws and will not become a nuisance by creating criminal activity or public disturbance.
  - h. For properties located in the Light Industrial Zoning District and are proposed for use as a child/adult daycare center for 6 or more persons, the proposed use will not be located near uses or activities which may produce unhealthy levels of sound, lighting, vibration, odor, gas, dust, and/or have significant large vehicle traffic that may make them incompatible with an adjacent child/adult daycare center use.
6. **Additional Conditions:** The Board of Zoning Appeals may place conditions on the use as part of the approval to assure that appropriate mitigation measures are associated with the use. The conditions shall become part of the Special Exception Permit approval and shall be included in the final site plan application.
7. **Revocation of Special Use Permits:** If at any time after a Special Exception Permit has been issued for any special use, the Board of Zoning Appeals finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a



Special Exception Permit, the permit shall immediately be terminated and the operation of such a use discontinued. Any such "finding" shall be made in an open meeting of the Board in full compliance with the review process herein described, and the permit holder's right to due process shall be maintained. If a Special Exception Permit is terminated for any reason, it may be reinstated only after a public hearing is held.

#### C. EFFECT OF DECISIONS

1. **Appeals:** An appeal from the decision of the Board of Zoning Appeals regarding a Special Exception Permit application may be made by an aggrieved party and shall be made to the Circuit Court of Lancaster County in the nature of certiorari. Any such petition to the Court of Common Pleas shall be filed with the court no later than 30 days after the applicant receives the written copy of the decision of the Board of Zoning Appeals.
2. **Permit Validity:** Following the approval of a Special Exception Permit the applicant shall have 2 years to obtain a building permit or the Special Exception Permit shall become void. Such permit shall remain valid as long as a valid building permit exists for the project.
3. **Permit Extension:** The Board of Zoning Appeals may grant a single extension of this time period of up to 6 months upon submittal by the applicant of sufficient justification for the extension.

#### 9.2.14 APPEAL OF ADMINISTRATIVE DECISIONS

##### A. APPLICABILITY

This process is hereby established to provide an appeal process for parties aggrieved by any administrative order, requirement, decision or determination, made by an administrative officer charged with enforcing the provisions of this ordinance.

##### B. FILING PROCEDURES

1. **Process Type:** Quasi-Judicial.
2. **Filing Procedure:** An appeal of an administrative decision may be taken by any person aggrieved (or by their authorized agent) or may be taken by any officer, department, board or bureau of the County. Such an appeal shall be made to the County within 30 days of the receipt of the written notice of decision from the County.
3. **Stay of Proceedings:** The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order granted by the Court of Common Pleas on notice to the administrative official from whom the appeal is taken with due cause shown.
4. **Required Application Information:** All information relevant to describing the applicant's appeal to the Board of Zoning Appeals is required. The Administrator shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.
5. **Public Notification:** Level 1 and 3.

##### C. FORMAL REVIEW

1. Upon receiving the application, the Board shall conduct a public hearing on the matter. Any party may appear in person or be represented by an agent at the hearing.
2. After conducting the public hearing, the Board shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision or determination in question. It shall take a 4/5ths vote of the Board to reverse or modify the contested action.

**Proposal:** To allow child/adult daycare centers for 6 or more persons in the Light Industrial District.

**Applicable Chapter(s):** Chapter 5.7.2, Child/Adult Daycare Centers (6 or more persons)

**Applicant:** Clyde Tant, Cooper Road Properties, LLC

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### **Project Summary & Proposal**

Currently Chapter 5.7.2 does not allow daycares in the Light Industrial zoning district. The applicant has asked that child/ adult daycare centers be added as “permitted with review” to the Light Industrial District. This text amendment would allow the ability to provide adult/child care services within close proximity to the larger businesses within the County’s business parks and other Light Industrial areas.

Currently child/adult daycare centers are permitted with review in the following zoning districts, Neighborhood Business (NB), General Business (GB), Regional Business (RB), Institutional (INS), Mixed-Use (MX), and Industrial Mixed Use (IMX).

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### **Outline of Text Amendment**

The following chapters of the UDO have been amended or created:

- *Chapter 5.7.2, Child/ Adult Daycare Center (6 or more Persons)*
- *Chapter 2.5.3, Use Table*

Based on the applicant’s proposal, we offer the modifications attached to the Draft Ordinance for the Board’s consideration. For ease of reference, new text is referenced in red/underlined font and deletions are referenced in ~~striketrough~~ font. The proposed language is found in **Exhibit 2**.

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### **Findings and Conclusions**

The proposed text amendment, if modified as described below, would enable child/day care center uses to be located in close proximity to Lancaster County’s largest employers providing convenience to its citizens while also reducing traffic on adjacent streets. Enabling daycare center uses within Light Industrial areas, if properly sited, could also increase the competitiveness of a particular business park or industrial area.

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### **Planning Staff Recommendation**

Due to the complex nature of Light Industrial Districts, Planning Staff recommends Child/ Adult Daycare Centers be subject to a **Special Exception** process through the Lancaster County Board

of Zoning Appeals and not permitted with review as requested by the applicant. This would enable a site-specific examination of the use to ensure it was compatible with the surrounding area to prevent public safety related impacts. While many industrial businesses operate with relatively minimal external impacts, some may produce unhealthy sounds, lighting, vibrations, odors, gases, dust, and/or have significant large vehicle traffic that may make them incompatible with an adjacent child/adult daycare center use. The Special Exception process would provide a site-specific review to ensure compatibility (see attached Special Exception criteria). Staff also recommends adding a new finding criteria in UDO Section 9.2.13 for child/adult daycare center uses within Light Industrial districts to ensure the above noted factors are specifically taken into account in the Special Exception review.

In addition to requiring a Special Exception permit, staff also recommends that any outdoor play or recreation space be screened with a solid wood or vinyl fence (min. 6-ft in height).

If Planning Commission recommends modification of the proposed text amendment as noted above, staff will prepare formal ordinance language for Council consideration.

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#### **Exhibits**

1. Application
2. Proposed Text Amendment
3. UDO Section 9.2.13 (Special Exception Criteria)

#### **Staff Contact**

Ashley Davis, Planner

[adavis@lanastercountysc.net](mailto:adavis@lanastercountysc.net)



## TEXT AMENDMENT APPLICATION

### SUBMITTAL REQUIREMENTS

- Completed Application
- Signatures of Applicant
- Fees associated with Application

### GENERAL INFORMATION

UDO Section(s) Proposed to be Amended Section 5.7.2 (Update of Section 2.5.3 Use Table)

Current Text 5.7.2 CHILD/ADULT DAY CARE CENTER (6 OR MORE PERSONS)

[NB, GB, RB, INS, MX, IMX]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Proposed Text 5.7.2 CHILD/ADULT DAY CARE CENTER (6 OR MORE PERSONS)

[NB, GB, RB, INS, MX, IMX, LI]

\_\_\_\_\_

NOTE: ALSO REQUIRES UPDATE OF SECTION 2.5.3 USE TABLE AS PERMITTED WITH REVIEW

(PR)

\_\_\_\_\_

Description of Need for Proposed Text TO ALLOW FOR USE OF CHILD/ADULT DAY CARE

CENTERS IN THE LIGHT INDUSTRIAL (LI) DISTRICT AS PERMITTED WITH REVIEW (PR)

\_\_\_\_\_

This text amendment will allow the ability to provide child services to surrounding industries and not

require a "spot" zone that would currently be required to provide such facility

\_\_\_\_\_

☐ Additional pages attached for more information

### CONTACT INFORMATION

Applicant Name CLYDE TANT, COOPER ROAD PROPERTIES, LLC

Address 105 GRAYSON IND. PKWY.

City GRAYSON State GA Zip 30017 Phone 770 982 2600

Fax 770 982 8090 Email CTANT@TRI-SOUTH.COM

### APPLICATION CERTIFICATIONS

I hereby certify that I have read this application and the information supplied herein is true and correct to the best of my knowledge. I agree to comply with all applicable County ordinances and state laws related to the use and development of the land. I further certify that I am the property owner, or his/her authorized agent, or the subject property. I understand that falsifying any information herein may result in rejection or denial of this request.

Chen Tang  
Applicant

10/3/19  
Date

\_\_\_\_\_  
Property Owner(s)

\_\_\_\_\_  
Date

Attach owner's notarized written authorization with property information if the applicant is not the owner.

### LANCASTER COUNTY OFFICE USE ONLY

Application Number UD0-TA-019-0875 Date Received 10-4-19 Receipt Number 848582

Amount Paid \$325.00 Check Number 3135 Cash Amount —

Received By JB Planning Commission Meeting Date 11-19-19

### SCHEDULE/PROCESS

#### 1. Submit Application

- The deadline for this application is at least 45 days prior to the Planning Commission meeting, held every third Tuesday of the month.
- Once an application is submitted, it is placed on the Planning Commission agenda for the following month.
- An application withdrawal should be made in writing and received prior to public notice in order to receive a refund.
- Text Amendment Application Fee - \$325.00

#### 2. Planning Commission

- Conducts a public hearing on the application to receive input from Lancaster County citizens, applicant, and other interested parties.
- Reviews the application to ensure it is consistent with the Lancaster County Unified Development Ordinance, Comprehensive Plan, and all adopted County plans.
- Makes a recommendation to the County Council.

#### 3. County Council

- Approves, denies, or submits application to the Planning Commission for further study.
- Action requires three readings for approval.

## Springland Associates

October 3, 2019

Lancaster County  
County Administration Building  
101 N. Main Street  
Lancaster, SC 29720

Re: Text Amendment to IC Zoning Classification for an approximately 8.3 acre portion of  
Lancaster County Tax Map # 0007-00-008.01, as shown on Exhibit A hereto (the "Property")

Dear Sir or Madam:

Springland Associates, LLC ("SLA") owns the Property. SLA consents to Cooper Road Properties, LLC applying for a text amendment to the IC zoning classification applicable to the Property to add a daycare use to the list of uses permitted under the IC zoning classification ("Permitted Uses"), provided no Permitted Uses are removed or otherwise adversely affected by the proposed text amendment.

Please call with any questions (803.367.3028). Thank you.

Sincerely,

SPRINGLAND ASSOCIATES, LLC

By: 

DAVID BRATTON

State of South Carolina

County of York

The foregoing instrument was acknowledged before me this October 4, 2019, by  
David Bratton, of Springland Associates, it's Vice President

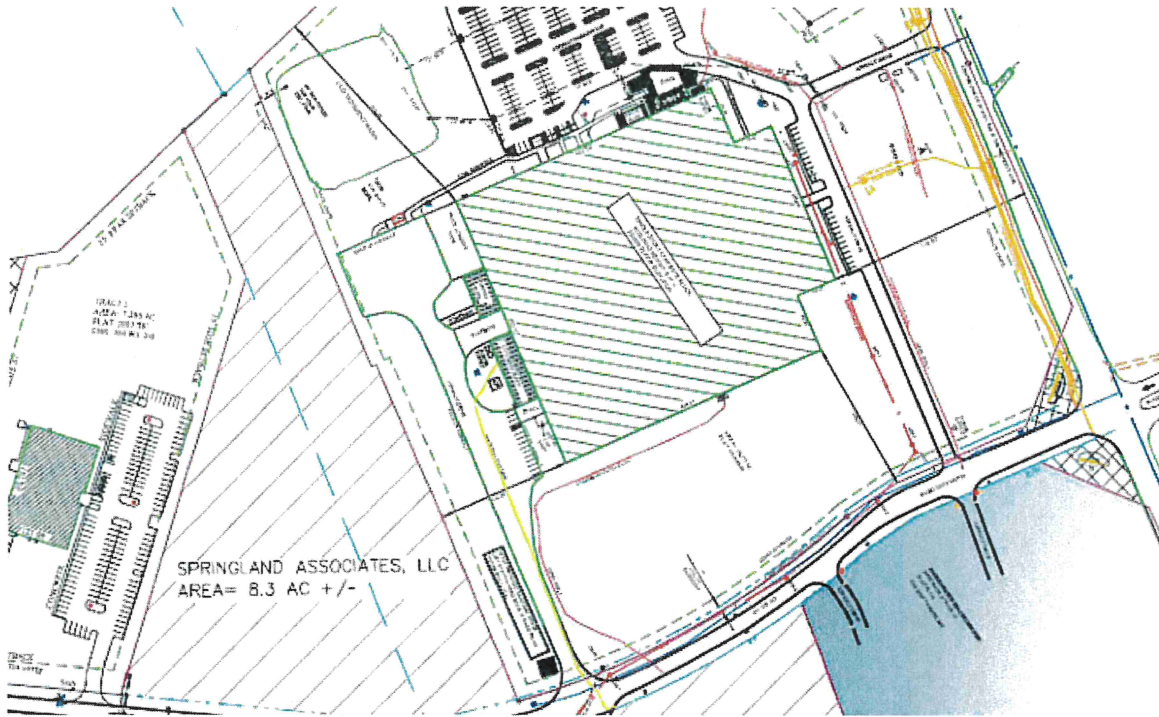
Notary Public

Signature: Marian R. McSwain

Print Name: Marian R. McSwain

My Commission Expires: 6/4/2022

EXHIBIT A





## Lancaster County Unified Development Ordinance – Use Table

	RURAL					TRANSITIONAL					SPECIAL					NEIGHBORHOOD						
USE TYPES	AR	RR	RN	RUB	MH	LDR	MDR	PB	NB	GB	RB	INS	OSP	LI	HI	M	UR	HDR	RMX	MX	IMX	REF
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Cultural or Community Facility	-	-	-	P	-	-	-	-	P	P	P	P	-	-	-	-	-	-	-	P	P	
Event Venue/Banquet Hall	P	P	PR	PR	-	PR	PR	PR	PR	PR	PR	PR	-	-	-	-	-	-	-	PR	PR	5.6.2
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Public Safety Station	P	P	P	P	-	-	-	P	P	P	P	P	-	P	P	-	-	-	-	P	P	
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Child/Adult Day Care Home (5 or fewer persons)	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	-	-	-	-	PR	PR	-	PR	PR	5.7.1
Child/Adult Day Care Home (6 or more persons)	-	-	-	-	-	-	-	-	PR	PR	PR	PR	-	SE	-	-	-	-	-	PR	PR	5.7.2
College/University	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	P	P	
Community Support Facility	-	-	-	PR	-	-	-	-	-	PR	PR	PR	-	-	-	-	-	-	-	-	-	5.7.3
Correctional Institution	-	-	-	-	-	-	-	-	-	-	-	CU	-	SE	SE	-	-	-	-	-	-	5.7.4
Day Treatment Center	-	-	-	-	-	-	-	-	-	PR	PR	PR	-	PR	-	-	-	-	-	-	-	5.7.5
Hospital	-	-	-	-	-	-	-	-	-	-	P	P	-	P	-	-	-	-	-	-	-	
Schools – Elementary and Secondary	PR	PR	PR	PR	-	PR	CU	CU	CU	CU	CU	PR	-	-	-	-	CU	CU	CU	CU	CU	5.7.6
Schools – Vocational/Technical	-	-	-	P	-	-	-	-	P	P	P	P	-	P	P	-	-	-	-	P	P	
Studio – Art, dance, martial arts, music	P	-	-	P	-	-	-	P	P	P	P	P	-	P	-	-	-	-	-	P	P	
G. AUTOMOTIVE	AR	RR	RN	RUB	MH	LDR	MDR	PB	NB	GB	RB	INS	OSP	LI	HI	M	UR	HDR	RMX	MX	IMX	REF
Drive-Thru/Drive-In Facility	-	-	-	PR	-	-	-	-	CU	PR	PR	-	-	PR	PR	-	-	-	-	PR	PR	5.8.1
Electric Vehicle Charging Stations	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	5.8.2
Heavy Equipment/Manufactured Home Rental/Sales/Repair	-	-	-	-	-	-	-	-	-	-	SE	-	-	PR	PR	-	-	-	-	-	-	5.8.3
Parking Lot/Structure – Principal Use	-	-	-	-	-	-	-	-	-	PR	PR	PR	-	PR	PR	-	-	-	-	PR	PR	5.8.4
Vehicle Rental/Leasing/Sales	-	-	-	PR	-	-	-	-	-	PR*	PR	-	-	-	-	-	-	-	-	CU	CU	5.8.5
Vehicle Services – Minor Maintenance/Repair	-	-	-	P	-	-	-	-	CU	CU	PR	-	-	PR	PR	-	-	-	-	CU	CU	5.8.6
Vehicle Services – Major Repair/Body Work	-	-	-	PR	-	-	-	-	-	CU	PR	***	-	PR	PR	-	-	-	-	-	-	5.8.7

P – Permitted by Right

PR – Permitted with Review

CU – Conditional Use Required

SE – Special Exception Required

- B. Location:** Child/Adult Day Care Homes shall be permitted only in a private residence occupied by the authorized operator.
- C. Separation Requirement:** All Child/Adult Day Care Homes shall be located at least 500 feet from another Child/Adult Day Care Home.

#### 5.7.2 CHILD/ADULT DAY CARE CENTER (6 OR MORE PERSONS) [NB, GB, RB, INS, MX, IMX, LI]

- A. Compliance with State Requirements:** Child/Adult Day Care Centers shall meet the requirements of the South Carolina Department of Health and Human Service's "Adult Day Care and Day Health Services Standards for Certification" and/or the "Child Care Center Regulations." Such uses provide an organized program of services during the day in a community group setting. Where such uses are part of a "recreation facility" offering community recreational opportunities to a wide range of age groups or residents, the day-care center may be considered part of the "recreation facility" as provided for and regulated by this ordinance.
- B. Passenger Loading Space:** Adequate access meeting accessibility requirements to and from the site, as well as adequate off-street space must be provided for the pickup and discharge of children and adults.
- C. Child Day Care:** Child day care facilities shall comply with all relevant state requirements. Child day care facilities shall also comply with the following:
  - 1. Outdoor Play Areas:** Outdoor play areas shall be provided and shall be safely segregated from parking, loading, or service areas.
  - 2. Buffering:** A landscaped hedge or solid fence shall be provided along any rear or side property line adjoining a residential lot. The hedge or fence shall be designed and/or planted to be at least 4 feet in height at maturity.
  - 3. Parking Area, Vehicular Circulation, and Drop-Off and Pick-Up:** The parking areas and vehicular circulation for the child day care shall be designed to:
    - a.** Ensure the safety of children as they arrive at and leave the facility;
    - b.** Provide a designated pickup and delivery area that is located in such a way that children do not have to cross vehicular travel ways to enter or exit the center and traffic congestion is minimized.
  - 4. Light Industrial District:**
    - a.** Will require a special exception permit.
    - b.** Any outdoor play or recreation areas must be screened with a solid wood or vinyl fence.

#### 5.7.3 COMMUNITY SUPPORT FACILITY [RUB, GB, RB, INS]

Any Community Support Facility which includes facilities that provide overnight shelter shall be subject to the following additional standards.

- A. Temporary Shelter Only:** Lodging facilities shall be limited to temporary shelter for no more than 12 individuals for a period not to exceed 90 days.
- B. Separation Requirement:** No Community Support Facility with lodging facilities may be located within 1,320 feet (or ¼ mile) of another such use as measured by a straight line on a map unless as part of an accessory use to an existing religious institution.

#### 5.7.4 CORRECTIONAL INSTITUTION [INS, LI, HI]

- A. Buffering:** Correctional institutions shall be buffered from adjoining property with a Type C buffer as set forth in Section 7.1.5.
- B. County Jail Permitted in the INS District:** The only correctional institutions allowed in the

- vii. **Findings:** Findings listed above shall be submitted to the BZA, in writing, and included in the application for a variance. Additionally, comments from the Department of Natural Resources, Land, Water, and Conservation Division, State Coordinator's Office, must be taken into account and included in the permit file.

#### D. APPEALS

An appeal from the decision of the Board of Zoning Appeals regarding a variance request may be made by an aggrieved party and shall be made to the Court of Common Pleas in the nature of certiorari. Any such petition to the Court of Common Pleas shall be filed with the court no later than 30 days after the applicant receives the written copy of the decision of the Board of Zoning Appeals.

#### E. LEGAL STATUS PROVISIONS

1. **Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance:** This Ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted March 23, 2011 and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Lancaster County enacted on March 23, 2011, as amended, which are not reenacted herein, are repealed.
2. **Effect upon Outstanding Building Permits:** Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Building Official or authorized agents before the time of passage of this ordinance; provided, however, that when start of construction has not occurred under such outstanding permit within a period of 60 days subsequent to passage of this ordinance, construction or use shall be in conformity with the provisions of this ordinance.

#### 9.2.13 SPECIAL EXCEPTIONS (SE)

Special exceptions are land uses that are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special exceptions ensure the appropriateness of the use at a particular location within a given zoning district. Applications requiring a Special Exception Permit are noted in the Use Table – Section 2.5.3. Specific additional standards related to Special Exception Permit approval are located in Chapter 3.

#### A. APPLICATION PROCEDURES

1. **Process Type:** Quasi-Judicial.
2. **Pre-Application Meeting:** Every applicant for a Special Exception Permit is required to meet with the Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.
3. **Required Application Information:** An application for a Special Exception Permit may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Each application for a Special Exception Permit shall contain, at a minimum, a Site Analysis, Preliminary Plat and Building Elevations for Design Review (may be waived by Administrator as appropriate). Other information necessary to show that the

use or structure complies with the standards set forth in this ordinance shall also be provided.

4. **Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Board of Zoning Appeals.

## B. REVIEW PROCESS

1. **Public Notification:** Level 1, 2, and 3.
2. **Neighborhood Meeting:** Optional.
3. **Public Hearing:** The Board of Zoning Appeals shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
4. **Board of Zoning Appeals Decision:** Following the public hearing, the Board of Zoning Appeals may approve, deny, or approve with conditions the application for a Special Exception Permit within 35 days of the date of the public hearing.
5. **Findings of Fact:** In addition to determining that the application meets all other requirements of this ordinance (no variances are permitted), the Board of Zoning Appeals must find the following:
  - a. That the proposed special exception conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site;
  - b. That adequate measures will be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads;
  - c. That adequate utilities (water, sewer, drainage, electric, etc.) are available for the proposed use;
  - d. That the proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas;
  - e. That the establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the land development district; and
  - f. That the establishment, maintenance and/or operation of the proposed use will not be detrimental to or endanger the public health, safety or general welfare.
  - g. That the establishment will be operated in compliance with all local, state and federal laws and will not become a nuisance by creating criminal activity or public disturbance.
  - h. For properties located in the Light Industrial Zoning District and are proposed for use as a child/adult daycare center for 6 or more persons, the proposed use will not be located near uses or activities which may produce unhealthy levels of sound, lighting, vibration, odor, gas, dust, and/or have significant large vehicle traffic that may make them incompatible with an adjacent child/adult daycare center use.
6. **Additional Conditions:** The Board of Zoning Appeals may place conditions on the use as part of the approval to assure that appropriate mitigation measures are associated with the use. The conditions shall become part of the Special Exception Permit approval and shall be included in the final site plan application.
7. **Revocation of Special Use Permits:** If at any time after a Special Exception Permit has been issued for any special use, the Board of Zoning Appeals finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a

Special Exception Permit, the permit shall immediately be terminated and the operation of such a use discontinued. Any such “finding” shall be made in an open meeting of the Board in full compliance with the review process herein described, and the permit holder’s right to due process shall be maintained. If a Special Exception Permit is terminated for any reason, it may be reinstated only after a public hearing is held.

### C. EFFECT OF DECISIONS

1. **Appeals:** An appeal from the decision of the Board of Zoning Appeals regarding a Special Exception Permit application may be made by an aggrieved party and shall be made to the Circuit Court of Lancaster County in the nature of certiorari. Any such petition to the Court of Common Pleas shall be filed with the court no later than 30 days after the applicant receives the written copy of the decision of the Board of Zoning Appeals.
2. **Permit Validity:** Following the approval of a Special Exception Permit the applicant shall have 2 years to obtain a building permit or the Special Exception Permit shall become void. Such permit shall remain valid as long as a valid building permit exists for the project.
3. **Permit Extension:** The Board of Zoning Appeals may grant a single extension of this time period of up to 6 months upon submittal by the applicant of sufficient justification for the extension.

## 9.2.14 APPEAL OF ADMINISTRATIVE DECISIONS

### A. APPLICABILITY

This process is hereby established to provide an appeal process for parties aggrieved by any administrative order, requirement, decision or determination, made by an administrative officer charged with enforcing the provisions of this ordinance.

### B. FILING PROCEDURES

1. **Process Type:** Quasi-Judicial.
2. **Filing Procedure:** An appeal of an administrative decision may be taken by any person aggrieved (or by their authorized agent) or may be taken by any officer, department, board or bureau of the County. Such an appeal shall be made to the County within 30 days of the receipt of the written notice of decision from the County.
3. **Stay of Proceedings:** The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order granted by the Court of Common Pleas on notice to the administrative official from whom the appeal is taken with due cause shown.
4. **Required Application Information:** All information relevant to describing the applicant’s appeal to the Board of Zoning Appeals is required. The Administrator shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.
5. **Public Notification:** Level 1 and 3.

### C. FORMAL REVIEW

1. Upon receiving the application, the Board shall conduct a public hearing on the matter. Any party may appear in person or be represented by an agent at the hearing.
2. After conducting the public hearing, the Board shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision or determination in question. It shall take a 4/5ths vote of the Board to reverse or modify the contested action.

## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1636/Planning Case Number: RZ-019-0952

Contact Person / Sponsor: Katie See/Planning

Department: Planning

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

Request to rezone TM# 13, Parcels 85,88,88.01,88.02,89,90,91 from Rural Neighborhood (RN) and Low Density Residential (LDR) to Institutional (INS). The properties are located near 7864 River Road, adjacent to the LCWSD wastewater treatment facility. They total approximately 9.28 acres in size.

Under the previous UDO, the property was zoned R-30P, a predominantly single-family residential district. As the result of the 2016 UDO, the property was rezoned to Institutional and as a result, became a non-conforming use. The rezoning in combination with amending the UDO to permit Utilities - Class 3, will make this a conforming use.

Companion Case: UDO-TA-019-0953

The applicant has requested an amendment to the UDO to permit Utilities – Class 3 in the Institutional (INS) District.

### **Points to Consider:**

The requested Institutional (INS) District is intended to allow for the continued and future use, expansion, and new development of academic and religious campuses and of governmental and health facilities. The goal is to promote the many varied uses associated with such institutions while maintaining the overall design integrity of the campus setting and minimizing any adverse impacts on the neighboring residential areas. In the attempt to meet this goal numerous requirements are included, such as but not limited to buffers, landscaping, outdoor lighting, parking, signage, building height, setbacks, open space, and the like.

### **Funding and Liability Factors:**

N/A

### **Council Options:**

Approve or deny the rezoning request.

### **Recommendation:**

Planning Commission voted unanimously to recommend **approval** of this rezoning request on November 19, 2019.

Staff recommends **approval** of this rezoning request.

### **ATTACHMENTS:**

Description	Upload Date	Type
Ordinance 2019-1636	12/5/2019	Ordinance
Staff Report	12/3/2019	Planning Staff Report
Ex 1: Application	11/26/2019	Exhibit
Ex 2: Zoning Map	12/3/2019	Exhibit

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STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2019-1636

COUNTY OF LANCASTER

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**AN ORDINANCE**

**TO AMEND THE OFFICIAL ZONING MAP OF LANCASTER COUNTY TO REZONE SEVEN (7) PARCELS OF REAL PROPERTY TOTALING APPROXIMATELY 9.28 ACRES IN SIZE OWNED BY LANCASTER COUNTY WATER & SEWER DISTRICT AND LOCATED AT RIVER ROAD, NEAR 7864 RIVER ROAD-LCWSD- SEWER FACILITY, LANCASTER, SOUTH CAROLINA (TMS # 0013-00-085.00; TMS # 0013-00-088.00; TMS # 0013-00-88.01; TMS NO. 0013-00-088.02; TMS # 0013-00-089.00; TMS # 0013-00-090.00; AND TMS # 0013-00-091.00) FROM LDR, LOW DENSITY RESIDENTIAL, MDR, MEDIUM DENSITY RESIDENTIAL, AND RN, RURAL NEIGHBORHOOD DISTRICT, TO INS, INSTITUTIONAL DISTRICT.**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings and Determinations.**

The Council finds and determines that:

(a) Lancaster County Water & Sewer Authority applied to rezone seven (7) parcels of real property totaling 9.28 acres of property, located at River Road, near 7864 River Road- LCWSD -Sewer Facility, Lancaster, South Carolina (TMS # 0013-00-085.00; TMS # 0013-00-088.00; TMS # 0013-00-88.01; TMS # 0013-00-088.02; TMS # 0013-00-089.00; TMS # 0013-00-090.00; AND TMS # 0013-00-091.00 from LDR, Low Density Residential, MDR, Medium Density Residential, RN, Rural Neighborhood District, to INS, Institutional District.

(b) On November 19, 2019, the Lancaster County Planning Commission held a public hearing on the proposed rezoning and, by a vote of (7-0), recommended approval of the rezoning.

(c) The Future Land Use Map identifies the properties as Neighborhood Mixed-Use, based on the *Lancaster County Comprehensive Plan 2014-2024*. Rezoning the property from LDR, Low Density Residential, MDR, Medium Density Residential, and RN, Rural Neighborhood District, to INS, Institutional District is consistent with the Neighborhood Mixed Use future land use category.

**Section 2. Rezoning.**

The Official Zoning Map is amended by changing the zoning district classifications for the various parcels from LDR, Low Density Residential, MDR, Medium Density Residential, and RN, Rural



Neighborhood District, to INS, Institutional District, for the following property as identified by tax map number or other appropriate identifier:

TMS # 0013-00-085.00; TMS # 0013-00-088.00; TMS # 0013-00-88.01; TMS NO. 0013-00-088.02; TMS # 0013-00-089.00; TMS # 0013-00-090.00; AND TMS # 0013-00-091.00 (9.28 acres, more or less)

**Section 3. Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 4. Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 5. Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**LANCASTER, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading: December 9, 2019  
Second Reading: January 13, 2020  
Public Hearing: January 13, 2020  
Public Hearing: January 27, 2020

Approved as to form:

\_\_\_\_\_  
John DuBose, County Attorney

**Proposal:** Request to rezone seven parcels totaling approximately 9.28 acres in size. The purpose of this request is to accommodate the future expansion of the facility (TM # 13, Parcels 85, (portion of) 87, 88, 88.01, 88.02, 89, 90, 91).

**Property Location:** River Road, near 7864 River Road – LCWSD Sewer Facility (TM # 0013-00-087.00)

**Current Zoning District:** Low Density Residential (LDR) and Rural Neighborhood (RN)

**Proposed Zoning District:** Institutional (INS)

**Applicant:** Lancaster County Water & Sewer District

**Council District:** District 1, Terry Graham

## Overview

### Site Information

*Site Description:* Three of the seven parcels are currently improved with single-family homes. The remaining parcels are vacant.

### Compatibility with Surrounding Area

The current zoning for the surrounding area is Low Density Residential (LDR), Medium Density Residential (MDR), Rural Neighborhood (RN) and Institutional (INS). Existing zoning for the subject property as well as surrounding properties can be seen in *Attachment 3*. The proposed zoning of INS is generally consistent with the area, as it would result in the expansion of the Institutional district for the existing LCWSD facility. See table below for adjacent property zoning and use comparison.

### Summary of Surrounding Zoning and Uses

Surrounding Property	Municipality	Zoning District	Use
North	Lancaster County	Low Density Residential (LDR); Institutional (INS)	Single-Family Residential; LCWSD Facility
South	Lancaster County	Institutional (INS)	LCWSD Facility
East	Lancaster County	Medium Density Residential (MDR); Institutional (INS)	Single-Family Residential; LCWSD Facility
West	Lancaster County	Rural Neighborhood (RN)	Single-Family Residential

Recent Rezoning in Surrounding Area			
Case #	Description	Date	Outcome
	None		

## Photos of Project Area

LOOKING DIRECTLY AT ONE PROPERTY



LOOKING DIRECTLY ACROSS RIVER ROAD



LOOKING NORTH ALONG RIVER ROAD



LOOKING SOUTH ALONG RIVER ROAD



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**Analysis & Findings**

The properties to be rezoned are currently zoned Low Density Residential (LDR) and Rural Neighborhood (RN) District. See UDO section 2.3.

*LDR is established to maintain previously developed or approved single-family residential subdivisions and their related recreational, religious, and educational facilities at a density of 1.5 dwelling units per acre. Intended to act as a transitional zoning district between rural living and urban development, these regulations are further intended to discourage any use which would be detrimental to the predominately residential nature of the areas included within the district.*

*RN is established to protect the residential character of communities and neighborhoods in the rural area at a density of 1.0 dwelling unit per acre. The district is intended to promote rural living, protect farmland, and to maintain the low density residential.*

*The requested Institutional (INS) District is intended to allow for the continued and future use, expansion, and new development of academic and religious campuses and of governmental and health facilities. The goal is to promote the many varied uses associated with such institutions while maintaining the overall design integrity of the campus setting and minimizing any adverse impacts on the neighboring residential areas. In the attempt to meet this goal numerous requirements are included, such as but not limited to buffers, landscaping, outdoor lighting, parking, signage, building height, setbacks, open space, and the like.*

**Companion Case: UDO-TA-019-0953**

The applicant has requested an amendment to the UDO to permit Utilities – Class 3 in the Institutional (INS) District. which is what the existing facility is currently zoned. Under the previous UDO, the property was zoned R-30P, a predominantly single-family residential district. As the result of the 2016 UDO, the property was rezoned to Institutional and as a result, became a non-conforming use.

### **COMPREHENSIVE PLAN CONSISTENCY & CONCLUSION**

The future land use designation of this property is the Place Type known as Neighborhood Mixed-Use, which, according to the 2024 Comprehensive Plan is synonymous to the Community Type “Walkable Neighborhood”. The Comp Plan states that this Community Type has very specific characteristics that set it apart from most other Place Types by virtue of its deliberately structured mix of dwelling types in a development context that often operates through the separation of uses, densities and/or land value. This Place Type and Community Type have their roots in the traditional character of American communities during the early part of the 20th century, and has been revived in recent decades as a relevant option for future development.

The requested Institutional District is consistent with the Neighborhood Mixed Use future land use category.

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### **Staff Recommendation**

Staff recommends **approval** of this rezoning request.

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### **Attachments**

1. Rezoning Application
2. Location Map/ Zoning Map

### **Staff Contact**

Katie See  
Senior Planner  
[ksee@lancastersc.net](mailto:ksee@lancastersc.net)  
803-416-9395





Planning Department

P.O. Box 1809, 101 N. Main Street, Lancaster, SC 29721  
Phone: 803.285.6005, [planning@lanastercountysc.net](mailto:planning@lanastercountysc.net)  
[www.mylanastersc.org](http://www.mylanastersc.org)

ZONING MAP AMENDMENT APPLICATION

SUBMITTAL REQUIREMENTS

- Completed Application
- Signatures of Applicant and Property Owner
- Deed and survey plat or boundary survey
- Fees associated with review

portion of 0013-00-084.00 (3<sup>±</sup> acre tract)  
0013-00-088.00

GENERAL INFORMATION (0013-00-085.00) (013-00-089.00) 0013-00-088.01, 0013-00-088.02

Property Address 7918 River Rd, 7826 River Rd, 0013-00-91.00, 0013-00-090.00

City Indian Land State SC Zip 29707 Tax Parcel ID

Current Zoning Current Use Wastewater Treatment Plant

Proposed Zoning Institutional Total Acres  $\pm 79$

Project Description Indian Land Wastewater Treatment Plant

Surrounding Property Description Rural, predominantly undeveloped.

CONTACT INFORMATION

Applicant Name Stephen White, Lancaster County Water & Sewer District

Address P.O. Box 1009

City Lancaster State SC Zip 29721 Phone 803-285-6919

Fax 803-285-8037 Email [SWhite@lcwarsd.org](mailto:SWhite@lcwarsd.org)

Property Owner Name Lancaster County Water & Sewer District

Address P.O. Box 1009

City Lancaster State SC Zip 29721 Phone 803-285-6919

Fax 803-285-8037 Email [SWhite@lcwarsd.org](mailto:SWhite@lcwarsd.org)

I hereby certify that I have read this application and the information supplied herein is true and correct to the best of my knowledge. I agree to comply with all applicable County ordinances and state laws related to the use and development of the land. I further certify that I am the property owner, or his/her authorized agent, or the subject property. I understand that falsifying any information herein may result in rejection or denial of this request.

Stephen White  
Applicant

Oct. 8, 2019  
Date

Lancaster County Water & Sewer District  
Property Owner(s)

Oct. 8, 2019  
Date

Attach owner's notarized written authorization with property information if the applicant is not the owner.

**LANCASTER COUNTY OFFICE USE ONLY**

Application Number RZ-019-0952 Date Received 10-8-19 Receipt Number \_\_\_\_\_

Amount Paid n/a Check Number \_\_\_\_\_ Cash Amount \_\_\_\_\_

Received By JB Planning Commission Meeting Date 11-19-19

**SCHEDULE/PROCESS 1. Submit Application**

- The deadline for this application is at least 30 days prior to the Planning Commission meeting, held every third Tuesday of the month.
- Once an application is submitted, it is placed on the Planning Commission agenda for the following month.
- An application withdrawal should be made in writing and received prior to public notice in order to receive a refund.

**2. Planning Commission**

- Conducts a public hearing on the application to receive input from Lancaster County citizens, applicant, and other interested parties.
- Reviews the application to ensure it is consistent with the Lancaster County Unified Development Ordinance, Comprehensive Plan, and all adopted County plans.
- Makes a recommendation to the County Council.

**3. County Council**

- Approves, denies, or submits application to the Planning Commission for further study.
- Action requires three readings for approval.
- Subsequent to final County Council action on rezoning, notice of action will be provided to the applicant, owner, and adjacent property owners.
- If applicant would like to request a special presentation, please notify the County Clerk @ (803) 416-9307 before 5:00pm on the first Monday of the month to make arrangements.





**RZ-019-0952**  
**LCWSD**  
**Zoning Map**





## Agenda Item Summary

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Ordinance # / Resolution #: N/A

Contact Person / Sponsor: Alison Alexander/Deputy County Administrator

Department: Administration

Date Requested to be on Agenda: 12/9/2019

**Issue for Consideration:**

This information is provided to Council as an update regarding the County's ongoing projects.

**Points to Consider:**

N/A

**Funding and Liability Factors:**

The funding and liability factors vary by project.

**Council Options:**

N/A

**Recommendation:**

N/A

**ATTACHMENTS:**

Description	Upload Date	Type
Construction Project Status Update - 2 pages	12/2/2019	Backup Material

## **Construction Project Status Update**

*December 9, 2019 County Council Meeting*

### **UNDER CONSTRUCTION**

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- **Animal Shelter**
  - On schedule, with interior work to begin in December.
- **EMS Substation 4/9 - Old Bailes Road**
  - There was a small scheduling delay due to a notation mistake on the Architectural plans. The issue was corrected and now the project is moving forward, with just a few small changes to the footing designs. Weather permitting, footings will start by the time of the Council meeting.
- **Public Library System**
  - Construction contracting is underway with Perception Builders. The January update will have an updated construction schedule. Overall construction schedule is estimated at fifteen months.
- **Barnett Building**
  - Construction is underway. Target move date of January 1, 2020 for Voter Registration and DHEC is still achievable. Plans under development for second floor space for Recreation Administration and IT staff to move in 2020.

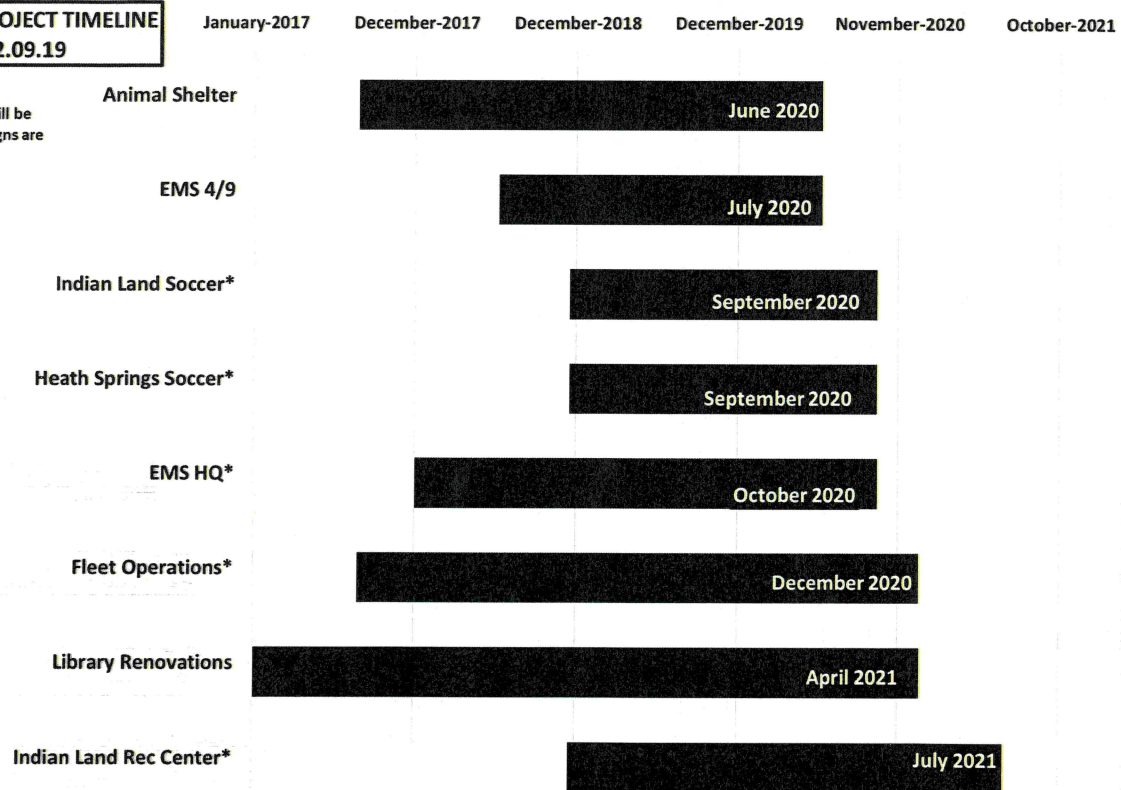
### **IN DESIGN PHASE**

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- **Fleet Maintenance Garage.**
  - Design drawings to be revised with TRC comments and sent to estimator. Staff is concurrently reviewing potential of LCWSD building for operations.
- **EMS HQ**
  - New construction estimate due by late December/early January. Will be combined with FF&E and exterior work (parking lot, fire lane, signage and landscaping) for a total project budget.
- **Soccer Fields – Heath Springs and Indian Land**
  - Woolpert selected for design. Contracting and kickoff anticipated in December/January.
- **Indian Land Recreation Center Renovations**
  - Architect firm of Craig Gaulden Davis selected in November. Contracting and kickoff anticipated in December/January.
- **Human Services Complex**
  - County received notice of grant award in November 2019. County staff to finalize the full project scope with DSS and DHHS staff. Work is anticipated to begin in FY 2021.

**ACTIVE PROJECT TIMELINE**  
12.09.19

\* items are staff estimates and will be adjusted as designs are finalized.



## Agenda Item Summary

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Ordinance # / Resolution #: N/A

Contact Person / Sponsor: Sherrie Simpson/Clerk to Council

Department: County Clerk

Date Requested to be on Agenda: 12/9/2019

**Issue for Consideration:**

Brent Funderburk has agreed to serve another term as an Alternate on the Construction Board of Appeals. If reappointed, he will be serving his 4th term and his new term will expire on 06/30/2023.

**Points to Consider:**

The application of Brent Funderburk is attached for Council's review and consideration.

**Funding and Liability Factors:**

N/A

**Council Options:**

Approve or deny the appointment.

**Recommendation:**

Approve the appointment.

**ATTACHMENTS:**

Description	Upload Date	Type
Application from Brent Funderburk as an Alternate on the Construction Board of Appeals	12/3/2019	Backup Material

LANCASTER COUNTY BOARDS & COMMISSIONS  
APPLICATION FOR SERVICE



Name Brent Funderburk County Council District \_\_\_\_\_

Mailing Address \_\_\_\_\_ City/Zip Lancaster SC

Street Address \_\_\_\_\_ Registered Voter yes ☒ no ☐

Tel. Number (home) \_\_\_\_\_ (work) \_\_\_\_\_ (other) \_\_\_\_\_

Email: brentfunderburk@yahoo.com

Occupation Electrical Contractor Place of employment Funderburk Electric Inc.

Address \_\_\_\_\_ Normal working hours 8:00A - 4:00P  
(most meetings are scheduled after 6:00 pm - lack of attendance can be reason for replacement on a commission)

Name of Board or Commission in which you are interested

1st choice Construction Board of Appeals 2nd choice \_\_\_\_\_

3rd choice \_\_\_\_\_

Reason for interest

Why do you feel you are qualified to serve on these boards? In addition, note education, areas of expertise, skills & interests. (continue on separate sheet if needed)

Do you presently serve any State, County or Municipal Boards? Yes If yes, list City of Lancaster - Electrical Board, Fire Prevention Appr.

Have you ever served on a county board? Yes If yes, list CB&A

Additional pertinent information

Applicant's signature [Signature] Date 11/26/19  
Receipt of application does not guarantee an appointment. Applicants will be notified of appointments by mail.

## Agenda Item Summary

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Ordinance # / Resolution #: N/A

Contact Person / Sponsor: Steve Willis/Administration

Department: Administration

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

We have been awarded a \$500,000 CDBG for the renovation of the DSS building.

### **Points to Consider:**

This will cover some of the costs associated with renovating the DSS building to allow for expansion of services to alleviate severe overcrowding.

Please keep in mind that the financial figures mentioned below were preliminary estimates for structural renovations to the building. We still need to work with the DSS design team to finalize plans to obtain a current cost estimate. Please don't fixate on the budget numbers.

The costs do not include non-structural improvements. A good example is the renovation of the public parking lot to meet ADA requirements. These costs will be included in a cost estimate to be obtained once plans are finalized.

We still plan to pursue co-locating the DHHS office (Medicaid) if space will allow.

### **Funding and Liability Factors:**

CDBG grant amount - \$500,000

Required local cash match - \$50,000

Preliminary cost estimates to complete structural renovations - \$506,000

These are preliminary numbers and are not all inclusive for the entire project.

### **Council Options:**

Accept or reject the grant.

### **Recommendation:**

Council has approved submitting the grant. Staff recommends acceptance and allowing staff to start the process to develop plans and cost estimates for County Council.

### **ATTACHMENTS:**

Description	Upload Date	Type
CDBG Forms	11/18/2019	Exhibit





Henry McMaster  
Governor

**SOUTH CAROLINA**  
DEPARTMENT OF COMMERCE

Robert M. Hitt III  
Secretary

November 15, 2019

Mr. Steve Willis  
Administrator, Lancaster County  
Post Office Box 1809  
Lancaster, South Carolina 29721

RE: CDBG #4-CE-19-007

Dear Mr. Willis:

Congratulations on your successful application for funding under the Community Enrichment Program. Enclosed is a copy of the grant agreement, which must be executed in order for Lancaster County to accept the Community Enrichment Grant from the Community Development Block Grant Program.

It is necessary that an official with legal authority to execute such contracts sign the three enclosed originals of the grant award (Signature Page of the Grant Agreement) and return two of these originals to this office.

All required reports are due in this office the day after the end of each federal fiscal quarter (January 2, April 1, July 1, October 1). Timely submission of reports will ensure the processing of requests for payments from your grant award. The first reporting date for your grant is April 1, 2020.

This grant award is subject to all the terms and conditions of the Grant Agreement under which this award is made. Please note that most contracts for work of any type associated with activities related to this grant award may not be entered into without first consulting this office to assure that all State and federal requirements are met. Such contracts, to be paid in whole or in part with funds from this grant, must be submitted to the Department of Commerce, Grants Administration for approval prior to execution.

Sincerely,

A handwritten signature in blue ink that reads "Lisa Kalsbeck".

Lisa Kalsbeck  
Assistant Director, Federal Programs  
Grants Administration

Enclosures

cc: Ms. Grazier Rhea  
Finance

Department of Commerce  
Grants Administration  
1201 Main Street, Suite 1600  
Columbia, South Carolina 29201

GRANT AWARD

Grantee: Lancaster County

Date of Award: November 15, 2019

Grant Title: DSS Building Renovation

Category: Community Enrichment

Grant Period: 11/2019 – 11/2021

Award Amount: \$500,000

Grant Number: 4-CE-19-007

In accordance with the provisions of Title I of the Housing and Community Development Act of 1974 (P.L. 93-383), as amended and on the basis of the grant application submitted, Grants Administration hereby awards funds to the above named Grantee, in the amount shown above, for the activities specified in the application and within the purposes and categories authorized. The acceptance of this award creates a contract between the State of South Carolina and the Grantee legally binding the Grantee to carry out the activities set forth in the approved grant application in accordance with the terms and conditions of the Grant Agreement. Contracts to be paid in whole or in part with funds from this grant must be submitted to Grants Administration for approval prior to execution. The special conditions for this grant, if any, are as follows:

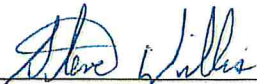
**See attached Special Condition(s) for Community Development Block Grant (CDBG) # 4-CE-19-007.**

This contract shall become effective, as of the date of award, upon return of two copies of this grant award which have been signed in the space provided below. Both copies must have original signatures and must be returned within 15 days from the date above.



Lisa Kalsbeck  
Assistant Director, Federal Programs

**ACCEPTANCE FOR THE GRANTEE:**



Signature of Official with authority to execute this contract

11-18-2019

Date

Steve Willis, County Administrator

Typed or Printed Name and Title of Authorized Official

ATTEST:

Signature of Elected ~~City~~ or County Council Member

Signature of Elected ~~City~~ or County Council Member

CFDA: 14.228

## **Community Development Block Grant (CDBG) Special Conditions**

### **Grantee: Lancaster County - Grant #4-CE-19-007**

- 1) Documentation of unduplicated beneficiaries and associated income documentation must be obtained for one year after opening. Beneficiaries must be reported quarterly to Grants Administration on the Q-1 Form. If the facility does not serve at least 51% LMI, the CDBG funds expended on the project must be repaid to Grants Administration.
- 2) The Grantee will comply with the following: A) Any proposed changes in the use of the building or the disposition of the property, within five (5) years of grant close-out, must meet all CDBG "change of use" requirements and have prior written approval from Grants Administration; B) If the use of the building changes to a CDBG ineligible activity, within five (5) years of grant close-out, the Grantee will be required to repay to the State an amount equal to all CDBG funds expended by the Grantee for this project.
- 3) The Grantee must certify that all improvements meet any applicable federal and state requirements prior to grant closeout.
- 4) A technical assistance visit must be conducted with the grant administrator, local government officials, and subrecipient (if applicable) within 120 days of grant award.
- 5) The CDBG Program Start-up Checklist must be completed and submitted to Grants Administration within 120 days.
- 6) The project must be substantially underway within 6 months of grant award. The Grantee must take appropriate administrative actions to implement the project in a timely manner to insure that the project is programmatically closed within 24 months of grant award. Failure to begin the project or implement it in a timely manner may result in grant termination.
- 7) The Grantee must take appropriate actions to ensure that the local matching funds are documented as expended prior to or prorata with the drawdown of CDBG funds, unless otherwise approved by Grants Administration. CDBG funds may be held if all of the match cannot be documented prior to the final 10% of CDBG funds being drawn.
- 8) Cost savings should be prorated among the funding sources, unless otherwise approved. Cost overruns will be a local responsibility.
- 9) Grants Administration recommends sending the CDBG administrator, rehabilitation inspector or other appropriate personnel to CDBG Implementation and Compliance training sponsored by Grants Administration.

Unless otherwise specified, the Grantee must submit all required information set forth above to Grants Administration within 120 days of grant award.

## Agenda Item Summary

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Ordinance # / Resolution #: Ordinance 2019-1613 - Recommitted to Planning

Contact Person / Sponsor: Katie See/Planning

Department: Planning

Date Requested to be on Agenda: 12/9/2019

### **Issue for Consideration:**

Request to rezone TM # 0008-00-085.00 from Low Density Residential (LDR) to General Business (GB) District. The property is located at 9330 Charlotte Highway and is approximately three acres in size.

County Council has approved two rezoning requests within the vicinity of this project from LDR to GB within the last six months.

### **Points to Consider:**

The requested General Business (GB) District is generally located on thoroughfares and provides opportunities for the provision of offices, services, and retail goods in proximity to generally auto-dependent, community neighborhoods. The regulations for this district are intended to accommodate the predominantly auto-oriented pattern of existing development while encouraging the transition to pedestrian-friendly, mixed-use areas that avoid strip commercial development.

The requested General Business District is consistent with the Neighborhood Mixed-Uses future land use category.

### **Funding and Liability Factors:**

N/A

### **Council Options:**

Approve or deny the rezoning request.

### **Recommendation:**

Planning Staff recommends approval of this rezoning request.

The Planning Commission voted 5-1 on September 17, 2019 to recommend **denial** of the rezoning request. Two members of the public signed up to speak against the request.

Planning Commission concerns centered on the potential impacts the rezoning would have on the Thousand Oaks neighborhood.