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COUNTY ADMINISTRATOR

SARAH W. BROCK  
CLERK TO COUNCIL

AGENDA  
NATURAL RESOURCES COMMITTEE

Monday, August 19, 2019

2:00 p.m.

(or immediately following the Community Services Committee Meeting)  
Executive Conference Room, Administration Building  
Beaufort County Government Robert Smalls Complex  
100 Ribaut Road, Beaufort

Committee Members:  
Alice Howard, Chairman  
Gerald Dawson, Vice Chairman  
Michael Covert  
York Glover  
Chris Hervochon

Staff Support:  
Eric Greenway, Community Development  
Director  
Ebony Sanders, Assessor  
Eric Larson, Division Director Environmental  
Engineering  
Dan Morgan, Mapping & Applications  
Director

1. **CALL TO ORDER – 2:00 p.m.**

2. **PLEDGE OF ALLEGIANCE**

3. **INTRODUCTIONS**

*[Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act]*

4. **APPROVAL OF AGENDA**

5. **APPROVAL OF MINUTES** (backup)

- A. May 20, 2019
- B. June 17, 2019

6. **CITIZEN COMMENTS** (Comments regarding agenda items only)

7. **DISCUSSION / Lowcountry Stormwater Model Ordinance and Design Manual Contract Extension** - Daniel Rybak, Assistant Stormwater Manager (backup)

8. **DISCUSSION / A resolution implementing a Regional Housing Trust Fund** - Eric Greenway, Community Development Director (backup)

9. **DISCUSSION / Project Management, Landscape Installation & Maintenance Services for the Highway 17 Medians & Traffic Circle at Gardens Corner** - Eric Greenway, Director Community Development Department and Nancy R. Moss, Community Development Planner (backup)



10. **DISCUSSION / Rural and Critical Lands Program and Board Ordinances** - *Eric Greenway, Community Development Director (backup)*
11. **DISCUSSION / Consideration to place covenants and restrictions on the fee simple acquisition, 75 Confederate Avenue** - *Eric Greenway, Community Development Director (backup)*
12. **DISCUSSION / River Oaks** - *Eric Greenway, Community Development Director (backup)*
13. **EXECUTIVE SESSION**
  - A. Receipt of legal advice regarding development agreement amendment for River Oaks / *Thomas J. Keaveny II, Beaufort County Attorney*
  - B. Discussion of proposed purchase of properties and issues incident thereto (properties 2019 E, 2019 F & 2019 G) / *Eric Greenway, Community Development Director*
14. **CONSIDERATION OF APPOINTMENTS AND REAPPOINTMENTS** (backup)
  - A. Rural and Critical Lands Preservation Board / (1) Vacancy (*Dist. 8*)
  - B. Southern Beaufort County Corridor Beautification Board / (3) Vacancies (*Town of Bluffton appointment, Dist. 8 and Dist. 5*)
  - C. Planning Commission / Harold L. Mitchell
  - D. Zoning Board of Appeals / Reappointment of Kevin Mack
15. **ADJOURNMENT**



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## BEAUFORT COUNTY COUNCIL

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### Agenda Item Summary

**Item Title:**

Approval of Minutes

**Council Committee:**

Natural Resources Committee

**Meeting Date:**

August 12, 2019

**Committee Presenter (Name and Title):**

**Issues for Consideration:**

May 20, 2019  
June 17, 2019

**Points to Consider:**

**Funding & Liability Factors:**

None.

**Council Options:**

Approve, Modify or Reject

**Recommendation:**

Approve

**MINUTES  
NATURAL RESOURCES COMMITTEE**

**May 20, 2019**

Executive Conference Room, Administration Building,  
Beaufort County Government Robert Smalls Complex,  
100 Ribaut Road, Beaufort, South Carolina 29902

The electronic and print media was duly notified in  
accordance with the State Freedom of Information Act.

**ATTENDANCE**

**Present:** Committee Chairwoman Alice Howard, Committee Vice Chairman Gerald Dawson, and members Michael Covert, York Glover, Chris Hervocho

**Ex-officio:** Stewart Rodman, Paul Sommerville and Brian Flewelling (Non-committee members of Council serve as *ex-officio* members and are entitled to vote.)

**Staff:** Eric Greenway, Community Development Director; Eric Larson, Manager Stormwater Utility; Brittany Ward, Beaufort County; Robert Merchant, Community Development Deputy Director; Stefanie Nagid, Passive Parks Manager; Amanda Flake, Beaufort County Community Development; Barbara Holmes, Director of Land Protection, Beaufort County Open Land Trust; Michael Matthews, Chairman of Rural and Critical Lands Board; Kristin Williams, Executive Director, Beaufort County Open Land Trust; Alex Shuford, Beaufort County Open Land Trust, Ashley M. Jacobs, Beaufort County Administrator

**Media:** Joe Croley, Lowcountry Inside Track and Joe Iaco, WTOC-TV

**CALL TO ORDER**

Councilwoman Howard called the meeting to order at 2:40 p.m.

**APPROVAL OF AGENDA**

It was moved by Councilman Rodman, seconded by Councilman Glover to approve the agenda. The vote: YAYS – Councilman Rodman, Councilman Glover, Councilman Sommerville, Councilman Flewelling, Councilwoman Howard, Councilman Dawson, Councilman Covert and Councilman Hervocho. The motion passed.

**APPROVAL OF MINUTES**

It was moved by Councilman Glover, seconded by Councilman Dawson to approve the meeting minutes from February 18, 2019. The vote: YAYS – Councilman Rodman, Councilman Glover,

Councilman Flewelling, Councilwoman Howard, Councilman Dawson, Councilman Sommerville and Councilman Hervochoon. Councilman Covert did not vote. The motion passed.

It was moved by Councilman Dawson, seconded by Councilman Glover to approve meeting minutes from March 18, 2019. The vote: YAYS – Councilman Rodman, Councilman Glover, Councilman Flewelling, Councilwoman Howard, Councilman Dawson, Councilman Sommerville and Councilman Hervochoon. Councilman Covert did not vote. The motion passed.

### **CITIZEN COMMENTS**

Michael Matthews, Chairman of Rural and Critical (R&C) Lands Board, stated the R&C Board concerns regarding agenda item 11 (Resolution to Adopt Land Acquisition Procedures). Highlights of these concerns are:

- The R&C Board has not been provided with any opportunity to inform County administration about concerns.
- As County administration and Council take actions to adopt the interim land acquisition procedures, this action continues to conflict with resolution of 2006-3.
- Stakeholders have advocated the resolution of 2006-3 to be revised and updated which would encompass reviews of the ordinances
- The ordinances were included because prior to Mr. Weaver’s departure, communications to Mr. Matthews as a board chairman as well as others, indicated that there were significant problems involved in the ordinances themselves as well as with the resolution.
- From the April 3, 2019 communication, Mr. Weaver stated, “There remain outstanding issues with the legal documentation involving the relationship between R&C Board and Beaufort County. Because the R&C Board is an advisory board of the County Council, these issues can be addressed and resolved over the coming months through the creation and revision of documents by the County Attorney following discussions and input from Council and the R&C Board.”
- On behalf of the Board, Mr. Matthews urged County Council to address the issues identified in a more comprehensive and prioritized manner.

### **INFORMATION ITEMS**

Councilman Flewelling recused himself from the discussions regarding the Short Term Rental Amendment.

**Item: Short Term Rental Amendment** – Eric Greenway, Community Development Director

**Discussion:** Mr. Greenway stated this is just an update in order to continue the amendment process. Highlights of the update are:

- In 2018, Community Development presented a short-term rental amendment to the committee and Council defining the short-term rental process and regulations .
- Since there have been problems with the neighborhoods in which there are short-term rental and residential situations the legal counsel decided to develop a process.

- The original amendment was based on the amendment from Charleston County that was adopted which established two definitions: a limited and extended home short-term rental process.
- After the Natural Resources Committee (NRC) heard it and the Council considered it, they remanded it back and the NRC decided to appoint a citizens committee. Some of the concerns needed to address the specific needs and characteristics of the county.
- Along with the six citizens there was three staff members that were support and advisors to the committee: Community Development Director, Mr. Greenway, County Auditor, Jim Beckert, and County Business License Coordinator, Edra Stephens.
- The committee recommended to proceed with the amendment on short-term rentals. The committee put forth one definition that does not specify a time frame. Under the amendment, rentals would be approved through the special use process. The Zoning Board of Appeals will have a public hearing for approval. The committee recommended to the NRC that the zoning board of appeals establish those procedures.
- There was some language from the original amendment, that mentioned the number of days was changed which stated if a home was rented over a certain period of time, it could be assessed at 6% instead 4%.
- There was clarification of the process about when, if the amendment is adopted, people would have to apply and comply with the short term rentals for the first time.

Councilman Sommerville asked could anyone in unincorporated Beaufort County have a short-term rental for an unlimited period of time unless they go to the Zoning Board of Appeals and present reasons why the unlimited number should be shortened.

Mr. Greenway stated yes, short term rentals have to go through the special terms use process, which would always require a public hearing. If a neighborhood indicated they did not want a property rented for more than 6 months a year for any reasons, the Zoning Board of Appeals would have that right to establish a limit on the number of days.

Councilman Sommerville asked if that precedes having it used as a short-term rental or after the fact.

Mr. Greenway answered that it precedes it.

Councilman Sommerville stated that no one could use their home as a short-term rental without first having gone to the Zoning Board of Appeals and then having a public hearing.

Councilwoman Howard stated that no one would be grandfathered.

Mr. Greenway stated that he does not believe that anyone is grandfathered because he does not believe that short-term rentals are legal underneath the current zoning ordinance. That anyone operating a short-term rental in unincorporated Beaufort County is doing it inappropriately and illegally.

Councilman Sommerville asked if a person has 4% on a house, can they rent it out for a full year, assuming it passed the Zoning Board of Appeals and was approved by the neighborhood, and still be at 4%.

Mr. Greenway answered if it is rented out more than 72 days a year, they go to 6%.

Mr. Greenway stated there are some separate requirements that have to be amended for the business license process. Currently the business license for short-term rentals does not apply unless you have two rental properties within Beaufort County.

If you only have one property a business license was not necessary. This needs to be changed in the amendment before the formalized process. There are also some personal property taxes that the County Auditor's office collects if they go over a certain number of rental days.

Councilwoman Howard asked if this means equipment and household furnishings.

Mr. Greenway answered that furniture and fixtures are currently and would potentially be taxable under personal property. It would give the Auditor, Community Development and Business License departments a clearly defined process for tracking, enforcing and collecting the appropriate revenue for someone to operate a short-term rental.

Councilman Sommerville asked what would be the process if someone comes to one of the council members and said I want to start a short-term rental? Do they go to Community Development Department and get a form to fill out which asks for a hearing before the Zoning Board of Appeals.

Mr. Greenway confirmed yes and apply for an annual permit.

Councilman Sommerville asked who will give the public notice.

Mr. Greenway stated that Community Development Department would put up appropriate notifications.

Councilwoman Howard asked what the next step is.

Mr. Greenway answered that staff and business license department will coordinate all the ordinance changes together and will take the amendment to the Planning Commission to make appropriate recommendations. Then it will refer back to NRC and have legal counsel review it.

Councilman Glover stated would this address the concerns of the residents from Bluffton that came in a year ago to complain to NRC about short-term rentals.

Mr. Greenway answered that he believed it did address them at this time.

**Status:** For information only.

Councilman Flewelling returned to the room for the discussion of New Riverside Master Plan.

**Item: New Riverside Master Plan – Stefanie Nagid, Passive Parks Manager**

**Discussion:** Ms. Nagid stated that New Riverside Regional Park was a project that had been put out to bid as a conceptual plan when she was hired. It sat for a while, but then went through the scoring and ranking of the bidders and ultimately, Wooden Partners was selected to draft the conceptual plan.

They have had a couple of stakeholder workshops, talked to a several groups, answered online Facebook questions, and put some FAQs on the website. She stated both of these properties are within Bluffton town limits and have to go through the town's permitting process.

The larger New Riverside property is under a PUD agreement and will have to go through the initial Master Plan Permitting Process through the town as well. Garvey Hall property is not in the PUD, so it would go through the normal permitting process through the town.

Ms. Nagid presented the master plan with the NRC. Highlights of the phases are:

- Phase 1 is to get public access onto the properties including creating a new road from New Riverside Drive down to legal access. Three other developers will also be using that road, so the County will work with these developers to try to offset and share costs.
- Phase 2 is adding items such as a picnic pavilion, boardwalks over the wetland, and observation platforms for wildlife viewing.
- Phase 3 is the addition of campsites. People are asking about the availability however there was a concern regarding homeless setting up tents and living there permanently.

Councilman Glover asked if this plan was talking about a land swap.

Ms. Nagid stated that originally, they were, however the committee decided against the revised deal due to the WalCam Group taking the timber harvest off the table. If they put the timber harvest back on the table, then County could come back to it.

Councilman Hervochoch asked what the estimated total cost of the road was.

Ms. Nagid answered they were still working on estimated costs.

Councilman Hervochoch asked how long the road was.

Ms. Nagid answered the amount was just presented on a report last Thursday and she does not remember at this moment.

Councilman Flewelling asked if work was moving forward on just Phase 1 in two locations.

Ms. Nagid confirmed and stated that the town of Bluffton has one piece between New River and Garvey Hall that is separated by the highway and they are planning to use it as a park.



Councilman Flewelling asked why it was necessary to build a road when Bluffton was planning to build a park with hiking trail access.

Ms. Nagid stated the need was due to maneuverability. It is a very long distance to get from existing parking then walking to the Linear Trail and back. The trails are earthen so only a mountain bike would work.

Councilman Flewelling asked if there was a friends group in place.

Ms. Nagid stated she didn't think so. She has made suggestions to those residents living adjacent to the properties.

Councilman Flewelling asked when Ms. Nagid thought the County was going to start Phase 1.

Ms. Nagid said it would not be by next spring due to permitting and it also depended on how many revisions needed to be made to the map. Ms. Nagid stated she does not anticipate any bids to be ready until at least fall 2020 or spring 2021.

Councilwoman Howard asked what is being submitted to the town of Bluffton.

Ms. Nagid answered the map shown.

Councilman Flewelling stated he thought the concerns regarding too much camping was justified in order to not be in competition with private camping locations.

**Status:** For information only.

### **ACTION ITEMS**

**Item:** **Ford Shell Ring Archaeology Research Proposal** – Stefanie Nagid, Passive Parks Manager

**Discussion:** Ms. Nagid stated this proposal came from Matt Sanger who has done several archaeological digs on Hilton Head. Mr. Sanger went to the town first, who informed him he would also have to go to County as it was co-owned land. This is a multi-year grant to do renovations for not only sifting, but also large excavation to take artifacts back for additional analysis for a period of up to 10 years. Councilwoman Howard previously asked if human remains were found how they would be handled and how long would they have the artifacts before returning them to us. Mr. Sanger replied 10 years is the standard length of time to process and analyze the materials and negotiate the materials to a local university, society, or museum. The County would have a say in where the artifacts would be housed if human remains were found.

Councilwoman Howard asked if a motion was needed to proceed.

Ms. Nagid confirmed that a motion was needed.

Councilwoman Howard asked if it would go before council.

Ms. Nagid said that it was not stated as a resolution due to no money being involved and that Mr. Sanger wanted to start excavation in June.

**Motion:** It was moved by Councilman Hervochon, seconded by Councilman Glover that the Committee approve The Ford Shell Ring Archaeology Research Proposal. The vote: YAYS – Councilwoman Howard, Councilman Hervochon, Councilman Covert, Councilman Glover, Councilman Flewelling, Councilman Sommerville, Councilman Rodman and Councilman Dawson. The motion passed.

**Item:** A Resolution to Reserve Funding for Public Access and Passive Recreation Projects on Rural and Critical Land Preservation Program Passive Park Properties – Stefanie Nagid, Passive Parks Manager

**Discussion:** Ms. Nagid stated that this proposal was a follow up to a resolution that was approved on April 22<sup>nd</sup> by Council. The funding from this resolution would go towards:

- Crystal Lake Park (Construction) \$560,000
- Widgeon Point Preserve (Construction) \$1,000,000
- Fort Fremont Preserve (Safety/Security) \$750,000
- Fort Frederick Park (Design/Build) \$500,000
- Whitehall Park (Planning) \$100,000
  - Total: \$2,910,000
  
- Crystal Lake Park bids came in under bid and these were not to exceed amounts listed.

Councilman Flewelling asked what improvements are out for bid for Crystal Lake Park.

Ms. Nagid answered that it was in Phase 3 with the final construction of the trail around the lake with half of the boardwalk through the wetlands and the other half earthen eventually connecting to the existing pier.

Councilman Flewelling asked what the engineering estimate was.

Ms. Nagid answered \$500,000. The first bids that went out came back with some errors, so they re-bid and were out for selection. Widgeon Point Preserve construction bid was due today. The bid consisted of an entrance road, signage, parking lot, full ADA trail to the barn, nature trail, new bridge, picnic pavilion, bird blind, restroom facility, and water fountain estimated at \$1,000,000.

Councilwoman Howard asked if the bid was in tiers by item so if there wasn't enough money some items could be done or is it an all or nothing situation.

Ms. Nagid answered that the bridge was the only alternate item. The Fort Fremont Preserve was under contract for the interpretive center, picnic pavilion, and some ADA trail work. Other items

needed at that park were improving the entrance at the road base, the parking, railing and fencing, and blocking windows and doors with a look to fit the period.

Councilman Glover asked if security cameras were needed.

Ms. Nagid answered that she believed the interpretive center came with a security camera. The Fort Frederick Park would have funds for the picnic pavilion, pedestrian pathways, access and entry point for non-trailer parking for cars, and observation/crabbing platform. Whitehall Park needed planning for bidding with the Friends of Whitehall Park, Open Land Trust, and the City of Beaufort.

Ms. Nagid clarified Councilman Glover's prior concerns regarding maintenance and revenue generation.

- Crystal Lake Park – Facilities Management Department
- Widgeon Point Preserve – Facilities Management and BCOLT (JOA)
- Fort Fremont Preserve – Facilities Management and Friends of Ft. Fremont (MOU)
- Fort Frederick Park – Engineering/Facilities Management, SC DNR, Town of Port Royal (MOU)
- Whitehall Park – City of Beaufort and Friends of Whitehall Park (MOU)
  
- Revenue adopted February 2019:
  - Conference Rooms (Crystal Lake, Fort Fremont) - \$50-\$100/instance
  - Pavilions (Fort Fremont, Widgeon Point, Fort Frederick) - \$100/instance
  - Event Venue Opportunity (all 5 properties) - \$500-\$1,000/instance
  - Office/Housing Lease Agreements (current) - \$28,212/year
    - These will be reviewed and come to public meeting in June.
    - Recommendation for lease amendments to current market value to be discussed at future Committee meeting.

1. Staff Recommendation:

- Approve the reservation of an amount not to exceed \$2,145,000 (10.7%) from 2014 Land Preservation Bond funds and an amount not to exceed \$765,000 (3.1%) from 2018 Land Preservation Bond funds for the implementation of public access and passive recreation projects as described.

Councilman Flewelling asked if there were any reserve funds or donations to the program that came to the quid pro quo that were available for these projects or were they already being used.

Ms. Nagid answered that those funds—about 90%--were already being used for other projects, mainly the New River project.

Councilman Rodman stated that he viewed this as the department's way of saying these are the projects we want to work on and will come back to Council for final approval--but at this time it was to bring everyone up to date on all the projects' status.

Ms. Nagid confirmed Councilman Rodman thoughts and stated that the resolution has already been approved by Legal Counsel and was going to County Council.

**Motion:** It was moved by Councilman Hervochoon, seconded by Councilman Glover that the Committee recommend Council approve a resolution to Reserve Funding for Public Access and Passive Recreation Projects on Rural and Critical Land Preservation Program Passive Park Properties. The vote: YAYS – Councilwoman Howard, Councilman Hervochoon, Councilman Covert, Councilman Glover, Councilman Flewelling, Councilman Sommerville, Councilman Rodman and Councilman Dawson. The motion passed.

**Recommendation:** Council approved a resolution to Reserve Funding for Public Access and Passive Recreation Projects on Rural and Critical Land Preservation Program Passive Park Properties.

**Item:** **Northern Beaufort County Map Amendment** (changing the zoning of the property from C3-NMU to C5-RCMU) – Robert Merchant, AICP, Assistant Community Development Director

**Discussion:** Mr. Merchant stated the Community Development Department received a request for a zoning amendment for 10.69 acres at Northern Beaufort County at 126 Broad River Blvd. The owner of the property would like to have the property rezoned from suburban to regional commercial to develop multi-family housing in order to have over 80 units. The owner was also interested in affordable housing. The City of Beaufort had no reservations and Metro Planning Commission supported the change unanimously. The Planning Commission brought up the possibility of amendments to C3 for affordable housing density bonuses.

Councilwoman Howard asked if the city would like to annex this property or not.

Mr. Merchant answered the inter-governmental agreement between the City of Beaufort, Town of Port Royal and Beaufort County said that if a property is up-zoned, we give the municipality the right of first refusal for annexation. There were 2-3 property owners they would have to work with and the city had been notified and to work with their staff to make sure that they were ok with it.

Councilwoman Howard asked if the owner was willing to do deed restrictions.

Mr. Greenway stated that the ordinance for the C5 requires that if they are going to go with the non-density bonus that they have to commit to Affordable Housing and there are two options for deeds restricting those affordable units: do less units for 30 years or more years for 25 years.

Councilman Glover asked what was the maximum number of units that could go on this property if it was changed to C5.

Mr. Merchant said that only about the front five acres are developable due to the slope in the back of the property and the wetlands. At 10.69 acres at 15 dwelling units per acre, plus store water and parking it would probably restrict it to around 120 units even with the Affordable Housing density bonuses.

**Motion:** It was moved by Councilman Dawson, seconded by Councilman Sommerville that Committee recommend Council approve the Northern Beaufort County Map Amendment. The vote: YAYS – Councilwoman Howard, Councilman Covert, Councilman Flewelling, Councilman Sommerville, Councilman Rodman, and Councilman Dawson. NAYS – Councilman Hervochoch and Councilman Glover. The motion passed.

**Recommendation:** Council approved Northern Beaufort County Map Amendment.

**Item:** Resolution to Adopt Land Acquisition Procedures – Eric Greenway, Director Community Development

**Discussion:** Mr. Greenway stated that he was going to ask the Chairman and the Director at Open Land Trust to come up and speak, giving staff and everyone an opportunity to come up with unified recommendations and specify the procedures. If they couldn't come up with recommendations, it gave the R&C Board several opportunities to look at properties and evaluate them before they had to vote. It gave NRC several opportunities to review a property before taking final action and recommending acquisition. Community Development realized that this was just a stop gap measure, the staff had plans to work with Open Land Trust, County Administration, County Council, and the board. In 2006, by recommendation of the contractor, the ordinance that regulated the R&C program was repealed and only operated by the 2006 resolution currently. Staff wanted change and was working on amendments that would put the operations of the board back into ordinance form. Currently, it is only the ordinance that governed the appointment and operations of the board, not the actual program. Administrator Jacobs has evaluated the procedures and authorized Community Development to bring this resolution today to support the acquisition procedures as developed.

Mr. Shuford stated the R&C program in Beaufort County was unique, being included in the Land Trust Alliance, attended by 700-800 Land Trusts across the country and 3,500-4,000 attendees yearly where Beaufort County has been mentioned. Kristin Williams, Mr. Shuford met with John Weaver and Community Development staff and worked out details to everyone's benefit. Mr. Shuford stated they realize some tweaks were needed, but overall, they were pleased with it. They support its adoption.

Councilman Flewelling stated his biggest hurdle was the NRC having any input before the final decision of the R&C Board. R&C Board is made up of elected people and they should have complete comfort knowing how much County Council trusted them and their decisions. If the R&C Lands Board gives their approval, it's sufficient.

Councilwoman Howard stated the preliminary due diligence system was not sufficient and thought after R&C Land Board gave their recommendation to the NRC, they could authorize the funds for due diligence, money could be spent on it or walk away rather than be cursorily.

Councilman Flewelling stated he disagreed with how this was done and refused to vote until it was removed.

Councilman Rodman asked what would be gained or lost by not waiting for the ordinance.

Mr. Greenway said right now there were some incidence in the past with communication between staff and the contractor that were solved but if the problems happens in the future we have no basis to hold either side accountable.

Councilwoman Howard asked if administration had any input.

Administrator Jacobs stated she was unaware that the Passive Parks Manager was previously removed and had been re-added. There is a process that is not really guided and she is looking for something to guide the process until the ordinance is passed. It could be taken case by case if it was not ready to go through now.

Councilman Covert stated he was ready to carry over the vote until June with recommendation for further discussion.

Councilman Dawson stated if they were going to do the ordinance, resolution was not needed.

Mr. Greenway stated that they do not have procedures that guided the process and they are working from the 2006 resolution because of a lot of vagueness and questions.

Councilman Dawson asked if the resolution was not moved forward today, would the resolution and ordinance be moved forward together.

Mr. Greenway stated that if they decided not to do the resolution, they would try to incorporate the ordinance to bring the NRC through the formal ordinance amendment process.

Councilman Glover stated he did not want to go through each part and say it was fine if it weaken the R&C Land board.

Mr. Greenway said that staff and County administration agreed. That they were trying to build the R&C Land board to analyze and evaluate millions of dollars. They would go back and address these concerns and come back with an appropriate recommendation to the NRC.

Councilwoman Howard stated she did not think they had got all the information in the past to make their decisions. If they had to spend money it was well spent to ensure the best result and by delaying this they can incorporate all of what they need into the ordinance. This would give the R&C the time they needed to make recommendation.

Councilman Flewelling stated they could put the responsibility of doing due diligence on the R&C board. If it was money that the NRC was concerned about, they could: give the R&C board the budget through the Community Development authorization up to a certain amount, or require the seller to provide the funds.

**Motion:** It was moved by Councilman Covert, seconded by Councilman Hervochon to carry over until June. The vote: Councilwoman Howard, Councilman Hervochon, Councilman Covert,

Councilman Glover, Councilman Flewelling, Councilman Sommerville, Councilman Rodman, and Councilman Dawson. The motion passed.

**Recommendation:** Carried over the vote until June.

## **INFORMATION ITEMS**

**Item: Update/River Oaks Master Plan** – Eric Greenway, Director Community Development

**Discussion:** Mr. Greenway displayed the language from the development agreement that he was working on with Legal Counsel, Mary Lohr, and Tom Keaveny, regarding the situation tied to the adjacent property on Malin Bluff. The road layout changed which meant some amendments needed to be made. This item came before the NRC in March and three items were to be done. None of those things had been done by the developer. Mr. Greenway stated the three items that needed to be done in order for the NRC to make recommendations or changes to them.

1. Work with staff on density reduction in design and layout.
  - o Does the current Malin Bluff situation change anything about this from the committee or should he work with the developer on the density reduction and layout?

Councilman Covert asked what the density on the previous layout.

Mr. Greenway answered they were approved for a certain number of dwellings maybe 85.

Councilman Covert asked in regards to the Assisted Living, if each one of those was a unit.

Mr. Greenway answered there was some transposition in the code that would allow that.

Councilman Covert asked what the total number of units

Mr. Greenway stated he believed the plan shows around 315.

Councilman Covert asked what the legal parameters were and if we were close or far off.

Mr. Greenway stated that he would look it up and answer at a later date.

2. Obtain a letter from Beaufort County School Board and formalize the developer's verbal commitment as stated during the NRC meeting to achieve Affordable Housing standards. The developers stated during the meeting that 60-70% of the houses were Affordable Housing. No formalized agreement had been made but one needed to be with some percentage on it.

Councilman Covert asked if Malin Bluff was required to provide a letter.

Mr. Greenway answered they did not.

Councilman Covert asked for clarification on why these people are required to provide a letter when one was not required for Malin Bluff.

Councilman Flewelling stated this was originally supposed to be an Assisted Living facility and now that family housing and Affordable Housing will be there, it creates an impact on the school. Since it's going to be something else we want to inform the school about it and make them aware so they can make comments.

Councilman Covert asked for clarification as to why Malin Bluff did not have to inform the school but these do.

Mr. Greenway stated he was going to make a recommendation about these items in a moment. The original plan gave about 264 lots with 64 Assisted Living units, so about 330.

Councilman Hervochoch stated if we were going to talk about school impact, we were comparing 264 units to 315 and asked what the factor was that was used to determine the number of children per home.

Mr. Greenway answered \$1.25 per home but it may not be accurate today.

Councilman Flewelling said it was originally zero because it was age restricted senior housing so zero kids. Now it was 315 and we needed the school to make some kind of statement of understanding that they could accept those children.

Councilman Rodman stated that these agreements were put in place before the economy crashed. Hwy. 170 is will continue to change more and the operative comparison is Malin Bluff which will compete against each other next door.

Mr. Greenway recommended using this as an opportunity to place the developer under an agreement to abide by the new school impact fee and adopt whatever the number may be in lieu of getting the letter from the school district.

Councilman Flewelling stated that he wanted the sidewalks uninterrupted as much as possible and also stated he wanted to make sure the school was protected and the connectivity was there.

Mr. Greenway asked for clarification in March as to what the NRC wanted him to work on they still have not given him any of these items which was requested.

The Councilmembers were in agreement to continue requesting these items.

Josh Tiller addressed connectivity by pairing driveways together to space out the distance between them.



Councilman Flewelling stated occasionally that is ok but asked if driveways could be paired and grouped in a row unless the sidewalks are on the other side of the road or if there is more access along the back near the wetlands property.

Richard Schwartz stated they could work on this and were open to sitting down, discussing, and working on putting the Affordable Housing number in writing. There was no issue on working with the impact as long as it was fair between them and Malin Bluff.

Councilwoman Howard requested these items to be turned in five business days prior to the next NRC meeting.

Councilman Rodman stated he believed they went back and did a new development agreement with Malin Bluff.

Councilman Flewelling stated he believed it was a comprehensive amendment.

Councilman Rodman stated he thought they should follow the same format to the extent they can. This meant it would go through two public hearings and three readings.

**Status/Recommendation: NO ACTION TAKEN**

**Item: Discussion / 2020 Greenprint Process** – Eric Greenway, Director Community Development

**Discussion:** In the contract with the Open Land Trust, they agreed to update the Greenprint for the county and we were getting ready to commence that process. It has been presented to the R&C board.

Mr. Matthews stated the board will be taking on the Greenprint.

Barbara Holmes with Beaufort Count Open Land Trust stated the Greenprint was a map of land that was used for the R&C program to identify opportunities and goals. In 2014, when the NRC was asked for additional money for the program due to changes. In the last 5 years threats and opportunities had come up and gave ideas on how to best use those funds. The outcomes of a Greenprint process were a map of all planning areas that identified land protection opportunities by priority levels. It was broken down into 7 basic steps:

1. Demonstrated program achievements
2. Comprehensive mapping exercise of detailed maps of planning areas
3. Looked at what R&C and partners had protected
4. Worked with Community Development as elements will work with land use
5. Met with stakeholders and partners
6. Solicited public input process in the areas
7. Incorporated the input into a Greenprint map and pursued approval

Councilman Rodman asked where the funding came from for this project.

Ms. Holmes answered that Open Land Trust expected to apply for grant funding.

**Status:** For information only.

### **ACTION ITEM**

**Item: Contract Renewal / Clemson Extension Public Education and Outreach Services Related to Stormwater** – Eric Larson, Manager, Stormwater Utility

**Discussion:** Mr. Larson stated that we were at the end of our first contract with Clemson University's Extension Office with the Carolina Clear program, a public education and outreach effort for Stormwater, and was widely used throughout the state. The program was something done with all the municipalities within the county and is already in the budget for the following year. Staff recommendation is to renew the contract for another 3 years. Ellen Camil was the local water sources agent for the program.

Ms. Camil stated the Lowcountry Stormwater Partners started with 10 partners but now has over 30 partners. The partners get together quarterly to discuss stormwater education and public involvement opportunities. Per the contract, Ms. Camil has had over 2 million impacts in public education and over 400,000 impacts in public involvement since December 2018.

**Motion:** It was moved by Councilman Glover, seconded by Councilman Hervocho to recommend Council renew the 3 year contract with Clemson Extension Public Education and Outreach Services Related to Stormwater. The vote: YAYS – Councilwoman Howard, Councilman Hervocho, Councilman Glover, Councilman Flewelling, Councilman Sommerville, Councilman Rodman and Councilman Dawson. Councilman Covert left prior to the vote. The motion passed.

**Recommendation:** To renew the 3 year contract with Clemson extension Public Education and Outreach Services Related to Stormwater.

### **EXECUTIVE SESSION**

**Motion:** It was moved by Councilman Hervocho, seconded by Councilman Glover to go into Executive Session. The vote: YAYS – Councilwoman Howard, Councilman Glover, Councilman Dawson, and Councilman Flewelling. Councilman Hervocho, Councilman Rodman and Councilman Sommerville did not vote. The motion passed.

### **MATTERS ARISING OUT OF EXECUTIVE SESSION**

**Motion:** It was moved by Councilman Rodman, seconded by Councilman Glover to enter into a letter of intent to sell particular properties to St. James Baptist Church contingent on an agreement with the town, the concept plan, and the price. The vote: YAYS – Councilwoman Howard, Councilman Rodman, Councilman Sommerville, Councilman Glover, Councilman Dawson and

Councilman Hervocho. Councilman Flewelling left the room prior to the vote. The motion passed.

**ADJOURNMENT**

The meeting adjourned at 5:33 p.m.

Ratified by Committee:

DRAFT

**MINUTES  
NATURAL RESOURCES COMMITTEE**

**June 17, 2019**

Executive Conference Room, Administration Building,  
Beaufort County Government Robert Smalls Complex,  
100 Ribaut Road, Beaufort, South Carolina 29902

The electronic and print media duly notified in  
accordance with the State Freedom of Information Act.

**ATTENDANCE**

Present: Committee Chairwoman Alice Howard and members Michael Covert and York Glover

Ex-officio: Lawrence McElynn, Mark Lawson and Brian Flewelling (Non-committee members of Council serve as *ex-officio* members and are entitled to vote.)

Staff: Eric Greenway, Community Development Director; Nancy Moss, Community Development Department; Robert Merchant, Community Development Deputy Director; Dan Ryback, Assistant Manager, Stormwater Utility; Stefanie Nagid, Passive Parks Manager; J. Wes Campbell, Construction Manager/Engineering; Dave Thomas, Purchasing Director; Carolyn Wallace, Stormwater Management.; Donna Ownby, Emergency Medical Services; Ashley M. Jacobs, Beaufort County Administrator

Media: Joe Croley, Lowcountry Inside Track

**CALL TO ORDER**

Councilwoman Howard called the meeting to order at 3:43 p.m.

**APPROVAL OF AGENDA**

**Motion:** It was moved by Councilman McElynn, seconded by Councilman Glover to approve the agenda. The vote: YAYS – Councilwoman Howard, Councilman McElynn, Councilman Covert and Councilman Glover. The motion passed.

**CITIZEN COMMENTS**

There were no comments.

**ACTION ITEMS**

**Item: Contract Award / Crystal Lake Phase III – J. Wes Campbell, Construction Manager/Engineering**

**Discussion:** Mr. Campbell stated that Crystal Lake Phase III will be an ADA certified accessible boardwalk around the right-hand side of the lake and transitions into a compacted path on the left-hand side. Three bidders responded but was deemed unresponsive because of a small problem in each bid. Each company saw each other's bid and it became increasingly competitive. The 3 bidders came back with a second bid and were all deemed responsive and complete. Patterson Construction came in with the lowest bid and are recommended for selection of this contract.

Councilman Glover asked if alligators are going to be a problem.

Mr. Campbell stated they have not had an issue but he cannot speak for the future.

Stefanie Nagid stated the one side of the boardwalk will be raised and other side is steep so it should not be an issue. Ms. Nagid has signage that will be put out stating there are alligators and do not feed.

**Motion:** It was moved by Councilman Glover, seconded by Councilman Covert to approve the contract to Patterson Construction Inc. of Beaufort for construction of Crystal Lake Phase III. The vote: YAYS – Councilwoman Howard, Councilman McElynn, Councilman Glover and Councilman Covert. The motion passed.

**Item: Contract Award / Widgeon Point Park Improvements - J. Wes Campbell, Construction Manager/Engineering**

**Discussion:** Mr. Campbell stated the improvements to Widgeon Point Park, which is over the Broad River Bridge on the left-hand side, are going to be extensive. Ms. Nagid is going to take the outermost island and develop it into a pathway/parkway/walking trails/etc. The immediate portion up next to the highway, we are going to include an asphalted driveway going in, a permeable parking area, develop a bird blind, a pavilion, restroom facilities, and pathways leading back to the existing barn. It will open up the area for a beautiful hiking area and also included an alternate for a bridge. The current bridge goes from the main area out to the island and is dilapidated with timber construction of 12 by 12 timbers set on 6 concrete pads that are 3 feet by 3 feet by about 20 feet long. The concrete pads however are serviceable. We left an alternate in case someone were to also bid on the bridge, if not that would get bid by itself. In order to build the bridge there has to be codes on the construction permit from the State. The companies, EnviroSmart and Quality Enterprises bid on both the major part of the park and on the bridge. Quality Enterprises was cheaper on the bridge approximately \$100,000 and EnviroSmart came in at \$117,000. The total including the park and the bridge came in at: EnviroSmart at \$1,156,822 and Quality Enterprises at \$1,212,350. They recommend EnviroSmart be awarded the contract as the low responsible bidder.

Councilwoman Howard stated she has heard people liked to use this for weddings and asked if this included the parking area.

Mr. Campbell stated this will also include an improved driveway that will lead all the way up to the barn where they can deliver and parking area.

**Motion:** It was moved by Councilman Glover, seconded by Councilman Covert to approve the contract to the EnviroSmart for construction of Widgeon Point Park Improvements.

Councilman Glover asked if there is a dressing room for a bride.

Ms. Nagid stated the restroom area will not be being built for that, but the barn has a small room that could be utilized as a dressing room. This new project will have it so that wedding parties could be dropped off within the park or have a pathway that is solid for those in heels to get to the barn from the parking lot without sinking in the ground.

**Motion:** It was moved by Councilman Glover, seconded by Councilman Covert to approve the contract to the EnviroSmart for construction of Widgeon Point Park Improvements. The vote: YAYS – Councilwoman Howard, Councilman McElynn, Councilman Glover and Councilman Covert. The motion passed.

Councilwoman Howard asked if the restrooms will have a septic tank.

Ms. Nagid stated no that they will be very high-end porta potties. DHEC does not have the ability to permit them to do a pump and haul at this time.

Mr. Campbell stated they will have running water but will not have septic.

**Recommendation:** Council approve the contract to the EnviroSmart for construction of Widgeon Point Park Improvements.

**Item:** Contract Award / BrightView Landscape Services, Inc., for \$328,436.57 for the Highway 278 Medians between Rose Hill and Berkeley Hall Plantations – Dave Thomas, Purchasing Director

**Discussion:** Mr. Thomas stated we put out an RFP and received 4 responses on May 23<sup>rd</sup> with BrightView Landscape Services, Inc. being the lowest response. They were evaluated by my team of staff members and with BrightView being ranked the highest, we recommend the contract be awarded to that company. It includes landscape site preparation grading, 12-month hand watering, warranty maintenance, program to include plans for plants, establishing cost of plants, installation of plants, the cost of pine straw mulch and installation. We expect this contract to begin July 15<sup>th</sup>.

Councilman Covert asked if grass cutting was included.

Mr. Thomas confirmed it is.

Councilwoman Howard asked if maintenance included the weeding for a year.

Mr. Thomas confirmed.

Councilwoman Howard asked if it would start when the weather was appropriate.

Nancy Moss, Community Development Department, stated there is a glitch because we have an encroachment permit for the entire 10-mile segment for the Master Plan on Highway 278 that expires in August. We have already applied for a one year extension and that is the August deadline. Although it is not ideal conditions, we will start.

Councilwoman Howard asked if it was set up for one year.

Ms. Moss stated it is actually set up for 5 years.

**Motion:** It was moved by Councilman Covert, seconded by Councilman Glover to approve the contract to BrightView Landscape Services, Inc., for \$328,436.57 for the Highway 278 Medians between Rose Hill and Berkeley Hall Plantations. The vote: YAYS – Councilwoman Howard, Councilman McElynn, Councilman Covert and Councilman Glover. The motion passed.

**Item:** Discussion / Rezoning request for 6 acres at 19 Covenant Drive from S1 Industrial to T2 Rural – Robert Merchant, AICP, Assistant Community Development Director

**Discussion:** Councilwoman Howard asked if this was in Northern Beaufort County.

Mr. Merchant stated this is located at 19 Covenant Drive which comes off of Bay Pines Road. This is in a pertinent area of Port Royal Island just west of the air station. The property owners asked that this property be changed from S1 Industrial to T2 Rural. The history on this property, is that in the mid-80's there was a metal building on this site that was a light industrial building which still stands. When we first zoned the County, this area was zoned industrial to reflect the existing uses in the area. In 2006, the vacant property was purchased by a church and the building was zoned to Rural which allowed places of worship in Industrial areas. In 2017, the church closed and a new owner was interested in the building to open a cabinet shop and wanted it changed back to Industrial. Owner is still running a cabinet shop but is interested in building a house on the site. Per the ordinance, we do not allow single family houses in the Industrial District. We as staff don't recommend making that change to the text of the Industrial District. The impacts of this particular zoning change and what he is proposing to do with the site and are very minimal and for that reason we are recommending making the change to accommodate what he wants to do with the property. It is located in the Marine Corps Air Station Overlay District but we are looking at a total of 6 acres and 2 houses that could be built on that site. It consists of a very small zone of encroachment on Industrial land in the area. Staff recommends approval of this change because it is on Port Royal Island and within the Growth Boundaries in

Northern Beaufort County, it went to the Metro Planning Commission on May 20<sup>th</sup>. The planning commission unanimously supported staff recommendation.

Councilman McElynn asked if there was going to be a house(s), on the property along with a light industrial operation as well.

Mr. Merchant stated the houses would be on the newly sub-divided property on one side and the cabinet shop would be on the other side.

Councilman Glover asked what else surrounds that property.

Mr. Merchant answered there are several light industrial building scattered around the area. There is also the industrial park to one side of the map and the firehouse on the other.

**Motion:** It was moved by Councilman Glover, seconded by Councilman Covert to approve the rezoning for 6 acres at 19 Covenant Drive from S1 Industrial to T2 Rural. The vote: YAYS – Councilwoman Howard, Councilman McElynn, Councilman Covert and Councilman Glover. The motion passed.

## **INFORMATION ITEMS**

**Item:** **Update / Stormwater** – Dan Ryback, Assistant Manager Stormwater Utility

**Discussion:** Mr. Ryback stated with regards to the Manager Report that was given to the Utility Board:

### Utility Update

#### 1. Southern Lowcountry Regional Board (SoLoCo)

a) Larson reported on the project schedule to the board on May 28<sup>th</sup>. Below is the update:

1. Model Ordinance draft ready but being held to release along with the Manual draft.
2. Main focus now is creating content. Staff are adapting requirements from:
  - i. Washington DC
  - ii. State of Virginia
  - iii. State of Georgia Manual and the coastal supplement
  - iv. SC LID Manual
  - v. Jasper county is already using parts of the GA manual, so many things from JC will be incorporated.
  - vi. Beaufort County requirements will be useful in adapting the other sources into a local code.
  - vii. Bluffton and Hardeeville requirements are also being included in a similar fashion.
3. Nature Conservancy - request to get involved from April SoLoCo meeting.
  - i. Eric Larson has met with David Bishop and discussed possible synergy.
    1. They are partnering with Port Royal Sound Foundation.
    2. They look at how lands effect water quality.



3. How SLR is effecting land use.
  4. Concern with land conservation.
  5. They are concerned how Hardeeville, Ridgeland and Jasper co. will develop.
  6. If not done right, more downstream problems in the water, negatively impacting Beaufort County, tax base, etc.
  7. They are similar but focused on pushing development to the right spot, save large undeveloped lands, save marsh, etc.
  - ii. Bill Hodges is also going to reach out to David and get his thoughts so that anything of sustenance can be added into the draft document.
  - iii. It looks as if their mapping effort to locate the high priority land preservation areas and SLR data could be beneficial to us in the regional guide to address areas with flooding concerns to establish additional controls. Results of the conversation are pending.
  - iv. Coastal Conservation League is convening a stakeholder group to take the TNC mapping effort to the next level and see what can be done to facilitate the partnership with the regional effort and other things. (June 14th meeting.)
  4. Schedule
    - i. 2nd week June - committee draft to review.
    - ii. Mid-July - Public Draft.
    - iii. On target to complete by the end of September.
  5. Cost - on target. On overruns expected at this time.
2. Regionalization
- a) Regional Stormwater Design Standard and Model Ordinance Project – See SoLoCo above. Work continues. Contract extension beyond the Fiscal year is pending.
  - b) Regionalization of programs – Nothing new to report.
3. Annual Financial report from the Municipalities – Per the Intergovernmental Agreements for the Utility, each year on September 30th, the City and Towns are required to submit a summary of revenue and expenditures for the previous fiscal year.
- a) Beaufort County – Received.
  - b) Town of Hilton Head Island – Received.
  - c) Town of Bluffton – Received.
  - d) Town of Port Royal – No response.
  - e) City of Beaufort – Received.
4. FY 2020 Management fee concurrence letters from the Municipalities – Per the Intergovernmental Agreements for the Utility, each year on April 1st, the City and Towns are required to submit a letter stating their approval of the SWU management fee of the upcoming fiscal year.
- a) Beaufort County – Received.
  - b) Town of Hilton Head Island – No response.
  - c) Town of Bluffton – Received.
  - d) Town of Port Royal – No response.
  - e) City of Beaufort – Received.
5. Special presentations – Staff has begun research on the various topics provided by the Board for future meetings:
- a) Military Site’s Stormwater management – A site to the Naval Hospital is still pending.

- b) The following were suggested as possible topics during the May 8th meeting: micro plastics and tire tread. This topic will be at the July meeting.
- 6. FY 2020 Budget – The proposed budget was presented to County Council’s Finance Committee on May 28, 2019. It included the proposed rate increase from \$87 to \$100. First reading of the budget will be at the County Council meeting on June 10, 2019; second reading at a special meeting on June 17, 2019; Third/Final reading on June 24, 2019.
- 7. Military installation and other State and Federal properties SWU fees – See “Delinquent Accounts” below.
- 8. Delinquent accounts - County legal prepared letters and sent them out to multiple state agencies. Some state agencies have remitted payment. County legal has prepared letters on the federal accounts and the letters and documentation is being reviewed by all appropriate departments. Once the review is complete, legal plans to send the letters. (State and Federal accounts make up approx. 97%-98% of the delinquent account value of approx. \$7 million on our ledger)
- 9. TY 2019 tax run – The Town of Bluffton has adopted the Option E rate structure (3 components including an administrative fee, gross area charge, and impervious area charge) and now the County and all four of the Municipalities are using the same rate structure. The town’s rate remains the same. Stormwater and GIS staff are working on the transition. Staff continues to work on reviewing account data for the next tax run.

#### Monitoring Update

- 1. Lab Update (From Dr. Alan Warren and Lab Manager Danielle Mickel)
  - i. No information was available at the time of this report. During the meeting, Dr. Warren updated the Board on the recent sampling of the Bold and Gold experimental media at the Okatie West project. Mr. Larson is scheduled to speak next week at the SC-APWA conference and present the findings.

#### Stormwater Related Projects

- 1. Easements – Staff works on easement requests and meets monthly to review status. Several condemnations are still being pursued using outside legal counsel.
- 2. Complaints – Staff works on drainage related complaints.
  - a) Staff met with representative of the Horse Island Community. The neighborhood has requested assistance with roadside drainage conveyance improvements, road overtopping and pond outfall upgrades. The County is preparing a scope of work for the consultant and will receive a quote for design services to improve water conveyance drainage in the area.
  - b) Flyover bridge preventative maintenance and deferred maintenance repairs – Staff is working with a consultant to get a quote for engineering recommendations on a wash out problem under the east bound terminus ramp. Crew is also working on scheduling some deferred maintenance needs.

- c) Larson noted due to the rain, the County has received over 50 complaints as of EOB Tuesday. The staff focus is to log each complaint, prioritize them, and develop a schedule. They are responding to complaints deemed a life, health, or safety issue.
3. Alljoy sub watershed flooding – Release of the RFQ and funding are still pending. Public Meeting was held on May 9, 2019 to discuss the FEMA grant acquisition process and proposed flood mitigation project. Only one property owner expressed interest to participate. As a result, grant application is now focused on drainage study and design/construction solution to reduce the risk of flooding. Met with SC Emergency Management office for assistance with FEMA grant application submittal that was due on May 31, 2019. Hazard Mitigation Grant funding application submitted to South Carolina Emergency Management Division on May 31, 2019.
4. Lady’s Island Plan, sea level rise, and “no-fill” ordinance – The Community Development Department recently completed a comprehensive land use study of the Lady’s Island area, which involved, citizen input. Two of the recommendations were to consider the future effects of sea level rise and the possibility of a no-fill ordinance to prevent marsh and wetland loss. Staff will be participating in a committee to address these two concepts in the future. The committee met May 23rd to define a purpose statement. The next meeting is tentatively scheduled for June 18.

#### Professional Contracts Report

1. CIP FY 18 Grouping Stormwater Projects – (Design - Ward Edwards \$202,000, Andrews Engineering \$560,490, Const. est. \$5,512,900) – All projects are in early design phase.
  - a) Salt Creek and Shanklin Road – Reviewed Consultants preliminary design memorandum and provided comment/direction for 30% design development drawings.
  - b) Brewer Memorial – Reviewed Consultants preliminary design memorandum and provided comment/direction for 30% design development drawings.
2. Evergreen Regional Pond 319 grant project – (Design=\$89,286, Construction=\$590,000. Grant=\$229,124) – Reviewed Consultants preliminary design memorandum and provided comment/direction for 30% design development drawings.

#### Regional Coordination

1. Mossy Oaks Task Force – (Design \$20,404, Construction \$205,000; County portions only). See Municipal Reports. Larson noted the City and County need to establish a MOA for the cost share. City staff is drafting the agreement.
2. Bluffton Ditch Task Force – This group met June 11, 2019.

#### MS4 Report

1. Public Education – Lowcountry Stormwater Partners (LSP), via Carolina Clear, continues to work on several initiatives towards public education and outreach. No additional updates are available.

2. Energov permitting software – Stormwater department is finalizing all necessary documentation required by the Energov team. From there Energov will begin developing the work flow.
3. MS4 Statewide General permit – At the quarterly SCASM meeting in Columbia on June 6, 2019, DHEC staff stated they will begin work on this upon completion of the renewal of the SCDOT general construction permit and the statewide general permit.
4. Statewide General permit for Construction – Comments were submitted to DHEC prior to the June 3rd deadline. DHEC staff provided a summary of change to the SCASM meeting on June 6th.

**Status:** For information only.

### **CONSIDERATION OF APPOINTMENTS AND REAPPOINTMENTS**

#### **Item: Historic Preservation Board / (1) Vacancy (Port Royal Island)**

**Discussion:** Councilwoman Howard stated on the Historic Preservation Board there is one vacancy and the only person eligible in our packet is Mrs. Pringle.

**Motion:** It was moved by Councilman Glover, seconded by Councilman Covert to move forward with appointing Mrs. Pringle to the Historic Preservation Board. The vote: YAYS – Councilwoman Howard, Councilman Covert, Councilman Glover and Councilman McElynn. The motion: Passed.

#### **Item: Rural and Critical Lands Preservation Board / (1) Vacancy (District 8)**

**Discussion:** Councilwoman Howard recommended to wait for Councilman Hervochoch to recommend/not recommend a person on this one.

#### **Item: Southern Beaufort County Corridor Beautification Board / (2) Vacancies (District 8 and District 9)**

**Discussion:** Councilwoman Howard recommended to wait for Councilman Hervochoch to recommend/not recommend 2 people for District 8. No one is nominated for District 9.

Councilman Covert stated he is working on the vacancy for District 5. We have been given notice that General Mitchel is no longer eligible for the seat for the Sheldon District for the Planning Commission. Councilman Dawson stated that General Mitchel has moved to Councilman Covert's District and it is ok if he is a constituent of his filling a position for the Sheldon District but believes it needs to be ratified by the NRC and County Council.

**Motion:** It was moved by Councilman Glover, seconded by Councilman Covert that General Mitchel will live in District 5 but represent on the Planning Committee for Sheldon District. The vote: YAYS – Councilwoman Howard, Councilman Covert, Councilman Glover, Councilman Flewelling and Councilman McElynn. The motion passed.

**Adjournment**

The meeting adjourned at 4:19 p.m.

Ratified by Committee:

DRAFT



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## BEAUFORT COUNTY COUNCIL

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### Agenda Item Summary

#### Item Title:

Lowcountry Stormwater Model Ordinance and Design Manual Contract Extension

#### Council Committee:

Natural Resources Committee

#### Meeting Date:

August 19, 2019

#### Committee Presenter (Name and Title):

Daniel Rybak, Assistant Stormwater Manager

#### Issues for Consideration:

Center for Watershed Protection (Contractor) has provided an updated timeline, which exceeds the ending date of the contract. Article 5 of the signed contract states "however in no instance shall an extension be beyond 31 October 2019." If the requested time extension from the Contractor is not considered the Model Ordinance and Design Manual will be rushed to complete and may not be as comprehensive as it was intended to be for our region.

#### Points to Consider:

The Contractor's schedule for internal review, public comment periods, presentations, and edits has changed. This was due to additional time needed by the Contractor to obtain and evaluate other model ordinances, process the amount of detail required to be able to produce an initial draft addressing standardization based on several unique factors within our region (Task 2, 3rd point), and allow an extension of time for more comprehensive stakeholder input on the draft documents (Task 3, 2nd point). All of these steps in the process are important to ensure the final product is a comprehensive document for all stakeholders.

#### Funding & Liability Factors:

No increase in cost.

#### Council Options:

Hold to the terms of the initial contract or approve an extension of the contract to December 31, 2019.

#### Recommendation:

To approve an extension to December 31, 2019.



## CONTRACT FOR SERVICES FOR BEAUFORT COUNTY

**THIS AGREEMENT** (the “Agreement”) is made this 1st day of October 2018, by and between Beaufort County, a political subdivision of the State of South Carolina (hereinafter referred to as “County”) and Center for Watershed Protection, Inc.; (hereinafter referred to as “Contractor”).

WITNESSETH:

**WHEREAS**, the Contractor and the County desire to enter into an agreement to create the Lowcountry Stormwater Model Ordinance and Design Manual (aka. Regional Standard), subject to the terms, specifications, conditions and provisions of the request for proposal RFQ 050718 as heretofore mentioned.

**NOW, THEREFORE**, the Contractor and the County agree to all of these terms, conditions, specifications, provisions and the special provisions as listed below:

- A. This Agreement is deemed to be under and shall be governed by and construed according to the laws of the State of South Carolina.
- B. Any litigation arising out of the Agreement shall be held only in a Circuit Court of Beaufort County, Beaufort, South Carolina, in the Fourteenth Judicial Circuit.
- C. The Contractor shall not sublet, assign, nor by means of a stock transfer sale of its business, assign or transfer this Agreement without the written consent of the County.
- D. This Agreement, including the terms, conditions, specifications and provisions listed herein makes up the entire contract between the Contractor and County. No other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind either party hereto.
- E. By Memorandum of Agreement (MOA), the County is partnered with and cost-sharing on this project with the Town of Bluffton, Town of Port Royal, City of Beaufort, City of Hardeeville, and Jasper County. References to “County Responsibilities” extend to these MOA partners as provided for in the applicable MOA.
- F. It is understood that this Agreement shall be considered exclusive between the parties.
- G. Any provisions of this Agreement found to be prohibited by law shall be ineffective, to the extent of such prohibition, without invalidating the remainder of the Agreement.

**NOW, THEREFORE**, in consideration of mutual covenants contained herein, the parties agree as follows:

## **ARTICLE 1 DESCRIPTION**

The scope of work (SOW) generally consists of, but is not limited to, the following: Develop Model Regional Ordinance, Propose Regional Design Standards, Facilitate Stakeholder and Public Review and Deliver Final Lowcountry Regional Stormwater Design Manual & Model Ordinance. This Agreement shall consist of all the terms, conditions, specifications and provisions contained in original RFQ 050718 dated April 6, 2018 (Exhibit “A”), and the Contractor’s Proposal dated May 7, 2018 (Exhibit “B”), and the all of which are made a part hereof and incorporated herein by reference.

The detailed SOW is as follows:

### **Task 1: Develop Model Regional Ordinance**

The primary purpose of this task is to systematically and objectively examine the members of the Region’s development and stormwater codes and ordinances for the purposes of promoting more environmentally-sensitive and economically-viable development.

Currently, variations exist in how the multiple jurisdictions of the Region implement development and stormwater design standards. For example, some jurisdictions recognize and specify practices to reduce impervious surface and encourage low impact development while others have not. The goal of this task is to achieve a regional and comprehensive model ordinance for stormwater management.

The Consultant will draft a model ordinance in order to adhere to more environmentally-sensitive development techniques that reduce impervious cover, protect natural areas, and promote distributed stormwater management on site. Local/regional ordinances in South Carolina and throughout the southeast region will be considered in order to compare standards including applicability, redevelopment, pollutant removals, water quality volumes, and predevelopment conditions among multiple jurisdictions. Some of the area watersheds have unique stressors and water quality impairments. Implicit with those conditions is the expectation that they will require special stormwater and development standards. This task will suggest extents/boundary of special watershed districts for sensitive waters through collaboration with the Committee.

The Consultant’s role will be to interview each stormwater and engineering authority, and in meetings with the Committee develop a clear understanding of stormwater management design requirements and build consensus around a model ordinance for the Region. The goal of these interviews are to “frame the problem” each community is trying to solve. In other words, analyze each community’s current programs, identify issues, constraints, needs, and define goals.

Assumptions:



1. Representatives from the two (2) counties and four (4) municipalities will participate in the interviews and consensus building discussions.
2. Interviews (6) will be at each jurisdiction's office. The Consultant will attempt to schedule meetings such that communities in close proximity meet on the same day (e.g. City of Beaufort and Town of Port Royal).
3. The location of the consensus meeting(s), as well as any rental or catering costs associated with Committee meeting(s) will be determined by the members.
4. The Consultant will produce a model ordinance for the Region, but will not be responsible for overseeing/managing the process of adoption by all community governments.

#### Deliverables:

1. At least one (1) full-day meeting with the Committee to discuss content of ordinance.
2. Meetings with six (6) communities (approximately 4 full days if scheduling allows).
3. One (1) draft model regional stormwater ordinance.

#### Task 2: Propose Regional Design Standards

Each municipality has its own drainage and engineering standards. Some have development ordinance language, others have an engineering checklist, and others have a stormwater design manual. Furthermore, the Consultant should be cognizant of an evolution of stormwater design standards regionally and in southeastern states, which may be relevant in the Region. A meeting to determine the consensus engineering design standard for drainage will be required for the design manual. To complete this task, the Consultant will conduct a review of current regional stormwater design standards, and meet with the Committee to identify any conflicts with site design principles, identify inconsistencies or conflicts among jurisdictions' requirements, propose resolution to conflicts or inconsistencies, and incorporate state of the knowledge in post-construction stormwater best management practices.

During the process of bringing jurisdictions to a common set of design criteria, rationale statements will be necessary to validate some of the changes. These statements will provide support for the recommendations, specifics of what codes or ordinances need to change to comply with the standards, and any rationale for why such a change is recommended.

#### Assumptions:

1. The current stormwater design summary spreadsheet developed by the Committee and ordinances and design manuals provided by the Committee members will be the basis of the current understanding of design requirements.
2. The Committee would prefer an option to address stormwater management from development and redevelopment with volume reduction. A customized design spreadsheet to implement Runoff Reduction may be the solution for Stormwater runoff calculation methodology for region-wide use.
3. The task to review and revise the Manual should be consistent with and at least as stringent as the DHEC NPDES requirements and MS4 Phase II permit requirements within MS4 designated jurisdictions. The jurisdictions that are not designated as MS4 will not participate in these requirements.

4. Criteria may include provisions to provide credits towards Stormwater design or development incentives for the use of optional BMPs exceeding minimum standards.
5. The meetings with the six (6) jurisdictions for Task 1 (ordinance) and 2 (design standards) can be combined if scheduling allows.

**Deliverables:**

1. Attend up to four (4) meetings with Region representative staff (planning, engineering) to review results of code and ordinances review meeting in order to produce:
  - a. Lists of priority watersheds requiring more stringent stormwater standards (e.g. volume sensitive waterbodies)
  - b. Consensus for design storm conditions and requirements (e.g. treatment train, runoff vs. retention, antecedent moisture conditions, retention of 80<sup>th</sup>, 85<sup>th</sup>, or 95<sup>th</sup> percentile storm in volume sensitive watersheds, flood protection for 100-year storm, minimum standard for 80% TSS reduction, etc.)
  - c. Consensus for channel protection, extreme flood protection, and stormwater system operation and maintenance.
  - d. Consensus for alternative standards in those watersheds experiencing redevelopment.
2. Provide rationale statements for design requirements.
3. Produce draft version of Lowcountry Regional Design Manual and associated supporting documents:
  - a. The contents of the design manual will reflect the Committee's consensus for best engineering practices for channel protection, flood control, and stormwater system operation and maintenance.
  - b. Create stormwater design summary spreadsheet specific to the Regional requirements.
  - c. Develop recommendations for the plan submittal checklist and documentation requirements that reflect the Lowcountry Regional Design Manual.
  - d. Provide requirements for MS4 program implementation for use in only those communities designated as MS4.
  - e. Design worksheets for various BMP's

**Task 3: Facilitate Stakeholder and Public Review**

The Consultant will collaborate with the committee to conduct a public information and comment process targeting the engineering and development communities, as well as interested public organizations and individuals (such as watershed groups). To accomplish this, the Consultant will facilitate several stakeholder workshops with the community to discuss the priorities identified in Tasks 1 & 2 and receive comments. Following the meetings, the Consultant will review, categorize, summarize and provide responses to stakeholder comments and suggestions. The Contractor will work with the committee to list proposed changes to the design manual and create design submittal checklists.

**Assumptions:**

1. Regional partners will identify key design and development partners that will be invited to a series of workshops to discuss the proposed regional design standards.

2. Early in the process of performing Tasks 1 and 2, the Consultant will conduct up to three (3) stakeholder meetings offered at various locations and times (both working day and evening) in order to accommodate as many different stakeholders as possible, seeking comments on current codes to aid in focusing the Committee and the Consultant with proposed regional design standards.
3. The Consultant will make the draft versions of the regional Model Ordinance and Design Manual available to the public on a website. The Consultant will allow for a 45-day comment period for the public to review and comment on the draft version of the regional design manual.
4. Concurrent with the 45-day public comment period, Up to three (3) additional stakeholder meetings will be offered at various locations and times (both working day and evening) in order to accommodate as many different stakeholders as possible to make comment on the draft version of the regional design manual.

**Deliverables:**

1. Six (6) stakeholder meetings – three (3) prior to and three (3) after the draft manual is prepared.
2. Summary of public comments and responses
3. Revised version of the Regional Model Ordinance, Design Manual, and supporting documents
  - a. Runoff reduction spreadsheet
  - b. Plan review checklists
  - c. Construction details and specifications for BMPs
  - d. BMP design worksheets
  - e. Maintenance and inspection forms for post-construction BMPs

**Task 4: Deliver Final Lowcountry Stormwater Design Manual and Model Ordinance**

Following the comment period and subsequent deliberations between the Consultant and the Committee, the draft model ordinance and design manual will receive a final review and revision. The final revision will be discussed in at least one meeting with the Committee before publishing for adoption by the jurisdictions within the Region. The adopted version will be supported by a runoff reduction spreadsheet, plan review checklists, construction details and inspection specifications for BMPs, and maintenance and inspection forms for the post-construction BMPs. Forms for post-construction inspection and maintenance assurances will be included in the final document package provided to the Committee. Upon completion of the Regional Model Ordinance and Stormwater Design Manual, the Consultant will provide up to three (3) days of training for engineers and plan reviewers on the revised stormwater manual submittal requirements, and use of the stormwater spreadsheet to document volume control and pollutant removal.

**Assumptions:**

1. The Consultant will produce the final version of the regional design manual based upon review of public comments and deliberations with the Committee.
2. The Consultant will make the final version of the regional design manual available in electronic format for review and ultimate web posting by the Committee members.

3. The final manual will be published in PDF format. The Contractor will provide the necessary electronic files for professional reproduction, but will not produce printed copies.

**Deliverables:**

1. A final deliberations meeting on the regional design manual with the Committee and followed up with meeting notes.
2. Create construction details for each structural BMP that can be utilized by each jurisdiction as desired and/or as allowed by zoning codes. At a minimum, the following should be included:
  - a. Bio-retention
  - b. permeable pavement
  - c. infiltration
  - d. green roof
  - e. rainwater harvesting (cisterns)
  - f. irrigation reuse systems
  - g. disconnection
  - h. open channels
  - i. filtration
  - j. dry detention practices
  - k. wet detention ponds
  - l. stormwater wetlands
3. Provide notes for each construction detail that includes additional material specifications as needed, installation specs/requirements and construction sequence.
4. Three (3) training workshop for design stakeholders to learn how to use the new design manual and associated support documentation and spreadsheet.

## **ARTICLE 2 LIABILITY**

The County and Contractor shall not be responsible to each other, except as provided in Article 3 below, for any incidental, indirect or consequential damages incurred by either Contractor or County or for which either party may be liable to any third party which damages have been or are occasioned by services performed or reports prepared or other work performed hereunder. Further, Contractor's liability to the County and any other party for any losses, injury or damages to persons or properties or work performed arising out of/in connection with this Agreement and for any other claim, whether the claim arises in contract, tort, statute or otherwise, shall be limited to the amount of the total fees due to the Contractor from the County hereunder, plus attorney fees as provided in Article 8 below.

## **ARTICLE 3 INDEMNIFICATION AND HOLD HARMLESS**

The Contractor does hereby agree to indemnify and save harmless the County, its officers, agents, subcontractors and employees from and against any and all third party liability, claims, demands, damages, fines, fees, expenses, penalties, suits, proceedings, actions and cost of actions, including

attorney's fees for trial and on appeal of any kind and nature to the extent arising or growing out of or in any way connected with the negligent performance of the Agreement, by Contractor, its agents, servants or employees; provided, however that any such liability or damages shall be reduced to the extent caused by the acts or omissions of the County.

#### **ARTICLE 4 ASSIGNMENT**

Contractor shall not assign or subcontract any rights or duties of this Agreement, except to an affiliated company, without the expressed written consent of the County, which consent shall not be unreasonably withheld, conditioned or delayed. Any assignment or subcontract without the written consent of County shall be void and this Agreement shall terminate at the option of the County.

#### **ARTICLE 5 TERM**

The initial term of this Agreement shall begin 1 August 2018 and end on 31 July 2019, or upon acceptance of all deliverables and completion of the SOW, whichever occurs first. The County shall have the option to extend the ending date, however in no instance shall an extension be beyond 31 October 2019.

#### **ARTICLE 6 COMPENSATION**

Compensation is based on Contractor's proposed fee as outlined in their proposal. The County's cost of this Agreement through the term of the contract will not exceed One hundred seventy-nine thousand, five hundred fifty-four dollars and zero cents (\$179,554.00), subject to the terms and conditions of this Agreement.

#### **ARTICLE 7 INSURANCE**

Contractor does hereby covenant, agree and hereby represent to the County that it has obtained worker's compensation insurance, general liability and automobile liability insurance, as well as providing coverage against potential liability arising from and in any manner relating to the Contractor's use or occupation of the premises during the course of performing the contracted services, all in accordance with and as described in the County's RFQ 050718.

**INSURANCE REQUIREMENTS:** Prior to commencing work hereunder, Contractor, at its expense, shall furnish insurance certificate showing the certificate holder as Beaufort County, P.O. Drawer 1228, Beaufort, SC 29901-1228, Attention: Purchasing Director and

Risk Management and with a special notation naming Beaufort County as an Additional Insured on the general liability coverages. If not otherwise specified, the minimum coverage shall be as follows:

1. Workers' Compensation Insurance - Contractor shall have and maintain, during the life of this contract, Worker's Compensation Insurance for its employees connected to the work/delivery, in accordance with the Statutes of the State of South Carolina and any applicable laws.
2. Commercial General Liability Insurance - Contractor shall have and maintain, during the life of this contract, Commercial General Liability Insurance. Said Commercial General Liability Policy shall contain Contractual Liability and Products/Completed Operations Liability subject to the following minimum limits: BODILY INJURY of at least \$1,000,000 PER PERSON, \$1,000,000 PER OCCURRENCE; PROPERTY DAMAGE of at least \$1,000,000 PER OCCURRENCE; or BODILY INJURY/PROPERTY DAMAGE of at least \$1,000,000 COMBINED SINGLE LIMIT.
3. Comprehensive Automobile Liability Insurance - The Contractor shall have and maintain, during the life of this contract, Comprehensive Automobile Liability, including non-owned and hired vehicle, of at least \$1,000,000 PER PERSON, \$1,000,000 PER OCCURRENCE; PROPERTY DAMAGE of at least \$1,000,000 PER OCCURRENCE, or BODILY INJURY/PROPERTY DAMAGE of at least \$1,000,000 COMBINED SINGLE LIMIT.
4. The required insurance policy at the time of issue must be written by a company licensed to do business in the State of South Carolina and be acceptable to the County.
5. The Contractor shall not cause any insurance to be canceled or permit any insurance to lapse. If any of the policies required hereunder shall not canceled or non-renewed, it shall be replaced with no coverage gap and a current certificate of insurance will be provided immediately thereafter. Certificates of Insurance shall contain transcript from the proper office of the insurer, the location, and the operations to which the insurance applies, and the expiration date.
6. The information described above sets forth minimum amounts and coverages and is not to be construed in any way as a limitation on the Contractor's liability.

## **ARTICLE 8 DEFAULT**

In the event of default or breach of any condition of this Agreement resulting in litigation, the prevailing party would be entitled to reasonable attorneys' fees fixed by the Court. The remedies herein given to County shall be cumulative, and the exercise of any one remedy by the County shall not be to the exclusion of any other remedy.

## **ARTICLE 9**

## **TERMINATION**

In the event that Contractor fails to perform (or fails to commence the cure of any breach, which shall be diligently prosecuted in good faith) the services described within five (5) business days of its receipt of a written demand from the County, County may terminate the Agreement immediately upon notice provided such notice is at least five (5) business days following the County's notice of non-performance. In the event that the County breaches any of the terms of this Agreement including, but not limited to, non-payment, and fails to cure such breach within fifteen (15) business days of its receipt of a written demand from the Contractor, Contractor may terminate the Agreement immediately upon notice, provided such notice is at least fifteen (15) business days following the Contractor's notice of breach. Upon such termination, the County has the right to award a Contract to an alternate contractor.

## **ARTICLE 10 COUNTY RESPONSIBILITIES**

The County will be responsible to provide the Contractor reasonable access to County locations when necessary, ensure cooperation of County employees in activities reasonable and appropriate under the project, and obtain authorization for access to third party sites, if required. County shall act as liaison and use its best efforts to coordinate between the Contractor and the County Partners referenced in paragraph "E" in the above recitals.

## **ARTICLE 11 FORCE MAJEURE**

Should performance of Contractor services be materially affected by causes beyond its reasonable control, a Force Majeure results. Force Majeure includes, but is not restricted to, acts of God, acts of a legislative, administrative or judicial entity, acts of contractors other than subcontractors of Contractor, fires, floods, labor disturbances, and unusually severe weather. Contractor will be granted a time extension and the parties will negotiate an adjustment to the fee, where appropriate, based upon the effect of the Force Majeure upon Contractor's performance.

## **ARTICLE 12 SEVERABILITY**

Every term or provision of this Agreement is severable from others. Notwithstanding any possible future finding by a duly constituted authority that a particular term or provision is invalid, void, or unenforceable, this Agreement has been made with the clear intention that the validity and enforceability of the remaining parts, terms and provisions shall not be affected thereby.

## **ARTICLE 13 INDEPENDENT CONTRACTOR**

The Contractor shall be fully independent in performing the services and shall not act as an agent or employee of the County. As such, the Contractor shall be solely responsible for its employees, subcontractors, and agents and for their compensation, benefits, contributions and taxes, if any.

**ARTICLE 14  
NOTICE**

The Contractor and the County shall notify each other of service of any notice of violation of any law, regulation, permit or license relating to the services; initiation of any proceedings to revoke any permits or licenses which relate to such services; revocation of any permits, licenses or other governmental authorizations relating to such services; or commencement of any litigation that could affect such services. Such notice shall be delivered by U. S. mail with proper postage affixed thereto and addressed as follows:

County: Interim Beaufort County Administrator  
Attn: Mr. Tom Keaveny  
P. O. Drawer 1228  
Beaufort, SC 29901-1228

Beaufort County  
Attn: Beaufort County Purchasing Director  
P. O. Drawer 1228  
Beaufort, SC 29901-1228

Contractor: Center for Watershed Protection  
3290 North Ridge Road, Suite 290  
Ellicott City, MD 21043

**ARTICLE 15  
AUDITING**

The Contractor shall make available to the County if requested, true and complete records, which support billing statements, reports, performance indices, and all other related documentation. The County's authorized representatives shall have access during reasonable hours to all records, which are deemed appropriate to auditing billing statements, reports, performance indices, and all other related documentation. The Contractor agrees that it will keep and preserve for at least seven years all documents related to the Agreement, which are routinely prepared, collected or compiled by the Contractor during the performance of this Agreement.

**ARTICLE 16  
GRATUITIES**

The right of the Contractor to proceed or otherwise perform this Agreement, and this Agreement may be terminated if the County Administrator or his appointed designee determine, in their sole discretion, that the Contractor or any officer, employee, agent, or other representative whatsoever, of the Contractor offered or gave a gift or hospitality to a County officer, employee, agent or Contractor for the purpose of influencing any decision to grant a County Contract or to obtain favorable treatment under any County Contract.



**ARTICLE 17  
INVOICES**

All invoices for work done under this Agreement should be directed to Eric Larson, Director Environmental Engineering & Land Management.

Located at:           120 Shanklin Road  
                            Beaufort, SC 29906

Invoices should include:

- a) Period of time covered by the invoice
- b) Summary of work performed for the billing period
- c) Purchase order
- d) Tax Identification Number

Unless otherwise indicated, all invoices must be timely and accurate. Invoices will be itemized by Scope of Work. Invoices to be submitted with 30 days of work performed. End of fiscal year (June 30<sup>th</sup>) invoices are due by July 30<sup>th</sup>. Invoices received after July 30<sup>th</sup> will not be accepted or paid.

**ARTICLE 18  
PURCHASE ORDERS**

The County will issue Purchase Orders from properly executed requisitions for this Agreement and each approved Change Order. The County shall not be responsible for invoices of \$500 or more that do not have a purchase order covering them.

**ARTICLE 19  
ORDER OF DOCUMENTS**

The following are incorporated into and made a part of this Agreement by reference:

- a) RFQ
- b) Bid Response

**ARTICLE 20  
TOTAL AGREEMENT**

This Agreement constitutes the entire contract between the parties hereto. No representations, warranties or promises pertaining to this Agreement have been made or shall be binding upon any of the parties, except as expressly stated herein.

This Agreement shall be construed in accordance and governed by the laws of the State of South Carolina.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day and year first above written.

**WITNESSES:**

*C. Keryl Harris*  
*Annice Shroyer*

**BEAUFORT COUNTY**, a political  
Subdivision of the State of South Carolina

Signature: *Tom Keaveny*  
Name: Tom Keaveny, Interim County  
Administrator  
P. O. Drawer 1228  
Beaufort, SC 29901-1228  
Phone: 843-255-2026  
Fax: 843-255-9403  
Date: 9.28.2018

**WITNESSES:**

*Dixey C. Camerta*  
*M. A.*

**Center for Watershed Protection**

Signature: *Hyun Jeong Kwon*  
Name: Hyun Jeong Kwon  
Address: 3290 North Ridge Rd #290  
Phone: Elliott City MD 20643 410-461-6323  
Email: hyk@cwpr.org  
Date: 9/19/2018

## Project Timeline

The Team envisions this task to take about a year to complete. The proposed timeline is based on relative time past the Authorization to Proceed (TBD).

Scheduled Deliverables/Tasks	Month										
	1	2	3	4	5	6	7	8	9	10	11
<b>Task 1: Develop Model Regional Ordinance</b>											
• SoLoCo consensus meeting (1)	x										
• Draft model ordinance	x	x	x	x							
<b>Task 2: Propose Regional Design Standards</b>											
• Meetings (4) with SoLoCo staff	x		x		x						
• Develop rationale statements				x	x						
• Produce draft Regional Design Manual, and supporting documents	x	x	x	x	x						
<b>Task 3: Facilitate Stakeholder and Public Review</b>											
• Initiate 45-day comment period					x						
• Engineer/Developer Stakeholder meetings (3)						x	x				
• Review public comments with SoLoCo								x			
• Revise Ordinance and Design Manual							x	x			
<b>Task 4: Deliver Final SoLoCo Stormwater Design Manual and Model Ordinance</b>											
• Provide final ordinance and manual documents in SoLoCo meeting									x		
• Issue final Model Ordinance, Design Manual, and supporting documents									x		
• Training for Engineers and Plan Reviewers (3)										x	x

**From:** Bill Hodgins <[wh@cw.org](mailto:wh@cw.org)>  
**Sent:** Wednesday, July 17, 2019 11:43 AM  
**To:** Larson, Eric <[elarson@bcgov.net](mailto:elarson@bcgov.net)>; Jones, Kim <[kjones@townofbluffton.com](mailto:kjones@townofbluffton.com)>  
**Cc:** Ellis, Kathryn K. ([KKEllis@mccormicktaylor.com](mailto:KKEllis@mccormicktaylor.com)) <[KKEllis@mccormicktaylor.com](mailto:KKEllis@mccormicktaylor.com)>; Greg Hoffmann <[gph@cw.org](mailto:gph@cw.org)>  
**Subject:** RE: Updated timeline on Ordinance & Manual

Eric and Kim - here is an updated timeline:

Draft of Manual – Delivered via Drop Box (document is large) Tuesday July 23.  
Municipal Review period – until September 6 with a committee meeting scheduled to address comments ahead of that date  
SoLoCo presentation – August 28  
Final draft of Manual for public comment – September 20  
Public comment period – September 20 – October 18  
CWP edits and final Ordinance and Manual complete – November 1  
Training scheduled after November 1 and complete by end of 2019.  
The final ordinance adoption by the municipalities and implementation by each staff can affect the training schedule but the final documents will be available by November 1.

The draft that I deliver next week will require some font and style edits. There are five of us that have been assembling the chapters and we are in the midst of editing for consistency.

Please let me know if you have questions or want to discuss this timeline.

Bill  
Cell: 843-263-8152

William Hodgins, P.E.  
Senior Water Resources Engineer  
Center for Watershed Protection  
3290 North Ridge Road, Suite 290  
Ellicott City, MD 21043  
P 410.461.8323 ext. 3212  
F 410.461.8324  
[wh@cw.org](mailto:wh@cw.org)  
[SAVE THE DATE!](#)  
[National Stormwater and Watershed Conference](#)  
[April 14<sup>th</sup>-17<sup>th</sup> 2020](#)  
[Austin, Texas](#)



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## BEAUFORT COUNTY COUNCIL

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### Agenda Item Summary

#### Item Title:

Housing Trust Fund Resolution Consideration

#### Council Committee:

Natural Resources

#### Meeting Date:

August 19, 2019

#### Committee Presenter (Name and Title):

Eric Greenway, Community Development Director

#### Issues for Consideration:

The SoLoCo Sub-committee on Housing Trust Funds has recommended a process for implementing a Regional Housing Trust Fund ( see attached) which lays out a proposed amount for each jurisdiction to contribute toward the hiring and payment of a consultant who will work with an appointed Steering Committee to implement an HTF framework in order to establish the fund. Since Beaufort County has taken the lead on the Attainable Housing issue, our procurement and contract process will be used to authorize and hire the consultant.

#### Points to Consider:

Consider adopting the SoLoCo resolution to commit Beaufort County's share of the funding for the consultant.

#### Funding & Liability Factors:

Beaufort County's share is proposed to be an amount not to exceed \$65,000.

#### Council Options:

1. Adopt the resolution to commit the funding.
2. Reject the resolution.

#### Recommendation:

Staff recommends that the resolution be adopted to commit the funding for the HTF.

## Process for Establishing the SoLoCo Regional Housing Trust Fund

1. Secure funding from each jurisdiction through IGAs for the consultant based on the following population based formula:

A. Beaufort County:	50%	65K*
B. Hilton Head Island:	20%	25K
C. Bluffton	12%	15K
D. Jasper County	08%	10K
E. Hardeeville	04%	5K
F. Beaufort City	04%	5K
G. Port Royal	04%	5K

\*based on Greenville's 130K costs

2. Develop and distribute a Request for Qualifications using the Beaufort County Procurement process to hire a consultant to set-up and organize the HTF.
  - A. SoLoCo HTF sub-committee will obtain the blessing of the SoLoCo Board once the RFQ scope draft is completed.
  - B. Beaufort County Purchasing will coordinate the distribution and collection of submittals.
  - C. The SoLoCo HTF sub-committee will serve as the RFQ review team
  - D. Each jurisdiction's HTF Sub-committee representative will update their respective Administrators and Council on progress.
  - E. SoLoCo HTF sub-committee will obtain the blessing of the SoLoCo Board for the HTF Consultant selection recommendation.
3. The respective jurisdictions will begin their internal process for appointing the Steering Committee representatives while the HTF Sub-committee works with the NGOs to select their representative:
  - A. 2 Representatives from each jurisdiction
  - B. 1 Representative from each: Home Builders Association, Realtors Association, Habitat for Humanity, Jasper Neighbors United, Housing Authority, & Financial Industry.
  - C. HTF Sub-committee members serve as Advisory Committee to HTF Consultant and Steering Committee.
4. Consultant contract in place through Beaufort County and Steering Committee work will commence.

**RESOLUTION No.**

**A RESOLUTION OF BEAUFORT COUNTY, SOUTH CAROLINA, COUNTY COUNCIL AUTHORIZING THE COUNTY ADMINISTRATOR TO EXPEND FUNDS FOR THE PURPOSES OF COST SHARING FOR CONTRACTING FOR CONSULTING SERVICES TO DEVELOP A REGIONAL AFFORDABLE HOUSING TRUST FUND.**

**WHEREAS**, Beaufort County, SC is currently involved with and is a part of the Southern Lowcountry Regional Board (SOLOCO); and

**WHEREAS**, SOLOCO has recognized the need for housing that is attainable for all and particularly for those in the service industries and entry-level professional occupations; and

**WHEREAS**, SOLOCO has prioritized the need for a regional approach for attainable housing; and

**WHEREAS**, the SOLOCO members designated staff from each jurisdiction involved to serve on a Affording Housing Trust Fund Sub-committee to research and evaluate the feasibility of a regional affordable housing trust fund; and

**WHEREAS**, the Affordable Housing Trust Fund Sub-committee met on multiple occasions and determined that an outside independent contractor with specific expertise was needed to design the framework of such an organization and determine funding requirements and coordinate with the individual jurisdictions involved; and

**WHEREAS**, the Affordable Housing Trust Fund Sub-committee has drafted an RFP for consultant services; and

**WHEREAS**, the Affordable Housing Trust Fund Sub-committee will review responses to the RFP and provide a recommendation to SOLOCO; and

**WHEREAS**, the Affordable Housing Trust Fund Sub-committee developed a structure for cost sharing for each jurisdiction based on population.

**NOW, THEREFORE, BE IT RESOLVED** by the County Council of Beaufort County, SC:

The County Administrator is authorized to expend funds in an amount not to exceed \$65,000 as the County's portion of the contract.

**PASSED AND ADOPTED** by the County Council of Beaufort County, SC this \_\_\_\_ day of \_\_\_\_\_ 2019.

**BEAUFORT COUNTY COUNCIL, SC**

\_\_\_\_\_  
**By: STEWART H. RODMAN, CHAIRMAN**

**ATTEST:**

**APPROVED AS TO FORM  
AND CORRECTNESS:**

\_\_\_\_\_  
**CLERK TO COUNCIL**

\_\_\_\_\_  
**COUNTY ATTORNEY**



## BEAUFORT COUNTY COUNCIL

### Agenda Item Summary

#### Item Title:

Project Management, Landscape Installation & Maintenance Services for the Highway 17 Medians and Traffic Circle at Gardens Corner

#### Council Committee:

Natural Resources Committee

#### Meeting Date:

August 19, 2019

#### Committee Presenter (Name and Title):

Eric Greenway, Director Community Development Department and Nancy R. Moss, Community Development Planner

#### Issues for Consideration:

A SCDOT Encroachment Permit form and Maintenance Agreement form must be signed by the County Administrator as part of the SCDOT encroachment permit process for the medians and traffic circle at Gardens Corner.

#### Points to Consider:

The Community Development Department prepared the landscape plans for Highway 17 medians and traffic Circle at Gardens Corner. On May 9, 2019, County Staff presented the landscape plans for the medians and traffic circle at the KBCB meeting and received the full support of the KBCB and the Friends of Gardens Corner. The SCDOT encroachment permit and MOA forms have been prepared but must be signed by the County Administrator before SCDOT will review the landscape plans and approve the encroachment permit. Draft bid document have been prepared which includes landscape site preparation/grading, twelve month hand watering, warranty and maintenance program to facilitate plant establishment, cost of plants and installation of plants, and the cost of pine straw mulch installation which is expected to begin winter of 2020. The maintenance program is expected to begin in the Spring of 2020 and end in Spring of 2023 for a total of 3 years of landscape maintenance.

#### Funding & Liability Factors:

\$175,000 has been budgeted for this project. The funding is from the \$425,000 Solar Panel Tree Mitigation Funds paid into the tree Reforestation Fund for North of the Broad beautification projects.

#### Council Options:

Approve or Reject to authorize the County Administrator to execute the SCDOT encroachment permit and Maintenance Agreement forms.  
Approve or Reject to authorize the County Staff to put this project out to bid.

#### Recommendation:

Approve to Authorize the County Administrator to execute the SCDOT encroachment permit and maintenance Agreement forms and to put this project out to bid.



# Application for Encroachment Permit

S.C. Department of Transportation

Form 637 (Rev 09/2015)

### Contact Information

**Applicant:**

**Street:**

**City:**

**State:**  **Zip Code:**

**Phone:**  **Fax:**

**Email:**

**Contact:**

### Project Location

**Primary County:**

County	Road Name
<input type="text" value="Beaufort"/>	<input type="text" value="Charleston Hwy (US 17N)"/>
<input type="text" value="Beaufort"/>	<input type="text" value="Charleston Hwy (US 17S)"/>

**1. Type of Encroachment:** LANDSCAPING

**Encroachment:**

Beaufort county would like to beautify the Gardens Corner traffic circle and the Highway 17 traffic medians with plantings per the landscape plans attached.

**2. Description of Location:**

The Gardens Corner traffic circle and the first Highway 17 traffic medians immediately north and south of the traffic circle; approximately 1 mile in length.

(Attach sketch indicating roadway features such as: pavement width, shoulder width, sidewalk and curb and gutter location, significant drainage structure, north arrow, right of way width, and location of the proposed encroachment with respect to the roadway centerline and the nearest intersecting road on the State system.)

Customer Agreement

**3. The undersigned applicant hereby requests the SCDOT to permit encroachment on the SCDOT right of way as described herein. It is expressly understood that the encroachment, if and when constructed, shall be installed in accordance with the sketch attached hereto and made a part hereof. The applicant agrees to comply with and be bound by the SCDOT's "A Policy for Accommodating Utilities on Highways Rights of way", "Standard Specifications for Highway Construction", the "General Provisions" and "Special Provisions", attached hereto or made a part hereof by reference, during the installation, operation and maintenance of said encroachment within the SCDOT's Right of Way. DISCHARGES OF STORM WATER AND NON-STORM WATER: Work within State Highway right-of-way shall be conducted in compliance with all applicable requirements of the National Pollutant Discharge Elimination System (NPDES) permit(s) issued to the Department of Transportation (Department), to govern the discharge of storm water and non-storm water from its properties. Work shall also be in compliance with all other applicable Federal, State and Local laws and regulations, and with the Department's Encroachment Permits Manual and encroachment permit. The encroachment permit will not be issued until the applicant has received an NPDES construction permit from SC Department of Health and Environmental Control.**

**The applicant agrees to comply with all current SCDOT Standards Specifications for Highway Construction including all Supplemental Technical Specifications. The applicant hereby further agrees, and binds his/her/its heirs, personal representatives, successors, assigns, to assume any and all liability for accidents or injuries to persons, or damage to property, including the highway, that may be caused by the construction, maintenance, use, moving or removing of the physical appurtenances contemplated herein.**

**Applicant's Name:**  **Date:** 05/29/2019  
(Please print or type)

**Applicant's Sig:** \_\_\_\_\_ **Title:**

For Office Use Only

**For Office Use Only**

**In accordance with your request and subject to all the provisions, terms, conditions, and restrictions stated in the application and the general and special provisions attached hereto, the SCDOT hereby approves your application for an encroachment permit. This permit shall become null and void unless the work contemplated herein shall have been completed prior to:**

**See Attached Special Provision and/or Permit Requirements**

NPDES Permit  
Nbr:

**(Date received by res. Maint. Engr.)**

**(SCDOT Approval)**

**(Date)**

## General Provisions

**Application for Encroachment Permit**  
**General Provisions**

1. **DEFINITIONS:** The word "Permittee" used herein shall mean the name of the person, firm, or corporation to whom this permit is addressed, his, her, its, heirs, personal representatives, successors and assigns. The word "DEPARTMENT" shall mean the South Carolina Department of Transportation.
2. **NOTICE PRIOR TO STARTING WORK:** Before starting the work contemplated herein within the limits of the highway right of way, the Department's Resident Maintenance Engineer in the county in which the proposed work is located shall be notified 24 hours in advance so that he may be present while the work is under way.
3. **PERMIT SUBJECT TO INSPECTION:** This permit shall be kept at the site of the work at all times while said work is under way and must be shown to any representative of the Department or law enforcement officer on demand.
4. **PROTECTION OF HIGHWAY TRAFFIC:** The applicant shall be responsible for the protection of the highway traffic at all times during the construction, maintenance, removing or moving of the encroachment permitted herein. Detours, barricades, warning signs and flagmen, as necessary, shall be provided by and at the expense of the Permittee and shall be in accordance with the "Manual on Uniform Traffic Control Devices" (MUTCD). The work shall be planned and carried out so that there will be the least possible inconvenience to the motoring public. The Permittee agrees to observe all rules and regulations of the Department while carrying on the work contemplated herein and take all other precautions that circumstances warrant.
5. **STANDARDS OF CONSTRUCTION:** All work shall conform to the Department's standards of construction and shall be performed in a workman-like manner. The applicant shall make adequate provisions for maintaining the proper drainage of the highway as it may be affected by the encroachment permitted herein. All work shall be subject to the supervision and satisfaction of the Department.
6. **FUTURE MOVING OF PHYSICAL APPURTENANCES:** If, in the opinion of the State Highway Engineer, it should ever become necessary to move or remove the physical appurtenances, or any part thereof contemplated herein, on account of change in location of the highway, widening of the highway, or for any other sufficient reason, such moving shall be done on demand of the Department at the expense of the Permittee.
7. **RESTORATION OF HIGHWAY FACILITIES UPON MOVING OR REMOVING OF PHYSICAL APPURTENANCES:** If, and when, the physical appurtenances contemplated herein shall be moved or removed, either on the demand of the Department or at the option of the Permittee, the highway and facilities shall immediately be restored to their original condition at the expense of the Permittee.
8. **COSTS:** All work in connection with the construction, maintenance, moving or removing of the physical appurtenances contemplated herein shall be done by and at the expense of the Permittee.
9. **ADDITIONAL PERMISSIONS:**
  - (a) It is distinctly understood that this permit does not in any way grant or release any rights lawfully possessed by the abutting property owners. The Permittee shall secure any such rights, as necessary, from said abutting property owners.
  - (b) The Permittee shall be responsible for obtaining all other approvals or permits necessary for installation of the encroachment from other government entities.

- (c) There shall be no excavation of soil nearer than two feet to any public utility line or appurtenant facility except with the consent of the owner thereof, or except upon special permission of this Department after an opportunity to be heard is given the owner of such line or appurtenant facility.
10. **ADDITIONAL WORK PERFORMANCE:**
- (a) All crossings over the highway shall be constructed in accordance with "Specifications for Overhead Crossings of Light and Power Transmission Lines and Telegraph Lines over each other and over Highway Rights of Way in South Carolina," as approved by the Public Service Commission of South Carolina and effective as of date of this permit.
- (b) All tunneling, boring, or jacking shall be done in such a way as not to disturb the highway surfacing.
- (c) No pavement shall be cut unless specifically authorized herein.
- (d) No excavation shall be nearer than three feet to the edge of pavement unless specifically authorized herein.
- (e) Underground facilities will be located at minimum depths as defined in the "Utility Accommodations Manual" for the transmittant, generally as follows: 4 feet minimum for hazardous or dangerous transmittant, 3 feet minimum for other lines. The Department may approve shallower depths if adequate protection is provided. Such approval must be obtained in writing.
- (f) Service and other small diameter pipes shall be jacked, driven, or otherwise forced underneath the pavements on any surfaced road without disturbing the pavement. The section under the highway pavement and within a distance of three (3) feet on either side shall be continuous without joints.
11. **ACCESS:**
- (a) Permittee is responsible for maintaining reasonable access to private driveways during construction.
- (b) It is expressly provided that, with respect to any limited access highway, the Permittee shall not have or gain access from the main traveled way of the highway, or the on or off ramps to such facility, except upon approval by the Department.
12. **DRIVEWAYS:**
- (a) The existing crown of the highway shall be continued to the outside shoulder line of the highway.
- (b) If the driveway or approach is concrete pavement, the pavement shall be constructed at least 6 inches thick and with a minimum of class 2500 concrete. There shall be a bituminous expansion joint, not less than 3/4 inches in thickness, placed between the highway paving and the paving of the approach for the full width of the approach.
13. **BEAUTIFICATION:**
- (a) All trees, plants, flowers, etc. shall be placed in accordance with the provisions specifically stipulated herein.
- (b) All trees, plants, flowers, etc. shall be maintained by, and at the expense of, the Permittee and the provisions of this permit shall become null and void, if and when said Permittee ceases to maintain aid trees, plants, flowers, etc.
14. **AS-BUILT PLANS:**
- (a) The applicant shall provide the Department with survey-quality as-built plans in accordance with the requirements set forth in the Department's "A Policy for Accommodating Utilities on Highway Rights of Way".

# 11. APPENDICES

## APPENDIX 1 – MAINTENANCE PARTNERSHIP AGREEMENT

2/17/00

THIS AGREEMENT is entered this 4th day of June, 2019 by and between Beaufort County (hereinafter "Non-SCDOT Entity") and the South Carolina Department of Transportation (hereinafter "SCDOT").

WHEREAS, in accordance with Sections 57-3-110 (1) and (10), 57-3-650, 57-23-10, 57-23-800(E), 57-25-140, and the SCDOT's Policy of Vegetation Preservation on SC Highways, SCDOT is authorized to allow landscaping and beautification efforts on SCDOT right of ways;

WHEREAS, Non-SCDOT Entity has previously obtained a SCDOT Encroachment Permit for the one-time right to access SCDOT's right of way for landscaping, beautification and/or enhancement. Said encroachment permit is described as follows:

Permit Number: TBD Date Issued: \_\_\_\_\_

Location Highway 17 Gardens Corner traffic circle and median beautification project ;

WHEREAS, SCDOT and Non-SCDOT Entity are desirous of entering into this Agreement to grant a continuous license to the Non-SCDOT Entity to enter the SCDOT's right of way to conduct routine maintenance of landscaping, beautification and/or enhancements permitted by the aforesaid encroachment permit;

NOW THEREFORE, in consideration of mutual promises, SCDOT and Non-SCDOT Entity agree to the following:

1) SCDOT grants Non-SCDOT Entity a license to enter onto the SCDOT right of way at the area defined by the encroachment permit. The purpose of the license to enter is limited to routine maintenance of the encroachment permit area. Such entry will be limited to the scope of the work identified in the encroachment permit. No additional encroachment beyond that contemplated by the original encroachment permit is allowed. If additional maintenance, enhancement and/or beautification efforts, different from the original scope of work identified in the encroachment permit, is requested, Non-SCDOT Entity will be required to submit a new encroachment permit identifying the new scope of work. Entry onto SCDOT right of way pursuant to this agreement may be without notice to the SCDOT.

2) Non-SCDOT Entity agrees to post all necessary traffic control devices and take all necessary precautions in conformance with SCDOT traffic control standards and as required by the SCDOT, along the SCDOT right of way prior to and during the performance of any routine maintenance, enhancement and/or beautification efforts.

3) Non-SCDOT Entity agrees that no work shall be accomplished from the mainline side of the highway. Ingress and egress from the work area shall be made from private property as identified on the encroachment permit.

4) Non-SCDOT Entity agrees to indemnify and hold harmless the SCDOT from any and all claims, damages and liability arising or resulting from the Non-SCDOT Entity's presence on and use of the SCDOT right of ways for routine maintenance, enhancement and/or beautification. If Non-SCDOT Entity is a local government, it agrees to be responsible for all claims or damages arising from the work performed within the limits of the SC Tort Claims Act. In addition, Local government shall insert a hold harmless and indemnification clause in its contract with all contractors and subcontractors which requires the contractor and subcontractor to indemnify and hold harmless the local government and the State of South Carolina, specifically the SCDOT, from any liability, claims or damages which may arise from the performance of the work on SCDOT right of way. Further, municipalities agree that they are subject to S. C. Code Section 57-5-140, which provides that SCDOT shall not be liable for damages to property or injuries to persons, as otherwise provided for in the Torts Claims Act, as a consequence of the negligence by a municipality in performing such work within the State highway right of way.

**MAINTENANCE PARTNERSHIP AGREEMENT, PAGE 2**

5) This Agreement shall not be modified, amended or altered except upon written consent of the parties. Neither party shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other.

6) This Agreement may be terminated upon thirty days' written notice to the other party; however, in cases where the Non-SCDOT Entity is not performing in accordance with this Agreement, SCDOT shall give written notice to Non-SCDOT Entity of the failure in performance and, if the Non-SCDOT Entity does not correct or cure the performance within three days of receipt of the notice, SCDOT shall have the option to terminate this license immediately, and shall, thereafter, give written notice of such termination to the Non-SCDOT Entity.

IN WITNESS WHEREOF, the above parties have hereunto set their hands and seals.

SOUTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

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

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

Recommended by: \_\_\_\_\_

Non-SCDOT Entity

By: \_\_\_\_\_  
Ashley Jacobs

Its: \_\_\_\_\_  
Beaufort County Administrator

Date: \_\_\_\_\_

**GARDENS CORNER BEAUTIFICATION PROJECT - COST ESTIMATE**

Qty	Description	Rate	Total
42	Lagerstroemia x 'Tonto', 15 gal., 1.5" cal. 6' height, 5' spread, single trunk	\$ 225.00	\$ 9,450.00
78	Ilex cornuta 'Dwarf Burford', 3 gal., 18"-24" height & spread	\$ 25.00	\$ 1,950.00
86	Loropetalum chinese 'Chang Hong' / Ever Red Fringe Flower, 7 gal.	\$ 40.00	\$ 3,440.00
2000	Iris virginica / Blue Flag Iris, 1 gallon pot	\$ 10.00	\$ 20,000.00
2200	Liriope muscari ' Big Blue' / Big Blue Lilyturf, 1 gal.	\$ 10.00	\$ 22,000.00
SF	Long Leaf pine Straw, bales, 17,200 SF	\$ 0.30	\$ 5,160.00
6	Quercus virginica / Live Oak, 2.5" caliper, 8'-10' ht./6' spread	\$ 500.00	\$ 3,000.00
	subtotal (includes 1st year plant warranty & maintenance)	\$	\$ 65,000.00
	taxed	\$	\$ 3,900.00
	total	\$	\$ 68,900.00
1 YR	Misc. weeding, feeding & mulching around existing oak trees	\$ 10,000.00	\$ 10,000.00
2 YR	Maintenance	\$ 30,000.00	\$ 30,000.00
3 YR	Maintenance	\$ 30,000.00	\$ 30,000.00
	<b>Maintenance Sub-Total</b>		\$ 70,000.00
	<b>Planting, Warranty &amp; Maintenance Sub-Total</b>		\$ 138,900.00
	<b>Contingency (10%)</b>		\$ 13,890.00
	<b>Grand-Total</b>		\$ 152,790.00

Estimate Date: 05.09.19 NRM



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## BEAUFORT COUNTY COUNCIL

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### Agenda Item Summary

#### Item Title:

RCLP Program Ordinance (NEW)

#### Council Committee:

Natural Resources

#### Meeting Date:

August 19, 2019

#### Committee Presenter (Name and Title):

Eric Greenway, Community Development Director

#### Issues for Consideration:

Adoption of a new ordinance that provides process specificity for the Rural and Critical Lands Preservation Program.

#### Points to Consider:

An RCLPP Ordinance was adopted in 1998. In 2006, the RCLPP Ordinance was removed from the code. There is currently no County code governing the administration of the RCLP Program. In 2006 a guidelines resolution was adopted, but it lacks detail. This new ordinance is needed in order to memorialize current RCLP Program procedures. The Beaufort County Open Land Trust and Beaufort County Staff/Legal agree with this ordinance as written.

#### Funding & Liability Factors:

N/A

#### Council Options:

1. Approve as written. 2. Approve with revisions. 3. Do not approve.

#### Recommendation:

Staff recommends to approve the ordinance as written.



**AN ORDINANCE OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, WHICH SHALL BE REFERRED TO AS  
THE RURAL AND CRITICAL LANDS PRESERVATION PROGRAM ORDINANCE**

**Chapter 26 – COMMUNITY DEVELOPMENT**

**ARTICLE II – RURAL AND CRITICAL LANDS PRESERVATION PROGRAM**

**SECTION 26-26: TITLE**

This ordinance shall be known as the Rural and Critical Lands Preservation Program Ordinance.

**SECTION 26-27: PURPOSE**

It is the purpose of this ordinance to:

1. Provide a means by which rural and critical lands may be protected and enhanced as economic and environmental resources of major importance.
2. Encourage landowners to make a voluntary long-term commitment to rural and critical land protection by offering landowners financial incentives and security of land use.
3. Preserve open space; protect critical and natural resources; and/or provide land for passive recreation.
4. Leverage federal, state, local, and private conservation efforts and development rights purchase funds and protect the investment of taxpayers in purchased and donated conservation easements.
5. Provide a means whereby rural landowners can maintain and preserve the rural character of their land through land conservation.
6. Provide compensation to landowners in exchange for their relinquishment of the right to develop their private property.
7. Reduce and defer the need for major urban infrastructure improvements in the rural areas of the county and the expenditure of public funds for such improvements.
8. Provide for the purchase of fee simple interests in lands deemed critical to provide for the protection of the natural resources, historic and cultural significance, passive recreation, viewsapes and lands suitable for public use in a manner consistent with its conservation values.

9. Provide for purchase of development rights and fee simple interest in lands threatened by development, which if it occurs will have detrimental effects on land use patterns, traffic, public safety, stormwater runoff, water quality or other conservation objectives.
10. Provide for purchase of development rights on rural lands, which provide protection of natural resources and stability of agricultural, timber and other open space uses.

**SECTION 26-28: FINDINGS**

1. Rural and critical lands in many parts of the county are under significant development pressure from expanding urban areas.
2. This urban pressure takes the form of scattered development in wide belts around urban areas and brings conflicting land uses into juxtaposition, creates high costs for public services, and stimulates land speculation.
3. Many of the rural and critical lands in the county are in jeopardy of being lost due to these activities.
4. These rural and critical lands constitute unique and irreplaceable land resources of countywide importance.
5. There are additional critical lands which are also valued natural and ecological resources which provide open space for wildlife habitat, wildlife corridors, clean air, clean water, groundwater recharge, and protection of cultural resources.
6. It is the declared policy of the county to provide a voluntary program to acquire or otherwise permanently protect rural lands and other lands containing critical natural, cultural and historic resources.
7. It is the policy of the county that rural and critical lands are valued natural and ecological resources which provide certain needed open space for wildlife habitat, wildlife corridors, clean air, clean water, groundwater recharge, and protection of historic and cultural resources.
8. It is the policy of the county to provide opportunities, through the purchase of development rights, to landowners to protect agricultural lands so that they may continue to farm the land, as well as to acquire such rights to protect other parcels where the landowner wishes to retain an ownership interest.

**SECTION 26-29: DEFINITIONS**

The following words and terms shall have the meaning respectively ascribed to them in this section:

1. *Conservation easement* means a non-possessory interest of a holder in real property imposing restrictions or affirmative obligations as defined in S.C. Code Ann. Section 27-8-20, or as defined in 26 U.S. Code Section 170(h).
  - a. These easements could take the form of an agricultural conservation easement, which would be rights and restrictions encumbering a property primarily for the purpose of protecting the agricultural soils, including prime, statewide, and locally important agricultural soils, viability, and productivity of that property.
2. *County* means Beaufort County, South Carolina.
3. *County Council* or *Council* means the elected County Council of Beaufort County, South Carolina.
4. *Critical lands* means any lot(s), tract(s), parcel(s), or areas(s), within the county that possess unique, significant, or important characteristics as may be identified by the Rural and Critical Land Preservation Board and subject to final approval by County Council. "Unique, significant, or important characteristics" include but are not limited to protection of cultural and historic resources and sites, the potential for medium to high density development, the ability to use the land for public access and passive recreation, the ability to use the land for public access to waterways, the ability of the land to be used for the preservation of public views of waterways or other scenic vistas, the quality of the land for purposes of a wildlife sanctuary, or such other and further characteristics which may be used to further the goals of Council.
5. *Development right* means the right to legally develop or subdivide property under current county codes and ordinances. The term includes, but is not limited to, the right to develop property for any commercial, industrial or residential use except as expressly permitted by this article and as further defined by the Beaufort County Community Development Code, as adopted and amended by County Council.
6. *Easement holder* means a holder as defined by S.C. Code Ann. Section 27-8-20(2), or a qualified organization as defined by 26 U.S. Code Section 170(h)(3).
7. *Greenprint* means the most recent Beaufort County Council approved version of the map of identified and prioritized parcels for acquisition under the County's Rural and Critical Lands Preservation Program.
8. *Landowner* means the record owner of the land or the authorized contract purchaser of the land.
9. *Land Preservation Board* or *Board* means the Beaufort County Rural and Critical Lands Preservation Board established by County Council as more fully described in County Code of Ordinances Chapter 2, Section 2-281 through 2-290.

10. *Land trust* means a nonprofit land conservation organization accredited by the Land Trust Alliance which meets the requirements of Internal Revenue Code Section 170 and is active in conservation efforts in the county or state.
11. *Passive park* means any fee-simple county owned or co-owned property purchased with Rural and Critical Lands Preservation Program designated funding. A list of passive parks is available with the Passive Parks Manager upon request and/or on the Beaufort County website.
12. *Passive recreation* means recreation requiring little or no physical exertion focusing on the enjoyment of one's natural surroundings. In determining appropriate recreational uses of passive parks, the promotion and development of resource-based activities such as fishing, camping, hunting, boating, gardening, bicycling, nature studies, horseback riding, visiting historic sites, hiking, etc., shall be the predominant measure for passive park utilization.
13. *Resource conservation area* means those areas of land in the County designated as "resource conservation areas" on the Zoning Map of Beaufort County, as adopted and amended by County Council.
14. *Restrictive easement* means rights and restrictions encumbering a property primarily for the purpose of limiting development on that property that would be incompatible with the United States of America's mission of Marine Corps Air Station Beaufort.
15. *Rural land* means those areas designated as "rural service areas" and "resource conservation areas" on the Zoning Map of Beaufort County, as adopted and amended by County Council.
16. *Rural service area* means those areas of land in the County designated as "rural service areas" on the Zoning Map of Beaufort County, as adopted and amended by County Council.
17. Any terms left undefined by this ordinance shall take the meaning as otherwise defined by the Beaufort County Community Development Code, as adopted and amended by County Council. In the event of conflicting meanings, the definitions of this section shall control.

**SECTION 26-30: IN GENERAL**

1. The County Council may designate by Resolution any policies, procedures, rules and regulations for the purpose of regulating the Rural and Critical Lands Preservation Program, its operation and funding, and may request and receive recommendations from the Rural and Critical Lands Preservation Board.
2. The County shall retain a Rural and Critical Lands Preservation Program Land Acquisition Contractor who shall be trained and properly qualified for the work and who shall work with the County Community Development Department, or other County staff as assigned, to procure, dispose of, and administer real estate and land rights for the County which have been procured

through the Rural and Critical Lands Preservation Program in accordance with the County's purchasing policies and procurement code.

**SECTION 26-31: TYPES OF ACQUISITIONS**

There are two types of property interests that can be acquired under the provisions of this ordinance, the Purchase of Development Rights and the Purchase of Fee Simple Interests.

A. Purchase of Development Rights (PDR)

Development rights will typically be purchased in areas designated "Rural land", although there may be instances where PDR may be appropriate for purchase in other zoning designations. Generally, properties considered for PDR are those areas of the County where one or more of the following apply:

1. There are conservation values in or on the property to be preserved.
2. Development of the property would result in adverse impacts to the environment or public infrastructure serving the property.
3. The character of the property and its surrounding area would be threatened by proposed or possible future development.
4. The owner wishes to retain ownership of the property.
5. Public access to the property is not required or desirable.

The development rights purchased shall be transferred to Beaufort County by a Deed of Development Rights. If the development rights are to be purchased, the property may also be subject to the provisions of a conservation easement, and/or other applicable legal instruments as approved by Beaufort County Council which will assure that the property is protected from development other than what is permitted by the PDR agreement, the conservation easement, and/or any other legal instruments as approved by Beaufort County Council.

B. Purchase of Fee Simple Interests (PFSI)

Fee simple interests shall be applicable in all areas of the County, including those designated as "Rural land". Generally, properties considered for PFSI are those where the property owner(s) are willing to sell in those instances where one or more of the following apply:

1. There are conservation values in or on the property to be acquired and the owner is only willing to sell all of their interest in the property.
2. Public access to the property is required or desirable.
3. Development of the property for public access and passive recreation use is desirable.
4. Development of the property would result in adverse impacts to the environment or public infrastructure serving the property.

**SECTION 26-32: GENERAL PROCESS**

- A. The PDR and PFSI is a multi-step process within the Rural and Critical Lands Preservation Program (RCLPP or Program) whereby, at a minimum:
  - 1. The Land Preservation Board receives initial acquisition applications and does or does not recommend due diligence authorization to County Council.
  - 2. The County Council does or does not authorize due diligence funding.
  - 3. The Land Preservation Board receives acquisition proposals due diligence information and does or does not recommend acquisition approval to County Council.
  - 4. The County Council does or does not approve acquisition proposal.
  
- B. The PDR and PFSI is also an application process within the RCLPP whereby the following apply:
  - 1. Generally, eligible applicants are those individual property owners, land trusts, environmental advocacy organizations, or municipalities located in Beaufort County where property has been identified on the most recent version of the Greenprint.
  - 2. An application form shall be completed and submitted, as provided and instructed on the County website.
  - 3. Applications will be compiled and reviewed by the appropriate County staff and the Land Acquisition Contractor on no less than a quarterly basis.
  - 4. Eligible applications will be provided to the Land Preservation Board where they will discuss, prioritize, and recommend to the County Natural Resource Committee (NRC) for due diligence approval.
  - 5. The Board recommendation will be presented to the NRC, or other committees as may be appropriate or required, where a decision to fund due diligence will or will not be approved for each application.
  - 6. If approved by the NRC, the Land Acquisition Contractor will proceed with obtaining due diligence, which will be reviewed and each application ranked by the appropriate County staff and Contractor upon completion.
  - 7. Applicant due diligence will be presented to the Land Preservation Board where they will discuss, prioritize, and make a recommendation to the NRC for acquisition approval.
  - 8. The Board recommendation will be presented to the NRC where a decision to acquire will or will not be approved for each application.
  - 9. The NRC approved applications will be presented to the full County Council for final approval no less than thirty (30) days prior to the closing date.
  - 10. All closing documents will be provided to the County Attorney no less than three (3) days prior to closing for review and approval.
  - 11. All contractual discussions by the Board, NRC, or Council may or may not be in Executive Session, as permitted by the South Carolina Freedom of Information laws.

**SECTION 26-33: DUE DILIGENCE**

Any PDR or PFSI will be subject to all due diligence being satisfactorily completed, reviewed and approved by the County. All due diligence shall be reviewed by the appropriate County staff before being sent to County Council for action. Due diligence shall include, but may not be limited to:

1. An appraisal of the value of the interest being acquired prepared by a Member of the Appraisal Institute (MAI), or other appropriately licensed or certified South Carolina appraiser.
2. A boundary survey completed by a South Carolina Registered Land Surveyor. In those instances of PFSI, a topographic survey, tree survey, archaeological survey, or other due diligence items shall also be obtained when appropriate.
3. A Phase I Environmental Assessment by a qualified environmental consulting firm. In instances where the Phase I report so indicates, a Phase II Environmental Assessment including a plan for any remediation, by the seller or purchaser, is required for the property to address the concerns to the satisfaction of the County.
4. When warranted by the Community Development Code or the Land Acquisition Contractor, a title search, title opinion, and/or title insurance commitment with only normal title exceptions.

**SECTION 26-34: CONSERVATION EASEMENTS**

1. Conservation easements shall be placed on property where development rights have been acquired (Section 26-31:A.).
2. The conservation easements shall be granted directly to an appropriate easement holder by the owner, or by the County. The RCLP Board shall recommend an appropriate easement holder to County Council.
3. The stewardship funding required by the easement holder to defend and provide the necessary annual monitoring required for the easement may be granted by the County for the easement depending on the nature of the agreement reached between the County and the easement holder.
4. When the County and Marine Corps Air Station (MCAS) Beaufort collaborate on a PDR acquisition, an appropriate restrictive easement will be applied to the acquired property.

**SECTION 26-35: COVENANTS AND RESTRICTIONS**

1. Covenants and restrictions may be placed on property where development rights have been acquired.
2. Generally, covenants and restrictions will describe in some detail how a property is to be developed, used and maintained consistent with the conservation values of the property.

**SECTION 26-36: RESALE, SWAP, CONDEMNATION OR LEASE OF ACQUIRED PROPERTY**

There may be instances where property acquired under the RCLPP for its conservation value(s), and possibly to mitigate the impacts of development, may not be suitable or needed for county ownership in the future. In such cases, the County Council may request the RCLP Board to evaluate and make a recommendation on selling, swapping or leasing the property, in whole or in part.

In those instances, the RCLP Board shall be guided by the following:

1. To ensure that the resale, swap or lease of the property, in whole or in part, will not have an adverse impact on the conservation value(s) of the property, which can be assured through the placement of a conservation easement or other appropriate instruments on the sold, swapped or leased property if necessary.
2. To ensure that the development of the property for use(s) permitted under a conservation easement will be carefully monitored by the easement holder.

Additionally, the following will apply:

1. Any RCLPP property considered for sale, swap or lease shall require appropriate action by Council following prescribed procedures for sale, swap or lease of County-owned land.
2. If all or part of a RCLPP property is sold, swapped or condemned, the County and any co-owners will be entitled to respective ownership ratio compensation of any net proceeds, after payment of all closing expenses.
3. Any RCLPP property sold, swapped or condemned will have the County's portion of any proceeds deposited into the Land Preservation fund for use in future RCLPP acquisitions.
4. Any RCLPP property leased by the County will have any proceeds deposited into the Passive Parks fund for use in management and maintenance of RCLPP passive parks.

**Secs. 26-37 – 26-49. Reserved**

This ordinance supersedes and repeals Resolution 2006-3.



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

**COUNTY COUNCIL OF BEAUFORT COUNTY**

By: \_\_\_\_\_  
Stewart H. Rodman, Chairman

APPROVED AS TO FORM:

\_\_\_\_\_  
Thomas J. Keaveny, II, Esquire  
Beaufort County Attorney

ATTEST:

\_\_\_\_\_  
Sarah Brock, Clerk to Council

DRAFT



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## BEAUFORT COUNTY COUNCIL

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### Agenda Item Summary

#### Item Title:

RCLP Board Ordinance

#### Council Committee:

Natural Resources

#### Meeting Date:

August 19, 2019

#### Committee Presenter (Name and Title):

Eric Greenway, Community Development Director

#### Issues for Consideration:

The revisions to the existing Rural and Critical Land Preservation Board Ordinance (Division 5, Section 2, 281-290).

#### Points to Consider:

Clarifying appointment, officer, and procedures sections also including board reporting and grammatical updates. Revisions for consistency with other board ordinances and current procedures. Beaufort County Open Land Trust and Beaufort County Staff/Legal are in agreement with the revisions as written.

#### Funding & Liability Factors:

N/A

#### Council Options:

1. Approve as written. 2. Approve with revisions. 3. Do not approve.

#### Recommendation:

Staff recommendation is to approve revisions as written.

## DIVISION 5. – COUNTY RURAL AND CRITICAL LANDS PRESERVATION BOARD

### Sec. 2-281. – Appointment.

An 11-member county rural and critical lands preservation board shall be appointed by the county council. One member with relevant experience and qualifications in matters such as estate law, finance, rural land ownership, agriculture, or conservation shall be appointed from each of the 11 county council districts.

### Sec. 2-282. – Officers.

The county rural and critical lands preservation board shall elect annually one member of the board to serve as chairman and one member to serve as vice chairman. The chairman and vice chairman will serve a maximum of four (4) consecutive one-year terms. A vacancy in either the chairman and/or vice chairman must be filled for the unexpired term through board election within two (2) board meetings.

### Sec. 2-293 – Terms.

The terms of initial appointees to the county rural and critical lands preservation board shall coincide with the expiration of the term of the county council district representative who serves the district which the appointee has been selected to represent. Thereafter, all members shall be appointed for four-year terms. A vacancy in the membership must be filled for the unexpired term in the same manner as the initial appointment. The membership is subject to division 1 of article V of chapter 2 of the Code regulating boards and commissions and appointments thereto as well as the county template ordinance.

### Sec. 2-284 – Compensation.

Members of the county rural and critical lands preservation board shall serve without salary, but the county council shall entitle each member to reimbursement for his actual and necessary mileage expenses incurred in the performance of his official duties.

### Sec. 2-285. – Conflicts of interest.

No member of the county rural and critical lands preservation board shall be disqualified by reason of his membership from selling any parcel or the development rights of any parcel in which ~~he~~ he has a financial interest, but any member with a direct or indirect financial interest in such parcel shall recuse himself from any board vote, discussion, or decision regarding such parcel.

Sec. 2-286. – Rules of procedure.

~~The county rural and critical lands preservation board shall promulgate procedures necessary to promote the efficient, uniform, and countywide administration of this article. The county rural and critical lands preservation board shall adopt rules of procedure governing its procedures and operations. Copies of adopted rules of procedure shall be made available for public inspection in the office of Director during normal business hours.~~

Sec. 2-287. – Powers and duties.

The county rural and critical lands preservation board shall have, but is not limited to, the following powers and duties:

- (1) Develop and recommend to county council, for adoption by resolution, ~~a set of the~~ Beaufort County Rural and Critical Lands Preservation Program ~~GreenPrint Policies and Guidelines~~ to guide the identification ~~and~~, prioritization, ~~and management~~ of parcels to be acquired through the county rural and critical ~~[lands]~~ preservation program. ~~The board may make recommendations to county council for amendments to the policies and guidelines as the need arises;~~
- (2) Identify, prioritize and recommend to county council rural and critical lands to be acquired through purchase of development rights, the option to purchase development rights, the fee simple purchase of property, or the exchange and transfer of title to parcels, as provided for in the county council's adopted ~~Beaufort County~~ Rural and Critical Lands Preservation Program ~~Ordinance Policies and Guidelines~~;
- (3) Promote, educate and encourage landowners to participate in the county rural and critical lands preservation program; and
- (4) Perform such other duties as may be assigned by county council.

Sec. 2-288. – Board Report

The county rural and critical lands preservation board shall submit to county council an annual report in December based on all of the activities carried out pursuant to the rural and critical lands preservation program. The report shall include but is not limited to the following:

- (1) Map indicating the location of the total parcels of lands that have been acquired;
- (2) Total number of acquired lands, number of acres and type of acquisitions of each of the acquired lands throughout the county;
- (3) Number of landowners contacted or properties received for consideration for the program in the given year;
- (4) Number of lands acquired, number of acres of of each and type of acquisitions of each land acquired throughout the county in the given year;
- (5) Total dollars spent in the program and total dollars leveraged with the program; and
- (1)(6) Dollars spent and leveraged in the given year for the program.

**Cross reference** – Administration, ch. 2.

Secs. 2-28~~89~~9 – 2-290. – Reserved.



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## BEAUFORT COUNTY COUNCIL

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### Agenda Item Summary

#### Item Title:

75 Confederate Avenue- Consideration to place covenants and restrictions on the fee simple acquisition.

#### Council Committee:

Natural Resources

#### Meeting Date:

August 19, 2019

#### Committee Presenter (Name and Title):

Eric Greenway, Community Development Director

#### Issues for Consideration:

The 2006 RCLPP resolution states:

This issue came up during the Council's consideration of the purchase of 75 Confederate Ave. and Eric Greenway stated that the 2006 Resolution Required that properties purchased in fee are to have Covenants and Restrictions, rather than Conservation Easements, placed on the property. Doing this would require the County Council to approve the language of Covenants and Restrictions which was not done during the April meeting. Since this time, the County Attorney and Eric Greenway have discussed this provision with Tab Bendle, who handles most of the County's RCLPP closings, and Mr. Bendle has stated that this provision means little because covenants and restrictions can only be enforced by those who have an ownership interest in property which in this case is only the County. Also, Council action and approval is required before any development or construction can occur with County owned property.

#### Points to Consider:

1. Should covenants and restrictions, as provided in the 2006 RCLPP Resolution, be developed and placed on 75 Confederate Avenue? If so, the covenants will have to be drafted and approved by the Council prior to the recording. a. Covenants and restrictions shall be placed on Property where the fee simple interest has been acquired by the RCLP and in those instances where the seller has required such covenants or restrictions or where the RCLPB determines that such are appropriate. b. Generally, covenants and restrictions will describe in some detail how a property is to be developed, used, and maintained as a public space consistent with the conservation value of the property.

#### Funding & Liability Factors:

None

#### Council Options:

1. Recommend covenants and restriction be placed on 75 Confederate Avenue as required by the 2006 resolution.
2. Let the fee simple acquisition stand as purchased and recorded.

#### Recommendation:

Staff recommends that the simple acquisition stand as purchased and recorded without covenants and restrictions.



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## BEAUFORT COUNTY COUNCIL

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### Agenda Item Summary

#### Item Title:

River Oaks

#### Council Committee:

Natural Resources

#### Meeting Date:

August 19, 2019

#### Committee Presenter (Name and Title):

Eric Greenway, Community Development Director

#### Issues for Consideration:

During the March Natural Resources Committee meeting the Community Development Director, on a motion by Council Member Glover and Seconded by Council Member Covert, was tasked with working with the developer on the following three items: 1) Formalize an agreement on the affordable housing commitment made by the developer; 2) Obtain a letter of approval from the Beaufort County School District regarding the density and capital fees; and 3) Work with the developer on the density/layout of the development. During the April NRC meeting the direction on the BCSD approval was modified to request the developer work on language agreeing to pay the School Impact Fee if adopted by the County Council. Please see the attached comparison summary between the developer submitted Development Agreement amendment and the Staff's recommended amendment through our work with outside counsel.

#### Points to Consider:

1. Should the existing DA be amended as submitted by the developer or should the existing DA be repealed in favor of new restated and amended DA as proposed by staff?
2. Will the language proposed by the developer for Attainable (affordable) Housing, School Impact/Capital Fees, and Density Layout be adequate to satisfy the March and April direction from NRC or should the language proposed by staff be recommended for adoption? (refer to attached comparison summary)

#### Funding & Liability Factors:

Funding issues are only related to School Impact/Capital Fees.

#### Council Options:

1. Recommend the Developer version of the River Oaks DA amendment.
2. Recommend the Community Development Department Staff version of the restated and amended DA.
3. Recommend Modification of each development agreement to include specifics from each version into the modified document.
4. Recommend Denial of Development Agreement amendment and leave the current/amended version in place.

#### Recommendation:

Staff recommends that the Community Development Department staff's and Legal Counsel's version be recommended for approval as it more thoroughly implements the direction of the NRC's March and April directives.

July 10, 2019

(Space above this line for recording use)

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT ) AMENDED AND RESTATED  
 DEVELOPMENT AGREEMENT  
 (RIVER OAKS AT OKATIE VILLAGE)

This AMENDED AND RESTATED DEVELOPMENT AGREEMENT (RIVER OAKS AT OKATIE VILLAGE) ("Amended Agreement") is made and entered the \_\_\_\_ day of \_\_\_\_\_, 2019 (the "Effective Date"), by and between BBII HOLDING COMPANY, LLC, a South Carolina limited liability company ("Owner"), and the COUNTY OF BEAUFORT, a body politic and corporate, a political subdivision of the State of South Carolina ("County") (Owner and County are each a "Party" and, collectively, are the "Parties").

**RECITALS**

**WHEREAS**, the legislature of the State of South Carolina has enacted the South Carolina Local Government Development Agreement Act as set forth in Sections 6-31-10 through 6-31-160 of the South Carolina Code of Laws (1976), as amended (the "Act"); and

**WHEREAS**, the Act recognizes that "[t]he lack of certainty in the approval of development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and development to escalate, and can discourage commitment to comprehensive planning." [Section 6-31-10 (B)(1)]; and

**WHEREAS**, the Act also states that "[d]evelopment agreements will encourage the vesting of property rights by protecting such rights from the effect of subsequently enacted local legislation or from the effects of changing policies and procedures of local government agencies which may conflict with any term or provision of the development agreement or in any way hinder, restrict, or prevent the development of the project. Development agreements will provide a reasonable certainty as to the lawful requirements that must be met in protecting vested property rights, while maintaining the authority and duty of government to enforce laws and regulations which promote the public safety, health, and general welfare of the citizens of our State." [Section 6-31-10 (B)(6)]; and,

**WHEREAS**, the Act further authorizes local governments, including county governments, to enter into development agreements with developers to accomplish these and other goals as set forth in Section 6-31-10 of the Act; and,

**WHEREAS**, Owner has acquired a tract of land containing a total of approximately 63.54 acres of highland and wetland located in the County in Bluffton Township on S.C. 170 and known as the River Oaks at Okatie



Village development and presently zoned by Ordinance 2008/14, as amended, as River Oaks Planned Unit Development; and

**WHEREAS**, a development agreement dated September 3, 2009, for the River Oaks at Okatie Village development was entered into by the development's former owner, ARD Hilton Head, LLC, and the County which was recorded in the records of the County Register of Deeds in Book 02888, Pages 0579-1047 (the "Original Agreement"); and

**WHEREAS**, the Original Agreement was set to terminate five (5) years after the date of execution by the parties, however, by 2010 S.C. Act No. 297 (Permit Extension Joint Resolution of 2010) and 2013 S.C. Act No. 112 (Permit Extension Joint Resolution of 2013) the General Assembly provided for the suspension of the running of certain development approvals, thereby resulting in the Original Agreement having a termination date of January 1, 2022; and

**WHEREAS**, a minor amendment to the Original Agreement was made in 2014 that provided for the development of River Oaks at Okatie Village as a non-age restricted, family community; and

**WHEREAS**, since the approval of the Original Agreement, and the 2014 minor amendment, no development or sales activity has taken place in the River Oaks at Okatie Village development; and

**WHEREAS**, Owner has revised the plan for the development of the River Oaks at Okatie Village development; and

**WHEREAS**, the revised development plan requires the amendment of the Original Agreement; and

**WHEREAS**, the Act and Original Agreement provide for the amendment of the Original Agreement only by written agreement of the parties; and

**WHEREAS**, the nature and scope of the proposed amendments to the Original Agreement have led Owner and County to conclude that the most efficient and practical way to accomplish the amendment of the Original Agreement is by amending and restating the Original Agreement in its entirety, thereby providing a single comprehensive document for the use of the Parties and the public; and

**WHEREAS**, Owner and County have determined that it is in the best interests of the County and Owner to enter into this Amended Agreement to set forth the terms and conditions of the development in order to more fully protect the Owner's development rights, thereby providing certainty and predictability to the Owner of those rights and providing certainty and predictability to the County on the scope and terms of the development.

#### **AMENDED AGREEMENT**

**NOW THEREFORE**, in consideration of the terms and conditions set forth herein, the encouragement of well-planned development, and other good and valuable consideration, including the potential economic benefits to both County and Owner by entering into this Amended Agreement, the receipt and sufficiency of such consideration being hereby acknowledged, County and Owner hereby agree as follows:

**SECTION 1. INCORPORATION.**

The above recitals are hereby incorporated into this Amended Agreement.

**SECTION 2. DEFINITIONS.**

As used herein, the following terms mean:

"Amended Agreement" means this Amended and Restated Development Agreement (River Oaks at Okatie Village) entered into by the Parties on the Effective Date.

"Design Guidelines" means the design guidelines set forth in Section 4E and Exhibit F.

"Development" means the land disturbance of portions of the Property and/or vertical or horizontal construction of improvements thereon as contemplated by the Zoning Regulations.

"Development Plan" means the layout and development scheme contemplated for the Property, as more fully set forth in the PUD approval for River Oaks at Okatie Village, attached hereto as Exhibit B, and as may be modified per the terms of this Amended Agreement.

"Development Rights" shall mean the right to undertake Development in accordance with the Zoning Regulations and this Amended Agreement.

"Effective Date" means the date this Amended Agreement was made and entered into by the Parties, the \_\_\_\_\_ day of \_\_\_\_\_, 2019, which is the date this Amended Agreement takes effect.

"Homeowner's Association" or "Owner's Association" shall mean a duly constituted Owner's Association under South Carolina law, pursuant to a Declaration of Covenants and Restrictions, filed of record in Beaufort County at or about the time of land subdivision, providing regulations for the governance of such subdivision, the upkeep of common elements, including assessment provisions, and other related matters.

"Owner" means BBII Holding Company, LLC, a South Carolina limited liability company, and any and all successors in title to all or a portion of the Property who or which undertake or cause to be undertaken development activity on the Property. "Owner" ~~included~~includes a person or entity that is transferred or assigned Development Rights to all or a portion of the Property.

"Party" means, each, the County and the Owner.

"Parties" means the County and the Owner, collectively.

"Property" means that certain tract of land described on Exhibit A.

"PUD" means the Development Plan and zoning approved for the Property by Ordinance 2008/14, as amended by Ordinance 2019/ \_\_\_\_\_, as set forth in Exhibit B.

"Term" means the duration of this Amended Agreement, as set forth in Section 3 hereof.

"Zoning Regulations" means, unless otherwise provided in this Amended Agreement, those laws and land development regulations set forth in Exhibit C and includes the terms and conditions of: (i) the River Oaks at Okatie

Village PUD approval, as amended, as set forth in Exhibit B; (ii) the Zoning and Development Standards Ordinance (ZDSO) of Beaufort County, in effect on September 3, 2009 ~~for October 27, 2008~~; (iii) the Design Guidelines, as set forth in Exhibit F; and (iv) the terms and conditions of this Amended Agreement. In case of any conflict between or among the laws and land development regulations, the terms and conditions of this Amended Agreement shall take precedence, followed by the terms and conditions of the PUD, as set forth in Exhibit B, followed by the terms and conditions of the ZDSO.

Community Development Code of Beaufort County, South Carolina ??? — Does this apply?

**SECTION 3. TERM.**

The term of this Amended Agreement shall commence on the Effective Date and terminate five (5) years thereafter.

**SECTION 4. DEVELOPMENT REQUIREMENTS AND DEVELOPMENT OF THE PROPERTY.**

**A. Zoning Regulations Apply.** The Property shall be developed in accordance with the Zoning Regulations.

**B. Consistency Finding.** The County agrees that it finds the development permitted by this Amended Agreement is consistent with the County's ~~comprehensive plan~~ Comprehensive Plan and land development regulations.

**C. Permitted Uses.** Permitted uses on the Property include single-family detached dwelling and accessory uses thereto and community recreational uses such as parks and water-related amenities. No more than three hundred fifteen (315) single-family detached dwelling units shall be constructed on the Property. Timesharing or fractional ownership uses are not permitted on the Property.

**D. Development.** The location of roads, building types, uses, amenities, recreation facilities, layouts and development standards for permitted uses are shown on the Development Plan ~~.(Exhibit B)~~. Changes to the Development Plan (Exhibit B) may be made but only in accordance with the provisions of the PUD.

**E. Design Guidelines.** The Design Guidelines (Exhibit F) apply to the Development of the Property.

**F. Tree Preservation.** In the Development of the Property, Owner agrees to comply with the

Zoning Regulations, including specifically the Zoning and Development Standards Ordinance (ZDSO) of Beaufort County, in effect on September 3, 2009, applicable to tree preservation.

G. **Alleys.** Owner agrees that in the Development of the Property alleys are required when the average lot width on a street is fifty-five (55) feet or less, as provided in Section 2.2.40.F of the Community Development Code of Beaufort County, South Carolina, ~~that in the Development of the Property, alleys are required when the average lot width on a block face is fifty five (55) feet or less.~~

H. **Porches**~~Porches.~~ Owner agrees that all single-family houses in the River Oaks at Okatie Village development shall have either a projecting porch, engaged porch, or side yard porch that meets the respective requirements of Sections 5.2.50 (Porch: Projecting), 5.2.60 (Porch: Engaged) and 5.2.70 (Porch: Side Yard) of the Community Development Code of Beaufort County, South Carolina~~7.~~

**I. Affordable Housing.**

**(1) Agreement to Provide Affordable Housing.** Owner agrees to provide affordable housing in the River Oaks at Okatie Village development and agrees that the number of owner-occupied affordable housing units and/or rental affordable housing units in the River Oaks at Okatie Village development shall be, at the election of the owner, either (i) thirty percent (30%) of the dwelling units, rounded up to the nearest whole number, restricted by deed as owner-occupied affordable housing units and/or rental affordable housing units for a period of at least twenty (20) years, or (ii) twenty percent (20%) of the dwelling units, rounded up to the nearest whole number, restricted by deed as owner-occupied affordable housing units and/or rental affordable housing units for a period of at least twenty-five (25) years.

**(2) Sizing and Location.** The affordable housing units required by this Section 4I shall be sized, in terms of square footage and number of bedrooms, comparable and proportional to the square footage and number of bedrooms of the market rate units in the River Oaks at Okatie Village development as a whole. The smallest affordable housing unit by bedroom count shall not be smaller than the smallest market rate unit with the same number of bedrooms. The affordable housing units shall be integrated and intermixed within the market rate units in the River Oaks at Okatie Village development and may not be clustered together or segregated from the market rate units. Exterior finishes of affordable housing units shall be indistinguishable from exterior finishes of market rate units.

**(3) Definitions.** As used in this Section 4I, the following terms or phrases mean:

**(a)** "Owner-occupied affordable housing unit" means a dwelling unit where at least one occupant is an owner, and where all occupants have, in the aggregate, household income less than or equal to one hundred percent (100%) of the area median income (AMI) for owner-occupied units. Area median income

(AMI) shall be determined annually by the United States Department of Housing and Urban Development (HUD).

(b) "Rental affordable housing unit" means a dwelling unit, where occupants have, in the aggregate, household income less than or equal to eighty percent (80%) of the area median income (AMI) for rental units. AMI shall be determined annually by HUD as adjusted by the Beaufort County Human Services Department or its successor.

(c) "Qualified household" means households where occupants have, in the aggregate, a household income less than or equal to one hundred percent (100%) of the AMI for owner-occupied units, and a household income less than or equal to eighty percent (80%) of the AMI for rental units.

(d) "Initial maximum allowable sales price" means an amount equal to three (3) times one hundred percent (100%) of the AMI plus any subsidy available to the buyer.

(e) "Affordable rent" means rent based on an amount not to exceed thirty percent (30%) of eighty percent (80%) of the AMI as published annually by HUD based on household size, inclusive of a utility allowance. Utility allowances are as provided by HUD guidelines.

(f) "Household income" means all sources of financial support, both cash and in-kind, of adult occupants of the housing unit, to include wages, salaries, tips, commissions, all forms of self-employment income, interest, dividends, net rental income, income from estates or trusts, Social Security benefits, pension benefits, or any other sources of financial support.

J. Trail and Open Space Plan. The location of trails and open spaces for the River Oaks at Okatie development are shown on the Trail and Open Space Plan, attached to the Amended Agreement as Exhibit G. Changes to the Trail and Open Space Plan may be made but only in accordance with the provisions of the PUD.

**SECTION 5. DEVELOPMENT SCHEDULE.**

The estimated development schedule for the Property is set forth on Exhibit D. The Parties acknowledge that the development schedule is an estimate. Pursuant to the Act, the failure of the Owner to meet the initial development schedule shall not, in and of itself, constitute a material breach of this Amended Agreement. In such event, the failure to meet the development schedule shall be judged by the totality of circumstances, including but not limited to the Owner's good faith efforts to attain compliance with the development schedule. These schedules are planning and forecasting tools only, and shall not be interpreted as mandating the development pace initially forecast or preventing a faster pace if market conditions support a faster pace. The fact that actual development may take place at a different pace, based on future market forces, causing modifications to the development schedule, shall not be considered a default hereunder as long as the Owner demonstrates good cause for such modifications, which good cause may include market conditions. The parties acknowledge that development activity may occur faster or slower than the development schedule, depending upon market conditions.

Furthermore, periodic adjustments to the development schedule which may be submitted by Owner as a result of market conditions shall not be considered a material amendment or breach of this Amended Agreement as long as the Owner demonstrates good cause for such adjustments, such as market conditions.

**SECTION 6. VESTED RIGHTS; EFFECT OF FUTURE LAWS.**

County agrees that Owner, upon receipt of its development permits, may proceed to develop the Property according to the terms and conditions of this Amended Agreement. As of the Effective Date, the right of Owner to develop the Property is deemed vested with Owner for the Term of this Amended Agreement. County agrees that the Zoning Regulations, as set forth in Exhibit C to this Amended Agreement, in force on the Effective Date, unless another date is otherwise specified in this Amended Agreement, shall govern all aspects of the Development of the Property, according to the terms and conditions as stated in this Amended Agreement, for the Term of this Amended Agreement. All laws, regulations and ordinances of the County, other than the Zoning Regulations, and those as may be enacted in the future, shall be applicable to Owner and the Development of the Property so long as they do not conflict with the Zoning Regulations or interfere with the ability to utilize and develop the Property in accordance with the Development Plan: (Exhibit B).

Except as provided in Section 6-31-80 of the Act or as may be otherwise provided in this Amended Agreement, the Zoning Regulations as applied to the Property and Development shall not be amended or modified during the Term. Owner agrees that the County may amend or modify the procedures contained in the Zoning Regulations for processing land development applications and approvals, approval of subdivision plats, or the issuance of building permits and those amended or modified procedures shall apply to the Property and Development.

It is specifically acknowledged that this Amended Agreement shall not prohibit the application of any current or future building, housing, electrical, plumbing, gas, swimming pool or other standard codes of general application throughout the County, of any tax or fee of general application throughout the County, or of any law or ordinance of general application throughout the County found by the County Council to be necessary to protect the health, safety and welfare of the citizens of County. Specifically, the County may apply subsequently enacted laws applicable to development to the Property and Development in accordance with Section 6-31-80(B) of the Act.

**SECTION 7. INFRASTRUCTURE AND SERVICES.**

County and Owner recognize that services will be provided for the River Oaks at Okatie Village development by the County and other governmental or quasi-governmental entities. For clarification, the parties make specific note

and acknowledge the following:

A. **Private Roads.** All roads within the Property shall be constructed by the Owner and maintained by it and/or a Homeowners' Association. The County shall not be responsible for the construction or maintenance of any roads within the Property, and the Owner and/or Homeowners' Association shall continue the maintenance until such time as the roads are accepted for maintenance by an appropriate governmental body. The County shall not be required to accept title to, or responsibility for maintenance of, any roads within the Property. Roads within the Property may be restricted regarding public access; *provided, however,* that Owner agrees that residents of the Osprey Point development shall be allowed access to reach **the school** and Cherry Point areas during daylight hours and school-related trips.

B. **Public Roads.** The major public road that serves the Property is S.C. 170 and it is under the jurisdiction of the State of South Carolina regarding construction, improvements and maintenance. County shall not be responsible for construction, improvements or maintenance of S.C. 170 or any other public roads which now or hereafter serve the Property, unless the County elects to do so in the future. It shall be the responsibility of the Owner to adhere to applicable state or County requirements regarding ingress and egress to S.C. 170 or any other public roads that may serve the Property.

C. **Potable Water.** Potable water will be supplied to the Property by Beaufort-Jasper Water & Sewer Authority (BJWSA). Owner will construct or cause to be constructed all necessary water service infrastructure within the Property, which will be maintained by it or the BJWSA or a Homeowner's Association. County shall not be responsible for any construction, treatment, operation, maintenance or costs associated with water service to or for the Property. Owner agrees that all Development, with the exception of irrigation and facilities existing on the Effective Date, will be served with potable water prior to occupancy and that when the existing buildings are demolished all new construction will be served with potable water provided by BJWSA. Owner shall be responsible for all financial arrangements with the BJWSA.

D. **Sewage Treatment and Disposal / Access for Neighboring Properties.** Sewage collection, treatment and disposal will be provided by BJWSA. Owner will construct or cause to be constructed all necessary sewer service infrastructures within the Property, which will be maintained by it or the BJWSA or a Homeowner's Association. County shall not be responsible for any construction, treatment, maintenance or costs associated with sewer service to the Property. The Owner agrees that all Development, with the exception of facilities existing at the date of this Agreement, will be served by sewer prior to occupancy and that when the existing buildings are demolished all sewage disposal shall be through BJWSA. Owner shall be responsible for financial arrangements

with BJWSA. If the BJWSA concurs, Owner is not required to use treated wastewater for irrigation purposes.

Owner agrees that the sewer service pipe system for the Property will be appropriately sized so as to accommodate potential future hookup to the system for the immediately adjacent existing homes in the neighboring Cherry Point Road community to the west of the Property, estimated to be approximately 20 homes. Owner will extend an appropriately sized sewer line to the property line of the Property. Any cost of connection regarding neighboring properties or any further improvements to facilitate connection and flow from neighboring properties shall be the sole responsibility of those seeking to establish such connection, and not the responsibility of Owner, the Homeowner's Association or the County. Any necessary system design work for such offsite work, permitting work or other related expense shall also be the responsibility of others and not Owner, the Homeowner's Association or the County. All required laws and regulations must be followed by those seeking connection to the River Oaks at Okatie Village sewer system, and the provision of sewer service to neighboring properties is subject to the approval of BJWSA and other relevant agencies. Owner's responsibility to extend the sewer line as described in this Section 7.D. shall be completed according to the Development Schedule set forth in Section 5 and Exhibit D of this Amended Agreement.

**E. Drainage System.** All storm water runoff and drainage system improvements within the Property will be (i) designed utilizing the County's best management practices in effect at the time development permits are applied for, (ii) will be constructed by Owner, and (iii) will be maintained by Owner and/or a Homeowners' Association. The County is not responsible for any construction or maintenance costs associated with the drainage system within the Property.

Owner shall be required to abide by all provisions of federal and state laws and regulations, including those established by the South Carolina Department of Health and Environmental Control (DHEC), Office of Ocean and Coastal Resource Management (OCRM), and their successors, for the handling of storm water that are in effect at the time of permitting.

**F. Solid Waste Collection.** Solid waste collection is currently provided by agreements with private companies. Solid waste collection shall be provided to the Property on the same basis as is provided to other residents and businesses within the County.

**G. Police Protection.** The County shall provide police protection services to the Property on the same basis as is generally provided to other residents and businesses within the County.



H. **Emergency Medical Services.** Emergency medical services are now being provided by the County, and the County will continue to provide emergency medical services to the Property on the same basis as is provided to other residents and businesses within Bluffton Township.

I. **Library Services.** Library services are now provided by the County, and the County will provide library services to the Property as it currently provides on a County-wide basis.

J. **School Services.** School services are now provided by the Beaufort County School District and such service shall continue.

K. **Fire Services.** Fire services are now provided by the County, and the County will provide fire protection to the Property on the same basis as is provided to other property within Bluffton Township.

**SECTION 8. AGREEMENT NOT TO ANNEX; PROCESSING OF APPLICATIONS.**

A. **Annexation.** Owner agrees that it will not seek or permit the Property to be annexed into Jasper County, the City of Hardeeville, or any other local government prior to the expiration of the Term of this Amended Agreement. This Section 8 may be enforced by the County by all available legal means, and includes all remedies available at law or in equity, including specific performance and injunctive relief. ~~Owner agrees that this undertaking shall survive the termination of this Amended Agreement.~~

B. **Processing of Applications.** County agrees that its Community Development Department will process all complete application submittals on matters within its jurisdiction [that do not require outside review](#) within two weeks of receipt by providing comments or decisions. [If the Owner has questions or concerns regarding the timely processing of any application submittals made to the County, the Owner shall contact the Director of the Community Development Department and County Attorney, who will investigate the question or concern and report back to the Owner within ten \(10\) days of being notified.](#)

**SECTION 9. FEES AND RELATED AGREEMENTS.**

A. **Purpose.** The Parties understand and agree that Development of the Property imposes certain burdens and costs on the County, including those for certain services and infrastructure improvements. Eventually, *ad valorem* taxes collected from the Property may meet or exceed the burdens and costs placed upon the County, but certain initial costs and capital expenditures are now required that are not to be funded by any increase in taxes paid by existing residents of the County. The purpose of this Section 9 is to identify the matters agreed upon to be provided by Owner to mitigate those burdens and costs.

**B. School Capital Construction Fee.** Owner shall pay an impact fee of \$1,500 for each residential unit at the time of obtaining the building permit for the residential unit (the "\$1500 Impact Fee"). The ~~obligation to pay the~~ \$1,500 Impact Fee terminates if, ~~pursuant to the South Carolina Development Impact Fee Act,~~ the County adopts a school impact fee during the Term. ~~Upon termination of the \$1,500 Impact Fee, the~~ at which time Owner shall pay the county-wide school impact fee adopted by the County.

**C. Impact Fees, User Fees and Assessments.** The Parties agree that the Property and Development shall be subject to all applicable impact fees, user fees and assessments in effect in the County at the time the Owner submits its permit applications, specifically including any impact fees, user fees and assessments that are in effect on the Effective Date and those that may be adopted by the County after the Effective Date.

**D. Payment of Costs.** Upon submission of appropriate documentation of the expenditure, Owner agrees to reimburse the County, not later than 180 days after the Effective Date, for the County's reasonable unreimbursed actual costs related to this Amended Agreement, including attorney's fees. The foregoing cost reimbursement is capped at \_\_\_\_\_ (\$ \_\_\_\_\_) and is limited to County payments to third-party vendors and service providers.

**E. Processing Fees.** Owner is subject to the payment of any and all present or future fees enacted by the County that are of county-wide application and that relate to the County's costs of processing applications, issuing development permits, reviewing plans, conducting inspections or similar type processing costs.

**F. Other Entity Charges and Fees.** Nothing in this Amended Agreement shall be construed as relieving Owner from the payment of any fees or charges that may be assessed by entities other than the County.

**SECTION 10. PERIODIC REVIEWS.**

Owner shall cooperate with the County's zoning administrator in the periodic review conducted by the zoning administrator to determine if Owner is in compliance with this Amended Agreement. Periodic reviews will be conducted not less frequently than every twelve months. Cooperation by Owner includes meeting with the zoning administrator and providing documents and information required to be provided by this Section 10 and other documents and information that may be requested by the zoning administrator. Owner is required to provide such information as may reasonably be requested by the zoning administrator, to include, but not be limited to, the amount of acreage or number of lots of the Property sold in the prior year, acreage or lots of the Property under

contract, the number of certificates of occupancy anticipated to be issued in the ensuing year and any relevant information regarding fee payment, taxes and assessments, including an accounting by Owner regarding payments made under Section 9 of this Amended Agreement. Reporting of information required by this Section 10 will be made upon such forms as the County and ~~Developer~~Owner may agree upon from time to time. The review required by this Section 10 is in addition to, and not in lieu of, any other reporting or filing required by this Amended Agreement. If, as a result of a review, the County determines that Owner has committed a material breach of the terms or conditions of this Amended Agreement, the County shall serve such party in writing notice of such breach pursuant to the procedures set forth in Section 6-31-90(B) of the Act, affording the breaching party the opportunity to respond as set forth in Section 6-31-90(C) of the Act.

**SECTION 11. DEFAULTS.**

The failure of Owner or the County to comply with the terms and conditions of this Amended Agreement shall constitute a default, entitling the non-defaulting party to pursue such remedies as deemed appropriate, including specific performance and the termination of this Amended Agreement in accordance with the Act; provided, however, no termination of this Amended Agreement may be declared by the County absent its according the Owner the notice, hearing and opportunity to cure as provided in the Act. Nothing in this Section 11 shall be deemed or construed to preclude the County or its designee from issuing stop work orders or voiding permits issued for development when such development contravenes the provisions of the Zoning Regulations.

Notwithstanding the foregoing, it is acknowledged by all Parties to this Amended Agreement that the following events shall constitute a default, entitling the County to pursue the termination of this Amended Agreement, in accordance with the Act: (i) the failure to timely remit payments required hereunder to the County per the terms of this Amended Agreement; and (ii) if at any time during the Term, prior to the Owner having fulfilled any of their payment obligations, there shall be filed by or against the Owner in any court, pursuant to any state or federal statute, a petition in bankruptcy or insolvency, or for reorganization or appointment of a receiver or trustee of all or part of the assets of the Owner, or if it makes an assignment for the benefit of creditors.

**SECTION 12. MODIFICATION OF AGREEMENT.**

This Amended Agreement may be modified or amended only by the written agreement of the Parties. No statement, action or agreement made after the Effective Date shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this Amended Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom the change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced. Any amendment to this Amended Agreement shall comply with the Act.

**SECTION 13. NOTICES.**

Any notice, demand, request, consent, approval or communication which a Party is required to or may give to another Party hereunder shall be in writing and shall be delivered or addressed to the other at the address set forth below or to such other addresses such party may from time to time direct by written notice given in the manner herein prescribed, and such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or by facsimile or, if by mail, on the fifth (5th) business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, consents, approvals or communications to the County shall be addressed to:

The County of Beaufort  
P.O. Box 1228  
Beaufort, South Carolina 29901-1228  
Attention: County Administrator

With Copy to:

The County of Beaufort  
P.O. Box 1228  
Beaufort, South Carolina 29901-1228  
Attention: Community Development Director

And to the Owner at:

BBII Holding Company, LLC  
\_\_\_\_\_  
\_\_\_\_\_

With Copy to:

Richard Schwartz  
President & COO  
Village Park Homes LLC  
4454 Bluffton Park Crescent  
Suite 101  
Bluffton, SC 29910

**SECTION 14. ENFORCEMENT.**

Any Party hereto shall have the right to enforce the terms, provisions and conditions of this Amended Agreement, if not cured within the applicable cure period, by any remedies available at law or in equity, including specific performance and the right of the prevailing party to recover attorney's fees and costs associated with said enforcement. Any Court action concerning this Amended Agreement shall be conducted in Beaufort County, South Carolina.

**SECTION 15. GENERAL.**

**A. Subsequent State and Federal Laws.** In the event state or federal laws or regulations are enacted after the Effective Date which prevent or preclude compliance with the Act or one or more provisions of this Amended Agreement ("New Laws"), the provisions of this Amended Agreement shall be modified or

suspended as may be necessary to comply with such New Laws. Immediately after enactment of any such New Law, the Parties shall meet and confer in good faith in order to agree upon such modification or suspension based on the effect that such New Law would have on the purposes and intent of this Amended Agreement. During the time that the Parties are conferring on such modification or suspension or challenging the New Laws, the County may take reasonable action to comply with such New Laws. Should the Parties be unable to agree to a modification or suspension, any Party may petition a court of competent jurisdiction for an appropriate modification or suspension of this Amended Agreement. In addition, any Party shall have the right to challenge the New Laws preventing compliance with the terms of this Amended Agreement. In the event that such challenge is successful, this Amended Agreement shall remain unmodified and in full force and effect.

**B. Estoppel Certificate.** Each Party may, at any time, and from time to time, deliver written notice to the other applicable party requesting such party to certify in writing:

1. that this Amended Agreement is in full force and effect,
2. that this Amended Agreement has not been amended or modified, or if so amended, identifying the amendments,
3. Whether, to the knowledge of such party, the requesting party is in default or claimed default in the performance of its obligations under this Amended Agreement, and, if so, describing the nature and amount, if any, of any such default or claimed default, and
4. Whether, to the knowledge of such party, any event has occurred or failed to occur which, with the passage of time or the giving of notice, would constitute a default and, if so, specifying each such event.

**C. Entire Agreement.** This Amended Agreement sets forth and incorporates by reference all of the agreements, conditions, and understandings between or among the Parties relative to the Property and its Development, and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, between or among these Parties relative to the matters addressed herein other than as set forth or as referred to herein. The Parties agree that this Amended Agreement replaces in its entirety the Original Agreement and that on the Effective Date of this Amended Agreement that the Original Agreement is no longer in force or effect.

**D. No Partnership or Joint Venture.** Nothing in this Amended Agreement shall be deemed to create a partnership or joint venture between or among the County and any other Party or to render the County or such other Party liable in any manner for the debts or obligations of another Party.

E. **Exhibits.** All exhibits attached hereto and/or referred to in this Amended Agreement are incorporated herein as though set forth in full.

F. **Construction.** The Parties agree that each Party and its counsel have reviewed and revised this Amended Agreement, and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Amended Agreement or any amendments or exhibits hereto.

G. **Successors and Assigns.**

(1) **Binding Effect.** This Amended Agreement shall be binding upon the Owner's successors and assigns in the ownership of part or all of the Property or in the transfer of Development Rights for part or all of the Property. A successor or assigns to the Owner shall be responsible for the performance of the Owner's obligations under this Amended Agreement as to portion or portions of the Property, or Development Rights thereto, so transferred during the Term of this Amended Agreement. Owner's successors and assigns of part or all the Property, or Development Rights thereto, shall be required to execute a written acknowledgement applicable to the portion of the Property being conveyed accepting the Owner's obligations under this Amended Agreement, said document to be in recordable form and provided to the County at the time of recording any deed transferring all or a portion of the Property or instrument transferring Development Rights. This Section 15G(1) shall not be construed to prevent the assignor from obtaining indemnification of liability to the County from the successor or assignee, as applicable, and their successors and assignees. Further, Owner shall not be required to notify the County of, nor shall this Section 15G(1) apply to, the sale of single-family dwelling units or residential lots which have been platted, subdivided and approved in accordance with the terms of the Zoning Regulations, *provided, however,* nothing in this Section 15G(1) shall relieve the person obtaining a building permit for a residential unit from the obligation to pay the \$1500 Impact Fee required by Section 9B of this Amended Agreement.

(2) **Transfer of Property.** In addition to the requirements of Section 15G(1), Owner shall be entitled to transfer title to, or Development Rights for, any portion or all of the Property to a successor or assignee subject to the following requirements:

(a) **Notice.** When the Owner intends to transfer all or a portion of the Property, the Owner shall notify the County in writing thirty (30) days in advance of the transfer specifying the name, address, telephone number, facsimile number, and contact person for the successor or assignee, as applicable.

(b) **Assignment.** Any and all conveyances of any portion of the Property to a

successor or an assigns to undertake Development within the Property shall by contract and covenant running with the land in the deed or recorded assignment agreement into the successor or assignee, as applicable, assign a precise number of density units, which assigned number shall reduce the assigning Owner's number of density units provided for herein. Owner agrees to provide to the County Planning Department a copy of the deed or recorded assignment agreement.

~~(3) **Mortgage Lenders.** Notwithstanding anything to the contrary contained herein, the requirements concerning transfers contained in this Section 15G shall not apply: (i) to all mortgage lenders either as a result of foreclosure of mortgage secured by any portion of the Property or to any other transfer in lieu of foreclosure; (ii) to any third party purchaser at such foreclosure; or (iii) to any third party purchaser of such mortgage lender's interest subsequent to the mortgage lender's acquiring ownership of any portion of the Property as set forth above. Furthermore, nothing contained herein shall prevent, hinder, or delay any transfer of any portion of the Property to any such mortgage lender or subsequent purchaser.~~

~~(4~~ (3) **Assignment Form.** The Parties hereto contemplate that the provisions of this Section 15G shall be fulfilled and set forth in a form of "Partial Assignment and Assumption of Rights and Obligations Under Development Agreement", to be executed at the time of any transfer of property covered under this Section 15G, by the assignor and assignee, in a form to be approved by the County and recorded in the land records of the County.

H. **Governing Law.** This Amended Agreement shall be governed by the laws of the State of South Carolina.

I. **Counterparts.** This Amended Agreement may be executed in several counterparts, each of which shall be deemed an original, and the counterparts shall constitute but one and the same instrument.

J. **Agreement to Cooperate.** In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Amended Agreement, the parties hereby agree to cooperate in defending such action; provided, however, each party shall retain the right to pursue its own independent legal defense.

K. **Eminent Domain.** Nothing contained in this Amended Agreement shall limit, impair or restrict the County's right and power of eminent domain under the laws of the State of South Carolina.

L. **No Third Party Beneficiaries.** The provisions of this Amended Agreement may be enforced only by the County and the Owner. No other persons shall have any rights hereunder.

M. **Severability.** If any provision in this Amended Agreement or the application of any provision of this Amended Agreement is held invalid, the invalidity shall apply only to the invalid provision, and the remaining provisions of this Amended Agreement, and the application of this Amended Agreement or any other provision of this Amended Agreement, shall remain in full force and effect. However, if the invalid provision would prevent or materially impair Owner's right or ability to complete performance of this Amended Agreement, the Parties agree to use their best efforts to renegotiate that provision in order for Owner to complete performance of this Amended Agreement.

N. **No Waiver.** Failure of any Party hereto to exercise any right hereunder shall not be deemed a waiver of such right and shall not affect the right of such Party to exercise at some future time said right or any other right it may have hereunder.

**SECTION 16. STATEMENT OF REQUIRED PROVISIONS.**

Section 6-31-60(A) of the Act requires that a development agreement must include certain mandatory provisions. Although certain mandatory provisions are addressed elsewhere in this Amended Agreement, the following listing of the required provisions is set forth for convenient reference. The numbering below corresponds to the numbering utilized under Section 6-31-60(A) of the Act for the required items:

(A)(1) **Legal Description of Property and Legal and Equitable Owners.** The legal description of the Property is set forth in Exhibit A, attached hereto. The legal owner of the Property is BBII Holding Company, LLC.

(A)(2) **Duration of Agreement.** The duration of this Agreement is five (5) years as set forth in Section 3 of this Amended Agreement.

(A)(3) **Permitted Uses, Densities, Building Heights and Intensities.** A complete listing and description of permitted uses, building intensities and heights, as well as other development-related standards, are contained in the Zoning Regulations and on the Development Plan-(Exhibit B). Exhibit E sets forth anticipated population density of the Property at build out. Building heights will be limited to 45 feet, unless otherwise permitted in the Design Guidelines-(Exhibit F), measured from the average adjacent ground level to the building (as measured for federal flood elevation certificates) to the eaves of the building (excluding chimneys, cupolas, and other such non-habitable spaces).

(A)(4) **Required Public Facilities.** The County will provide, or cause to be provided, police and fire services, as well as development application services to the Property. Beaufort-Jasper Water & Sewer Authority will provide water to the Property. Beaufort-Jasper Water & Sewer Authority will provide sewer collection services



to the Property. Mandatory provisions and procedures of the Zoning Regulations and this Amended Agreement will ensure availability of roads and utilities to serve the residents on a timely basis.

(A)(5) **Dedication of Land and Provisions to Protect Environmentally Sensitive Areas.** The Zoning Regulations contain numerous provisions for the protection of environmentally sensitive areas. All relevant state and federal laws will be fully complied with, in addition to the provisions set forth in this Amended Agreement, and as shown on Exhibit B.

(A)(6) **Local Development Permits.** Specific permits must be obtained prior to commencing development, consistent with the standards set forth in the Zoning Regulations. Building Permits must be obtained under County law for any vertical or horizontal construction, and appropriate permits must be obtained from the DHEC (OCRM) and the Army Corps of Engineers, when applicable, prior to any impact upon critical area or jurisdictional freshwater wetlands. Access to S.C. 170 will be in accordance with permitting procedures of the South Carolina Department of Transportation. It is specifically understood that the failure of this Amended Agreement to address a particular permit, condition, term or restriction does not relieve the Owner from the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions.

(A)(7) **Comprehensive Plan and Development Agreement.** The Development permitted and proposed in this Amended Agreement is consistent with the County's ~~comprehensive plan~~[Comprehensive Plan](#) and land development regulations.

(A)(8) **Terms for Public Health, Safety and Welfare.** The County finds that all issues relating to public health, safety and welfare have been adequately considered and appropriately dealt with under the terms of this Amended Agreement, the Zoning Regulations and existing law, and further, that entering into this Amended Agreement will further the public health, safety and welfare of the present and future residents of Beaufort County.

(A)(9) **Historical Structures.** Any historical or archaeological issues will be addressed through the permitting process at the time of Development under the Zoning Regulations and no exception from any existing standard is hereby granted.

#### **SECTION 17. RECORDING.**

Owner shall record this Amended Agreement in the real estate records of the County within fourteen (14) days of the execution of this Amended Agreement by the County.

[SIGNATURES FOLLOW ON NEXT PAGE.](#)

IN WITNESS WHEREOF, the ~~parties hereby set their hands and seals~~ Parties hereto have executed this Amended Agreement, effective on the Effective Date.

BBII HOLDING COMPANY, LLC

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF SOUTH CAROLINA \_\_\_\_\_ )

\_\_\_\_\_ ) PROBATE

COUNTY OF BEAUFORT \_\_\_\_\_ )

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named BBII HOLDING COMPANY, LLC, by its Manager, \_\_\_\_\_, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

\_\_\_\_\_  
First Witness Signs Again Here

SWORN to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
Notary Public Signs AS NOTARY

Notary Public for \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

COUNTY SIGNATURE FOLLOWS ON NEXT PAGE.

BEAUFORT COUNTY, SOUTH CAROLINA

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF SOUTH CAROLINA \_\_\_\_\_ )

\_\_\_\_\_ ) PROBATE

COUNTY OF BEAUFORT \_\_\_\_\_ )

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named BEAUFORT COUNTY, SOUTH CAROLINA, by its duly authorized officer, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

\_\_\_\_\_  
First Witness Signs Again Here

SWORN to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
Notary Public Signs AS NOTARY

Notary Public for South Carolina

My Commission Expires: \_\_\_\_\_

**List of Exhibits**

Exhibit A – Property Description, River Oaks at Okatie Village

Exhibit B – River Oaks at Okatie Village Planned Unit Development (PUD), Ordinance 2008/14 as amended by Ordinance 2019/\_\_\_

Exhibit C – Zoning Regulations

**Zoning Regulations**

1. Ordinance 2008/14, zoning the Property River Oaks Planned Unit Development, as amended by Ordinance 2019/\_\_\_, as set forth in Exhibit B.
2. Zoning and Development Standards Ordinance (ZDSO) of Beaufort County, in effect on September 3, 2009 ~~for October 27, 2008~~. A copy of the ZDSO is on file in the office of the County Planning Department. [Attach as Exhibit, attached selected provisions as Exhibit?]
3. The Design Guidelines, as set forth in Exhibit E.
4. This Amended Agreement.
- ~~5. Community Development Code of Beaufort County, South Carolina ??? — Does this apply?~~
- ~~6.5.~~ Ordinance 2019/\_\_\_ approving this Amended Agreement.

Exhibit D – Development Schedule

Exhibit E – Population

Exhibit F – Design Guidelines

Exhibit \_\_\_G - Trail and Open Space Plan ~~[Owner's proposed second amendment referenced this plan — is it needed?]~~

## Comparison Summary of River Oaks DA

### **1. Developer Proposed Language (Density/Uses):**

**Residential Density Clarification.** The original maximum residential density of 330 units is hereby retained, and the parties hereto confirm that the mix of residential density types shall be at the discretion of Owner/Developer, so long as the maximum density cap is not exceeded. The submitted plan for master plan approval reduces the density to 315 units.

#### **CDD/Legal Counsel proposed language (Density/Uses):**

**Permitted Uses.** Permitted uses on the Property include single-family detached dwelling and accessory uses thereto and community recreational uses such as parks and water-related amenities. No more than three hundred fifteen (315) single-family detached dwelling units shall be constructed on the Property. Timesharing or fractional ownership uses are not permitted on the Property.

### **2. Developer Proposed Language (Density/Uses):**

**Allowed Development Type and Resulting Changes to Roadway and Pathway (Including Trails) Standards.** The current development planning for River Oaks does not envision or require age restricted development. A mix of age targeted residential, family allowed residential, and (potentially) age restricted residential is envisioned and allowed hereby. The exact mix of these residential types will be based on market demand and will be at the Owner/Developer's discretion. The residential area is planned to be single family attached and detached, although other residential building types are allowed, as was provided under the original Development Agreement, which may include single family (attached and detached), townhouse, and apartment unit types.

#### **CDD/Legal Counsel proposed language (Density/Uses) :**

The development is limited to 315 single-family detached dwellings only as based on Exhibit B and statements from the developer.

### **3. Developer Proposed Language (Roadways):**

**Roads, Pathways, and Trails** within the residential area may have limited access restrictions, subject to the additional, mandatory requirement that any gating of the community shall allow access by residents of the adjacent Osprey Point development to reach the School and Cherry Point areas, at least for daylight hours and school related trips. A reciprocal requirement will be incorporated into the Osprey Point Amendment that will allow restricted access, but mandate that residents of River Oaks be allowed access across Osprey Point to reach the Village Commercial Area and Highway 170 access, at least from 8AM to 8 PM. The Amended Master Plan (Exhibit B hereto) depicts the changes to the road system to allow this internal linkage between the communities, and the Amended Trail and Open Space Plan (Exhibit C hereto) also reflects these changes. All provisions of the original Development Agreement and PUD to the contrary are hereby amended to conform herewith. In addition, County hereby commits to cooperate and consent to having Cherry Point Road paved up to the main entrance of the Property as shown on the Amended Master Plan, which shall be the sole offsite road improvement contemplated hereunder, but not required. Beaufort County will use its best efforts to assist BBII Holding Company LLC, to negotiate an easement with the Beaufort County School District and other owners so that BBII or Beaufort County can pave Cherry Point Road to the far point of the entrance of Malind Point (River Oaks).

### **CDD/Legal Counsel proposed language (Roadways):**

**Private Roads.** All roads within the Property shall be constructed by the Owner and maintained by it and/or a Homeowners' Association. The County shall not be responsible for the construction or maintenance of any roads within the Property, and the Owner and/or Homeowners' Association shall continue the maintenance until such time as the roads are accepted for maintenance by an appropriate governmental body. The County shall not be required to accept title to, or responsibility for maintenance of, any roads within the Property. Roads within the Property may be restricted regarding public access; *provided, however,* that Owner agrees that residents of the Osprey Point development shall be allowed access to reach the \_\_\_ school and Cherry Point areas during daylight hours and school-related trips.

**4. Developer Proposed Language (Attainable (affordable) Housing):**

**Housing Requirement.** The original River Oaks Development Agreement did not contain a Workforce Housing Requirement (as was required for Osprey Point and Okatie Marsh) because River Oaks was to be a retirement and age restricted development. In order to assist in meeting the needs of the County to produce more housing in the affordable price range, Owner commits to the following requirement, which shall totally replace all prior provisions relating to affordable and/or workforce housing. Owner/Developer agrees that fifteen percent (15%) of the residential units offered for initial third-party sale by the Owner shall be offered at prices that allow purchasers to buy a home who earn up to 120% of the latest posted Average Median Income for Beaufort County, which Median Income was established at \$60,603.00 in 2017. Standards established by the US Department of Housing and Urban Development shall control regarding the calculation of pricing to meet the terms hereof. The sole responsibility of Owner hereunder shall be to regularly report to County such qualifying sales until the 15% threshold has been met, and no other County standards regarding affordable housing, moderate housing, or workforce housing shall be applied within the Property, nor shall any deed covenants be required.

**CDD/Legal Counsel proposed language (Attainable (affordable) Housing) :**

**I. Affordable Housing.**

**(1) Agreement to Provide Affordable Housing.** Owner agrees to provide affordable housing in the River Oaks at Okatie Village development and agrees that the number of owner-occupied affordable housing units and/or rental affordable housing units in the River Oaks at Okatie Village development shall be, at the election of the owner, either (i) thirty percent (30%) of the dwelling units, rounded up to the nearest whole number, restricted by deed as owner-occupied affordable housing units and/or rental affordable housing units for a period of at least twenty (20) years, or (ii) twenty percent (20%) of the dwelling units, rounded up to the nearest whole number, restricted by deed as owner-occupied affordable housing units and/or rental affordable housing units for a period of at least twenty-five (25) years.

**(2) Sizing and Location.** The affordable housing units required by this Section 4I shall be sized, in terms of square footage and number of bedrooms, comparable and proportional to the square footage and number of bedrooms of the market rate units in the River Oaks at Okatie Village development as a whole. The smallest affordable housing unit by bedroom count shall not be smaller than the smallest market rate unit with the same number of bedrooms. The affordable housing units shall be integrated and intermixed within the market rate units in the River Oaks at Okatie Village development and may not be clustered together or segregated from the market rate units. Exterior finishes of affordable housing units shall be indistinguishable from exterior finishes of market rate units.

**(3) Definitions.** As used in this Section 4I, the following terms or phrases mean:

**(a)** “Owner-occupied affordable housing unit” means a dwelling unit where at least one occupant is an owner, and where all occupants have, in the aggregate, household income less than or equal to one hundred percent (100%) of the area median income (AMI) for owner-occupied units. Area median income (AMI) shall be determined annually by the United States Department of Housing and Urban Development (HUD).

**(b)** “Rental affordable housing unit” means a dwelling unit, where occupants have, in the aggregate, household income less than or equal to eighty percent (80%) of the area median income (AMI) for rental units. AMI shall be determined annually by HUD as adjusted by the Beaufort County Human Services Department or its successor.

**(c)** “Qualified household” means households where occupants have, in the aggregate, a household income less than or equal to one hundred percent (100%) of the AMI for owner-occupied units, and a household income less than or equal to eighty percent (80%) of the AMI for rental units.

**(d)** “Initial maximum allowable sales price” means an amount equal to three (3) times one hundred percent (100%) of the AMI plus any subsidy available to the buyer.

**(e)** “Affordable rent” means rent based on an amount not to exceed thirty percent (30%) of eighty percent (80%) of the AMI as published annually by HUD based on household size, inclusive of a utility allowance. Utility allowances are as provided by HUD guidelines.



(f) “Household income” means all sources of financial support, both cash and in-kind, of adult occupants of the housing unit, to include wages, salaries, tips, commissions, all forms of self-employment income, interest, dividends, net rental income, income from estates or trusts, Social Security benefits, pension benefits, or any other sources of financial support.

**5. Developer Proposed Language (Design Guidelines):**

**E. Design Guidelines/Residential Design.** The original Development Agreement for River Oaks contained Design Guidelines for the construction of buildings and development layout, which reflected the original concept of River Oaks development, which concept has now been abandoned in favor of the residential community described herein and allowed hereunder. Under this new plan, depicted on the attached Amended Master Plan, Owner shall have the right to design housing, trails, pathways, and community improvements to conform to market demand, at the sole discretion of Owner, to include all other design features of the development allowed under the Amended Master Plan. Beaufort County shall have no authority for aesthetic design review of buildings and development layout features. The Amended Master plan is general and conceptual in nature, and deviations from the this plan to accommodate final site planning, engineering and market demand are expected and allowed hereunder by right, so long as the maximum density is not exceeded.

All provisions of the original Development Agreement and PUD regarding design requirements and development flexibility are hereby abandoned and deleted, in favor of the standards adopted hereunder. Required buffers and setbacks shall apply to the perimeter of the PUD only, although expected internal setbacks are shown on the Amended Master Plan.

**CDD/Legal Counsel proposed language (Design Guidelines):**

**Design Guidelines.** The Design Guidelines (Exhibit F) apply to the Development of the Property.

**Alleys.** Owner agrees that in the Development of the Property alleys are required when the average lot width on a street is fifty-five (55) feet or less, as provided in Section 2.2.40.F of the Community Development Code of Beaufort County, South Carolina.

**Porches.** Owner agrees that all single-family houses in the River Oaks at Okatie Village development shall have either a projecting porch, engaged porch, or side yard porch that

meets the respective requirements of Sections 5.2.50 (Porch: Projecting), 5.2.60 (Porch: Engaged) and 5.2.70 (Porch: Side Yard) of the Community Development Code of Beaufort County, South Carolina.

**6. Developer Proposed Language (Existing Trees):**

**Tree Preservation.** The second paragraph of Article VIII N. of the original River Oaks Development Agreement is hereby repealed and replaced by the following which shall also be in lieu of the County's ordinances on tree preservation: "The Owner shall be able to remove trees and will be required to submit an acceptable tree planting plan for permitting."

**CDD/Legal Counsel proposed language (Existing Trees):**

**F. Tree Preservation.** In the Development of the Property, Owner agrees to comply with the Zoning Regulations, including specifically the Zoning and Development Standards Ordinance (ZDSO) of Beaufort County, in effect on September 3, 2009, applicable to tree preservation.

**7. Developer Proposed Language (School Impact Fee):**

**Impact/Development Fee Issues.** The terms of the original Development Agreement regarding fees due under Section IV (E) are hereby eliminated, to be replaced by the commitment of Owner to pay County Impact fees adopted by Beaufort County on the same basis as may be charge to all other developments in the County. The following qualifications regarding School Capital Construction fees under Section IV(D) are hereby adopted to eliminate the requirements of the original Section IV(D). Owner and County recognize that South Carolina law has changed to allow the potential for Beaufort County to enact a development impact fee ordinance of general application to provide funding for school capital improvements. Owner shall pay to County a fee of \$1,500 per residential unit for

school capital improvements until the County adopts an impact fee of general application throughout the County, and thereafter, Owner/Developer shall pay at the time of building permit issuance the lesser of \$1500 or the School Capital Improvement Fee as established by the ordinance adopted by the County that is effective throughout the County. Given the change in South Carolina law referenced above, and recognizing the competitive disadvantage that has prevented development within River Oaks for many years, the parties agree to eliminate Section IV(D) of the Development Agreement, in favor of the above provision.

**CDD/Legal Counsel proposed language (School Impact Fee):**

**School Capital Construction Fee.** Owner shall pay an impact fee of \$1,500 for each residential unit at the time of obtaining the building permit for the residential unit (the “\$1500 Impact Fee”). The obligation to pay the \$1,500 Impact Fee terminates if, pursuant to the South Carolina Development Impact Fee Act, the County adopts a school impact fee during the Term. Upon termination of the \$1,500 Impact Fee, the at which time Owner shall pay the county-wide school impact fee adopted by the County.

The School Capital and Construction Fee and All Other General DA Language Paragraphs have been aligned to be consistent with the Malind Bluff DA.

STATE OF SOUTH CAROLINA            )  
  )  
COUNTY OF BEAUFORT                )     **SECOND AMENDMENT TO  
RIVER OAKS AT OKATIE VILLAGE  
DEVELOPMENT AGREEMENT  
AND PUD ZONING**

**This Second Amendment To River Oaks at Okatie Village Development Agreement and PUD Zoning** (“Second Amendment”) is made and entered this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between BBII Holding Company, LLC, (“Owner”) (the successor in title to Roger Saunders and Sloan Saunders( the former owner)), and the governmental authority of Beaufort County, South Carolina ("County").

**WHEREAS**, River Oaks is a portion of a larger, coordinated development area, known as Okatie Village, which also included the Okatie Marsh PUD and the Osprey Point PUD, with their respective Development Agreements, which were negotiated, adopted, and recorded simultaneously with River Oaks; and,

**WHEREAS**, no development activity or sales activity has taken place within the overall Okatie Village properties, including River Oaks, during the approximately 9 years since the original approvals of these developments; and,

**WHEREAS**, the original Development Agreements for Okatie Village would have expired in September of 2014, but such Development Agreements have been extended by the South Carolina Tolling Acts of 2010 and 2013, so that the expiration date has been effectively extended until approximately January 1, 2022; and,

**WHEREAS**, significant changes have taken place in real estate market conditions and within the Okatie Village development area since the original approval of River Oaks, making it practically and economically unfeasible to develop River Oaks under the exact terms of the original River Oaks Development Agreement and PUD; and,

**WHEREAS**, the current Owner and County have agreed to amend the River Oaks Development Agreement and PUD in order to adjust the terms thereof to reflect current conditions as provided below;

**NOW THEREFORE**, in consideration of the terms and conditions hereof, the Owner and County hereby agree as follows:

**I. INCORPORATION.**

The above recitals are incorporated herein by reference.

**II. STATEMENT OF DEVELOPMENT BACKGROUND AND CHANGES TO MARKET CONDITIONS AND CIRCUMSTANCES.**

Planning and negotiations toward ultimate approval of the three Okatie Village Tracts, including River Oaks, occurred in 2006 - 2008, at a time that development was exploding in Beaufort County, and the pace of that development activity was expected to continue and accelerate as the baby boom generation was beginning to reach retirement age. Prices for homes and for commercial properties were escalating and that trend was expected to continue.

All of these trends ended before development of any of the Okatie Village communities could begin. Sales prices plummeted and a financial crisis prevented developers from acquiring needed development loans, and prevented potential buyers from obtaining home loans, even at reduced prices. Okatie Village properties were particularly hard hit, since their Development

Agreements imposed fees and burdens beyond any other development properties in Beaufort County.

The Okatie Marsh PUD failed completely before any development took place. Beaufort County acquired the entire property, which has been added to the County's Open Space land holdings. River Oaks, envisioned as a retirement facility with 330 residential units, plus nursing home and other facilities, failed to materialize. In 2014, a new version of the River Oaks community as a non-age restricted, family community was ruled possible by minor amendment, but that also failed, largely because more extensive changes to the Master Plan were needed than a minor amendment could accommodate, and also, due to the continuing problem of Development Fees in excess of competition.

Osprey Point, the central property of the three Okatie Village tracts, now has real potential to move forward in an economically conscientious way, under the name Malind Bluff. Several changes to the original plan have been necessitated by these changing market conditions, and are set forth in the Second Amendment to Osprey Point Development Agreement and PUD.

Since 2014, the two remaining Okatie Village PUDs (Osprey Point and River Oaks) have continued to struggle, with no development activity occurring. River Oaks PUD went into bankruptcy and the original Owner lost the property. Osprey Point failed to move forward as a completely age restricted community, as envisioned by the Second Amendment. The expected development partnership between the Owner of Osprey Point and a national builder fell apart due to failed negotiations over lot cost factors and a continuing change to market conditions. The fact that Osprey Point would be the only development in Beaufort County subject to \$6,000 per house school fees was a major contributing factor.

On the positive side, new development partners have emerged to bring activity to both Osprey Point and River Oaks. The two remaining PUDs are working together to produce modifications that restore much of the original vision of Okatie Village as a functioning, live/work community, with access for all residents of both communities to the Village Commercial, and to the School areas.

The minimum changes to the River Oaks Development Agreement and PUD that are required to carry out these plans are set forth below.

### **III. DEVELOPMENT PLAN CHANGES.**

A revised Master Plan and revised Trail and Open Space Plan are attached as Exhibits B and C, respectively, to this Second Amendment (Exhibit A continues as a restatement of the original property description).

Both the Development Agreement and PUD Zoning are hereby amended by this Second Amendment to reflect all changes which are shown and depicted on revised Exhibits B and C hereto, regarding the specific changes that are referenced herein and any other changes necessary, by implication, to effectuate these Development Plan and Master Plan changes. The following changes to the original Development Agreement, PUD and Master Plan are specifically listed and approved:

**A. Residential Density Clarification.** The original maximum residential density of 330 units is hereby retained, and the parties hereto confirm that the mix of residential density types shall be at the discretion of Owner/Developer, so long as the maximum density cap is not exceeded. The submitted plan for master plan approval reduces the density to 315 units.

**B. Allowed Development Type and Resulting Changes to Roadway and Pathway (Including Trails) Standards.** The current development planning for River Oaks does not envision or require age restricted development. A mix of age targeted residential, family allowed residential, and (potentially) age restricted residential is envisioned and allowed hereby. The exact mix of these residential types will be based on market demand and will be at the Owner/Developer's discretion. The residential area is planned to be single family attached and detached, although other residential building types are allowed, as was provided under the original Development Agreement, which may include single family (attached and detached), townhouse, and apartment unit types.

Roads, Pathways, and Trails within the residential area may have limited access restrictions, subject to the additional, mandatory requirement that any gating of the community shall allow access by residents of the adjacent Osprey Point development to reach the School and Cherry Point areas, at least for daylight hours and school related trips. A reciprocal requirement will be incorporated into the Osprey Point Amendment that will allow restricted access, but mandate that residents of River Oaks be allowed access across Osprey Point to reach the Village Commercial Area and Highway 170 access, at least from 8AM to 8 PM.

The Amended Master Plan (Exhibit B hereto) depicts the changes to the road system to allow this internal linkage between the communities, and the Amended Trail and Open Space Plan (Exhibit C hereto) also reflects these changes. All provisions of the original Development Agreement and PUD to the contrary are hereby amended to conform herewith. In addition, County hereby commits to cooperate and consent to having Cherry Point Road paved up to the main entrance of the Property as shown on the Amended Master Plan, which shall be the sole offsite



road improvement contemplated hereunder, but not required. Beaufort County will use its best efforts to assist BBII Holding Company LLC, to negotiate an easement with the Beaufort County School District and other owners so that BBII or Beaufort County can pave Cherry Point Road to the far point of the entrance of Malind Point (River Oaks).

**C. Housing Requirement.** The original River Oaks Development Agreement did not contain a Workforce Housing Requirement (as was required for Osprey Point and Okatie Marsh) because River Oaks was to be a retirement and age restricted development. In order to assist in meeting the needs of the County to produce more housing in the affordable price range, Owner commits to the following requirement, which shall totally replace all prior provisions relating to affordable and/or workforce housing. Owner/Developer agrees that fifteen percent (15%) of the residential units offered for initial third-party sale by the Owner shall be offered at prices that allow purchasers to buy a home who earn up to 120% of the latest posted Average Median Income for Beaufort County, which Median Income was established at \$60,603.00 in 2017. Standards established by the US Department of Housing and Urban Development shall control regarding the calculation of pricing to meet the terms hereof. The sole responsibility of Owner hereunder shall be to regularly report to County such qualifying sales until the 15% threshold has been met, and no other County standards regarding affordable housing, moderate housing, or workforce housing shall be applied within the Property, nor shall any deed covenants be required.

**D. Impact/Development Fee Issues.** The terms of the original Development Agreement regarding fees due under Section IV (E) are hereby eliminated, to be replaced by the commitment of Owner to pay County Impact fees adopted by Beaufort County on the same basis

as may be charge to all other developments in the County. The following qualifications regarding School Capital Construction fees under Section IV(D) are hereby adopted to eliminate the requirements of the original Section IV(D). Owner and County recognize that South Carolina law has changed to allow the potential for Beaufort County to enact a development impact fee ordinance of general application to provide funding for school capital improvements. Owner shall pay to County a fee of \$1,500 per residential unit for school capital improvements until the County adopts an impact fee of general application throughout the County, and thereafter, Owner/Developer shall pay at the time of building permit issuance the lesser of \$1500 or the School Capital Improvement Fee as established by the ordinance adopted by the County that is effective throughout the County. Given the change in South Carolina law referenced above, and recognizing the competitive disadvantage that has prevented development within River Oaks for many years, the parties agree to eliminate Section IV(D) of the Development Agreement, in favor of the above provision.

**E. Design Guidelines/Residential Design.** The original Development Agreement for River Oaks contained Design Guidelines for the construction of buildings and development layout, which reflected the original concept of River Oaks development, which concept has now been abandoned in favor of the residential community described herein and allowed hereunder. Under this new plan, depicted on the attached Amended Master Plan, Owner shall have the right to design housing, trails, pathways, and community improvements to conform to market demand, at the sole discretion of Owner, to include all other design features of the development allowed under the Amended Master Plan. Beaufort County shall have no authority for aesthetic design review of buildings and development layout features. The Amended Master

plan is general and conceptual in nature, and deviations from the this plan to accommodate final site planning, engineering and market demand are expected and allowed hereunder by right, so long as the maximum density is not exceeded.

All provisions of the original Development Agreement and PUD regarding design requirements and development flexibility are hereby abandoned and deleted, in favor of the standards adopted hereunder. Required buffers and setbacks shall apply to the perimeter of the PUD only, although expected internal setbacks are shown on the Amended Master Plan.

**F. Development Schedule Amendment.** Subject to the same reservations and conditions contained under Section IV of the original Development Agreement and Exhibit D thereto, the Development Schedule is hereby amended as set forth in Exhibit D hereto, to reflect current forecasts and expected schedules.

**G. Preliminary Drainage Plan, Water Plan and Sanitary Sewer Plans.** These preliminary plans are shown on Exhibits E, F, and G, respectively. All of these engineering elements fall at or below the load levels anticipated under the original River Oaks Development Agreement and PUD, so these changes to facilitate routing of these infrastructure elements constitute minor changes. These new Exhibits are included for completeness and to provide clarity as development progresses. River Oaks development shall meet current County and SCDHEC standards regarding stormwater design and treatment, rather than the originally adopted standards of the 2008 Development Agreement. With this commitment by Owner to meet current stormwater standards, all prior provisions of the original Development Agreement and PUD regarding stormwater design, testing, construction and operation are hereby abandoned and deleted.

**H. Legal Status of Workers.** The provisions of Article V of the original River Oaks Development are hereby repealed, in order to avoid potential conflicts with evolving laws regarding immigration status of workers, while the commitment of Owner to provide an equal opportunity workplace continues.

**I. Tree Preservation.** The second paragraph of Article VIII N. of the original River Oaks Development Agreement is hereby repealed and replaced by the following which shall also be in lieu of the County's ordinances on tree preservation: "The Owner shall be able to remove trees and will be required to submit an acceptable tree planting plan for permitting."

**J. Terms of Agreement/Incorporation/Default.** The original Development Agreement and PUD were approved by both parties, effective September 3, 2009. The parties hereby agree that terms of the original Development Agreement are incorporated herein by reference, and that said documents are hereby amended as specifically set forth herein, directly or by necessary implication. The term of this Second Amendment shall be for five years from the date of execution hereof, provided that the term shall be further extended for an additional five years if neither party hereto is in material breach hereof and if development of the subject property has not been completed during the initial term, and also, further extended by any South Carolina laws which have extended Development Agreements generally, for the full tolling period established by law. Both parties agree that with the execution and adoption hereof, no present defaults exist between the parties and all future activities within River Oaks shall be governed by the terms hereof.

**IN WITNESS WHEREOF,** the parties hereby set their hands and seals, effective the date first above written.

WITNESSES

OWNER:

\_\_\_\_\_

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

Its:

\_\_\_\_\_

Attest: \_\_\_\_\_

Its:

\_\_\_\_\_

**STATE OF SOUTH CAROLINA**

)

**ACKNOWLEDGMENT**

)

**COUNTY OF BEAUFORT**

)

I HEREBY CERTIFY, that on this \_\_\_\_ day of \_\_\_\_\_, 201\_\_. before me, the undersigned Notary Public of the State and County aforesaid, personally appeared \_\_\_\_\_, and \_\_\_\_\_ known to me (or satisfactorily proven) to be the person whose name is subscribed to the within document, as the appropriate official of \_\_\_\_\_, who acknowledged the due execution of the foregoing document.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above mentioned.

\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_

WITNESSES:

**COUNTY OF BEAUFORT**

\_\_\_\_\_

\_\_\_\_\_  
County Council Chairman

\_\_\_\_\_

Attest: \_\_\_\_\_  
County Clerk - County of Beaufort

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

**ACKNOWLEDGMENT**



I HEREBY CERTIFY, that on this \_\_\_ day of \_\_\_\_\_, 201\_\_ before me, the undersigned Notary Public of the state and County aforesaid, personally appeared known to me (or satisfactorily proven) to be the persons whose name is subscribed to the within document, who acknowledged the due execution of the foregoing Development Agreement.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above mentioned.

\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_



**LOT YEILD: 315**

-  30' X 110'
-  40' X 110'

**Total Acres: +/-61.21**

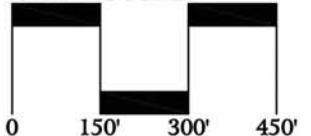
**Residential Density: 5.14 DU/AC**

**Open Space: 26.26 AC (42.90%)**



NORTH

GRAPHIC SCALE



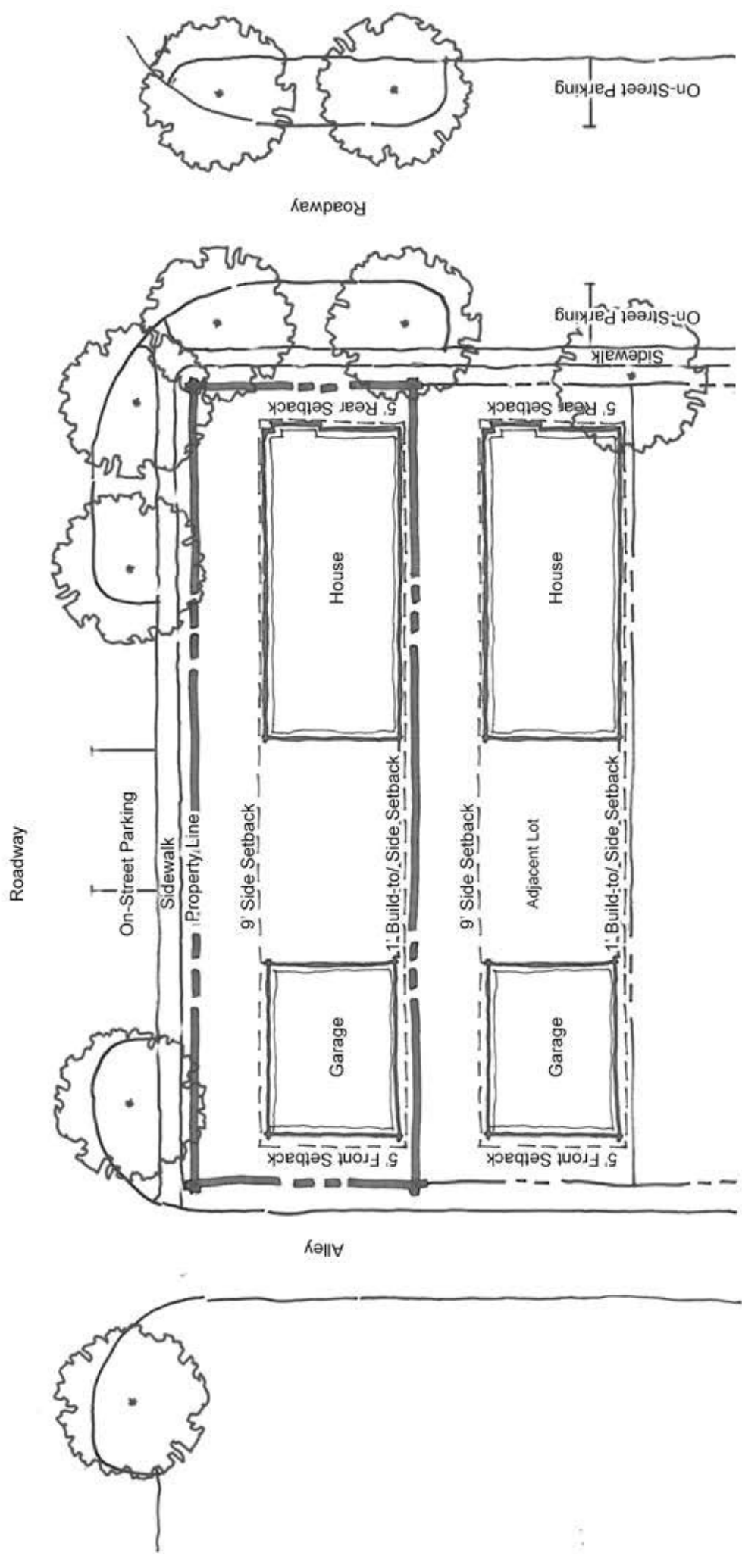
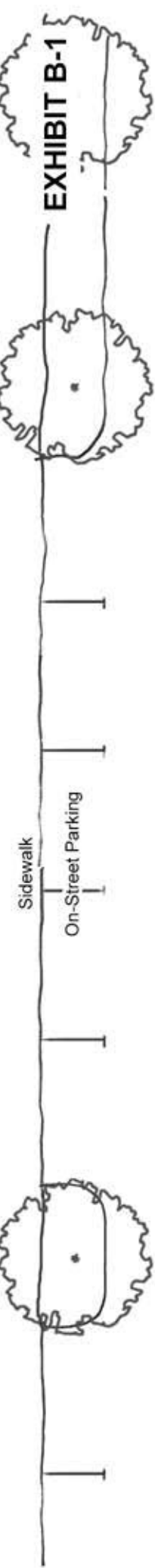
PREPARED FOR:  
VILLAGE PARK HOMES, LLC



PREPARED BY:  
**J. K. TILLER ASSOCIATES, INC.**  
LAND PLANNING      LANDSCAPE ARCHITECTURE  
181 BLUFFTON ROAD      SUITE 2203      BLUFFTON SC 29915  
Phone 803.851.8000      Fax 803.851.8000

**RIVER OAKS (MALIND POINTE)**  
**AMENDED MASTER PLAN**  
BEAUFORT COUNTY, SOUTH CAROLINA  
OCTOBER 16, 2017

THIS IS A CONCEPTUAL PLAN AND IS SUBJECT TO CHANGE. ALL SURVEY INFORMATION AND SITE BOUNDARIES WERE COMPILED FROM A VARIETY OF UNVERIFIED SOURCES AT VARIOUS TIMES AND AS SUCH ARE INTENDED TO BE USED ONLY AS A GUIDE. ALL PROPERTY LINES, TRACT DIMENSIONS AND NARRATIVE DESCRIPTIONS ARE FOR GRAPHIC REPRESENTATION ONLY, AS AN AID TO SITE LOCATION AND POTENTIAL LAND USE, AND ARE NOT LEGAL REPRESENTATIONS AS TO FUTURE USES OR LOCATIONS. J. K. TILLER ASSOCIATES, INC. ASSUMES NO LIABILITY FOR ITS ACCURACY OR STATE OF COMPLETION, OR FOR ANY DECISIONS (REQUIRING ACCURACY) WHICH THE USER MAY MAKE BASED ON THIS INFORMATION.



### River Oaks (Malind Pointe) - Typical 30' Z-Lot Building Placement

**LOT DEVELOPMENT STANDARDS:**

**Standard Lot Information:**  
30' wide x 110' deep, alley access

**Setbacks:**  
5' front, 5' rear, 9' & 1' (build-to) side

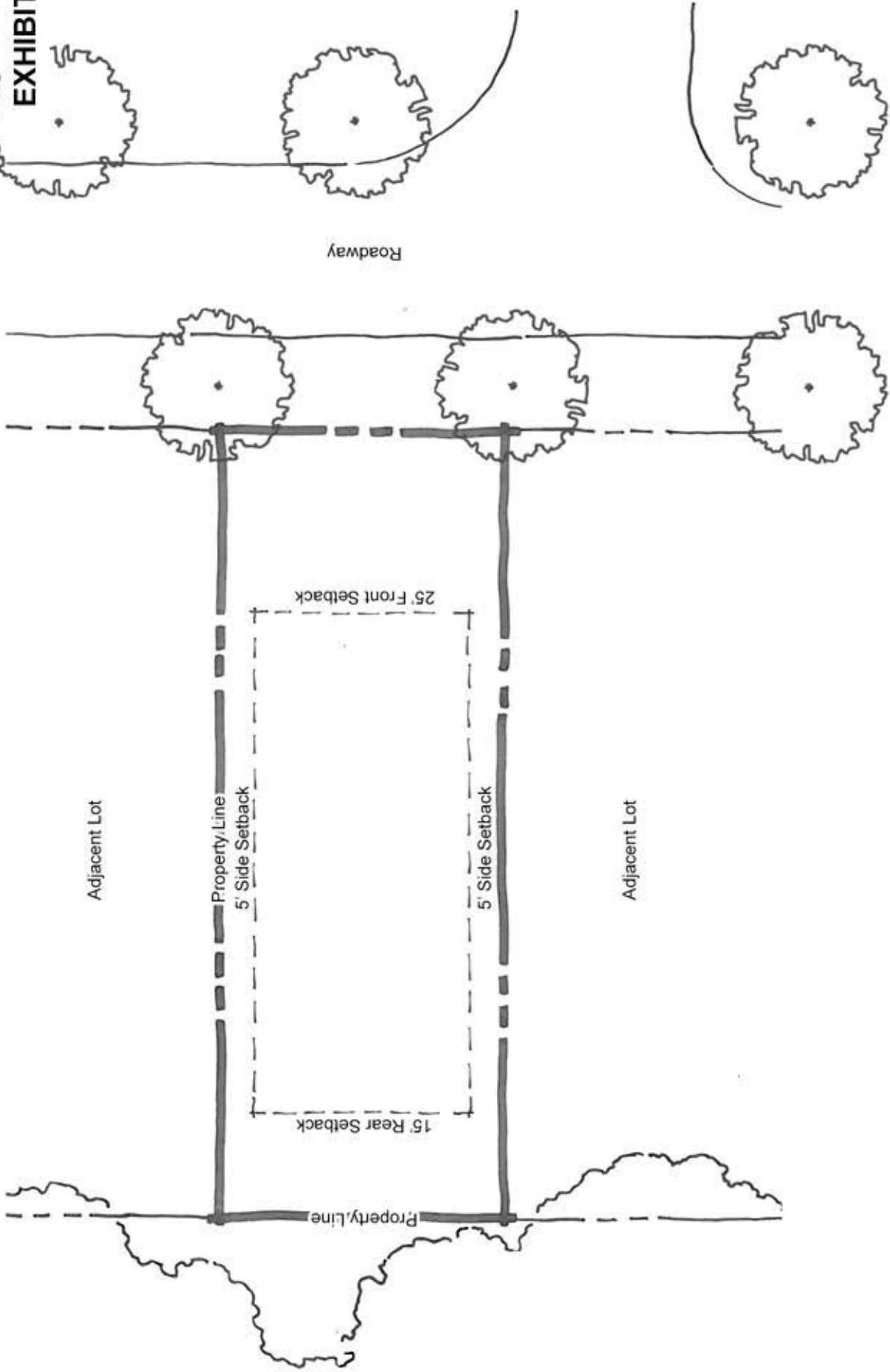
**NOTES:**

1. Garage may be substituted for carport or paved pad
2. The 1' build-to side setback is to be placed next to the 9' setback on the adjacent lot.
3. Corner lots must address both adjacent roadways. Build to line is located on the side neighboring the adjacent lot.





**EXHIBIT B-2**



**River Oaks (Malind Pointe) - Typical 40' Lot Building Placement**

**LOT DEVELOPMENT STANDARDS:**

**Standard Lot Information:**

40' wide x 110' deep, front load access

**Setbacks:**

25' front, 15' rear, 5' side

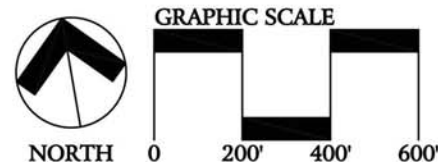


**TRAILS AND OPEN SPACE**

-  INTERNAL SIDEWALKS
-  PARKS

Total Acres: +/-61.21  
 Residential Density: 5.14 DU/AC  
 Open Space\*: 26.26 AC (42.90 %)

\*THE OPEN SPACES INCLUDE GARDENS, NATURAL AREAS, BUFFERS, STORMWATER AMENITIES, TRAILS AND OTHER NON-BUILDABLE LAND.



PREPARED FOR:  
 VILLAGE PARK HOMES, LLC

PREPARED BY:  
**J. K. TILLER ASSOCIATES, INC.**  
 LAND PLANNING LANDSCAPE ARCHITECTURE  
 181 BLUFFTON ROAD SUITE 2203 BLUFFTON SC 29915  
 Phone 843.815.4800 Fax 843.815.4802



**RIVER OAKS (MALIND POINTE)  
 TRAILS AND OPEN SPACE PLAN**  
 BEAUFORT COUNTY, SOUTH CAROLINA  
 OCTOBER 16, 2017

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LOT YEILD: 315

-  30' X 110'
-  40' X 110'

Total Acres: +/-61.21

Residential Density: 5.14 DU/AC

Open Space: 26.26 AC (42.90%)



NORTH

GRAPHIC SCALE



0 150' 300' 450'

PREPARED FOR:  
VILLAGE PARK HOMES, LLC

PREPARED BY:

J. K. TILLER ASSOCIATES, INC.



LAND PLANNING LANDSCAPE ARCHITECTURE  
181 BLUFFTON ROAD SUITE 2103 BLUFFTON, SC 29915  
Phone 843.815.6800 Fax 843.815.6800



# RIVER OAKS (MALIND POINTE) AMENDED MASTER PLAN

BEAUFORT COUNTY, SOUTH CAROLINA

JUNE 4, 2019

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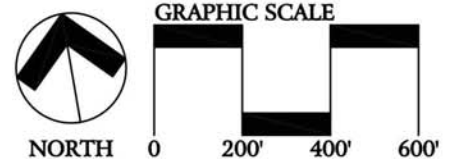


**TRAILS AND OPEN SPACE**

-  INTERNAL SIDEWALKS
-  PARKS

Total Acres: +/-61.21  
 Residential Density: 5.14 DU/AC  
 Open Space\*: 26.26 AC (42.90 %)

\*THE OPEN SPACES INCLUDE GARDENS, NATURAL AREAS, BUFFERS, STORMWATER AMENITIES, TRAILS AND OTHER NON-BUILDABLE LAND.



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 Phone: 843.815.4800

**Ward Edwards**  
 LANDSCAPE ARCHITECTURE ENGINEERING  
 SUITE 7103 BLUFFTON, SC 29915  
 Phone: 843.815.6002

**RIVER OAKS (MALIND POINTE)  
 TRAILS AND OPEN SPACE PLAN**

BEAUFORT COUNTY, SOUTH CAROLINA

JUNE 4, 2019

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## BEAUFORT COUNTY COUNCIL

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### Agenda Item Summary

**Item Title:**

Boards and Commissions Appointments and Reappointments

**Council Committee:**

Natural Resources

**Meeting Date:**

August 19, 2019

**Committee Presenter (Name and Title):****Issues for Consideration:**

Rural and Critical Lands Preservation Board / (1) Vacancy (Dist. 8)  
Southern Beaufort County Corridor Beautification Board / (3) Vacancies (Town of Bluffton  
appointment, Dist. 8 and Dist. 5)  
Planning Commission / Harold L. Mitchell  
Zoning Board of Appeals / Reappointment of Kevin Mack

**Points to Consider:****Funding & Liability Factors:**

None.

**Council Options:**

Approve, Modify or Reject

**Recommendation:**

Approve

**Rural and Critical Lands Preservation Board  
(Applicants)**

<b>Name</b>	<b>Council District</b>	<b>Ethnicity</b>	<b>Primary Interest or Expertise</b>	<b>Other ABC Interest</b>	<b>Date Application Received</b>
Flashch, Pamela	2	Caucasian	Public Affairs Manager - BJWSA	Economic - 1 Planning - 3	May 2019
Green, Fallon	1	African American	Paralegal Student - Intern	LCOG - 1 Coastal - 2	May 2015
Logan, Thomas	3	Caucasian	Self-employed		August 2018
Lust, Elaine	8	Caucasian	Retired - Controller	Historic - 1 Beautification - 3	September 2018
Stefonick, Ryan	8	Caucasian	Real Estate Broker		June 2019
Taylor, Hillary	2	Other	Student	Zoning - 1 Coastal - 2	May 2017

Seeking Reappointment  
Intent Unknown  
Vacancy / Resignation

Seeking Reappointment  
Intent Unknown  
Vacancy / Resignation

RURAL AND CRITICAL LANDS PRESERVATION BOARD

	<u>Telephone</u>	<u>Appointed</u>	<u>Reappointed</u>	<u>Term- Years</u>	<u>Term Expires</u>	<u>CC District</u>	<u>Ethnicity</u>	<u>North/ South</u>	<u>Gender</u>
1. Arthur H. Baer (District 1) 40 Brays Island Drive Sheldon, SC 29941 <a href="mailto:baer@fairpoint.net">baer@fairpoint.net</a>	(H)843-466-9099	2/25/2019 (partial-term)			2/21	1	Caucasian	North	Male
2. Bob Bender (District 4) 630 16th Street Port Royal, SC 29925 <a href="mailto:benderr@islc.net">benderr@islc.net</a>	(H)843-524-6600	3/25/2013 (partial-term)	3/9/2015 2/11/2019	4	2/23	4	Caucasian	North	Male
3. Terry Hill (District 6) 126 Cutter Circle Bluffton, SC 29909 <a href="mailto:hill.hiker9@gmail.com">hill.hiker9@gmail.com</a>	(H)843-368-9413	5/8/2017	2/11/2019	4	2/23	6	Caucasian	South	Male
4. Douglas Koop (District 5) 110 Bartram Drive Beaufort, SC 29902 <a href="mailto:douglaslkoop@gmail.com">douglaslkoop@gmail.com</a>	(H)989-941-5340	11/5/2018 (partial-term)			2/21	5	Caucasian	South	Male
5. Walter Mack (District 3) 1257 Seaside Road St. Helena Island, SC 29920 <a href="mailto:roymy3girls@yahoo.com">roymy3girls@yahoo.com</a>	(H)512-969-7300	2/20/2017		4	2/21	3	African American	North	Male
6. Michael Mathews, Chairman (District 9) 70 Trout Hole Road	(H)843-757-2339 (O)908-399-7587	12/8/2014 (parital-term)	2/11/2019	4	2/23	9	Caucasian	South	Male

Bluffton, SC 29910

[mpmathews76@hotmail.com](mailto:mpmathews76@hotmail.com)



Seeking Reappointment  
 Intent Unknown  
 Vacancy / Resignation

Seeking Reappointment  
 Intent Unknown  
 Vacancy / Resignation

**RURAL AND CRITICAL LANDS PRESERVATION BOARD**

	<u>Telephone</u>	<u>Appointed</u>	<u>Reappointed</u>	<u>Term- Years</u>	<u>Term Expires</u>	<u>CC District</u>	<u>Ethnicity</u>	<u>North/ South</u>	<u>Gender</u>
7. Gail O'Kane (District 11) 105 Coggins Point Road Hilton Head Island, SC 29928 <a href="mailto:gailok@hargray.com">gailok@hargray.com</a>	(H)843-682-2756	5/26/2015	2/11/2019	4	2/23	11	Caucasian	South	Female
8. Dorothy Scanlin (District 10) 2 Sabal Court Hilton Head Island, SC 29926 <a href="mailto:dscan266@aol.com">dscan266@aol.com</a>	(H)843-715-0429	3/14/2016	2/11/2019	4	2/23	10	Caucasian	South	Female
9. Richard Walls (District 7) 77 Hampton Hall Blvd Bluffton, SC 29910 <a href="mailto:richard@wallsinvestments.com">richard@wallsinvestments.com</a>	(H)843-368-9501 (O)843-757-3637	3/28/2016 (partial-term)	2/20/2017	4	2/21	7	Caucasian	South	Male
10. Beekman Webb (District 2) Gannett Point Road Beaufort, SC 29907 <a href="mailto:beekman@centurylink.net">beekman@centurylink.net</a>	(O)843-521-4420 (M)843-592-3800	9/24/2018 (partial-term)	2/11/2019	4	2/23	2	Caucasian	North	Male

Seeking Reappointment  
Intent Unknown  
Vacancy / Resignation

Seeking Reappointment  
Intent Unknown  
Vacancy / Resignation

RURAL AND CRITICAL LANDS PRESERVATION BOARD

<u>Telephone</u>	<u>Appointed</u>	<u>Reappointed</u>	<u>Term- Years</u>	<u>Term Expires</u>	<u>CC District</u>	<u>Ethnicity</u>	<u>North/ South</u>	<u>Gender</u>
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11. Vacant  
(District 8)

**Authorized Membership:** 11  
(11 - one from each Council District)  
**Vacancy:** 1  
**Terms Expired:** 0

**Historical Background:**  
Ordinance 2006/2  
Ordinance 2003/22  
Ordinance 2000/29  
Ordinance 1999/19  
Ordinance 1998/23

\* Members' terms will be staggered and will serve the same term as the appointing member of Council.

**Southern Beaufort County Corridor Beautification Board  
(Applicants)**

<b>Name</b>	<b>Council District</b>	<b>Ethnicity</b>	<b>Primary Interest or Expertise</b>	<b>Other ABC Interest</b>	<b>Date Application Received</b>
Davis, Bob	8	Caucasian	Product/Sales Management	BJEOC - 2	August 2015
Iaco, Joan	7	Caucasian	Client Technician / Marketing Coordinator	Keep - 2 Parks - 3	May 2019
Lust, Elaine	8	Caucasian	Retired - Controller	Historic - 1 Rural - 2	September 2018
Nielsen, Dennis	8	Caucasian	Retired		June 2019

Seeking Reappointment  
 Intent Unknown  
 Vacancy / Resignation

Seeking Reappointment  
 Intent Unknown  
 Vacancy / Resignation

**SOUTHERN BEAUFORT COUNTY CORRIDOR BEAUTIFICATION BOARD**

	<u>Telephone</u>	<u>Appointed</u>	<u>Reappointed</u>	<u>Term- Years</u>	<u>Term Expires</u>	<u>CC District</u>	<u>Ethnicity</u>	<u>North/ South</u>	<u>Gender</u>
1. Sallie Brach, Vice Chairman (Council District 6) 75 Heron's Bill Drive Bluffton, SC 29909 <a href="mailto:salliebridgwater@gmail.com">salliebridgwater@gmail.com</a>	(H)843-705-6771	6/10/2013	2/20/2017	4	2/21	6	Caucasian	South	Female
2. Stephen Brown (Council District 7) 298 Club Gate Bluffton, SC 29910 <a href="mailto:steve@blufftonandhiltonhead.com">steve@blufftonandhiltonhead.com</a>	(H)843-368-9413	5/8/2017		4	2/21	7	Caucasian	South	Male
3. Roberta Cope-Foss (Council District 11) 2 Pelican Street Hilton Head Island, SC 29928 <a href="mailto:fossroberta@aol.com">fossroberta@aol.com</a>	(H)843-842-2385 (O)843-816-3739	4/9/2018 (parital term)		4	2/21	11	Caucasian	South	Female
4. Carol J. Humphrey (Council District 10) 19 Celosia Lane Hilton Head Island, SC 29926 <a href="mailto:cj@carsonrealtysc.com">cj@carsonrealtysc.com</a>	(H)843-342-2510 (O)843-815-7500	9/9/2013	2/20/2017	4	2/21	10	Caucasian	South	Female
5. Douglas Novak, Chairman (Council District 9) 23 Plantation Drive Suite 502 Bluffton, SC 29910 <a href="mailto:novaklawgroup@yahoo.com">novaklawgroup@yahoo.com</a>	(H)843-247-6953 (O)843-836-2004	5/6/2013	2/20/2017	4	2/21	9	Caucasian	South	Male

Seeking Reappointment  
 Intent Unknown  
 Vacancy / Resignation

Seeking Reappointment  
 Intent Unknown  
 Vacancy / Resignation

**SOUTHERN BEAUFORT COUNTY CORRIDOR BEAUTIFICATION BOARD**

	<u>Telephone</u>	<u>Appointed</u>	<u>Reappointed</u>	<u>Term- Years</u>	<u>Term Expires</u>	<u>CC District</u>	<u>Ethnicity</u>	<u>North/ South</u>	<u>Gender</u>
6. Todd Theodore (Town of Hilton Head Island appointee) 30 Crooked Pond Drive Hilton Head Island, SC 29926 <a href="mailto:ttheodore@woodandpartners.com">ttheodore@woodandpartners.com</a>	(H)843-342-6703	6/23/2014	2/19/2018	4	2/22	8	Caucasian	South	Male
7. Vacant (Council District 8)									
8. Vacant (Council District 5)									
9. Town of Bluffton Appointee									

**Authorized Membership: 9**  
 One - County District 5  
 One - Council District 6  
 One - Council District 7  
 One - Council District 8  
 One - Council District 9  
 One - Council District 10  
 One - Council District 11  
 One - Nominated by Town of Bluffton for appointment by County Council.  
 One - Nominated by Town of Hilton Head Island for appointed by County Council.  
**Vacancies: 3**  
**Terms Expired: 0**

**Historical Background:**  
 Ordinance 2013 / 12  
 Resolution 2012 / 24

8-19-19

25 July 2019

Harold L Mitchell  
13 Anchorage Way  
Beaufort, SC 29902-5981

Councilman Stewart H. Rodman  
Beaufort County Government Robert Smalls Complex  
100 Ribaut Road  
Beaufort, SC 29901-1228

Dear Chairman Rodman,

As I mentioned in my letter of resignation from the Planning Commission, my wife and I have relocated out of District One.

Per my conversation with Councilman Dawson, I am writing to express my continued desire to represent Sheldon Township as District One's representative on our Planning Commission.

I am most familiar with District One as it is where I know the most persons in our county, it is the location of my childhood home, my church, the majority of my properties, as well as where my wife and I have lived for the last four years since returning home to Beaufort.

If procedures allow, I am ready to continue my service on our Planning Commission representing the citizens of District #1 and Beaufort County.

Sincerely,



Harold L. "Mitch" Mitchell  
Major General (Retired)

CC: Councilman Gerald Dawson

8-19-19

Kevin B. Mack  
1174 Seaside Road  
St. Helena Island, SC 29920  
(843) 838-2626

June 5, 2019

Mr. Stewart H. Rodman, Chairman  
Beaufort County Council  
Post Office Drawer 1228  
Beaufort, SC 29901-1228

Re: Reappointment to the Zoning Board of Appeals

Dear Mr. Rodman:

I hereby respectfully request that I be considered for reappointment to serve as a member of the Zoning Board of Appeals, effective February 2020.

Sincerely,



Kevin B. Mack  
Vice Chairman  
ZBOA Member