



COUNTY COUNCIL OF BEAUFORT COUNTY
BEAUFORT COUNTY PLANNING DIVISION

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SPECIAL PLANNING COMMISSION

Tuesday, May 10, 2016

5:30 p.m.

Executive Conference Room 170

County Administration Building

100 Ribaut Road, Beaufort, South Carolina

In accordance with South Carolina Code of Laws, 1976, Section 30-4-80(d), as amended, all local media was duly notified of the time, date, place and agenda of this meeting.

1. CALL TO ORDER – 5:30 P.M.
2. PLEDGE OF ALLEGIANCE
3. OVERVIEW OF COUNTY’S TREE REGULATIONS AND DISCUSSION OF FUTURE REVISIONS ([backup](#))
4. OTHER BUSINESS
 - A. Next Meeting – June 14, 2016, at 5:30 p.m., Executive Conference Room, Administration Building, 100 Ribaut Road, Beaufort SC
5. ADJOURNMENT



Division 5.11: Resource Protection Standards

3. Types and construction of fill materials used for building foundations will minimize settlement, slope erosion, siltation and facilitates drainage of potential surrounding floodwaters.

- C. **Disclosure Statement Required.** All subdivision plats and land development plans for which lots, sites, or structures are to be sold or leased shall include the following statement, which shall be clearly affixed to the plat or plan and be readily visible:

The areas indicated on this plat/plan as flood hazard areas have been identified as having at least a one percent chance of being flooded in any given year by rising tidal waters associated with extreme wind and storm surge. Local regulations require that certain flood hazard protective measures be incorporated in the design and construction of structures in these designated areas.

Reference shall be made to the development covenants and restrictions of this development and requirements of the County Building Codes Department. In addition, some agencies may require mandatory purchase of flood insurance as a pre-requisite to mortgage financing in these designated flood hazard areas.

- D. **Protective Deed Restrictions Required in Coastal High Hazard Areas and Velocity Zones.** Covenant or deed restrictions shall be placed in the deeds to all lots of a development lying within a flood hazard area stipulating to the owner that within what is defined and designated as "Coastal High Hazard Areas and Velocity Zones":
1. Construction shall be elevated and securely anchored to well-anchored piles or columns and shall have the level of the bottom of the lowest horizontal support member one foot or more above the level of the 100-year flood;
 2. Space below the level of the first floor level shall be free of obstruction or covered by breakaway facade material capable of producing free obstruction for the impact of abnormally high tides or wind-driven water;
 3. Residential structures on lots existing before ____ <insert effective date of this Development Code> shall have a maximum floor area of 2,200 square feet per lot. (A larger home may be built only by acquiring additional lots.);
 4. Residential structures built after ____ <insert effective date of this Development Code> shall not exceed a maximum floor area ratio of one-tenth; and
 5. Development shall comply with all other requirements of the County Building Code related to construction in a flood hazard area.
- E. **County Building Code.** All development shall comply with the requirements of the County Building Code and FEMA requirements related to construction in flood hazard areas.

5.11.90 Forests

- A. **Existing Forest Preservation.** Existing forest types listed below shall be protected in accordance with Table 5.11.90.A:

Table 5.11.90.A: Existing Forest Preservation

Zone	Maritime Forest	Upland Forest (Mature)	Upland Forest (Young)
T1, T2	70% minimum	55% minimum	25% minimum
T3, C3, C4, CP	65% minimum	45% minimum	20% minimum
T4, C5, SI	60% minimum	20% minimum	10% minimum

- B. **Mitigation.** Existing forests may be cut over a greater area than permitted in Table 5.11.90.A only if mitigation is provided and the following standards are met:
1. The mitigation is determined by the Director to be necessary due to unique conditions on the site that make it impossible to meet the protection standards due to site size, shape, utilities, or other elements that are unique to the property.
 2. The best forests, in terms of percentage of tree size, tree health, and habitat value, shall be preserved.
 3. The protection level given forests shall not be less than 80 percent of that required in Table 5.11.90.A. Thus, a forest with a protection level of 45 percent could be reduced to 36 percent ($45\% \times .80 = 36\%$).
 4. The land on which the mitigation is to occur shall be on the project site, except that within the T4 district only, where existing lots may be too small to permit on site mitigation, the land on which mitigation is to occur may be off-site, if within an approved mitigation bank area. All land used for mitigation shall be preserved as permanent open space.
 5. Mitigation shall consist of planting 1.25 acres of new woodland of comparable species for every one acre of disturbed forest for which mitigation is required. Planting requirements are shown in Table 5.11.90.B.

Table 5.11.90.B: Forest Mitigation Planting Requirements		
Maritime Forest		
Plant Type	Quantity Per Acre	Size
Canopy Tree	25	2 ½-in. caliper
Understory Tree	50	1 ½-in. caliper
Shrubs	325	3-gallon pot
Upland Forest		
Plant Type	Quantity Per Acre	Size
Canopy Tree	15	2 ½-in. caliper
Pine	25	8-foot height
Understory Tree	50	1 ½-in. caliper
Shrubs	325	3-gallon pot

- C. **Penalty for Disturbing Protected Forest Areas.** If a protected forest area is damaged or cut down during or after construction, the mitigation shall involve the creation of protected open space that is 1.25 times the area destroyed. This may result in a loss of buildable area and/or lots. The area shall be replanted at the rate specified in Table 5.11.90.B for the type of forest damaged or cut down.
- D. **Penalty for Clear Cutting Prior to Development.** If a property owner clear cuts all or any portion of his or her property under the claim of good faith forestry practice, and then seeks a development permit for any portion of the property within two years of the clear cut, a rebuttable presumption shall arise that the clear cut was done in anticipation of future development and the permit denied. Any person seeking to rebut the presumption shall have the burden of proving their claim by clear and convincing evidence to the Zoning Board of Appeals.
- E. **Uses Permitted Within Forest Preservation Area.**
1. To support wildlife habitats and corridors, these areas shall be preserved from the understory herbaceous layer to the overstory canopy layer. However, in some cases,

the Director may allow selective underbrushing depending on the approved use of the area with the following qualifications:

- a. Underbrushing is not allowed in the River Buffer area as per Section 5.11.60 (River Buffer); and
 - b. Underbrushing may be allowed in a community park.
2. The following activities may be permitted within forest preservation areas with approval by the Director:
- a. Low impact improvements such as bike paths, walking paths, picnic areas, wildlife viewing areas, etc.
 - b. Removal of invasive species and poisonous underbrush vegetation such as poison ivy, poison oak and poison sumac with hand-held equipment.
 - c. Low impact designed structures such as benches, shelters, and fences, as long as no specimen or preserved trees are removed, no structures are fastened to trees and there is minimal impact (trenching, grading) on the forest floor.

5.11.100 Tree Protection

All trees that are not protected under Section 5.11.90 (Forests), or Section 5.8.90 (Perimeter Buffers) shall be protected in accordance with this section.

- A. **General.** Careful site planning for new development shall, to the greatest extent practicable, preserve existing trees and vegetation on the property to be developed. This is to include all specimen trees in good health as well as groups of smaller healthy trees and understory vegetation that provide wildlife habitat, corridors, and bird nesting areas.
- B. **Specimen Trees.** A specimen tree is defined as follows:
1. Understory trees - Dogwood, Redbud, and Southern Magnolia that are equal to or greater than a diameter of 4 inches (DBH).
 2. Overstory trees - American Holly, Bald Cypress, Beech, Black Oak, Black Tupelo, Cedar, Hickory, Live Oak, Palmetto, Pecan, Red Maple, Southern Red Oak, Sycamore, or Walnut that are equal to or greater than a diameter of 16 inches (DBH).
 3. All other trees equal to or greater than a diameter of 24 inches (DBH) except those identified as invasive species in Table 5.11.100.C.
- C. **Tree Survey Required.** Prior to any development approval, except bona fide forestry, the applicant shall provide a tree survey of the areas in which building, clearing or construction activities are planned in accordance with the following:
1. The tree survey shall include all trees 8 inches DBH and larger, and all dogwoods (*Cornus spp.*), redbuds (*Cercis canadensis*), and magnolias (*Magnolia spp.*) four inches DBH and larger.
 2. The tree survey shall indicate species type and size (DBH).
 3. The tree survey shall be conducted by a certified arborist, professional urban forester, registered landscape architect, or registered land surveyor. All tree surveys shall be certified by a registered land surveyor.
 4. A tree survey shall be less than five years old beginning from the application submission date for which the survey pertains. The Director may require that a new

tree survey be undertaken at the applicant's expense when it has been determined that a tree survey is more than five years old.

D. Tree Removal.

1. **Preservation of Existing Trees a Priority.** Reasonable design alternatives shall be explored to preserve existing trees to the extent practicable. At the discretion of the Director, a Certified Arborist Report may be required as part of the tree retention/removal plan for all specimen trees on a development site. Such report shall detail the general health of each tree and the steps necessary to promote survival during and after construction.
2. **Tree Removal Criteria.** Before approval to remove any tree over 8" DBH, or any specimen tree, is granted by the Director, the following criteria shall be considered:
 - a. It is difficult or impossible to reasonably use the property without the removal of the tree.
 - b. Roads, parking areas, drive aisles, paths and other site features have been designed around the canopies of existing trees to the greatest extent possible.
 - c. Removal will allow the preservation of other, healthier hardwood trees on the property.
 - d. Adjustments to the site plan cannot be made to save the tree without losing lots or floor area.
3. If the Director finds that the applicant has not met the criteria listed above, the removal shall require approval by the Planning Commission.
4. **Mitigation.** Where individual specimen trees are to be cut (see subsection B above), the developer shall plant sufficient trees having a caliper of 2.5 inches or more each so as to meet the DBH of the tree or total trees cut. Such trees shall be of the same species as those cut unless the Director approves other species to enhance the diversity to that similar to the native forest areas. All mitigation trees shall be planted within the disturbed area of the site.
5. **Existing Trees Used for Mitigation.** The saving of existing non-specimen trees is encouraged and may be utilized to meet the mitigation requirement above. Existing trees used for mitigation must be located within the disturbed area of the site.
6. **Penalty for Removing Trees Prior to Permitting.** If trees are cut down prior to a development receiving all necessary permits from the County, the County shall not issue a permit to allow the development to occur within two years of the tree removal, unless the property owner provides mitigation for the trees removed. Mitigation shall involve the replanting of trees a minimum of 2.5 caliper inches with a total caliper equal to 1.25 times that of the DBH of the trees removed.
7. **Reforestation Fee.** Where the director determines that the required replacement of trees is not feasible or not desirable due to the size and shape of property and/or structures, crowding of the trees to where thinning will be required, other design limitations, or other viable site constraints, such reduction shall be subject to a general reforestation fee. This fee shall be the actual and verified cost of the required tree replacement and shall be paid to the county before final approval is given for the development plan. The funds collected through this reforestation fee shall be used by the county to plant trees and other landscaping in highway medians, along roads, or on other public properties as deemed appropriate.

E. Tree Protection During Construction

1. **Tree Protection Zone.** A tree protection zone shall be shown on the development plan for all trees to be preserved. This zone shall encompass the drip line for protected forest areas and other groupings of trees. For all other trees, the tree protection zone shall be a radius of one foot for every inch of trunk diameter (DBH).
 2. **Alternate Tree Protection Zone.** The Director may approve an alternate tree protection zone if it can be determined by a certified arborist or professional urban forester that one or more specific protection measures will result in no injury to any tree whose tree protection zone (see subsection D.1.) will be encroached upon during construction. In no case shall a protection zone be reduced to less than one-half of the area specified in subsection D. 1. for any tree without approval of a variance; see Section 7.2.140 (Variance Permit). Approved special tree protection measures shall be made part of the conditions of the development permit, and compliance with these measures must be certified in writing by the developer prior to issuance of a Certificate of Compliance.
 3. **Construction Requirements.** Tree protection zones shall be established and maintained for each preserved tree on a development site as follows:
 - a. **Fencing Required Prior to Construction.** Conspicuous, four-foot-high tree protection fences are required to be erected around all trees or groups of trees to be preserved prior to site work or construction commencing and remain in place until a Certificate of Compliance is issued. The Director or designee shall inspect and approve the tree protection fencing and location prior to the beginning of clearing and grading work on the site.
 - b. **No Encroachment Permitted.** The protection fences shall prevent encroachment by people, equipment and vehicles. No building materials, dirt, debris, oils, paints, or any other materials shall be placed or stored within the tree protection zone.
 - c. **Paving.** The area within the tree protection zone must be open and unpaved, except where approved perforated pavers may be utilized, or tree aeration systems and tree wells installed.
 - d. **Change in Grade.** Change in grade shall not be permitted within the tree protection zone except for a two-inch cut or a two-inch fill of topsoil, sod or mulch.
 - e. **Underground Utility Lines.** Underground utility lines shall be routed around and away from tree protection zones. Necessary installation through tree protection zones shall be accomplished through tunneling, rather than cutting open trenches.
 4. **Penalty for Damaging or Cutting Protected Trees.** If trees are damaged or cut down as a result of the construction process, the mitigation shall be individual plantings of trees a minimum of 2.5 caliper inches with a total caliper equal to 1.25 times that of the DBH of the trees damaged or destroyed. Trees shall be planted within the disturbed area of the site. If all tree inches cannot be planted back on site due to site constraints, the remaining tree inches shall be subject to a general county reforestation fee; see Section 5.11.100.D.3 (Reforestation Fee).
- F. **Tree Removal on Developed Properties**
1. **Single-Family Residential Lots.**
 - a. **Permit Required to Remove a Grand Tree.** On any individual single-family residential lot with an existing dwelling unit, a tree removal permit is required to

remove a grand tree, see Section 7.2.50 (Tree Removal Permit). A grand tree is an exceptionally large tree for its species that is healthy and worthy of protection. It represents an individual tree that contributes aesthetically to the region's visual "sense of place" and serves as a seed stock for future generations. An individual tree is considered a grand tree by the following size criteria:

- 1) Live Oak (*Quercus virginiana*), Black Walnut (*Juglans nigra*), or Longleaf Pine (*Pinus palustris*) that are equal to or greater than a diameter of 24 inches DBH.
- 2) Loblolly Pine (*Pinus taeda*), Slash Pine (*Pinus ellitoides*), and Shortleaf Pine (*Pinus echinata*) that are equal to or greater than a diameter of 36 inches DBH.
- 3) All other species of trees, not defined above, that are equal to or greater than a diameter of 30 inches DBH except those identified as invasive species in Table 5.11.100.C.

- b. **Tree Removal Permit Standards.** A tree removal permit will be issued to remove a grand tree from a residential lot if the tree is dead, diseased, hollow, or has another condition that poses a hazard to people or structures on the lot or adjoining lot as determined by a certified arborist. Upon removal, the tree shall be replaced with one 2.5 inch minimum caliper tree of the same species.
- c. **Removal of All Other Trees on Residential Lots.** All other trees on a single-family residential lot with an existing dwelling, except those within required buffers, including river buffers, may be removed without a permit. Removal of trees within a buffer requires a tree removal permit; see Section 7.2.50 (Tree Removal Permit).
2. **Tree Removal on All Other Developed Lots.** For all other developed lots (excluding single family residential lots with existing homes), a property owner may remove dead or severely diseased trees upon receipt of a tree removal permit; see Section 7.2.50 (Tree Removal Permit). The application must be accompanied by a certified arborist's report stating that the tree is dead, diseased, hollow, or has another condition that poses a hazard to people or structures on the lot or adjoining lot. Upon removal, the tree shall be replaced with one 2.5 inch minimum caliper tree of the same species.
3. **Golf Course Tree Removal.** For new golf course developments, and for additions to, or renovations of, existing golf courses, the following tree standards apply:
 - a. Those areas in which golf course clubhouses, cart barns, snack bars, rest facilities, maintenance buildings, storage areas, and parking lots are to be located and will adhere fully to all tree standards of this Section.
 - b. Within active playing areas (to include, but not limited to fairways, adjoining mowed grass rough, water hazards, sand traps, and golf cart paths) and outdoor practice/training areas (including driving ranges, practice putting greens, etc.) removal of any specimen tree will require a tree removal permit; see Section 7.2.50 (Tree Removal Permit). Removal of specimen trees shall either meet the mitigation requirements of Section 5.11.100.D. (Tree Removal), or, where approved by the Director, off-site mitigation may take the form of highway landscaping in the public road right-of-way subject to County and/or SCDOT encroachment permits.
4. **Utilities.** Removal of specimen trees during the construction or maintenance of easements or rights-of-way for water, sanitary sewer, electricity, telephone, natural gas, cable, storm drainage, or other service lines, shall be exempt from the

requirements of this Section provided that the applicable company or agency has executed an agreement with the County that:

- a. Recognizes the need to minimize trimming of hardwood overstory trees that do not significantly interfere with the intended purpose of construction or maintenance;
- b. Establishes, to the extent practicable, design guidelines for construction and maintenance which identifies the saving of hardwood overstory trees as a factor to be considered in the design process;
- c. Establishes guidelines to avoid topping, or severe pruning of trees whenever reasonably practicable, and where it is unavoidable, to do so in the manner which is most aesthetically and ecologically acceptable to the County;
- d. Provides for a consultation process with the Department of Community Development, including, when necessary, review by a certified arborist approved by the County, prior to the commencement of major construction or maintenance or the removal of any hardwood tree over 16 inches DBH;
- e. Provides for submittal of annual line clearing plans to the Department of Community Development for review;
- f. Provides for submittal of annual herbicide spraying plans, including details of herbicides to be used as well as application methods, to the Department of Community Development for review. The public utility shall work with the Department of Community Development to identify procedures to contact citizens prior to spraying to advise of the date and approximate time that such activities will take place;
- g. Provides that a breach of such agreement constitutes a violation of this Section and thus a loss of exemption from the tree protection provisions of this Section; and
- h. Provides that appeals of administrative decisions made pursuant to such agreement shall be to the Zoning Board of Appeals.

- G. **Invasive Tree Species.** Native Lowcountry plant species should be protected from competition from invasive tree species. Invasive tree species are listed in Table 5.11.100.C.

Table 5.11.100.C: Invasive Tree Species

Common Name	Scientific Name
Chinaberry	<i>Melia azedarach</i>
Chinese Tallow Tree / Popcorn Tree	<i>Triadila sebifera</i>
Mimosa / Silk Tree	<i>Albizia julibrissin</i>
Paper Mulberry	<i>Broussonetia papyrifera</i>
Princess Tree	<i>Paulownia tomentosa</i>
Tree of Heaven	<i>Ailanthus altissima</i>

1. All invasive species less than 12 inches DBH may be removed without a tree removal permit.
2. Removal of an invasive species 12 inches DBH or greater requires a tree removal permit, see Section 7.2.50 (Tree Removal Permit) except when located on a single-family developed lot outside of a required buffer.

5.11.110 Allowed Activities in Resource Protection Areas

Activities within resource protection areas shall be limited to those found within Table 5.11.110.A (Activities in Resource Protection Areas).

Table 5.11.110.A: Activities in Resource Protection Areas							
	Activities						Additional Standards
	Water Dependent Uses	Trails	Bike-way	Picnic Area	Public Road/ Essential Access	Water Sewer Line	
Tidal Wetlands	C	--	--	--	--	--	Sec. 5.11.30
Non-Tidal Wetlands	--	C	C	--	S	S	Sec. 5.11.40
Beach-Dunes	--	C	--	--	--	--	Sec. 5.11.50
River Buffer	C	C	C	--	S	S	Sec. 5.11.60
Endangered Species Habitat	--	C	--	--	--	S	Sec. 5.11.70
Forests	--	C	C	--	--	--	Sec. 5.11.90
C = Conditional S = Special Use -- = Not Permitted							



May 2 2016

Re: *Updated*: Text amendments to articles 1, 2, 3, 4, 5, 6, and 7 of the Community Development Code

Planning Commissioners,

Thank you and thank you to the staff for reviewing the County's tree ordinance and proposing the drafted additions to encourage maintaining buffers and preserving existing trees on site. Both are important goals and will help prevent some of the more glaring tree removals we've seen recently. We support these recommendations and encourage you to adopt additional changes. In doing so, we've researched other local ordinances, posted recommendations to our website and garnered over 200 signatures for a petition supporting these recommendations and a stronger tree ordinance.

We believe the tree ordinance should be consistent, encourage wildlife corridors and be appropriate for the scale of development. In general this means:

- Greater consistency with the City of Beaufort, Port Royal, Bluffton and Hilton Head regulations
- An emphasis on habitat connectivity between forested areas and open space to connect places rather than create isolated islands of trees
- A look at the fine vs. incentive system currently employed and how that can be differentiated between small and large scale developers (and old PUD's) and applications for small and large scale removal of trees

Ultimately, it is important to consider why the tree ordinance matters in a larger context. Trees are both an environmental and economic resource, contributing to Beaufort's sense of place. We believe a strong tree ordinance will help buffer incompatible land uses, absorb heat, reduce soil erosion and stormwater runoff, contribute to wildlife habitat and diversity, and preserve an identity for Beaufort County.

Repeated support for a stronger tree ordinance is found throughout Beaufort's comprehensive plan and regional plans. Most recently, a team from the Southern Beaufort County Regional Planning Group developed a "Natural Assets Working Group" and completed an inventory of natural assets and development recommendations. Their map of important areas outlines where maritime forest cover exists and other key features to guide natural resource protection.



Consistency:

Trees and local forests do not know which jurisdiction they're in, so the Beaufort County tree ordinance should be consistent with neighboring rules in Beaufort, Port Royal, Town of Bluffton and Hilton Head. Tree surveys are consistent across the board. The distinction between when a permit is required (commonly noted as a 'specimen tree') seems to be the most incongruent. In Beaufort County, overstory trees of certain species are evaluated in tree surveys; however, permits for removal and replacement are not required until they qualify as a "specimen tree" at 16 DBH. This is especially important in the T3 and T4 transect zones when a patchwork nature of city and county properties along municipal edges is most common.

A few points of disagreement between the municipal and county ordinances include:

- Live Oaks are considered specimen trees at 12 inches in City of Beaufort; 16 inches is specimen tree in Beaufort County
- Longleaf Pine – a native keystone species – is considered a specimen tree at 16 inches in City of Beaufort, County says 24 inches
- Red Cedar is absent from County list, but present on municipal lists
- "All other species" in Beaufort City require tree removal permits at 24 inches, which is consistent with the county except for on single-family residential properties. On Single family residential, the county classifies trees (except for Live Oak, Longleaf Pine and Black Walnut) at 30 inches, whereas City of Beaufort retains that more protective 24 inches.
- Bluffton requires tree removal permits for all trees over 8 inches on property to be developed and over 14 inches (individual or combined) on single-family residential property.

We recommend making these size and species recommendations consistent in the updated ordinance.

Buffers:

In the same manner, property buffer size and species of focus should be consistent, if not greater in the county, as properties move from more urban to more rural and buffers signal and represent that transition. This helps create connectivity between properties and create more usable habitat corridors. Ecologically speaking, it is important to maintain wildlife habitat not just in isolation, but in larger connected swaths of land. Connectivity brings more biological diversity and habitat value.



Trees should not be isolated, but rather large buffers and habitat corridors should be encouraged countywide. Addressing this at the site level will help comprehensively.

The buffer improvements offered by the planning staff are an improvement but can extend further to protect existing swaths of trees. Most important is a clear definition of “existing forest”. Staff and planning commission should clearly understand what classifies an “existing forest” so the County can make better use of table 5.11.90 whereby percentages for forest cover are specified. This would help protect larger properties, with mature upland or young forests on site by requiring open space protection on the site level.

Additionally, perimeter buffers were discussed in the revisions but the same review should apply to critical area buffers and waterfront development to preserve waterfront corridors for wildlife and public benefit for water users.

You might also consider the following recommendations found in nearby areas:

- Maintaining a minimum tree cover per lot in certain transect zones. For example, the Charleston County and Town of Mount Pleasant require 160 minimum caliper inches of tree cover per acre in multifamily and commercial corridors. Wetlands are subtracted from gross acreage for these calculations.
- Removal of trees 6 inches DBH or greater along Scenic Highways require variances (Charleston County).
- Requiring some percentage of immediate shading of the built environment, using existing vegetation (Town of Bluffton)
- Incentives to design around natural features, including density bonuses (Natural Assets Working Group, from the Southern Beaufort County Regional Plan)

In April, we recommended that utility easements should not count toward the total width of the buffer, and have learned this is already included in the ordinance.

Replanting process and fines – scale with development

With respect to employing a fine or incentive system for replanting and mitigation, we recognize development on an individual property is different from large builders who can buy, bulldoze and develop many acres at a time, so the regulations should be different for individual lots and large development properties.



For tree removal, we encourage you to consider language that adjusts the penalty for tree removal according to the number of removed trees relative to the existing conditions. Similarly, the incentives can also be adjusted. This should be addressed through other components of the community development code including the “Existing Forest Preservation” and sections addressing open space and clustered development.

Across the ordinances I reviewed, a repeated pattern emerged for trees removed without permission; replacement came at 2x the cost of trees removed with permission. Beaufort County currently calls for 1.25x the cost; I would encourage you to increase this penalty.

Locally, the City of Beaufort recommends distinguishing between specimen and landmark trees (of a larger size) and the penalty for removal, with and without permission, increases as the size of the tree increases.

Miscellaneous:

Outside of existing regulations, important consideration should be given for understory in buffer areas and existing forest. We recommend adding the words “and the understory” to buffer language and forest cover when discussing preserving trees – such that the understory around a specimen tree or within an existing forest is also protected. Understory trees are the unsung heroes of wildlife habitat and soil quality maintenance.

In recent years, Red Bay (*Persea borbonia*), a historic and important species for barrier islands and maritime forests, has undergone severe loss due to a fungus carried by the Red Bay ambrosia beetle. There is some sign they are making a come-back locally and to encourage such, they should be protected at any size.

As stated, an improved tree ordinance will help protect woodlands, waterways, preserve habitat, minimize erosion and retain topsoil, encourage biodiversity, provide habitat and strengthen local character and identity. Thank you again for the opportunity to provide comments this evening and for considering these recommendations.

Respectfully submitted,

Kate Schaefer
South Coast Office Director

Mr. Chairman, Members of the Planning Commission

My name is Chuck Newton, and I am here representing the Sea Islands Corridor Coalition, a group now approaching 150 members, who were first brought together by the clear-cutting at Oyster Bluff in January.

First of all, we want to acknowledge the swift action of the County Council, the Natural Resources Committee and Planning staff for their swift action on this issue. Everyone always talks about the importance of trees – this is an action that, by and large, walks the talk.

By and large, the revisions to the code recommended here seem to us to be on target. We support efforts to bring greater consistency to tree protection and other development matters between the County and the City of Beaufort. There are a few missing pieces here, and I trust you will see the wisdom of filling the voids.

There are others here who will speak to some of the technical issues. I would like to focus on two general matters, that of penalties and enforcement.

The recommendations deal minimally and somewhat cautiously with the matter of penalties. Requiring an offender to simply replace trees removed, even with a 25% penalty, is offensive in light of the built-out value of a major development.

DK Horton is presently talking of 52 Phase One homes at Oyster Bluff, at a starting price of \$200,000. Do the math, and we are at \$10+ million dollars for the first phase, and tree replacement is probably not cutting a deep hole in anyone's pocket. To be effective, to work, penalties have to hurt – especially in light of the fact that they are only administered after the damage is done.

The proposed penalties, as such, do not protect trees, but only provide a negative incentive for property owners to factor in the cost of replacement in their development plans.

We need to send a signal that trees are important, and retaining treed properties – public and private -- is a priority. A buyer of a home at Oyster Bluff can make a decision whether or not trees are important; the thousands of Lady's Island residents that drive by the site daily cannot; they are forced to witness the de-greening that has taken place there, one that will take years to repair.

Trees are not just a natural resource, or just a renewable resource. Regardless of property ownership, trees should be seen as public resource that demands protection.

A second point has to do with the related issue of enforcement.

Penalties mean nothing unless they are enforceable, and we all recognize that the County's code enforcement capabilities are stretched. But if we are going to enact stronger tree protection, we must also provide a greater ability to enforce that protection. That may mean more enforcement staff, or more efficient deployment and use of existing resources.

Beyond this, there is a way to productively involve the community on enforcement and other community issues. Safebuilt is a smartphone app, available free. It was rolled out with some fanfare in the City of Beaufort in 2013

5.8.90 Perimeter Buffers. The amendments to this section strengthen the protection of perimeter buffers by specifying there is to be no removal of vegetation within buffers without the Director's approval, and by requiring protection fencing for buffers prior to construction.

I. Development within Required Perimeter Buffers

1. The required perimeter buffer shall not contain any development, impervious surfaces, or site features (except fences or walls) that do not function to meet the standards of this Section unless otherwise permitted in this Development Code.
2. No vegetation or tree removal, or other construction activities shall occur within perimeter buffers.
3. Sidewalks, trails, and other elements associated with passive recreation may be placed in perimeter buffers with approval by the Director if all required landscaping is provided and damage to existing vegetation is minimized to the maximum extent practicable.
4. Overhead and underground utilities required or allowed by the County are not permitted in perimeter buffers except where they are perpendicular to the perimeter buffer.

M. Protection of Perimeter Buffers During Construction. Prior to commencing underbrushing, clearing work or any site alterations, a conspicuous four-foot-high barrier to prevent encroachment by people, materials, and vehicles shall be erected around all required perimeter buffers and shall remain in place until the Certificate of Compliance is issued, except where additional landscaping, walls or fences are installed in accordance with this Section.

5.11.100 Tree Protection. These amendments strengthen the tree protection standards by allowing the Director to require a certified arborist's report at the beginning of a project's review to determine the health and feasibility of saving specimen trees on a development site. This provision is included in the City of Beaufort's draft development code. The amendments also include provisions from the Town of Bluffton's code in which tree removal may be referred to the Planning Commission if the staff finds specified tree removal criteria have not been met.

All trees that are not protected under Section 5.11.90 (Forests) or Section 5.8.90 (Perimeter Buffers) shall be protected in accordance with this section.

A. General. To preserve site esthetics, wildlife habitat and rainwater perulation,

Careful site planning for new development shall, to the greatest extent practicable, preserve existing trees and vegetation on the property to be developed. This is to include all specimen trees in good health as well as groups of smaller healthy trees and understory vegetation that provide wildlife habitat, corridors, and bird nesting areas.

B. Specimen Trees. A specimen tree is defined as follows:

1. Understory trees - Dogwood, Redbud, and Southern Magnolia that are equal to or greater than a diameter of 4 inches (DBH).
2. Overstory trees - American Holly, Bald Cypress, Beech, Black Oak, Black Tupelo, Cedar, Hickory, Live Oak, Palmetto, Pecan, Red Maple, Southern Red Oak, Sycamore, or Walnut that are equal to or greater than a diameter of 16 inches (DBH).

Comment [RH1]: I think the county has put too much focus on "specimen trees". If we are concerned about wildlife or watershed protection, trees are what we are talking about. As many of the listed Specimen trees are uncommon in the Low Country, the list could have the perverse consequence of encouraging elimination of common trees.

Comment [RH2]: "Health" is an ambiguous term. To the super cautions, all large trees have some disease and are therefore unhealthy (dangerous). Areas within each construction site should be evaluated for potential loss from tree damage. From this trees are healthy or not depending on a quantified standard such as http://www.na.fs.fed.us/spfo/pubs/uf/utrm/urban_tree_risk_mgmnt.pdf

Comment [RH3]: This list of trees does not reflect our Low Country forest ecosystem. Beech, Sycamore and black walnut etc. are uncommon or rare in the Low Country. Our dominate cover type is pine, Live, Water and Laural oaks. This is the Low County look. Water Oak used to be a favorite Southern city street tree. Sweetgum is a common tree that gives us the most fall color. Is the county's objective to drive a tree type conversion from Low Country to typical neighborhood America?

3. All other trees equal to or greater than a diameter of 24 inches (DBH) except those identified as invasive species in Table 5.11.100.^d

C. Tree Survey Required. Prior to any development approval, except bona fide forestry, the applicant shall provide a tree survey of the areas in which building, clearing or construction activities are planned in accordance with the following:

1. The tree survey shall include all trees 8 inches DBH and larger, and all dogwoods (*Cornus spp.*), redbuds (*Cercis canadensis*), and magnolias (*Magnolia spp.*) four inches DBH and larger.
2. The tree survey shall indicate species type and size (DBH).
3. The tree survey shall be conducted by a certified arborist, professional urban forester, registered landscape architect, or registered land surveyor. All tree surveys shall be certified by a registered land surveyor.
4. A tree survey shall be less than five years old beginning from the application submission date for which the survey pertains. The Director may require that a new tree survey be undertaken at the applicant's expense when it has been determined that a tree survey is more than five years old.

D. Tree Removal.

1. Preservation of Existing Trees a Priority. Reasonable design alternatives shall be explored to preserve existing trees to the extent practicable. At the discretion of the Director, a Certified Arborist Report may be required as part of the tree retention/removal plan for all specimen trees on a development site. Such report shall detail the general health of each tree and the steps necessary to promote survival during and after construction.

2. Tree Removal Criteria. Before approval to remove any tree over 8" DBH, or any specimen tree, is granted by the Director, the following criteria shall be considered:

a. It is difficult or impossible to reasonably use the property without the removal of the tree.

b. Roads, parking areas, drive aisles, paths and other site features have been designed around the canopies root structures of existing trees to the greatest extent possible.

c. Removal will allow the preservation of other, healthier hardwood trees on the property.

d. Adjustments to the site plan cannot be made to save the tree without losing lots or floor area.

3. If the Director finds that the applicant has not met the criteria listed above, the removal shall require approval by the Planning Commission.

14. **Mitigation.** Where individual specimen trees are to be cut (see subsection B above), the developer shall plant sufficient trees having a caliper of 2.5 inches or more each so as to meet the DBH of the tree or total trees cut. Such trees shall be maintained for tree years to assure survival. Such trees shall be of the same species as those cut unless the Director approves other species to enhance the diversity to that similar to the native forest areas. All mitigation trees shall be planted within the disturbed area of the site.

25. Existing Trees Used for Mitigation. The saving of existing non-specimen trees is encouraged and may be utilized to meet the mitigation requirement above. Existing trees used for mitigation must be located within the disturbed area of the site.

36. Penalty for Removing Trees Prior to Permitting. If trees are cut down prior to a development receiving all necessary permits from the County, the County shall not issue a permit to allow the development to occur within two years of the tree removal, unless the property owner provides

Comment [RH4]: This creates the "lone pine" problem. Groups of trees should be protected, especially where a single surviving tree is subject to wind damage. This is important in a multi-house development.

Comment [RH5]: Such a report shall delineate areas of potential risk from tree damage within each construction site. From this trees shall be noted as "hazard" depending on a quantified standard such as http://www.na.fs.fed.us/spfo/pubs/uf/utrm/urban_tree_risk_mgmt.pdf. The resulting hazard tree "label" is a metric incorporating tree condition and location.

Comment [RH6]: Should be root structures. We want cars and tarmac under canopies. Mitigation to protect roots is commonly done.

Comment [RH7]: This is a loophole. Rich developers, and PUDs, just pay the "mitigation" fine for what they want to do.

mitigation for the trees removed. Mitigation shall involve the replanting of trees a minimum of 2.5 caliper inches with a total caliper equal to 1.25 times that of the DBH of the trees removed.

47. **Reforestation Fee.** Where the director determines that the required replacement of trees is not feasible or not desirable due to the size and shape of property and/or structures, crowding of the trees to where thinning will be required, other design limitations, or other viable site constraints, such reduction shall be subject to a general reforestation fee. This fee shall be the actual and verified cost of the required tree replacement and shall be paid to the county before final approval is given for the development plan. The funds collected through this reforestation fee shall be used by the county to plant trees and other landscaping in highway medians, along roads, or on other public properties as deemed appropriate.

Article 1: General Provisions

1.6.60 Planned Unit Development (PUD) Approved Prior to December 8, 2014 (from ZDSO). This proposed amendment carries over language that was in the ZDSO that addresses minor amendments to existing PUDs. Staff proposes adding a number 5 under this section to read as follows:

5. The Director may approve minor amendments to an approved PUD master plan for the changes listed below. All other amendments to a PUD master plan shall follow the procedures for a Zoning Map Amendment (see Sec. 7.3.40).
- a. Minor changes in the location of roads or widths of streets or rights-of-way within the master plan;
 - b. Minor changes in the allocation of housing density within the master plan so long as the overall approved density of the master plan is not increased; and
 - c. Changes in the proposed build-out and phasing schedule.

Article 2: Multi-Lot and Single Lot Community Scale Development

2.2.60.A.2 Access Management – Design: Driveway Separation (Correction). This correction states that local roads and minor roads are still subject to the requirements in SCDOTs ARMS Manual. Amend as follows:

2. Within conventional zones, thoroughfares shall meet these standards:
- a. Street, driveway, or other access separation along county, state and federal highways shall be in accordance with the SCDOT, *Access and Roadside Management Standards*, and County-approved access management plans.
 - b. In no event, however, shall residential driveways and non-residential full-access curb cuts be permitted at spacing less than as follows:
4. Minor Collector and Local roads: ~~No minimum~~ See subsection a. above.

From: [Sandra Stephan](#)
To: [Childs, Barbara](#)
Subject: Tree Regulations
Date: Tuesday, May 03, 2016 7:11:42 PM

Hi Barbara, this is Sandy Stephan. I spoke at the Planning Commission meeting Monday nite and have been asked to send you my comments. I will make the points in brief as my "address" was more extemporaneous. The points I wanted to make were after all the excellent comments by Kate, Gordon, Chuck and the gentleman from Dataw--who have done a LOT of research. Consistency across jurisdictions is of major importance and Beaufort County can make it happen.

1. Create a three person "Site Review Board" to consult with staff on large developments and arbitrate requests for exemptions so that the onus is not all on the Planning Director and staff. The PD has too much subjective authority in the new regulations.
2. Specimen trees are no longer the single point of need (I helped establish those in the past). South Carolina has considered pine trees as pulp for magazines and newspapers--that is no longer true. Native pines and other native trees must be considered. Diversity in forestation is essential. The 24" DBH does not save pines or many of our native upper story and under story trees.
3. Mitigation penalties must be heavier. Such mitigation should be in the community in which the requirement is made. A 2.5" replacement is unacceptable (I believe I said I could grow a seedling to that diameter).

Thank you for all you do. I think you are a magician! sandy sandystephan44@outlook.com