



## COUNTY COUNCIL OF BEAUFORT COUNTY

### Community Development Department

Beaufort County Government Robert Smalls Complex  
Administration Building, 100 Ribaut Road, Room 115  
Mailing: Post Office Drawer 1228, Beaufort SC 29901-1228  
Phone: (843) 255-2140 • FAX: (843) 255-9432

### REVISED

#### PLANNING COMMISSION

MONDAY, November 5, 2018

6:00 p.m.

Room 115, Community Development Office (**change of location**)  
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. COMMISSIONER'S WORKSHOP – 5:30 P.M.  
Community Development Office, Room 115, Administration Building
2. REGULAR MEETING – 6:00 P.M.  
Council Chambers, Administration Building
3. CALL TO ORDER – 6:00 P.M.
4. PLEDGE OF ALLEGIANCE
5. REVIEW OF MEETING MINUTES FROM AUGUST 6 AND SEPTEMBER 6, 2018  
([backup](#))
6. CHAIRMAN'S REPORT
7. PUBLIC COMMENT ON NON-AGENDA ITEMS
8. DISCUSSION OF PROPOSED ST. HELENA ISLAND STREET NAME CHANGE PETITION FROM PEA PATCH ROAD TO PONDEROSA DRIVE; APPLICANT: GREEN ACRES GREENERY, LLC ([backup](#))
9. TEXT AMENDMENT TO THE BEAUFORT COUNTY COMMUNITY DEVELOPMENT CODE (CDC) /CAMPGROUND STANDARDS: ARTICLE 4, SECTION 4.1.190 (RECREATION FACILITIES: CAMPGROUNDS) TO PROVIDE DISTINCTIONS BETWEEN PRIMITIVE, SEMI-DEVELOPED, AND DEVELOPED CAMPGROUNDS  
([backup](#))
10. TEXT AMENDMENT TO THE BEAUFORT COUNTY COMMUNITY DEVELOPMENT CODE (CDC) / SHORT TERM RENTALS: ARTICLE 3, SECTION 3.1.60 (CONSOLIDATED USE TABLE) AND 3.1.70 (LAND USE DEFINITIONS); ARTICLE 4, SECTION 4.1.360 (SPECIFIC TO USE) TO ADD NEW USES CALLED LIMITED HOME RENTAL AND EXTENDED HOME RENTAL
11. TEXT AMENDMENT TO THE BEAUFORT COUNTY COMMUNITY DEVELOPMENT CODE (CDC) / VEHICLE SALES AND RENTAL: LIGHT: ARTICLE 3, SECTION 3.2.100 (T4 HAMLET CENTER STANDARDS) TO ADD VEHICLE SALES AND RENTAL: LIGHT AS A CONDITIONAL USE IN T4 HAMLET CENTER (T4HC)



12. TEXT AMENDMENT TO THE BEAUFORT COUNTY COMMUNITY DEVELOPMENT CODE (CDC) / SMALL TIDAL CREEKS: ARTICLE 4, SECTION 4.2.190 (WATER/MARINE-ORIENTED FACILITIES) TO PROVIDE A DEFINITION OF SMALL TIDAL CREEKS
13. TEXT AMENDMENT TO THE BEAUFORT COUNTY COMMUNITY DEVELOPMENT CODE (CDC) / COMMERCIAL SUBDIVISIONS: ARTICLE 6, SECTION 6.1.30 (TYPES OF SUBDIVISIONS) TO MODIFY THE REQUIREMENTS TO ALLOW COMMERCIAL SUBDIVISIONS IN ALL ZONING DISTRICTS THAT ALLOW COMMERCIAL USES
14. TEXT AMENDMENT TO THE BEAUFORT COUNTY COMMUNITY DEVELOPMENT CODE (CDC) / NON-CONFORMING STRUCTURES: ARTICLE 8, SECTION 8.3.40 (NON-CONFORMING STRUCTURES) TO CLARIFY THAT STRUCTURES DAMAGED GREATER THAN 50% OF VALUE SHALL CONFORM TO CURRENT BUILDING CODE STANDARDS BUT NOT ZONING STANDARDS
15. NEW/OTHER BUSINESS:
  - A. NEW BUSINESS:
    - a. DISCUSSION OF FINDINGS OF FACT FROM ADMINISTRATIVE APPEALS
    - b. APPROVAL OF PLANNING COMMISSION 2019 MEETING SCHEDULE  
([backup](#))
  - B. OTHER BUSINESS: NEXT SCHEDULED REGULAR PLANNING COMMISSION MEETING: THURSDAY, DECEMBER 3, 2018, AT 6:00 P.M. IN COUNCIL CHAMBERS, COUNTY ADMINISTRATION BUILDING, 100 RIBAUT ROAD, BEAUFORT, SOUTH CAROLINA
16. ADJOURNMENT



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The regular meeting of the Beaufort County Planning Commission (hereinafter “Commission”) was held on Monday, August 6, 2018, in County Council Chambers, the Beaufort County Administration Building at 100 Ribaut Road, Beaufort, South Carolina.

**Members Present:**

Mr. Robert Semmler, Chairman  
Mr. Ed Pappas

Mr. Jason Hinchey  
Ms. Diane Chmelik

Dr. Caroline Fermin

**Members Absent:** Mr. Kevin Hennelly, Ms. Cecily McMillan, Mr. Harold Mitchell, and Mr. Randolph Stewart/Vice-Chairman,

**Staff Present:**

Mr. Eric Greenway, Community Development Director  
Mr. Robert Merchant, Assistant Community Development Director  
Mr. Christopher Inglese, Assistant Staff Attorney  
Mr. Thomas Keaveny, Staff Attorney  
Ms. Heather Spade, Administrative Specialist, Community Development  
Mr. Curtis Coltrane, Legal Counsel for the Planning Commission

**CALL TO ORDER:** Chairman Robert Semmler called the meeting to order at approximately 6:00 p.m.

**PLEDGE OF ALLEGIANCE:** Mr. Semmler led those assembled in the Council Chambers with the pledge of allegiance to the flag of the United States of America.

**REVIEW OF MEETING MINUTES:** The Commissioners reviewed the June 4, 2018 minutes. **Motion:** Mr. Jason Hinchey made a motion, and Ms. Caroline Fermin seconded the motion, **to accept the minutes as written.** The motion **carried (5-0-4--FOR: Chmelik, Fermin, Hinchey, Pappas, and Semmler; AGAINST: None; ABSENT: Hennelly, McMillan, Mitchell, Stewart).**

**CHAIRMAN’S REPORT:** Braves are still fighting for first place.

**PUBLIC COMMENT on non-agenda items:** None were received.

**DISCUSSION OF PROPOSED PASSIVE PARK ORDINANCE / PASSIVE PARK COMPREHENSIVE PLAN FOR REVIEW AND COMMENT; STAFF: STEFANIE NAGID, PASSIVE PARKS MANAGER**

Ms. Stefanie Nagid briefed the Commission that both the ordinance and the Comprehensive Plan were drafted from other documents and she has returned for additional comments after the Commission has reviewed them from last month’s meeting.

Public Comment: None were received.

Discussion by the Commission included the rationale for not allowing wildlife feeding, especially the birds (*Ms. Nagid explained that generally people visiting passive parks would not bring bird feed with them. In the past more harm has come from feeding birds due to the public’s lack of knowledge on the birds sensitive digestive system.*), recognizing the Plan to be a living document that requires detailed definitions and agreements, noting each property being different from each other, noting that the County may add properties to the program (*Ms. Nagid is awaiting comments from other County offices and Council.*), concern that the County could remove Rural & Critical Land Preservation Program (RCLPP) properties for other uses (*Ms. Nagid said it would be a legal question and dependent upon deed restrictions and joint ownership agreements imposed on each RCLPP property.*), adding general dumping as a prohibitive activity on these properties, concern with funding and maintenance of these properties (*Ms. Nagid acknowledged discussion with other County offices was needed*

*after a plan was determined for each of these properties, including revenue possibilities.*), recommending streamlining the review and permitting processes, desiring input from legal regarding the ordinance, requiring more time to review the Comprehensive Plan document, enforcement issues, the RCLPP referendum process (*Mr. Eric Greenway noted that the Greenprint Plan identifies potential properties, but specific contacts cannot be verified due to the confidential nature of acquisition to prevent price escalations. Adoption of the Ordinance and Plan are key to developing the parks program with referendum dollars.*), concern with illegal dumping on RCLPP properties (*Mr. Greenway noted that the ordinance is an additional tool to help law enforcement build their legal case against such activities.*), querying the existence of the 5-member Passive Park Advisory Body that Council formed by resolution in 2014 that was meant to be a temporary fix, clarifying who can spend funds for RCLPP properties, clarifying the process that must occur to move from plan to implementation, clarifying that Council could purchase properties without involving the Beaufort County Open Land Trust (BCOLT) who is the County's administrator for the RCLPP, belief that the Plan needs more review and input, recommending separating the documents rather than keeping both documents together,

**Motion:** Mr. Jason Hinchler made a motion, and Dr. Caroline Fermin seconded the motion, **to forward the Ordinance to County Council via the Natural Resources Committee.** Discussion included clarifying the motion. **Dr. Fermin retracted her second since she thought it was to separate the two documents. Mr. Hinchler withdrew his motion as it had no second. No further action occurred.**

**Motion:** Dr. Caroline Fermin made a motion, and Mr. Jason Hinchler seconded the motion, **to defer for a month the consideration for both the proposed Passive Park Ordinance and the Passive Park Comprehensive Plan.** The motion carried **(5-0-4--FOR: Chmelik, Fermin, Hinchler, Pappas, and Semmler; AGAINST: None; ABSENT: Hennelly, McMillan, Mitchell, Stewart).**

**TEXT AMENDMENT TO THE BEAUFORT COUNTY COMMUNITY DEVELOPMENT CODE (CDC): APPENDIX B, DAUFUSKIE ISLAND CODE TO AMEND THE DAUFUSKIE ISLAND PLAN**

Mr. Robert Merchant, Community Development Deputy Director, noted that staff wanted to defer this item because they are still working to refine the language for Community Development Code. Staff is not recommending any action be taken on this tonight and asking that it be withdrawn from the agenda. Staff is working with the consultant and Daufuskie Island Council and will bring it to the Commission next month.

Mr. Semmler affirmed that Item 9 of tonight's agenda (Appendix B, Daufuskie Island Code) has been withdrawn by staff and will be on next month's agenda.

**TEXT AMENDMENT TO CHAPTER 4 (FUTURE LAND USE), APPENDIX 4G, DAUFUSKIE ISLAND PLAN OF THE BEAUFORT COUNTY COMPREHENSIVE PLAN TO REPLACE THE EXISTING DAUFUSKIE ISLAND PLAN WITH A NEW DAUFUSKIE ISLAND PLAN**

Mr. Merchant noted that the Commission saw the Plan at their July 2018 meeting. The Commission asked for a month to review the document. The consultants are in the audience to answer any questions, but no presentation is planned.

Mr. Semmler apologized for not having the Commission meeting at the Bluffton Library as promised at the July meeting, but scheduling difficulties messed up that promise.

Ms. Beverly Davis stated she was with RS&H—a consultant team that was working on the Plan update.

**Discussion by the Commission included** noting the good work done by Mr. Brian Hermann (former County planner) on the original Plan, noting that this plan is better than the original Plan, the plan being very thorough and impressive, concern for issues of stormwater management and policing representations on the Advisory Committee (*Ms. Davis noted that the policing issue was a County function and residents had no control over that other than working with the County as needed. The stormwater issue was difficult to tackle for the work plan, but they acknowledge that it should be addressed. Mr. Eric Greenway noted that the County has a master stormwater drainage plan which is a guiding document*), considering developing a security force for Daufuskie

(Ms. Davis noted the issue of the lack of funding. Mr. Greenway noted that policing should be included in the Community Facilities element of the Comprehensive Plan, not this Plan.), and querying the completion of the Ferry Plan.

**Public Comment:** None were received.

**Motion:** Mr. Ed Pappas made a motion, and Dr. Caroline Fermin seconded the motion, **to recommend approval to County Council on the Text Amendment to Chapter 4 (Future Land Use), Appendix 4G, Daufuskie Island Plan of the Beaufort County Comprehensive Plan to replace the existing Daufuskie Island Plan with the new Daufuskie Island Plan.** No further discussion occurred. The motion carried (5-0-4--FOR: Chmelik, Fermin, Hincer, Pappas, and Semmler; AGAINST: None; ABSENT: Hennelly, McMillan, Mitchell, Stewart).

**NEW/OTHER BUSINESS:**

- Mr. Semmler thanked Mr. Greenway for involving the Planning Commission in the Passive Park Ordinance and Plan. Mr. Semmler will summarize what occurred tonight regarding the Passive Park items in an email to Council Chair Paul Sommerville and Councilman Brian Flewelling, copying Mr. Greenway. Mr. Semmler will offer his assistance
- The next meeting of the Planning Commission is scheduled for Thursday, September 6, 2018, due to the Labor Day holiday.

**ADJOURNMENT:** Dr. Caroline Fermin made a motion, and Mr. Ed Pappas seconded the motion, to adjourn the meeting. The motion carried (5-0-4--FOR: Chmelik, Fermin, Hincer, Pappas, and Semmler; AGAINST: None; ABSENT: Hennelly, McMillan, Mitchell, Stewart). Mr. Semmler adjourned the meeting at approximately 7:10 p.m.

**SUBMITTED BY:**

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Diane McMaster, Administrative Specialist (for Heather Spade)

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Robert Semmler, Beaufort County Planning Commission Chairman

**APPROVED:**                    **November 5, 2018**

*Note: The video link of the August 6, 2018, Planning Commission meeting is:*  
[http://beaufort.granicus.com/MediaPlayer.php?view\\_id=3&clip\\_id=3965](http://beaufort.granicus.com/MediaPlayer.php?view_id=3&clip_id=3965)



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The regular meeting of the Beaufort County Planning Commission (hereinafter “Commission”) was held on Thursday, September 6, 2018, in the Beaufort County Executive Conference Room 170 at 100 Ribaut Road, Beaufort, South Carolina.

**Members Present:**

Mr. Robert Semmler, Chairman	Mr. Randolph Stewart/Vice-Chairman	Ms. Diane Chmelik
Dr. Caroline Fermin	Mr. Kevin Hennelly	Mr. Jason Hinchler
Ms. Cecily McMillan	Mr. Ed Pappas	

**Member Absent:** Mr. Harold Mitchell

**Staff Present:**

Mr. Eric Greenway, Community Development Director  
Mr. Robert Merchant, Assistant Community Development Director  
Mr. Christopher Inglese, Assistant Staff Attorney  
Ms. Heather Spade, Administrative Specialist, Community Development  
Mr. Curtis Coltrane, Legal Counsel for the Planning Commission

**CALL TO ORDER:** Chairman Robert Semmler called the meeting to order at approximately 6:01 p.m.

**PLEDGE OF ALLEGIANCE:** Mr. Semmler led those assembled in the Executive Conference Room with the pledge of allegiance to the flag of the United States of America.

Mr. Semmler commented on the change of the meeting location from the Council Chambers to the Executive Conference Room.

**REVIEW OF MEETING MINUTES:** The Commissioners reviewed the July 2, 2018, minutes. **Motion:** Mr. Jason Hinchler made a motion, and Mr. Kevin Hennelly seconded the motion, **to accept the minutes as written.** The motion **carried (8-0-1--FOR: Chmelik, Fermin, Hennelly, Hinchler, McMillan, Pappas, Semmler, and Stewart; AGAINST: None; ABSENT: Mitchell).**

**CHAIRMAN’S REPORT:** Mr. Semmler noted the Atlanta Braves current record and believed they would rally once they returned to Atlanta from their away games.

**PUBLIC COMMENT on non-agenda items:** None were received.

**ADMINISTRATIVE APPEAL OF THE STAFF REVIEW TEAM (SRT) APPROVAL OF THE UNDEVELOPED, UNSUBDIVIDED PORTION OF BEST BUY COMMERCIAL CENTER AT 1031, 1033, 1037, AND 1039 FORDING ISLAND ROAD, R600-032-000-0455-0000 (KNOWN AS OSPREY COVE APARTMENTS) FINAL (RECONSIDERATION); APPELLANTS: THE CRESCENT PROPERTY OWNERS ASSOCIATION, INC, ET. AL.**

Mr. Robert Semmler noted that the Commission had heard this appeal and remanded it to the SRT for action. The Appellants have again appealed the SRT’s action for the Planning Commission’s final reconsideration.

**Presentation by the Appellant for the specific basis of the Appeal:**

Mr. Chester Williams noted that he and Mr. Doug McNeal were counsel for Crescent Property Owners Association (POA) and several owners who have filed this second appeal regarding the proposed development of the Osprey Cove Apartments on the Best Buy commercial shopping center tract. We originally thought that the Commission would remand the first appeal and it would come back to the Commission. The Commission’s decision on July 2<sup>nd</sup> on the first appeal ended that appeal. This is a whole new appeal. My application contains

all the information from the original appeal to get that all in the record. Likely this will end up at Circuit Court and it's important that we have our case built up. With the exception of Dr. Fermin, the rest of the Commission heard the first appeal. I'm looking for a little direction here as to how to proceed.

Mr. Semmler noted, and Dr. Caroline Fermin concurred, that Dr. Fermin has read all the minutes and she stated she was comfortable hearing this appeal.

Mr. Williams said he had reviewed the video of the Commission's July 2<sup>nd</sup> meeting where the motion was unanimously approved that was made by Vice-Chairman Stewart, seconded by Commissioner Hinchey, and Mr. Stewart said, I respectfully move to grant the appeal of the Crescent Property Owners Association as follows: There's no evidence of compliance with South Carolina Code 6.21.1145 and Community Development Code (CDC) 1.1.40, and so this matter is remanded to the SRT for the purpose of considering the easement agreement and whether or not there has been compliance with the State Code and the CDC. Mr. Williams noted that CDC reference was misstated and should be 1.4.40, which is the section he is dealing with in this appeal. He took the Planning Commission's decision to mean that the appeal was granted, it was remanded back to the SRT to determine its effect on the proposed application, and that the Planning Commission said that the 2005 easement agreement with its consent to improvements was in fact a restrictive covenant. The SRT met on July 11<sup>th</sup> and we realized that the SRT's understanding of the Planning Commission's decision wasn't the same as ours. In the memorandum to the Planning Commission on this appeal, Mr. Greenway stated the SRT decided "that the easement agreement was not a restrictive covenant nor was there any conflict with both the State statute and the County CDC." The SRT Action Form from July 11<sup>th</sup>, 2018, meeting says that the SRT made no determination on the 2005 easement agreement stating, "In order to determine whether or not an easement agreement is to be viewed as restrictive covenants, it shall be determined by the court." We thought that that argument had been settled by the Planning Commission. Further, the audio recording of the July 11<sup>th</sup> SRT meeting has Mr. Greenway saying, "We're just saying that the easement agreement doesn't go to the level of establishing a restrictive covenant on this property that would kick in (State Law) 6.29.1145." On that recording Ms. Hillary Austin says, "So the motion is we're not considering this (easement agreement) to be covenants and restrictions and the project is still approved subject to conditions listed for the last approval." After that SRT decision, this second appeal was filed. With our understanding that the Planning Commission intended with its July 2<sup>nd</sup> decision that it was a restrictive covenant and the Commission sent it back to the SRT for them to deal with it as a restrictive covenant, but we believe that the SRT either didn't understand or ignored the Commission's instructions. We believe the document clearly includes restrictive covenants, we agree with the Commission's July 2<sup>nd</sup> decision; and we suggest that the Commission either overturn the SRT's decision or send it back to the SRT again with clearer instructions. Somebody's got to deal with what the effect of the restrictive covenants and the easement agreement are on the permitted activity. The easement agreement sets out a clear procedure to be followed if the owner of the property wants to change the plans that are described in the easement agreement, which hasn't occurred. We don't think that the proposed Osprey Cove Apartment development can go forward until that issue is resolved. A restrictive covenant is any agreement by which a property owner subjects his property to restrictions other than the free unfettered use of the property. Mr. Williams noted that all sorts of documents can contain restrictive covenants; however, he noted that Mr. Greenway at the last appeal hearing stated that an easement agreement is not a restrictive covenant. Mr. Williams included in this appeal application a 2004 Court of Appeals case of West vs. Blueberry Electric Cooperative where the Court agreed that an easement was a covenant running with the land. He noted the two different types of restrictive covenants in his agreement--one for height limitations, buffers, and such; and the second as conditional restrictive covenants where if they want to change what they originally proposed, then they have to get the approval of the Association. They (Stafford) have not done that and we say that they can't change what was originally proposed in the easement agreement which is office buildings, commercial development for that property. He noted the difference of the effect on the neighboring property owners of the Association between developing this property from office use which is day time use, two-story buildings, as opposed to multi-story apartment use, 24-7 occupancy. All we want them to do is follow the process that's set out in the easement agreement.



Discussion by Commissioners included clarification on the intent of the July 2<sup>nd</sup> motion for the parties to discuss their positions and hopefully come to an agreement, clarification on the subdivision issue where no development is allowed until the property is subdivided, clarification that interaction between the developer and the Crescent POA has occurred but no resolution has occurred,

**Presentation by County Government on the general nature of the case:**

Mr. Eric Greenway appreciated the clarification of the Commission's July 2<sup>nd</sup> motion. He noted that the SRT did consider the motion, the State law, and the CDC. After a lengthy discussion the SRT was advised that this is not an issue that the SRT can decide on. Please focus on the following: is it clear that the staff erred in their interpretation of the CDC in giving conditional final plat approval to this development plan. If it's not clear, if there's any question about it, the Commission must find in favor of the staff, based on the wording of the CDC. We're not here to talk about the process that was followed in the easement document between the neighborhood and the land owner/developer—what one developer did to the Crescent neighborhood, what Crescent neighborhood did to the developer. Staff is not a party to that. It's a private matter and it needs to be worked out externally from SRT. SRT is a technical review body that reviews plans. SRT found a couple of issues regarding the subdivision, made the decision based on that information presented, and conditionally approved the plan with the subdivision being one of the issues that needs to be resolved. SRT is not in control of plats getting recorded and Assessor's splits. Glitches happen in every jurisdiction, all you can do is manage the process when something happens inappropriately. As Community Development Director, I decide based on the Code when an application is complete. The applicant (Stafford) checked the box on the application that there are no covenants and restrictions applicable to this particular piece of property under conceptual review. Is it necessary for them to check that same box again when they turn in another piece of paper for final review for the same plan, for the same development? We're not required under State law to look for covenants and restrictions; and we don't even feel that an easement agreement, in this particular case, invokes the State law that says if covenants and restrictions exist as a document. I keep saying that this issue needs to be addressed through another venue than the SRT or the Planning Commission. The CDC gives me the ability to determine when an application is complete. Regarding the subdivision of the property, we're not in control of plats being recorded or properties being split—it's through responsibility of the Assessor's office. I don't think that's an unreasonable practice to say, "Hey you've got this issue, before you get a permit you got to correct it." Regarding the easement agreement issue, there are processes; but it's not on staff to determine what that means. The State law says if we're presented with covenants and restrictions, we have to hold up the project. We have not been presented with the document that is a set of covenants and restrictions that applies to the Osprey Cove development plan. Staff made no error in our interpretation of the CDC. That's something that needs to be figured out somewhere else. I believe the evidence is not clear that staff made an error, so I believe we made the correct decision. I hope the Commission agrees. And I'll answer any questions you all may have for me at this point.

Discussion by the Commission included clarification on the appropriate legal channels who should interpret the easement agreement, clarification on recording such easements on site plans and deeds and whether covenants and restrictions are included to invoke State law, clarification of the temporary easement to access the Oyster Cove pump site from the Crescent property, whether a title search occurred, clarification on staff review of final vs. conceptual applications regarding the covenants and restrictions box being checked and being considered complete, clarification on the development application process, clarification on when SRT was notified of the easement agreement, clarification that the County Attorney's interpretation is that the CDC cannot take precedence over any restrictive covenants between private entities, and clarification on whether the easement agreement was a restrictive covenant.

**Presentation by the land owner for the specific basis of the Appeal:**

Mr. Walter Nestor of McNair Law Firm representing Stafford Bluffton Limited Liability Company stated he did not submit a response to the second appeal because his response to the first appeal addressed all of the concerns. In response to Mr. Williams' comment that his client just wants the process filed, it's a legal interpretation to the easement document that the Planning Commission is not tasked to make. The subdivision matter is also a legal



interpretation; but my interpretation differs from Mr. Williams'. Mr. Nestor stated that a great majority of the large parcel was intended for a condominium regime; a small portion of the property was for future phased use for stormwater facilities, drainage ponds, and wetlands will be dedicated to the condominium regime for maintenance purposes. There were inter-company transfers of the property and he does not believe the Planning Commission should be involved, despite Mr. Williams' interpretation of illegal subdivisions occurring. Subdivision rules will be adhered to prior to development of the property. Mr. Nestor believes Mr. Williams is simply trying to confuse the situation that the Planning Commission is not responsible to determine such legal determinations. Mr. Williams wants Stafford to follow the process in the agreement. There have been meetings involving all parties at Mr. Nestor's office prior to the first appeal. Mr. Nestor believes Mr. Williams would like Stafford to submit a development plan to the County for office buildings and when the County denies the application, then Stafford can move forward with apartment buildings. Mr. Nestor's attempts to resolve the situation outside of litigation have been fruitless. Mr. Nestor noted the "check the box" on the application as "no" was appropriate for the applicant. The Appellant has taken the matter to Circuit Court. Mr. Nestor asks on behalf of Stafford that the Planning Commission approve the action by the SRT.

**Extenuating or Mitigating Factors** by Mr. Chet Williams representing Appellants:

Mr. Williams noted that the County staff determined that this was a new appeal application, not a continuance of the July 2018 appeal. There is nothing in this record from Mr. Nestor and therefore is out of bounds for the Planning Commission to consider in their decision. Mr. Williams noted that the Planning Commission is a quasi-judicial body on Administrative Appeals, making Findings of Fact and Conclusions of Law. He noted that staff is charged with making decisions on whether restrictive covenants conflict with or are contrary to permitted activities. He has a problem with Mr. Greenway's "check the box" issue since there were different applicants on the two forms. Mr. Williams explained State law regarding covenants and restrictions and contends that Mr. Greenway did not have the authority to determine completeness on the Final Development Application according to State law. He noted that covenants were produced at the July DRT and the Staff Attorney determined that it was not applicable. When Mr. McNeal provided the 2005 Easement Agreement, the SRT should have asked for legal advice before proceeding forward—SRT did not. Mr. Williams reiterated the West vs. Newberry case where an easement agreement was declared a restrictive covenant. Upon receiving notice of a restrictive covenant, the County should have waiting for a resolution before making a decision. Mr. Williams reiterated the document ran with the land, had restrictions, and was recorded. He suspects the buyer of the property discovered the easement agreement and would not close until the restrictions were resolved. We are saying follow the process, not absolutely no apartments. Mr. Nestor sent a confidentiality agreement, not resolutions to ameliorate our concerns. They have a buyer for the property for apartment use, not office use. The temporary easement was for Stafford to use Crescent roads to reach the pump station within Crescent property and for use of portions of Crescent property for staging; in return Stafford made certain promised to Crescent. Now Stafford wants to change what they promised to do; but, they must follow the procedure agreed upon. The permitted use conflicts with the restrictive covenants.

Mr. Semmler asked Mr. Williams to give extenuating or mitigating factors, not a reiteration of his earlier testimony.

Mr. Williams stated he had nothing further to address.

**Extenuating or Mitigating Factors** by Mr. Eric Greenway, County Community Development Director:

Mr. Eric Greenway reiterated not confusing the issues of staff interpretation, not the process that had or had not been followed. The CDC is the document the staff is empowered to enforce. He feels the staff has followed the CDC appropriately. The final building plan submitted, whether the box was checked or not, seems onerous because he believes State law doesn't require it. The submission issue has been dealt with, staff is not required to hold up people's application until a resolution occurs; however, in this case staff did comment on the covenants and restrictions issue to the applicant. It must be clear the staff made an error in the CDC procedures that were followed in the application, the review of the application, and the approval of the final application. He believes he has no legal authority to determine if an easement agreement is a restrictive covenant; and a judge

would say the same. Unless he's given a document with the terminology restrictive covenant or a court order obligating him to do so, he's not willing to do such determination.

Discussion by Commissioners included clarification on the importance of the application box not being checked by the applicant, clarification on the County's application process, and clarification of the Appellant's claims.

**Extenuating or Mitigating Factors** by Mr. Walter Nestor representing the land owner:

Mr. Nestor, responding to Mr. Williams' comment about the process being filed, read from Mr. McNeal's letter of May 3, 2018, that set forth the Crescent POA objections to the proposed use as apartments until detailed information was received such as occupancy restrictions, rental rates, and short-term rental restrictions, etc. The letter also stated that Mr. Michael Thomas has represented to the Crescent POA that rent would be in the range of \$2,000.00 per month; whereby the Crescent wanted to prohibit rental for less than \$2,000.00 a month. Mr. Nestor submitted that it was fairly unfair and Stafford could not agree to that. He has asked repeatedly that the Crescent POA set terms to ameliorate their concerns—a greater buffer, more trees, a berm; but he has not received any answer.

**Motion:** Mr. Randolph Stewart made a motion, and Dr. Caroline Fermin seconded the motion, **to move into Executive Session for receipt of legal advice on the appeal.** The motion carried (8-0-1—FOR: Chmelik, Fermin, Hennelly, Hincer, Pappas, McMillan, Semmler, and Stewart; AGAINST: None; ABSENT: Mitchell).

**Note:** Mr. Semmler recessed the meeting at 7:17 p.m. so that the Planning Commission would move into Executive Session for legal advice. Mr. Semmler reconvened the meeting at approximately 7:45 p.m.

**Final Arguments:**

- Mr. Williams noted the error that staff made was saying that the 2005 easement agreement is not a restrictive covenant, despite State law and CDC standards and not having the Staff Attorney's legal opinion. He reiterated the process SRT should have followed, but didn't. We believe the permit should be revoked until the issue is resolved. He also reiterated that the 2005 easement agreement is a restrictive covenant. Another error was that staff did not notify the applicant that the box not been checked. He reiterated that the SRT decision was wrong and asked the Commission to reverse that decision.
- Mr. Christopher Inglese, County Staff Attorney, said that generally speaking an appeal to the SRT's decision deals with a technical aspect of the CDC. Generally the Planning Commission is asked whether staff misapplied a CDC standard of a technical nature. In his opinion, the Comprehensive Plan authorizes the ZBOA (Zoning Board of Appeal) to weigh in on whether the easement agreement is restrictive covenant. Mr. Inglese said it would be helpful to the Commission to compartmentalize the requirements of the CDC and identify what part of the CDC that staff made a mistake on if an adverse conclusion is made. If you are unable to identify one of the technical requirements that they made in their review, then staff made the right decision. Legal interpretation of a contract is settling disputes between private parties and it is not a CDC requirement for staff to consider in the review process. He noted that the review process involved determining whether the application met the requirements of allowed uses, minimum lot sizes, buffers, and setbacks within the CDC—and in this case it does.
- Mr. Nestor had no further comments to provide.
- Mr. Williams noted that a new issue was raised and asked to be heard again. This is the first that he's heard that the Staff Attorney believes the jurisdiction of the Planning Commission to hear appeals on land development permits is limited to technical issues within the CDC. The question is whether or not the staff complied with all the requirements of the CDC in issuing the approval. Our position is that they did not comply with 1.4.40 because they didn't take into effect of the restrictive covenant in the easement agreement. He clarified the State law regulations for the ZBOA and the Planning Commission. Any appeal on land development permits go to the Planning Commission, not just technical issues. We contend that the staff did not make the right decision. The staff is not asked to settle a dispute between parties. If there's a restrictive covenant in opposition to the proposed permit, then the County has to stop until that issue is resolved. It's not the County's job to resolve the issue, the parties will mediate. Once it's resolved, then the

County can continue its process. We are asking that the County not issue a permit until the issues are resolved.

- Mr. Greenway said the issue is whether or not it conflicts with the permit. Discussions have and will occur on this project. We have an attorney on record stating that the easement agreement does not prevent apartments. Staff met the burden of proof.

**Motion:** Mr. Jason Hinchler made a motion, and Mr. Kevin Hennelly seconded the motion, **to approve the appeal as submitted.** The motion **failed (4-4-1—FOR: Hennelly, Hinchler, McMillan, and Stewart; AGAINST: Chmelik, Fermin, Pappas, and Semmler; ABSENT: Mitchell).**

**Motion:** Mr. Jason Hinchler made a motion to approve the appeal as it is submitted. Mr. Kevin Hennelly asked for clarification of the motion. Mr. Hinchler changed his **motion to grant the appeal as it was submitted.** Mr. Kevin Hennelly seconded the motion to grant the appeal as submitted. The motion **carried (5-3-1—FOR: Chmelik, Hennelly, Hinchler, McMillan, and Stewart; AGAINST: Fermin, Pappas, and Semmler; ABSENT: Mitchell).**

**Announcement:**

The announcement on the ruling of the appeal of the Staff Review Team's approval of the undeveloped, unsubdivided portion of Best Buy commercial center at 1031, 1033, 1037, and 1039 Fording Island Road, R600-032-000-0455-0000 (known as Osprey Cove Apartments) has been granted/approved.

Mr. Semmler noted that Mr. Randolph Stewart had a family emergency and will be leaving the meeting; however, there still was a quorum to continue the agenda.

**Note:** Mr. Semmler recessed the meeting at approximately 8:36 p.m. and reconvened the meeting at approximately 8:41 p.m.

Further discussion occurred with the Commissioners regarding clarification of their earlier actions with the Administrative Appeal.

Mr. Greenway noted that from a staff perspective, staff will expect some Findings of Fact to be filed with them timely so that staff can make their decision as to what to do with tonight's action. The Commission must tell their attorney what the basis is for the reversal of their decision.

Mr. Semmler reminded the Commissioners that he needed input from them on why the vote went the way it did. Mr. Hinchler encouraged the Commissioners to fill out the available form.

Mr. Greenway asked the Commission to amend the agenda to hear the Daufuskie Island text amendment because the people have offered their services pro-bono to work on the amendment.

**Motion:** Dr. Caroline Fermin made a motion, and Ms. Diane Chmelik seconded the motion, **to amend the agenda to hear the Daufuskie Island text amendment next.** The motion **carried (8-0-1: FOR: Chmelik, Fermin, Hennelly, Hinchler, McMillan, Pappas, Semmler, and Stewart; AGAINST: None, ABSENT: Mitchell).**

**TEXT AMENDMENT TO THE BEAUFORT COUNTY COMMUNITY DEVELOPMENT CODE (CDC): APPENDIX B, DAUFUSKIE ISLAND CODE TO AMEND THE DAUFUSKIE ISLAND PLAN**

Mr. Robert Merchant briefed the Commissioners. In July both revisions to the Comprehensive Plan regarding the Daufuskie Island Plan and to the Daufuskie Island Code as part of the Community Development Code (CDC) were presented to the Commission with the staff recommending that the Commission review the Comprehensive Plan amendment further and that staff discuss the Code amendments with the consultant to insure that it was consistent, and fit well, with the CDC. Staff did sit down with Mr. Timmerman and Ms. Davis (the consultants) to work on the Code amendments. Staff recommended revisions that the consultants took back to the Daufuskie Island Council, who in turn approved those revisions. Additionally, staff and the consultants

have reformatted the amendments to look like the existing Code. Mr. Merchant lauded the work of the consultants since Staff had wanted to make the amendments to the Code for years. Staff endorses the amendments.

Discussion by the Commission included clarification on the 1-acre lot size.

**Motion:** Mr. Kevin Hennelly made a motion, and Ms. Cecily McMillan seconded the motion, **to accept the Text Amendments to the Beaufort County Community Development Code (CDC): Appendix B, Daufuskie Island Code, to amend the Daufuskie Island Code.** The motion carried (7-0-2: FOR: Chmelik, Fermin, Hennelly, Hinchler, McMillan, Pappas, and Semmler, AGAINST: None, ABSENT: Mitchell and Stewart).

Mr. Timmerman noted that working with Mr. Merchant produced a better product than before. Mr. Semmler gave kudos to the consultants on a fantastic product.

**DISCUSSION OF PROPOSED PASSIVE PARK ORDINANCE FOR REVIEW AND COMMENT; STAFF: STEFANIE NAGID, PASSIVE PARK MANAGER**

Ms. Stefanie Nagid briefed the Commission. This is the third time you have seen the ordinance. I received comments and questions from Mr. Ed Pappas.

Discussion by the Commission included readily agreeing with the creation of the Advisory Board and its transparency to involve the public (*Ms. Nagid noted that the ordinance was needed for enforcement purposes. When the Board was suggested a dedicated plan, staff, or planning process did not exist. Two stakeholder workshops are planned for public input. Such workshops are planned for each proposed project that occurs to provide transparency. She is the dedicated staff to implement the plan appropriately. After implementation, she would like to see if the Board is still needed.*), and agreeing to the implementation of the ordinance but recommending the Board concept if such experience and expertise are needed in the future (*Ms. Nagid agrees and built-in the stakeholders workshops; however if a Board is formed, it will have its own ordinance similar to the Rural and Critical Lands Preservation Board.*).

**Motion:** Mr. Ed Pappas made a motion, and Mr. Jason Hinchler seconded the motion, **to approve the Passive Park Ordinance.** The motion carried (7-0-2: FOR: Chmelik, Fermin, Hennelly, Hinchler, McMillan, Pappas, and Semmler, AGAINST: None, ABSENT: Mitchell and Stewart).

**DISCUSSION OF PROPOSED PASSIVE PARK WORK PLAN FOR REVIEW AND COMMENT; STAFF: STEFANIE NAGID, PASSIVE PARK MANAGER**

Discussion by the Commission included kudos to the work plan, the rationale for not including it into the Comprehensive Plan (*Ms. Nagid said she consulting with other County staff and since it was a living document, it was not for review every 5 years like the Comprehensive Plan; but the strategic goals will be in the Comprehensive Plan. The Plan sets priorities so she can move forward in her position.*), clarifying the next step of this Plan since it appears to lack all the elements of a good strategic plan (*Ms. Nagid believes she's listed the tiers and respective properties that she will be moving forward on in the Plan.*), concern that numerous properties have taken too long to be developed and funding woes that prevent completion (*Ms. Nagid stated that now that there was a dedicated staff to move the projects along she believed the Commission will be surprised within a year's time at all the projects that are accomplished.*), clarification of the 40 properties listed (*Ms. Nagid is hoping to form regional park concepts.*), hoping to encourage the public to become involved in the passive parks, consideration for public-private partnerships (*Mr. Greenway noted that it was not recommended and funding would occur through the Rural and Critical Lands Preservation Program.*).

**Motion:** Mr. Kevin Hennelly made a motion, and Ms. Cecily McMillan seconded the motion, **to approve the Passive Park Work Plan.** The motion carried (7-0-2: FOR: Chmelik, Fermin, Hennelly, Hinchler, McMillan, Pappas, and Semmler, AGAINST: None, ABSENT: Mitchell and Stewart).

Ms. Nagid noted that two sessions were scheduled for October 2<sup>nd</sup> in Council Chambers and October 4<sup>th</sup> at the Bluffton Branch Library, both from 5:30 to 7:30 p.m.

**NEW/OTHER BUSINESS:**

- A. Input from Commissioners on the Administrative Appeal Decision:** Mr. Semmler reiterated that he needs input from the Commissioners for their attorney to format the decision. Mr. Greenway advised Mr. Semmler to contact their attorney for what is needed. Staff needs the legal decision in order to act further on the project. Mr. Semmler asked for input no later than Tuesday (September 11). After further discussion by the Commissioners, Mr. Semmler noted that they had to justify their decision.
- B. Next Commission Meeting:** The next meeting is Monday, October 1<sup>st</sup>.

**ADJOURNMENT:** Dr. Caroline Fermin made a **motion to adjourn**, and Mr. Ed Pappas seconded the motion. The **motion carried (8-0-1: FOR: Chmelik, Fermin, Hennelly, Hincer, McMillan, Pappas, Semmler, and Stewart; AGAINST: None, ABSENT: Mitchell)**. Mr. Semmler adjourned the meeting at approximately 8:55 p.m.

**SUBMITTED BY:**

\_\_\_\_\_  
Diane McMaster, Administrative Specialist (for Heather Spade)

\_\_\_\_\_  
Robert Semmler, Beaufort County Planning Commission Chairman

**APPROVED: November 5, 2018**

*Note: The video link of the September 6, 2018, Planning Commission meeting is:  
[http://beaufort.granicus.com/MediaPlayer.php?view\\_id=3&clip\\_id=4004](http://beaufort.granicus.com/MediaPlayer.php?view_id=3&clip_id=4004)*



## MEMORANDUM

**TO:** Beaufort County Planning Commission  
**FROM:** Eric Greenway, Community Development Director  
**DATE:** October 26, 2018  
**SUBJECT:** Road Renaming – Pea Patch Road to Ponderosa Drive

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### **A. BACKGROUND:**

**Case Number:** MISC 2018-06  
**Parcels:** R300 018 000 0062 0000, R300 018 000 0058 0000, R300 018 000 0061B 0000, R300 0018 000 0056 0000, R300 018 000 0046 0000, R300 018 000 0049 0000, R300 018 000 0020 0000, R300 018 000 0018 0000, R300 018 000 0037 0000, and R300 018 000 0038 0000  
**Current Name:** Pea Patch Road  
**Proposed Name:** Ponderosa Drive  
**Owner/Applicant:** Green Acres Greenery, LLC.  
**Contact/Agent:** Elaine Green

### **B. STAFF REVIEW**

A request for a street renaming has been submitted to the Community Development Department for consideration. Pea Patch Road is a private unpaved road located on St. Helena Island off of Seaside Road. The request was initiated by Green Acres Greenery, LLC. The road extends north and connects to Sea Island Parkway via The Ave (see attached map). The applicant is requesting approval of the street change to Ponderosa Drive. E911 and Community Development Staff determined that 9 individual property owners directly adjoin Pea Patch Road and two additional properties have access to the road and use it as their address. The street name change petition is signed by 5 of the 9 owners that would be impacted by this change. The Community Development Code requires the petition to be signed by a minimum of 51% of the property owners affected by the change. Therefore this request is consistent with this requirement.

Section 7.2.100.D of the Community Development Code establishes the following standards for review of a street renaming request:

- 1. Road renaming requests after individuals for any collector or higher order street should be reserved for individuals whose contribution has been of notable significance**

**to the citizens of Beaufort County:** The proposed street name Ponderosa Drive is not an individual's name.

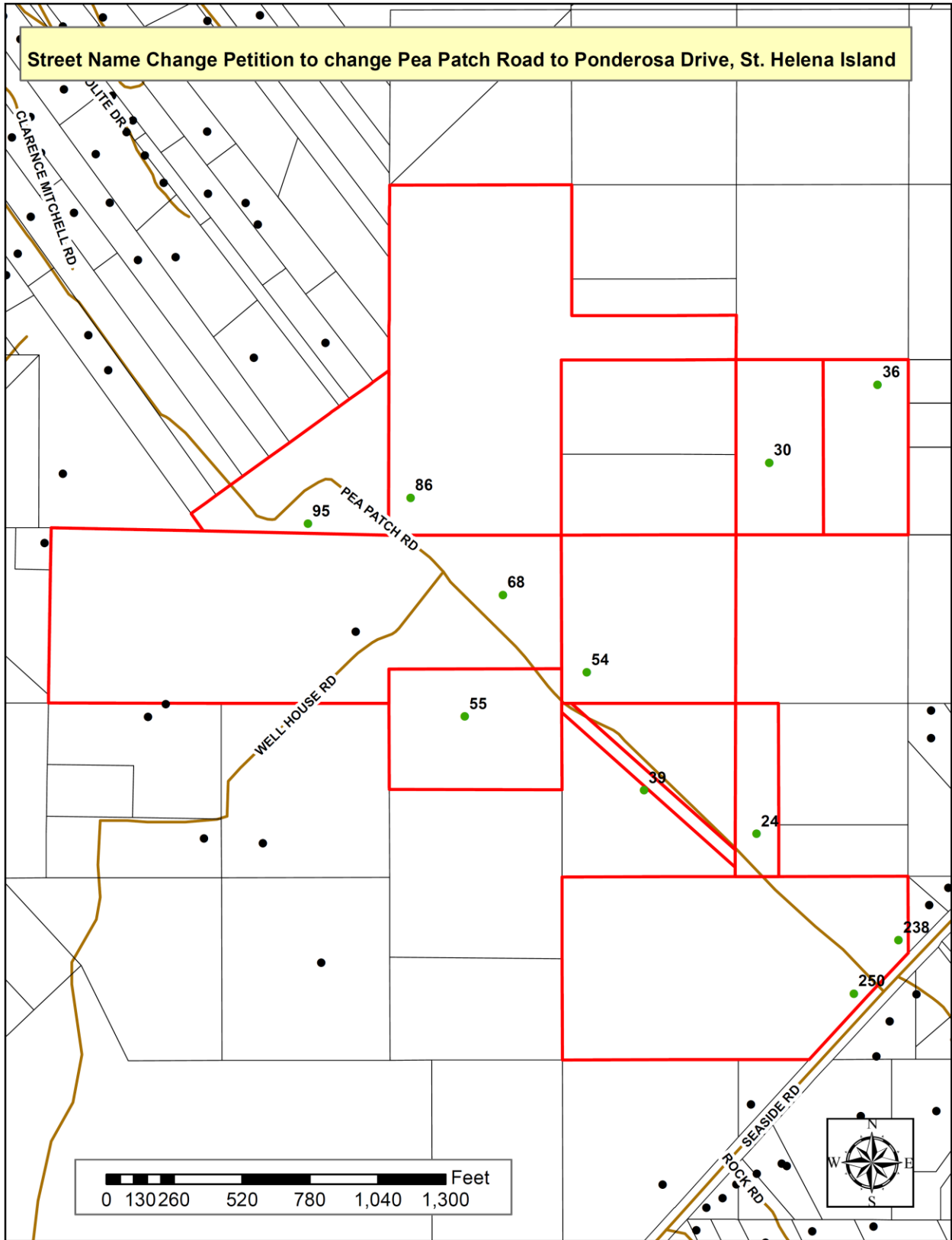
2. **Duplication or near duplication of street names is not permitted:** Proposed Street Renaming from Pea Patch Road to Ponderosa Drive is not a duplication or near duplication of another street name as verified by the Beaufort County E-911 Addressing Center.
3. **Use of numbered (e.g., 1st) or lettered (e.g., "A") names and complicated, lengthy, offensive, or unconventionally spelled words or phrases are not permitted:** The proposed street name meets this standard.
4. **Street names shall be consistent with the historical or geographical features of the local area in which the street name exists:** There is no historical or geographical significance to the name Ponderosa Drive.

#### **B. STAFF RECOMMENDATION**

After review of the standards set forth in Section 7.2.100.D of the Community Development Code, staff recommends approval of the street name change from Pea Patch Road to Ponderosa



Street Name Change Petition to change Pea Patch Road to Ponderosa Drive, St. Helena Island





**COUNTY COUNCIL OF BEAUFORT COUNTY**  
**Beaufort County Community Development Department**  
Beaufort County Robert Smalls Complex  
Administration Building, 100 Ribaut Road, Room 115  
Post Office Drawer 1228, Beaufort SC 29901-1228  
Phone: (843) 255-2140 • FAX: (843) 255-9432

October 24, 2018

**Re: Notice of Street Name Change Petition To Change The Street Name from Pea Patch Road to Ponderosa Drive on St. Helena Island, SC**

To All Affected Property Owners:

The Beaufort County Planning Department received a street name change petition to change the street name from Pea Patch Road to Ponderosa Drive. The petition included signatures from over 51% of the affected property owners.

**A public meeting will be held on Monday, November 5, 2018, at 6:00 p.m.** in the Beaufort County Administration Building, Room 115 (Community Development Office), at 100 Ribaut Road, Beaufort, SC, at the regularly scheduled Beaufort County Planning Commission meeting.

You are cordially invited to attend the public meeting and provide comment on this street name change petition, if you so desire.

For further information or confirmation of the meeting, please call the Beaufort County Community Development Department at 843-255-2140.

Sincerely,

Robert Merchant  
Assistant Planning Director

**Attachments:**

1. Map of affected properties
2. Street Name Change Petitions
3. List of Property Owners Notified

PROPERTY OWNERS AFFECTED BY PEA PATCH ROAD RENAMING TO PONDEROSA DRIVE, ST. HELENA ISLAND, SC

PIN	Owner1	MailingAdd	City	State	ZIP
R300 018 000 0018 0000	BRADLEY BERTHA SINGLETON WILLIE MAE	173 JAMES BRADLEY DRIVE	ST HELENA ISLAND	SC	29920
R300 018 000 0049 0000	HANNA J HARRY & PINE ISLAND PROPERTIES LLC	POST OFFICE BOX 56	ESTILL	SC	29918
R300 018 000 0056 0000	MASURE JASON F	POST OFFICE BOX 2	SAINT HELENA ISLAND	SC	29920
R300 018 000 061B 0000	JENKINS BRENDA L	POST OFFICE BOX 894	SAINT HELENA ISLAND	SC	29920
R300 018 58 & 62	GREEN ACRES GREENERY LLC	45 JOE POLITE DRIVE	SAINT HELENA ISLAND	SC	29920
R300 018 000 0046 0000	DEMPSEY DAVIS L	1745 SEA ISLAND PARKWAY	ST HELENA ISLAND	SC	29920
R300 018 000 0020 0000	BYAS ANNIE MAE	POST OFFICE BOX 581	SAINT HELENA ISLAND	SC	29920-0581
R300 018 000 0038 0000	WATSON TERRY L	POST OFFICE BOX 650	ST HELENA ISL	SC	29920
R300 018 000 0037 0000	MILLER DANIEL WAYNE II	30 PEA PATCH ROAD	ST HELENA ISLAND	SC	29920



# Beaufort County Sheriff's Office

## E - 911 Addressing

Law Enforcement Center - P.O. Box 1758  
Beaufort, SC 29901

Phone: (843) 255-4017 Fax: (843) 255-4008

### Street Name Change Petition

Date 2018-07-02

We, the undersigned property owners, request that our street, presently named: Pea Patch Rd  
be changed to: Ponderosa Dr

The Road is located in St Helena Island/Township, near the intersection of Seaside Rd  
and Ginseng Ln In the County of Beaufort, in the State of South Carolina.

Name of Property Owner(s)	Parcel Tax ID Number	Legal Signature	Telephone Number
<u>GreenAcresFarm679@gmail.com</u>			
✓ Green Acres Greenery LLC	R300 018 000 0062 0000	<i>[Signature]</i>	<u>(843) 227-3460</u>
✓ Green Acres Greenery LLC	R300 018 000 0058 0000	<i>[Signature]</i>	
✓ Brenda Jenkins	R300 018 000 0618 0000	<i>[Signature]</i>	<u>843-263-1465</u>
Jason Masure	R300 018 000 0056 0000	<u>not favored</u>	<u>843-2000-2060</u>
Davis Dempsey ✓	R300 018 000 0046 0000		
✓ Harry Hanna	R300 018 000 0049 0000		
✓ Annie Mae Byas	R300 018 000 0020 0000		
Bertha Bradley	R300 018 000 0018 0000	<u>consulting with Att.</u>	<u>843-838-2924</u>

Contact:

Micheal A Holmes 19 Edding White Rd, St Helena Is. SC 29920 843-227-3460  
Name Address Telephone

PLEASE NOTE:

1. This petition requires the signatures of fifty-one percent (51%) of all property owners whose parcels touch the road being petitioned for naming.
2. If two or more persons own the same parcel, only one name will count towards the 51% calculation.
3. Only one signature is allowed per parcel owner. If one or more persons own two or more parcels touching the road, only one signature is counted.
4. Only the trustee may sign for parcels listed as heirs property.

If you have any questions, please call the County E-911 Addressing Center before submittal of the petition.



# Beaufort County Sheriff's Office

## E - 911 Addressing

Law Enforcement Center - P.O. Box 1758

Beaufort, SC 29901

Phone: (843) 255-4017 Fax: (843) 255-4008

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and Ginseng Ln in the County of Beaufort, in the State of South Carolina.

Name of Property Owner(s)	Parcel Tax ID Number	Legal Signature	Telephone Number
✓ Green Acres Greenery LLC	R300 018 000 0062 0000	<i>[Signature]</i>	843-227-3460
✓ Green Acres Greenery LLC	R300 018 000 0058 0000	<i>[Signature]</i>	843-227-3460
✓ Brenda Jenkins	R300 018 000 061B 0000		
Jason Masure	R300 018 000 0056 0000		
Davis Dempsey	R300 018 000 0046 0000		
✓ Harry Hanna	R300 018 000 0049 0000		
✓ Annie Mae Byas	R300 018 000 0020 0000	<i>[Signature]</i>	843-838-4556
Bertha Bradley	R300 018 000 0018 0000	<i>As Heir of Annie Mae Byas</i>	
<i>TERRY WATSON</i>	<i>R300 018 000 0038 0000</i>	<i>[Signature]</i>	<i>843-263-5217</i>

#### Contact:

Micheal A Holmes                      19 Edding White Rd, St Helena Is. SC 29920                      843-227-3460  
 Name    Address    Telephone

#### PLEASE NOTE:

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# Beaufort County Sheriff's Office

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and Ginseng Ln in the County of Beaufort, in the State of South Carolina.

<u>Name of Property Owner(s)</u>	<u>Parcel Tax ID Number</u>	<u>Legal Signature</u>	<u>Telephone Number</u>
<u>Green Acres Greenery LLC</u>	<u>R300 018 000 0062 0000</u>	<u></u>	<u></u>
<u>Green Acres Greenery LLC</u>	<u>R300 018 000 0058 0000</u>	<u></u>	<u></u>
<u>Brenda Jenkins</u>	<u>R300 018 000 061B 0000</u>	<u></u>	<u></u>
<u>Jason Masure</u>	<u>R300 018 000 0056 0000</u>	<u></u>	<u></u>
<u>Davis Dempsey</u>	<u>R300 018 000 0046 0000</u>	<u></u>	<u></u>
<input checked="" type="checkbox"/> <u>Harry Hanna / Pine land properties</u>	<u>R300 018 000 0049 0000</u>	<u>ESTATE of J. H. Hanna, J.C. Holmes, Pine Island Properties, LP 803-842-3736</u>	<u>803-530-5708</u>
<u>Annie Mae Byas</u>	<u>R300 018 000 0020 0000</u>	<u></u>	<u></u>
<u>Bertha Bradley</u>	<u>R300 018 000 0018 0000</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>	<u></u>
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<u></u>	<u></u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>	<u></u>

#### Contact:

<u>Micheal A Holmes</u>	<u>19 Edding White Rd, St Helena Is. SC 29920</u>	<u>843-227-3460</u>
Name	Address	Telephone

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If you have any questions, please call the County E-911 Addressing Center before submittal of the petition.



## MEMORANDUM

**TO:** Beaufort County Planning Commission

**FROM:** Eric Greenway, Community Development Director

**DATE:** October 26, 2018

**SUBJECT:** 48 Month Review of the Community Development Code.

---

When County Council adopted the Community Development Code (CDC) on December 8, 2014, the motion included a 6 month and 1 year evaluation of the code as a condition of approval. These two reviews took place in 2015 and 2016. Community Development Staff sees the merit of continuing to periodically evaluate and bring forward amendments to the CDC. Staff has learned of both minor and major corrections that should be made to the ordinance based on application and enforcement of the Code. The following amendments are being proposed by staff:

- **Campground Standards:** Article 4, Section 4.1.190 (Recreation Facilities: Campgrounds) to provide distinctions between primitive, semi-developed, and developed campgrounds.
- **Short-term Rentals:** Article 3, Section 3.1.60 (Consolidated Use Table) and 3.1.70 (Land Use Definitions); Article 4, Section 4.1.360 (Specific to Use) to add new uses called limited home rental and extended home rental.
- **Vehicle Sales and Rental: Light:** Article 3, Section 3.2.100 (T4 Hamlet Center Standards) to add vehicle sales and rental: light as a conditional use in T4 Hamlet Center (T4HC)
- **Small Tidal Creeks:** Article 4, Section 4.2.190 (Water/Marine-Oriented Facilities) to provide a definition of small tidal creeks
- **Commercial Subdivisions:** Article 6, Section 6.1.30 (Types of Subdivisions) to modify the requirements to allow commercial subdivisions in all zoning districts that allow commercial uses
- **Non-Conforming Structures:** Article 8, Section 8.3.40 (Non-Conforming Structures) to clarify that structures damaged greater than 50% of value shall conform to current building code standards but not zoning standards



## Campground Standards

**Section 4.1.190: Campground Standards:** With an increasing trend in RV resort campgrounds, staff reviewed our existing campground regulations in relation to other areas across the country. While these large resort type campgrounds may be desirable in more commercial districts, it is the goal of the proposed amendment to limit the types and sizes of campgrounds located in the Natural Preserve District and the Rural District. The proposed amendment creates three distinct types of campgrounds as follows: Primitive, Semi-Developed and Developed. The amendment also requires parameters such as length of stay, buffers, and accessory structures.

### 4.1.190 Recreation Facility: Campgrounds

Campgrounds comply with the following shall be defined as the following:

**A. Primitive Campground.** A campground accessible by walk-in, equestrian, motorized trail vehicles campers. Primitive Campgrounds shall comply with the following: or vehicular traffic where basic facilities may be provided for the comfort and convenience of the

1. Length of Stay. All campers are limited to a 14-day length of stay.
2. Zones. Primitive Campgrounds are allowed in the T1 Natural Preserve zone and all T2 Rural zones.
3. Buffers. Any tent sites shall be located no less than 30 feet from any property line.
4. No RV's or motorized camping trailers shall be allowed.
5. Tree Requirements. Existing Trees shall be left on site, when practical. If there are no trees between campsites at least two trees shall be planted between each campsite
6. Accessory Uses. Facilities for the comfort and convenience of the camper may be provided such as bathing facilities, flushing toilets, grills, tables, fire pits, fire circles, and refuse collection.

**B. Semi- Developed Campground.** A campground, with two or more campsites, for a camping unit, accessible by walk-in, pack-in, equestrian campers, motorized trail vehicles or vehicular traffic. Semi-Developed Campgrounds shall comply with the following:

1. Length of Stay. All camping units are limited to a 30-day length of stay.
2. Zones. Semi-Developed Campgrounds can be located within T2 Rural Zones (neighborhood and Rural Center).
3. Buffers. This use shall be screened with a 100-ft wide, opaque, visual buffer next to all property lines.
4. Minimum RV Pad Size. If RV pads are provided they shall be a minimum of 1,600 square feet. This does not include tent only sites. A maximum number of 200 camp sites.
5. Tree Requirements. Existing trees shall be left between all campsites and/or RV Pads, to the maximum extent practicable. If there are no trees between campsites, tent sites or RV pads, at least two trees shall be planted between each campsite, tent site or RV Pad.
6. Accessory Uses. Recreational facilities and amenities shall be for the purpose of the camper enjoyment including sports facilities, equipment for amusement, playground facilities, swimming pools and a camp store/office. These amenities shall not be for general public use and shall not exceed 3,000 square feet.

**C. Developed Campground.** A campground with two or more campsites, for a camping unit, accessible by walk-in, pack-in, equestrian campers, motorized trail vehicles or vehicular

traffic. Sites may be substantially developed with tables, refuse containers, flush toilets, bathing facilities, and one or more service buildings. These campsites may have individual water, sewer, and electrical connections. Developed Campgrounds shall comply with the following:

1. **Length of Stay.** All camping units are limited to a 30-day length of stay.
2. **Zones.** Developed Campgrounds can be located within T2 (only Rural Center Zone, C3 Neighborhood Mixed Use Zone, C4 Community Center Mixed Use and C5 Regional Center Mixed Use).
3. **Buffers.** This use shall be screened with a 100-ft wide, opaque, visual buffer next to all property lines.
4. **Minimum RV Pad Size.** If RV pads are provided they shall be a minimum of 1,600 square feet. A maximum number of 400 camp sites.
5. **Tree Requirement.** Existing trees shall be left between all campsites and/or RV pads, to the maximum extent practical. If there are no trees between campsites or RV pads, at least two trees shall be planted between each campsite, tent site or RV Pad.
6. **Accessory Uses.** Recreational facilities and rural recreation businesses such as zip lines, horse riding trails, arcades, camp stores, small cafes, small offices, or a club house. Such businesses are intended to be of smaller size, intensity and scale than commercial uses, which would be more commonly found in commercial zoning districts.

A. **Buffers.** This use shall be screened with a 100 ft. wide, opaque, visual buffer next to all property lines.

B. **Minimum RV Pad Size.** RV pads that shall be a minimum of 1,600 square feet.

C. **Tree Requirement.** Existing trees shall be left between all campsites and/or RV pads, to the maximum extent practicable. If there are no trees between campsites or RV pads, at least two trees shall be planted between each campsite or RV pad.

D. **Accessory Uses.** A camp store and entertainment area are allowed as accessory uses to a campground provided they do not exceed 3,000 square feet for every 200 camping spaces or RV pads, and are not advertised off site.

E. **Pumpout Station.** A pumpout station meeting SCDHEC requirements shall be provided for camping trailers and recreational vehicles.

## Short-Term Rentals

**Section 3.1.60 Consolidated Use Table; Section 3.1.70 Land Use Definitions; Section 4.1.360 Limited Home Rental and Extended Home Rental.** The purpose of this amendment is to address short-term rentals by introducing new uses that clarify the operational parameters, development standards, approval/permitting procedures and compliance processes for short-term rentals for properties within Beaufort County’s jurisdiction. The code currently only allows such uses as bed and breakfast or inns and this amendment will clarify the definitions of short term rental(s) and replaces the use of bed and breakfast with Limited Home Rental (LHR) and Inns with Extended Home Rental (EHR).

### 3.1.60 Consolidated Use Table

Table 3.1.60. Consolidated Use Table (continued)																		
Land Use Type	T1 N	T2R	T2 RL	T2 RN	T2 RNO	T2 RC	T3E	T3 HN	T3 N	T3 NO	T4 HC	T4 VC	T4 HCO	T4 NC	C3	C4	C5	SI
RETAIL & RESTAURANTS (continued)																		
15. Day Care: Family Home (up to 8 clients)	--	P	P	P	P	P	P	P	P	P	P	P	P	P	P	TCP	TCP	--
16. Day Care: Commercial Center (9 or more clients)	--	--	--	--	C	C	--	--	--	C	C	C	C	C	TCP	C	C	C
17. Lodging: <u>Bed &amp; Breakfast (5 rooms or less) Limited Home Rental (LHR)</u>	--	S	S	--S	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	TCP	TCP	TCP	--
18. Lodging: <u>Extended Home Rental (EHR)</u>	==	S	==	==	S	S	==	==	==	==	P	P	P	P	TCP	P	P	==
19. Lodging: Inn ( up to 24 rooms)	--	S	--	--	--	P	--	--	--	--	P	P	P	P	TCP	P	P	--
20. Lodging: Hotel	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	P	P	--
21. Medical Service: Clinics/Offices	--	--	--	--	P	P	--	--	--	P	P	P	P	P	TCP	P	P	--
22. Medical Service: Hospital	--	--	--	--	--	--	--	--	--	--	--	--	--	S	--	--	--	--

“P” indicates a Use that is Permitted By Right.  
 “C” indicates a Use that is Permitted with Conditions.  
 “S” indicates a Use that is Permitted as a Special Use.  
 “TCP” indicates a Use that is permitted only as part of a Traditional Community Plan under the requirements in Division 2.3  
 “--” indicates a Use that is not permitted.

### 3.1.70 Land Use Definitions

OFFICES AND SERVICES	
This category is intended to encompass activities, without outdoor storage needs, that are primarily oriented towards office and service functions.	
Land Use Type	Definition
10. Day Care: Family Care Home	A state-licensed facility in a private home where an occupant of the residence provides non-medical care and supervision for up to 8 unrelated adults or children, typically for periods of less than 24 hours per day for any client.
11. Day Care: Commercial Center	A state-licensed facility that provides non-medical care and supervision for more than 8 adults or children, typically for periods of less than 24 hours per day for any client. Facilities include, but are not limited to: nursery schools, preschools, after-school care facilities, and daycare centers.
12. Lodging: <u>Bed &amp; Breakfast (B&amp;B) Limited Home Rental (LHR)</u>	<u>The use of a single residential structure for commercial lodging purposes, with up to 5 guest rooms used for the purpose of lodging transient guests and in which meals may be prepared for them, provided that no meals may be sold to persons other than such guests, and where the owner resides on the property as his/her principal place of residence.</u> <u>A property with an owner-occupied residential dwelling where lodging is offered, advertised, or provided to Short-Term Rental Tenants (excluding family members) for a fee or any form</u>

	of compensation, not to exceed 72 days in the aggregate during any calendar year, with individual rental terms not exceeding 29 consecutive days.
13. Lodging: Extended Home Rental (EHR)	A property with an owner- or non-owner occupied residential dwelling where lodging is offered, advertised, or provided to Short-Term Rental Tenants (excluding family members) for a fee or any form of compensation, for more than 72 days but not to exceed 144-days in the aggregate during any calendar year.
14. Lodging: Inn	A building or group of buildings used as a commercial lodging establishment having up to 24 guest rooms providing lodging accommodations to the general public.

#### 4.1.360 Short-Term Rentals

##### A. Purpose and Applicability

1. **Purpose.** The County is committed to working to protect the traditional quality of life and character of its residential neighborhoods. The County has concerns about permitted short-term rentals resulting in increased traffic, noise, trash, parking needs, safety and possible adverse impacts and other undesirable changes to the nature of the County's neighborhoods. Therefore, the County Council finds it appropriate and in the best interests of its residents, property owners, and visitors to regulate Short-Term Rental Properties (STRPs) within unincorporated County of Charleston.

This Article sets out standards for establishing and operating Short-Term Rental Properties. These regulations are intended to provide for an efficient use of residential dwellings as STRPs by:

- a. Providing for an annual permitting process to regulate STRP's;
- b. Balancing the interests of owner-occupied dwellings with properties that are frequently used in whole or in part by Short-Term Rental Tenants;
- c. Allowing homeowners to continue to utilize their residences in the manner permitted by this Ordinance for the Zoning District in which a particular home is located;
- d. Providing alternative accommodation options for lodging in residential dwellings; and
- e. Complementing the accommodation options in environments that are desirable and suitable as a means for growing tourism.

2. **Applicability.**

- a. **Short-Term Rental Types.** The following Short-Term Rentals shall be authorized
  - 1) **Limited Home Rental (LHR)** - a property with an owner-occupied residential dwelling, where lodging is offered, advertised, or provided to Short-Term Rental Tenants (excluding family members) for a fee or any form of compensation, not to exceed 72 days in the aggregate during any calendar year, with individual rental terms not exceeding 29 consecutive days.
  - 2) **Extended Home Rental (EHR)** - a property with an owner- or non-owner occupied residential dwelling where lodging is offered, advertised, or provided to Short-Term Rental Tenants (excluding family members) for a fee or any form of compensation, for more than 72 days but not to exceed 144-days in the aggregate during any calendar year, with individual rental terms not exceeding 29 consecutive days. To establish a EHR, a property owner must obtain a Special Exception from the Board of Zoning Appeals (BZA) pursuant to the requirements of Article 3.6 of this Ordinance.

- b. **Applicable Zoning Districts.** STRPs shall be allowed within the Zoning Districts of this Ordinance in accordance with Article 3, Section 3.1.60 (Consolidated Use Table).
    - c. **Application.** Applications for STRPs shall be made in compliance with this Article.
  3. **Registration.** All STRPs require a Zoning Permit and Business License. Upon adoption of this Ordinance, STRPs will have 30 calendar days to submit applications to comply with the provisions of this Article and an additional 90 calendar days to obtain all required Zoning Permits for the STRP use.

## **B. Operating Standards and Requirements**

### **1. Permits and Renewals**

- a. After a LHR STRP use has been authorized through the applicable zoning process(es), a Zoning Permit for a STRP use and a Business License must be obtained prior to offering, advertising, or providing Short-Term Rental Properties for lodging as provided for in this Article.
- b. After an EHR STRP use has been authorized by the Board of Zoning Appeals, a Zoning Permit for a STRP use and a Business License must be obtained prior to offering, advertising, or providing Short-Term Rental Properties for lodging as provided for in this Article.
- c. Zoning Permits for all STRP uses must be renewed annually in compliance with this Article.

### **2. Short-Term Rental Property Tenant Notices**

- a. Each STRP must contain a Short-Term Rental Tenant notice posted in each room where Short-Term Rental Tenants may lodge. The notice must provide the following information:
  - 1) Contact information for the owner of the STRP;
  - 2) Zoning Permit Number for the STRP use;
  - 3) Trash collection location and schedules, if applicable; and
  - 4) Fire and Emergency evacuation routes.

## **C. General Standards**

### **1. Use Limitations and Standards.**

- a. Legally permitted Principal Dwelling Units and Accessory Dwelling Units may be used as STRPs, even when they are located on the same property; however, Accessory Structures shall not be used as STRPs.
- b. Parking for Short-Term Rental Tenants shall be in compliance with Division 3.2 of the County Community Development Code.
- c. Signage advertising STRPs is prohibited in Residential Zoning Districts.

### **2. Advertising.** Whether by a hosting platform, via Internet or paid advertising, or other postings, advertisements, or announcements, the availability of a STRP shall include the County issued Zoning Permit Number and Business License Number.

### **3. Annual Zoning Permit Renewal.**

- a. Zoning Permits for all STRPs must be renewed annually. An application for annual renewal of the Zoning Permit must include:
  - 1) The application fee;

- 2) A notarized affidavit signed by the property owner stating that the type of STRP use and the information submitted as part of the application for the previous year's Zoning Permit for the STRP use has not changed in any manner whatsoever and that the STRP use complies with the most recently adopted version of this Article (form of Affidavit Provided by the County); and
  - 3) The applicant shall file an application for a new Zoning Permit for a STRP use if the aforementioned requirements are not met.
- b. If the Director of the Community Development Department determines that the STRP use is not consistent with the Special Exception that authorizes the use and/or Site Plan Review approval that authorizes the use, the applicant shall file an application for a new Zoning Permit for the STRP use, including applicable Special Exception and/or Site Plan Review applications and fees.
  - c. By the end of January of each calendar year, the owners of all registered STRPs will be mailed an annual renewal notice informing them that they must renew the Zoning Permit for the STRP use on or before April 1st of the same calendar year or their existing Zoning Permit will expire. The Zoning Permit for the STRP use will terminate on April 1st of each year regardless of whether or not the applicant receives notice from the Zoning and Planning Department Director.

#### **D. Use Limitations and Requirements**

1. **Applicability.** The limitations and requirements of this Section apply to all types of Short-Term Rental Properties (STRPs).
2. **Application Submittal Requirements.** No application for a STRP shall be accepted as complete unless it includes the required fee and the information listed below.
  - a. The name, address, email, and telephone number of all property owners of the Short-Term Rental Property (STRP).
  - b. Completed Short-Term Rental Property application signed by all current property owner(s). For properties owned by corporations or partnerships, the applicant must submit a resolution of the corporation or partnership authorizing and granting the applicant signing and authority to act and conduct business on behalf of and bind the corporation or partnership.
  - c. Restricted Covenants Affidavit(s) signed by the applicant or current property owner(s) in compliance with state law.
  - d. Address and Property Identification Number of the property on which the STRP is located.
  - e. The type of STRP that is the subject of the application, which may be a Limited Home Rental (LHR) or an Extended Home Rental (EHR).
  - f. The type of Dwelling Unit(s) that is proposed to be used as a STRP including, but not limited to, Principal Dwelling Unit, Accessory Dwelling Unit, Single Family Detached, Single Family Attached, Manufactured Housing Unit, and/or Multi Family, and documentation of Zoning Permit and Building Permit approvals for the structures, as applicable.
  - g. The maximum number of bedrooms in the Dwelling Unit(s) proposed to be used as a STRP.

#### **E. Enforcement and Violations**

1. Notwithstanding the provisions of this Ordinance, a STRP Zoning Permit may be administratively revoked by the Community Development Department Director or his designee if the STRP has violated the provisions of this Article on three or more

occasions within a 12-month period. Provided however, a STRP Zoning Permit may be immediately revoked if the Community Development Department Director determines the STRP has Building Code violations, there is no Business License for the property, the property is being used in a manner not consistent with the Zoning Permit issued for the STRP use, or the advertisement for the STRP does not include the County issued Zoning Permit Number and Business License Number.

2. If a STRP Zoning Permit is administratively revoked or an application for a STRP Zoning Permit is administratively denied, a STRP owner (or authorized agent) may appeal the Community Development Department Director's administrative decision revoking or denying the STRP Zoning Permit to the Board of Zoning Appeals within 30 calendar days from the date of the denial or revocation. All appeals shall be addressed in accordance with the appeal procedures of CHAPTER 3, Article 3.13, of this Ordinance.
3. Subsequent Application. Once a County-issued Zoning Permit and/or a Business License for a STRP use has been revoked, no new Zoning Permit and/or Business License for a STRP use shall be issued to the applicant for the same property for a period of one year from the date of revocation. Upon expiration of the revocation period, a new Zoning Permit application for a STRP use must be submitted in accordance with this Article.

## Vehicle Sales and Rental: Light

**Section 3.1.60 Consolidated Use Table.** The purpose of this amendment is to allow Vehicle Sales and Rental: Light as a conditional use in the T4 Hamlet Center District. The use is currently allowed as a conditional use in the T4 Hamlet Center Open District.

### 3.1.60 Consolidated Use Table

Table 3.1.60. Consolidated Use Table (continued)																		
Land Use Type	T1 N	T2R	T2 RL	T2 RN	T2 RNO	T2 RC	T3E	T3 HN	T3 N	T3 NO	T4 HC	T4 VC	T4 HCO	T4 NC	C3	C4	C5	SI
RETAIL & RESTAURANTS (continued)																		
5. General Retail greater than 50,000 SF	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	P	--
6. General Retail with Drive-Through Facilities	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	C	C	C
7. Adult Oriented Business	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C
8. Bar, Tavern, Nightclub	--	--	--	--	--	P	--	--	--	--	--	--	P	P	--	P	P	--
9. Gas Station/Fuel Sales	--	S	--	--	--	C	--	--	--	--	C	C	C	C	C	C	C	C
10. Open Air Retail	--	--	--	--	--	P	--	--	--	--	--	--	--	--	--	--	P	--
11. Restaurant, Café, Coffee Shop	--	--	--	--	P	P	--	--	--	--	P	P	P	P	TCP	P	P	C
12. Restaurant, Café, Coffee Shop with Drive-Through Facilities	--	--	--	--	--	--	--	--	--	--	--	--	S	S	--	C	C	C
13. Vehicle Sales & Rental: Light	--	--	--	--	--	C	--	--	--	--	-- C	--	C	--	--	C	C	--
14. Vehicle Sales & Rental: Heavy	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P



## Docks on Small Tidal Creeks

**Section 4.2.190 Water/Marine-Oriented Facilities.** The purpose of this amendment is to provide a definition of “small tidal creeks.” The Community Development Code regulates docks on small tidal creeks beyond the state requirements as enforced by the SCDHEC Office of Coastal Resource Management (OCRM). Specifically, the CDC restricts the length of docks on small tidal creeks to a maximum of 300 feet. Newly subdivided lots must have a minimum lot width of 250 feet to have a dock. The ordinance also encourages community docks by allowing them to be longer than 300 feet (up to 500 feet) if certain lot width conditions are met.

The issue that the Community Development Department has run into is that the CDC defines small tidal creeks by referring to a map in Appendix F. There have been several cases where the map did not indicate a particular creek that otherwise should have met the definition of a small tidal creek. Therefore, staff recommends that the CDC provide a clear definition of small tidal creeks, and use the maps as a reference tools. The maps already contain a disclaimer that puts the burden on applicants to verify the information on the map using other sources recognizing that conditions change.

SCDNR defines “tidal creeks” as those tidally influenced bodies of water that are 100 meters or less in width from marsh bank to marsh bank. Anything wider is defined by the State as “open water.” Staff recommends using the State’s definition.

### 4.2.190 Water / Marine-Oriented Facilities

Water/Marine-oriented facilities shall comply with the following standards:

- A. **Space as Far Apart as is Reasonably Feasible.** Water-oriented facilities should be spaced as far apart as is reasonably feasible.
- B. **Regulation of Navigable Structures or Aids.** The regulation of navigational structures or aids falls under the jurisdiction of the State of South Carolina Ocean and Coastal Resource Management Office (OCRM), or appropriate federal regulators.
- C. **Construction May Occur Before Principal Dwelling.** Water-oriented facilities may be constructed prior to the construction of the principal dwelling.
- D. **Docks on Small Tidal Creeks.** Private docks and community docks located on are allowed in small tidal creeks shall meet the requirements of this Section. Small tidal creeks are defined as tidally influenced bodies of water that are 100 meters or less in width measured from marsh bank to marsh bank, as shown on the Beaufort County Small Tidal Creek Delineation Maps (See Appendix F) provide an inventory of small tidal creeks in Beaufort County. The Director may request a survey from a certified land surveyor to verify the width of a creek, if they comply with the following standards:

## Commercial Subdivisions

**6.1.30 Types of Subdivisions** This amendment would allow Commercial Subdivisions to occur in any zoning district where commercial (retail, service, light industrial, etc.) uses are permitted.

The Commercial Subdivision is an option in the Community Development Code that addresses a trend among major national retailers in commercial shopping centers to want to own the land the stores reside upon and the parking areas that support the stores. Consequently, shopping center developers and their major retailers want the flexibility to use the subdivision and site plan review process to

integrate the two processes together without creating conflicts between zoning standards and subdivision regulations. Often internal setback and buffer yard requirements would cancel out the unified site plan concept inherent in a commercial subdivision within a shopping center. The Commercial Subdivision provision is designed to remedy that problem.

The commercial subdivision was originally adopted as part of the Zoning and Development Standards Ordinance (ZDSO) in 2013. At that time, it was limited to the commercial regional, commercial suburban, and industrial zoning districts. When the CDC was adopted, this provision was included and limited to the analogous districts - C5 Regional Center Mixed-Use, C4 Community Center Mixed Use and S1 Industrial. However, the CDC has several transect zones that allow commercial uses such as T2 Rural Center, and the T4 districts. Staff believes that the exclusion of these transect zones was an oversight when the CDC was adopted. It is possible for developers to utilize the commercial subdivision and still create a traditional development with a network of internal streets with on-street parking and sidewalks. Therefore, staff supports the following amendment:

### 6.1.30 Types of Subdivisions

There are three types of subdivisions allowed under this Development Code:

- A. **Minor Subdivision.** Minor subdivisions are land developments that consist of subdividing a tract or parcel of land into four lots or less, provided the subject land has not been previously subdivided within five years. Minor subdivisions shall comply with the procedures in Subsection 7.2.70.E, (Minor Subdivision Plat Procedure), the standards in this Article, and all other relevant provisions of this Development Code.
- B. **Major Subdivision.** Major subdivisions are land developments that consist of subdividing a tract or parcel of land into five or more lots. Major subdivisions shall comply with the procedures in Subsection 7.2.70.F (Major and Commercial Subdivision Plat Procedure), the standards in this Article, and all other relevant provisions of this Development Code.
- C. **Commercial Subdivision.** Commercial subdivisions are land developments that include master planning and subdividing into two or more lots any **commercial, industrial, or multi-family** tract or parcel of land **located in C4, C5, and S1 districts. These subdivisions are limited to commercial and/or industrial uses only.** Commercial subdivisions shall comply with the procedures in Subsection 7.2.70.F (Major and Commercial Subdivision Plat Procedure), the standards in this Article, and all other relevant provisions of this Development Code. This type of subdivision includes all of the following:
  1. Separate ownership of lots, coupled with undivided interest in common property;
  2. Restrictive land use covenants or easements that govern use of both the common area and separate ownership interests; and
  3. Management of common property and enforcement of restrictions by a property owners' association.

## Non-Conforming Structures

**8.3.40 Non-Conforming Structures:** This amendment will clarify that structures damaged greater than 50% of value as a result of fire, storm, or flood is not required to meet current zoning standards when rebuilt. It is important to note that the structure would need to comply with current building codes and flood elevation standards.

### 8.3.40 Reconstruction or Repair after Casualty Damage of Nonconforming Use or Structure

The reconstruction or repair of a nonconforming use or structure damaged as a result of a fire, natural disaster or other unforeseen and unpreventable accident or occurrence shall be subject to the following provisions.

- A. **Damage of 50 Percent or Less of Value.** If a nonconforming use or structure is damaged to an extent whereby the cost of restoring the use or structure to its before-damaged condition would be 50 percent or less of its market value before the damage, the use or structure may be reconstructed or repaired if:
1. The reconstruction or repair does not increase, expand, enlarge, or extend the degree of nonconformity beyond what is allowed in this Article; and
  2. The reconstruction begins within six months after the damage and is diligently pursued to completion.
- B. **Damage Greater than 50 Percent of Value.** ~~Any nonconforming building or portion thereof may be replaced if razed by fire, natural causes, or other natural disasters, provided, the replacement does not increase the degree of nonconformity in any respect and a zoning compliance is issued within six months of the date of the damage. Any nonconforming building or portion thereof which is not razed by fire, natural causes, or other natural disasters will be required to conform to all applicable development standards upon reconstruction. If a nonconforming use or structure is damaged to an extent whereby the cost of restoring the use or structure to its before-damaged condition would exceed 50 percent of its market value before the damage, the use or structure shall not be reconstructed or repaired except in conformity with the provisions of this Development Code, unless:~~
1. ~~The structure is a single-family residential use, in which case it may be rebuilt as long as it complies with all applicable building codes;~~
  2. ~~It is rebuilt using the former building footprint and does not increase the nonconformity of the structure; and~~
  3. ~~Substantial reconstruction is started within one year of the date of destruction, and completed in good faith.~~
- C. **Damage That Creates Unsafe Condition.** Regardless of the percent of damage to a nonconforming structure, any structure deemed unsafe by the Building Codes Official and is a threat to the life and safety of repair crews, the public, or neighbors, shall be demolished and terminated. Future structures then shall comply with the requirements of this Development Code.

<b>2019</b>			
<b>Planning Commission</b>			
<b><u>Date</u></b>	<b><u>Day</u></b>	<b><u>Time</u></b>	<b><u>Location *</u></b>
January 7, 2019	Monday	6:00	Council Chambers, Administration Building100 Ribaut Road, Beaufort, SC
February 4, 2019	Monday	6:00	Council Chambers, Administration Building100 Ribaut Road, Beaufort, SC
March 4, 2019	Monday	6:00	Council Chambers, Administration Building100 Ribaut Road, Beaufort, SC
April 1, 2019	Monday	6:00	Council Chambers, Administration Building100 Ribaut Road, Beaufort, SC
May 6, 2019	Monday	6:00	Council Chambers, Administration Building100 Ribaut Road, Beaufort, SC
June 3, 2019	Monday	6:00	Council Chambers, Administration Building100 Ribaut Road, Beaufort, SC
July 1, 2019	Monday	6:00	Council Chambers, Administration Building100 Ribaut Road, Beaufort, SC
August 5, 2019	Monday	6:00	Council Chambers, Administration Building100 Ribaut Road, Beaufort, SC
September 5, 2019	Thursday	6:00	Council Chambers, Administration Building100 Ribaut Road, Beaufort, SC
October 7, 2019	Monday	6:00	Council Chambers, Administration Building100 Ribaut Road, Beaufort, SC
November 4, 2019	Monday	6:00	Council Chambers, Administration Building100 Ribaut Road, Beaufort, SC
December 2, 2019	Monday	6:00	Council Chambers, Administration Building100 Ribaut Road, Beaufort, SC
* Meetings may be held in the Bluffton Library if the agenda items are unique to areas south of the Broad River. Call the Community Development Department at 843-255-2140 for details.			
A Planning Commission Workshop will be held at 5:30 p.m. prior to each scheduled Planning Commission meeting in the Community Development office, Room 115, Beaufort County Administration Building.			