



**County Council of
Beaufort County
Planning Commission
Meeting**

Chairman
ED PAPPAS

Vice Chairman
RANDOLPH STEWART

Commission Members
KEVIN HENNELLY
CAROLINE FERMIN
CECILY MCMILLAN
DANIEL RIEDEL
FRANK DUCEY
ARMIN WAHL
GAIL MURRAY

County Administrator
ERIC GREENWAY

Staff Support
ROBERT MERCHANT

Administration Building
Beaufort County Government
Robert Smalls Complex
100 Ribaut Road

Contact
Post Office Drawer 1228
Beaufort, South Carolina 29901-1228
(843) 255-2140
www.beaufortcountysc.gov

Planning Commission Agenda

Monday, April 4, 2022 at 6:00 PM

Council Chambers

County Administration Building, 100 Ribaut Road, Beaufort, SC

ALL OF OUR MEETINGS ARE AVAILABLE FOR VIEWING ONLINE AT WWW.BEAUFORTCOUNTYSC.GOV AND CAN ALSO BE VIEWED ON HARGRAY CHANNELS 9 AND 113, COMCAST CHANNEL 2, AND SPECTRUM CHANNEL 1304.

[MEETING LINK:](#)

Meeting number (access code): 161 763 7909

Passcode: PLAN

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. FOIA – PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT
4. APPROVAL OF MINUTES – January 3, 2022
5. APPROVAL OF AGENDA
6. CITIZEN COMMENTS – NON-AGENDA ITEMS
(Comments are limited to 3 minutes.)

ACTION ITEMS

7. **TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC):** APPENDIX A.13.40 (PERMITTED ACTIVITIES) AND APPENDIX A.13.50.D (GUEST HOUSES) TO AMEND THE GUEST HOUSE DEFINITION AND CLARIFY MINIMUM LOT REQUIREMENTS FOR GUEST HOUSES LOCATED IN THE MAY RIVER COMMUNITY PRESERVATION DISTRICT.
8. **TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC):** SECTIONS IN DIVISION 3.2 (TRANSECT ZONES) AND SECTIONS IN DIVISION 3.3 (CONVENTIONAL ZONES) TO CORRECT CONFLICTING PARKING STANDARDS.
9. **TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC):** SECTION 6.1.40.G (BASE SITE AREA CALCULATIONS) TO CLARIFY THAT NATURAL WATER BODIES INCLUDE WETLANDS.

10. **TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC):** SECTION 4.1.330 (ECOTOURISM) TO CLARIFY GUIDING PRINCIPLES FOR ECOTOURISM DEVELOPMENT AND ESTABLISH BASE SITE AREA CALCULATIONS FOR ECOTOURISM DEVELOPMENT.
11. **TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC):** SECTION 5.11.100.F.1 (TREE REMOVAL ON DEVELOPED PROPERTIES) TO ESTABLISH A TIME PERIOD AFTER CONSTRUCTION FOR WHEN TREE REMOVAL ON SINGLE-FAMILY RESIDENTIAL LOTS CAN BE APPLIED.

DISCUSSION ITEMS

12. CHAIRMAN'S REPORT
13. ADJOURNMENT



COUNTY COUNCIL OF BEAUFORT COUNTY
Beaufort County Planning and Zoning Department
Beaufort County Government Robert Smalls Complex
Physical: Administration Building, Room 115 100 Ribaut Road
Mailing: Post Office Drawer 1228, Beaufort, SC 29901-1228
Phone: 843-255-2140 / FAX: 843-255-9432

The regular meeting of the Beaufort County Planning Commission (hereinafter "Commission") was held in Council Chambers on Monday, January 3, 2022 at 6:00 p.m.

MEMBERS PRESENT:

Mr. Ed Pappas, Chairman Mr. Randolph Stewart, Vice Chairman Mr. Jason Hincer
Mr. Kevin Hennelly Ms. Cecily McMillan Mr. Frank Ducey
Ms. Gail Murray

MEMBERS ABSENT:

Dr. Caroline Fermin Mr. Armin Wahl

STAFF PRESENT:

Mr. Robert Merchant, Planning and Zoning Director
Mr. Mark Davis, Planning and Zoning Deputy Director
Mr. Eric Greenway, County Administrator
Ms. Stefanie Nagid, Passive Parks Manager
Ms. Chris DiJulio-Cook, Senior Administrative Specialist

CALL TO ORDER: Chairman Ed Pappas called the meeting to order at 6:03 p.m.

PLEDGE OF ALLEGIANCE: Chairman Pappas led those assembled in the pledge of allegiance.

REVIEW OF MEETING MINUTES: Chairman Pappas asked for a motion to approve the December 6, 2021 minutes. Ms. Cecily McMillan made a motion, seconded by Ms. Gail Murray, to accept the minutes as written. There was unanimous support for the motion.

AGENDA REVIEW: Mr. Pappas asked if there were any comments or additions to the agenda. There were none.

CITIZEN COMMENTS: Chairman Pappas asked if there were any non-agenda citizen comments. There were none.

ACTION ITEMS:

ZONING MAP AMENDMENT/REZONING REQUEST FOR 11.66 ACRES AT 100 RAWSTROM DRIVE (R600 009 000 0030 0000) FROM T2 RURAL (T2R) TO T2 RURAL NEIGHBORHOOD (T2RN); APPLICANT: BEN KENNEDY

Mr. Robert Merchant gave a brief overview of the request to rezone 100 Rawstrom Drive from T2 Rural to T2 Rural Neighborhood. The current zoning allows one dwelling unit for every 3 acres, equaling 3 dwelling units, the new zoning would permit 1.2 dwelling units per acre, which would allow for 13 dwelling units. Mr. Merchant explained that the staff recommendation was to deny the request because it does not meet the zoning criteria for T2 Rural Neighborhood. There are concerns that if the rezoning were allowed it would set a precedent in conflict with the 2040 Comprehensive Plan and the Community Development Code.

There was discussion among the commissioners regarding other properties in the area and what other changes the rezoning might allow for other than more houses on the property.

Mr. Michael Kronimus, KRA Architecture Design, representing Mr. Kennedy, stated that the applicant was looking to rezone the property in order to build a total of 6 houses on the property and current zoning would not allow that many.

Mr. Pappas opened the floor for citizen comments, prefacing with the fact that he had received six correspondences, from neighboring property owners, opposed to the rezoning. These letters will be included in the minutes.

Mr. Carson Stone spoke in opposition of the rezoning.

Mr. Kendall Burch stated he was against the proposed rezoning.

Michelle Krob said she was fully against the rezoning.

Jessie White, Coastal Conservation League, asked the Commission to deny the rezoning request.

Haley Smith requested that the rezoning request be denied.

Mr. Hennelly made a motion to deny the zoning map amendment to rezone 11.66 acres from T2R to T2RN, Ms. Gail Murray seconded the motion. The motion passed 6:1 (**For: Hennelly, Hincer, Pappas, Ducey, McMillan, Murray /Against: Stewart**)

OSPREY POINT (MALIND BLUFF) PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN AMENDMENT TO 17.2 ACRES (R600 013 000 0495 0000) TO REPLACE 207,700 SQUARE FEET OF COMMERCIAL DEVELOPMENT WITH 206 MULTI-FAMILY UNITS; APPLICANT: ROBERT DEEB

Mr. Merchant outlined the request for the PUD amendment to replace 207,700 square feet of commercial development with 206 multi-family units. He gave a history on the current PUD and the changes that it had been through since its original approval in 2008. He explained based on the traffic impact analysis done previously, changing the use, from commercial to residential, actually reduces the traffic. He explained that the applicant was looking to do a tax credit project with affordable housing, and they had been in contact with the school district, who were in support of this kind of project. Staff recommends approval with conditions.

After some discussion by the commissioners with concerns about the affordable housing, the applicants were given an opportunity to speak about their request.

Bob Deeb, the applicant, and Eric Walsnovich, Wood + Partners, Inc., gave some insight on the proposed developmental changes including stating that the changes meet all State and Federal criteria for affordable housing, that the project would take place in two phases and would designate at least 60% of the new units as affordable housing. Mr. Walsnovich showed a potential site plan showing the proposed changes and that it would be a walkable community that would access the amenities (playground, fitness center, pool, clubhouse, mail facility) and connect back in to Malind Bluff.

David Bennett spoke about affordable housing, form-based code for this project and addressed some of the Commission's questions and concerns.

Chairman Pappas opened the meeting to public comment.

Mr. Greenway, County Administrator, made a few clarifying remarks regarding the existing PUD not being grandfathered, the existing development agreement allowing for some conversion from commercial to residential, that a development agreement amendment should not be needed for the Planning Commission to make a decision on the proposed project and that a traffic impact analysis was unnecessary because residential multi-family homes will create significantly less traffic than commercial development.

Ms. Karen Flanders stated her concerns regarding the proposed changes without any advantages to the existing Malind Bluff residents.

Mr. Glen Giles spoke in opposition to the proposed changes.

Mr. Harold Williams stated he did not want the proposed changes and referenced a letter written by Mrs. Catherine Trail. Mr. Pappas stated he had the letter from Mrs. Trail and it would be made part of the public record.

Ms. Ann Horrar spoke against the changes.

With no further public comment, Mr. Pappas turned the meeting back to the commissioners for further discussion. The commissioners voiced their concerns and Mr. Hennelly made a motion to deny the proposed changes to the current PUD to replace 207,700 square feet of commercial development with 206 multi-family units. Mr. Ducey seconded the motion. The motion passed 6:1 (**For: Hennelly, Hincer, Pappas, Ducey, McMillan, Murray /Against: Stewart**)

ADOPTION OF THE 2020 BEAUFORT COUNTY GREENPRINT PLAN AS AN APPENDIX TO THE "ENVISION BEAUFORT COUNTY 2040 COMPREHENSIVE PLAN"

[HTTPS://EXPERIENCE.ARCGIS.COM/EXPERIENCE/77FD43D3F5DA488B885CB1FA7B34788E/](https://experience.arcgis.com/experience/77fd43d3f5da488b885cb1fa7b34788e/)

Mr. Merchant explained that the Planning staff would like to make the Greenprint Plan an appendix to the Comprehensive Plan.

Mr. Stewart stated it is a great plan and thanked the staff for their hard work on it. Mr. Pappas and Ms. McMillan agreed. Mr. Pappas made note, in Jessie White's absence, that the Coastal Conservation League made mention of supporting the issue.

Mr. Pappas asked if there were any public comments. There were none.

Ms. Murray made a motion that the 2020 Beaufort County Greenprint Plan be adopted as an appendix to the "Envision Beaufort County 2040 Comprehensive Plan". Mr. Hincer seconded the motion. The motion passed unanimously.

ZONING MAP AMENDMENT/REZONING REQUESTS FOR 19 RURAL AND CRITICAL LANDS PROPERTIES FROM VARIOUS ZONINGS TO T1 NATURAL PRESERVE (T1NP); APPLICANT: STEFANIE NAGID, BEAUFORT COUNTY PASSIVE PARKS MANAGER

Mr. Merchant explained that this was a staff-initiated project to rezone the properties. He stated that the request of rezoning to T1NP, the county's lowest-density district, only applies to the County-owned properties listed below.

Parcel ID Numbers R700 030 000 0005 0000, R700 030 000 0036 0000, R100 015 000 0046 0000, R100 015 000 040A 0000, R100 016 000 0065 0000, R100 016 000 0238 0000, R100 020 000 0165 0000, R200 015 000 143C 0000, R200 015 000 0142 0000, R200 005 000 0005 0000, R200 005 000 0165 0000, R200 010 000 0170 0000, R200 018 000 018A 0000, R123 015 000 1004 0000, R300 011 000 012B 0000, R300 011 000 0308 0000, R300 036 000 0003 0000, R600 006 000 0032 0000, R600 010 000 0205 0000, R600 010 000 0209 0000, R600 010 000 001A 0000, R600 010 000 0186 0000, R600 005 000 0003 0000, R600 008 000 003F 0000, R600 013 000 003C 0000, R600 013 000 0005 0000, R600 021 000 0048 0000, R600 021 000 0673 0000, R600 014 000 002G 0000, R600 014 000 002J 0000, R600 014 000 002F 0000, R600 014 000 002K 0000, R600 014 000 002B 0000, R600 040 000 0134 0000, and R600 039 00B 0147 0000

Ms. Stefanie Nagid, Passive Parks Manager, responded to a question by Chairman Pappas in regards to how these specific properties had been chosen for rezoning. And stated it is the intent to rezone properties at time of acquisition, moving forward.

Mr. Hinchler asked about addressing the private properties involved in conservation easements. Mr. Merchant answered that it is not the Planning Department's plan to change the zonings of the easements because the restrictive language contained within the easements itself helps protect the properties.

Mr. Pappas called for public comments.

Ms. Carolyn Smith said her community was very much in favor of the proposed rezoning.

Mr. Joseph Chappell, representing Landmark Baptist Church, asked how the rezonings would impact existing structures. Mr. Merchant explained that the leased property would be treated like any other non-conforming property use. Ms. Nagid stated that the lease with the church would not be affected by the rezoning.

Mr. Kendall Burch thanked the staff and stated he was very much in favor of the rezoning.

Mr. John Hewlett asked about a public boat landing on the Ihly property and how that would be impacted by the rezoning. Mr. Merchant explained that the rezoning would still allow for a boat landing. Ms. Nagid explained that a boat landing would not be installed because of the restrictive MCAS easement on the property.

Ms. Ann Bucovich is located on Sam's Point Rd and shares a driveway with the Pineview property. She is concerned about the planned use for the property. Ms. Nagid explained that there is a plan for the driveway access to the property to be moved and a small parking area, restrooms and nature trails to be located on the property.

Ms. Janice Graves asked about the proposed rezoning, how it would impact surrounding property owners and stated concerns about people trespassing on neighboring properties. Mr. Greenway clarified that the property is being zoned as T1 Natural Preserve but it is not going to become a nature preserve. He advised property owners to call the sheriff if property owners see people who are trespassing and he also explained that the rezoning would not impact individual property owners.

Mrs. Pinkney was concerned about traffic and security. Mr. Greenway explained that most of the County's parks are on timed gates from dawn to dusk. He told her they'd need to contact the sheriff if people are trespassing. Ms. Nagid explained what the parks typically entail, citing Widgeon Point and Crystal Lakes as examples, and that once they become used by the public the nefarious element typically goes away.

Mr. Pappas asked if there were further comments. There were none.

Mr. Hincer made a motion to approve the zoning map amendments for the 19 Rural and Critical properties. Ms. McMillan seconded. The motion passed unanimously.

Chairman Pappas commented how pleased he was with the rezonings.

CHAIRMAN'S REPORT:

Chairman Pappas asked Mr. Merchant to introduce Mark Davis, the new Deputy Director. Mr. Davis stated he looks forward to working with the Planning Commission.

ADJOURNMENT: Chairman Pappas, with no further business to discuss, adjourned the meeting at 7:15 p.m.

SUBMITTED BY: Chris DiJulio-Cook
Planning & Zoning Senior Administrative Specialist

Ed Pappas
Beaufort County Planning Commission Chairman

Date: _____

This message was received through the Beaufort County website Feedback Form.

Sender: Mark Clark

Email: [REDACTED]

Phone: [REDACTED]

Message:

My name is Mark Clark and along with my wife Amilda Clark own the property at 37 Lynes Rd in Okatie. We understand there will be a request before the planning commission on Jan 3, 2022 to increase the density of houses allowed at the 11.66 acre parcel at 100 Rawstrom Dr. We are apposed to any increase in the number of allowable dwellings at this site and any other in the area mainly for reasons that this would result in increased environmental impacts associated with septic tanks, landscaping, impervious area/stormwater runoff, traffic in the marsh and river and a general higher level of disturbance in the ecological buffer between upland and wetland. Water quality and other ecological metrics in the Colleton River are generally good at this time and we would like to keep it that way. Increased development, especially at levels greater than presently zoned, will inevitably have negative consequences on that water quality and the overall ecological health of the system. Thank you, (zoning/planning/environmental services) for your efforts to implement various management plans related to water quality and reduction of non-point source of pollution. Please stick with the plan and deny any increase in density, which would be counter to that effort.

From: Clark,Mark W [REDACTED]
Sent: Wednesday, December 22, 2021 9:52 AM
To: Smith, Juliana <juliana.smith@bcgov.net>
Cc: [REDACTED]; Clark,Mark W [REDACTED]
Subject: Requested zoning density change at 100 Rostrum Dr.

[EXTERNAL EMAIL] Please report any suspicious attachments, links, or requests for sensitive information to the Beaufort County IT Division at helpdesk@bcgov.net or to 843-255-7000.

Ms. Smith,

I left you a message on your phone and submitted a "CitizenGram". I also found your email so thought I would try and cover all the angles since I will not be able to participate in person on Jan 3, my apology for duplication. The note below is about our opposition to any changes in existing zoning density at 100 Rostrum Dr. Okatie, SC.

Thank you,
Mark

My name is Mark Clark and along with my wife Amilda Clark own the property at 37 Lynes Rd in Okatie. We understand there will be a request before the planning commission on Jan 3, 2022 to increase the density of houses allowed at the 11.66 acre parcel at 100 Rawstrom Dr. We are opposed to any increase in the number of allowable dwellings at this site and any other in the area mainly for reasons that this would result in increased environmental impacts associated with septic tanks, landscaping, impervious area/stormwater runoff, traffic in the marsh and river and a general higher level of disturbance in the ecological buffer between upland and wetland. Water quality and other ecological metrics in the Colleton River are generally good at this time and we would like to keep it that way. Increased development, especially at levels greater than presently zoned, will inevitably have negative consequences on that water quality and the overall ecological health of the system. Thank you, (zoning/planning/environmental services) for your efforts to implement various management plans related to water quality and reduction of non-point source of pollution. Please stick with the plan and deny any increase in density, which would be counter to that effort.

From: Nancy Thomas <[REDACTED]>
Sent: Wednesday, December 29, 2021 8:50 AM
To: Smith, Juliana <juliana.smith@bcgov.net>
Subject: Public Comment Regarding Rezoning Application at 100 Rawstrom Drive

[EXTERNAL EMAIL] Please report any suspicious attachments, links, or requests for sensitive information to the Beaufort County IT Division at helpdesk@bcgov.net or to 843-255-7000.

Dear Ms. Juliana Smith,

I am writing to you to provide public comment regarding the rezoning application for 100 Rawstrom Drive to be included in the public record.

My husband Gary and I strongly oppose the proposed zoning amendment.

We currently reside at 92 Rawstrom Drive, directly across the road from this proposed development, and are very concerned that this rural and beautiful piece of Beaufort County will be destroyed by this dramatic increase in density.

The infrastructure in this area will not support a development of any size. The road, overhead electrical service, and lack of high-speed internet are not capable of servicing the proposed density.

Rawstrom drive is a narrow dirt road, without drainage or sewer and could not support the density proposed.

Additionally, 100 Rawstrom Drive abuts the critical land of the Altamaha Town Preserve Site, and this area is home to the American Bald Eagle, hawks, wild boar, fox, deer, and a plethora of wildlife. The eagles are here presently, and I have included a picture of one in our pine yesterday.

Please consider the dangerous precedent of allowing one lot purchase to obliterate an entire rural neighborhood, and the many adverse impacts of permitting 6- 13 homes in this pristine rural environment.

Respectfully submitted,
Gary and Nancy Thomas
92 Rawstrom Drive
Okatie, SC 29909
[REDACTED]

From: D D [REDACTED]
Sent: Thursday, December 30, 2021 9:00 AM
To: Smith, Juliana <juliana.smith@bcgov.net>
Cc: Libby Delaney [REDACTED]; Merchant, Robert <robm@bcgov.net>
Subject: 100 Rawstrom - Rezoning

[EXTERNAL EMAIL] Please report any suspicious attachments, links, or requests for sensitive information to the Beaufort County IT Division at helpdesk@bcgov.net or to 843-255-7000.

For reasons similar to those expressed by Nancy Thomas, please accept this email as formal objection by Elizabeth Putman to the rezoning application for 100 Rawstrom.

Doug Delaney, Esq.
For Elizabeth Putman

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Doug Delaney, JD, LL.M (Tax)
Delaney Law Firm
PO Box 3199
Bluffton, SC 29910
[REDACTED]

From: Jules Wilson Fandos [REDACTED]
Sent: Thursday, December 30, 2021 1:05 PM
To: Smith, Juliana <juliana.smith@bcgov.net>
Subject: Public Comment Regarding Rezoning Application at 100 Rawstrom Drive

[EXTERNAL EMAIL] Please report any suspicious attachments, links, or requests for sensitive information to the Beaufort County IT Division at helpdesk@bcgov.net or to 843-255-7000.

Dear Ms. Juliana Smith,

We are writing in response to the recent zoning application at 100 Rawstom Drive. We have reviewed the terms and implications of such a request and we strongly oppose this proposal for a zoning amendment. It is our understanding that the requested zoning application could expose the possibility for up to eleven homes, which would absolutely destroy the integrity of this low country gem.

We recently acquired the property at 90 Rawstrom Drive. Our hopes are to build a retirement home there in the future, maintaining as much of the property's natural beauty as is. We chose this property to be close to family and for it's quiet, elegant, rural presentation. We currently reside in a neighborhood in Georgia, and our goal is to get away from this type of environment.

Rawstrom Drive is a wooded, narrow dirt road with land that supports important wildlife, adjacent to the Altamaha Town Preserve. The quiet infrastructure is not conducive to a busy, neighborhood setting.

We, respectfully, ask that you decline this request in order to preserve the natural beauty of Rawstrom Drive and avoid dangerous precedents that could allow other properties in Beaufort County to follow suit.

Regards,

George & Jules Fandos
90 Rawstrom Drive
Okatie, SC 29909



From: Charlotte Schmachtenberger [REDACTED]
Sent: Thursday, December 30, 2021 12:59 PM
To: Smith, Juliana <juliana.smith@bcgov.net>
Subject: Public Comment Regarding Rezoning Application at 100 Rawstrom Drive

[EXTERNAL EMAIL] Please report any suspicious attachments, links, or requests for sensitive information to the Beaufort County IT Division at helpdesk@bcgov.net or to 843-255-7000.

Dear Ms. Juliana Smith,

I am writing to you to provide public comment regarding the rezoning application for 100 Rawstrom Drive to be included in the public record. I am unable to attend the rezoning meeting, but wish my concerns to be heard.

I strongly oppose the proposed zoning amendment.

I currently reside at 15 Rawstrom Drive, north of this proposed development, and I am very concerned that this rural and beautiful piece of Beaufort County will be destroyed by this dramatic increase in housing development. I purchased the property to have my own space and not be crowded by other people and their daily activity.

The infrastructure in this area will not support a development of any size. The road, overhead electrical service, and lack of high-speed internet are not capable of servicing the proposed density.

Rawstrom drive is a narrow dirt road, without drainage or sewer and could not support the density proposed. The concern for the environment is high. The cost to the county to assume establishment and maintenance of the roads to the new area and provide for the people's expectation will be costly.

Additionally, 100 Rawstrom Drive abuts the critical land of the Altamaha Town Preserve Site, and this area is home to the American Bald Eagle, hawks, wild boar, fox, deer, and a plethora of wildlife.

Please consider the dangerous precedent of allowing one lot purchase to obliterate an entire rural neighborhood, and the many adverse impacts of permitting 6- 13 homes in this pristine rural environment.

Respectfully submitted,

Charlotte Schmachtenberger

15 Rawstrom Drive

Okatie, SC 29909

[REDACTED]

MRS. CATHERINE E. TRAIL
175 Bay Circle
Beaufort, SC 29906

To: Beaufort County Planning Commission
From: Catherine Trail (Future homeowner at 102 Dudley Avenue, Malind Bluff/Osprey Point)
Date: January 3, 2022
Subject: Osprey Point (Malind Bluff) Planned Unit Development (PUD) Master Plan Amendment

1. I currently live in Beaufort County and I will be closing on house in Malind Bluff (Osprey Point) on 14 January 2022. I respectfully request you recommend denial of the subject application.

2. Dispositive Legal Issue. In accordance with South Carolina Supreme Court case *Sinkler v. County of Charleston*, 387 S.C. 67 (2010), the proposed amendment to the PUD Master Plan, if approved, would result in the development no longer meets the parameters of a planned development district (a.k.a. planned unit development, or PUD) as contained in sections 6-29-720 and -740 of the Enabling Act. A PUD requires "housing of different types and densities" and mixed use, as expressed by section 6-29-720. Section 6-29-720 of the Enabling Act defines a PUD as follows: "[A] development project comprised of housing of different types and densities and of compatible commercial uses, or shopping centers, office parks, and mixed-use developments. A planned development district is established by rezoning prior to development and is characterized by a unified site design for a mixed use development[.] S.C. Code Ann. § 6-29-720(C)(4) (emphasis added). The result of this amendment would be to completely eliminate the mixed use from the development. Additionally, approval of the proposed amendment would violate section 6-29-40 of the Enabling Act, governing "Planned Development districts," because it includes "no elements that result in improved design, character, and quality of a new mixed use development" as required by the statute. See *Sinkler v. County of Charleston*, 387 S.C. 67 (2010) (<https://www.sccourts.org/opinions/displayOpinion.cfm?caseNo=26787>).

3. Requested Analysis. More information is required before this amendment is considered and voted on by the Planning Commission, several studies should take place.

a. Traffic Impact Analysis (TIA). The last traffic analysis I have been able to find was conducted in 2007 for inclusion in the Osprey Point Planned Unit Development Master Plan adopted on 27 October 2008. The December 4, 2017 Planning Commission meeting minutes mentions that a TIA was requested but not yet received by the planning commission. I cannot find any evidence that a new TIA was ever conducted or provided. If it was conducted, I request a copy and time to review before the Planning Committee pushes forward with a vote. If it was not conducted, the 2007 TIA is now over 14 years old and considering all of the rapid growth that has occurred in the area since its completion, a new TIA is appropriate here. Additionally, as noted in the Planning and Zoning Director's letter, removing the potential for commercial development would greatly reduce any internal trip capture for the 600+ homes in Malind Bluff and River Oaks. A new TIA would presumably be able to capture this difference between the current plan and the proposed plan and will assist us in making a better informed decision with respect to this proposed plan.

b. Economic Impact Analysis. Ordinance 2019/36 (The 2019 Amendment to the Osprey Point (Malind Bluff) PUD) mentions an economic impact analysis of the approved 2019 amendment to the PUD at paragraph 2. C.12. (Economic Benefit). I respectfully request a copy of this analysis and request a new economic analysis of the contemplated plan prior to voting on the amendment.

c. Environmental Impact Analysis. I request all environmental impact analyses conducted into this development. If an Environmental Impact Analysis has not been conducted with respect to this latest PUD Amendment, I respectfully request one be conducted prior to voting.

MRS. CATHERINE E. TRAIL
175 Bay Circle
Beaufort, SC 29906

4. Current County Analysis, dated 3 January 2022. I respectfully do not agree with the type of analysis that was conducted and several of the conclusions arrived at in the Community Zoning and Planning Director's letter. Specifically:

a. Traffic Impacts. A TIA is required if the proposed development will generate an additional 50 trips during the peak hour, but it is also required if the proposed development will change the level of service of the affected street. As The proposed development will certainly change the level of service as removing the potential for commercial development will greatly reduce any internal trip capture for the 711 homes in Malind Bluff and River Oaks. A TIA is required in this case.

b. School Impacts. The School District does not have excess capacity to address the potential increase in the number of students in southern Beaufort County. In this immediate area, the District is already facing the need to absorb the students that will result from the 711 dwelling units in River Oaks and Malind Bluff. Further information is to be provided by the School District. The Planning Commission should not vote on this matter until the public has had an opportunity to review, digest, and respond to the School District information.

c. Review Standards. While the applicant properly submitted its application as a Planned Unit Development (PUD) Master Plan Change, the application mistakenly provides justification for a rezoning request utilizing paragraph 7.3.40(C), Beaufort County Community Development Code (CDC). This is properly characterized as a proposal for a PUD Master Plan Change. As such, the applicant should be required to resubmit providing the information required by paragraph 7.3.10.K., CDC and the County Planning Department should reassess the preproposal in accordance with this standard. I respectfully request members of the Malind Bluff Community be permitted to take part in any Pre-Application Conference conducted in accordance with paragraphs 7.4.10.B and 7.4.20, CDC. That being said, if you continue to analyze this under the Zoning Map Amendment Review Standards, please consider the following:

(1) Is consistent with and furthers the goals, and policies of the Comprehensive Plan and the purposes of the CDC. The Planning and Zoning Director correctly states that this potential amendment meets the Comprehensive Plan Strategy to "aggressively pursue the development of affordable housing." However, the amendment conflicts with the Comprehensive Plan and Atlas in important ways.

(a) Economy. "It is important for Beaufort County to develop a sustainable economic base, offering opportunities to all its residents. Therefore, this chapter offers the following strategies to develop a resilient economy moving forward: Grow jobs close to where people live." E5 Establish Locational Criteria for new businesses: Locate jobs close to municipalities, outside of environmentally sensitive land and land prone to flooding, and close to the highest concentrations of households to reduce impacts on traffic and commute times; Encourage the planning, development, and permitting of mixed-use developments that will attract young professionals. E5. ACTIONS: E 5.1. Target land purchases to incentivize the location of new employers in walkable mixed use communities such as Buckwalter Place.

(b) Mobility. "the following strategies to maximize the efficiency of the county's road network while promoting policies and alternative transportation choices to reduce our dependence on automobile transportation:

1. M3. Preserve and enhance network efficiency by adopting, applying and enforcing policies to manage access and reduce vehicle miles traveled. Adopt land use policies that encourage internal trip capture and promote development whose location and density are suitable to support public transit and other alternative modes of transportation.

2. M5. Prioritize bicycling and walking to connect residents with jobs, schools and other destinations; provide safe facilities that benefit persons of all economic statuses, ages, and abilities.

(2) Is not in conflict with any provision of the CDC, or the Code of Ordinances.

MRS. CATHERINE E. TRAIL
175 Bay Circle
Beaufort, SC 29906

(a) Place-Type Overlays. Malind Bluff is squarely in the center of a Beaufort County adopted place-type overlay: urban place type: village. the 240 Comprehensive Plan and Atlas adopted by the Council that the area is in an "Urban Place Type." The Atlas states: "Urban places are more complex with concentrations of public infrastructure, community services, and existing homes and businesses. They are located within urbanized areas, and are organized within an interconnected network of streets and blocks in multiple pedestrian sheds. They include areas where one has the opportunity to walk, bike, or ride transit to work, to fulfill daily shopping needs (such as groceries), and to access other amenities within close proximity. These places are composed of elements that create complete walkable places, including downtowns, neighborhood main streets, neighborhood centers, and residential neighborhoods of varying densities and intensities." More specifically, it appears to be designated as a "Village". The Atlas states "Villages" are made up of clusters of residential neighborhoods of sufficient intensity to support a central, mixed-use environment. The mixed-use environment can be located at the intersection of multiple neighborhoods or along a corridor between multiple neighborhoods." This proposal conflicts with the place-type overlay. There is some amount of light industrial/commercial uses within this area already; but all of those are in Jasper County. I think we would want to keep our money in Beaufort County as much as possible, while impacting 170 traffic as little as possible.

(3) Addresses a demonstrated community need. I agree affordable housing is a demonstrated community need.

(4) Is required by changed conditions. This category has been assessed as N/A or Not Applicable. I think the category is applicable and relevant: This proposed amendment is not required.

(5) Is compatible with existing and proposed uses surrounding the land subject to the application, and is the appropriate zone and uses for the land. The Zoning and Planning Director's response to this question is conclusory in nature and unsupported by any objective measure or standard. From the point of view of a resident, the proposed multi-family housing absolutely does not provide a better transition between Highway 170 and the single family development located at Malind Bluff. Commercial development consisting of a grocery store, restaurants, a fitness center, etc., provides a much better transition and the mixed use is of much more benefit to the local community.

(6) Would not adversely affect nearby lands. Multi-Family Residential would absolutely adversely affect nearby lands. For example, Malind Bluff would be deprived of a close and walkable commercial area and it would require residents to venture out onto 170 through one of the most dangerous areas of the 170 corridor through Okatie or instead to spend our money outside of Beaufort County.

(7) Would result in a logical and orderly development pattern. Adding multi-family residential to an already residential area will further saturate the immediate area and is in direct contrast to the place-type overlay zones and the intent of mixed use PUDs.

(8) Would not result in adverse impacts on the natural environment – including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment. An environmental impact study should be done with the proposed amendment to analyze the environmental effects.

(9) Would result in development that is adequately served by public facilities (e..g. streets, potable water, sewerage, stormwater management, solid waste collection and disposal, schools, parks, police, and fire and emergency medical facilities). The site is in close proximity to public sewer and water, schools, fire and EMS. However, the nearest school, Okatie Elementary, is at capacity. Additionally, this amendment eliminates the requirement for the developer to dedicate a 0.5 acre parcel for public safety (Sheriff, Fire, EMS).

5. Thank you all for all your consideration and hard work serving and protecting the residents of Beaufort County.

Sincerely,



Catherine E. Trail

26787 - Sinkler v. City of Charleston

/opinions/HTMLFiles/SC/26787.htm

THE STATE OF SOUTH CAROLINA
In The Supreme Court

G. Dana Sinkler and Anchorage Plantation Home Owners
Association, Petitioners,

v.

County of Charleston, Charleston County Council and Theodora
Walpole and John D. Walpole, Respondents.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal From Charleston County
R. Markley Dennis, Jr., Circuit Court Judge

Opinion No. 26787
Heard January 21, 2010 - Filed March 15, 2010

REVERSED

G. Trenholm Walker, Francis M. Ervin, and Sara E. DeWolf, all
of Pratt-Thomas & Walker, of Charleston, for Petitioners.

County Attorney Joseph Dawson, III, Deputy County Attorney
Bernard E. Ferrara, Jr., Assistant County Attorney Austin A.
Bruner, all of North Charleston; and Gerald M. Finkel, of Finkel
Law Firm, of Charleston, for Respondents.

JUSTICE BEATTY: G. Dana Sinkler and Anchorage Plantation Home Owners Association (collectively, Petitioners) brought this action against the County of Charleston, Charleston County Council, and Theodora and John D. Walpole (collectively, Respondents) challenging an ordinance rezoning the Walpoles' property, Anchorage Plantation, from agricultural to a Planned Development (PD) district. Upon review, the circuit court ruled the ordinance was invalid and that the property should retain its agricultural classification. The Court of Appeals reversed, holding the rezoning to a PD was proper. Sinkler v. County of Charleston, Op. No. 2008-UP-297 (S.C. Ct. App. filed June 5, 2008). We granted a petition for a writ of certiorari to review the decision of the Court of Appeals and now reverse.

I. FACTS

A. Background of Dispute.

The South Carolina Local Government Comprehensive Planning Enabling Act of 1994 (the Enabling Act) granted local governments the authority to create planning commissions to implement comprehensive plans governing development in their communities.[1] In 1999, Charleston County Council enacted the County of Charleston Comprehensive Plan.

The Comprehensive Plan designated Wadmalaw Island part of the Agricultural Area of Charleston County, where the preferred land uses included farming and resource management, along with "preservation of the rural community character." The Comprehensive Plan further provided that development in areas classified as Agricultural Preservation within the Agricultural Area "should primarily support the needs of the farming industry, secondarily allowing for compatible residential development."

The Enabling Act permits the governing body of a county to adopt zoning ordinances to help implement a comprehensive plan. S.C. Code Ann. 6-29-720 (2004 & Supp. 2009). Charleston County Council enacted the Charleston County Zoning and Land Development Regulations (ZLDR) in 2001 to implement its Comprehensive Plan.

Petitioners separately own properties on Wadmalaw Island that are adjacent to a tract of land (roughly 750 acres) owned by the Walpoles. The Walpoles' property was used as a tomato farm and was zoned AG-15, an Agricultural Preservation classification.

Under the ZLDR, the AG-15 classification allows a "maximum density" of one dwelling unit per fifteen acres on interior land, with a "minimum lot area" of three acres. ZLDR 4.4.3(A). For land within one thousand feet of the OCRM[2] critical line, the AG-15 zoning classification allows a maximum density of one dwelling unit for every three acres. ZLDR 4.4.3(B). The configuration of the Walpoles' land limited it to a maximum of 107 dwellings under the AG-15 zoning restrictions.

On June 20, 2003, the Walpoles applied to have their property rezoned to a PD district. Charleston County Council adopted an ordinance rezoning the Walpoles' property from AG-15 to a PD district on February 17, 2004. Under the ordinance, the minimum lot size was reduced to one acre, although the allowed uses remained the same as those under the AG-15 classification. The maximum number of dwellings on the property remained unchanged at 107.

Petitioners brought this declaratory judgment action in 2004, asserting the ordinance rezoning the Walpoles' property was invalid because Charleston County Council exceeded its authority and violated provisions of the Enabling Act and the ZLDR in approving the change.

B. Circuit Court's Ruling.

The circuit court found the ordinance rezoning the Walpoles' property from AG-15 to a PD district was invalid and that the property remained zoned AG-15. The circuit court concluded Charleston County Council exceeded its authority and violated the provisions of both (1) the Enabling Act and (2) the ZLDR.

(1) The Enabling Act. The circuit court first found the ordinance did not meet the essential standards for establishing a PD as provided by sections 6-29-720 and -740 of the Enabling Act.

The circuit court stated the ordinance violated section 6-29-720, governing zoning methods, because the proposed PD plan that was approved failed to meet the statute's definition of a PD. Section 6-29-720 defines a PD as follows:

[A] development project comprised of housing of different types and densities and of compatible commercial uses, or shopping centers, office parks, and mixed-use developments. A planned development district is established by rezoning prior to development and is characterized by a unified site design for a mixed use development[.]

S.C. Code Ann. 6-29-720(C)(4) (Supp. 2009) (emphasis added).

The circuit court noted the development in the proposed area is residential, the same type of development that is already authorized under its current zoning of AG-15. The court stated, "Distilling the PD Ordinance to its essence, its primary effect was simply to reduce the minimum lot size for the up-to-107 residential dwelling units."

The court found the PD plan submitted to Charleston County does not call for "housing of different types and densities and of compatible commercial uses, or shopping centers, office parks, and mixed-use developments," nor is it "characterized by a unified site design for a mixed use development" as required by section 6-29-720(C)(4).

Respondents had alternatively argued that County Council could implement its own zoning districts and did not have to meet the requirements of a PD district provided in the Enabling Act, based on the portion of section 6-29-720(C) that reads as follows:

The zoning ordinance may utilize the following [listing cluster developments, floating zones, performance zoning, and planned development districts, among others] or any other zoning and planning techniques for implementation of the goals specified above. Failure to specify a particular technique does not cause use of that technique to be viewed as beyond the power of the local government choosing to use it[.]

S.C. Code Ann. 6-29-720(C).

The circuit court observed that, "[w]hile the County is correct that the legislature did not confine it to the categories of zoning districts listed in S.C. Code Ann. 6-29-720(C), in this instance the County actually employed one of the enabling statute's specifically defined categories, 'planned development district,' and specifically referred to the Enabling Act as the basis for its authority in 3.5.1, ZLDR." Accordingly, the circuit court concluded the ordinance was intended to implement a PD as described in section 6-29-720(C) rather than "some new, alternative . . . zoning category."

The circuit court further found the ordinance violated section 6-29-740 of the Enabling Act, entitled "Planned development districts," which allows variances from lot size, use, and density requirements contained in other ordinances and regulations through establishment of a PD. Section 6-29-740 provides in relevant part:

In order to achieve the objectives of the comprehensive plan of the locality and to allow flexibility in development that will result in improved design, character, and quality of new mixed use developments and preserve natural and scenic features of open spaces, the local governing authority may provide for the establishment of planned development districts as amendments to a locally adopted zoning ordinance and official zoning map. The adopted planned development map is the zoning district map for the property. The planned development provisions must encourage innovative site planning for residential, commercial, institutional, and industrial developments within planned development districts.

S.C. Code Ann. 6-29-740 (2004) (emphasis added).

The court found that, in comparison to the AG-15 zoning, the proposed PD plan simply reduces the required lot size from three acres to one acre, but it includes "no elements that result in improved design, character, and quality of a new mixed use development." The court stated the proposed plan calls for up to 107 residential dwellings, but the AG-15 zoning already allows this residential use, so "the proposed plan cannot . . . be considered to be a 'new mixed use development.'" The court also noted the proposed plan does not specifically identify any particular land as open space or impose any requirement that the owners preserve open space; moreover, "the proposed plan does not result in more open space than AG-15 zoning, since each would allow up to 107 single family houses."

(2) The ZLDR. As an additional ground for invalidating the ordinance, the circuit court found the ordinance violated the ZLDR. The court noted the ZLDR sections defining the AG-10 and AG-8 zoning districts include the provision that an owner may reach maximum density only through the PD process, citing 4.5.3(B), ZLDR (for AG-10) and 4.6.3(B), ZLDR (for AG-8). "On the other hand, the ZLDR sections governing the more restrictive AG-25 and AG-15 districts have no parallel provision allowing any adjustment to any of the standards through a planned development district or the 'Planned Development process.'" The court concluded County Council did not intend for a property owner to be

able to reduce the residential standards of property zoned AG-15 through a PD process and that the ZLDR do not allow the use of a PD to modify the restrictions of the AG-15 district for residential development.

C. Review by the Court of Appeals.

The Court of Appeals reversed, finding the Walpoles' property was properly rezoned to a PD based on "the deference provided local governing bodies and the flexibility created through the Enabling Act." Sinkler v. County of Charleston, Op. No. 2008-UP-297 (S.C. Ct. App. filed June 5, 2008), slip op. at 2.

The Court of Appeals found "the circuit court exceeded the applicable scope of review because a reviewing court should practice judicial restraint and not supplant its judgment for the local governing authority's judgment." Id. (citing Bob Jones Univ. v. City of Greenville, 243 S.C. 351, 133 S.E.2d 843 (1963)). In addition, citing Lenardis v. City of Greenville, 316 S.C. 471, 472, 450 S.E.2d 597, 598 (Ct. App. 1994), the Court of Appeals stated the appellate court "must leave [the disputed] decision undisturbed if the propriety of that decision is even 'fairly debatable.'" Id.

As to the Enabling Act, the Court of Appeals cited the prefatory language in section 6-29-720(C), which states "[t]he zoning ordinance may utilize the following or any other zoning and planning techniques for implementation of the goals specified above. Failure to specify a particular technique does not cause use of that technique to be viewed as beyond the power of the local government choosing to use it." Id. at 3 (quoting S.C. Code Ann. 6-29-720(C)) (alteration and emphasis in original). The court stated "Sinkler [Petitioners] [had] argued the County Council did not avail itself of this curative language because County Council utilized one of the definitions," but that it "need not explore Sinkler's argument as this court defers to the County Council's judgment regarding the plan." Id. "In the ordinance, the County Council found that the plan met Article 3.5 of the ZLDR" Id.

The Court of Appeals also found County Council's decision was not arbitrary or capricious, citing Bear Enterprises v. County of Greenville, 319 S.C. 137, 459 S.E.2d 883 (Ct. App. 1995). Id. "County Council reviewed the plan for the property multiple times and the county staff recommended rezoning the property. Accordingly, County Council's decision was neither arbitrary nor capricious." Id. at 3-4.

As to the circuit court's finding that the ordinance conflicted with the provisions of the ZLDR, the Court of Appeals held there was no conflict and nothing to suggest that County Council could not change an ordinance that it created. Id. at 4.

The Court of Appeals concluded that, since Petitioners had failed to show that the enacted ordinance conflicted with state law or the ZLDR, that County Council's decision was arbitrary and unreasonable, or that the rezoning violated Petitioners' constitutional rights, it would not substitute its judgment for that of County Council, and it held the circuit court erred in concluding County Council exceeded its lawfully delegated authority. Id. This Court granted a petition for a writ of certiorari to review the decision of the Court of Appeals.

II. LAW/ANALYSIS

Petitioners assert the Court of Appeals erred in (1) applying the wrong standard of review, (2) reversing the circuit court's invalidation of the ordinance on the basis it violates the provisions of the Enabling Act, and (3) reversing the circuit court's invalidation of the ordinance on the basis it conflicts with the ZLDR.

Because we find it dispositive, we direct our attention to Petitioners' argument that it was error to reverse the circuit court's determination that the rezoning ordinance was invalid because it violated the Enabling Act.

As noted above, the circuit court ruled the ordinance did not meet the qualifications for a PD as contained in sections 6-29-720 and -740 of the Enabling Act. The circuit court first found a PD requires "housing of different types and densities" and mixed use, as expressed by section 6-29-720. The court found the only change effected by the zoning ordinance in this case was to reduce the lot sizes so as to allow the property owners to avoid the density restriction mandated by the AG-15 category; all other factors remained the same as the AG-15 category.

Section 6-29-720 of the Enabling Act defines a PD as follows:

[A] development project comprised of housing of different types and densities and of compatible commercial uses, or shopping centers, office parks, and mixed-use developments. A planned development district is established by rezoning prior to development and is characterized by a unified site design for a mixed use development[.]

S.C. Code Ann. 6-29-720(C)(4) (emphasis added).

The circuit court also found the ordinance violated section 6-29-740 of the Enabling Act, governing "Planned development districts," because it includes "no elements that result in improved design, character, and quality of a new mixed use development" as required by the statute. Section 6-29-740 states in relevant part that a PD should "result in improved design, character, and quality of new mixed use developments" and, moreover:

The planned development provisions must encourage innovative site planning for residential, commercial, institutional, and industrial developments within planned development districts.

Id. 6-29-740.

The Court of Appeals found the ordinance did not violate the Enabling Act, stating it would defer to County Council's recitation in the ordinance that it satisfied the requirements for a PD and accord County Council the flexibility and authority contemplated in the Enabling Act.

We hold the circuit court properly concluded the ordinance did not meet the parameters for a PD. As found by that court, the only effect of the ordinance in this instance was to allow the Walpoles to reduce the lot sizes for the property, thus avoiding the restrictions mandated by AG-15 zoning. The ordinance did not provide for housing of different types and densities and compatible commercial use, and it did not create a new mixed use development as contemplated in the statutes of the Enabling Act. The property continued to have only residential dwellings and the ordinance did not plan for future diversity of development. As noted in the excerpt quoted from section 6-29-740 above, PD plans "must encourage innovative site planning for residential, commercial, institutional, and industrial developments within" the PD districts. S.C. Code Ann. 6-29-740.

As one treatise has observed, a PD is a zoning method that is used to create a planned mix of residential and commercial uses for the benefit of the community, as opposed to having only a single-use district:

The planned unit development, in contrast to Euclidean zoning which divides a community into districts and explicitly mandates certain uses, . . . is a district in which a planned mix of residential, commercial, and even industrial uses is sanctioned subject to restrictions calculated to achieve compatible and efficient use of the land.

83 Am. Jur. 2d Zoning and Planning 396 (2003). The goal of a PD district is to have diversification of use and to create, in essence, a self-contained, planned community:

In addition to facilitating flexibility in zoning, the planned unit development also seeks to grant diversification in the location of structures and other site qualities. Thus, the goal of planned unit development is achieved when an entire self-contained little community is permitted to be built within a zoning district, with the rules of density controlling not only the relation of private dwellings to open space, but also the relation of homes to commercial establishments such as theaters, hotels, restaurants, and quasi-commercial uses such as schools and churches.

Id. 398 (footnotes omitted).

The definitions of commentators and courts vary with the kind of planned unit development under discussion, but the description set forth above has been cited by several commentators. See, e.g., 3 Patricia E. Salkin, American Law of Zoning 24:8 (5th ed. 2009) (citing the description and its source, the Supreme Court of Pennsylvania, which applied this definition in Cheney v. Village 2 at New Hope, Inc., 241 A.2d 81 (1968)). Accordingly, the essence of a PD under the Enabling Act is that the property will provide for mixed use. See id. at 24:9 ("Unlike *Euclidian* zoning which forces land development into a preconceived pattern, planned unit development permits the inclusion of a variety of housing types, lot sizes, and even nonresidential uses on a single tract."); Palmer/Sixth St. Props., L.P. v. City of Los Angeles, 96 Cal. Rptr. 3d 875, 878 n.2 (Ct. App. 2009) (noting a land use plan adopted for a specific area of Los Angeles defined a "mixed use" project as "[a]ny Project which combines a commercial use with a residential use, either in the same building or in separate buildings on the same lot or lots" (citing Plan, 4, Definitions)); Trail v. Terrapin Run, LLC, 920 A.2d 597, 606 (Md. Ct. Spec. App. 2007) (stating planned development "means more than just a subdivision or the concept would be unnecessary" and that "[t]he definition itself 'includes' different uses by virtue of its reference to mixed use development").

Respondents alternatively asserted that they did not have to meet the parameters of a PD under the Enabling Act because County Council was free to employ other zoning techniques, citing the prefatory language of section 6-29-720(C) governing zoning methods, which allows County Council to use one of the enumerated techniques or other techniques. We agree with the circuit court that County Council clearly chose to employ the PD process for the Walpoles' property and, once having invoked that technique, it could not arbitrarily fail to meet the requirements for a PD. Consequently, we hold the circuit court correctly ruled the ordinance is invalid because it did not properly establish a PD as contemplated by the terms of the Enabling Act, and we reverse the Court of Appeals' determination on this point.

III. CONCLUSION

Based on the foregoing, we reverse the decision of the Court of Appeals and hold the circuit court properly invalidated the ordinance rezoning the Walpoles' property from AG-15 to a PD district because the requirements for a PD district under the Enabling Act were not met.

REVERSED.[3]

TOAL, C.J., PLEICONES, HEARN, JJ., and Acting Justice James E. Moore, concur.

[1] See S.C. Code Ann. 6-29-320 (2004) ("The county council of each county may create a county planning commission."); id. 6-29-510(A) (stating a local planning commission shall develop and maintain a comprehensive plan to guide development in its area of jurisdiction).

[2] OCRM refers to the Office of Ocean and Coastal Resource Management of the South Carolina Department of Health and Environmental Control.

[3] To the extent Petitioners assert the Court of Appeals applied the wrong standard of review, we find no error. The Court of Appeals found Petitioners failed to show the ordinance conflicted with state law or the ZLDR or that County Council had exceeded its lawfully delegated authority. We conclude the cases cited by the Court of Appeals are correct statements of the law in this area. However, because we agree with Petitioners that the circuit court properly invalidated the ordinance on the basis it violated the Enabling Act, we need not reach the remaining argument that the ordinance also violated the ZLDR.



Celebrating 50 Years of Land Protection

Beaufort County Planning Commission
100 Ribaut Road,
Beaufort, SC 29902

January 3, 2022

Chairman Pappas and Beaufort County Planning Commission

Please accept the following letter of support from the Open Land Trust on agenda items 9 and 10 as stated below. We offer the following comments relying on experience from our role as contractor for the Rural and Critical Lands Preservation Program, however, we are not speaking for the Rural and Critical Lands Board members.

9. ADOPTION OF THE 2020 BEAUFORT COUNTY GREENPRINT PLAN AS AN APPENDIX TO THE "ENVISION BEAUFORT COUNTY 2040 COMPREHENSIVE PLAN"

10. ZONING MAP AMENDMENT/REZONING REQUESTS FOR 19 RURAL AND CRITICAL LANDS PROPERTIES FROM VARIOUS ZONINGS TO T1 NATURAL PRESERVE (T1NP)

With respect to item 9, **we fully support the inclusion of the 2020 Beaufort County Greenprint Plan as an appendix to the Envision Beaufort 2040 Comprehensive Plan** and believe it offers helpful perspective – both qualitative and quantitative – on the natural resources in Beaufort County. When used as a complement to the Comprehensive Plan, the Greenprint will offer important information on the best places to protect land, to continue to develop, and the ways to strike the appropriate balance with future zoning changes and regulations should that be necessary. The Greenprint plan provides appropriate context – whether its consideration for critical habitat, future sea level rise, and/or proximately to public access - for those decisions and a greater degree of predictability for all parties involved.

The Rural and Critical Lands Preservation Program board formed a subcommittee to review the Greenprint text and maps in early 2021 and endorsed the plan. We use it regularly when reviewing applications or planning proactively. The habitat data employed in the plan is also used by several conservation partners, including South Carolina Department of Natural Resources. The details with respect to marsh migration and resilience will become increasingly important in all planning efforts and further complement the new Resilience element of the **2040 Comprehensive Plan.**

The Board of Directors: Terry Murray *President*, Dean Moss *Vice President*, Al Segars *Secretary*, Katie C. Phifer *Treasurer*
Colden R. Battey, Jr., Patricia A. Denkler, Vernita F. Dore, Ashley Rhodes, Al Stokes, Thomas Tayloe, Beekman Webb
Executive Director: Kristin Williams **Founding Trustees:** Marguerite Broz, John M. Trask, Jr., Betty Waskiewicz



Given the value of the Greenprint individually, the connected nature of natural resource protection to land planning, in addition to the numerous existing references, we encourage adoption of the 2020 Greenprint as an appendix to the 2040 Comprehensive Plan.

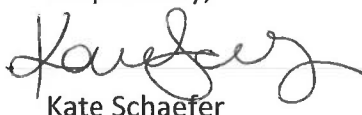
With respect to item 10, **we fully support the rezoning requests for 19 Rural and Critical Lands properties to T1 Natural Preserve.** This is another example of an appropriate and important action and we commend the Planning Department for spearheading this effort. We encourage its swift adoption.

The Rural and Critical Lands Preservation Program protects land in two ways: by purchase of development rights using a conservation easement, or by fee purchase. When protected by conservation easements, accredited land trusts like the Open Land Trust, hold and enforce the easements in perpetuity. When protected by fee purchase, the County owns the property and the property becomes part of the Passive Parks program and may be opened to the public for use in that manner. Passive park properties purchased with Rural and Critical Land program dollars carry conservation value in addition to their value as a potential passive park so some form of protection is prudent and necessary. To accomplish this in 2019, the County Planning Department created covenants and restrictions for Bailey Memorial Park, based on their professional knowledge and community input. While not perpetual like an easement, these covenants and restrictions are important for the property today and telling for its future, signaling to future Councils and stewards about the conservation values of the property.

Rezoning Passive Park properties to T1 Nature Preserve is another way to align their zoning and future land use with their intended use today and their passive park value. Several of these properties, including North Williman Island, the Highway 170 hummocks, and Station Creek on St Helena already represent what this zoning would allow – research lands managed for maritime forest and marsh migration, scenic vistas that provide critical habitat, and places for water access. Others like Crystal Lake Park, Brewer Memorial, Bailey Memorial and Pineview are existing or planned passive parks where current use and future enjoyment will not be hindered by this rezoning. T1 Nature Preserve zoning does not bind future councils but does signal that the best use for the 19 properties considered before you is as a passive park. This helps ensure these important properties exist as passive parks in the years to come, continuing to provide water access, passive recreation, and conservation value for current and future generations. We fully support this rezoning and encourage you to do the same.

Thank you for the opportunity to provide comments this evening and for beginning a new year with these important successes.

Respectfully,

A handwritten signature in black ink, appearing to read 'Kate Schaefer', written in a cursive style.

Kate Schaefer

From: Jessica Palladino <[REDACTED]>
Sent: Wednesday, December 29, 2021 3:39 PM
To: Smith, Juliana <juliana.smith@bcgov.net>
Subject: In support of rezoning application # RCLP2022, R600 00B 0147 confederate ave

[EXTERNAL EMAIL] Please report any suspicious attachments, links, or requests for sensitive information to the Beaufort County IT Division at helpdesk@bcgov.net or to 843-255-7000.

Dear Juliana Smith,

I have lived on Confederate Avenue going on five years now. Since I've been here, the demolition of our natural environment has ever increasing become a point of concern. The builders buy the land and cut every tree to the ground, building massive cookie-cutter houses, destroying the reason why many people want to move here in the first place. One of the reasons why I love my street is because we have an unaltered forest. How many afternoons and mornings I have walked through the trees in peace and solitude! I am in support for the rezoning to protect this land as a nature preserve. Thank you for taking the initiative to present a case we are all behind.

Thank you kindly
Jessica Palladino
35 Confederate Ave
Bluffton SC 29910

Sent from my iPhone

My name is Monty Gilmore. I live at 128 confederate ave. I have been here for 20 years. I would like to see the woods on confederate to be left along. We need to preserve the wooded area for wild life. I have been watching the wild life grow for years. Deer. Rabbits. Wild turkeys on occasion. I have even seen fox lately. I think we need to leave it along. The wild life has no where to go and grow.

Jeffrey Dubois
B.S. Marine Science
University of Maine

Approval of T1 Nature Preserve

First thank you for your time in reading this essay in support of the rezoning effort that is being led by Juliana Smith for rezoning application # RCLP2022 , R600 00B 0147. One of the greatest pleasures of Beaufort County is the feeling that we are living among nature. The habitat allows for a flourishing population of song birds, shore birds and foraging mammals. The tax payer's life is enhanced by this symbiosis with nature in more ways than just one. I will focus on the effects that wetlands have in freshwater replenishment, the usefulness of protected land during and following natural disasters, and the psychological benefits of living in a natural setting.

Beaufort county is located in a region well known as the Lowlands. The maximum altitude in this region is just over 100ft, with much of the area at only 35 feet above mean sea level. When it rains, there is little opportunity for any excessive nutrient runoff to be absorbed by the environment. Wetlands will assist in the replenishment of clean groundwater and the absorption of extra nutrients. Reduction of wetlands can lead to salt water intrusion where the salt water is able to make its way further into the ground because of the lack of freshwater pressure. If this wetland is preserved it will contribute to a healthier May River Watershed.

Hurricanes are an unhappy truth of the warm climate that we enjoy in the south eastern region of the United States. While we may go years without incident, Matthew taught us that we should always be hurricane prepared, not just the week before the local meteorologist warns us. Wetlands provide safe space for water to spread and sink into the earth, reducing floods damage impacts on the community. A nature preserve allows the municipality the opportunity to dispose of natural refuge that is left over from the storms in a place that can recycle and reuse the resources that the storm provides.

It was hard to find empirical evidence for the phycological benefits of living around a natural environment. Since the 1880's and then later the 1950's industrial growth has existed not only in the commercial sectors, but also in the residential areas. With each growing town, swaths of land are clear cut and reduced to rubble to build subdivisions to house the need for workers. We welcome this increase to our economy and our tax revenue, but we want to protect areas for our children to enjoy in the years to come. Having these natural areas can assist with the reduction of stress and by having a place to go to get away from the stresses of an indoor life.

A healthy watershed, the space to help mitigate extreme weather events, and the joy of a community help formulate my argument for why I believe these 19-county owned passive parks should all be rezoned to a T1 Nature preserve. Please add the Confederate forest to the 25,000 acres of land that Beaufort has preserved since 2000. Doing so will help the environment, our community and all who visit our beautiful state. Thank you and have a great day.



MEMORANDUM

TO: Beaufort County Planning Commission
FROM: Juliana Smith, Beaufort County Planning and Zoning Department
DATE: April 4, 2022
SUBJECT: Review of Community Development Code – Proposed Text Amendments

STAFF REPORT:

A. BACKGROUND: In November 2021, Beaufort County Council adopted the 2040 Comprehensive Plan. As a result, staff have been reviewing the Community Development Code (CDC) for necessary amendments. During our review, staff have identified necessary major and minor corrections to the CDC to improve and clarify its standards. These amendments will be presented in several batches for consideration. This is the first batch of recommended amendments, which includes only minor changes.

B. SUMMARY OF REQUEST: To help navigate through the list of the first batch of recommended amendments, below is a summary of each of the five amendments up for consideration. More detailed explanations follow in the attachments, along with the amended CDC sections:

1. TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): APPENDIX A.13.50.D (GUEST HOUSES) clarifies minimum lot size requirements for guest houses located in the May River Community Preservation District.
2. TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): SECTIONS IN DIVISION 3.2 (TRANSECT ZONES) AND SECTIONS IN DIVISION 3.3 (CONVENTIONAL ZONES) corrects and clarifies conflicts between zoning districts and the Parking Space Requirements Table in Section 5.5.40.B.
3. TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): SECTION 6.1.40.G (BASE SITE AREA CALCULATIONS) clarifies that both jurisdictional and non-jurisdictional wetlands must be subtracted from the gross site area to determine base site area for development.
4. TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): SECTION 4.1.330 (ECOTOURISM) replaces reference to the Ecotourism Society (TES) and specifies base site area calculations for ecotourism.
5. TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): SECTION 5.11.100.F.1 (TREE REMOVAL ON DEVELOPED PROPERTIES) closes a loophole which allows specimen and mitigation trees to be removed post-construction of single-family homes.

C. STAFF RECOMMENDATION: Staff recommends approval.

D. ATTACHMENTS: Revised Community Development Code sections.

Section A.13.50.D (Guest Houses): Section A.13.50.D addresses guest house allowances for existing lots of record south of May River Road. As written, the language leaves no direction on lots greater than five acres that exist prior to the adoption of the May River Community Preservation district (MRCP). It only addresses lots that are two to five acres that *existed prior* to the adoption of the MRCP and lots that are five acres or more that were *created after* the adoption of the MRCP. Staff recommends removing the language referencing lot-origination dates to capture all property sizes south of May River Rd and provide clear guidance determining the number of guest house allowed for all properties in that portion of the district.

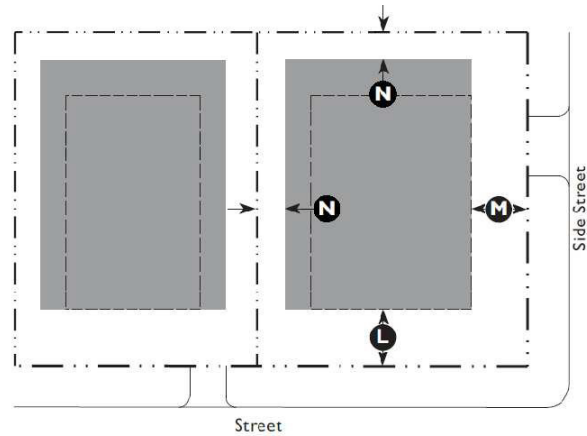
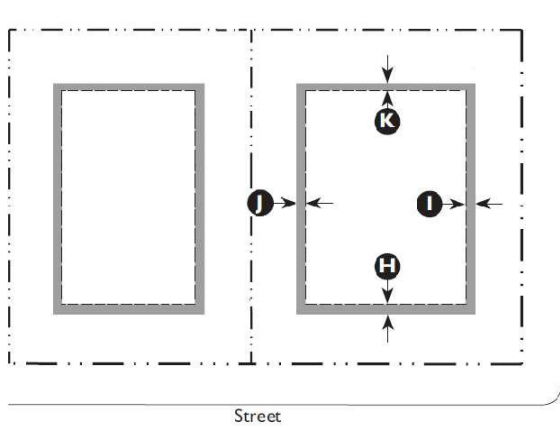
A.13.50 Conditional and Special Use Standards

D. Guest houses.

1. Guest houses shall be permitted South of May River Road.
2. A guest house shall be subordinate to the principal dwelling and be for use by the property owner and his/her guests only.
3. A guest house is deemed to be a part of the main property owners compound and is not intended to be subdivided for other uses. They shall adhere to the front, rear, and side setbacks listed for the principle structure.
4. A guest house is for use by the property owner and his/her family and guests only. They shall not be leased or rented, and must gain their access from the driveway of the principal house.
5. Existing ~~lots of record~~ lots that are two to five acres in size are permitted one guest house, not to exceed 2,000 square feet. Lots ~~created after the adoption of the May River CP District~~ that are five acres or more in size are permitted one or more guest houses; however, the total square footage of all guest dwellings (houses) may not exceed 75 percent of the square footage of the principal house. Furthermore, the total square footage of all guest houses (when added together) may not exceed 5,000 square feet.
6. Nothing herein shall prevent the construction of a guest house prior to the construction of the principal dwelling.
7. Manufactured (i.e., mobile) homes shall not be permitted to be used as guest houses.

Sections in Division 3.2 (Transect Zones) and Division 3.3 (Conventional Zones): The CDC contains parking space requirements in both the individual transect and conventional zone standards in Division 3.2 and 3.3 and in Table 5.4.40.B. Parking space requirements were included in both places in order to simplify navigation of the CDC for ease of interpretation. However, staff have recognized inconsistencies between Table 5.4.40.B and Zoning District requirements in Divisions 3.2. and 3.3. This amendment corrects conflicts by removing parking requirements from all Transect (except the T4 districts) and Conventional zones and replacing them with reference to Table 5.4.40.B. Because the T4 districts are intended to create walkable and mixed-use communities, staff recommends keeping specific parking allowances within the T4 district sections to reduce the number of required parking spaces and prevent over-parking of these districts.

3.2.40 T2 Rural (T2R) Standards



Key
 - - - - ROW / Property Line ■ Encroachment Area
 ——— Setback Line

Key
 - - - - ROW / Property Line ■ Allowed Parking Area
 ——— Setback Line

F. Encroachments and Frontage Types

Encroachments		
Front	5' max.	(H)
Side Street	5' max.	(I)
Side	5' max.	(J)
Rear	5' max.	(K)

Encroachments are not allowed within a Street ROW/Alley ROW, or across a property line.

See Division 5.2 (Private Frontage Standards) for further refinement of the allowed encroachments for frontage elements.

Allowed Frontage Types

Common Yard	Porch: Engaged
Porch: Projecting	

G. Parking

Required Spaces: Residential Uses	
Single-Family Detached	3 per-unit

Required Spaces: Service or Retail Uses	
Lodging: Inn	1 per room

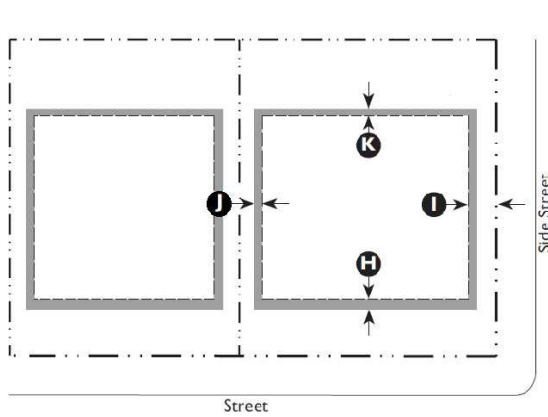
For parking space requirements for all other allowed uses see Table 5.5.40.B (Parking Space Requirements).

Location (Setback from Property Line)

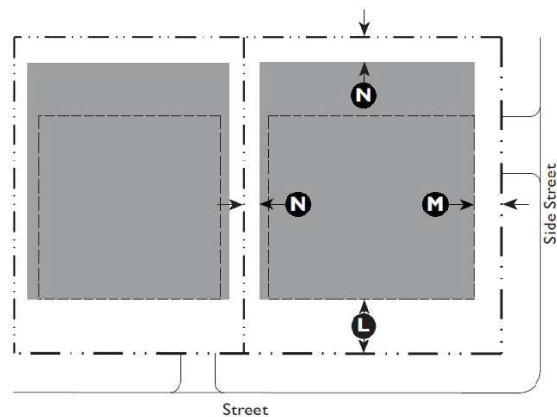
Front	50' min.	(L)
Side Street	50' min.	(M)

Rear and interior side yard parking setbacks are governed by the applicable perimeter buffer (see Tables 5.8.90.D and 5.8.90.F) and any other required buffers.

3.2.50 T2 Rural Neighborhood (T2RN) Standards



Key
 - - - - ROW / Property Line ■ Encroachment Area
 - - - - Setback Line

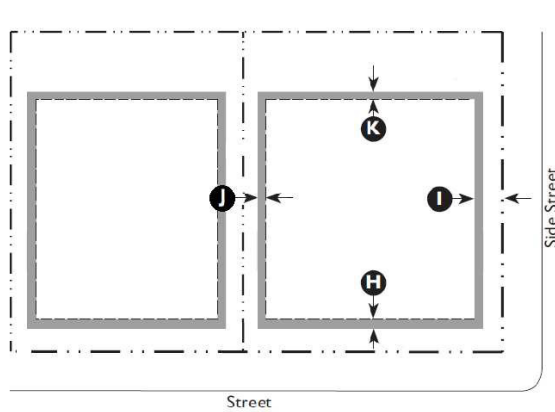


Key
 - - - - ROW / Property Line ■ Allowed Parking Area
 - - - - Setback Line

G. Encroachments and Frontage Types		
Encroachments		
Front	5' max.	(H)
Side Street	5' max.	(I)
Side	5' max.	(J)
Rear	5' max.	(K)
Retail, Offices, Services	1 per 300 GSF	
Encroachments are not allowed within a Street ROW/Alley ROW		
Buffers, or across a property line. See Division 5.2 (Private Frontage Standards) for further refinement of the allowed encroachments for frontage elements.		
Allowed Frontage Types		
Common Yard	Porch: Engaged	
Porch: Projecting	Shop front	

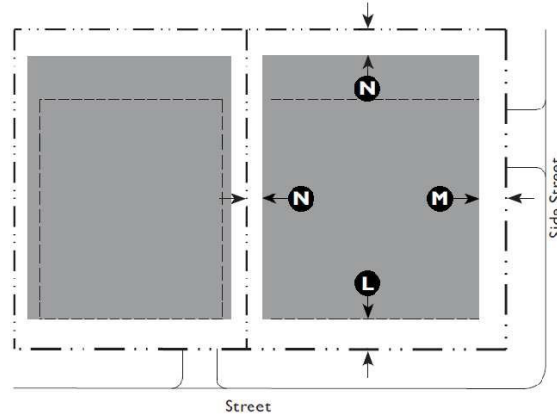
H. Parking		
Required Spaces: Residential Uses		
Single-family detached	3 per unit	
Required Spaces: Service or Retail Uses		
Retail, Offices, Services	1 per 300 GSF	
Restaurant, Café, Coffee Shop	1 per 150 GSF	
For parking space requirements for all other uses see Table 5.5.40.B (Parking Space Requirements).		
Location (Setback from Property Line)		
Front	35' min.	(L)
Side Street	20' min.	(M)
Rear and interior side yard parking setbacks are governed by the applicable perimeter buffer (see Tables 5.8.90.D and 5.8.90.F) and any other required buffers.		(N)

3.2.60 T2 Rural Center (T2RC) Standards



Key

- - - - ROW / Property Line
- - - - Setback Line
- Encroachment Area



Key

- - - - ROW / Property Line
- - - - Setback Line
- Allowed Parking Area

E. Encroachments and Frontage Types

Encroachments		
Front	5' max.	(H)
Side Street	5' max.	(I)
Side	5' max.	(J)
Rear	5' max.	(K)

Encroachments are not allowed within a Street ROW/Alley ROW, Buffers, or across a property line. See Division 5.2 (Private Frontage Standards) for further refinement of the allowed encroachments for frontage elements.

Allowed Frontage Types

Common Yard	Porch: Engaged
Porch: Projecting	Shop front

F. Parking

Required Spaces: Residential Uses

Single-family detached	3 per unit
Community residence	1 per bedroom

Service or Retail Uses:

Retail, offices, services	1 per 300 GSF
Restaurant, Café, Coffee Shop	1 per 150 GSF

Drive-through facility Add 5 stacking spaces per drive-through

Lodging: Inn 1 per room

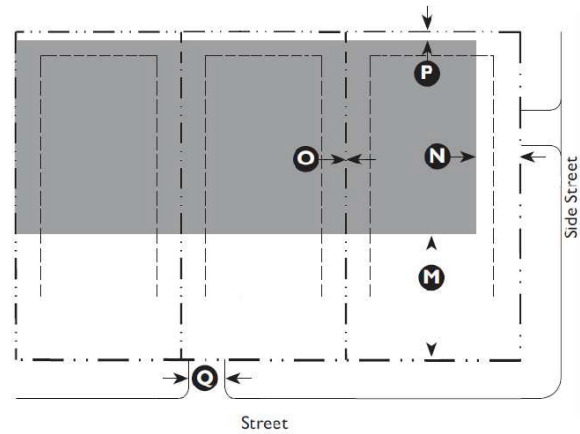
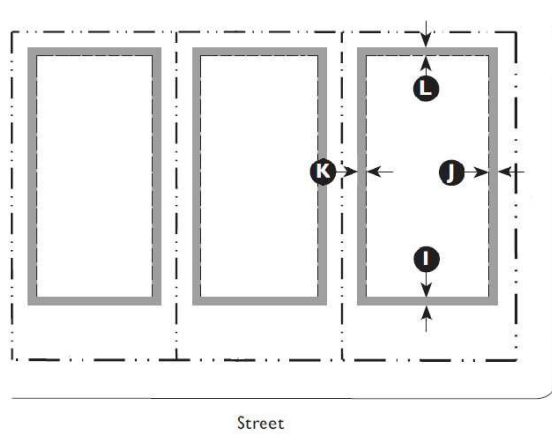
For parking space requirements for all other uses see Table uses see Table 5.5.40.B (Parking Space Requirements).

Location (Setback from Property Line)

Front	10' min.	(L)
Side Street	15' min.	(M)

Rear and interior side yard parking setbacks are governed by the applicable perimeter buffer (see Tables 5.8.90.D and 5.8.90.F) and any other required buffers.

3.2.70 T3 Edge (T3E) Standards



Key

- ROW / Property Line
- Setback Line
- Encroachment Area

Key

- ROW / Property Line
- Setback Line
- Allowed Parking Area

E. Encroachments and Frontage Types

Encroachments

Front	5' max.	(I)
Side Street	5' max.	(J)
Side	3' max.	(K)
Rear	5' max.	(L)

Encroachments are not allowed within a Street ROW/Alley ROW, Buffers, or across a property line. See Division 5.2 (Private Frontage Standards) for further refinement of the allowed encroachments for frontage elements.

Allowed Frontage Types

Common Yard	Porch: Engaged
Porch: Projecting	Porch: Side Yard

F. Parking

Required Spaces

Residential Uses:

All Allowed Uses _____ 2 per-unit

Service or Retail Uses:

All Allowed Lodging Uses _____ 1 per 2 rooms

For parking **space** requirements for Agricultural, Recreation, Public Assembly, and Transportation, Communication, Infrastructure uses see Table 5.5.40.B (Parking Space Requirements).

Location (Setback from Property Line)

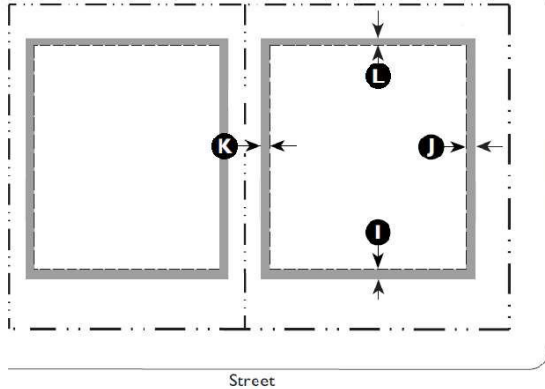
Front	50' min.	(M)
Side Street	25' min.	(N)
Side	0' min.	(O)
Rear	5' min.	(P)

Miscellaneous

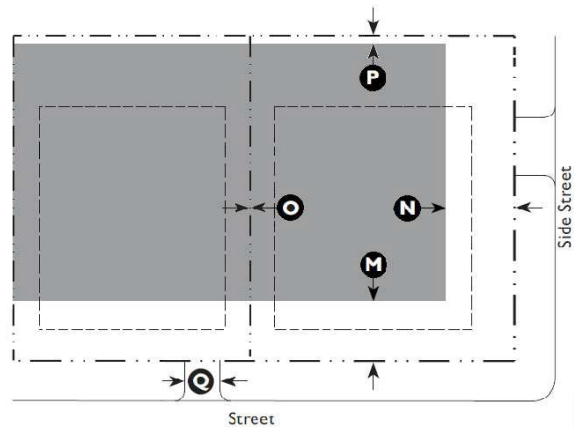
12' maximum driveway width at the curb cut and within the front or side street parking setback. Community Residences and Meeting Facilities/Places of Worship are exempt from this requirement.

(Q)

3.2.80 T3 Hamlet Neighborhood (T3HN) Standards



Key
 - - - - ROW / Property Line ■ Encroachment Area
 - - - - Setback Line

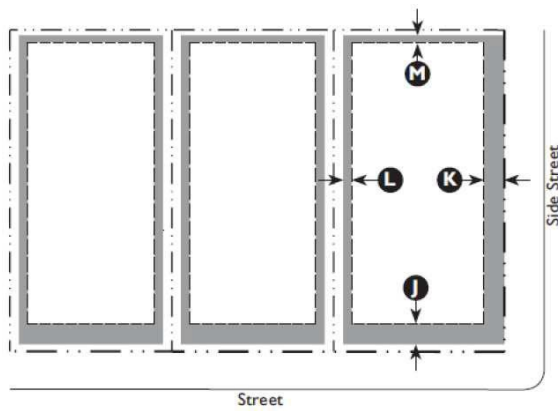


Key
 - - - - ROW / Property Line ■ Allowed Parking Area
 - - - - Setback Line

E. Encroachments and Frontage Types		
Encroachments		
Front	5' max.	(I)
Side Street	5' max.	(J)
Side	3' max.	(K)
Rear	5' max.	(L)
Encroachments are not allowed within a Street ROW/Alley ROW, buffers, or across a property line.		
See Division 5.2 (Private Frontage Standards) for further refinement of the allowed encroachments for frontage elements.		
Allowed Frontage Types		
Common Yard	Porch: Engaged	
Porch: Projecting	Porch: Side Yard	

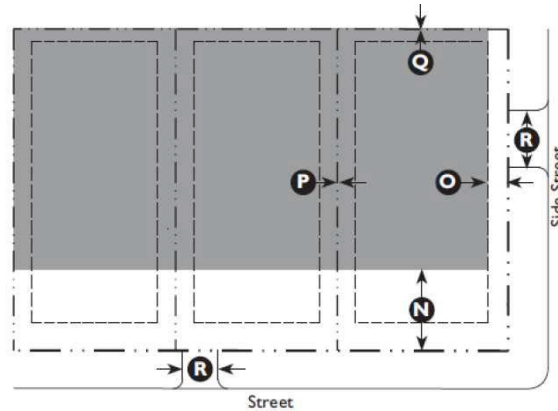
F. Parking		
Required Spaces: Residential Uses		
Single-family detached	2 per unit	
Two-family unit (duplex)	2 per unit	
Community residence	1 per bedroom	
Required Spaces: Service or Retail Uses		
For parking space requirements for all other uses see Table 5.5.40.B (Parking Space Requirements).		
Location (Setback from Property Line)		
Front	50' min.	(M)
Side Street	25' min.	(N)
Side	0' min.	(O)
Rear	5' min.	(P)
Miscellaneous		
12' maximum driveway width at the curb cut and within the front or side street parking setback. Community Residences and Meeting Facilities/Places of Worship are exempt from this requirement.		(Q)

3.2.90 T3 Neighborhood (T3N) Standards



Key

- ROW / Property Line
- Setback Line
- Encroachment Area



Key

- ROW / Property Line
- Setback Line
- Allowed Parking Area

F. Encroachments and Frontage Types

Encroachments		
Front	5' max.	(J)
Side Street	5' max.	(K)
Side	3' max.	(L)
Rear	5' max.	(M)

Encroachments are not allowed within a Street ROW/Alley ROW, buffers, or across a property line.

See Division 5.2 (Private Frontage Standards) for further refinement of the allowed encroachments for frontage elements.

Allowed Frontage Types

Common Yard	Porch: Engaged
Porch: Projecting	Porch: Side Yard

G. Parking

Required Spaces: Residential Uses

Single-family detached	2 per-unit
Two-family (duplex)	2 per-unit
Multi-family units	1.25 per-unit
Community residence	1 per-bedroom

Required Spaces: Service or Retail Uses

Offices & services	1 per 300-GSF
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For parking **space** requirements for Agricultural, Industrial, Recreation, Education, Public Assembly, and Transportation, Communication, Infrastructure uses see Table 5.5.40.B (Parking Space Requirements).

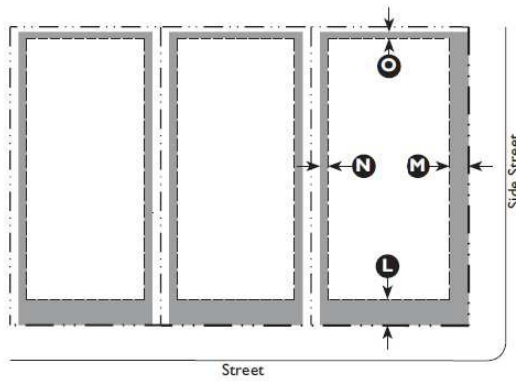
Location (Setback from Property Line)

Front	40' min.	(N)
Side Street	15' min.	(O)
Side	0' min.	(P)
Rear	5' min.	(Q)

Miscellaneous

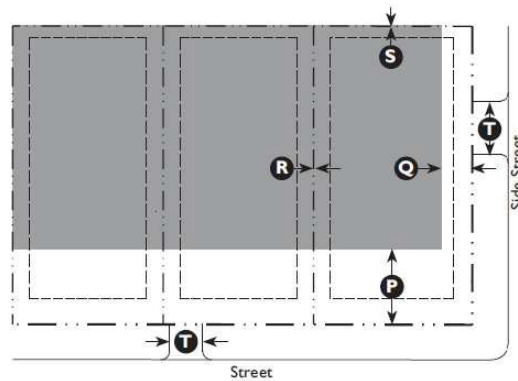
12' maximum driveway width at the curb cut and within the front or side street parking setback.	(R)
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3.2.100 T4 Hamlet Center (T4HC) Standards



Key

- ROW / Property Line
- Setback Line
- Encroachment Area



Key

- ROW / Property Line
- Setback Line
- Allowed Parking Area

F. Encroachments and Frontage Types

Encroachments		
Front	12' max.	(L)
Side Street	12' max.	(M)
Side	3' max.	(N)
Rear	3' max.	(O)

Encroachments are not allowed across a side or rear property line, or across a curb.

See Division 5.2 (Private Frontage Standards) for further refinement of the allowed encroachments for frontage elements.

Allowed Frontage Types

Common Yard	Forecourt
Porch: Projecting	Dooryard
Porch: Engaged	Porch: Side Yard
Stoop	Shopfront ¹
Terrace ¹	

¹ Allowed in T4HC-O Sub-Zone only.

G. Parking

Required Spaces: Residential Uses

Single-family detached	2 per unit
Single-family attached/duplex	2 per unit
Multi-family units	1.25 per unit
Community residence	1 per bedroom

Required Spaces: Service or Retail Uses

Retail, Offices, Services	1 per 300 GSF
Restaurant, Café, Coffee Shop	1 per 150 GSF
Drive-through Facility	Add 5 stacking spaces per drive-through
Gas Station/Fuel Sales	1 per pump plus requirements for retail
Lodging: Inn/hotel	1 per room

Required Spaces: Industrial Uses

Light manufacturing, processing and packaging	1 per 500 GSF
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Warehousing/Distribution	1 per 2,000 GSF
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Parking standards listed within the district shall govern. For parking space requirements for all other uses see Table 5.5.40.B (Parking Space Requirements).

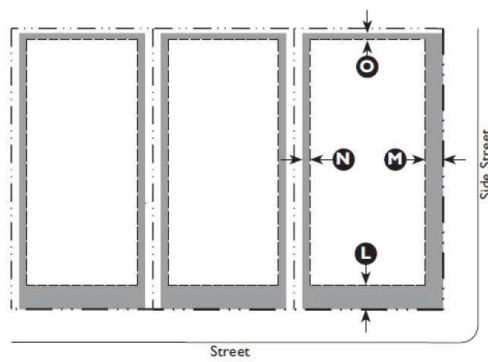
Location (Setback from Property Line)

Front: 5' behind front facade of main building	(P)
Side Street: 5' behind side facade of main building	(Q)
Side: 0' min.	(R)
Rear: 5' min.	(S)

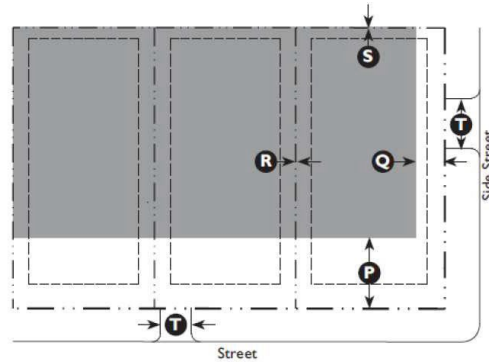
Miscellaneous

Parking Driveway Width	(T)
40 spaces or less	14' max.
Greater than 40 spaces	18' max.

3.2.110 T4 Neighborhood Center (T4NC) Standards



Key
 ---- ROW / Property Line ■ Encroachment Area
 ——— Setback Line



Key
 ---- ROW / Property Line ■ Allowed Parking Area
 ——— Setback Line

E. Encroachments and Frontage Types

Encroachments		
Front	12' max.	Ⓚ
Side Street	12' max.	Ⓜ
Side	3' max.	Ⓝ
Rear	3' max.	Ⓞ

Encroachments are not allowed across a side or rear property line, or across a curb.

See Division 5.2 (Private Frontage Standards) for further refinement of the allowed encroachments for frontage elements.

Awnings, Galleries and Arcades may encroach further into the street ROW to within 2' of the face of curb. Eaves may encroach up to 3' into the street ROW. All other encroachments are not allowed

within street ROW.

Allowed Frontage Types

Porch: Projecting	Dooryard
Porch: Engaged	Porch: Side Yard
Stoop	Shop front
Forecourt	Terrace
Gallery	

F. Parking

Required Spaces: Residential Uses

Single-family detached	2 per unit
Single-family attached/duplex	2 per unit
Multi-family units	1.25 per unit
Community residence	1 per bedroom
Live/work	2 per unit plus 1 per 300 GSF of work area

Required Spaces: Service or Retail Uses

Retail, offices, services	1 per 300 GSF
Restaurant, café, coffee shop	1 per 150 GSF
Drive-through facility	Add 5 stacking spaces per drive-through
Gas station/fuel sales	1 per pump plus requirement for retail
Lodging: Inn/hotel	1 per room

Required Spaces: Industrial Uses

Light manufacturing, processing and packaging	1 per 500 GSF
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Warehousing/Distribution	1 per 2,000 GSF
--------------------------	-----------------

Parking standards listed within the district shall govern. For parking space requirements for all other uses see Table 5.5.40.B (Parking Space Requirements).

Location (Setback from Property Line)

Front	40' min.	
Side Street	15' min.	Ⓚ
Side	0' min.	Ⓜ
Rear	5' min.	Ⓝ

Miscellaneous

Parking Driveway Width:		
40 spaces or less	14' max.	Ⓞ
Greater than 40 spaces	18' max.	

3.3.30 Neighborhood Mixed Use (C3) Zone Standards

A. Purpose

The Neighborhood Mixed Use (C3) Zone provides for high-quality, moderate-density (averaging under three dwelling units per acre) residential development, with denser areas of multi-family and mixed-use development to provide walkability and affordable housing options. The design requirements are intended to provide a suburban character and encourage pedestrian, as well as automobile, access.

Open spaces shall be provided in sufficient quantity to ensure an open quality with a predominance of green space. Non-residential uses shall be limited to parcels having access to arterial or collector streets or within a Traditional Community Plan. This Zone provides for the lower densities of areas designated Neighborhood Mixed-Use in the Comprehensive Plan. It is intended to support the development of communities with a diverse range of housing types and uses.

B. Building Placement

Setback (Distance from ROW/Property Line)

Front	30' min. ¹
Side:	
Side, Main Building	10' min.
Side, Ancillary Building	10' min.
Rear	50' min.

¹ The minimum front setback for mansion apartments in a Multi-family community on internal streets is 15 feet.

Lot Size

Lot Size	10,890 SF min.
Width	70' min.

Minimum Site Area

Single-Family and Duplex	10,890 SF
Multi-Family	21,780 SF

Note:

For development within a Traditional Community Plan meeting the requirements of Division 2.3, setback, minimum lot size and minimum site area requirements of the transect zone established and delineated on the regulating plan shall apply.

C. Building Form

Building Height	
Single Family and Duplex	2.5 stories max.
Multi-Family	2.5 stories max.
Non-Residential Buildings	2 stories max.
Institutional Buildings	35 feet above grade
Ground Floor Finish Level	No minimum

D. Gross Density¹ and Floor Area Ratio

Gross Density	
Single-Family Detached	2.6 d.u./acre
Single-Family Attached/Duplex	2.6 d.u./acre
Multi-Family Unit	12 d.u./acre, Maximum of 80 Dwelling units
Traditional Community Plan	3.5 d.u./acre ²

Floor Area Ratio

Non-residential buildings	0.18 max.
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¹ Gross Density is the total number of dwelling units on a site divided by the Base Site Area (Division 6.1.40.F)

² Subject to the requirements in Division 2.3

E. Parking

Required Spaces: Residential Uses

Single-family detached	3 per unit
Single-family attached/duplex	2 per unit
Multi-family units	1.25 per unit
Community residence	1 per bedroom
Live/work	2 per unit plus 1 per 300 GSF of work area

Required Spaces: Service or Retail Uses

Retail, offices, services	1 per 300 GSF
Restaurant, Café, Coffee Shop	1 per 150 GSF
Gas station/fuel sales	1 per pump plus requirement for retail
Lodging: Inn/hotel	1 per room

For parking **space** requirements for all other allowed uses see Table 5.5.40.B (Parking Space Requirements).

3.3.40 Community Center Mixed Use (C4) Zone Standards

A. Purpose

The Community Center Mixed Use (C4) Zone provides for a limited number of retail, service, and office uses intended to serve the surrounding neighborhood.

These are smaller uses and not highway service types of uses. The intensity standards are set to ensure that the uses have the same suburban character as the surrounding suburban residential areas. They are intended to blend with the surrounding areas, not threaten the character of the area. This Zone shall not consist of strip developments but rather neighborhood centers with a sense of place.

B. Building Placement

Setback (Distance from ROW/Property Line)

Front	20' min.
-------	----------

Side:

Side, Main Building	10' min.
---------------------	----------

Side, Ancillary Building	10' min.
--------------------------	----------

Rear	15' min.
------	----------

Lot Size

Lot Size	5,000 SF min.
----------	---------------

Width	50' min.
-------	----------

Minimum Site Area

Single-Family and Duplex	5,000 SF
--------------------------	----------

Multi-Family	21,780 SF
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Note:

For development within a Traditional Community Plan meeting the requirements of Division 2.3, setback, minimum lot size and minimum site area requirements of the transect zone established and delineated on the regulating plan shall apply.

C. Building Form

Building Height

Single-Family and Duplex	2.5 stories max.
--------------------------	------------------

Multi-Family	3 stories max.
--------------	----------------

Non-Residential Buildings	2 stories max.
---------------------------	----------------

Ground Floor Finish Level	No minimum
---------------------------	------------

D. Gross Density¹ and Floor Area Ratio

Gross Density	12 d.u./acre max.
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Floor Area Ratio ²	0.23 max.
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¹ Gross Density is the total number of dwelling units on a site divided by the Base Site Area (Division 6.1.40.F).

² Requirement applies to non-residential buildings.

E. Parking

Required Spaces: Residential Uses

Single-family detached	3 per unit
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Single-family attached/duplex	2 per unit
-------------------------------	------------

Multi-family units	1.25 per unit
--------------------	---------------

Community residence	1 per bedroom
---------------------	---------------

Live/work	2 per unit plus 1 per 300 GSF of work area
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Required Spaces: Service or Retail Uses

Retail, offices, services	1 per 300 GSF
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Restaurant, Café, Coffee Shop	1 per 150 GSF
-------------------------------	---------------

Gas station/fuel sales	1 per pump plus requirement for retail
------------------------	--

Lodging: Inn/hotel	1 per room
--------------------	------------

Required Spaces: Industrial Uses

Light manufacturing, processing and packaging	1 per 500 GSF
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For parking **space** requirements for all other allowed uses see Table 5.5.40.B (Parking Space Requirements).

3.3.50 Regional Center Mixed Use (C5) Zone Standards

A. Purpose

The Regional Center Mixed Use (C5) Zone permits a full range of retail, service, and office uses. The Zone's intensity accommodates regional and community commercial and business activities. Uses include large, commercial activities that serve the entire County and highway-oriented businesses that need to be located on major highways. While this use intends high-quality, commercial character, the setback or build-to-line, landscaping and other design requirements provide a uniform streetscape that makes provision for pedestrian and transit access. The Zone is intended to be more attractive than commercial areas in other counties to maintain the attractive tourist and business environment and have minimal impact on surrounding residential areas. The Zone is not intended to be a strip along all arterials and collectors. In developing areas, the minimum depth of a parcel along an arterial or collector shall be 600'. The minimum zone size shall be 20 acres. In the older, built-up areas, new uses shall have depths and areas equal to or greater than similar uses in the area. This Zone shall be located in areas designated "regional commercial" in the Comprehensive Plan.

B. Building Placement

Setback (Distance from ROW/Property Line)

Front	25' min.
-------	----------

Side:

Side, Main Building	15' min.
Side, Ancillary Building	15' min.

Rear	10' min.
------	----------

Lot Size

Lot Size	21,780 SF min.
Width	150' min.

Note:

For development within a Traditional Community Plan meeting the

requirements of Division 2.3, setback, minimum lot size and minimum site area requirements of the transect zone established

and delineated on the regulating plan shall apply.

C. Building Form

Building Height

All Buildings	3 stories max.
Ground Floor Finish Level	No minimum

D. Gross Density¹ and Floor Area Ratio

Density	15.0 d.u./acre max. ²
Floor Area Ratio ³	0.37 max.

¹Gross Density is the total number of dwelling units on a site divided by the Base Site Area (Division 6.1.40.F).

²See Section 4.1.350 for Affordable Housing density bonuses.

³Requirement applies to non-residential buildings.

E. Parking

Required Spaces: Residential Uses

Single-family detached	3 per unit
Single-family attached/duplex	2 per unit
Multi-family units	1.25 per unit
Community residence	1 per bedroom
Live/work	2 per unit plus 1 per 300 GSF of work area

Required Spaces: Services or Retail Uses

Retail, offices, services	1 per 300 GSF
Restaurant, café, coffee shop	1 per 150 GSF
Drive-through facility	Add 5 stacking spaces per drive-through
Gas station/fuel sales	1 per pump plus requirement for retail
Lodging: Inn/hotel	1 per room

Required Spaces: Industrial Uses

Light manufacturing, processing and packaging	1 per 500 GSF
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Warehousing/distribution	1 per 2,000 GSF
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For parking **space** requirements for all other allowed uses see Table 5.5.40.B (Parking Space Requirements).

3.3.60 Industrial (SI) Zone Standards

A. Purpose

The Industrial (SI) Zone permits office, manufacturing, industrial, warehousing, and uses that support them. The Zone shall also be designed to permit small businesses and incubator businesses. Moderate to high intensities are permitted to achieve maximum land utilization. Such practices will maximize the land's use and accommodate small businesses and start-up or incubator businesses.

B. Building Placement

Setback (Distance from ROW/Property Line)

Front	40' min.
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Side:

Side, Main Building	20' min.
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Side, Ancillary Building	20' min.
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Rear	20' min.
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Lot Size

Lot Size	20,000 SF min.
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Width	100' min.
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Minimum Site Area

Industrial	20,000 SF
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Other Permitted Uses	1 acre
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C. Building Form

Building Height

All Buildings	4 stories max. ¹
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Ground Floor Finish Level	No minimum
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¹Not to exceed 50 feet above finished grade level

D. Floor Area Ratio

Industrial	0.48 max.
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All Other Uses	0.37 max.
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E. Parking

Required Spaces: Service or Retail Uses

Retail, offices, services	1 per 300 GSF
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Restaurant, café, coffee shop	1 per 150 GSF
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Drive-through facility	Add 5 stacking spaces per drive-through
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Gas station/fuel sales	1 per pump plus requirement for retail
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Required Spaces: Industrial Uses

Light manufacturing, processing and packaging	1 per 500 GSF
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Heavy manufacturing, processing and packaging	1 per employee at maximum shift plus 1 per commercial vehicle
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Warehousing/distribution	1 per 2,000 GSF
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For parking **space** requirements for all other allowed uses see Table 5.5.40.B (Parking Space Requirements).

Section 6.1.40 (General Review Standards): Base Site Area is used to determine the density permitted on specific properties and, as such, undevelopable portions of the property are subtracted from gross site area to determine the maximum density allowed on any particular property. Staff recommends specifically addressing jurisdictional and non-jurisdictional wetlands when calculating Base Site Area in order to provide clear guidance on these calculations and prevent density increases based on the existence of any wetlands on any particular property.

6.1.40 General Review Standards

- A. **General.** Applications for subdivisions shall be reviewed and evaluated in accordance with the procedures of Section 7.2.70 (Subdivision), and the standards of this Article.
- B. **Subdivision Design.** Block and lot layout shall meet the standards established in Article 2 (Multi-Lot and Single Lot Community Scale Development).
- C. **Civic and Open Spaces.** Civic and open spaces shall meet the standards established in Division 2.8 (Civic and Open Space Types).
- D. **Streets.** New streets shall meet the standards established in Division 2.9 (Thoroughfare Standards).
- E. **Modulation Standards.** The applicant may request a modulation of some standards, see Section 7.2.30 (Modulation Permit), where appropriate to achieve better design that is consistent with the objectives of this Development Code, as long as the modulation is compatible with surrounding development, does not have an adverse impact on protected resources, and is generally consistent with the goals of this Development Code.
- F. **Density and Lot Size.** Maximum gross density and minimum/maximum lot size shall meet the standards established in Article 3 (Specific to Zones). Maximum gross density for a site shall be calculated using the Base Site Area.
- G. The Base Site Area shall be determined as follows:
 - Gross site area as determined by actual survey:
 - Minus Land separated by a road or utility right-of-way
 - Minus Land separated by water and/or marsh
 - Minus Land within existing roads ultimate rights-of-way
 - Minus Existing natural water bodies on the property, jurisdictional and non-jurisdictional wetlands, and land/tidal wetlands seaward of the OCRM critical line
 - Minus Land previously dedicated as open space
 - Equals = Base site Area

Section 4.1.330 (Ecotourism): This amendment clarifies the intent of the Ecotourism use, which is allowed as a special use in T1 Natural Preserve and a Conditional use in all but one T2 districts. It also replaces the reference to the Ecotourism Society's (TES) standards with actual standards to guide Ecotourism projects in the County. Finally, this amendment directly references base site area calculations for ecotourism projects to prevent artificially inflated densities. Staff recommends making these amendments to ensure the Ecotourism use is not inappropriately used to maximize density or allow for inconsistent commercial uses in the most rural zoning districts.

4.1.330 Ecotourism

Ecotourism is the practice of touring natural habitats in a manner meant to minimize ecological impacts and shall comply with the following:

- A. Applications shall include a site plan whose design incorporates the building, structures, and amenities into the natural and scenic qualities of the area in a complimentary fashion. A Community Impact Statement may be required by the Director as described in Appendix A.1.30.
- B. An operational plan shall indicate that this use will enhance the ecotourism experience of intended users in regard to the related wilderness setting, interpretive educational programs, wildlife viewing opportunities, outdoor activities, parks/protected areas, and/or cultural experiences.
- C. The maximum floor area ratio for each development shall be 0.1. Base Site Area shall be calculated per Section 6.1.40.G.
- D. An open space ratio of (at least) 85% shall be required for the entire property.
- E. Impervious surface shall not exceed 8% for the entire property.
- F. There shall be a 3-acre minimum site size for this use.
- G. Lodgings are permitted with this use and include cabins, inns, B&Bs, historic properties, and small hotels. Hotel uses shall be limited to no more than 50 units per development, 8 units per building, and a maximum height of 2 stories.
- H. Operators of ecotourism uses shall adhere to the following stewardship, research, and education principles ~~promoted by The Ecotourism Society (TES):~~
 - Minimize physical and social impacts.
 - Build environmental and cultural awareness and respect.
 - Provide positive experiences for both visitors and hosts.
 - Generate benefits for local people.
 - Deliver interpretative experiences to visitors that help raise awareness and sensitivity to local environmental and cultural climates.
 - Design, construct, and operate low-impact facilities.

Section 5.11.100.F (Tree Removal on Developed Properties): Sections 5.11.100.B – 5.11.100.E protect trees during new development projects by requiring Specimen trees to be preserved to the maximum extent practicable. When specimen trees cannot be avoided because of new development, they must be mitigated in one of three ways: 1) replanting trees of the same species, 2) saving existing non-specimen-size native trees on the property or, 3) paying into a tree mitigation fund. Staff spends a lot of time regulating these requirements during development, however, per Section 5.11.100.F, once a single-family home exists on a lot, the property owners may remove all but grand trees and trees in river buffers without a tree removal permit. This means that specimen trees are no longer protected under Section 5.11.100.F and trees that have been kept for mitigation are afforded no protections. This has enabled the act of developers saving specimen and non-specimen size trees during development for mitigation purposes, allowing them to avoid replanting or paying into a tree mitigation fund, and then cut the trees down as soon as the single-family residence is certified for occupancy. To correct the issue, staff recommends adopting the following amendments:

1. Creating a time period of protection for specimen trees based on the time that has elapsed since the year of the home's completed construction.
2. Including language referencing mitigation trees as protected trees.
3. Clarifying language regarding river buffers.

5.11.100 Tree Protection

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 where construction was completed less than five years ago, a tree removal permit is required to remove specimen, grand, and/or mitigation trees, see Section 7.2.50 (Tree Removal Permit). On any individual single-family residential lot with an existing dwelling unit where construction was completed five or more years ago, a tree removal permit is required to remove a grand tree and/or mitigation trees, 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 protected 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, or a species recommended by a certified arborist and approved by staff.
- c. **Removal of All Other Non-Protected Trees on Residential Lots.** All other trees on a single-family residential lot with an existing dwelling may be removed without a permit, except for mitigation trees or trees those within required river buffers, including river buffers, may be removed without a permit. Removal of trees within a river buffer and/or mitigation trees requires a tree removal permit; see Section 7.2.50 (Tree Removal Permit).