TOWN OF FORT MILL
PLANNING COMMISSION SPECIAL CALLED MEETING
February 21, 2017
112 Confederate Street
6:30 PM

AGENDA

CALL TO ORDER

APPROVAL OF MINUTES

1. Regular Meeting: January 5, 2017 *[Pages 3–9]*

OLD BUSINESS ITEMS

1. **Preliminary Plat Revision: Nims Village** *[Pages 10–19]*

   Request from ESP Associate, P.A., submitted on behalf of IOTA Doby Bridge, LLC, to amend the open space plan and trail requirement, which was included in the motion to approve the preliminary plat for Nims Village

NEW BUSINESS ITEMS

1. **Subdivision Plat Review: 505 Unity Street (Lot Variance Requested)** *[Pages 20–28]*

   Request from Phil and Sherry Hunkler to approve the subdivision of York County Tax Map Number 020-04-20-008, containing approximately 1.43 +/- acres at 505 Unity Street, into four parcels ranging in size from approximately 10,000 square feet to approximately 22,000 square feet

2. **Text Amendment: Tool & Equipment Rental Facilities** *[Pages 29–39]*

   An ordinance amending the Zoning Ordinance for the Town of Fort Mill; Article II, Requirements by district; Section 9, HC Highway Commercial District; so as to add Tool and equipment rental facilities as a conditional use within the HC district

3. **Development Agreement Amendment: Clear Springs, et al** *[Pages 40–85]*

An ordinance authorizing a second amendment to a development agreement by and between the Town of Fort Mill and Clear Springs Land Company, LLC, Clear Springs-Kingsley, LLC, Close Family Real Estate #2, LLC, Clear Springs-Springfield, LLC, Clear Springs-Bradley Park, LLC, Springland Associates, LLC, Springland, Inc., Anne Springs Close, Springfield Town Center, LLC, and Clear Springs-KTC, LLC, to clarify the term of the agreement, to clarify the property subject to the development agreement, to amend the development schedule applicable to the subject property, to establish the terms of the provision of waterworks and sewer services to the subject property; and other matters relating thereto

4. **Development Agreement Amendment: Leroy Springs & Co.** *[Pages 86–112]*

An ordinance authorizing a second amendment to a development agreement by and between the Town of Fort Mill and Leroy Springs & Company, Inc, to clarify the term of the agreement, to amend the development schedule applicable to the subject property, to establish the terms of the provision of waterworks and sewer services to the subject property; and other matters relating thereto

ITEMS FOR INFORMATION / DISCUSSION

1. **Preliminary Appearance Review: Carolina Upholstery**

2. **UDO Update**

3. **Comprehensive Plan Update**

ADJOURN

MINUTES
TOWN OF FORT MILL
PLANNING COMMISSION MEETING
January 5, 2017
112 Confederate Street
6:30 PM

Present: Hynek Lettang, Tom Adams, Ben Hudgins, Chris Wolfe, Tom Petty, Jay McMullen, Planning Director Joe Cronin, Assistant Planner Chris Pettit, Assistant Planner Diane Dil

Absent: James Traynor

Guests: Mark Kime (Land Design), Tim Pratt (Copper Builders), Tom Scott (Scott Development Group), Tim Patterson (Leroy Springs & Co.)

Vice Chairman Hudgins called the meeting to order at 6:30 pm.

Mr. Petty made a motion to approve the minutes from the December 20, 2016, meeting, with a second by Mr. Adams. The minutes were approved by a vote of 6-0.

Planning Director Cronin stated that Chairman Traynor had a conflict of interest for all three action items on tonight's agenda, due to his employment with an affiliate of Leroy Springs & Co. As a result, he would not be in attendance. Vice Chairman Hudgins presoded as acting chair for the duration of the meeting.

OLD BUSINESS ITEMS

There were no old business items.

NEW BUSINESS ITEMS

1. **Rezoning Request: 513 Banks Street**: Planning Director Cronin provided a brief overview of the request, the purpose of which was to review and provide a recommendation on the proposed rezoning of York County Tax Map Number 020-05-05-005, containing approximately 6.4 +/- acres at 513 Banks Street. Planning Director Cronin stated that the property is currently owned by the Fort Mill School District, but is under contract for sale to the Scott Development Group (SDG). It is SDG's intent to acquire 513 Banks Street, and the neighboring parcel owned by Leroy Springs & Co., and to redevelop the property with up to 51 age-targeted single family homes. The applicant was requesting a rezoning from R-25 Residential to MXU Mixed Use. It was staff's opinion that the request was consistent with the recommendations of the comprehensive plan and, therefore, recommended in favor of approval.

   Mr. Adams made a motion to recommend in favor of the rezoning request from R-25 to MXU. Mr. Wolfe seconded the motion. The vote on the motion was as follows:

In Favor	Opposed
Hudgins	Lettang
Wolfe	
Petty	
McMullen	
Adams	

The motion passed by a vote of 5-1.

2. **Development Agreement Amendment: Leroy Springs & Co.:** Planning Director Cronin provided a brief overview of the request, the purpose of which was to review and provide a recommendation on the request to remove a portion of York County Tax Map Number 020-05-05-002, containing approximately 6.73 +/- acres at 490 Academy Street and 609/615 Banks Street, from the provisions of the 2008 development agreement between the Town of Fort Mill and Leroy Springs & Co. Planning Director Cronin stated that the property is currently under contract for sale to the Scott Development Group (SDG). It is SDG's intent to acquire the property, as well as the neighboring parcel owned by the Fort Mill School District, and to redevelop the property with up to 51 age-targeted single family homes. Banks Street Gym, which is located on Leroy Springs & Co. property, would remain for the time being, and it is the applicant's intent to donate the gym portion of the property to the town at the end of the current lease agreement. Planning Director Cronin added that the current development agreement allows up to 150,000 square feet of commercial development, but no residential units, on the site. The property is currently zoned MXU, and under Mr. Scott's proposal, would not need to be rezoned. Staff recommended in favor of the amendment.

   Mr. Wolfe asked why the amendment had an effective date of on or before March 31, 2017. Mr. Tom Scott of SDG responded that the property is scheduled to close by the end of March. If the property is not acquired on or before March 31st, then the provisions of the first amendment will terminate.

   Mr. Adams made a motion to recommend in favor of the request to remove the property from the 2008 Leroy Springs & Co. Development Agreement. Mr. Wolfe seconded the motion. The vote on the motion was as follows:

In Favor	Opposed
Hudgins	McMullen
Wolfe	Lettang
Petty	
Adams	

   The motion passed by a vote of 4-2.

3. **MXU Concept Plan and Development Conditions: Banks Street MXU Project**: Planning Director Cronin provided a brief overview of the request, the purpose of which was to review and provide a recommendation on a proposed mixed use concept plan and development conditions for the Banks Road MXU project, located at York County Tax Map Number 020-05-

05-005, and a portion of 020-05-05-002. The applicant, SDG, was seeking approval to redevelop the old Fort Mill High School site, as well as property surrounding Banks Street Gym, with up to 51 age-targeted single-family homes. Staff recommended in favor of the concept plan and development conditions, with the following modifications:

- Permitted Uses (Sec. 2):
    - Add a subsection (B) to include permitted non-residential uses. This should include public recreational uses, to allow for continued use of Banks Street Gym, and may include future redevelopment opportunities for additional public recreational facilities.
    - Additional parking at Banks Street Gym (whether permanent or temporary, paved or gravel) shall meet ADA accessibility requirements.
    - The permitted uses section may also include language regarding what may be redeveloped on the gym site following the expiration of the town's lease. To maintain the intent of the MXU district, this should be a non-residential use (commercial, office, and/or public/private recreational uses).

- Sidewalks (Sec. 3.D):
    - Recommend adding specific language that sidewalks (min. 5' in width) shall be installed along Banks Street and Academy Street, along the project's road frontage.

- Buffers (Sec. 15.3):
    - Recommend adding language that buffers may be located on single-family lots, as long as the buffers are deed restricted, and provided that exterior landscaping and buffer maintenance is included for individual lots in the community covenants and restrictions.

- Water & Sewer (Sec. 18)
    - References to York County Water & Sewer should be changed to Town of Fort Mill Water & Sewer.

- Development Impact Fees (Sec. 23):
    - Add Fort Mill School District Impact Fees: "The property shall be subject to all current and future development impact fees imposed by the town and Fort Mill School District…"

- Add Sections:
    - Add architectural standards for new construction (brick, stone, fiber cement, etc.)
    - The Banks Street Gym site is currently subject to a lease agreement between the Town and Leroy Springs & Co. These development conditions are not intended to supersede any provisions of the lease agreement. The town and property owner may elect to negotiate an extension or

termination of the lease agreement upon terms that are mutually agreeable to both parties.

Tom Scott of SDG provided a short presentation. He introduced himself, as well as members of his project team, including Tim Pratt of Copper Builders and Mark Kime of Land Design. Mr. Scott gave an overview of the proposed project. He stated that the price point for new homes would start in the $300,000's to $400,000's. All homes would be age-targeted and, therefore, would have little to no impact to area schools. All homes would include exterior maintenance. Mr. Scott presented architectural renderings, and noted that the home designs were inspired by existing architecture in the area. In regards to Banks Street Gym, which is under lease to the town through 2020, Mr. Scott stated that he would extend the lease for two additional years, construct a 65-space parking lot, demo the gym at the end of the lease, and donate the property to the town.

Mr. Lettang asked why the applicant did not choose to move forward with age-restricted. Mr. Scott responded that the requirements for age-restricted were too cumbersome. For example, if a 55-year-old resident had a spouse who was 45 years old, they may not be able to live in the subdivision. He added that the floorplans were designed to appeal to seniors, as would the inclusion of exterior maintenance. He also stated that since the school district was selling one of the parcels, they would have not have accepted an offer for a project that would negatively impact the district.

Mr. Wolfe stated that he didn't think the lot sizes and density fit in with neighboring development. Planning Director Cronin stated that the draft zoning map, which was endorsed by the Planning Commission, recommended rezoning existing residential areas on the other side of Banks Street from R-10 to R-7. He added that a buffer would be provided on Banks Street, to screen new homes from existing development.

Mr. Wolfe asked for clarification if the recreation area, including the land now occupied by the gym, would be donated to the town. Mr. Scott responded that this land would be donated to the town, including the 65-space parking lot, which he would construct. Planning Director Cronin added that staff would recommend a new lease agreement with SDG to formalize these items.

Mr. McMullen asked how the open space areas were calculated. Mr. Scott responded that the open space included buffer areas, common open space, and the recreational areas. He added that the gym would remain open as a public amenity. Once the town acquired the property, they could elect to redevelop additional recreational facilities. Mr. Hudgins stated that he didn't think the gym land should be used toward the neighborhood open space requirement.

Mr. Adams asked if lots would front Academy Street. Mr. Scott responded that some lots would front Academy Street. The lots on Banks Street would be accessed internally, and no driveways would be located on Banks Street. He added that a buffer would be planted along the Banks Street frontage to screen the rear of the homes from the road right-of-way.

Mr. Wolfe stated that he would prefer to see age-restricted, rather than age-targeted. He thanked the applicant for what they were offering to do in regards to the gym; however, he felt that the project, as proposed, was not a true MXU project, but was more like a R-5 Residential project. He also asked whether sidewalks would be provided. Mr. Scott responded that sidewalks would be included on Banks and Academy Street, and at least one side of the street inside the project.

Mr. Hudgins asked about off-site traffic impact. Planning Director Cronin responded that 51 homes would not meet the threshold for a full TIA; however, one may still be required by SCDOT. He added that the Leroy Springs Property currently allows up to 150,000 square feet of development. Depending on the type of future commercial, it is anticipated that the 51 homes would have a lower traffic impact than if the property were instead developed as commercial.

Mr. Petty asked the applicant if they were aggregable with the modifications recommended by staff. Mr. Scott responded that they were.

Mr. Petty made a motion to recommend in favor of the mixed use concept plan and development conditions, to include the modifications recommended by staff. Mr. Adams seconded the motion. The vote on the motion was as follows:

In Favor	Opposed
Hudgins	McMullen
Wolfe	Lettang
Adams	Wolfe

The vote was tied at 3-3, and therefore, the motion failed. Assuming a motion to recommend denial would also fail at 3-3, Planning Director Cronin recommended that the Planning Commission to vote to either send the request to council with no recommendation, or to move it forward noting a split vote.

Mr. Petty made a motion to send this item forward to council, noting that three members were in favor, and three were opposed. Mr. McMullen seconded the motion. The motion was approved by a vote of 6-0.

ITEMS FOR INFORMATION / DISCUSSION

1. **Agenda Distribution Date**: Planning Director Cronin stated that staff was going to move the agenda deadline up by one week. This will give staff the ability to complete and distribute agendas to planning commissioners earlier than Friday. Given the size of recent agendas, staff would attempt to distribute the agendas 5-7 days before the meeting, rather than the Friday before.

2. **January Planning Commission Meeting**: Mr. Adams asked if the Planning Commission was still scheduled to meet for its regular meeting on January 17th. Planning Director Cronin

responded that the meeting was still scheduled; however, staff will notify members by email if the meeting can be cancelled.

There being no further business, the meeting was adjourned at 7:54 pm.

Respectfully submitted,

Joe Cronin
Planning Director

RECUSAL STATEMENT

Member Name: JAMES TRAYNOR

Meeting Date: JAN 5, 2017

Agenda Item: **Section** NEW BUSINESS **Number:** 1-3

Topic: BANKS ST. PROPERTY TOM SCOTT & LEROY SPRINGS & CO.

The Ethics Act, SC Code §8-13-700, provides that no public official may knowingly use his office to obtain an economic interest for himself, a family member of his immediate family, an individual with whom he is associated, or a business with which he is associated. No public official may make, participate in making, or influence a governmental decision in which he or any such person or business has an economic interest. Failure to recuse oneself from an issue in which there is or may be conflict of interest is the sole responsibility of the council member (1991 Op. Atty. Gen. No. 91-37.) A written statement describing the matter requiring action and the nature of the potential conflict of interest is required.

Justification to Recuse:

____ **Professionally employed by or under contract with principal**

____ **Owns or has vested interest in principal or property**

✓ **Other:** I AM AN OFFICER OF A RELATED COMPANY & HAVE ASSISTED LS&CO IN REVIEWING SEVERAL ITEMS RELATED TO MATTERS BEFORE COMMISSION

Date: 1/3/17

J Traynor
Member

Approved by Parliamentarian:

Meeting Information	
Meeting Type	Planning Commission
Meeting Date	February 21, 2017

Request Summary						
Request Type	X	Action (Old Bus.)		Action (New Bus.)		Info/Discussion
		Public Hearing		Executive Session		Other

Case Summary						
Case Type		Annexation		Rezoning		Text Amendment
	X	Subdivision Plat		Appearance Review		Other

Property Information	
Applicant	ESP Associates, P.A. for Pace Development Group
Property Owner	IOTA Doby Bridge, LLC
Property Location	Nims Village Preliminary Plat on Fort Mill Parkway
Tax Map Number	020-12-01-191 020-12-01-192 020-12-01-193 020-12-01-194
Acreage	43.39 +/- acres
Current Zoning	R-15 (COD-N)
Existing Use	Vacant

Title

Request from ESP Associate, P.A., submitted on behalf of IOTA Doby Bridge, LLC, to amend the open space plan and trail requirement, which was included in the motion to approve the preliminary plat for Nims Village

Background Information

Site Characteristics The approved Nims Village subdivision will include 65 single-family lots on 43.39 +/- acres on the northern side of Fort Mill Parkway, near Whites Road. The property contains approximately 1,350 linear feet of road

frontage on Fort Mill Parkway. The property abuts Nims Lake on the west. A stream is located on the northern boundary, between the property and the existing Whitegrove subdivision.

Zoning Summary

The property is currently zoned R-15 but is subject to a development agreement that supersedes specific sections of the zoning ordinance. The project is also located within the COD-N Overlay district. The use, development and dimensional requirements are as follows:

- Permitted Uses: up to 75 single family detached residences and publicly owned buildings, facilities or land.
- Min. Lot Area: 10,000 square foot minimum lot size and 15,000 square foot average lot size, provided no more than 25% of all single family lots may be less than 12,500 square feet.
- Min. Lot Width: 80 foot and 90 foot average
- Front Setback: 35 feet, 10' for secondary front on corner lots
- Side Setback: 10 feet
- Rear Setback: 35 feet, including areas opposite a primary front on corner lots
- Max. Height: 35 feet
- Min. Open Space: 20% (not including area to be donated for fire station) with 50% shall be "usable" open space. Pedestrian trails and/or other improved amenity will be determined during construction document phase.
- Buffer Requirement: 35-foot natural or replanted buffer along parcels zoned for residential use as required by development agreement.
- Sidewalk Requirement: 8-foot sidewalk along Fort Mill Parkway; 5-foot along one side of all internal roads
- Lighting: Lighting is required within the streetscape zone in accordance to the COD-N

Discussion

On December 20, 2016, the Planning Commission approved a preliminary plat for the Nims Village project. As part of the motion approving the plat, the Planning Commission included the following conditions:

- Staff shall be authorized to approve final construction drawings;
- A trail should be included to connect to the Whitegrove subdivision as part of the usable open space requirement; and
- Staff may administratively revise the setback requirements on the preliminary plat if the requirements for corner lots are amended by town council

An amendment to the development agreement was approved by town council on February 13, 2017. This amendment will allow corner lots to

have a 35’ primary front, 10’ secondary front, 35’ rear (opposite the primary front) and a 10’ side yard setback. The conditions approved by the Planning Commission allow staff to administratively approve the setback requirements for corner lots on the preliminary plat.

In regards to the trail connection to Whitegrove, staff visited the site with the applicant on February 6, 2017 to examine the existing terrain to better understand what would be required to construct a trail. The northwest portion of the future Nims Village subdivision is adjacent to the common area of the Whitegrove neighborhood. The two parcels slope down approximately 15-20 feet to a creek located below. The existing top of the ridge of both parcels is approximately 75 feet apart, if not more. While it is impossible to know an exact cost of this project with such preliminary information, it is estimated that the cost may be in excess of $300,000, given the slope and the span.

Staff is always looking for opportunities to connect new neighborhoods to existing neighborhoods, either through trails or roads. This trail would connect Whitegrove to the future Catawba Ridge High School through Nims Village. However, to make the applicant fully responsible to make this connection may be considered unreasonable, and a different alternative may be deemed appropriate. One alternative would be to request Whitegrove to split the cost of the trail connection since they would receive benefit from easier access to the high school and other future developments along the parkway. Alternatively, the applicant could be required to build a portion of the trail and await the Town to secure future grant funding to complete the connection. This alternative could take many years to fully implement. On its eastern border, this parcel is separated from Dobys Bridge Park by the future Harris Teeter; therefore, another option would be to require the applicant to complete the trail to the parcel’s eastern border with Harris Teeter, and require Harris Teeter to complete the connection to the park when it’s developed. Finally, the planning commission may determine that no reasonable project exists and decide to completely remove any trail requirement that extended beyond its project’s boundary. It should be noted that the applicant is still required to include improved open space as specified by the development agreement and some sort of trail system is encouraged.

Alternatives	
1.	Approve the request to remove the trail connection condition.
2.	Approve the request to modify the trail requirement, using one of the alternatives listed above.
2.	Do not approve the request.

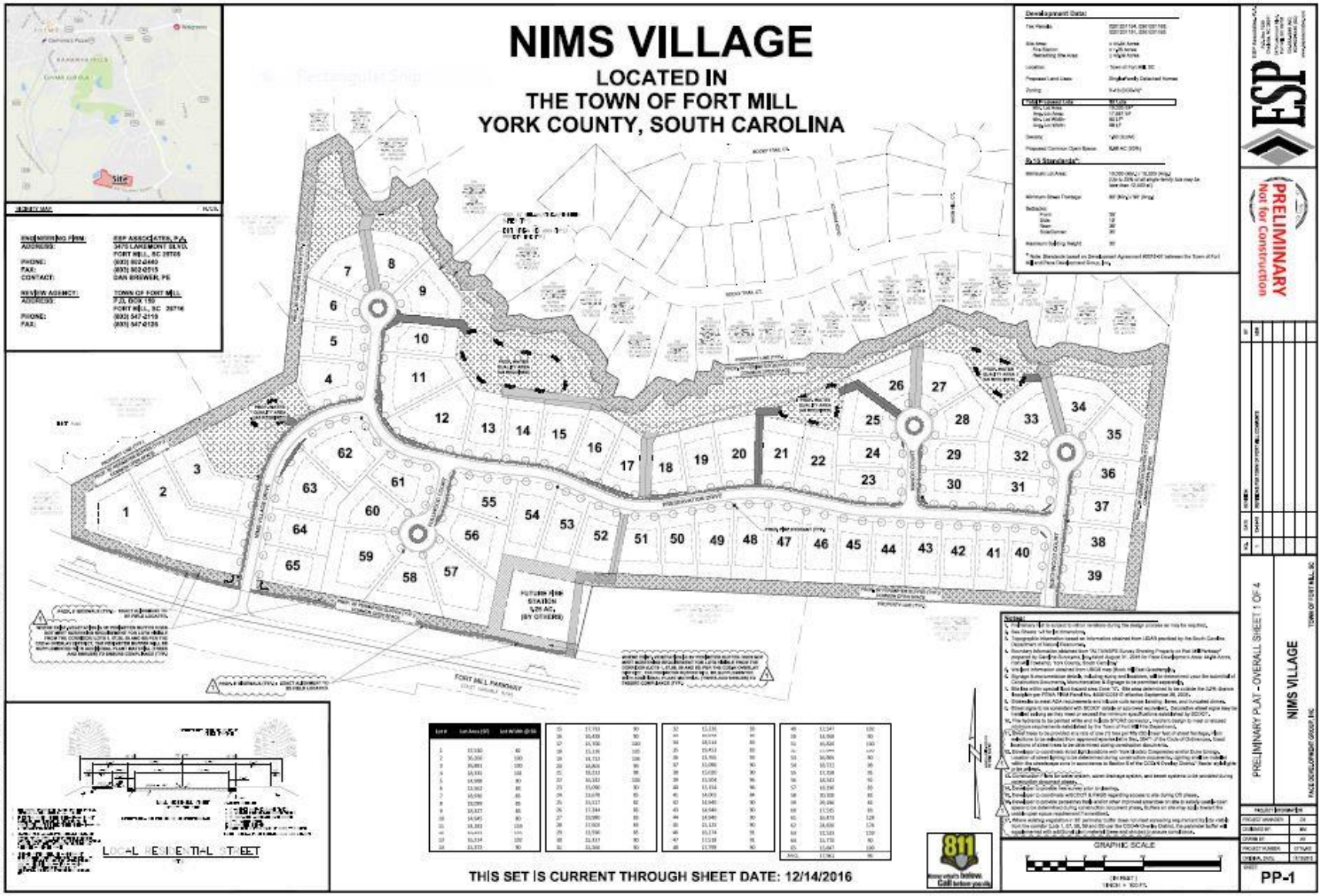
Staff Recommendation	
Recommendation	Staff recommends in favor of APPROVAL of the removing the condition to construct a trail connection to Whitegrove as this request has been determined to be financially excessive.
Name & Title	Diane Dil, Assistant Planner
Department	Planning Department
Date of Request	February 14, 2017

Legislative History	
Planning Commission	Approved - 12/20/2016 Modified - 2/21/2017 - Scheduled
Effective Date	Upon approval

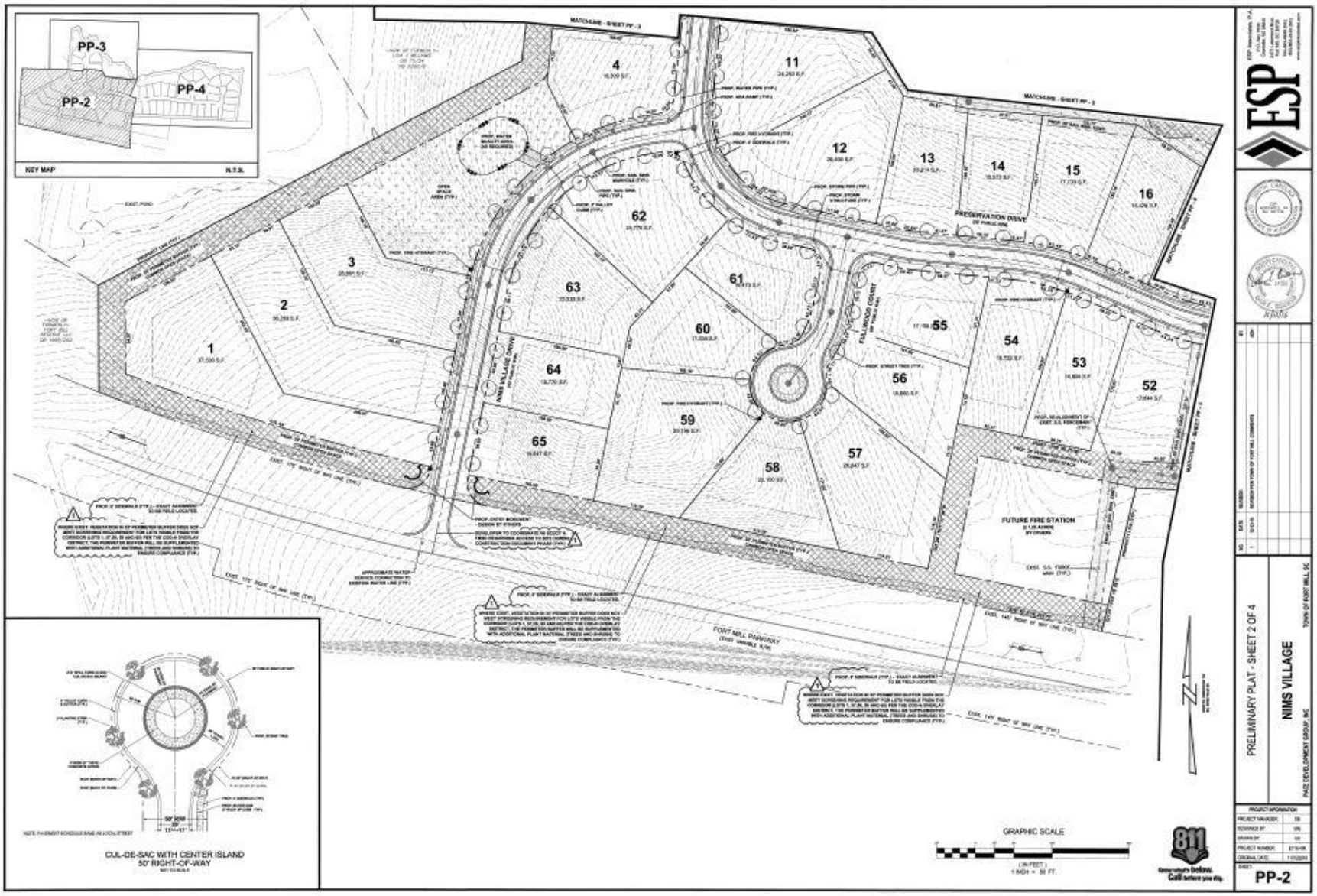
Attachments

- Approved Preliminary Plat
- Approved Sketch Plan

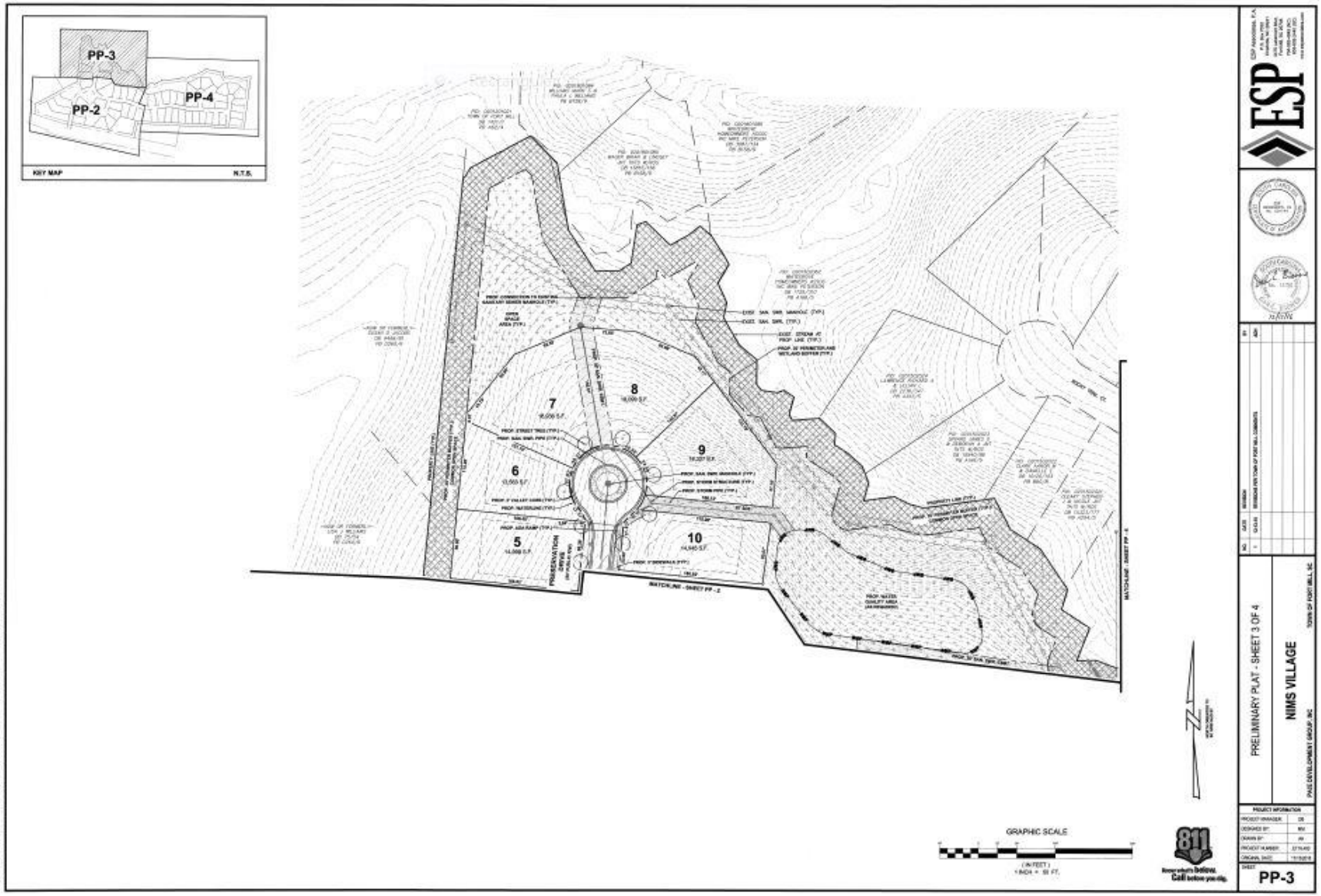
Preliminary Plat (approved)



Preliminary Plat (approved)



Preliminary Plat (approved)



Preliminary Plat (approved)

Sketch Plan (Approved)

Fort Mill Town Council

Meeting Information	
Meeting Type	Planning Commission
Meeting Date	February 21, 2017

Request Summary						
Request Type		Action (Old Bus.)	X	Action (New Bus.)		Info/Discussion
		Public Hearing		Executive Session		Other

Case Summary						
Case Type		Annexation		Rezoning		Text Amendment
	X	Subdivision Plat		Appearance Review		Other

Property Information	
Applicant	Phil and Sherry Hunkler
Property Owner	Phil and Sherry Hunkler
Property Location	505 Unity Street
Tax Map Number	020-04-20-008
Acreage	1.43 +/- acres
Current Zoning	R-15 Residential
Proposed Zoning	R-15 Residential
Existing Use	Single-Family Residence

Title

Request from Phil and Sherry Hunkler to approve the subdivision of York County Tax Map Number 020-04-20-008, containing approximately 1.43 +/- acres at 505 Unity Street, into four parcels ranging in size from approximately 10,000 square feet to approximately 22,000 square feet

Background Information

Site Characteristics The 1.43 +/- acre property is located at 505 Unity Street in the Whiteville Park neighborhood. The existing parcel and bounded by Unity Street to the east, East Gregg Street to the north, and East Oak Street to the south. The property currently consists of one single-family residence.

Neighboring Uses

Direction	Zoning	Existing Use
North	R-15	Single-Family Residence(s)
South	R-15	Single-Family Residence(s)
East	R-10	Single-Family Residence(s)
West	R-15	Single-Family Residence(s)

Zoning Summary

The subject parcel is currently zoned R-15 Residential, which has the following requirements:

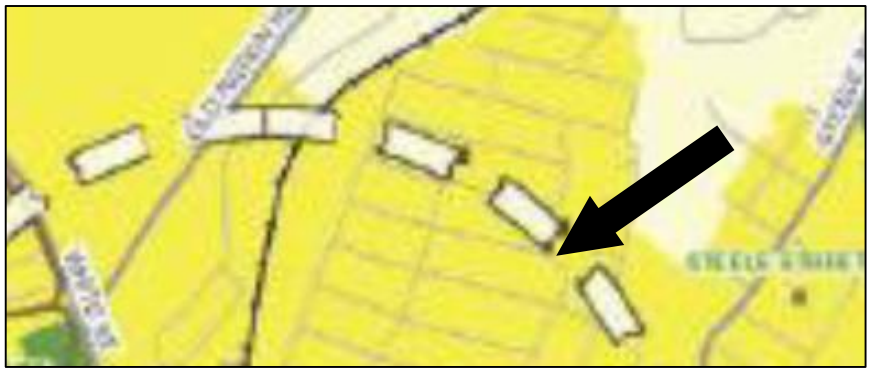
- Minimum lot area: 15,000 square feet
- Minimum lot width (at building line): 100 feet
- Minimum front yard: 35 feet
- Minimum side yard: 10 feet (principal structure), 5 feet (accessory use)
- Minimum rear yard: 35 feet (principal structure), 5 feet (accessory use)

The applicant has requested to subdivide the property into four parcels as follows:

- Lot 1: 10,014.2 square feet (lot width exceeds 100 feet)
- Lot 2: 22,013.7 square feet (lot width exceeds 100 feet)
- Lot 3: 20,142.5 square feet (lot width exceeds 100 feet)
- Lot 4: 10,034.8 square feet (lot width 81.89 feet)

Comprehensive Plan

The property is located within an area that has been designated as "Medium Density Residential" on the Town of Fort Mill's Future Land Use Map, last updated in May 2016. The comprehensive plan generally defines "medium density" as three to five dwelling units per acre. The property is on the periphery of Node 5, which recommends higher density residential to support the downtown area. The requested subdivision would result in a density of slightly less than three units per acre, which is generally consistent with the recommendations of the comprehensive plan.



Traffic Impact Access to the lots would be provided by Unity Street, East Gregg Street, and East Oak Street. The addition of three single-family homes (primary permitted use in R-15) would not result in a significant increase in traffic.

Fire Impact The property is located approximately 0.5 miles from the town's primary fire station on Tom Hall Street. Any new construction would be subject to the town's impact fees, which assist in paying for capital costs associated with serving new development.

Utility Impact The property is located within the town's water and sewer service area. As with any project, any upgrades necessary to serve the project would be borne by the applicant.

School Impact The applicant has requested a subdivision to create three new lots, which results in a minimal impact to school enrollment per the Fort Mill School District's enrollment calculator.

Discussion Based on the R-15 Residential district regulations, Lots 2 and 3 would conform to the minimum requirements of the zoning ordinance. At 10,014.2 and 10,034.8 square feet respectively, Lots 1 and 4 would be smaller than the minimum lot size requirement of 15,000 square feet. Additionally, Lot 4 will have a smaller lot width (81.89') than the 100' minimum required by the zoning ordinance.

While the proposed subdivision would result in the creation of two non-conforming lots, it is worth noting that the proposal was designed to conform with the requirements for R-15 properties as outlined in the latest draft of the town's Unified Development Ordinance (UDO). The draft UDO provides the following requirements for R-15 properties:

- Minimum lot area: 10,000 square feet
- Average lot area: 15,000 square feet
- Minimum lot width: 80 feet
- Average lot width: 90 feet

The town's current subdivision ordinance does allow for lot variances, per the following two sections:

> **Sec. 32-11. Variance.** Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in the chapter would result in substantial hardship or inequity, the planning commission may vary or modify, except as otherwise indicated, requirements of design, but not of procedure or

improvements, so that the subdivider may develop his property in a reasonable manner, but so, at the same time, the public welfare is protected and the general intent and spirit of this chapter is preserved. Such modification may be granted upon written request of the subdivider stating the reasons for each modification and may be waived by an affirmative vote of two-thirds of the membership of the planning commission.

Sec. 32-12. Conditions of Modification. In granting variations and modifications, the planning commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

Based on these two sections, it is the opinion of staff that the Planning Commission may, at its discretion, allow a lot variance for the subdivision of the proposed Lots 1 and 4, provided the commission determines that the subject property meets the minimum criteria for such a variance.

It is staff's opinion that there are no unusual conditions related to the property that would create a hardship for the current or future property owners, other than the fact that the pending UDO (which has not yet been approved by council) would allow for the land to subdivided as requested. A strict application of the current ordinance would still allow the subdivision of the property into three lots that conform to the requirements of the R-15 district. Staff, therefore, recommends in favor of denial.

Alternatives	
1.	Approve the subdivision request, including lot variances for the proposed Lots 1 and 4.
2.	Deny the subdivision request, including lot variances for the proposed Lots 1 and 4.
3.	Table the request pending adoption of the UDO.

Staff Recommendation	
Recommendation	Staff recommends in favor of DENIAL of the subdivision and lot variance request. The request may be reconsidered upon council's adoption of the UDO.
Name & Title	Chris Pettit, Assistant Planner
Department	Planning Department
Date of Request	January 30, 2017

Legislative History	
Planning Commission	Scheduled: 2/21/17

Attachments

- Letter from Phil & Sherry Hunkler
- Subdivision Plat
- Zoning Map
- Aerial Image

Joe Cronin

Planning Director Fort Mill, SC

jcronin@fortmillsc.gov

Subject: Subdividing 505 Unity Street (Whiteville Park) Tax Map #020-04-20008

Joe,

Sherry and Phil Hunkler would like to request a zoning lot variance to subdivide 505 Unity Street in Whiteville Park back into four individual lots similar to original Site Plan from 1954. This current 1 ½ acre parcel was originally part of 4 lots in Whiteville Park (1954 Site Plan attached)

In essence, we are asking for Site Plan approval based on the yet-to-be approved Unified Development Ordinance (UDO) and new Zoning Map for the Town of Fort Mill. The property we would like to subdivide:505 Unity is currently Zoned R15 and will remain Zoned R15 in the New UDO. The primary change in the UDO for R-15 zoned properties would be minimum lot size decreasing to 10,000 sq feet with an average lot size of 15,000 sq. ft. .Street frontage minimum decreasing from 100ft down to 80ft.(Taken from Table 3-3, Schedule of Area, Height and Placement Requirements)

The Proposed Subdivsion for 505 Unity Street would meet the minimum 10,000 Sq ft lot area requirement, the average 15,000 sq. ft lot area requirement and the minimum lot width of 80 ft. (See attached Site Plan Proposal prepared by Pittman Survey)

Background: Sherry and Phil Hunkler are new owners in Whiteville Park having purchased 505 Unity Street from Bill and Camille Bradford. This is the 1940 white 2 story brick colonial house owned by the Bradford Family for the last 62 years. Great house and we are nearing completion on a 10 month total remodel/restoration project and are quite proud of how it has turned out. Yes, we went way over budget.

We love the neighborhood and Love Ft Mill but have decided this home is too big for us as we try to downsize we would like to subdivide the land back into lots that are similar in size to the original site plan and would follow the hopefully soon to be adopted UDO Ordinance. Our goal is to build three houses on the open three lots (One house for us) We intend on each home having a minimum of 1,800 square ft size and more than likely include basements. We envision homes with values north of $260,000 that will help increase values of other homes in Whiteville Park. (And increase Ft. Mill tax revenue)

Based on the hopefully newly adopted UDO we would propose breaking this currentl lot into four lots total. **Two of the lots would measure ½ an acre and the other two lots would measure ¼ of an acre.**

These ¼ lot parcels would each meet the (newly adopted)80 foot frontage road requirement and the minimum 10,000 sq ft lot requirement. Furthermore, the average of the four lots would be greater than 15,000 sq ft. average required.

We have hired Jetter Pittman of Pittman Professional Land Survey to prepare a proposed site plan for the four lots and that proposal is attached. The division seems to flow nicely with the existing established trees and landscaping and we feel will afford ample room for the new houses.

Lot #1: Shall measure 120 ft by 75ft with an angled back corner to be **10,014** sq ft.(.23 Acres)

Lot #2: Is the lot where the existing house is for 505 Unity St. and it will be **22,014** sq. ft.(.51 Acres)

Lot #3 Will measure 135 ft by 150 ft and be **20,143** sq ft. (.46 Acres)(We plan on building our home on this site)

Lot #4 Will be 82 ft on front side and 128 ft deep. This lot will be **10,035** sq ft.(.23 Acres)

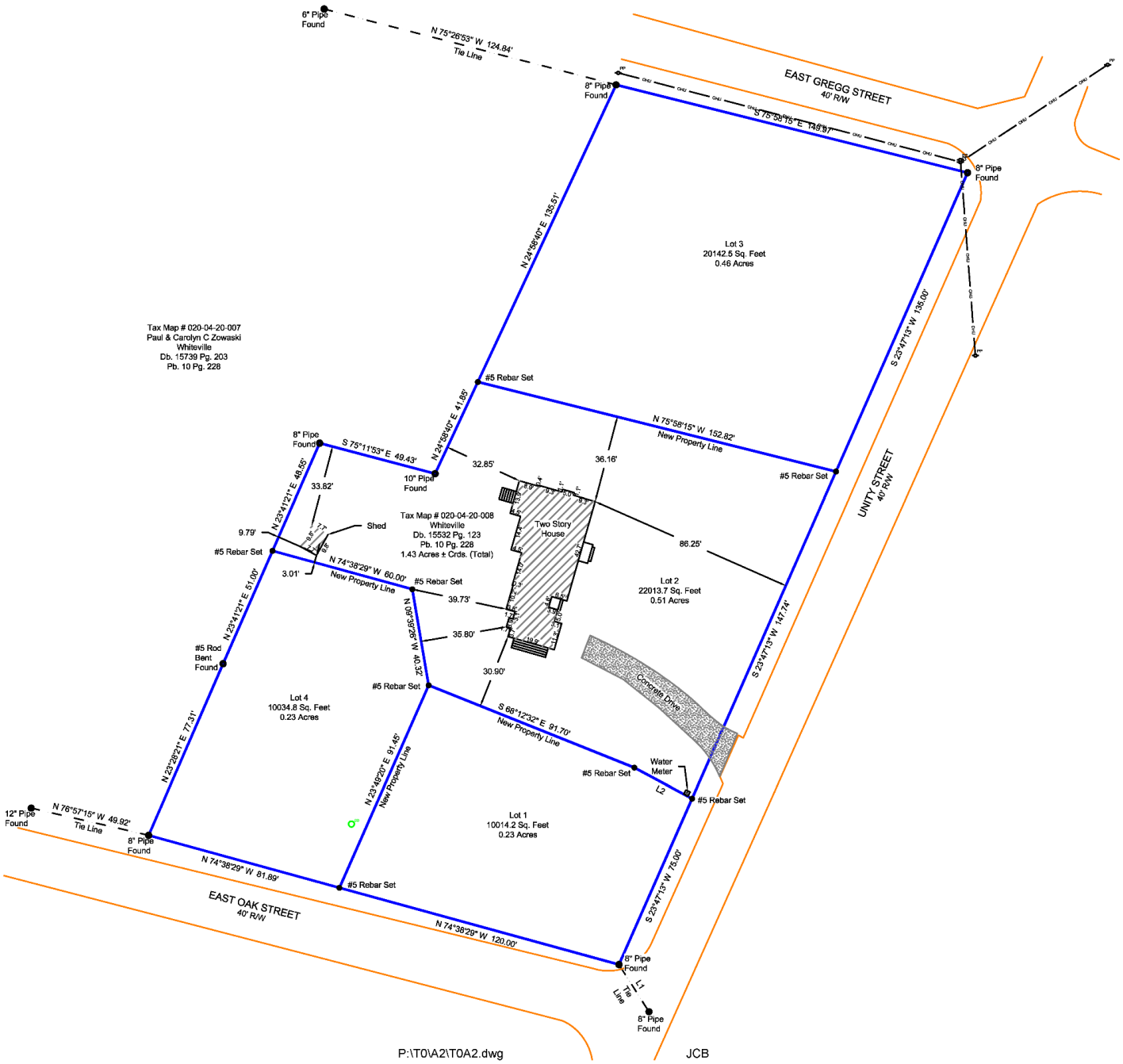
After attending the December12th, 2016 Ft. Mill City Council meeting and hearing discussions on the proposed UDO ordinance Sherry and I were fairly confident that the draft will be passed and it would simply be a matter of time and final draft changes. After two plus years of work we are confident all parties involved are ready for a final document in order to move forward with a final UDO that was started December 8th, 2014..

Any changes made to the UDO in our opinion would probably not change our current Residential R-15 classification for 505 Unity To be noted that directly across from 505 Unity Street the current lots are zoned R7 and are substantially smaller lots.

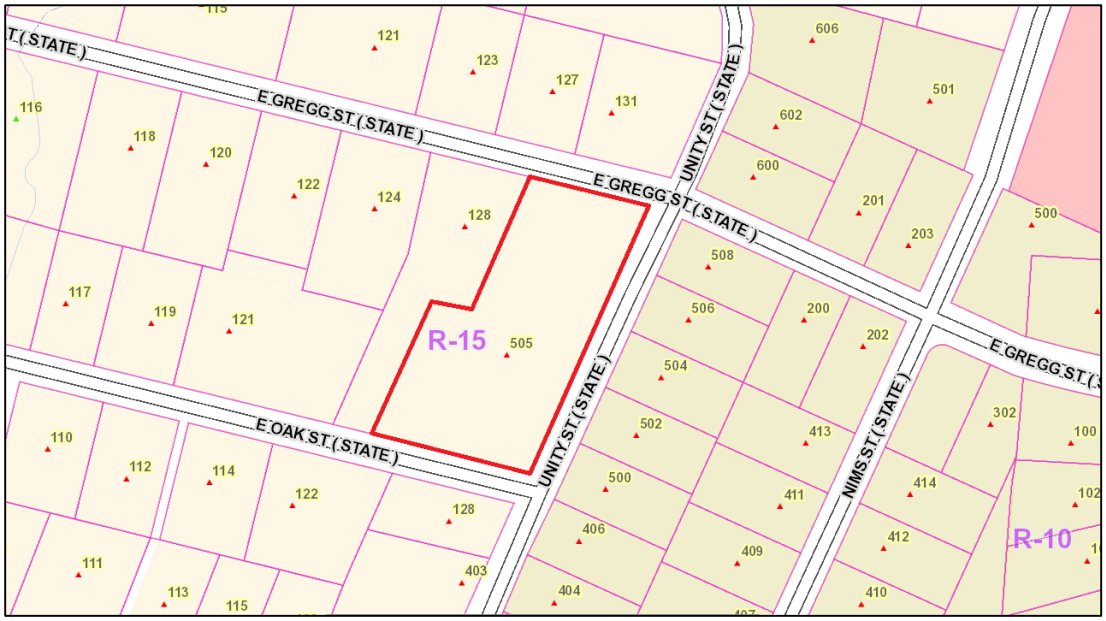
We currently have an offer to purchase 505 Unity from us and we await approval to subdivide the land in order to proceed with the sale and start the process of building our house. Your consideration in this request is appreciated.

Thanks in advance Phil and Sherry Hunkler phil@hunklersearch.com Cell 704-488-3422

Subdivision Plat



Zoning Map



Aerial Image

Fort Mill Town Council

Meeting Information	
Meeting Type	Planning Commission
Meeting Date	February 21, 2017

Request Summary						
Request Type		Action (Old Bus.)	X	Action (New Bus.)		Info/Discussion
		Public Hearing		Executive Session		Other

Case Summary						
Case Type		Annexation		Rezoning	X	Text Amendment
		Subdivision Plat		Appearance Review		Other

Property Information	
Applicant	Sunbelt Rentals Fort Mill Town Staff

Title

An ordinance amending the Zoning Ordinance for the Town of Fort Mill; Article II, Requirements by district; Section 9, HC Highway Commercial District; so as to add Tool and equipment rental facilities as a conditional use within the HC district

Background Information

Zoning Summary

Sunbelt Rentals, a national tool and equipment rental company headquartered on Deerfield Drive in Fort Mill, is seeking to construct a new "flagship" store in the Fort Mill area. Sunbelt has identified a vacant parcel of land near the Sutton Road interchange as a suitable location for the new store. The proposed site is currently zoned HC Highway Commercial. The town's current zoning ordinance does not allow Tool & Equipment Rental Facilities in the HC district.

The current draft of the town's new Unified Development Ordinance (UDO) will allow Tool & Equipment Rental Facilities as a conditional use in the GC General Commercial district, which is proposed to replace the HC

district. Under the draft UDO, Tool & Equipment Rental Facilities would be subject to the following requirements:

- The minimum lot size shall be three (3) acres.
- The entire lot or parcel occupied by the use shall be located within 500 feet of the I-77 right-of-way.
- No building or structure shall be located within 75 feet of a residential or mixed use district.
- Outdoor storage areas for rental equipment or vehicles shall be at least 50 feet from any residential or mixed use district; and
- Outdoor storage or display of equipment shall not be permitted within any front yard.

Council is asked to consider a proposed text amendment to amend the current zoning ordinance. This text amendment would allow Tool & Equipment Rental Facilities as a conditional use within the HC district. The proposed conditions are consistent with those contained within the draft UDO.

Discussion

The draft UDO will allow Tool & Equipment Rental Facilities as a conditional use in the GC General Commercial district, which, upon adoption, is proposed to replace the HC district. The UDO is currently pending before town council; however, the anticipated adoption date for the UDO is unknown at this time.

In the interim, staff recommends that council amend the town's current zoning ordinance so as to allow Tool & Equipment Rental Facilities as a conditional use in the current HC district. As mentioned above, the proposed conditions are consistent with those currently contained within the draft UDO.

Sunbelt had already prepared a draft site plan and building renderings for the proposed location. Should council approve the attached ordinance, the Sunbelt project would be allowed to move forward, without having to wait for adoption of the new UDO. Denial of this ordinance may result in Sunbelt choosing an alternate site outside of the town limits as the location of its proposed flagship store.

Alternatives	
1.	Approve the text amendment allowing tool and equipment rental facilities as a conditional use in the HC district.

2.	Deny the text amendment.

Staff Recommendation	
Recommendation	Staff recommends in favor of APPROVAL of the text amendment allowing Tool & Equipment Rental Facilities as a conditional use in the HC district.
Name & Title	Joe Cronin, Planning Director
Department	Planning Department
Date of Request	February 16, 2017

Legislative History	
Planning Commission	02/21/2017: Scheduled
First Reading	02/13/2017: Council gave first reading APPROVAL to the text amendment. (6-0)
Public Hearing	02/13/2017: Public hearing held.
Second Reading	02/27/2017: Scheduled
Effective Date	Upon adoption

Attachments

- Draft Text Amendment Ordinance

STATE OF SOUTH CAROLINA
TOWN COUNCIL FOR THE TOWN OF FORT MILL
ORDINANCE NO. 2017-__

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR THE TOWN OF FORT MILL; ARTICLE II, REQUIREMENTS BY DISTRICT; SECTION 9, HC HIGHWAY COMMERCIAL DISTRICT; SO AS TO ADD TOOL AND EQUIPMENT RENTAL FACILITIES AS A CONDITIONAL USE WITHIN THE HC DISTRICT

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE TOWN COUNCIL FOR THE TOWN OF FORT MILL:

SECTION I. Amending the Highway Commercial District. The Zoning Ordinance for the Town of Fort Mill; Article II, Requirements by Districts; Section 9, HC Highway Commercial District; is hereby amended to read as follows:

Sec. 9. HC Highway commercial district.

1. *Purpose of district:* It is the intent of this section that the HC zoning district be developed and reserved primarily as a retail service and commercial area, serving surrounding neighborhoods and larger community or citywide clientele with a wide range of commercial services, including retail, offices and business support services located in areas which are well served by collector and arterial street facilities as well as pedestrian access facilities where appropriate. The regulations which apply within this district are designed to:

   A) Encourage the formation and continuance of a compatible environment for highway oriented uses;

   B) Ensure adequate and properly designed means of ingress and egress;

   C) Encourage pedestrian access where appropriate; and

   D) Discourage any encroachment by industrial or other uses capable of adversely affecting the specialized commercial character of the district.

2. *Permitted uses:* The following uses shall be permitted in any HC zoning district:

   Administrative offices.
   Research, development and testing laboratories.
   United States Postal Service.
   Hardware stores.
   Horticultural nursery.
   Antique stores.
   Food stores.
   Convenience stores.
   Apparel and accessory stores.
   Home furniture, furnishing and equipment stores.

Restaurants.
Taverns.
Drug stores.
General merchandise stores such as bicycle and sporting goods, books, stationery, jewelry, toy, photography, gift, luggage, sewing, catalog, consignment shops (but not flea markets) etc.
Personal service stores such as florists, optical goods, art supplies, telephone stores, pet stores, travel agents, etc.
Pet shops.
Animal hospital specifically excluding boarding facilities.
Banking, lending institutions, security and broker services, insurance companies specifically excluding check cashing establishments, title loan lenders, deferred presentment lenders, pawnshops, title loan brokers, and small loan companies.
Real estate agencies.
Dry cleaners and laundry services.
Photographic studios, beauty shops, barber shops, shoe repair.
Funeral service and crematories.
General retail trade such as department stores, food stores, etc.
Gas stations.
Car washes.
Repair garage.
Warehouse (excluding mini-warehouses or personal storage units).
Hospitals.
Offices for health care services, such as doctors, dentists, and nursing, and personal care facilities.
Legal services offices.
Professional offices and workshops for engineering, accounting, research, artists, etc.
Daycare centers.
Recreational activity centers such as bowling alleys, skating rinks, miniature golf courses, playhouses, and arcades.
Schools.
Hotels.
Theaters.
Seasonal or temporary uses, consistent with the character of the district and in conformance with all pertinent requirements of the municipal code.
Accessory uses in compliance with the provisions of article I, section 7, subsection G.

3. *Conditional uses:* The following uses shall be permitted in any HC zoning district on a conditional basis in accordance with the provisions of article X of this ordinance:

   A) Dealerships, new and used automobiles, recreation vehicles, boats, boat trailers, and utility trailers; provided, that:

      1) Stock shall be parked no less than five feet from adjoining property lines and 15 feet from edge of streets,

2) There shall be no storage of wrecked or dilapidated automobiles or scrapped or salvaged auto parts on the premises.

B) Automotive wrecker service; provided, that:

1) No wrecked automobile shall be stored on the premises outside a fenced area.

2) The fenced area shall be screened from public view. A six-foot-high fence or wall shall enclose the area, and the area shall be paved or graveled with no grass allowed to grow in the storage area.

3) Maximum time limit of storage shall be ten days. The date the wrecked vehicle is received shall be marked on each unit with at least four-inch-high numbers.

4) No other parts or items may be stored in the area.

C) Mini-warehouses or personal storage units; provided, that:

1) Any outdoor storage shall be conducted entirely within storage yards separate from buildings. Such storage yards shall be screened from public view. A six-foot high fence or wall shall enclose the area, and the area shall be paved or graveled with no grass allowed to grow in the storage area.

2) Storage of any items, including vehicles, in interior traffic aisles, off-street parking areas, loading areas or driveway areas is prohibited.

3) Lighting used to illuminate any interior traffic aisle, off-street parking area, loading or unloading area, or storage area, shall be shielded or so arranged as to reflect light away from adjoining premises.

4) Mini-warehouses shall be designed, landscaped, screened, or otherwise treated in a manner that will be aesthetically pleasing and compatible with surrounding uses.

5) Traffic aisles shall be of sufficient width so as to allow for loading and unloading, maneuvering and circulation of vehicles, and shall in no case be less than 20 feet in width.

6) Use of mini-warehouse compartments or yards for any purpose other than the storage of goods is prohibited.

D) Uses permitted as conditional use: The zoning administrator shall allow the following uses, subject to compliance with conditions set forth for the use in this section:

1) Check cashing establishments, deferred presentment lenders, and title loan companies when:

a. The use is (i) located no closer than 3,000 feet, measured lot line to lot line from the nearest check cashing establishment, deferred presentment lender, or title loan company, *and* (ii) located within a group nonresidential development or like commercial shopping center with all structures contained in it having a total floor space of 30,000 square feet or more; *or*

b. The use is wholly contained within the confines of a grocery store or general merchandise retail establishment having 30,000 square feet or more of floor space, and the use has no separate access for public use to its share of the premises, and (ii) is located no closer than 3,000 feet, measured lot line to lot line from the nearest check cashing establishment, deferred presentment lender, or title loan company.

2) Tattoo facilities, provided that:

a. The facility shall be properly licensed by the South Carolina Department of Health and Environmental control pursuant to Sec. 44-34-10 et seq. of the 1976 Code of Laws of South Carolina, as amended;

b. The facility may only provide tattooing services and may not engage in any other retail or service operations, including, but not limited to, the sale of goods or the performing of body piercing or any other form of body modification other than tattooing;

c. Such facilities shall not be permitted within one thousand feet of a church, school, or playground. This distance shall be computed by following the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of the church, school, or playground.

d. Any new tattoo facility shall be located a minimum of 3,000 feet, measured lot line to lot line, from the nearest tattoo facility.

3) Tool and Equipment Rental facilities, provided that:

a. The minimum lot size shall be three (3) acres.

b. The entire lot or parcel occupied by the use shall be located within 500 feet of the I-77 right-of-way.

c. No building or structure shall be located within 75 feet of a residential or mixed use district.

d. Outdoor storage areas for rental equipment or vehicles shall be at least 50 feet from any residential or mixed use district.

e. Outdoor storage or display of equipment shall not be permitted within any front yard.

f. Architectural requirements:

1. Front façade and other elevations facing a street, parking lot or adjacent residential zoning district: A minimum of 75% of the building elevation shall contain brick, face brick, architectural pre-cast brick, or natural stone. Up to 25% may be split face block, scored block, EIFS, wood or fiber cement siding, stucco, or other similar quality building material approved by the Planning Commission as part of the Commercial Appearance Review Process. No metal siding or plain concrete block shall be permitted.

2. Side and rear facades that do not face a street, parking lot or adjacent residential zoning district: Any masonry material or other similar quality material approved by the Planning Commission as part of the Commercial Appearance Review Process.

g. Any outdoor storage area visible from a public right-of-way, adjoining property or parking area shall be screened by a buffer at least 20 feet in width, which buffer shall include a minimum of 2 canopy trees, 2 ornamental trees, 2 evergreen trees, and 4 shrubs per 100 linear feet of buffer zone, as measured parallel to the property line. The Planning Commission may allow a reduction in the buffer requirement in instances where a wall, berm or opaque fence is provided, provided the purpose of the buffer will still be achieved.

4. *Other requirements;* Unless otherwise specified elsewhere in this ordinance, uses permitted in HC zoning districts shall be required to conform to the following standards:

A) Minimum lot area: 10,000 square feet.

B) Minimum lot width measured at the building line: 75 feet.

C) Minimum front yard depth measured from the nearest street right-of-way line: 35 feet.

1) For exceptions to this requirement, see article I, section 7, subsection E.

B) Minimum side yard:

1) Principal structures: Ten feet
2) Accessory uses: Five feet
3) For side yard requirements pertaining to corner lots, see article I, section 7, subsection C.

C) Minimum rear yard:

1) Principal structures: 35 feet
2) Accessory uses: Five feet
3) For rear yard requirements pertaining to double frontage lots, see article I, section 7, subsection D.

D) Maximum building height:

1) For lots located 1,000 linear feet or less from Interstate 77: 60 feet
2) For all other lots: 35 feet
3) For exceptions to height regulations, see article I, section 7, subsection L.

E) Off-street parking: Uses permitted in HC zoning districts shall meet all standards set forth in article I, section 7, subsection I., pertaining to off-street parking, loading, and other requirements.

F) Signs: Signs permitted in HC zoning districts, including the conditions under which they may be located, are set forth in article III.

G) Buffers: Where proposed commercial development abuts one or more lots zoned for residential use, a suitable buffer screen, wall or fence, six feet in height, shall be provided along each shared property line to restrict visibility of the commercial use from adjacent residential uses.

SECTION II. Invocation of Pending Ordinance Doctrine. The pending ordinance doctrine, as defined and applied by the South Carolina Supreme Court in the case of *Sherman* vs. *Reavis* 273 S.C. 542, 257 S.E. 2d 735, and as adopted and applied by the state courts in other decisions, is hereby adopted and declared to be in full force and effect following first reading approval of this ordinance.

SECTION III. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION IV. Effective Date. This ordinance shall be effective from and after the date of adoption.

SIGNED AND SEALED this _____ day of _____, 2017, having been duly adopted by the Town Council for the Town of Fort Mill on the _____ day of _____, 2017.

First Reading: February 13, 2017
Public Hearing: February 13, 2017
Second Reading: February 27, 2017

TOWN OF FORT MILL

_____
Guynn H. Savage, Mayor

LEGAL REVIEW

_____

Barron B. Mack, Jr, Town Attorney

ATTEST

_____

Virginia C. Burgess, Town Clerk

Fort Mill Town Council

Meeting Information	
Meeting Type	Planning Commission
Meeting Date	February 21, 2017

Request Summary						
Request Type		Action (Old Bus.)	X	Action (New Bus.)		Info/Discussion
		Public Hearing		Executive Session		Other

Case Summary						
Case Type		Annexation		Rezoning		Text Amendment
		Subdivision Plat		Appearance Review	X	Other

Property Information	
Applicant	Clear Springs Land Company, LLC; Clear Springs-Kingsley, LLC; Close Family Real Estate #2, LLC; Clear Springs-Springfield, LLC; Clear Springs-Bradley Park, LLC; Springland Associates, LLC; Springland, Inc.; Anne Springs Close; and Clear Springs-KTC, LLC
Property Owner	Same as above
Property Location	The development agreement covers 8 "tracts" at various locations throughout the town limits.
Tax Map Number	Various
Acreage	2,785 (+/-)
Current Zoning	MXU Mixed Use, R-10 Residential, GR General Residential, GI General Industrial
Proposed Zoning	No Change
Existing Use	Various

Title

AN ORDINANCE AUTHORIZING A SECOND AMENDMENT TO A DEVELOPMENT AGREEMENT BY AND BETWEEN THE TOWN OF FORT MILL AND CLEAR SPRINGS LAND COMPANY, LLC, CLEAR SPRINGS-KINGSLEY, LLC, CLOSE FAMILY REAL ESTATE #2, LLC, CLEAR SPRINGS-SPRINGFIELD, LLC, CLEAR SPRINGS-BRADLEY PARK, LLC, SPRINGLAND ASSOCIATES, LLC, SPRINGLAND, INC., ANNE SPRINGS CLOSE, SPRINGFIELD TOWN CENTER, LLC, AND CLEAR SPRINGS-KTC, LLC, TO CLARIFY THE TERM OF THE AGREEMENT, TO CLARIFY THE PROPERTY SUBJECT TO THE DEVELOPMENT AGREEMENT, TO

AMEND THE DEVELOPMENT SCHEDULE APPLICABLE TO THE SUBJECT PROPERTY, TO ESTABLISH THE TERMS OF THE PROVISION OF WATERWORKS AND SEWER SERVICES TO THE SUBJECT PROPERTY; AND OTHER MATTERS RELATING THERETO

Background Information

Site Characteristics

The current development agreement covers more than 2,700 acres of property located throughout the town limits. A summary of all tracts covered by the current development is included below.

Zoning Summary

Below is a summary of the zoning designation and development status (residential, commercial and industrial) for all tracts covered by the current Clear Springs Development Agreement:

Zoning Designation & Acreage

Tract	Zoning Designation	Acreage (+/-)
1 – Kingsley	MXU	626
2 – NE Quad US 21/SC 160	MXU	55
3 – SE Quad US 21/SC 160	MXU	85
4 – Springfield	MXU	347
5 – Merritt	GR	30
6 – Avery	R-10	345
7 – McAlhaney	MXU	845
8 – Bradley Park	GI	452
TOTAL	**-----**	**2,785**

Note: The draft amendment will not change the zoning designation of any tract covered by the current development agreement. A 1.38-acre parcel, which is currently part of Tract 6 (Avery), will be removed from the current agreement. This parcel contains the stormwater detention pond for Avery Plaza. Avery Plaza is not included in the existing development agreement.

Residential Development

Tract	# Approved	# Built / Committed	# Remaining
1 – Kingsley	1,025	238	787
3 – SE Quad US 21/SC 160	465	0	465
4 – Springfield	680	632	48
5 – Merritt	249	248	1
6 – Avery	526	0	526
7 – McAlhaney	845	0	845
TOTAL	**3,790**	**1,118**	**2,672**

Note: The draft amendment will not change the number of residential units permitted under the existing development agreement.

Commercial Development

Tract	SF Approved	SF Built / Committed	SF Remaining
1 – Kingsley	1,552,200	885,549	666,651
2 – NE Quad US 21/SC 160	270,000	0	270,000
3 – SE Quad US 21/SC 160	400,000	0	400,000
4 – Springfield	290,000	92,170	197,830
7 – McAlhaney	150,000	0	150,000
TOTAL	**2,662,200**	**977,719**	**1,684,481**

Note: The draft amendment will increase the allowable commercial square footage on Tract 1 (Kingsley) from 1,552,200 to 6,000,000, a net increase of 4,447,800 square feet. If approved, this would increase the total number of commercial square feet allowed under the development agreement (Tracts 1, 2, 3A, 4 and 7) from 2,662,200 to 7,110,000.

Industrial Development

Tract	# Approved	# Built / Committed	# Remaining
8 – Bradley Park	2,810,000	0	2,810,000
TOTAL	**2,810,000**	**0**	**2,810,000**

Note: The draft amendment will not change the amount of allowable square footage for industrial uses.

Comprehensive Plan

The town's future land use map, as illustrated in the Comprehensive Plan, recommends the following uses and densities for the tracts covered by the development agreement:

Tract	Comp Plan Recommendation	Are Permitted Uses Consistent?
1 – Kingsley	Mixed Use, Commercial, Med. Density Residential	Yes
2 – NE Quad US 21/SC 160	Mixed Use	Yes
3 – SE Quad US 21/SC 160	Mixed Use	Yes
4 – Springfield	Mixed Use, Med. Density Residential	Yes

5 – Merritt	High Density Residential	Yes
6 – Avery	Med. Density Residential	Yes
7 – McAlhaney	Mixed Use	Yes
8 – Bradley Park	Employment	Yes
TOTAL	**-----**	**2,785**

In staff's opinion, the permitted uses in the current development agreement, as well as the proposed changes in the draft amendment, are consistent with the town's comprehensive plan.

Traffic Impact

The developer has completed traffic studies, and installed required off-site transportation improvements, for development activities on Tract 4 (Springfield), Tract 5 (Merritt), and a portion of Tract 1 (Kingsley). The remaining tracts are currently undeveloped.

From a traffic standpoint, the most significant change will be the addition of nearly 4.5 million square feet of commercial development on Tract 1 (Kingsley). To accommodate this much commercial development, significant improvements will be required to the I-77/SC 160 interchange, as well as U.S. Highway 21. York County has recently submitted a request to the SC Transportation Infrastructure Bank for improvements to Exit 85, as well as 4 other interchanges in Fort Mill and Rock Hill. The York County Capital Projects Sales Tax Committee is also considering the widening U.S. Highway 21 in the upcoming Pennies 4 referendum. Both of these improvements will likely be necessary to accommodate up to 6 million square feet on the Kingsley Tract.

The draft amendment incorporates several provisions related to off-site traffic impacts:

- A traffic impact study will be required prior to the commencement of new development, and the developer will be responsible for any off-site improvements deemed necessary by the study;

- The town may require an updated traffic study for any substantial modifications to uses and densities which will generate 100 or more daily peak hour trips; and

- In the event US Highway 21 Bypass improvements are included in any York County Pennies for Progress or similar road construction project, Developer agrees to work in good faith with Town, York County and SCDOT regarding right-of-way acquisition on the Property along Highway 21 Bypass. Developer also agrees not to

construct any buildings within 25' of the existing 100' Highway 21 Bypass right-of-way unless preliminary plat was approved prior to the Effective Date of this Amendment.

Fire Impact

The properties covered by the development agreement were annexed in 2008, and therefore, are already under the town's fire service area.

The current development agreement required the donation of a 1-acre site for a future fire station in the "northern part" of the property. The amendment increases the size of this donation to "no less than 1.5 acres," and further requires that the property be donated to the town no less than 180 days following the effective date of the amendment.

Utility Impact

The most significant changes to the existing development agreement are contained in Exhibit A to the amendment, which replaces the current Section 8 (Public Facilities and Services) with a newly written Section 8.

Tract 4 (Springfield) and Tract 5 (Merritt) are – and will continue to be – served directly by York County. Water service in Tract 1 (Kingsley) is provided by the town, while retail sewer service is provided by the town via a wholesale agreement with York County. The amendment stipulates that the current arrangement for Tract 1 will remain in place, subject to availability from York County. The town and county may also mutually agree for this arrangement to apply to Tracts 2 and 3, located at the intersection of U.S. 21 and SC 160.

All other tracts are intended to be served by the town; provided, however, that if the town does not have adequate capacity at the time such tracts are developed (based on the master development schedule, or subsequent amendments thereto), the town would have the option to: 1) Enter into a wholesale agreement with an alternate provider, whereby the town would be the retail provider, with treatment capacity provided by a third party; or 2) Allow the developer to directly enter into a utility agreement with an alternate provider, provided such service shall be provided at no cost to the town. Nothing in the agreement would preclude the town and developer from entering into a separate cost-sharing agreement upon such terms as may be mutually agreeable to both parties.

The developer will be responsible for direct costs related to providing utility infrastructure within the development, as well as any off-site transmission lines and facilities, lift stations, pump stations and other necessary appurtenances to connect the property with existing off-site infrastructure.

No water or sewer capacity constructed, acquired or otherwise made available by the Town pursuant to the amendment will be reserved for the

use of the Developer, except to the extent and from the date of, payment by the developer of all applicable tap and capacity fees for such capacity (including through any Cost-Sharing Agreement) or the town's issuance of a willingness and capability to serve letter to developer. The Town's obligation to provide capacity under the amendment shall be satisfied by the town's having such water or sewer capacity available for use by the developer at the times provided for by the 2017 Development Schedule, as may be amended in accordance with the terms of the amendment. The Town shall be deemed to have made such water or sewer capacity required in a particular year as shown on the 2017 development schedule available for use by the developer as long as such capacity is available to the developer by March 1 of the applicable year. Developer shall have the right, at any time in its sole discretion, to prepay applicable, uniformly-applied tap and capacity fees to reserve capacity for all or any portion of the property, after which such capacity shall be reserved for developer regardless of any amendments to or acceleration of the 2017 development schedule.

The property shall be subject to all town capacity fees for water and sewer; provided, however, when a third party provides water or sewer service to the property (either directly or via a wholesale agreement), the connection fees may differ from the fees and rates charged by the town.

Lastly, the amendment contains the following language in regards to a future water tank site:

> "Developer agrees to work with the Town in good faith to find a mutually agreeable location for a public water tower site, and to agree upon the conveyance thereof on terms and conditions mutually agreeable to the parties. In the event any site does not have access from a public right-of-way at the time of conveyance, Developer will grant a permanent non-exclusive access easement (along with a temporary construction easement) to the Town in a location, and upon such terms and conditions, as may be mutually agreeable to both parties, which terms and conditions shall include, without limitation, Developer's right to relocate or modify the access easement once a future public road or roads providing access to or near the site have been constructed."

School Impact

The amended development agreement will not entitle any additional residential units above and beyond the number originally approved in the 2008 development agreement. Therefore, there is no enrollment impact to the Fort Mill School District.

The addition of up to 4.448 million square feet of additional commercial development at Kingsley may also significantly increase commercial property tax revenues (without enrollment impact) for the school district.

Discussion

Below is a summary of the major modifications contained within the proposed second amendment:

- The initial 20-year term for the development agreement is amended to be 20 years from the effective date of the amendment.

- Allows the developer, in its sole discretion, to apply any subsequent changes to local development regulations (such as the UDO) to the property, if such changes are found to be beneficial to the developer's use of the property.

- Allows for the administrative removal of property from the terms of the agreement, provided no more than 250 acres, in the aggregate, are removed during a 3-year period, and provided the total number of acres covered by the agreement does not drop below 1,000 acres.

- Updates the development schedule contained in Exhibit C.

- Amends the development conditions (Exhibit F) to increase the allowable commercial square footage on Tract 1 (Kingsley) from 1,552,200 square feet to 6,000,000 square feet.

- Requires the donation of no less than 1.5 acres of land in the northern part of the property for a future fire station within 180 days from the effective date of the amendment.

- Requires that the developer and town work in good faith to find a mutually agreeable location for a public water tower site, including any necessary easements and rights-of-way, if required.

- Replaces Section 8 (Public Facilities and Services) in its entirety. See Refer to the "Utility Impact" section above for additional details.

- Applies the town's Street Acceptance Policy (adopted in 2016) to portions of the property which have not yet been developed, and incorporates special provisions for street acceptance thresholds in commercial areas.

- Updates the traffic impact study requirements for new development, and changes in uses and densities for previously approved development which will generate 100 or more daily peak hour trips.

- The developer agrees to work in good faith with the town, York County and SCDOT regarding right-of-way acquisition for the future widening of U.S. Highway 21. The developer also agrees to an additional 25' setback along the existing 100' right-of-way on U.S. Highway 21, so as to accommodate future widening.

- Requires that the town contribute toward the monthly operating costs for streetlights located in the public right-of-way (consistent with the town's current policy), as well as streetlights located within 10' of a public right-of-way, provided such streetlights directly benefit vehicular and/or pedestrian traffic, or otherwise improve public safety within the adjacent right-of-way.

In summary, the proposed amendment simplifies existing provisions contained within the 2008 development agreement, and provides greater flexibility to both the town and developer, particularly relating to the provision of utility services. Developer concessions for a fire station site, water tank site, and transportation corridor preservation will also provide a public benefit to existing residents and taxpayers.

One of the most important changes in the proposed amendment is the increased allowance for commercial development at Kingsley. Increasing the allowable commercial square footage from 1,552,200 to 6,000,000 square feet will significantly enhance economic development opportunities, provide employment and shopping options for local residents, and increase the commercial tax base for the town, York County, and the Fort Mill School District. For Kingsley to ever reach 6 million square feet, significant off-site road improvements will be required, including interchange improvements at I-77 and SC 160, and a five-lane widening of US Highway 21 Bypass. However, between the Kingsley and CATO projects (6 million and 4.5 million square feet, respectively), Fort Mill and York County will have the potential for more than 10 million square feet of prime commercial and mixed use development, on than 1,000 acres bordered by both an interstate and a U.S. Highway. There are few locations anywhere in the state which possess the same economic development potential.

For these reasons, staff recommends in favor of approval.

Alternatives	
1.	Approve the ordinance adopting the 2nd amendment to the Development Agreement, as submitted.
2.	Approve the ordinance adopting the 2nd amendment to the Development Agreement, with modifications.

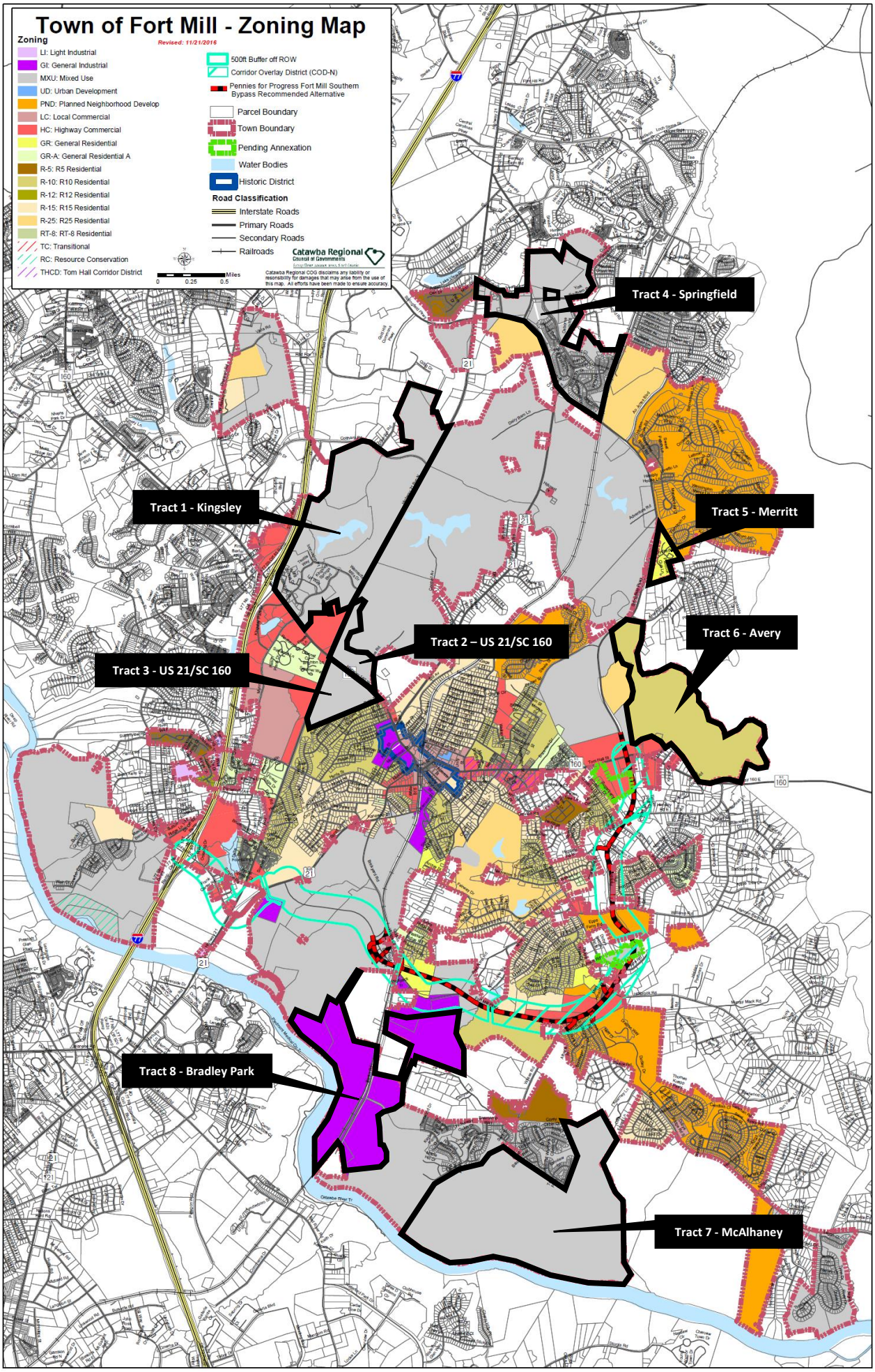
3.	Deny the ordinance adopting the 2nd amendment to the LSC Development Agreement.

Staff Recommendation	
Recommendation	Staff recommends in favor of APPROVAL of the ordinance adopting the 2nd amendment to the Development Agreement between the Town of Fort Mill and Clear Springs, et al.
Name & Title	Joe Cronin, Planning Director
Department	Planning Department
Date of Request	February 16, 2017

Legislative History	
Planning Commission	02/21/2017: Council gave first reading APPROVAL to the ordinance amending the development agreement. (6-0)
First Reading	02/13/2017: Scheduled
Public Hearing	02/27/2017: Scheduled
Second Reading	02/27/2017: Scheduled
Effective Date	Upon adoption

Attachments

- Zoning Map
- Draft Ordinance Adopting the 2nd Amendment to the Development Agreement
- Draft 2nd Amendment to the Development Agreement


Town of Fort Mill - Zoning Map
Revised: 11/21/2016
Zoning
LI: Light Industrial
GI: General Industrial
MXU: Mixed Use
UD: Urban Development
PND: Planned Neighborhood Develop
LC: Local Commercial
HC: Highway Commercial
GR: General Residential
GR-A: General Residential A
R-5: R5 Residential
R-10: R10 Residential
R-12: R12 Residential
R-15: R15 Residential
R-25: R25 Residential
RT-8: RT-8 Residential
TC: Transitional
RC: Resource Conservation
THCD: Tom Hall Corridor District
500ft Buffer off ROW
Corridor Overlay District (COD-N)
Pennies for Progress Fort Mill Southern Bypass Recommended Alternative
Parcel Boundary
Town Boundary
Pending Annexation
Water Bodies
Historic District
Road Classification
Interstate Roads
Primary Roads
Secondary Roads
Railroads
Catawba Regional
Council of Governments
Miles
0 0.25 0.5
Catawba Regional COG disclaims any liability or responsibility for damages that may arise from the use of this map. All efforts have been made to ensure accuracy.
Tract 4 - Springfield
Tract 1 - Kingsley
Tract 5 - Merritt
Tract 2 – US 21/SC 160
Tract 6 - Avery
Tract 3 - US 21/SC 160
Tract 8 - Bradley Park
Tract 7 - McAlhaney

STATE OF SOUTH CAROLINA
TOWN COUNCIL FOR THE TOWN OF FORT MILL
ORDINANCE NO. 2017-___

AN ORDINANCE AUTHORIZING A SECOND AMENDMENT TO A DEVELOPMENT AGREEMENT BY AND BETWEEN THE TOWN OF FORT MILL AND CLEAR SPRINGS LAND COMPANY, LLC, CLEAR SPRINGS-KINGSLEY, LLC, CLOSE FAMILY REAL ESTATE #2, LLC, CLEAR SPRINGS-SPRINGFIELD, LLC, CLEAR SPRINGS-BRADLEY PARK, LLC, SPRINGLAND ASSOCIATES, LLC, SPRINGLAND, INC., ANNE SPRINGS CLOSE, SPRINGFIELD TOWN CENTER, LLC, AND CLEAR SPRINGS-KTC, LLC, TO CLARIFY THE TERM OF THE AGREEMENT, TO CLARIFY THE PROPERTY SUBJECT TO THE DEVELOPMENT AGREEMENT, TO AMEND THE DEVELOPMENT SCHEDULE APPLICABLE TO THE SUBJECT PROPERTY, TO ESTABLISH THE TERMS OF THE PROVISION OF WATERWORKS AND SEWER SERVICES TO THE SUBJECT PROPERTY; AND OTHER MATTERS RELATING THERETO

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF FORT MILL IN MEETING DULY ASSEMBLED:

ARTICLE I

FINDINGS OF FACT

Section 1.1 Findings of Fact. As an incident to the adoption of this Ordinance, the Town Council of the Town of Fort Mill (the "Town Council"), the governing body of the Town of Fort Mill, South Carolina (the "Town"), finds that the facts set forth in this Article exist, and the statements made with respect thereto are true and correct:

(A) The Town is authorized pursuant to the provisions of the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 through 6-31-160, inclusive, of the Code of Laws of South Carolina, 1976, as amended (herein and as codified, the "Act"), to enter into and amend development agreements with developers (as defined in the Act) to promote comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources and reduce the economic cost of development.

(B) Pursuant to Sections 6-31-10 through 6-31-160 of the Act, the Town and Clear Springs Land Company, LLC, a North Carolina limited liability company, Clear Springs-Kingsley, LLC, a North Carolina limited liability company, Close Family Real Estate #2, LLC, a South Carolina limited liability company, Clear Springs-Springfield, LLC, a North Carolina limited liability company, Clear Springs-Bradley Park, LLC, a North Carolina limited liability company, Springland Associates, LLC, a South Carolina limited liability company, Springland, Inc., a South Carolina corporation, and Anne Springs Close (collectively, the "Original Developer") entered into that certain Development Agreement dated as of July 28, 2008, and recorded August 1, 2008, in Record Book 10221, Page 132 et seq., in the Office of the Register of Deeds for York County, South Carolina (the "2008 Agreement"); and

(C) Pursuant to the Act, the Town and the Original Developer entered into a First Amendment to Development Agreement dated as of October 1, 2013, and recorded October 2, 2013, in Record Book 13742, Page 119 et seq., in the Office of the Register of Deeds for York County, South Carolina (the "First Amendment", and with the 2008 Agreement, the "Development Agreement"); and

(D) Springfield Town Center, LLC and Clear Springs-KTC, LLC were not parties to the Development Agreement, but have acquired property subject thereto and have agreed to be bound by the Development Agreement when amended as provided in this ordinance;

(E) The Town, and Springfield Town Center, LLC and Clear Springs-KTC, LLC together with Original Developer (together the "Developer") desire to further amend the terms of the Development Agreement by way of the proposed Second Amended Development Agreement attached hereto as Exhibit A (the "Second Amendment").

(F) After due investigation, the Town Council has determined that it is in the best interests of the Town to approve the Second Amendment and authorize its execution and delivery.

(G) The Town Council finds that the changes contained in the Second Amendment will better ensure the health, safety and public welfare of its citizens

(H) The Town Council finds that the development of the Property as provided by the Development Agreement as modified by the Second Amendment is consistent with the Town's Comprehensive Plan and land development regulations in effect as of the date hereof.

(I) The Town Council has determined that all conditions precedent to the execution and delivery of the Second Amendment shall, upon the final reading of this Ordinance (herein, "Ordinance"), have been met. A public hearing, as required by Section 6-31-60(B) of the Act, has been duly noticed and held.

(J) The Town Council is adopting this Ordinance in order to:

a. approve the entry by the Town into the Second Amendment; and

b. authorize the execution and delivery of the Second Amendment on behalf of the Town.

ARTICLE II

THE AGREEMENT

Section 2.1 Authorization of Second Amendment. The Town Council hereby authorizes the entry by the Town into the Second Amendment in the form attached hereto as Exhibit A.

Section 2.2 Execution and Delivery of Second Amendment. The Town Council authorizes the Mayor of the Town to execute and deliver the Amendment to the Developer. The Town Clerk is authorized to affix, emboss, or otherwise reproduce the seal of the Town to the Second Amendment and attest the same.

Section 2.3 Effective date. This ordinance shall be effective from and after the date of adoption.

Section 2.4 Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SIGNED AND SEALED this _____ day of _____, 2017, having been duly adopted by the Town Council for the Town of Fort Mill on the _____ day of _____, 2017.

First Reading: February 13, 2017
Public Hearing: February 27, 2017
Second Reading: February 27, 2017

TOWN OF FORT MILL

_____
Guynn H. Savage, Mayor

LEGAL REVIEW

_____
Barron B. Mack, Jr, Town Attorney

ATTEST

_____
Virginia C. Burgess, Town Clerk

Exhibit A

Second Amendment to Development Agreement

SECOND AMENDMENT
TO
DEVELOPMENT AGREEMENT

by and among

Town of Fort Mill

and

Clear Springs Land Company, LLC,
Clear Springs-Kingsley, LLC,
Close Family Real Estate #2, LLC,
Clear Springs-Springfield, LLC,
Clear Springs-Bradley Park, LLC,
Springland Associates, LLC,
Springland, Inc.,
Anne Springs Close,
and
Clear Springs-KTC, LLC

SECOND AMENDMENT TO
DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (this "**Amendment**") is made and entered into as of the date this Amendment is recorded in the Clerk's Office (the "**Effective Date**"), by and among **CLEAR SPRINGS LAND COMPANY, LLC**, a North Carolina limited liability company, **CLEAR SPRINGS-KINGSLEY, LLC,** a North Carolina limited liability company, **CLOSE FAMILY REAL ESTATE #2, LLC,** a South Carolina limited liability company, **CLEAR SPRINGS-SPRINGFIELD, LLC,** a North Carolina limited liability company, **CLEAR SPRINGS-BRADLEY PARK, LLC,** a North Carolina limited liability company, **SPRINGLAND ASSOCIATES, LLC,** a South Carolina limited liability company, **SPRINGLAND, INC.,** a South Carolina corporation, **ANNE SPRINGS CLOSE,** individually, and **CLEAR SPRINGS-KTC, LLC**, a South Carolina limited liability company (collectively and individually, as applicable, the or a "**Developer**"), and **THE TOWN OF FORT MILL,** a South Carolina municipality (the "**Town**") (Developer and Town are collectively referred to herein as the "**Parties**").

WITNESSETH:

WHEREAS, the Developer and the Town entered into that certain Development Agreement dated as of July 28, 2008, and recorded August 1, 2008, in Record Book 10221, Page 132 et seq., in the Office of the Clerk of Court for York County, South Carolina (the "**Clerk's Office**"), as amended by the First Amendment to Development Agreement dated as of October 1, 2013, and recorded October 2, 2013, in Record Book 13742, Page 119 et seq., in the Clerk's Office (collectively, the "**Development Agreement**");

WHEREAS, pursuant to Section 7(c) of the Development Agreement and Section 6-31-100 of the South Carolina Local Government Development Agreement Act (the "**Act**"), the terms and provisions of the Development Agreement may be amended by mutual consent of the Parties to the Development Agreement, evidenced by a written agreement signed by all Parties and recorded in the Clerk's Office, so that the amendment instrument will appear in the chain of title to the Property and be binding upon and inure to the benefit of all successors-in-interest of the Developer, in accordance with Section 6-31-120 of the Act;

WHEREAS, Clear Springs-KTC, LLC was not an original party to the Development Agreement, but acquired portions of the Property and is joining in this Amendment so that development of its respective portions of the Property will be subject to the terms of the Development Agreement, as amended by this Amendment; and

WHEREAS, the Developer and the Town desire to amend the Development Agreement as more fully set forth herein below.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing, all of which is incorporated in this Amendment by reference, and the mutual covenants of the Parties contained in this Amendment, the Parties, intending to be legally bound hereby, agree as follows:

1. Recitals. The recitals stated in this Amendment are true and correct and incorporated herein by this reference.

2. Defined Terms. Any capitalized term not otherwise defined in this Amendment shall have the meaning given such term in the Development Agreement.

3. Property.

(a) This Amendment shall only be applicable to that part of the Property owned by Developer as of the Effective Date, less and except those parcels owned by Developer and listed on **Exhibit A-1** attached hereto and incorporated herein by this reference. The parcels described on **Exhibit A-1**, and any part of the Property conveyed by Developer to a third party prior to the Effective Date, as evidenced by a deed conveying a fee simple interest in the applicable part of the Property recorded in the Clerk's Office prior to the Effective Date, shall not be affected by this Amendment and shall remain subject to the original provisions of the Development Agreement.

(b) The Developer and the Town acknowledge and agree that the shopping center known as "Avery Plaza" (consisting of tax parcel numbers 020-08-01-002, 020-08-01-012, 020-08-01-013, 020-08-01-014, and 020-08-01-015) was not intended to be included in the Property subject to the Development Agreement. Therefore, the Developer and the Town agree that **Exhibit A** to the Development Agreement is hereby amended to add the following sentence to the legal description of Tract 6 (Avery), in order to confirm that the shopping center known as "Avery Plaza" is not part of the Property and is therefore not subject to the Development Agreement:

> "**FURTHER LESS AND EXCEPTING FROM TRACT 6,** the following: All those certain pieces, parcels or lots of land lying, being and situate in the northeastern quadrant of the intersection of Springfield Parkway and S.C. Highway 160 in the Town of Fort Mill, York County, South Carolina, being shown and described as **LOT 1 (10.70 ACRES), LOT 2 (3.55 ACRES), LOT 3 (1.80 ACRES), LOT 4 (1.63 ACRES)**, and **LOT 5 (1.38 ACRES)** on plat entitled "Subdivision Survey for Springland Associates LLC" prepared by James Jetter Pittman, SCPLS No. 14815, dated March 13, 2015, last revised September 11, 2015, and recorded May 20, 2016, in **PLAT BOOK E-394, PAGE 9**, in the Office of the Clerk of Court for York County, South Carolina, and plat entitled "Lot 5 Subdivision Survey for Springland Associates LLC" prepared by James Jetter Pittman, SCPLS No. 14815, dated March 13, 2015, last revised April 22, 2016, and recorded May 20, 2016, in **PLAT BOOK E-394, PAGE 10**, in the Office of the Clerk of Court for York County, South Carolina, reference to which plats is hereby made for a more particular description thereof."

4. Zoning, Vested Rights and Fees. Developer and Town ratify and confirm that the development rights applicable to the Property to develop the Property in accordance with the Clear Springs Master Plan Documents and the Development Agreement remain vested. The governing ordinances, rules and regulations described in Section 5(b) of the Development Agreement, **Exhibit D** to the Development Agreement, and Section 14 of the Development Agreement are not changed or modified by this Amendment, except as provided herein as to Sections 5(b) and 8 of the Development Agreement. Without limiting the foregoing, Developer's rights to develop the Property in accordance with the Clear Springs Master Plan Documents and the Development Agreement shall not be affected by any contemplated, pending or future moratorium on residential, commercial or industrial development or, subject to the terms of Section 5(d)(ii) of the Development Agreement, any contemplated, pending or future adequate public facilities ordinance.

The Parties hereby amend Section 5(b) of the Development Agreement to add the following sentence thereto:

"Notwithstanding the foregoing, in the event any land development regulations (as defined in Section 6-31-20(6) of the Act) or local or other development laws, rules, regulations or ordinances regarding development standards or land use restrictions (collectively, "**Development Regulations**") adopted after the Agreement Date are determined by the Developer to be more beneficial for development of the Property, then Developer in its sole discretion may choose to have such later adopted Development Regulations apply to the Property or any portion thereof."

5. Term of Agreement. The initial twenty (20) year Term for the Development Agreement is hereby amended to be twenty (20) years from the Effective Date of this Amendment. All references in the Development Agreement to the "Term" shall be interpreted to mean the Term as amended and extended as set forth herein.

6. Public Facilities and Services.

(a) Section 7(b) of the Development Agreement is amended as follows:

(i) The last sentence of Section 7(b) of the Development Agreement is amended as follows:

"The conveyance by a Developer of Excluded Property shall not excuse that Developer from its obligation to provide Clear Springs Infrastructure Improvements within such Excluded Property in accordance with Section 8."

(ii) The following sentences are hereby added to the end of Section 7(b) of the Development Agreement:

"Notwithstanding anything in this Agreement to the contrary, the Developer and the Town agree that other portions of the Property may be excluded from all or part of the rights, requirements, and/or obligations in this Agreement when exclusion of such portions of the Property is mutually beneficial to the Developer and the Town (the "**Removed Property**"). Once the Developer and the Town have mutually agreed that any Removed Property shall be excluded from all or part of the rights, requirements, and/or obligations in this Agreement, the Developer and the Town shall execute a written instrument describing the Removed Property, and the specific rights, requirements, and/or obligations in this Agreement that are no longer applicable to the Removed Property, and record it in the Office of the Clerk of Court for York County, South Carolina. The Town Manager shall have the right and authority to execute any such instrument without further approval by Town Council. However, the categorization of any of the Property in excess of two hundred fifty (250) acres in the aggregate as Removed Property within any period of three (3) consecutive years shall be deemed to be a major modification of this Agreement. Additionally, removal of any Property that results in less than 1,000 acres of Property being subject to this Agreement shall be deemed a major modification. Prior to the exclusion of any portion of the Property pursuant to this paragraph, the Town and the Developer must determine that the portion of the Property to be so excluded, if developed, shall have met the Development Regulations in effect at the time of development, and if vacant or undeveloped, then such part of the Property shall meet the Development Regulations in effect at such time the Property is developed."

(b) Section 8 of the Development Agreement is deleted in its entirety and replaced with the new Section 8 attached hereto as **Exhibit A** and incorporated herein by this reference. All references to Section 8(i) (including, but not limited to, references in Section 7(b)) and to Section 8(f) (including but not limited to references in Sections 7(b) and 18) in the Development Agreement are deleted and of no further force and effect. All other references to Section 8, or any subsections thereof, in the Development Agreement shall be deemed to mean and refer to Section 8 as amended and restated in its entirety as set forth in **Exhibit A** to this Amendment.

7. Development Schedule. The 2008 recession significantly delayed development throughout the United States, including within the Town's municipal limits. Accordingly, Developer has demonstrated good cause to modify the dates set forth in the Development Schedule. The Development Agreement is amended by deleting and replacing the original Development Schedule with the amended Development Schedule attached hereto as **Exhibit C** and incorporated herein by this reference. All references in the Development Agreement shall be hereafter construed to mean **Exhibit C** hereto, as may be subsequently amended. Furthermore, the Parties agree that Section 9 of the Development Agreement is deleted in its entirety and replaced with the following:

> "9. DEVELOPMENT SCHEDULE. The Property shall be developed in accordance with the development schedule attached hereto as **Exhibit C** and incorporated herein by this reference (the "**2017 Development Schedule**"). Pursuant to the Act, given the size, scope and time required to properly develop the Property and the overall highly complicated development plans for the Property, especially Tract 1 - Kingsley, the failure of the Developer and any owner to meet the 2017 Development Schedule shall not, in and of itself, constitute a material breach of the Agreement, but must be judged based upon the totality of the circumstances, including, but not limited to, any change in economic conditions or Developer's good faith efforts made to attain compliance with the 2017 Development Schedule. As further provided in the Act, if the Developer requests a modification of the dates set forth in the 2017 Development Schedule and is able to demonstrate that there is good cause to modify those dates, those dates must be modified by the Town and shall not constitute a major modification. A major modification of this Agreement may occur only after public notice and a public hearing by the Town."

8. Donation of Property. Section 11 of the Agreement is stricken and replaced with the following:

> "11. DONATION OF LAND FOR PUBLIC PURPOSES.
>
> (a) Except with respect to easements necessary for public infrastructure to serve the Property and except as provided in Section 11(b) in this Agreement, the Town shall not require, mandate or demand that, or condition approval(s) upon a requirement that, the Developer donate, use, dedicate or sell to the Town or any other party for public purposes any portions of the Property or any other property owned by the Developer (or any of the entities or parties comprising the Developer) or any affiliate of the Developer; provided, however, nothing contained herein shall be deemed or construed to restrict the Town in the appropriate exercise of its eminent domain powers.
>
> (b) As stated in Section 8(m) of this Agreement, the Developer agrees that it shall donate (i.e., free of charge), or cause to be donated to the Town, a tract of land of not less

than 1.5 acres located in the northern part of the Property for development and use by the Town as a fire station (the "**Fire Station Site**"). Within 180 days following the Effective Date of this Amendment, (i) the location of the Fire Station Site shall be mutually agreed upon by the Developer and the Town, and (ii) the Fire Station Site shall be conveyed by limited warranty deed, subject to fire station use restrictions, matters of record or apparent upon a current survey or inspection of the Fire Station Site, and other mutually agreeable terms and provisions. The Developer (as seller) and the Town (as buyer) shall each bear and pay all closing costs customarily paid by sellers and buyers, respectively, of similar real estate in York County, South Carolina. The Town agrees that any structure built on the Fire Station Site shall contain the same quality architectural materials as existing or required for other development on the adjacent portions of the Property."

(c) Developer agrees to work with the Town in good faith to find a mutually agreeable location for a public water tower site, and to agree upon the conveyance thereof on terms and conditions mutually agreeable to the parties. In the event any site does not have access from a public right-of-way at the time of conveyance, Developer will grant a permanent non-exclusive access easement (along with a temporary construction easement) to the Town in a location, and upon such terms and conditions, as may be mutually agreeable to both parties, which terms and conditions shall include, without limitation, Developer's right to relocate or modify the access easement once a future public road or roads providing access to or near the site have been constructed.

9. Assignment. The Parties hereby amend Section 18 (Assignment) to add the following sentences thereto:

"Without limiting the foregoing, as contemplated by Section 7(b) of this Agreement, each Developer shall be entitled to assign and delegate the applicable rights and obligations under this Agreement to a subsequent purchaser of all or any portion of the Property (other than Excluded Property) without the consent of the Town, provided that the applicable selling Developer shall notify the Town, in writing, as and when the applicable rights and obligations are transferred to any other party within fourteen (14) days following such conveyance. Such information shall include the identity and address of the acquiring party, a proper contact person, the location and number of acres of the Property transferred, and the number of residential units and/or commercial acreage, as applicable, subject to the transfer."

10. Amendments to Development Conditions (Exhibit F). The Development Conditions set forth in **Exhibit F** are hereby amended as follows:

(a) **Exhibit F-1**, Section 5.1 (Tract 1- Kingsley), Subsection 5.1.3 (Permitted Uses), is hereby amended to change the maximum commercial floor area from 1,552,200 sf to 6,000,000 sf., as shown on the updated Permitted Uses density table set forth on **Exhibit F-1** attached hereto and incorporated herein by this reference. The other Development Conditions set forth in the Development Agreement and **Exhibit F-1** thereto remain unchanged.

11. Exhibit H (Capacity Costs). The Development Agreement is amended to delete **Exhibit H** (Items Included in Capacity Costs) in its entirety. All references in the Development Agreement to **Exhibit H** are hereby deleted.

12. Conditions to Effectiveness of Amendment. The effectiveness of this Amendment is contingent upon the occurrence of the following events:

(a) Statutory Requirements. The public hearing, notice and publication requirements set forth in Section 6-31-50 of the Act must be satisfied.

(b) Executing of this Amendment. This Amendment must be executed by the Developer and the Town with proper authority to bind their respective entities.

(c) Recordation of this Amendment. After passage of an ordinance authorizing entry into this Amendment by the Town and signatures on this Amendment by the Developer and the Town, the Developer must record this Amendment with the Clerk's Office, so that this Amendment appears in the chain of title of the Property.

Recordation of this Amendment in the Clerk's Office shall constitute conclusive evidence of and notice to third parties that the foregoing conditions have been satisfied.

13. Warranty of Authority**.** It is agreed by Developer and Town that the terms of this Amendment are contractual and not a mere recital, and all signatory parties hereto represent and warrant that they have the full and complete authority to execute and enter into this Amendment.

14. Counterparts. This Amendment may be executed in one or more counterparts and shall be deemed to have become effective when and only when one, two or more of such counterparts shall have been signed by or on behalf of each of the Parties (although it shall not be necessary that any single counterpart be signed by or on behalf of each of the Parties, and all such counterparts shall be deemed to constitute but one and the same instrument), and shall have been delivered by each of the Parties to the other.

15. Binding Effect. The covenants, conditions, rights, terms and conditions set forth herein shall run with title to the Property, and any part thereof, and shall be binding upon, inure to the benefit of, and be enforceable by and against, the Parties and their respective successors and assigns. Any future amendments to the Development Agreement must be executed only by the Town and the fee simple owner(s) of the applicable portion(s) of the Property subject to any such future amendment. Except as expressly modified herein, the Development Agreement shall remain in full force and effect.

16. Mediation. Prior to the commencement of an action at law or in equity upon a dispute arising out of this Agreement, the Town and Developer shall first mediate their dispute in accordance with the South Carolina Court-Annexed Alternative Dispute Resolution Rules, or any successive alternative dispute resolution rules or requirements adopted by the South Carolina Supreme Court. In the event the dispute is not resolved within sixty (60) days after commencing mediation, the Town and Developer are free to move forward with any available remedy.

[Signatures Begin on Following Page]

IN WITNESS WHEREOF, the Parties have executed and delivered this Amendment as of the Effective Date.

CLEAR SPRINGS LAND COMPANY, LLC

By: Clear Springs Development Company, LLC,
its Manager

Witnesses:

_____ By:_____
Name: James Traynor
_____ Title: President

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he is not a party to or beneficiary of the transaction and that (s)he saw the within named **Clear Springs Land Company, LLC**, by its duly authorized officer, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

SWORN to before me this
_____day of _____ , 2017

_____
Notary Public Signs AS NOTARY
Print Notary Name: _____
Notary Public for _____
My Commission Expires:_____

[Signatures Continue on Following Page]

CLEAR SPRINGS-KINGSLEY, LLC

By: Clear Springs Development Company, LLC,
its Manager

Witnesses:

_____ By:_____
Name: James Traynor
_____ Title: President

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he is not a party to or beneficiary of the transaction and that (s)he saw the within named **Clear Springs-Kingsley, LLC**, by its duly authorized officer, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

SWORN to before me this
_____day of _____ , 2017

_____
Notary Public Signs AS NOTARY
Print Notary Name: _____
Notary Public for _____
My Commission Expires:_____

[Signatures Continue on Following Page]

CLOSE FAMILY REAL ESTATE #2, LLC

By: Clear Springs Development Company, LLC,
its Manager

Witnesses:

_____ By:_____
Name: James Traynor
_____ Title: President

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he is not a party to or beneficiary of the transaction and that (s)he saw the within named **Close Family Real Estate #2, LLC**, by its duly authorized officer, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

SWORN to before me this
_____day of _____ , 2017

_____
Notary Public Signs AS NOTARY
Print Notary Name: _____
Notary Public for _____
My Commission Expires:_____

[Signatures Continue on Following Page]

CLEAR SPRINGS-SPRINGFIELD, LLC

By: Clear Springs Development Company, LLC,
its Manager

Witnesses:

_____ By:_____
Name: James Traynor
_____ Title: President

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he is not a party to or beneficiary of the transaction and that (s)he saw the within named **Clear Springs-Springfield, LLC**, by its duly authorized officer, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

SWORN to before me this
_____day of _____ , 2017

_____
Notary Public Signs AS NOTARY
Print Notary Name: _____
Notary Public for _____
My Commission Expires:_____

[Signatures Continue on Following Page]

CLEAR SPRINGS-BRADLEY PARK, LLC

By: Clear Springs Development Company, LLC,
its Manager

Witnesses:

_____ By:_____
Name: James Traynor
_____ Title: President

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he is not a party to or beneficiary of the transaction and that (s)he saw the within named **Clear Springs-Bradley Park, LLC**, by its duly authorized officer, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

SWORN to before me this
_____day of _____ , 2017

_____
Notary Public Signs AS NOTARY
Print Notary Name: _____
Notary Public for _____
My Commission Expires:_____

[Signatures Continue on Following Page]

SPRINGLAND ASSOCIATES, LLC

By: Springland, Inc., its Manager

Witnesses:

_____ By:_____
Name: W. Dehler Hart
_____ Title: President

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he is not a party to or beneficiary of the transaction and that (s)he saw the within named **Springland Associates, LLC**, by its duly authorized officer, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

SWORN to before me this
_____day of _____ , 2017

_____
Notary Public Signs AS NOTARY
Print Notary Name: _____
Notary Public for _____
My Commission Expires:_____

[Signatures Continue on Following Page]

SPRINGLAND, INC.

Witnesses:

_____ By:_____
Name: W. Dehler Hart
_____ Title: President

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he is not a party to or beneficiary of the transaction and that (s)he saw the within named **Springland, Inc.**, by its duly authorized officer, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

SWORN to before me this
_____day of _____ , 2017

_____
Notary Public Signs AS NOTARY
Print Notary Name: _____
Notary Public for _____
My Commission Expires:_____

[Signatures Continue on Following Page]

ANNE SPRINGS CLOSE

Witnesses:

_____ By:_____
Name: Anne Springs Close

_____

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he is not a party to or beneficiary of the transaction and that (s)he saw the within named **Anne Springs Close**, sign, seal and as her act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

SWORN to before me this
_____day of _____ , 2017

_____
Notary Public Signs AS NOTARY
Print Notary Name: _____
Notary Public for _____
My Commission Expires:_____

[Signatures Continue on Following Page]

Witnesses:

CLEAR SPRINGS-KTC, LLC

_____

_____

By:_____
Name: _____
Title: _____

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he is not a party to or beneficiary of the transaction and that (s)he saw the within named **CLEAR SPRINGS-KTC, LLC**, by its duly authorized officer, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

SWORN to before me this
_____day of _____ , 2017

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Notary Public Signs AS NOTARY
Print Notary Name: _____
Notary Public for _____
My Commission Expires:_____

[Signatures Continue on Following Page]

TOWN OF FORT MILL

Witnesses:

_____ By:_____
Name: _____
_____ Title: _____

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he is not a party to or beneficiary of the transaction and that (s)he saw the within named **Town of Fort Mill**, by its duly authorized officer, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

SWORN to before me this
_____day of _____ , 2017

_____
Notary Public Signs AS NOTARY
Print Notary Name: _____
Notary Public for _____
My Commission Expires:_____

EXHIBIT A

[New Section 8]

"8. Public Facilities and Services.

Subject to the conditions set forth herein, and the other terms and conditions of this Agreement, the Parties agree to the following:

(a) General Provisions. Town and Developer recognize that the majority of the direct costs associated with the development of the Property will be borne by the Developer. The relevant Developer shall cause the improvements it is responsible for providing, as set forth below (collectively, the "**Clear Springs Infrastructure Improvements**"), to be constructed at no cost to the Town to design and construction standards as determined by that Developer to be necessary from time to time for the development of the portion or portions of the Property it owns, but, which standards must be in any case permitted by then-applicable design and construction standards that have been adopted by the Town, or in the absence of such standards, such design and construction standards as are in accordance with then-existing commonly-accepted and adopted standards in the engineering industry, as evidenced by standards adopted by the South Carolina Department of Health and Environmental Control, the American Society of Civil Engineers, the South Carolina Department of Transportation (as to roads and bridges) or other similar organizations of national repute.

(i) The Clear Springs Infrastructure Improvements shall include, without limitation, sanitary sewer lines and facilities, storm water drainage lines and facilities, potable water lines and facilities, fire hydrants, roadways, bridges, streets, and sidewalks as necessary for development of the particular portion of the Property. Developer shall also be responsible for installing, at Developer's cost, all transmission lines, lift stations, pump stations and all other appurtenances necessary to connect the Property with the existing offsite water and sewer infrastructure necessary to serve the Property under development. The Clear Springs Infrastructure Improvements (or the relevant portion(s) thereof) shall be constructed by the Developer on a timetable that will cause them to be completed prior to the date that building permits are issued for improvements to be served by such Clear Springs Infrastructure Improvements. If the Town requires Developer to construct such lines and facilities to serve a larger capacity than such Developer would otherwise need to construct to serve the Property (or the relevant portion(s) thereof to be served by such lines and facilities), then the Town shall either pay Developer in full within 30 days of receipt of an itemized invoice or reimburse such Developer in a timely manner via a Cost-Sharing Arrangement (as defined below) for the additional costs (including market rate interest expenses) incurred by such Developer for the additional or larger lines and facilities installed by such Developer in response to the Town's request; provided, Developer shall have no obligation to construct the larger lines and facilities until Town and Developer have executed a Cost-Sharing Agreement which addresses such larger lines and facilities. However, nothing contained herein shall prevent Developer, the Town or York County from seeking third party, State or Federal assistance, grants, economic development incentives or other sources of funds to pay for or help pay for improvements including infrastructure and roadway improvements.

(ii) Developer's obligations under Section 8 are severable from and allocable to each separate entity or party comprising the Developer with respect to that portion or portions of the Property that such Developer actually owns in fee simple title, so that the Developer that is the fee simple owner of the applicable part of the Property on which such Clear Springs Infrastructure Improvements are being or have been constructed shall be responsible for construction of those Clear Springs Infrastructure Improvements, if any, located on such part of the Property, as expressly required by this Section 8; provided, however, Anne Springs Close shall have no liability with respect to any Clear Springs Infrastructure

Improvements under this Section 8 or any other provision of this Agreement, upon the undertaking by any other Developer in writing, enforceable by the Town, to bear responsibility for the provision of Clear Springs Infrastructure Improvements on that portion of the Property (or fraction thereof) owned by Anne Springs Close. Once fee simple title to the applicable part of the Property has been conveyed to a third party, the third party owner shall assume responsibility for the applicable Clear Springs Infrastructure Improvements, if any, located on such part of the Property, in accordance with Section 7(b) and Section 18 of this Agreement, and the prior Developer shall immediately be relieved from liability for the acquisition and construction of any such Clear Springs Infrastructure Improvements. Notwithstanding anything herein to the contrary, Developer shall be required to construct any Clear Springs Infrastructure Improvements on or within the applicable part of the Property only if the applicable Clear Springs Infrastructure Improvement is necessary for the applicable Developer's development and use of the applicable part of the Property, as determined by the applicable Developer in its reasonable discretion, subject in any case to governing ordinances, rules and regulations described in Section 5(b) of this Development Agreement, **Exhibit D** of this Development Agreement and governing laws as defined in Section 14 of this Agreement.

(iii) With respect to the Clear Springs Infrastructure Improvements to be constructed by the Developer within the Property which the Developer intends to dedicate to the Town and which the Town shall hereafter agree to accept, the Developer owning the portion(s) of the Property upon which such Clear Springs Infrastructure Improvements are situate (except in no event shall this paragraph apply to Anne Springs Close in her capacity as a Developer) shall provide to the Town, for a period of eighteen (18) months, beginning upon written acceptance by the Town (provided such written acceptance occurs promptly following the Developer's offer of dedication to the Town), a warranty for all accepted infrastructure improvements. The Developer and the Town understand and agree that, as to components of Clear Springs Infrastructure Improvements financed with the proceeds of tax-exempt bonds, if any, the timing of the dedication thereof by a Developer and the acceptance thereof by the Town may be subject to the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder (collectively, the "**IRC**"), and the parties agree to cooperate in any such case to enable compliance with the IRC.

(iv) Construction, maintenance and dedication of water or sewer infrastructure served directly by other service providers (i.e., York County, City of Tega Cay, etc.) will be governed by terms and conditions reached between Developer and such service provider.

(v) After completion of construction of any Clear Springs Infrastructure Improvements, Developer shall provide to the Town two (2) sets of reproducible as-built drawings (in PDF, .dwg and Shapefile formats) for the Clear Springs Infrastructure Improvements constructed by the Developer within the Property, along with itemized construction and engineering costs.

(b) Water and Sewer Services. The Town commits to provide, during the Term, adequate potable water capacity and sewer capacity to serve the Property and development thereon pursuant to the Clear Springs Master Plan Documents consistent with the needs created by, and the timetable for, the development of the Property as set forth in the 2017 Development Schedule, as same may be subsequently amended by Developer pursuant to Section 9 of the Development Agreement, subject to the provisions of Section 8(a) and this Section 8(b) of this Agreement.

(i) Potable water and sewer services will be supplied to the Property by the Town in a manner consistent with the terms, quality and level of service as is provided to other residents and businesses within the Town. However, York County has and will serve Tracts 4 and 5 with potable water and sewer transmission, treatment and disposal through direct service agreements, and the Town is not and will not be a party to such agreements. Subject to availability, York County will serve Tract 1 with water and sewer service through an existing wholesale agreement with the Town, as may be subsequently

amended. If mutually agreeable to Town, Developer and York County, York County may also serve Tracts 2 and 3 with water and/or sewer service through a wholesale agreement with the Town.

(ii) The availability of water and sewer service shall at all times be subject to general laws and regulations of the Town, the State of South Carolina, the United States government, and such other entities which may provide wholesale or direct service to the Property. Additionally, the availability of water and sewer service shall be subject to all ordinances enacted and actions undertaken by the Town pursuant to the South Carolina Drought Response Act, presently codified as Chapter 23 of Title 49, South Carolina Code of Laws, 1976, as amended and other laws and regulations regulating the withdrawal of surface water or groundwater or the discharge of wastewater. Furthermore, the Town's obligation to provide potable water and sewer service to the Property is subject to any delay in the availability or interruption of the same caused by Force Majeure. "Force Majeure" means any act of God, act of war, civil disturbance, governmental action other than an action taken or initiated by the Town, strikes, lockouts, fire, unavoidable casualties or any other causes beyond the reasonable control of the Town.

(iii) Subject to accelerated demand set forth in Section 8(b)(iv), in the event that the Developer desires to commence development of a certain portion of the Property, and the Town does not have sufficient water or sewer capacity, when required by the Developer, to serve a portion of the Property (other than Tracts 1, 4 and 5), the Town agrees that it will notify Developer in writing of such circumstances no later than sixty (60) days after Developer notifies the Town of its desire to commence development of a certain portion of the Property, and will promptly undertake to obtain such capacity on a wholesale basis from a third party so that the Town may provide service to such portion of the Property. If the Town fails to negotiate and enter into a binding agreement with a third party within 180 days following the Developer giving of notice in accordance with the preceding sentence, then the Developer may negotiate directly with any third party to directly provide potable water or sewer to such portion of the Property at no cost to the Town.

(iv) If the 2017 Development Schedule is amended to materially accelerate the Developer's demand for potable water or sewer within five (5) years from the date of such amendment, the Town agrees that within 180 days following the effective date of such amendment it will notify Developer in writing that either (a) the Town will meet such demand no later than 44 months of the date of such amendment or (b) the Town will not meet such demand. For purposes of this Section 8(b), the Developer's requirement for potable water or sewer shall be deemed materially accelerated if by reason of one or more amendments to the 2017 Development Schedule, such requirement increases by more than 120,000 gallons per day (GPD) within five (5) years from the date of the most recent amendment to the 2017 Development Schedule over the requirements as shown in the 2017 Development Schedule (prior to any amendment thereto), and the Town does not have in place on such date, in its reasonable judgment, sufficient available capacity to meet such accelerated demand, taking into account existing and foreseeable demands. If the Town notifies Developer of its inability to meet Developer's demand from the materially accelerated Development Schedule within such 180-day time period, then the Town shall be relieved of its obligation to provide potable water or sewer to meet such accelerated demand and Developer may negotiate directly with a third party to provide potable water or sewer (as applicable) to such portion of the Property at no cost to the Town. Furthermore, if the Town fails to deliver any written notice to Developer within such 180-day time period, then Developer may negotiate directly with a third party to provide potable water or sewer (as applicable) to such portion of the Property at no cost to the Town.

(v) Except for materially accelerated demand set forth in subsection (iv) above, the Town shall upon request from Developer reasonably demonstrate that it has sufficient water or sewer capacity, or is progressing with the design, permitting and construction of the necessary infrastructure or negotiating with a third party to provide water and sewer service, as applicable, on a wholesale basis to such portion of the Property in accordance with the demand set forth in the 2017 Development Schedule, as amended. If

the Town is unable to provide such reasonable demonstration within 180 days of the request, the Developer may notify the Town of such failure in writing and negotiate directly with any third party to provide potable water or sewer service to such portion of the Property at no cost to the Town.

(vi) If Town does not have capacity or elects not to provide Developer with materially accelerated demand, the Town will not object or try to block Developer from utilizing a third party provider. Upon Developer reaching an agreement with any third party provider to serve a portion of the Property with water or sewer service, the Developer shall notify the Town of such agreement and the Town shall grant whatever consents may be required of it by law to allow direct service by such third party. The Town's obligation to grant consents is subject to SCDHEC and EPA rules and regulations as administered by the Catawba Regional Council of Governments.

(vii) Notwithstanding the foregoing provisions of this Section 8(b), nothing in this Agreement shall preclude the Town and Developer from entering into a separate utility agreement for cost-sharing, which agreement must be satisfactory to Town and Developer in their respective sole discretion (each, a "**Cost-Sharing Agreement**"), of water or sewer systems when such agreement may be of mutual benefit to both parties. Any Cost-Sharing Agreement may include terms mutually agreeable to Town and Developer including but not limited to pre-pay or reservation of capacity, or credits towards any applicable tap fees or impact fees.

(viii) For purposes of this Section 8(b):

"water capacity" shall mean both the production of potable water and the transmission of the same to the point of connection with Clear Springs Infrastructure Improvements in quantities adequate to meet demand therefore as shown in the 2017 Development Schedule, as amended in accordance with this Agreement; and

"sewer capacity" shall mean the collection (from the point of connection with Clear Springs Infrastructure Improvements on the Property), transmission, treatment and disposal of domestic and industrial wastewater in quantities adequate to meet demand therefore as shown in the 2017 Development Schedule, as amended in accordance with this Agreement.

Nothing herein shall prohibit the Town from negotiating agreements with third parties for the provision of either one or both components of water or sewer capacity.

(ix) No water or sewer capacity constructed, acquired or otherwise made available by the Town pursuant to this Agreement is reserved for the use of the Developer, except to the extent and from the date of, payment by the Developer of all applicable tap and capacity fees for such capacity (including through any Cost-Sharing Agreement) or the Town's issuance of a willingness and capability to serve letter to Developer. The Town's obligation to provide capacity under this Agreement shall be satisfied by the Town's having such water or sewer capacity available for use by the Developer at the times provided for by the 2017 Development Schedule, as may be amended in accordance with the terms of this Agreement, and as further provided in this Section 8(b) of this Agreement. The Town shall be deemed to have made such water or sewer capacity required in a particular year as shown on the 2017 Development Schedule available for use by the Developer as long as such capacity is available to the Developer by March 1 of the applicable year. Developer shall have the right, at any time in its sole discretion, to prepay applicable, uniformly-applied tap and capacity fees to reserve capacity for all or any portion of the Property, after which such capacity shall be reserved for Developer regardless of any amendments to or acceleration of the 2017 Development Schedule.

(x) The Property shall be subject to all current and future water and sewer connection/capacity fees imposed by the Town, provided such fees are applied consistently and in the same manner to all similarly-situated property within the Town limits. In particular, the Developer agrees that it shall not seek any exemptions for any portions of the Property from any current or future water or sewer connection/capacity fees (so long as such water and sewer connection/capacity fees are applied consistently and in the same manner to all similarly-situated property within the Town limits) except as may be agreed upon in a Cost-Sharing Agreement. The Town and the Developer understand and agree that when, for any reason provided in Section 8(b) of this Agreement, a third party provides water or sewer service to the Property, whether directly or through the Town, the connection/capacity fees and rates for service payable by the Developer and subsequent owners of such Property may differ from the fees and rates which apply in areas served solely by the Town, provided such fees are applied consistently and in the same manner to all similarly-situated property.

(xi) The Town shall not be required to undertake any borrowing secured by its waterworks and sewer system or the revenues thereof (**"Utility Revenue Bonds"**) which (a) does not satisfy all conditions for the issuance of senior lien parity bonds secured by revenues from the facilities serving the Property as contained in proceedings of the Town authorizing Utility Revenue Bonds; (b) would require an increase in rates charged customers of the Town's utilities system in excess of fifteen percent (15%) (either in a single rate increase or in two or more rate increases implemented within a period of five (5) years); or (c) would cause the Town to violate any debt service coverage covenants given to secure its Utility Revenue Bonds. Nothing contained in this Section or this Agreement shall require the Town to encumber or exceed its statutory or state constitutional debt limitations, nor shall the obligations of the Town hereunder constitute a charge against or pledge of the full faith, credit, or taxing power.

(xii) Developer's right to seek third party service upon Town's inability to serve shall not be construed to relieve the Town of its obligation to timely provide water or sewer service to the Property, except as expressly provided in Sections 8(b)(ii), (iv) and (xi) above.

(c) Private Roads. All roads within the Property shall generally be public roads. Private alleys may be allowed in limited circumstances, provided such alleys are constructed to Town standards, as set forth in the Clear Springs Master Plan Documents, or are approved by the Town as part of the subdivision plat approval process, and will be owned and maintained by a private owners association. The Town Planning Commission will not be involved in the review or approval of projects in the MXU zoning district, provided that the Town Planning Commission shall approve the names of all streets and roads in the Property pursuant to S.C. Code Ann. § 6-29-1200(a).

(d) Public Roads and Traffic Impact. Subject to any special conditions set forth in the Development Conditions, all public roads within the Property shall be constructed to Town and when applicable, to South Carolina Department of Transportation ("**SCDOT**"), specifications existing at the date of preliminary plat approval. The exact location, alignment, and name of any public road within the Property shall be subject to review and approval by the Town as part of the subdivision platting process, provided that any such subdivision plats that are materially consistent with the site plan uses of the Property generally depicted in the Clear Springs Master Plan Documents shall be approved. The Town Planning Commission will not be involved in the review or approval of projects in the MXU zoning district, provided that the Town Planning Commission shall approve the names of all streets and roads in the Property pursuant to S.C. Code Ann. § 6-29-1200(a). The Developer shall be responsible for maintaining all public roads until such roads are offered to, and accepted by, the Town for public ownership and maintenance. Subject always to its obligation to construct to completion all road-related infrastructure, the Developer shall be allowed to assign public road maintenance and ownership to an owners association until such time as the Town accepts such roads for ownership and maintenance.

(i) Unless otherwise specified herein, dedication and acceptance of roads shall be governed by the Town's 2016 Street Acceptance Policy. With respect to single family residential subdivisions, the Town shall not be obligated to accept such roads for public ownership and maintenance until certificates of occupancy ("**CO")** have been issued for at least seventy-five percent (75%) of all buildable lots in a subdivided phase or portion of the Property pursuant to the applicable approved subdivision plat. With respect to commercial developments or subdivisions, the Town shall not be obligated to accept roads for public ownership and maintenance until the earlier of: (a) when COs have been issued for at least seventy-five percent (75%) of buildable lots in a subdivided phase or part of the Property; (b) when COs have been issued for at least fifty percent (50%) of buildable lots in a subdivided phase or part of the Property if Developer has provided construction site access reducing construction traffic on roads presented for acceptance; or (c) CO issuance along any road where at least 200,000 sq. ft. of commercial space has occurred. Developer agrees to use construction entrances to minimize construction traffic on public roads whenever practical. Public roads shall be accepted within 30 days of submission of an application for acceptance with supporting documents and payment of the required road acceptance fee, unless any such road fails to comply with the governing requirements and specifications described in this Agreement. Upon inspection by Town Engineering, if any road is found to contain defects, such defects shall be corrected by the Developer in a timely manner prior to acceptance by the Town. Upon final inspection and acceptance by the Town, the Developer shall provide a warranty period and bond for all public roads within the Project, pursuant to the Town's 2016 Street Acceptance Policy. With respect to roads accepted under the 200,000 sq. ft. requirement, Developer will warrant such roads for two years after acceptance.

(ii) Developer recognizes the potential impact on the public roadways resulting from development of the Property in accordance with the Clear Springs Master Plan Documents. A traffic impact analysis was performed by the Developer for development of a portion of the Property, as required by the Zoning Ordinance, and the applicable Developer shall be responsible for any improvements deemed necessary by this traffic impact analysis as allocated and set forth in such analysis. Traffic impact analyses will be provided for completing development of the Property (which may require separate analyses for separate tracts) and the applicable Developer shall be responsible for any improvements deemed necessary by the traffic impact analysis as allocated and set forth in such analysis. The traffic impact analysis governing the portion of the Property for development must be completed no earlier than 24 months prior to commencement of such development. No further traffic impact analysis will be required for individual development applications that are submitted in conformity with the Zoning Ordinance and this Agreement. However, should the Developer seek to substantially modify the development plan following completion of a Traffic Analysis, the Town reserves the right to require an updated traffic impact analysis ("**Updated Traffic Analysis**"). For the purpose of this paragraph, a substantial modification includes any change in uses and/or densities which will generate 100 or more additional peak hours trips (based upon *ITE Trip Generation* Rates, 9th Edition). Any such new uses and densities shall conform to the Zoning Ordinance and this Agreement. To reflect such newly granted uses and densities, Developer shall be responsible for improvements deemed necessary by the Updated Traffic Analysis. The Developer may, at the Developer's option, coordinate with adjacent property owners for a joint traffic impact analysis, provided development on the applicable properties is expected to commence within twenty-four (24) months from the date of the analysis.

(iii) In the event US Highway 21 Bypass improvements are included in any York County Pennies for Progress or similar road construction project, Developer agrees to work in good faith with Town, York County and SCDOT regarding right-of-way acquisition on the Property along Highway 21 Bypass. Developer also agrees not to construct any buildings within 25' of the existing 100' Highway 21 Bypass right-of-way unless preliminary plat was approved prior to the Effective Date of this Amendment.

(e) Storm Drainage System. All stormwater runoff, drainage, retention and treatment improvements within the Property shall be designed in accordance with the Zoning Ordinance and Chapter

16 of the Code of Ordinances as described and set forth on **Exhibit D**. All stormwater runoff and drainage system structural improvements, including culverts and piped infrastructure, will be constructed by the Developer and dedicated to, and accepted by, the Town. With respect to single family residential subdivisions, the Town shall accept such drainage system structural improvements for public ownership and maintenance once certificates of occupancy have been issued for at least eighty percent (80%) of all buildable lots within the applicable development phase. Commercial developments or subdivisions shall not be subject to a minimum certificate of occupancy requirement prior to acceptance of such drainage system structural improvements. Upon final inspection and acceptance by the Town, the Developer shall provide a one-year warranty period for all drainage system structural improvements within the Property. Retention ponds, ditches and other stormwater retention and treatment areas will be constructed and maintained by the Developer and/or assigned to an owners association, as appropriate.

(f) Solid Waste and Recycling Collection. The Town shall provide solid waste and recycling collection services to the Property on the same basis as is provided to other residents and businesses within the Town.

(g) Police Protection. The Town shall provide police protection services to the Property on the same basis as is provided to other residents and businesses within the Town.

(h) Fire Services. The Town shall provide fire services to the Property on the same basis as is provided to other residents and businesses within the Town. The parties understand and agree that areas of the Town may have varying "ISO" ratings for fire protection owing to the location of fire stations, and that nothing in this Agreement obligates the Town to maintain a particular ISO rating on any portion of the Property, the establishment, maintenance and equipping of fire stations being in the sole discretion of the Town.

(i) Emergency Medical Services. Such services to the Property are now provided by York County through a contract with a private provider. The Town shall not be obligated to provide emergency medical services to the Property, absent its election to provide such services on a town-wide basis.

(j) School Services. Such services are now provided by Fort Mill School District No. 4 of York County (the "**School District**"). Developer shall be responsible for paying all impact fees levied by the School District for each residential unit constructed prior to the issuance of a certificate of occupancy (so long as such impact fees are applied consistently and in the same manner to all similarly-situated property within the Town limits). The Town shall not be obligated to provide school services to the Property, absent its election to provide such services on a town-wide basis.

(k) Private Utility Services. Private utility services, including electricity, natural gas, and telecommunication services (including telephone, cable television, and internet/broadband) shall be provided to the site by the appropriate private utility providers based upon designated service areas. All utilities internal to the Property shall be located underground, except lines along the perimeter of the Property and high voltage lines which may be above ground, and shall be placed in locations approved by the Town so as to reduce or eliminate potential conflicts within utility rights-of-way.

(l) Streetlights. Developer shall install or cause to be installed streetlights within the Property. To the extent that the Town provides the same benefit to other neighborhoods or developments, the Town shall contribute toward the monthly operating cost for each streetlight located within public right-of-way. Streetlights located outside of the public right-of-way will receive Town contribution if the streetlights are located within 10' of the public right-of-way and directly benefit vehicular and/or pedestrian traffic, and/or otherwise improve public safety within the adjacent public right-of-way. The remaining monthly cost for each streetlight, if any, shall be borne by the Developer and/or any applicable owners association. The

provisions of this paragraph shall apply solely to streetlights located within or associated with public rights of way of which the Town has accepted dedication.

(m) Parks and Open Spaces; Donation of Land. As set forth in the Development Conditions, portions of the Property within the boundaries of any portion of the Anne Springs Close Greenway located within the Town's municipal limits may be used to satisfy, at Developer's election, up to fifty percent (50%) of an open space requirement imposed on the Property. The Town shall provide park services and operations to the Property on the same basis as is provided to other residents and businesses within the Town.

Except as expressly set forth in Section 11 of this Agreement with respect to the Fire Station Site, Developer shall not be required to donate any portion of the Property to the Town.

(n) Easements. Developer shall be responsible for obtaining, at Developer's cost, all easements, access rights, or other instruments that will enable the Developer to tie into current or future water and sewer infrastructure on adjacent properties.

(o) Public Financing. On July 14, 2008, the Town adopted a revised Policy Statement relating to Municipal Improvement Districts (the "**MID Policy Statement**") to finance certain infrastructure improvements, such as the Clear Springs Infrastructure Improvements, within the Town limits. As set forth in and subject to the provisions in Section 14 in this Agreement (including the provisions in Section 6-31-80(B) of the Act), the current version of the MID Policy Statement shall be applicable to the development of the Property during the Term. It is the Town's intention as of the Agreement Date to make available, upon Developer's request, municipal improvement district ("**MID**") financing to the Developer pursuant to South Carolina law and consistent with the MID Policy Statement to finance, to the extent legally permissible, costs of the Clear Springs Infrastructure Improvements. In that regard, the Town shall give good faith consideration to the Developer's request that the Town utilize MID financing to pay costs of the Clear Springs Infrastructure Improvements and costs of infrastructure improvements situated outside of the Property as permitted by law. Such good faith consideration is dependent, however, upon the satisfaction of applicable portions of the MID Policy Statement, as well as other applicable statutory requirements, being met, upon the Town incurring no general obligation for the bonds to be issued to implement the improvement plan(s) for the MID(s), and upon the Developer paying (or reimbursing) all direct expenses incurred by the Town in connection with any MID(s) requested by the Developer (e.g., engineering studies and costs, attorneys' fees, MID administrative costs, etc.). Further, until sufficient details are provided by the Developer to the Town to allow the Town to adequately analyze the appropriateness of using MID financing bonds to fund particular portions or components of the Clear Springs Infrastructure Improvements and/or infrastructure improvements situated outside of the Property, the Town is not in a position to approve such use of MID financing bonds, and nothing in this Agreement shall be deemed or construed as a commitment or pre-approval by the Town to so approve such use of MID financing bonds, such financing being in the sole discretion of the Town.

In addition to the creation of MIDs as contemplated above, there are other mechanisms and tools that are or may be available to the Developer to fund the cost of Clear Springs Infrastructure Improvements (collectively, "**Other Infrastructure Funding Tools**"), including funding at the County, state and federal levels and other economic incentives (including, but not limited to, entering into FILOT agreements with the County). It is the Town's intention as of the Agreement Date to give good faith consideration to the Developer's request that the Town cooperate with and facilitate the Developer's efforts to avail itself of Other Infrastructure Funding Tools to finance costs of the Clear Springs Infrastructure Improvements, provided the proposed development of the Property (or the relevant phase or portion thereof) necessitating the installation of such Clear Springs Infrastructure Improvements is comparable, from economic development, job creation, tax base creation and quality perspectives, to other development projects

the Developer and its affiliates have undertaken in the area since 1995. However, until sufficient details are provided by the Developer to the Town to allow the Town to adequately analyze the appropriateness of using or pursuing such Other Infrastructure Funding Tools to pay for particular portions or components of the Clear Springs Infrastructure Improvements, nothing in this Agreement shall be deemed or construed as a commitment or pre-approval by the Town to take any specific action(s) with respect to any particular Other Infrastructure Funding Tools, the undertaking of such action(s) being in the sole discretion of the Town, and subject to the general law of the State regarding municipal budgeting, appropriations and the imposition of taxes and service charges (collectively, "**State Budget Laws**")."

(p) Remedies. The only remedy at law or in equity that shall be available to Developer in the event of a breach by the Town of the provisions of Section 8(b) of this Agreement shall be an action for specific performance of the express terms hereof, it being understood that if Developer prevails in such an action for specific performance, the Town shall owe Developer its reasonable attorneys' fees and all other expenses of litigation.

EXHIBIT A-1

[Description of Developer Parcels Subject to Original D.A.]

Exhibit A-1

Tax Parcel Number	Approximate Acreage	Recorded Plat	Brief Description
020-09-01-042	13.06	Book E285 Page 9	LPL Parking Garage and Main Bldg
020-09-01-045	3.24	Book E285 Page 9	LPL Smaller Bldg
020-09-01-043	11.62	Book E279 Page 3	LPL Option Parcel
020-09-01-044	20.08	Book E279 Page 3	LASH 1
020-09-01-063	10.57	Book 152 Page 207	LASH 2 Expansion
020-21-01-288 020-21-01-296 020-21-01-329	5.279 4.651 16.572 26.50 Total	Book E398 Page 8	Pulte: Phase 2B
020-21-01-292 020-21-01-293 020-21-01-294 020-21-01-295	5.11 27.14 8.39 57.00 97.64 Total	Book 100 Page 469; Book 77 Page 125; Book 7 Page 140	Pulte: Phase 3

EXHIBIT C

[Development Schedule]

Development Schedule--Annual Activity Over 20+ Years

Exhibit C (2 of 2) 2-7-2017 updatefor 2nd Amend to Dev Agt

January 1, 2017 to December 31,2036 & beyond

(Quantities are units---no. of homes/townhomes/apartments and sq. ft. of retail/commercial/industrial)

		Sewer served by York County						Sewer served by York County				Ft Mill	York County Water & Sewer			Tract 5	Tract 6	Tract 7		Tract 8								Grand Total All
		Tract 1---Kingsley						Tract 2	Tract 3A [5]			Tract 3B[6]	Tract 4---Springfield			Merritt Road	Avery	McAlhaney		Bradley Park	Tracts 1 - 8 Totals							
Year	Date	Single Family[1]	Townhome / Condo[1]	Apt[1] Units	Hotel[2][4] Sq. Ft.	Small Shop Restaurants and Retail	Com/ Office[3]	Com/ Office[3]	Townhome/ Condo[1]	Apt[1] Units	Com/ Office[3]	Com/ Office[3]	Single Family[1]	Townhome/ Condo[1]	Com/ Office[3][8]	Apartment[7]	Single Family[1]	Single Family[1]	Com/ Office[3]	Industrial[3]	Single Family[1]	Townhome/ Condo[1]	Apt[1] Units	Hotel[2][4] Sq. Ft.	Restaurants	Com/ Office[3][4]	Industrial[3]	Dwelling Units
													348		82,000													
permitted at 12-31-2016				48	87,133	19,533	740,973						Net of Carolina Orchards Phase 1 202 lots already permitted & Phase 2 A 146 lots			Apartments built and in service					348		48	87,133	19,533	822,973		396
1	2017			180		26,984	28,777	0					73								73	0	180	0	26,984	110,777	0	253
2	2018					53,000	181,820	0													0	0	0	0	53,000	268,953	0	0
3	2019							0					211								211	0	0	0	0	0	0	211
4	2020														19,000		75			100,000	75	0	0	0	0	19,000	100,000	75
5	2021			250			175,000						48		20,000		100				148	0	250	0	0	195,000	0	398
1 to 5		0	0	430	0	79,984	385,597	0	0	0	0	0	332	0	39,000	0	175	0	0	100,000	507	0	430	0	79,984	593,730	100,000	937
6	2022						150,000						210	10			100				310	10	0	0	0	150,000	0	320
7	2023				82,867									20	40,000	W & S	100	75		100,000	175	20	0	82,867	0	40,000	100,000	195
8	2024						186,113	30,000						18	40,000	By York Co.	100	85	10,000		185	18	0	0	0	266,113	0	203
9	2025						150,000										51	80	15,000		131	0	0	0	0	165,000	0	131
10	2026						250,000	20,000							40,000			85	15,000		85	0	0	0	0	407,667	0	85
6 to 10		0	0	0	82,867		736,113	50,000	0	0	0	0	210	48	120,000	0	351	325	40,000	100,000	886	48	0	82,867	0	1,028,980	100,000	934
11	2027	20	40					10,000		285								85	15,000		105	40	285	0	0	25,000	0	430
12	2028	20	40				250,000	10,000			20,000							90	20,000		110	40	0	0	0	300,000	0	150
13	2029	23	40				0				10,000							90	20,000		113	40	0	0	0	30,000	0	153
14	2030	20	40				250,000	15,000	30									85	20,000		105	70	0	0	0	285,000	0	175
15	2031	20	40				250,000		20									85	20,000	150,000	105	60	0	0	0	270,000	150,000	165
11 to 15		103	200	0	0		750,000	35,000	50	285	30,000	0	0	0	0	0	0	435	95,000	150,000	538	250	285	0	0	910,000	150,000	1,073
16	2032		40				250,000	20,000	20		10,000	28,000						85	15,000	150,000	85	60	0	0	0	323,000	150,000	145
17	2033		40				250,000		30		20,000	28,000								150,000	0	70	0	0	0	298,000	150,000	70
18	2034		40				250,000	20,000	30			28,000								100,000	0	70	0	0	0	298,000	100,000	70
19	2035		52				250,000		30		30,000	28,000								100,000	0	82	0	0	0	308,000	100,000	82
20	2036		62				250,000	15,000	20			28,000								150,000	0	82	0	0	0	293,000	150,000	82
16 to 20		0	234	0	0		1,250,000	55,000	130	0	60,000	140,000	0	0	0	0	0	85	15,000	650,000	85	364	0	0	0	1,520,000	650,000	449
1 to 20		103	434	478	170,000	99,517	3,862,683	140,000	180	285	90,000	140,000	890	48	241,000	0	526	845	150,000	1,000,000	2,364	662	763	170,000	99,517	4,875,683	1,000,000	3,789
after 2036							1,867,800	130,000	20		310,000	140,000			49,000					1,810,000	0	20	0			2,496,800	1,810,000	20
Grand Total		103	434	478	170,000	99,517	5,730,483	270,000	200	285	400,000	280,000	890	48	290,000	0	526	845	150,000	2,810,000	2,364	682	763	170,000	99,517	7,372,483	2,810,000	3,809
Less Development permitted or in use				(48)	(87,133)	(19,533)	(740,973)						(348)		(82,000)						(348)		(48)	(87,133)	(19,533)	(822,973)		
Net Total		103	434	430	82,867	79,984	4,989,510	270,000	200	285	400,000	280,000	542	48	208,000	0	526	845	150,000	2,810,000	2,016	682	715	82,867	79,984	6,549,510	2,810,000	

Notes:

Please Note---The development schedules are subject to significant changes---particularly for Kingsley and Bradley Park where ongoing marketing and economic development efforts can result in commercial/industrial users of up to 500,000+ sq. ft. materializing with little lead notice. Landing a major corporate headquaters or regional headquarters with the associated significant growth in jobs and tax base requires a coordinated effort by State, County and Town officials.

(1) Number of Units
(2) No. of Rooms= 250 Assume first hotel — First Hotel 87133 sq.ft.(129 rms); 2nd Hotel 82867 sq. ft.(121 rm)
(3) Square Feet
(4) Hotel square footage is included in Total Com/Office
(5) Tract 3A does not include development data for Tract 3B
(6) Tract 3B is not included in the Net Economic Benefit Study that was delivered to the Town in conjunction with the Developer's delivery to the Town of its application for the Development Agreement.
(7) Merritt Road property---apartments are built & are served by York County water & sewer. Water & sewer needs are not included in the projection since the apartments are complete.
(8) Springfield Town Center ---81,000 sq. ft. of retail space currently being served. All tap fees have been paid & service is in place.

York County water & sewer
Ft Mill water & sewer
FT Mill water & York Co sewer

EXHIBIT F-1

[Updated density table, 5.1.3, Tract 1 - Kingsley]

Use	Max. Floor Area (SF) or Units
Commercial	6,000,000 sf
Residential	1,025 units

Fort Mill Town Council

Meeting Information	
Meeting Type	Planning Commission
Meeting Date	February 21, 2017

Request Summary						
Request Type		Action (Old Bus.)	X	Action (New Bus.)		Info/Discussion
		Public Hearing		Executive Session		Other

Case Summary						
Case Type		Annexation		Rezoning		Text Amendment
		Subdivision Plat		Appearance Review	X	Other

Property Information	
Applicant	Leroy Springs & Company, Inc.
Property Owner	Same as above
Property Location	The development agreement covers 5 “tracts” at various locations throughout the town limits.
Tax Map Number	Various
Current Zoning	MXU Mixed Use, R-25 Residential, HC Highway Commercial, & PND Planned Neighborhood Development
Proposed Zoning	No Change
Existing Use	Various

Title

AN ORDINANCE AUTHORIZING A SECOND AMENDMENT TO A DEVELOPMENT AGREEMENT BY AND BETWEEN THE TOWN OF FORT MILL AND LEROY SPRINGS & COMPANY, INC, TO CLARIFY THE TERM OF THE AGREEMENT, TO AMEND THE DEVELOPMENT SCHEDULE APPLICABLE TO THE SUBJECT PROPERTY, TO ESTABLISH THE TERMS OF THE PROVISION OF WATERWORKS AND SEWER SERVICES TO THE SUBJECT PROPERTY; AND OTHER MATTERS RELATING THERETO

Background Information

Discussion

The purpose of this amendment is to adopt provisions which are substantially similar to those contained within the revised development

agreement with Clear Springs et al. This amendment contains amendments related to the provision of utility service, off-site transportation improvements, and other infrastructure.

The Leroy Springs Development agreement covers the following properties:

- Tract 1A/1B: Anne Springs Close Greenway (MXU)
- Tract 2: Springfield Golf Club (PND)
- Tract 3: Leroy Springs Complex (HC)
- Tract 4: Fort Mill Country Club (R-25)
- Tract 5: Academy Street (MXU)

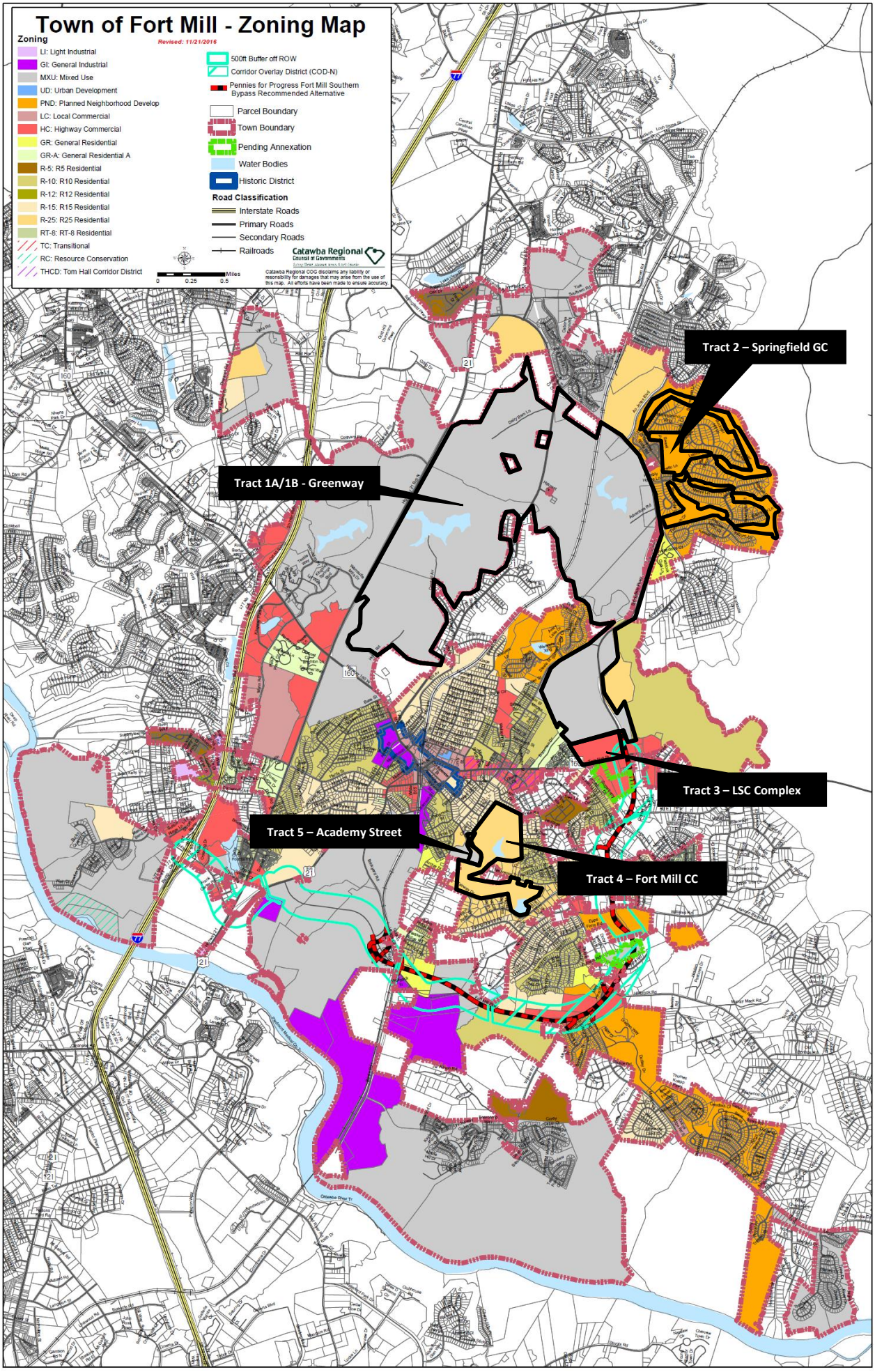
Alternatives	
1.	Approve the ordinance adopting the 2nd amendment to the Development Agreement, as submitted.
2.	Approve the ordinance adopting the 2nd amendment to the Development Agreement, with modifications.
3.	Deny the ordinance adopting the 2nd amendment to the LSC Development Agreement.

Staff Recommendation	
Recommendation	Staff recommends in favor of APPROVAL of the ordinance adopting the 2nd amendment to the Development Agreement between the Town of Fort Mill and Leroy Springs & Co.
Name & Title	Joe Cronin, Planning Director
Department	Planning Department
Date of Request	February 16, 2017

Legislative History	
Planning Commission	02/21/2017: Council gave first reading APPROVAL to the ordinance amending the development agreement. (6-0)
First Reading	02/13/2017: Scheduled
Public Hearing	02/27/2017: Scheduled
Second Reading	02/27/2017: Scheduled
Effective Date	Upon adoption

Attachments

- Zoning Map
- Draft Ordinance Adopting the 2nd Amendment to the Development Agreement
- Draft 2nd Amendment to the Development Agreement


Town of Fort Mill - Zoning Map
Revised: 11/21/2016
Zoning
LI: Light Industrial
GI: General Industrial
MXU: Mixed Use
UD: Urban Development
PND: Planned Neighborhood Develop
LC: Local Commercial
HC: Highway Commercial
GR: General Residential
GR-A: General Residential A
R-5: R5 Residential
R-10: R10 Residential
R-12: R12 Residential
R-15: R15 Residential
R-25: R25 Residential
RT-8: RT-8 Residential
TC: Transitional
RC: Resource Conservation
THCD: Tom Hall Corridor District
500ft Buffer off ROW
Corridor Overlay District (COD-N)
Pennies for Progress Fort Mill Southern Bypass Recommended Alternative
Parcel Boundary
Town Boundary
Pending Annexation
Water Bodies
Historic District
Road Classification
Interstate Roads
Primary Roads
Secondary Roads
Railroads
Catawba Regional
Council of Governments
Miles
0
0.25
0.5
Catawba Regional COG disclaims any liability or responsibility for damages that may arise from the use of this map. All efforts have been made to ensure accuracy.
Tract 2 – Springfield GC
Tract 1A/1B - Greenway
Tract 3 – LSC Complex
Tract 5 – Academy Street
Tract 4 – Fort Mill CC

STATE OF SOUTH CAROLINA
TOWN COUNCIL FOR THE TOWN OF FORT MILL
ORDINANCE NO. 2017-___

AN ORDINANCE AUTHORIZING A SECOND AMENDMENT TO A DEVELOPMENT AGREEMENT BY AND BETWEEN THE TOWN OF FORT MILL AND LEROY SPRINGS & COMPANY, INC, TO CLARIFY THE TERM OF THE AGREEMENT, TO AMEND THE DEVELOPMENT SCHEDULE APPLICABLE TO THE SUBJECT PROPERTY, TO ESTABLISH THE TERMS OF THE PROVISION OF WATERWORKS AND SEWER SERVICES TO THE SUBJECT PROPERTY; AND OTHER MATTERS RELATING THERETO

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF FORT MILL IN MEETING DULY ASSEMBLED:

ARTICLE I

FINDINGS OF FACT

Section 1.1 Findings of Fact. As an incident to the adoption of this Ordinance, the Town Council of the Town of Fort Mill (the "Town Council"), the governing body of the Town of Fort Mill, South Carolina (the "Town"), finds that the facts set forth in this Article exist, and the statements made with respect thereto are true and correct:

(A) The Town is authorized pursuant to the provisions of the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 through 6-31-160, inclusive, of the Code of Laws of South Carolina, 1976, as amended (herein and as codified, the "Act"), to enter into and amend development agreements with developers (as defined in the Act) to promote comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources and reduce the economic cost of development.

(B) Pursuant to Sections 6-31-10 through 6-31-160 of the Act, the Town and Leroy Springs & Company, Inc. (the "Developer") entered into that certain Development Agreement dated as of July 28, 2008, and recorded August 1, 2008, in Record Book 10222, Page 1 et seq., in the Office of the Register of Deeds for York County, South Carolina (the "2008 Agreement");

(C) Pursuant to the Act, the Town and the Original Developer entered into a First Amendment to Development Agreement dated as of February __, 2017, and recorded February __, 2017, in Record Book ____, Page ____ et seq., in the Office of the Register of Deeds for York County, South Carolina (the "First Amendment", and with the 2008 Agreement, the "Development Agreement"); and

(D) The Town and the Developer desire to amend the terms of the Development Agreement by way of the proposed Second Amended Development Agreement attached hereto as Exhibit A (the "Second Amendment").

(E) After due investigation, the Town Council has determined that it is in the best interests of the Town to approve the Second Amendment and authorize its execution and delivery.

(F) The Town Council finds that the changes contained in the Second Amendment will better ensure the health, safety and public welfare of its citizens.

(G) The Town Council finds that the development of the Property as provided by the Development Agreement as modified by the Second Amendment is consistent with the Town's Comprehensive Plan and land development regulations in effect as of the date hereof.

(H) The Town Council has determined that all conditions precedent to the execution and delivery of the Second Amendment shall, upon the final reading of this Ordinance (herein, "Ordinance"), have been met. A public hearing, as required by Section 6-31-60(B) of the Act, has been duly noticed and held.

(I) The Town Council is adopting this Ordinance in order to:

a. approve the entry by the Town into the Second Amendment; and

b. authorize the execution and delivery of the Second Amendment on behalf of the Town.

ARTICLE II

THE AGREEMENT

Section 2.1 Authorization of Second Amendment. The Town Council hereby authorizes the entry by the Town into the Second Amendment in the form attached hereto as Exhibit A.

Section 2.2 Execution and Delivery of Second Amendment. The Town Council authorizes the Mayor of the Town to execute and deliver the Amendment to the Developer. The Town Clerk is authorized to affix, emboss, or otherwise reproduce the seal of the Town to the Second Amendment and attest the same.

Section 2.3 Effective Date. This ordinance shall be effective from and after the date of adoption.

Section 2.4 Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SIGNED AND SEALED this _____ day of _____, 2017, having been duly adopted by the Town Council for the Town of Fort Mill on the _____ day of _____, 2017.

First Reading: February 13, 2017
Public Hearing: February 27, 2017
Second Reading: February 27, 2017

TOWN OF FORT MILL

_____
Guynn H. Savage, Mayor

LEGAL REVIEW

_____
Barron B. Mack, Jr, Town Attorney

ATTEST

_____
Virginia C. Burgess, Town Clerk

SECOND AMENDMENT
TO
DEVELOPMENT AGREEMENT

by and among

Town of Fort Mill

and
Leroy Springs & Company, Inc.

SECOND AMENDMENT TO
DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (this "**Amendment**") is made and entered into as of the date this Amendment is recorded in the Clerk's Office (the "**Effective Date**") by and among **LEROY SPRINGS & COMPANY, INC.,** a South Carolina non-profit corporation (the "**Developer**") and **THE TOWN OF FORT MILL,** a South Carolina municipality (the "**Town**").

WITNESSETH:

WHEREAS, the Developer and the Town entered into that certain Development Agreement dated as of July 31, 2008, and recorded August 1, 2008, in Record Book 10222, Page 1, et seq. in the Office of the Clerk of Court for York County, South Carolina (the **"Clerk's Office**"), as amended by the First Amendment to Development Agreement dated as of [ ], and recorded [ ] in Record Book [ ], Page [ ], in the Clerk's Office (collectively, the "**Development Agreement**").

WHEREAS, pursuant to Section 8(c) in the Development Agreement and pursuant to and in accordance with Section 6-31-100 of the South Carolina Local Government Development Agreement Act (the "**Act**," which is defined in this same manner in the Development Agreement), the terms and provisions of the Development Agreement may be amended by mutual consent of the parties to the Development Agreement, evidenced by a written agreement signed by all such parties and recorded in the Clerk's Office, so that the amendment instrument will appear in the chain of title to the Property and be binding upon and inure to the benefit of all successors in interest of the Developer, in accordance with Section 6-31-120 of the Act; and

WHEREAS, the Developer and the Town desire to amend the terms and provisions of the Development as more fully set forth herein below.

AGREEMENT:

1. Recitals. The recitals stated in this Amendment are true and correct and incorporated herein by this reference.

2. Defined Terms. Any capitalized term not otherwise defined in this Amendment shall have the meaning given such term in the Development Agreement. Without limiting the foregoing, the term "Agreement Date" means July 31, 2008.

3. Property.

(a) Tracts 1A and 1B comprise the Greenway, and there is no reason to differentiate with uses or other regulations set forth in the Development Agreement. All uses and regulations pertaining to Tract 1A shall be applicable to Tract 1B and the Development Agreement is hereby amended to effectuate this intent. Furthermore, after the Effective Date, Developer shall have the right to record a recombination plat to combine Tract 1A and Tract 1B into one tract, after which all references in the Development Agreement to Tract 1A or Tract 1B shall be deemed to mean and refer to the combined tract.

(b) This Amendment shall only be applicable to that part of the Property owned by Developer as of the Effective Date. Any part of the Property conveyed by Developer to a third party prior to the Effective Date, as evidenced by a deed conveying a fee simple interest in the applicable part of the Property recorded

in the Clerk's Office prior to the Effective Date, shall not be affected by this Amendment and shall remain subject to the original provisions of the Development Agreement.

4. Zoning, Vested Rights and Fees. Developer and Town ratify and confirm that the development rights applicable to the Property to develop the Property in accordance with the Leroy Springs Master Plan Documents and the Development Agreement remain vested. The governing ordinances, rules and regulations described in Section 6(b) of the Development Agreement, **Exhibit D** to the Development Agreement, and Section 15 of the Development Agreement are not changed or modified by this Amendment, except as provided herein as to Section 9 of the Development Agreement. Without limiting the foregoing, Developer's rights to develop the Property in accordance with the Leroy Springs Master Plan Documents and the Development Agreement shall not be affected by any contemplated, pending or future moratorium on residential, commercial or industrial development or, subject to the terms of Section 6(e)(ii) of the Development Agreement, any contemplated, pending or future adequate public facilities ordinance.

5. Term of Agreement. The initial twenty (20) year Term for the Development Agreement is hereby amended to be twenty (20) years from the Effective Date of this Amendment. All references in the Development Agreement to the "Term" shall be interpreted to mean the Term as amended and extended as set forth herein.

6. Public Facilities and Services.

(a) Section 9(b) of the Development Agreement is amended as follows:

(i) The last sentence of Section 9(b) of the Development Agreement is amended as follows:

"The conveyance by a Developer of Excluded Property shall not excuse that Developer from its obligation to provide Leroy Springs Infrastructure Improvements within such Excluded Property in accordance with Section 9."

(ii) The following sentences are hereby added to the end of Section 9(b) of the Development Agreement:

"Notwithstanding anything in this Agreement to the contrary, the Developer and the Town agree that other portions of the Property may be excluded from all or part of the rights, requirements, and/or obligations in this Agreement when exclusion of such portions of the Property is mutually beneficial to the Developer and the Town (the "**Removed Property**"). Once the Developer and the Town have mutually agreed that any Removed Property shall be excluded from all or part of the rights, requirements, and/or obligations in this Agreement, the Developer and the Town shall execute a written instrument describing the Removed Property, and the specific rights, requirements, and/or obligations in this Agreement that are no longer applicable to the Removed Property, and record it in the Office of the Clerk of Court for York County, South Carolina. The Town Manager shall have the right and authority to execute any such instrument without further approval by Town Council. However, the categorization of any of the Property in excess of two hundred fifty (250) acres in the aggregate as Removed Property within any period of three (3) consecutive years shall be deemed to be a major modification of this Agreement. Additionally, removal of any Property that results in less than 1,000 acres of Property being subject to this Agreement shall be deemed a major modification. Prior to the exclusion of any portion of the Property pursuant to this paragraph, the Town and the Developer must determine that the portion of the Property to be so excluded, if developed, shall have met the Development Regulations in effect at the time of development, and if vacant or undeveloped, then such part of the Property shall meet the Development Regulations in effect at such time the Property is developed."

(b) Section 9 of the Development Agreement is deleted in its entirety and replaced with the new Section 9 attached hereto as **Exhibit A** and incorporated herein by this reference. All references to Section 9, or any subsections thereof, in the Development Agreement shall be deemed to mean and refer to Section 9 as amended and restated in its entirety as set forth in **Exhibit A** to this Amendment.

7. Development Schedule. The 2008 recession significantly delayed development throughout the United States, including within the Town's municipal limits. Accordingly, Developer has demonstrated good cause to modify the dates set forth in the Development Schedule. The Development Agreement is amended by deleting and replacing the original Development Schedule with the amended Development Schedule attached hereto as **Exhibit C** and incorporated herein by this reference. All references to the Development Schedule in the Development Agreement shall be hereafter construed to mean **Exhibit C** hereto, as may be subsequently amended. Furthermore, the Parties agree that Section 10 of the Development Agreement is deleted in its entirety and replaced with the following:

> "10. DEVELOPMENT SCHEDULE. The Property shall be developed in accordance with the development schedule attached hereto as **Exhibit C** and incorporated herein by this reference (the "**2017 Development Schedule**"). Pursuant to the Act, given the size, scope and time required to properly develop the Property and the overall highly complicated development plans for the Property, the failure of the Developer and any owner to meet the 2017 Development Schedule shall not, in and of itself, constitute a material breach of the Agreement, but must be judged based upon the totality of the circumstances, including, but not limited to, any change in economic conditions or Developer's good faith efforts made to attain compliance with the 2017 Development Schedule. As further provided in the Act, if the Developer requests a modification of the dates set forth in the 2017 Development Schedule and is able to demonstrate that there is good cause to modify those dates, those dates must be modified by the Town and shall not constitute a major modification. A major modification of this Agreement may occur only after public notice and a public hearing by the Town."

8. Amendments to Development Conditions. The Development Conditions set forth on **Exhibit F-1** applicable to Tract 1A shall apply to Tract 1B. The Development Conditions set forth in **Exhibit F** are hereby amended as follows:

(a) **Exhibit F-1**

(i) Section 5.1.3 (Greenway Permitted Uses) is hereby amended to add the following:

"Any uses listed on **Exhibit F-A** which is attached hereto and incorporated herein."

(ii) Section 6.1 (Building Height) is hereby is amended to add the following:

"Notwithstanding the foregoing, the height restriction on any building constructed on Tract 3 or any portion of Tract 1A removed from the Conservation Easement (as further described in Section 5.1.3), may, by right, exceed the 60 foot maximum height limitation provided that all portions of the structure exceeding the building height limitation are set back an additional 1 foot from each external boundary line for each foot that the building's height exceeds 60 feet. This additional "foot-for-foot" setback requirement shall be applicable only to external boundary lines of Tract 1A and Tract 3 and shall not be applicable to internal parcel or tract boundary lines of any tracts comprising the Property (Tracts 1A, 1B, 2, 3, 4 and 5), including subdivisions thereof."

(iii) The other Development Conditions set forth in the Development Agreement and **Exhibit F-1** thereto remain unchanged.

(b) **Exhibit F-2:** the Development Conditions for Tract 1B set forth in **Exhibit F-2** are governed and controlled by **Exhibit F-1**. All references to conditions and uses for Tract 1A in **Exhibit F-2** shall apply to Tract 1B.

9. Exhibit G (Capacity Costs). The Development Agreement is amended to delete **Exhibit G** (Items Included in Capacity Costs) in its entirety. All references in the Development Agreement to **Exhibit G** are hereby deleted.

10. Conditions to Effectiveness of Amendment. The effectiveness of this Amendment is contingent upon the occurrence of the following events:

(d) Statutory Requirements. The public hearing, notice and publication requirements set forth in Section 6-31-50 of the Act must be satisfied.

(e) Execution of this Amendment. This Amendment must be executed by the Developer and the Town with proper authority to bind their respective entities.

(f) Recordation of this Amendment. After passage of an ordinance authorizing entry into this Amendment by the Town and signatures on this Amendment by the Developer and the Town, the Developer must record this Amendment with the Clerk's Office, so that this Amendment appears in the chain of title of the Property.

Recordation of this Amendment in the Clerk's Office shall constitute conclusive evidence of and notice to third parties that the foregoing conditions have been satisfied.

11. Warranty of Authority**.** It is agreed by Developer and Town that the terms of this Amendment are contractual and not a mere recital, and all signatory parties hereto represent and warrant that they have the full and complete authority to execute and enter into this Amendment.

12. Counterparts. This Amendment may be executed in one or more counterparts and shall be deemed to have become effective when and only when such counterparts shall have been signed by or on behalf of each of the Parties (although it shall not be necessary that any single counterpart be signed by or on behalf of each of the Parties, and all such counterparts shall be deemed to constitute but one and the same instrument), and shall have been delivered by each of the Parties to the other.

13. Binding Effect. The covenants, conditions, rights, terms and conditions set forth herein shall run with title to the Property, and any part thereof, and shall be binding upon, inure to the benefit of, and be enforceable by and against, the Parties and their respective successors and assigns. Any future amendments to the Development Agreement must be executed only by the Town and the fee simple owner(s) of the applicable portion(s) of the Property subject to any such future amendment. Except as expressly modified herein, the Development Agreement shall remain in full force and effect.

14. Mediation. Prior to the commencement of an action at law or in equity upon a dispute arising out of this Agreement, the Town and Developer shall first mediate their dispute in accordance with the South Carolina Court-Annexed Alternative Dispute Resolution Rules, or any successive alternative dispute resolution rules or requirements adopted by the South Carolina Supreme Court. In the event the

dispute is not resolved within sixty (60) days after commencing mediation, the Town and Developer are free to move forward with any available remedy.

[Signatures Begin on Following Page]

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the latest execution date set forth below.

LEROY SPRINGS & COMPANY, INC.

Witnesses:

_____

_____

By:_____
Name: Tim Patterson
Title: President

Date:_____

Witnesses:

_____

_____

THE TOWN OF FORT MILL

By:_____
Name:_____
Title:_____

Date:_____

STATE OF _____)
)
COUNTY OF _____)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he is not a party to or beneficiary of the transaction, saw the within named Leroy Springs & Company, Inc., by its duly authorized officer, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

SWORN to before me this
____ day of _____, 2017

_____
Notary Public Signs AS NOTARY
Notary Public for _____
My Commission Expires: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF_____)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he is not a party to or beneficiary of the transaction, saw the within named Town of Fort Mill, by its duly authorized officer, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

SWORN to before me this
____ day of _____, 2017

_____
Notary Public Signs AS NOTARY
Notary Public for South Carolina
My Commission Expires: _____

EXHIBIT A

[New Section 9]

"9. Public Facilities and Services.
Subject to the conditions set forth herein, and the other terms and conditions of this Agreement, the Parties agree to the following:

(a) General Provisions. Town and Developer recognize that the majority of the direct costs associated with the development of the Property will be borne by the Developer. The Developer shall cause the improvements it is responsible for providing, as set forth below (collectively, the "**Leroy Springs Infrastructure Improvements**"), to be constructed at no cost to the Town to design and construction standards as determined by Developer to be necessary from time to time for the development of the portion or portions of the Property it owns, but, which standards must be in any case permitted by then-applicable design and construction standards that have been adopted by the Town, or in the absence of such standards, such design and construction standards as are in accordance with then-existing commonly-accepted and adopted standards in the engineering industry, as evidenced by standards adopted by the South Carolina Department of Health and Environmental Control, the American Society of Civil Engineers, the South Carolina Department of Transportation (as to roads and bridges) or other similar organizations of national repute.

(i) The Leroy Springs Infrastructure Improvements shall include, without limitation, sanitary sewer lines and facilities, storm water drainage lines and facilities, potable water lines and facilities, fire hydrants, roadways, bridges, streets, and sidewalks as necessary for development of the particular portion of the Property. Developer shall also be responsible for installing, at Developer's cost, all transmission lines, lift stations, pump stations and all other appurtenances necessary to connect the Property with the existing offsite water and sewer infrastructure necessary to serve the Property under development. The Leroy Springs Infrastructure Improvements (or the relevant portion(s) thereof) shall be constructed by the Developer on a timetable that will cause them to be completed prior to the date that building permits are issued for improvements to be served by such Leroy Springs Infrastructure Improvements. If the Town requires Developer to construct such lines and facilities to serve a larger capacity than Developer would otherwise need to construct to serve the Property (or the relevant portion(s) thereof to be served by such lines and facilities), then the Town shall either pay Developer in full within 30 days of receipt of an itemized invoice or reimburse Developer in a timely manner via a Cost-Sharing Arrangement (as defined below) for the additional costs (including market rate interest expenses) incurred by Developer for the additional or larger lines and facilities installed by Developer in response to the Town's request; provided, Developer shall have no obligation to construct the larger lines and facilities until Town and Developer have executed a Cost-Sharing Agreement which addresses such larger lines and facilities. However, nothing contained herein shall prevent Developer, the Town or York County from seeking third party, State or Federal assistance, grants, economic development incentives or other sources of funds to pay for or help pay for improvements including infrastructure and roadway improvements.

(ii) Developer's obligations under Section 9 are severable from and allocable to each separate entity or party, if any, comprising the Developer with respect to that portion or portions of the Property that Developer actually owns in fee simple title, so that the Developer that is the fee simple owner of the applicable part of the Property on which such Leroy Springs Infrastructure Improvements are being or have been constructed shall be responsible for construction of those Leroy Springs Infrastructure Improvements, if any, located on such part of the Property, as expressly required by this Section 9. Once fee simple title to the applicable part of the Property has been conveyed to a third party, the third party owner shall assume responsibility for the applicable Leroy Springs Infrastructure Improvements, if any, located on such part of the Property, in accordance with Section 8(b) and Section 19 of this Agreement, and the prior Developer

shall immediately be relieved from liability for the acquisition and construction of any such Leroy Springs Infrastructure Improvements. Notwithstanding anything herein to the contrary, Developer shall be required to construct any Leroy Springs Infrastructure Improvements on or within the applicable part of the Property only if the applicable Leroy Springs Infrastructure Improvement is necessary for Developer's development and use of the applicable part of the Property, as determined by Developer in its reasonable discretion, subject in any case to governing ordinances, rules and regulations described in Section 6(b) of this Development Agreement, **Exhibit D** of this Development Agreement and governing laws as defined in Section 14 of this Agreement.

(iii) With respect to the Leroy Springs Infrastructure Improvements to be constructed by the Developer within the Property which the Developer intends to dedicate to the Town and which the Town shall hereafter agree to accept, the Developer owning the portion(s) of the Property upon which such Leroy Springs Infrastructure Improvements are situate shall provide to the Town, for a period of eighteen (18) months, beginning upon written acceptance by the Town (provided such written acceptance occurs promptly following the Developer's offer of dedication to the Town), a warranty for all accepted infrastructure improvements. The Developer and the Town understand and agree that, as to components of Leroy Springs Infrastructure Improvements financed with the proceeds of tax-exempt bonds, if any, the timing of the dedication thereof by Developer and the acceptance thereof by the Town may be subject to the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder (collectively, the "**IRC**"), and the parties agree to cooperate in any such case to enable compliance with the IRC.

(iv) Construction, maintenance and dedication of water or sewer infrastructure served directly by other service providers (i.e., York County, City of Tega Cay, etc.) will be governed by terms and conditions reached between Developer and such service provider.

(v) After completion of construction of any Leroy Springs Infrastructure Improvements, Developer shall provide to the Town two (2) sets of reproducible as-built drawings (in PDF, .dwg and Shapefile formats) for the Leroy Springs Infrastructure Improvements constructed by the Developer within the Property, along with itemized construction and engineering costs.

(b) Water and Sewer Services. The Town commits to provide, during the Term, adequate potable water capacity and sewer capacity to serve the Property and development thereon pursuant to the Leroy Springs Master Plan Documents consistent with the needs created by, and the timetable for, the development of the Property as set forth in the 2017 Development Schedule, as same may be subsequently amended by Developer pursuant to Section 10 of the Development Agreement, subject to the provisions of Section 9(a) and this Section 9(b) of this Agreement.

(i) Potable water and sewer services will be supplied to the Property by the Town in a manner consistent with the terms, quality and level of service as is provided to other residents and businesses within the Town. However, York County has and will serve Tracts 1A and 1B with potable water and sewer transmission, treatment and disposal through direct service agreements, and the Town is not and will not be a party to such agreements.

(ii) The availability of water and sewer service shall at all times be subject to general laws and regulations of the Town, the State of South Carolina, the United States government, and such other entities which may provide wholesale or direct service to the Property. Additionally, the availability of water and sewer service shall be subject to all ordinances enacted and actions undertaken by the Town pursuant to the South Carolina Drought Response Act, presently codified as Chapter 23 of Title 49, South Carolina Code of Laws, 1976, as amended and other laws and regulations regulating the withdrawal of surface water or groundwater or the discharge of wastewater. Furthermore, the Town's obligation to provide potable water and sewer service to the Property is subject to any delay in the availability or interruption of the same caused

by Force Majeure. "Force Majeure" means any act of God, act of war, civil disturbance, governmental action other than an action taken or initiated by the Town, strikes, lockouts, fire, unavoidable casualties or any other causes beyond the reasonable control of the Town.

(iii) Subject to accelerated demand set forth in Section 9(b)(iv), in the event that the Developer desires to commence development of a certain portion of the Property, and the Town does not have sufficient water or sewer capacity, when required by the Developer, to serve a portion of the Property (other than Tracts 1A and 1B), the Town agrees that it will notify Developer in writing of such circumstances no later than sixty (60) days after Developer notifies the Town of its desire to commence development of a certain portion of the Property, and will promptly undertake to obtain such capacity on a wholesale basis from a third party so that the Town may provide service to such portion of the Property. If the Town fails to negotiate and enter into a binding agreement with a third party within 180 days following the Developer giving of notice in accordance with the preceding sentence, then the Developer may negotiate directly with any third party to directly provide potable water or sewer to such portion of the Property at no cost to the Town.

(iv) If the 2017 Development Schedule is amended to materially accelerate the Developer's demand for potable water or sewer within five (5) years from the date of such amendment, the Town agrees that within 180 days following the effective date of such amendment it will notify Developer in writing that either (a) the Town will meet such demand no later than 44 months of the date of such amendment or (b) the Town will not meet such demand. For purposes of this Section 9(b), the Developer's requirement for potable water or sewer shall be deemed materially accelerated if by reason of one or more amendments to the 2017 Development Schedule, such requirement increases by more than 120,000 gallons per day (GPD) within five (5) years from the date of the most recent amendment to the 2017 Development Schedule over the requirements as shown in the 2017 Development Schedule (prior to any amendment thereto), and the Town does not have in place on such date, in its reasonable judgment, sufficient available capacity to meet such accelerated demand, taking into account existing and foreseeable demands. If the Town notifies Developer of its inability to meet Developer's demand from the materially accelerated Development Schedule within such 180-day time period, then the Town shall be relieved of its obligation to provide potable water or sewer to meet such accelerated demand and Developer may negotiate directly with a third party to provide potable water or sewer (as applicable) to such portion of the Property at no cost to the Town. Furthermore, if the Town fails to deliver any written notice to Developer within such 180-day time period, then Developer may negotiate directly with a third party to provide potable water or sewer (as applicable) to such portion of the Property at no cost to the Town.

(v) Except for materially accelerated demand set forth in subsection (iv) above, the Town shall upon request from Developer reasonably demonstrate that it has sufficient water or sewer capacity, or is progressing with the design, permitting and construction of the necessary infrastructure or negotiating with a third party to provide water and sewer service, as applicable, on a wholesale basis to such portion of the Property in accordance with the demand set forth in the 2017 Development Schedule, as amended. If the Town is unable to provide such reasonable demonstration within 180 days of the request, the Developer may notify the Town of such failure in writing and negotiate directly with any third party to provide potable water or sewer service to such portion of the Property at no cost to the Town.

(vi) If Town does not have capacity or elects not to provide Developer with materially accelerated demand, the Town will not object or try to block Developer from utilizing a third party provider. Upon Developer reaching an agreement with any third party provider to serve a portion of the Property with water or sewer service, the Developer shall notify the Town of such agreement and the Town shall grant whatever consents may be required of it by law to allow direct service by such third party. The Town's obligation to grant consents is subject to SCDHEC and EPA rules and regulations as administered by the Catawba Regional Council of Governments.

(vii) Notwithstanding the foregoing provisions of this Section 9(b), nothing in this Agreement shall preclude the Town and Developer from entering into a separate utility agreement for cost-sharing, which agreement must be satisfactory to Town and Developer in their respective sole discretion (each, a "**Cost-Sharing Agreement**"), of water or sewer systems when such agreement may be of mutual benefit to both parties. Any Cost-Sharing Agreement may include terms mutually agreeable to Town and Developer including but not limited to pre-pay or reservation of capacity, or credits towards any applicable tap fees or impact fees.

(viii) For purposes of this Section 9(b):

"water capacity" shall mean both the production of potable water and the transmission of the same to the point of connection with Leroy Springs Infrastructure Improvements in quantities adequate to meet demand therefore as shown in the 2017 Development Schedule, as amended in accordance with this Agreement; and

"sewer capacity" shall mean the collection (from the point of connection with Leroy Springs Infrastructure Improvements on the Property), transmission, treatment and disposal of domestic and industrial wastewater in quantities adequate to meet demand therefore as shown in the 2017 Development Schedule, as amended in accordance with this Agreement.

Nothing herein shall prohibit the Town from negotiating agreements with third parties for the provision of either one or both components of water or sewer capacity.

(ix) No water or sewer capacity constructed, acquired or otherwise made available by the Town pursuant to this Agreement is reserved for the use of the Developer, except to the extent and from the date of, payment by the Developer of all applicable tap and capacity fees for such capacity (including through any Cost-Sharing Agreement) or the Town's issuance of a willingness and capability to serve letter to Developer. The Town's obligation to provide capacity under this Agreement shall be satisfied by the Town's having such water or sewer capacity available for use by the Developer at the times provided for by the 2017 Development Schedule, as may be amended in accordance with the terms of this Agreement, and as further provided in this Section 9(b) of this Agreement. The Town shall be deemed to have made such water or sewer capacity required in a particular year as shown on the 2017 Development Schedule available for use by the Developer as long as such capacity is available to the Developer by March 1 of the applicable year. Developer shall have the right, at any time in its sole discretion, to prepay applicable, uniformly-applied tap and capacity fees to reserve capacity for all or any portion of the Property, after which such capacity shall be reserved for Developer regardless of any amendments to or acceleration of the 2017 Development Schedule.

(x) The Property shall be subject to all current and future water and sewer connection/capacity fees imposed by the Town, provided such fees are applied consistently and in the same manner to all similarly-situated property within the Town limits. In particular, the Developer agrees that it shall not seek any exemptions for any portions of the Property from any current or future water or sewer connection/capacity fees (so long as such water and sewer connection/capacity fees are applied consistently and in the same manner to all similarly-situated property within the Town limits) except as may be agreed upon in a Cost-Sharing Agreement. The Town and the Developer understand and agree that when, for any reason provided in Section 9(b) of this Agreement, a third party provides water or sewer service to the Property, whether directly or through the Town, the connection/capacity fees and rates for service payable by the Developer and subsequent owners of such Property may differ from the fees and rates which apply in areas served solely by the Town, provided such fees are applied consistently and in the same manner to all similarly-situated property.

(xi) The Town shall not be required to undertake any borrowing secured by its waterworks and sewer system or the revenues thereof (**"Utility Revenue Bonds"**) which (a) does not satisfy all conditions for the issuance of senior lien parity bonds secured by revenues from the facilities serving the Property as contained in proceedings of the Town authorizing Utility Revenue Bonds; (b) would require an increase in rates charged customers of the Town's utilities system in excess of fifteen percent (15%) (either in a single rate increase or in two or more rate increases implemented within a period of five (5) years); or (c) would cause the Town to violate any debt service coverage covenants given to secure its Utility Revenue Bonds. Nothing contained in this Section or this Agreement shall require the Town to encumber or exceed its statutory or state constitutional debt limitations, nor shall the obligations of the Town hereunder constitute a charge against or pledge of the full faith, credit, or taxing power.

(xii) Developer's right to seek third party service upon Town's inability to serve shall not be construed to relieve the Town of its obligation to timely provide water or sewer service to the Property, except as expressly provided in Sections 9(b)(ii), (iv) and (xi) above.

(c) Private Roads. The Greenway on Tracts 1A and 1B will primarily have private internal roads. Developer shall be granted sole discretion as to the use, design and construction of private roads that are never intended to be dedicated to the Town for public use. Developer will own and maintain these private roads. All other roads within the Property, if any, shall generally be public roads. Private alleys may be allowed in limited circumstances, provided such alleys are constructed to Town standards, as set forth in the Leroy Springs Master Plan Documents, or are approved by the Town as part of the subdivision plat approval process, and will be owned and maintained by a private owners association. The Town Planning Commission will not be involved in the review or approval of projects in the MXU zoning district, provided that the Town Planning Commission shall approve the names of all streets and roads in the Property pursuant to S.C. Code Ann. § 6-29-1200(a).

(d) Public Roads and Traffic Impact. Subject to any special conditions set forth in the Development Conditions, all public roads within the Property shall be constructed to Town and when applicable, to South Carolina Department of Transportation ("**SCDOT**"), specifications existing at the date of preliminary plat approval. The exact location, alignment, and name of any public road within the Property shall be subject to review and approval by the Town as part of the subdivision platting process, provided that any such subdivision plats that are materially consistent with the site plan uses of the Property generally depicted in the Leroy Springs Master Plan Documents shall be approved. The Town Planning Commission will not be involved in the review or approval of projects in the MXU zoning district, provided that the Town Planning Commission shall approve the names of all streets and roads in the Property pursuant to S.C. Code Ann. § 6-29-1200(a). The Developer shall be responsible for maintaining all public roads until such roads are offered to, and accepted by, the Town for public ownership and maintenance. Subject always to its obligation to construct to completion all road-related infrastructure, the Developer shall be allowed to assign public road maintenance and ownership to an owners association until such time as the Town accepts such roads for ownership and maintenance.

(i) Unless otherwise specified herein, dedication and acceptance of roads shall be governed by the Town's 2016 Street Acceptance Policy. With respect to single family residential subdivisions, the Town shall not be obligated to accept such roads for public ownership and maintenance until certificates of occupancy ("**CO")** have been issued for at least seventy-five percent (75%) of all buildable lots in a subdivided phase or portion of the Property pursuant to the applicable approved subdivision plat. With respect to commercial developments or subdivisions, the Town shall not be obligated to accept roads for public ownership and maintenance until the earlier of: (a) when COs have been issued for at least seventy-five percent (75%) of buildable lots in a subdivided phase or part of the Property; (b) when COs have been issued for at least fifty percent (50%) of buildable lots in a subdivided phase or part of the Property if

Developer has provided construction site access reducing construction traffic on roads presented for acceptance; or (c) CO issuance along any road where at least 200,000 sq. ft. of commercial space has occurred. Roads constructed for public dedication within the Greenway, if any, will be handled on a case by case basis, but the Town agrees to act in good faith and accept roads for public ownership and maintenance when known improvements in a designated phase are substantially complete. Developer agrees to use construction entrances to minimize construction traffic on public roads whenever practical. Public roads shall be accepted within 30 days of submission of an application for acceptance with supporting documents and payment of the required road acceptance fee, unless any such road fails to comply with the governing requirements and specifications described in this Agreement. Upon inspection by Town Engineering, if any road is found to contain defects, such defects shall be corrected by the Developer in a timely manner prior to acceptance by the Town. Upon final inspection and acceptance by the Town, the Developer shall provide a warranty period and bond for all public roads within the Project, pursuant to the Town's 2016 Street Acceptance Policy. With respect to roads accepted under the 200,000 sq. ft. requirement, Developer will warrant such roads for two years after acceptance.

(ii) Developer recognizes the potential impact on the public roadways resulting from development of the Property outside of the Greenway in accordance with the Leroy Springs Master Plan Documents. A traffic impact analysis was performed by the Developer for development of a portion of the Property, as required by the Zoning Ordinance, and Developer shall be responsible for any improvements deemed necessary by this traffic impact analysis as allocated and set forth in such analysis. Traffic impact analyses will be provided for completing development of the Property (which may require separate analyses for separate tracts) and the applicable Developer shall be responsible for any improvements deemed necessary by the traffic impact analysis as allocated and set forth in such analysis. The traffic impact analysis governing the portion of the Property for development must be completed no earlier than 24 months prior to commencement of such development. No further traffic impact analysis will be required for individual development applications that are submitted in conformity with the Zoning Ordinance and this Agreement. However, should the Developer seek to substantially modify the development plan following completion of a Traffic Analysis, the Town reserves the right to require an updated traffic impact analysis ("**Updated Traffic Analysis**"). For the purpose of this paragraph, a substantial modification includes any change in uses and/or densities which will generate 100 or more additional peak hours trips (based upon *ITE Trip Generation* Rates, 9th Edition). Any such new uses and densities shall conform to the Zoning Ordinance and this Agreement. To reflect such newly granted uses and densities, Developer shall be responsible for improvements deemed necessary by the Updated Traffic Analysis. The Developer may, at the Developer's option, coordinate with adjacent property owners for a joint traffic impact analysis, provided development on the applicable properties is expected to commence within twenty-four (24) months from the date of the analysis.

(iii) In the event US Highway 21 Bypass improvements are included in any York County Pennies for Progress or similar road construction project, Developer agrees to work in good faith with Town, York County and SCDOT regarding right-of-way acquisition on the Property along Highway 21 Bypass. Developer also agrees not to construct any buildings within 25' of the existing 100' Highway 21 Bypass right-of-way unless a preliminary plat was approved prior to the Effective Date of this Amendment.

(e) Storm Drainage System. All stormwater runoff, drainage, retention and treatment improvements within the Property shall be designed in accordance with the Zoning Ordinance and Chapter 16 of the Code of Ordinances as described and set forth on **Exhibit D**. All stormwater runoff and drainage system structural improvements, including culverts and piped infrastructure, will be constructed by the Developer and dedicated to, and accepted by, the Town. With respect to single family residential subdivisions, the Town shall accept such drainage system structural improvements for public ownership and maintenance once certificates of occupancy have been issued for at least eighty percent (80%) of all buildable lots within the applicable development phase. Commercial developments or subdivisions shall not be subject to a

minimum certificate of occupancy requirement prior to acceptance of such drainage system structural improvements. The limited storm drainage systems constructed within the Greenway will be handled on a case by case basis, but the Town agrees to act in good faith and accept such drainage systems for public ownership and maintenance when known improvements in a designated phase are substantially complete. Upon final inspection and acceptance by the Town, the Developer shall provide a one-year warranty period for all drainage system structural improvements within the Property. Retention ponds, ditches and other stormwater retention and treatment areas will be constructed and maintained by the Developer and/or assigned to an owners association, as appropriate.

(f) Solid Waste and Recycling Collection. The Town shall provide solid waste and recycling collection services to the Property on the same basis as is provided to other residents and businesses within the Town.

(g) Police Protection. The Town shall provide police protection services to the Property on the same basis as is provided to other residents and businesses within the Town.

(h) Fire Services. The Town shall provide fire services to the Property on the same basis as is provided to other residents and businesses within the Town. The parties understand and agree that areas of the Town may have varying "ISO" ratings for fire protection owing to the location of fire stations, and that nothing in this Agreement obligates the Town to maintain a particular ISO rating on any portion of the Property, the establishment, maintenance and equipping of fire stations being in the sole discretion of the Town.

(i) Emergency Medical Services. Such services to the Property are now provided by York County through a contract with a private provider. The Town shall not be obligated to provide emergency medical services to the Property, absent its election to provide such services on a town-wide basis.

(j) School Services. Such services are now provided by Fort Mill School District No. 4 of York County (the "**School District**"). Developer shall be responsible for paying all impact fees levied by the School District for each residential unit constructed prior to the issuance of a certificate of occupancy (so long as such impact fees are applied consistently and in the same manner to all similarly-situated property within the Town limits). The Town shall not be obligated to provide school services to the Property, absent its election to provide such services on a town-wide basis.

(k) Private Utility Services. Private utility services, including electricity, natural gas, and telecommunication services (including telephone, cable television, and internet/broadband) shall be provided to the site by the appropriate private utility providers based upon designated service areas. All utilities internal to the Property shall be located underground, except lines along the perimeter of the Property and high voltage lines which may be above ground, and shall be placed in locations approved by the Town so as to reduce or eliminate potential conflicts within utility rights-of-way.

(l) Streetlights. Developer shall install or cause to be installed streetlights within the Property. To the extent that the Town provides the same benefit to other neighborhoods or developments, the Town shall contribute toward the monthly operating cost for each streetlight located within public right-of-way. Streetlights located outside of the public right-of-way will receive Town contribution if the streetlights are located within 10' of the public right-of-way and directly benefit vehicular and/or pedestrian traffic, and/or otherwise improve public safety within the adjacent public right-of-way. The remaining monthly cost for each streetlight, if any, shall be borne by the Developer and/or any applicable owners association. The provisions of this paragraph shall apply solely to streetlights located within or associated with public rights of way of which the Town has accepted dedication.

(m) Parks and Open Spaces; Donation of Land. In accordance with the Development Conditions, Developer recorded the Conservation Easement on that portion of the Property known as the Greenway, as

described in the Conservation Easement. The open space on the Property greatly exceeds any requirements from the Development Regulations and open space from the Greenway may be used to meet the open space requirements of any other portion of the Property. The Town shall provide park services and operations to the Property on the same basis as is provided to other residents and businesses within the Town.

(n) Easements. Developer shall be responsible for obtaining, at Developer's cost, all easements, access rights, or other instruments that will enable the Developer to tie into current or future water and sewer infrastructure on adjacent properties.

(o) Public Financing. On July 14, 2008, the Town adopted a revised Policy Statement relating to Municipal Improvement Districts (the "**MID Policy Statement**") to finance certain infrastructure improvements, such as the Leroy Springs Infrastructure Improvements, within the Town limits. As set forth in and subject to the provisions in Section 15 in this Agreement (including the provisions in Section 6-31-80(B) of the Act), the current version of the MID Policy Statement shall be applicable to the development of the Property during the Term. It is the Town's intention as of the Agreement Date to make available, upon Developer's request, municipal improvement district ("**MID**") financing to the Developer pursuant to South Carolina law and consistent with the MID Policy Statement to finance, to the extent legally permissible, costs of the Leroy Springs Infrastructure Improvements. In that regard, the Town shall give good faith consideration to the Developer's request that the Town utilize MID financing to pay costs of the Leroy Springs Infrastructure Improvements and costs of infrastructure improvements situated outside of the Property as permitted by law. Such good faith consideration is dependent, however, upon the satisfaction of applicable portions of the MID Policy Statement, as well as other applicable statutory requirements, being met, upon the Town incurring no general obligation for the bonds to be issued to implement the improvement plan(s) for the MID(s), and upon the Developer paying (or reimbursing) all direct expenses incurred by the Town in connection with any MID(s) requested by the Developer (e.g., engineering studies and costs, attorneys' fees, MID administrative costs, etc.). Further, until sufficient details are provided by the Developer to the Town to allow the Town to adequately analyze the appropriateness of using MID financing bonds to fund particular portions or components of the Leroy Springs Infrastructure Improvements and/or infrastructure improvements situated outside of the Property, the Town is not in a position to approve such use of MID financing bonds, and nothing in this Agreement shall be deemed or construed as a commitment or pre-approval by the Town to so approve such use of MID financing bonds, such financing being in the sole discretion of the Town.

In addition to the creation of MIDs as contemplated above, there are other mechanisms and tools that are or may be available to the Developer to fund the cost of Leroy Springs Infrastructure Improvements (collectively, "**Other Infrastructure Funding Tools**"), including funding at the County, state and federal levels and other economic incentives (including, but not limited to, entering into FILOT agreements with the County). It is the Town's intention as of the Agreement Date to give good faith consideration to the Developer's request that the Town cooperate with and facilitate the Developer's efforts to avail itself of Other Infrastructure Funding Tools to finance costs of the Leroy Springs Infrastructure Improvements, provided the proposed development of the Property (or the relevant phase or portion thereof) necessitating the installation of such Leroy Springs Infrastructure Improvements is comparable, from economic development, job creation, tax base creation and quality perspectives, to other development projects the Developer and its affiliates have undertaken in the area since 1995. However, until sufficient details are provided by the Developer to the Town to allow the Town to adequately analyze the appropriateness of using or pursuing such Other Infrastructure Funding Tools to pay for particular portions or components of the Leroy Springs Infrastructure Improvements, nothing in this Agreement shall be deemed or construed as a commitment or pre-approval by the Town to take any specific action(s) with respect to any particular Other Infrastructure Funding Tools, the undertaking of such action(s) being in the sole discretion of the Town, and subject to the general law of the State regarding municipal budgeting, appropriations and the imposition of taxes and service charges (collectively, "**State Budget Laws**")."

(p) Notwithstanding any provisions set forth in this Section 9, the Greenway's exemption from development impact fees set forth in Section 6(e)(1) of the Development Agreement shall continue in full force and effect. In the event of any conflict, the exemption set forth in Section 6(e)(1) of the Development Agreement shall govern and control.

(q) Remedies. The only remedy at law or in equity that shall be available to Developer in the event of a breach by the Town of the provisions of Section 9(b) of this Agreement shall be an action for specific performance of the express terms hereof, it being understood that if Developer prevails in such an action for specific performance, the Town shall owe Developer its reasonable attorneys' fees and all other expenses of litigation.

EXHIBIT C

[Development Schedule]

EXHIBIT F-A

[Supplemental Uses allowed in the Greenway]

Accessory Uses and Structures
Agricultural
Agriculture Employee Housing
Agritourism
Alcoholic Beverages – Consumption on-Premise
Alcoholic Beverages – Package Sales
Amphitheater
Amusement Facility, Outdoor
Art Gallery
Art Studio
Athletic Facility, Indoor
Athletic Facility, Outdoor
Bed and Breakfast
Campground
Cemetery/ Pet Cemetery
Club/ Lodge
Community Center
Conservation Area
Cultural Facility
Day Camp
Day Care Facility
Dwelling Unit, Ancillary
Dwelling Unit for Operating personnel and their families
Dwelling, Single Family
Educational Facility
Fairground
Farmers Market
Golf Course/ Clubhouse
Government Buildings and Facilities
Greenhouse/ Nursery/ Retail plant sales
Greenway and Trails (non-motorized)
Health/ Fitness Club and Spa
Horse Arena Indoor/Outdoor
Horse Stables
Open Space Preserve Areas
Outdoor Storage related to a principal use
Park
Private Park/ Playgrounds such as HOA owned Parks and Swim Centers
Performance Theater, Concert Hall
Performing Arts, Dance school or studio
Pre-School Nursery
Power Production (solar and wind)
Public Facilities and Services
Reception Facility
Recreation, Indoor (Pool, Fitness,
Recreation, Outdoor (Pool, Archery, Fishing, Boating, Biking,

Resident Camps
Restaurant, including outdoor seating
Retail Goods Establishment, including outside display areas
Schools
Solar Farm
Temporary Agritourism Event
Temporary Entertainment Event
Temporary Sales Event
Temporary Farmers Market
Utility Substations and Water Towers
Wind Energy Conversion systems
Winery/ Brewery/ Distillery
Zoo