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CITY OF BEAUFORT
1911 BOUNDARY STREET
BEAUFORT MUNICIPAL COMPLEX
BEAUFORT, SOUTH CAROLINA 29902
(843) 525-7070

CITY COUNCIL REGULAR MEETING AGENDA

September 26, 2023

STATEMENT OF MEDIA NOTIFICATION

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

REGULAR MEETING - Council Chambers, 2nd Floor - 7:00 PM

Please note, this meeting will be broadcasted via zoom and live streamed on Facebook. You can view the meeting at the City's page; City Beaufort SC

I. CALL TO ORDER

A. Michael A. McFee, Acting Mayor

II. INVOCATION AND PLEDGE OF ALLEGIANCE

A. Reverend Bryson Williams with Carteret Street United Methodist Church

III. PROCLAMATIONS/COMMENDATIONS/RECOGNITIONS

A. Resolution recognizing the Tides as the Technical College of the Lowcountry official mascot

IV. PUBLIC COMMENT

V. MINUTES

A. Worksession and Regular Meeting - September 12, 2023

VI. OLD BUSINESS

- A. Ordinance to amend Section 2.8.5; Section 7.2.1; Section 9.1.4; 9.8.2, Development Process Approvals; Section 9.16, Metropolitan Planning Commission reference to amendments and rezoning; Section 10.2.1, Changes to Metropolitan Planning Commission organization, Powers and Duties; Section 10.8.2, Design Review Board, Board Rules and Powers; to stand a City only Planning Commission with the powers of the Design Review Board and to disband the Design Review Board with revisions of the Beaufort Code to reflect said changes - 2nd reading
- B. Ordinance authorizing the execution and delivery of an encroachment and easement agreement and other matters related thereto - 2nd reading
- C. Ordinance to approve a purchase agreement for Lot AA in the Beaufort Commerce Park - 2nd reading

VII. NEW BUSINESS

A. The Beaufort History Museum requests to host the NY Highlanders Encampment on

November 3-5 and will need parking space and trash cans

- B. Ordinance to Amend the Business License Ordinance to Update the Class Schedule-
1st reading
- C. Authorization for City Manager to enter into a contract for Citywide VoIP Phone
System
- D. Ordinance amending Part 1, Chapter 8, Section 1-8004 of the City of Beaufort Code of
Ordinances on Elections - 1st reading

VIII.REPORTS

- City Manager's Report
- Mayor Report
- Reports by Council Members

IX. ADJOURN



RESOLUTION

RECOGNIZING THE TIDES AS THE TECHNICAL COLLEGE OF THE LOWCOUNTRY OFFICIAL MASCOT

WHEREAS, the Technical College of the Lowcountry traces its roots to The Mather School, which was founded along the banks of the Beaufort River in 1868 to educate the daughters of newly freed enslaved people; and

WHEREAS, in 1968, Mather School concludes 100 years of unique educational service to the greater Beaufort area and the campus is given to the State of South Carolina as an area trade school, eventually becoming the Technical College of the Lowcountry; and

WHEREAS, over the last 50-plus years, the College has served as the region's primary workforce engine, welcoming nearly 100,000 students from Beaufort, Colleton, Hampton, Jasper and beyond; and

WHEREAS, the College annually enrolls approximately 5,000 credit and continuing education students in more than 80 associate degree, diploma, certificate, skills training, and personal enrichment programs offered at its four campuses and online; and

WHEREAS, in February 2023, TCL embarked on a months-long, community-wide initiative to choose an official mascot and received overwhelming response from its students, alumni, employees and the community; and

WHEREAS, on August 2, 2023, the College announced the Tides as its official mascot. The Tides are a perfect representation of TCL's vision to elevate the students and communities it serves and a fitting symbol of the steadfast spirit of its students and alumni.

NOW, THEREFORE, the City Council of the City of Beaufort, South Carolina, hereby recognizes the Technical College of the Lowcountry on this significant milestone and congratulates them on their newly introduced mascot, the TCL Tides.

IN WITNESS THEREOF, I hereunto set my hand and caused the Seal of the City of Beaufort to be affixed this 26th day of September 2023.

Michael A. McFee, Acting Mayor

ATTEST:

Traci Guldner, City Clerk



City Council Worksession
Meeting Minutes – Planning Conference Room – 1st Floor

September 12, 2023

I. CALL TO ORDER

5:00 PM

Stephen D. Murray III

Members of Council in attendance - Neil Lipsitz, Mike McFee, Mitch Mitchell, Josh Scallate and Mayor Murray.

II. EMPLOYEE NEW HIRE RECOGNITION

A. Police Department.

Dale McDorman, Police Chief, introduced Justin Lacroix, Carolyn Lynch, Morgan Humphries and Richard Rice.

III. DISCUSSION ITEMS

A. Carnegie Library Roof Repair update.

Linda Roper, Downtown Operations and Community Services Director, stated that we are now in the process of preparing the construction documents and preparing for the bid drawings. Bid drawings are due by October 17, 2023. Restoration of the roof includes repairs and repointing of the roof tiles, repairs to dormers, gutters and downspouts, soffit and eave repairs. Interior plaster repair will also be conducted. She mentioned there has been a leak for some time now, and the effects are starting to show. The repairs were included in this year's budget as a Capital Improvement Project. She then went over the timeline of events and their completion dates. Projected costs for Engineering and Design is \$40,000.00. Estimated construction cost \$215,585.00.

Councilman Lipsitz inquired if this would be taking place at the same time as the Stormwater Projects. Ms. Roper replied that it will not.

Mayor Murray asked if the roofing is out of warranty. Ms. Roper stated that it is. She also stated that the tiles will be reused. It is the mortar in between the tiles that seems to have failed. The main issue is the leaking of the dormer.

Graham Trask addressed Council.

A copy of the update is attached to these minutes.

B. Public Safety update and discussion.

Dale McDorman, Police Chief, started off by saying that we are seeing an increase in violence County wide. They looked at the number of calls for reports of shots fired from July 1, 2021, through July 31, 2023. This was done City wide to see if they could narrow this activity down to a specific area. Chief McDorman stated that during this period there were

104 calls responded to for shots being fired. The calls were broken down into two groups. Northern and Southern parts of the City. Of the 104 calls, 20 of these calls were unfounded. Out of the 84 calls that remained, only 27 of them had evidence to indicate a shooting had occurred. He then spoke about the Police Districts and Officer initiated calls.

Chief McDorman reported that patrols have been stepped up to try and combat this issue. Some recommendations are to explore the acquisition and placement of smart cameras and increasing the number of officers on the Community Response Team during the identified peak times and locations.

Mayor Murray inquired if some of the apartment complex managers have been approached about installing cameras and providing the Police Department with access. Chief McDorman responded yes.

Councilman Scallate stated he has used Reolink solar powered cameras, and they are fairly cheap and may be a temporary solution for the department. He stated that the cameras record when something moves in front of it. The information is recorded on a Micro SD Card.

Councilman Mitchell asked what constitutes illegal carrying of a firearm. Chief McDorman indicated the only prohibitions are age and whether someone has been convicted of a violent crime or felony.

The following addressed Council:

Daniel Blackmon, Northwest Quadrant
Paul Trask, 610 Bladen Street

A copy of the presentation is attached to these minutes.

IV. EXECUTIVE SESSION

Councilman Lipsitz made a motion to go into Executive Session and seconded by Mayor Pro Tem, McFee.

- A. Pursuant to Title 30, Chapter 4, Section (70) (a) (1) of the South Carolina Code of Law: Discussion regarding Personnel - Boards, Commissions and Committees.
- B. Pursuant to Title 30, Chapter 4, Section (70) (a) (2) of the South Carolina Code of Law: Receipt of legal advice regarding litigation.
- C. Pursuant to Title 30, Chapter 4, Section (70) (a) (2) of the South Carolina Code of Law: Discussion regarding the proposed sale or purchase of property.

Councilman Lipsitz made a motion to come out of Executive Session and seconded by Mayor Pro Tem, McFee.

No actions from Executive Session.

Disclaimer: This document is a summary. All City Council Worksessions and Regular Meetings are recorded. Live stream can be found on the City's website at www.cityofbeaufort.org (Agenda section). Any questions, please contact the City Clerk, Traci Guldner at 843-525-7024 or by email at tguldner@cityofbeaufort.org.

DRAFT



City Council Regular Meeting
Meeting Minutes – City Hall Council Chambers, 2nd Floor

September 12, 2023

I. CALL TO ORDER

7:07 PM

Mayor, Stephen D. Murray III

Members of Council in attendance - Neil Lipsitz, Mike McFee, Mitch Mitchell, Josh Scallate and Mayor Murray.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Pro Tem, Mike McFee

III. PROCLAMATIONS/COMMENDATIONS/RECOGNITIONS

A. Proclamation proclaiming September 17 - 23, 2023, as Constitution week.

Motion to approve was made by Mayor Pro Tem, McFee and seconded by Councilman Mitchell.

All were in favor, motion carried.

IV. PUBLIC COMMENT

No public comment.

V. PUBLIC HEARING

A. Amending Section 10.7.3.A., Membership, Terms and Compensation of the Beaufort Code, for the Historic Review Board to remove the Historic Beaufort Foundation Seat nomination.

Curt Freese, Community and Economic Development Director stated that this hearing is about removing the sentence that designates that one of the five members of the Historic Review Board shall be recommended by the Historic Beaufort Foundation.

Notice of the Public Hearing appeared in the Beaufort Gazette on August 10, 2023.

The following addressed Council:

Rob Montgomery, 404 Ribaut Road
Katherine Pringle, 411 Bayard Street
Phil Cromer, 162 Spanish Point Drive
Conway Ivy, 501 King Street
Deborah Gray, 1300 Barnwell Bluff
Paul Trask, 610 Bladen Street

Edie Rodgers, 7A Rising Tide Drive
David Bracewell, 1003 Calhoun Street
Weesie Gibson, 2507 Stratford Lane
Ray Stocks, 810 King Street
Amelia Cromer, 162 Spanish Point Drive

- B. Amending Section 2.8.5; Section 7.2.1; Section 9.1.4; 9.8.2, Development Process Approvals; Section 9.16, Metropolitan Planning Commission reference to amendments and rezoning; Section 10.2.1, Changes to Metropolitan Planning Commission organization, Powers and Duties; Section 10.8.2, Design Review Board, Board Rules and Powers; to stand a City only Planning Commission with the powers of the Design Review Board and to disband the Design Review Board with revisions of the Beaufort Code.

Curt Freese, Community and Economic Development Director, stated that this is about revising and improving the processes for approvals. The proposed amendments create a City only Planning Commission by withdrawing from the Metropolitan Planning Commission with the Town of Port Royal and Beaufort County. He stated that the City has adopted a very complex Form Based Code and the majority of people voting for that code are not members of the City. These amendments would also disband the Design Review Board and merge their powers into the new Planning Commission.

The following addressed Council:

Edie Rodgers, 7A Rising Tide Drive
Ms. Stone, 506 Craven Street
Jay Weidner, 1307 Calhoun Street
Grant McClure, Coastal Conservation League

VI. MINUTES

- A. Worksession- August 15, 2023.

Motion to approve was made by Councilman Lipsitz and seconded by Councilman Mitchell.

Minutes approved as presented.

- B. Worksession and Regular Meeting - August 22, 2023.

Motion to approve was made by Councilman Lipsitz and seconded by Mayor Pro Tem, McFee.

Minutes approved as presented.

VII. OLD BUSINESS

- A. Ordinance amending Part 5, Chapter 4, Section 5-4032.2, Flood Damage Prevention Ordinance of the City Code of Ordinances, South Carolina Department of Natural Resources' Model Flood Damage Prevention Ordinance, to address Non-Residential Construction - 2nd reading.

Motion to approve was made by Mayor Pro Tem, McFee and seconded by Councilman Mitchell.

First reading was held on August 22, 2023. No changes were made since first reading.

All were in favor, motion carried.

- B. Ordinance amending Section 10.7.3.A, Membership, Terms and Compensation of the Beaufort Code, for the Historic Review Board to remove the Historic Beaufort Foundation Seat nomination - 2nd reading.

Motion to approve was made by Mayor Pro Tem, McFee and seconded by Councilman Scallate.

First reading was held on August 22, 2023. No changes were made since first reading.

The motion passed by a vote of 3 to 2.

For: Mayor Murray, Mayor Pro Tem, McFee and Councilman Scallate.

Against: Councilman Lipsitz and Councilman Mitchell.

VIII. NEW BUSINESS

- A. Request to host the Gullah Geechee Corridor Heritage Celebration on Saturday, October 14, 2023, from 7:30 am - 5:30 pm with Street Closure and waiver of Noise Ordinance.

Motion to approve was made by Councilman Lipsitz and seconded by Councilman Mitchell.

All were in favor, motion carried.

- B. Request from Beaufort County Veteran's Affairs to host Veteran's Day Parade and Street Closures on Saturday, November 11, 2023, from 9:00 am - 12:00 pm.

Motion to approve was made by Mayor Pro Tem, McFee and seconded by Councilman Lipsitz.

All were in favor, motion carried.

- C. Request from Open Land Trust for Street Closure, waiver of Drinking in Public and waiver of Noise Ordinance to host Brunch on the Bluff on Saturday, April 27, 2024, from 11:00 am - 2:00 pm.

Motion to approve was made by Mayor Pro Tem, McFee and seconded by Councilman Mitchell.

All were in favor, motion carried.

- D. A resolution to approve a Memorandum of Agreement between the City of Beaufort and Beaufort County for a Feasibility Study, Conceptual Design, and Cost Estimate for a Joint Fire/EMS Facility at 135 Ribaut Road.

Motion to approve was made by Councilman Mitchell and seconded by Mayor Pro Tem, McFee.

Tim Odgen, Fire Chief, started off by saying EMS is looking to relocate their current headquarters location and that the Fire Station needs renovations. This is a step in exploring the opportunity to relocate Beaufort County Emergency Services (EMS) base facility to the current Headquarters location for the Fire Department at 135 Ribaut Road.

Councilman Scallate inquired about maintenance of the facility once completed. Chief Odgen stated that would be a separate agreement. There will be Construction and Occupancy agreements later in the development.

Beaufort County is paying for the cost of this study.

David Bracewell, 1003 Calhoun Street addressed Council.

All were in favor, motion carried.

- E. Ordinance to amend Section 2.8.5; Section 7.2.1; Section 9.1.4; 9.8.2, Development Process Approvals; Section 9.16, Metropolitan Planning Commission reference to amendments and rezoning; Section 10.2.1, Changes to Metropolitan Planning Commission organization, Powers and Duties; Section 10.8.2, Design Review Board, Board Rules and Powers; to stand a City only Planning Commission with the powers of the Design Review Board and to disband the Design Review Board with revisions of the Beaufort Code to reflect said changes - 1st reading.

Motion to approve was made by Mayor Pro Tem, McFee and seconded by Councilman Lipsitz.

Councilman Scallate stated that he has a list of items that he would like to discuss prior to second reading. He did not see anything about Minutes or the Notice of Meetings.

Mayor Murray asked that the changes made between first and second reading be outlined in a different color than what was previously used.

All were in favor, motion carried.

- F. Ordinance authorizing the execution and delivery of an encroachment and easement agreement and other matters related thereto - 1st reading.

Motion to approve was made by Councilman Lipsitz and seconded by Mayor Pro Tem, McFee.

Scott Marshall, City Manager, stated that Magnus, LLC is selling their property located at 74 Schein Loop in the Commerce Park. In preparing to sell the property they encountered some identified title issues and are seeking the City's assistance. These include the northwest corner and the southern edge of the property. The ordinance was drafted and reviewed by legal counsel. This will satisfy both concerns of Magnus, LLC.

All were in favor, motion carried.

- G. Ordinance to approve a purchase agreement for Lot AA in the Beaufort Commerce Park - 1st reading.

Motion to approve was made by Councilman Lipsitz and seconded by Mayor Pro Tem, McFee.

Scott Marshall, City Manager, reported that this is for the sale of Lot AA. This is a 7.75-acre lot. The prospective buyer is Kibo Holdings, LLC. They intend to construct a building that would provide commercial laundry services to clients in the Lowcountry. The purchase price is \$310,000.00. This is expected to provide 164 local jobs.

All were in favor, motion carried.

- H. Resolution approving the purchase of real property located at 2635 Boundary Street, R100 029 000 002C 0000.

Motion to approve was made by Mayor Pro Tem, McFee and seconded by Councilman Mitchell.

Scott Marshall, City Manager, started off by saying this is a joint venture with Open Land Trust. The parcel is .60 acres on the marsh. The appraised value is \$233,000.00. Open Land Trust has committed \$17,000.00 to offset the purchase price of \$250,000.00 from the Sherbert Family Trust. This leaves the remaining \$233,000.00 for the City. There are current funds in the budget that are for land acquisition and there would be no need for a budget amendment.

The following addressed Council:

Kate Schaefer, Open Land Trust
Paul Trask, 610 Bladen Street

All were in favor, motion carried.

I. Appointments/Reappointments to Boards, Commissions and Committees.

Mayor Pro Tem, McFee made a motion to table this discussion and was seconded by Councilman Mitchell.

All were in favor, motion carried.

IX. REPORTS

City Manager's Report

Thanked Public Works personnel for their hard work during Tropical Cyclone IDALIA.

The Exchange Club held a Patriots Day Commemoration Event at the Waterfront Park on Monday, September 11, 2023. Thanked those who helped organize the event. Captain Adam Jordan, with the Fire Department, was the Exchange Club Firefighter of the year.

Beaufort County is hosting Reimagine Ribaut Road on Thursday, September 14, 2023, beginning at 6:00 pm at the Technical College of the Lowcountry Student Life Center.

The Shrimp Festival will be held at the Waterfront Park on October 6 - 7, 2023. Admission is free.

Scott Street will be closed from Port Republic Street to Bay Street Starting on Monday, September 18, 2023. The street will be closed for 5 days to vehicular traffic only.

Mayor's Report

Thanked those who helped organize and those who attended the Patriots Day Event.

Thanked County Council for their indicated support of the Lady's Island Village Master Planning efforts.

USCB and TCL are back in session. Between the two schools there are approximately 170 students that are pursuing degrees in Cyber Security. Thanked all the partners in this effort.

Stated that this has been the hardest job he has ever had. Does not like to disappoint people and his neighbors. Appreciates the many stakeholders who have been participating in our Code Edit Worksessions.

Councilman Mitchell

Thanked the Exchange Club for taking the initiative of honoring those on Patriots Day, especially the guest speaker Teri Maude. Her husband was the most senior military member who was lost during that attack.

Thanked Interim County Administrator John Robinson, and Capital Improvement Project Manager Eric Larson for meeting at the Charles Lind Brown Center. Thanked them for their continued commitment to make improvements to the Community Center.

Mayor Pro Tem, McFee

Echoed fellow Councilmembers on giving thanks to those that helped organize the Patriots Day event and gave praise to all that spoke.

Attended the Regional Advocacy Meeting through the Municipal Association of South Carolina (MASC). Stated there is a movement to regulate how Short-Term Rentals are managed at the municipal level.

Councilman Lipsitz

Toured Riverview Charter School.

Attended Hilton Head’s 40-year celebration of them becoming incorporated.

Thanked all departments for being prepared ahead of Tropical Cyclone IDALIA.

Thanked all that spoke and organized Patriots Day.

Councilman Scallate

Attended the Beaufort History Museum Board Meeting on September 8, 2023. They are working to purchase a Kiosk that will give historical information on local events to patrons.

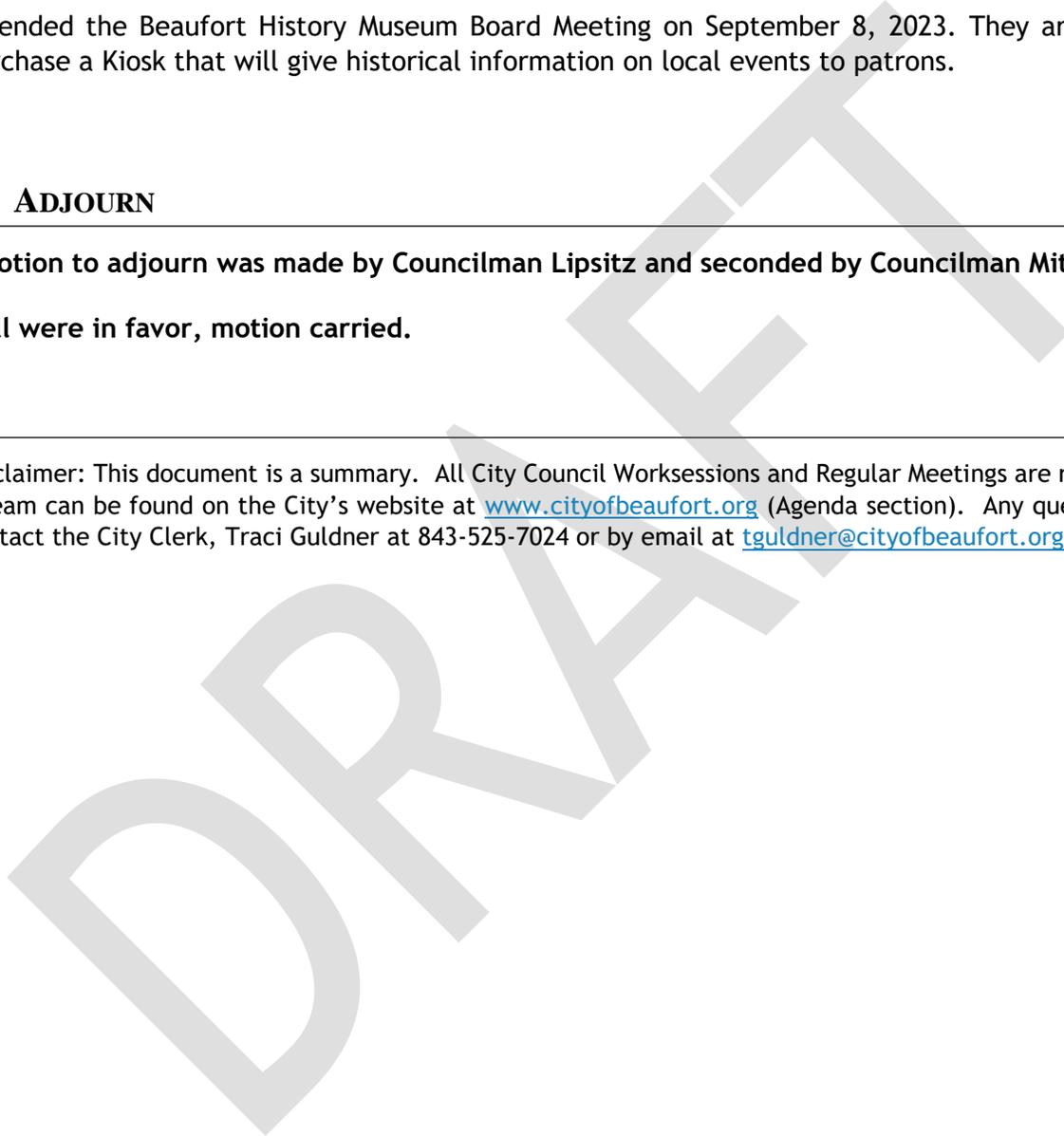
X. ADJOURN

9:31 PM

Motion to adjourn was made by Councilman Lipsitz and seconded by Councilman Mitchell.

All were in favor, motion carried.

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CITY OF BEAUFORT
DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

TO: CITY COUNCIL **DATE:** 9/16/2023
FROM: Curt Freese, Community and Economic Development Director
AGENDA ITEM TITLE: Ordinance to amend Section 2.8.5; Section 7.2.1; Section 9.1.4; 9.8.2, Development Process Approvals; Section 9.16, Metropolitan Planning Commission reference to amendments and rezoning; Section 10.2.1, Changes to Metropolitan Planning Commission organization, Powers and Duties; Section 10.8.2, Design Review Board, Board Rules and Powers; to stand a City only Planning Commission with the powers of the Design Review Board and to disband the Design Review Board with revisions of the Beaufort Code to reflect said changes - 2nd reading
MEETING DATE: 9/26/2023
DEPARTMENT: Community and Economic Development

BACKGROUND INFORMATION:

Please see the attached Memorandum.

First reading was held on September 12, 2023.

PLACED ON AGENDA FOR: *Action*

REMARKS:

ATTACHMENTS:

Description	Type	Upload Date
Memo	Cover Memo	9/21/2023
Ordinance with Exhibits	Backup Material	9/21/2023

Date: September 26, 2023

From: Curt Freese, Community and Economic Development Director

To: City Council

ISSUE: Beaufort Development Code Changes

BACKGROUND:

The Beaufort Development Code was adopted in 2017 with a forward thinking form-based structure to regulate development. In the five years since it was adopted, numerous issues have percolated to the surface that will require updates and revisions to the code. Stakeholders, from developers, board and council members to staff members and others, all identified numerous changes that must be addressed. A Code Workshop process was initiated with City Council to bring forward amendments. This process started on March 21, 2023, and has continued with public meetings on the third Tuesday of every month. The code amendments herein proposed for formal MPC recommendation, all have been discussed and vetted during these public meetings. The first few months were spent on an overview of the code, and changes to Chapters 9 and 10, which involve process and development review bodies.

CHANGES SINCE FIRST READING:

Minor scrivener error type changes to Section 9.1.4, Section 10.2 related to minutes, and notice, are included in the packet, with changes to Section 10.2 highlighted in green. Also included are changes to the process tables in Sections 9.8 and 9.16 removing the reference to MPC and DRB.

PROPOSED AMENDMENTS

CREATING A CITY-ONLY PLANNING COMMISSION

Analysis: Staff is recommending the creation of a city-only Planning Commission and withdrawal from the MPC, a regional Planning Commission with Port Royal and the County.

- A majority of members would be voting on projects who are not residents of the city.

- The MPC was established to resolve annexation debates between the respective agencies, but the adoption and adherence to the Northern Regional Beaufort County Plan has resolved many of these issues.
- The City Development Code (and Port Royal and the County's) are long and complicated.
- The city is providing all administrative support to the MPC, as well as hosting the meetings.
- Few cases from the County are being sent to the MPC.
- A City only PC is more responsive and reflective of its citizens views, than a regional council.
- Regional Planning Commissions are now relatively rare around the country for many of the reasons listed.
- A City only PC allows the City to consolidate approval processes and add the powers of the DRB.

Changes from 7/17/23 MPC Meeting

Staff made the following revisions based on Commissioner and Citizen comments:

- 1) Added the powers of the new PC.
- 2) Changed requirements of commissioners to include residency of the city or operating a business.
- 3) Changed requirements that 4 of the seven members must have specific expertise.

Code references

- Section 2.8.5 MPC reference to PUD's;
- Section 7.2.1 MPC references to Streets;
- Section 9.1.4 Process table;
- Section 9.16 MPC reference to Amendments and Rezoning;
- Section 9.8.2 Development process approvals.
- Section 10.2.1 changes to MPC organization, powers and duties.

DISBANDMENT OF THE CITY DRB, AND MERGING THEIR POWERS INTO THE NEW PLANNING COMMISSION

ANALYSIS: Staff is recommending the city disband the City's Design Review Board and place the powers of the DRB into the new City-only Planning Commission.

- Multiple approval boards make for confusing and complicated process for Staff, citizens and developers.
- Major Site Plans with the Form Based code have infrastructure needs not suited for review by an architectural board.
- The DRB approval process has been cumbersome since its creation, with some projects taking years to obtain a final approval.

Note: no revisions since MPC meeting. Staff has consulted with both City attorneys, who both are clear there is nothing in State Statute precluding the City from placing the powers to approve Site Plans, formerly held by the DRB, into the new City PC.

CODE REFERENCES

- Section 10.8.2, DRB, Board rules and powers
- Section 9.8.2 Development Process and approvals
- Section 9.1.4, Table of Approval processes

CHANGES IN APPROVAL PROCESS FOR ITEMS IN REDEVELOPMENT OVERLAY, STAFF/DRB LEVEL APPROVALS

ANALYSIS: Staff is recommending major revisions to staff level approvals and those approvals from the new PC which would be assumed from the DRB.

- Adding all commercial approvals to a public hearing (previously only some went to the DRB) before PC
- Changing multi-family approvals, to be consistent with subdivision standards (from 24 units which required down to 10 units would require a public hearing).
- Dropped the requirement that commercial renovations require a public hearing and made this a Staff approval. Concern over the cost and uncertainty involved with a public meeting to make improvements to an existing property.
- Added a public comment period for the Boundary Street Overlay and Bladen Street Overlay.

Note: no revisions since MPC meeting.

CODE REFERENCES

- Section 9.8.2 Development Process/Redevelopment District
- Section 10.8.2 DRB process
- Section 9.1.4, Table of Approval processes

ORDINANCE

AMENDING SECTION 2.8.5; SECTION 7.2.1; SECTION 9.1.4; 9.8.2; DEVELOPMENT PROCESS APPROVALS; SECTION 9.16; METROPOLITAN PLANNING COMMISSION REFERENCE TO AMENDMENTS AND REZONINGS; SECTION 10.2.1; CHANGES TO METROPOLITAN PLANNING COMMISSION ORGANIZATION, POWERS AND DUTIES; SECTION 10.8.2, DESIGN REVIEW BOARD, BOARD RULES AND POWERS; TO STAND A CITY ONLY PLANNING COMMISSION WITH THE POWERS OF THE DESIGN REVIEW BOARD AND TO DISBAND THE DESIGN REVIEW BOARD WITH REVISIONS OF THE BEAUFORT CODE TO REFLECT SAID CHANGES

WHEREAS, the State of South Carolina has conferred to the City of Beaufort the power to enact ordinances “in relation to roads, streets, markets, law enforcement, health, and order in the municipality or respecting any subject which appears to it necessary and proper for the security, general welfare, and convenience of the municipality or for preserving health, peace, order, and good government in it . . .” as set forth in *Code of Laws of South Carolina*, Section 5-7-20; and

WHEREAS, the City of Beaufort adopted the *Beaufort Code* by reference on June 27, 2017, as set forth in section 5-6001 of the *Code of Ordinances Beaufort, South Carolina*; and

WHEREAS, the amendment of the *Beaufort Code* is “for the general purpose of guiding development in accordance with existing and future needs and promoting the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare” in accordance with *Code of Laws of South Carolina*, Section 6-29-710; and

WHEREAS, the City currently utilizes a Metropolitan Planning Commission with Beaufort County and Port Royal to make important decisions on Planning and Zoning Matters;

WHEREAS, the City desires to disband the Metropolitan Planning Commission and to stand a City-only Planning Commission that is comprised of members entirely appointed by City Council, and who have a direct interest in the City to make such important Planning and Zoning decisions for the City;

WHEREAS, the City desires to empower the new City Planning Commission with the powers of the Design Review Board to create a more transparent, efficient, and equitable process for development; and

WHEREAS, the Design Review Board must be disbanded to create the aforementioned more transparent, efficient, and equitable process.

WHEREAS a public hearing before the Beaufort City Council was held regarding changes to the administrative adjustment ordinance on September 12, 2023 with notice of the hearing published in *The Beaufort Gazette* on August 29, 2023;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Beaufort, South Carolina, duly assembled and by authority of same, pursuant to the power vested in the Council by Section 6-29-760, *Code of Laws of South Carolina, 1976*, that *The Beaufort Code* be replaced by the code as found in the attached Exhibit A, with amendments found in Exhibit B.

This ordinance shall become effective September 26, 2023.

Michael A. McFee, Acting Mayor

ATTEST:

Traci Guldner, City Clerk

1st Reading _____

2nd Reading & Adoption _____

Reviewed by: _____
City Attorney

EXHIBIT A

2.8.5 LEGACY PLANNED UNIT DEVELOPMENT DISTRICT (LPUD)

- A. **Purpose:** The legacy planned unit development (LPUD) zoning district is intended to be utilized only for the continuation of previously established PUDs.
- B. **Minor Plan Amendments Permitted by the Administrator:** The amendment of previously approved PUDs shall be approved by the Administrator, if the amendment results in a development intensity that is no greater than the previously approved intensity in terms of total square feet, total number of units, height, and build-upon area. Additionally, a minor plan amendment shall be limited to technical considerations that could not be reasonably anticipated during the approval process, or any other change that has no material effect on the character of the approved PUD development or any of its approved terms or conditions.
- C. **Major Plan Amendments Permitted by City Council Approval Only:** All major changes not subject to B, above, shall be reviewed by the Planning Commission (PC) and approved by City Council in accordance with the procedures outlined in Section 2.8.4 B.1.
- D. **Rezoning a PUD:** Any existing LPUD may choose to rezone to a standard City zoning district by going through the rezoning process in accordance with the procedures outlined in Section 9.16.

7.2.1 STREET INFRASTRUCTURE PLANS

- A. **Purpose and Intent:** The Street Infrastructure Plans (in Appendix C) provide diagrams of the city's street network and establishes the ideal alignment, hierarchy and design characteristics - including total right-of-way width, sidewalk and streetscape amenities, parking lanes, travel lanes and other geometric and urban design details - for all existing streets, proposed streets that have been adopted as part of an Official Map, and new potential streets in the City of Beaufort.
- B. **Official Street Network Plan:** Pursuant to the authority of S.C. Code 1976 § 6-7-1210 et seq. (1976), as amended, the City has previously adopted several Official Maps. An Official Street Network Plan is incorporated into this Code in order to represent a composite of these previously-adopted Official Maps.
1. **Purpose:** This plan represents a composite of all Official Maps, to date, in the City. The map designates existing or proposed streets or ways within the City that are targeted for creation, expansion or other improvements. The Official Street Network Plan shall initially consist of a series of four (4) separate maps, included in Appendix C, which shall be deemed a part of the Beaufort Code.
 2. **Modification:** The Official Street Network Plan may be modified or supplemented per the procedure for Amendments and Rezoning (Section 9.16). The Planning Commission (PC) will review the Official Street Network Plan on a regular basis at intervals of every 6 months, or thereabouts. In addition, the maps will be automatically updated as additional Official Maps are approved per the appropriate process required by state law.
- C. **Specific Street Sections:** The street sections noted in Appendix C show specific street designs for the purposes of identifying future improvements by both the city and fronting property owners. These sections depict the ideal arrangement and design of street elements.
1. **Applicability:** For any project that is considered Major Subdivision (Section 9.8.3), Major Development Design Review (Section 9.8.2), or requires a Certificate of Appropriateness, Major (Section 9.10.2 A.2.) and affects one whole block face, the fronting property owner shall install all prescribed streetscape improvements as part of the development project.
 - a. **Exception:** If similar elements as prescribed in the street section exist — e.g., on-street parking, sidewalk, tree plantings — the requirement to install the streetscape element(s) shall be waived if those items meet the intent of the prescribed street section, even if the existing items do not meet the exact requirements of that street section.
Example Scenarios: If a street section prescribes a 5-foot sidewalk, but a 4-foot sidewalk already exists, the existing sidewalk will satisfy the sidewalk requirement. However, if the street section requires a 5-foot planting strip between the curb and the sidewalk, and the 4-foot sidewalk is directly adjacent to the curb, this would not satisfy the intent of the street section and would need to be reconstructed per the prescribed standards.
 2. **Insufficient Right-of-Way Width:**
 - a. In the case of a street section adopted as part of an Official Map, where the width of the existing right-of-way is insufficient to install the prescribed street section, the fronting property owner may be required to reserve the appropriate amount of right-of-way (as measured from the centerline of the existing street). If the owner chooses to dedicate and install the complete right-of-way, the cost of the improvements may be compensated - see Section 7.2.1 E.
 - b. In the case of a street section that is not part of an Official Map, where the width of the existing right-of-way is insufficient to install the prescribed street section, the property owner is encouraged to reserve the appropriate amount of right-of-way to complete the

desired street section. If the owner chooses to dedicate and install the complete right-of-way, the cost of the improvements may be compensated - see Section 7.2.1 E.

c. **Exceptions and Alternatives:**

- i. Where available right-of-way — due to existing structures and topographic conditions — do not permit the full section to be constructed, the Administrator may adjust the required section.
- ii. A different street section may be approved which accomplishes the same intent in a smaller dimension.

D. **Creation of New Right-of-Way:**

1. Where a future right-of-way is identified on an Official Map, and thus represented on the Official Street Network Plan— these are indicated as "New Adopted Streets" — new development shall reserve this area for the new street in the future. If access is needed to the site in that location, the street shall be constructed in the general location shown.
 - a. **Alternative Paths:** The administrator may approve a different street configuration if it the proposed development plan provides a similar amount and quality of connectivity through the site. This is determined by evaluating one or more of the following: number of connections, connections of specific site elements, and required access to existing and proposed structures. For modification of the Official Street Network Plan, See Section 7.2.1 B.2.
 - b. **Street Standards:** The future right-of-way shall conform to all of the street network requirements of Section 7.2.2 below.
2. Where a new right-of-way that is not shown in the street regulating plan, is required as part of a new development, it shall be designed with appropriate elements based on its proposed location and zoning district. (See Appendix C).

- E. **Compensation:** When a project is required to make off-site improvements within the existing right-of-way, dedicate and/or improve a street with insufficient right-of-way, or install a new street (be it public or private) per the requirements in Section C. above, compensation may be available. To the extent that the City has the authority and the ability, the Traffic Impact fee for the project shall be reduced by the assessed value of the dedicated land and/or construction cost of the right-of-way improvement. This may be done either as a direct reduction, rebate, or reimbursement of fees.

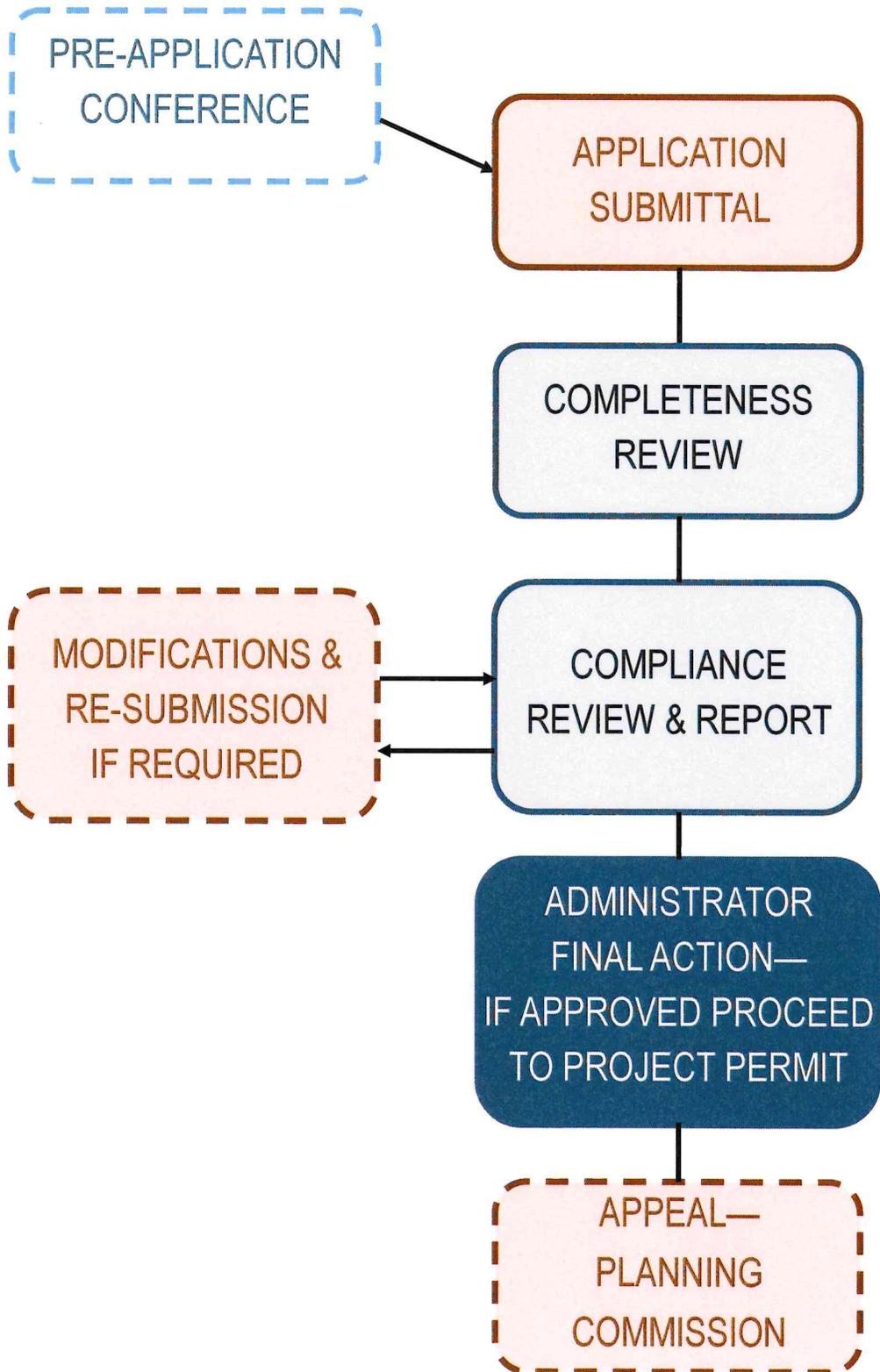
9.1.4 PERMIT/PROCESS TYPE TABLE

PERMIT/PROCESS TYPE	SECTION	PERMIT/PROCESS TYPE	REVIEWING AGENCY	PUBLIC NOTIFICATION	APPROVAL	APPEAL	PERMIT PERIOD	PERMIT EXTENSION
ADMINISTRATIVE PERMITS								
Zoning Permit	9.5	Administrative	Admin	None	Admin	ZBOA	6 months	6 months, 1 time
Building Permit	9.5	Administrative	Admin	None	Admin	ZBOA	6 months	Resubmit
Certificate of Compliance	9.5	Administrative	Admin	None	Admin	ZBOA	n/a	n/a
Certificate of Occupancy	9.6	Administrative	Admin	None	Admin	ZBOA	n/a	n/a
DEVELOPMENT DESIGN REVIEW								
Development Design Review, Minor	9.7	Administrative	Admin	None	Admin	PC	24 months	12 months, up to 5 times
Development Design Review, Major	9.7	Discretionary	Admin	None	PC	Court 30 days to appeal	24 months	12 months, up to 5 times
SUBDIVISION REVIEW								
Subdivision, Minor, Site Plan	9.8	Administrative	Admin	None	Admin	PC	24 months	12 months, up to 5 times
Subdivision, Major, Sketch Plan	9.8	Discretionary	Admin TRC	None	PC	Court	24 months	12 months, up to 5 times
Subdivision, Major, Site Plan	9.8	Administrative	Admin, TRC	None	Admin	PC	24 months	12 months, up to 5 times
Subdivision Final Plan	9.8	Administrative	Admin TRC	None	Admin	PC	24 months	12 months, up to 5 times
HISTORIC PRESERVATION								
Certificate of Appropriateness, Minor	9.9	Administrative	Admin	Demolition Only: Yes (1,2, 3)	Admin	HRB	24 months	12 months, up to 5 times

Certificate of Appropriateness, Major	9.9	Discretionary	Admin	Demolition & Design Exception only: Yes (1,2)	HRB	Court 30 days to appeal	24 months; no expiration for demolitions	12 months, up to 5 times
Local Historic District/ Historic Sign Designation	9.10	Legislative	Admin, PC, HRB	None	CC	Court	n/a	n/a
RELIEF								
Administrative Adjustment	9.11	Administrative	Admin	None	Admin	ZBOA	24 months	12 months, up to 5 times
Special Exception	9.12	Discretionary	Admin	Yes (1, 2)	ZBOA	Court 30 days to appeal	24 months	12 months, up to 5 times
Variance	9.13	Discretionary	Admin	Yes (1, 2)	ZBOA	Court 30 days to appeal	24 months	12 months, up to 5 times
ADMINISTRATION APPEALS								
Administrative Appeal	9.14	Discretionary	Admin	Yes (1)	ZBOA	Court 30 days to appeal	12 months	6 months
AMENDMENTS								
Code Amendments	9.16	Legislative	Admin, PC	Yes (1, 2 & 3)	CC	Court 30 days to appeal	n/a	n/a
Admin-Administrator / PC- Planning Commission / CC-City Council / ZBOA-Zoning Board of Appeals / HRB-Historic District Review Board / TRC-Technical Review Committee / Court - Circuit Court								
Note: Any appeals that are assigned to Court are eligible for pre-litigation mediation pursuant to § SC ST 6-29-1155								

9.8.1 Flowchart

NEW NON-RESIDENTIAL,
ROWHOME & APARTMENT
HOUSE DEVELOPMENT

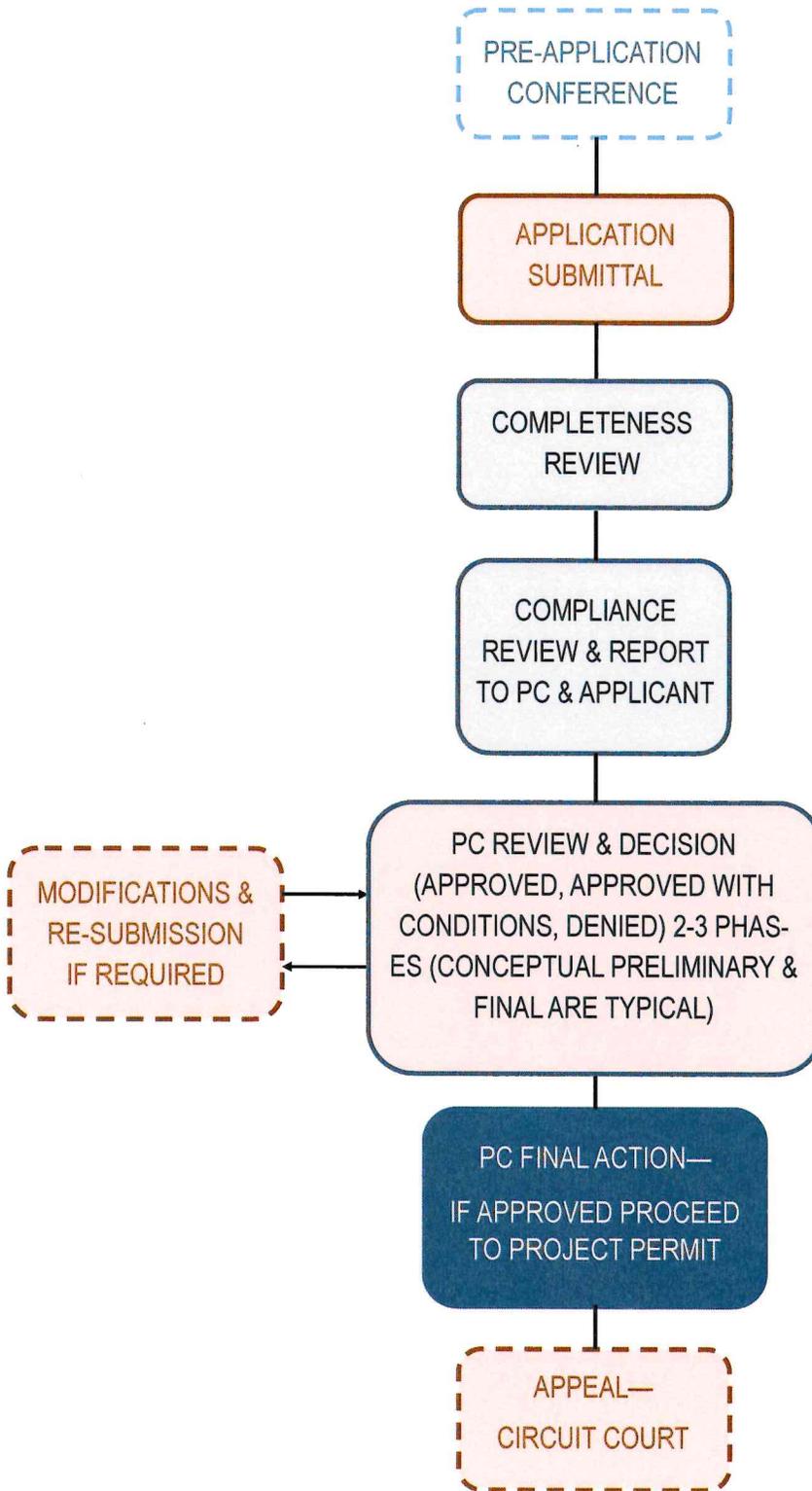


9.8.2 DEVELOPMENT DESIGN REVIEW (MAJOR)

A. Applicability:

1. **Civic and Educational Facilities:** Any new development classified as a Civic Facility or Educational Facility (see Sections 3.4.1 A. and 3.4.1 C.).
2. **Vehicle-Related Uses:** Any new development that includes fuel-dispensing facilities, drive-thru facilities, or structured parking.
3. **Nonresidential Development:** Any commercial or multi-family development.
4. **Residential Development:** Single-family attached or multi-family developments containing more than 10 units.
5. **Exceptions:**
 - a. Lots in the Beaufort Historic District are not subject to Development Design Review, and shall instead be evaluated by the HRB for compliance with the Historic District Guidelines (see Section 9.10 Certificate of Appropriateness, Minor and Major).
 - b. Projects in Redevelopment District Overlay Districts, are not subject to review by the Design Review Board and shall instead be evaluated by the Administrator (see Section 2.7.3). The Administrator shall post all projects for review in said districts for a 30-day public review and comment period for each major submittal. Minor revisions to the plans (not related to use, density, building frontage, or building height) shall not constitute a major submittal. A copy of all public comments shall be disseminated to the applicant and Administrator for each public comment period. The Administrator shall respond in writing to all public comments after each major submittal, and the project will be required to attend a TRC committee meeting before the project is issued final approval.

9.8.2 Flowchart



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- B. **Process Type:** Discretionary.
 - C. **Pre-Application Procedure:** Every applicant for a Major Development Plan is required to meet with the Administrator prior to the submittal of an application. The purpose of this meeting is to provide clarification and assistance in the preparation and submission of plat for approval. It is recommended that the applicant provide a Sketch Plan (Section 9.3.1 B.) to the Administrator prior to or at the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Site Plan.
 - D. **Required Application Information:** Site Analysis (Section 9.3.1 A.), Sketch Plan (Section 9.3.1 B.), Site Plan (Section 9.3.1 C.), Construction Documents (Section 9.3.1 D.), As-Built Drawings (Section 9.3.1 E.), Building Elevations for Design Review (Section 9.3.1 G.) —a Traffic Impact Analysis (Section 7.3.3) and/or Archeological Impact Analysis (Section 8.3) may also be necessary as determined by the Administrator.
 - E. **Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public review before the Design Review Board.
 - F. **Public Notification:** None.

-
- G. **Neighborhood Meeting:** Optional.
- H. **Public Meeting:** The Planning Commission shall hold a public meeting on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
- I. **Decisions/Findings of Fact:** Following the public meeting, the Planning Commission may approve, deny, or approve with conditions the application for a Major Development. No Major Development shall be approved unless the following findings of fact can be made:
1. The plan is consistent with the adopted plans and policies of the City.
 2. The plan complies with all applicable requirements of this Code.
 3. There exists adequate infrastructure (transportation and utilities) to support the plan as proposed.
 4. The proposed plan conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site.
 5. The proposed plan conforms to the Building Design Standards in Article 4.
 6. The application will not substantially lessen the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.
- J. **Time Frame for Review:** Major Development Design applications shall be reviewed by Staff within 90 days after filing. Following approval, or approval with conditions, the applicant shall be directed to prepare detailed Construction Documents (Section 9.3.1 D.) for final approval by the Administrator and the TRC (as necessary).
- K. **Appeals:** Any party aggrieved by the decisions of the Planning Commission may appeal to the Circuit Court of Beaufort County within 30 days of the decision.
- L. **Permit Validity:** Upon the approval of the Major Development Design application, the applicant shall have 2 years to obtain a Project Permit. Failure to secure a permit for the permitted work within this time shall render the compliance void. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the design approval, and any subsequent building permits.
- M. **Permit Extension:** The Administrator may grant up to 5 one-year extensions of this time period upon submittal by the applicant of sufficient justification for the extension. Extensions shall be submitted at least 1 month prior to the expiration date.

9.16: AMENDMENTS AND REZONINGS

9.16.1 APPLICABILITY

When the public necessity, convenience, general welfare, or good zoning practice justify such action, and after the required review and report by the Planning Commission, the City Council may undertake the necessary steps to amend this Code, and its accompanying map.

9.16.2 INITIATION OF AMENDMENTS

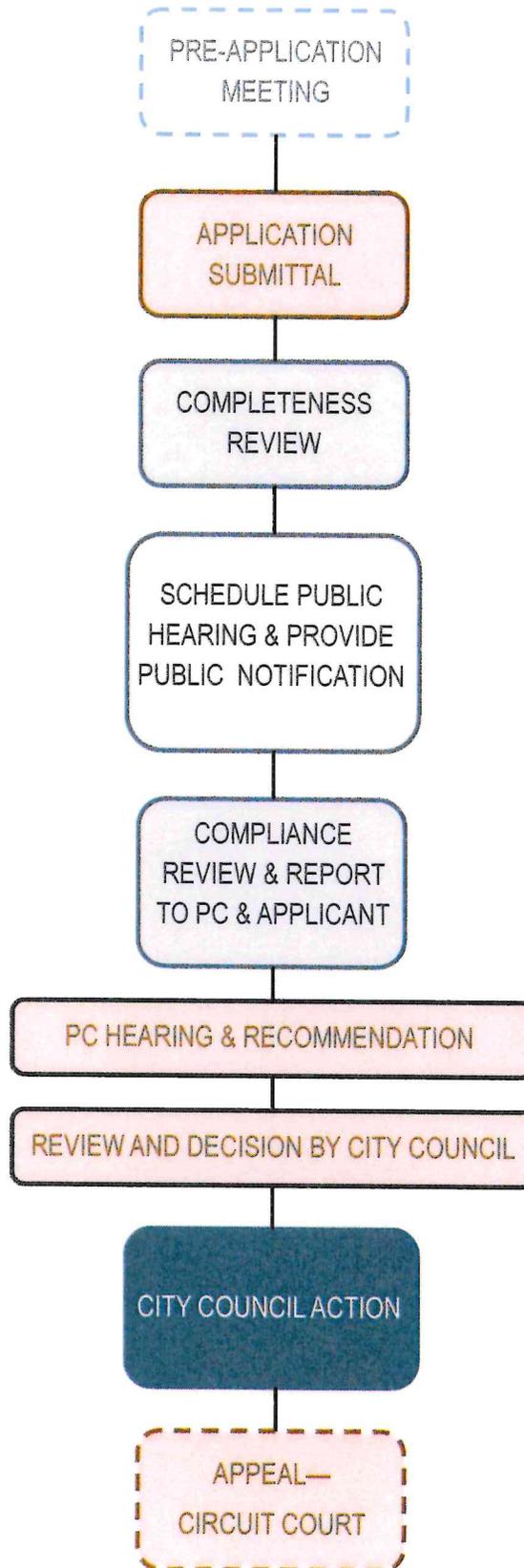
A proposed amendment to this Code may be initiated by any member of the City Council, the PC, the Administrator, or by any city resident or business owner filing an application with the Administrator.

9.16.3 APPROVAL PROCESS

Requests to amend this Code shall be processed in accordance with the following requirements:

- A. **Application Procedure:** Application forms for code amendment requests shall be obtained from the Administrator. Completed forms, together with an application fee as required by Section 9.2.2, plus any additional information the applicant deems pertinent, shall be filed with the Administrator.
 1. Applications for zoning map amendments (rezoning) shall also include:

9.16.3 Flowchart



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- a. Boundary map of the subject property that is prepared and sealed by a registered land surveyor.
 - b. Where applicable, a copy of correspondence illustrating that the applicant has solicited written comments from the appropriate property owners' association regarding the requested amendment. Such correspondence shall encourage the association to direct any comments in writing to the Administrator and the applicant within 15 calendar days of receipt of the notification.
 - c. Written consent from the owner of the property that is being considered for an amendment. This is required if the applicant is not the city.

B. Staff Review and Report:

- 1. The Administrator shall prepare a staff report that reviews the proposed amendment in light of the Comprehensive Plan and the general requirements of this Code. A copy shall be provided to the PC and the applicant before the scheduled public meeting.

-
2. For amendments where the most intense permitted use in the proposed district would generate more than 50 external trips during the peak hour, a TIA (Section 7.3.3) may be required; all road improvements needed to maintain the current level of service shall be identified (based on that analysis), and assurances shall be provided so that all road improvements will be in place so the impacts of the development are accommodated, and the current level of service is maintained.

C. Planning Commission Recommendation:

1. **Public Notification:** None.
2. **Hearing by PC:** All papers and other data submitted by the applicant on behalf of the amendment request shall be transmitted to the PC. The PC, at regular meetings, shall review and prepare a recommendation for transmittal to the City Council. At such meeting(s), any party may appear in person, by agent, or by attorney. Following action by the PC, all papers and data pertinent to the application shall be transmitted to the City Council for final action. The PC shall study the proposed amendment, taking into account all factors that it may deem relevant, including, but not limited to:
 - a. Consistency (or lack thereof) with the Comprehensive Plan and Civic Master Plan;
 - b. Compatibility with the present zoning, with conforming uses of nearby property, and with the character of the neighborhood;
 - c. Suitability of the property that would be affected by the amendment;
 - d. Compatibility with the natural features of — and any archaeological or cultural resources on — the property;
 - e. Marketability of the property that would be affected by the amendment; and
 - f. Availability of roads, sewer, water, and stormwater facilities generally suitable and adequate for the affected property.
3. At the close of the public meeting, the PC shall recommend approval, modified approval, or denial of the amendment.
4. Upon receipt of a recommendation from the PC, the staff shall have 30 days within which to submit its report of the PC's deliberations and recommendation City Council. If the PC or its staff fail to submit a report within the 30-day period, it shall be deemed to have recommended approval of the proposed amendment.
5. If, after three PC meetings, no recommendation has been made (e.g., each meeting has resulted in the request being tabled), the item will proceed to City Council. Staff will prepare a report of the PC deliberations within 30 days of the third PC meeting.

D. City Council Hearing:

1. **Public Notification:** Levels 1, 2, and 3.
2. **Timing:** City council shall consider the proposed map or text amendment at the earliest reasonable date and shall consider the report of the PC in making a decision.
3. **Decision:** City council shall act to approve, approve with modifications, or deny the proposed amendment.
4. **Notification of Result:** The applicant shall be notified in writing within 15 days of City Council's action.

9.16.4 UPDATE OF ZONING MAP

Following City Council's final action, any necessary changes shall be made to this Code, or to the Official Zoning Map within 7 days. A written record of the type and date of such change shall be maintained by the Administrator. After 7 days of the official action, the action by City Council shall be considered official even if the Administrator fails to make the written change to the appropriate document.

9.16.5 APPEALS

An applicant aggrieved by the amendment decisions of the City Council may appeal to the circuit court within 30 days of the decision.

10.2: PLANNING COMMISSION

10.2.1 POWERS AND DUTIES

A. Planning Commission established. There is hereby established a Planning Commission for the City of Beaufort, which shall have the powers and duties as provided in S.C. Code 6-29-310, et seq.

- (1) Composition of the commission. The Planning Commission shall consist of seven (7) members appointed by Beaufort City Council for terms of three (3) years. Adoption of the ordinance codified in this subsection shall appoint two (2) members to the commission for terms of one (1) year, two (2) members to the commission for terms of two (2) years, and three (3) members for terms of three (3) years. Members shall serve until their successors are appointed. No member of the Planning Commission shall be the holder of an elected public office in the City of Beaufort. The membership of the planning commission at all times includes not less than four (4) members who are licensed either as architects, landscape architects, attorneys, civil engineers, urban planners, or licensed contractors. All members of the commission will be residents of the City of Beaufort, property owners within the City of Beaufort, or own or operate a business within the City of Beaufort.
- (2) Terms: Except as otherwise described in 10.2.1 A.1, commissioners will serve three-year terms, with a max of two terms. Members who have served for two full terms shall wait one calendar year before they may serve again. Terms will not end until a replacement has been officially appointed.
- (3) Powers and Duties: The commission shall have the powers and duties as provided in S.C. 6-29-310, et seq, and the following additional duties:
 - i. Review and approve, approve with conditions, or deny all Major Subdivision Sketch Plans;
 - ii. Review and make recommendations to the City Council regarding amendments to the text of this development code;
 - iii. Review and make recommendations to the City Council regarding amendments to the official zoning map;
 - iv. Review and make recommendations to the City Council regarding amendments to the Comprehensive Plan;
 - v. Review and approve, approve with conditions, or deny major Site Plans as per the requirements of Section 9.8.2, and delegate to City Staff all other Site Plan approvals not stated in Section 9.8.2;
 - vi. Delegate Preliminary Plat, and Final Subdivision Plat review and approval to City Staff;
 - vii. Review and make recommendations to City Council regarding proposed annexations into the city, and;
 - viii. Consider the Northern Beaufort County Regional Plan and Growth Area in any review and approval as defined in this Section.
- (4) Compensation. Members of the Planning Commission shall serve without compensation. Reimbursement for actual expenses incurred in the performance of official duties may be reimbursed from budgeted funds pursuant to reimbursement policies and procedures for employees of the City of Beaufort.

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- (5) Removal of members. Members of the planning commission may be removed at any time by Beaufort City Council for cause. The existence of cause shall be discussed by the council in executive session as permitted by the Freedom of Information Act, S.C. Code Sec. 30-4-70(a)(1), and the determination of removal shall be by vote in public session declaring a vacancy in the position without a statement of cause. Any fact which, in the discretion of council, is deemed to adversely affect the public interest, including lack of attendance at meetings, may constitute cause.
 - (6) Organization and rules of procedure. The Planning Commission shall organize, elect officers, and adopt rules of procedure as required by S.C. Code 6-29-360. The Planning Commission shall elect a chairperson and a vice-chairperson from its members who shall serve for 1 year or until reelected, or until a successor is elected. The Planning Commission shall appoint a secretary, who may be an employee of any of the governmental entities. The Planning Commission shall adopt and adhere to rules of procedure for the conduct of business. An abstention from voting shall be considered a vote to deny the motion.
 - (7) Quorum. A majority of the members appointed shall constitute a quorum.
 - (8) Public hearings. The Beaufort Planning Commission shall hold all public hearings on amendments to the city zoning ordinance and zoning map pursuant to S.C. Code 6-29-760(A), Major Development as defined in Section 9.8.2 of the Beaufort Development Code, Appeals of Minor Development as defined in Section 9.8.1, Platting as defined in Section 9.9.3 and 9.9.4, recommendations on Annexations, recommendations on Text amendments of the Beaufort Development Code, and Adoption and updates of the Beaufort Comprehensive Plan.
 - (9) Minutes: The PC shall keep minutes of its proceedings, showing the vote of each member in question, or indicating absence or failure to vote.
 - (10) Notice: Reasonable notice of the time, place, and agendas of the meetings shall be given to the public. The news media shall be contacted in accordance with state law.

10.8: Reserved

**EXHIBIT B
(REDLINE TEXT
CHANGES)**

Section 2.8.5

2.8.5 LEGACY PLANNED UNIT DEVELOPMENT DISTRICT (LPUD)

- A. **Purpose:** The legacy planned unit development (LPUD) zoning district is intended to be utilized only for the continuation of previously established PUDs.
- B. **Minor Plan Amendments Permitted by the Administrator:** The amendment of previously approved PUDs shall be approved by the Administrator, if the amendment results in a development intensity that is no greater than the previously approved intensity in terms of total square feet, total number of units, height, and build-upon area. Additionally, a minor plan amendment shall be limited to technical considerations that could not be reasonably anticipated during the approval process, or any other change that has no material effect on the character of the approved PUD development or any of its approved terms or conditions.
- C. **Major Plan Amendments Permitted by City Council Approval Only:** All major changes not subject to B, above, shall be reviewed by the Metropolitan Planning Commission (MPC) and approved by City Council in accordance with the procedures outlined in Section 2.8.4 B.1.
- D. **Rezoning a PUD:** Any existing LPUD may choose to rezone to a standard City zoning district by going through the rezoning process in accordance with the procedures outlined in Section 9.16.

Section 7.2.1

7.2.1 STREET INFRASTRUCTURE PLANS

- A. **Purpose and Intent:** The Street Infrastructure Plans (in Appendix C) provide diagrams of the city's street network and establishes the ideal alignment, hierarchy and design characteristics - including total right-of-way width, sidewalk and streetscape amenities, parking lanes, travel lanes and other geometric and urban design details - for all existing streets, proposed streets that have been adopted as part of an Official Map, and new potential streets in the City of Beaufort.
- B. **Official Street Network Plan:** Pursuant to the authority of S.C. Code 1976 § 6-7-1210 et seq. (1976), as amended, the City has previously adopted several Official Maps. An Official Street Network Plan is incorporated into this Code in order to represent a composite of these previously-adopted Official Maps.
1. **Purpose:** This plan represents a composite of all Official Maps, to date, in the City. The map designates existing or proposed streets or ways within the City that are targeted for creation, expansion or other improvements. The Official Street Network Plan shall initially consist of a series of four (4) separate maps, included in Appendix C, which shall be deemed a part of the Beaufort Code.
 2. **Modification:** The Official Street Network Plan may be modified or supplemented per the procedure for Amendments and Rezoning (Section 9.16). The Metropolitan Planning Commission (MPC) will review the Official Street Network Plan on a regular basis at intervals of every 6 months, or thereabouts. In addition, the maps will be automatically updated as additional Official Maps are approved per the appropriate process required by state law.
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 - a. In the case of a street section adopted as part of an Official Map, where the width of the existing right-of-way is insufficient to install the prescribed street section, the fronting property owner may be required to reserve the appropriate amount of right-of-way (as measured from the centerline of the existing street). If the owner chooses to dedicate and install the complete right-of-way, the cost of the improvements may be compensated - see Section 7.2.1 E.
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Section 9.1.4

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Subdivision, Major, Sketch Plan	9.8	Discretionary	Admin TRC	None	MPC	Court	24 months	12 months, up to 5 times
Subdivision, Major, Site Plan	9.8	Administrative	Admin, TRC	None	Admin	MPC	24 months	12 months, up to 5 times
Subdivision Final Plan	9.8	Administrative	Admin TRC	None	Admin	MPC	24 months	12 months, up to 5 times
HISTORIC PRESERVATION								
Certificate of Appropriateness, Minor	9.9	Administrative	Admin	Demolition Only: Yes (1,2, 3)	Admin	HRB	24 months	12 months, up to 5 times

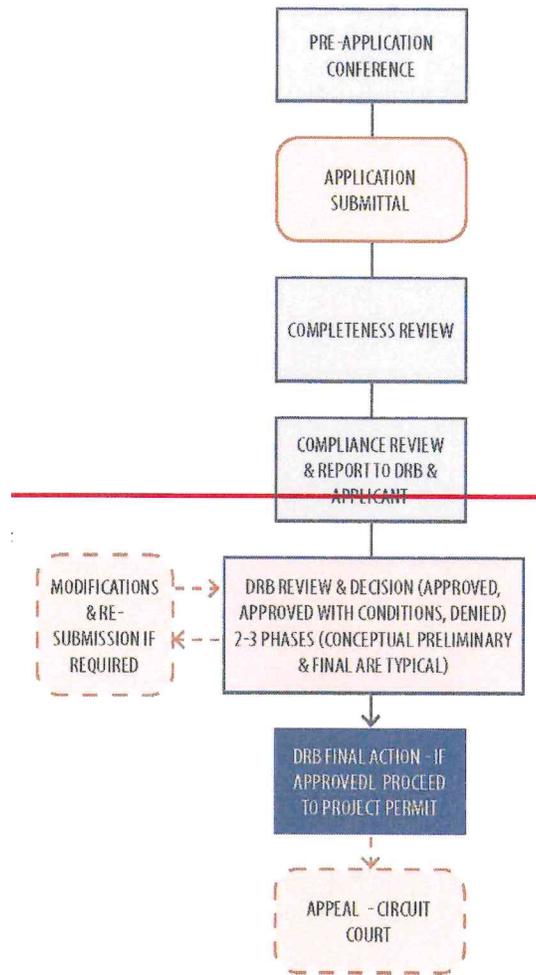
Certificate of Appropriateness, Major	9.9	Discretionary	Admin	Demolition & Design Exception only: Yes (1,2)	HRB	Court 30 days to appeal	24 months; no expiration for demolitions	12 months, up to 5 times
Local Historic District/ Historic Sign Designation	9.10	Legislative	Admin, MPC, HRB	None	CC	Court	n/a	n/a
RELIEF								
Administrative Adjustment	9.11	Administrative	Admin	None	Admin	ZBOA	24 months	12 months, up to 5 times
Special Exception	9.12	Discretionary	Admin	Yes (1, 2)	ZBOA	Court 30 days to appeal	24 months	12 months, up to 5 times
Variance	9.13	Discretionary	Admin	Yes (1, 2)	ZBOA	Court 30 days to appeal	24 months	12 months, up to 5 times
ADMINISTRATION APPEALS								
Administrative Appeal	9.14	Discretionary	Admin	Yes (1)	ZBOA	Court 30 days to appeal	12 months	6 months
AMENDMENTS								
Code Amendments	9.16	Legislative	Admin, MPC	Yes (1, 2 & 3)	CC	Court 30 days to appeal	n/a	n/a
Admin-Administrator / MPC-Metropolitan Planning Commission / CC-City Council / ZBOA-Zoning Board of Appeals / HRB-Historic District Review Board / DRB-Design Review Board / TRC-Technical Review Committee / Court - Circuit Court								
Note: Any appeals that are assigned to Court are eligible for pre-litigation mediation pursuant to § SC ST 6-29-1155								

Section 9.8.2

9.8.2 DEVELOPMENT DESIGN REVIEW (MAJOR)

Applicability:

- **Civic and Educational Facilities:** Any new development classified as a Civic Facility or Educational Facility (see Sections 3.4.1 A. and 3.4.1 C.).
- **Vehicle-Related Uses:** Any new development that includes fuel-dispensing facilities, drive-thru facilities, or structured parking.
- **Nonresidential Development:** ~~Any commercial development.~~ Project having more than a 10,000 square foot building footprint, not including porches.
- **Residential Development:** Single-family attached or multi-family developments containing more than 10-24 units.
- **Exceptions:**
 - Lots in the Beaufort Historic District are not subject to Development Design Review, and shall instead be evaluated by the HRB for compliance with the Historic District Guidelines (see Section 9.10 Certificate of Appropriateness, Minor and Major).
 - Projects in Redevelopment District Overlay Districts, are not subject to review by the Design Review Board and shall instead be evaluated by the Administrator (see Section 2.7.3). The Administrator shall post all projects for review in said districts for a 15 day public review and comment period for each major submittal. Minor revisions to the plans (not related to use, density, building frontage, or building height) shall not constitute a major submittal. A copy of all public comments shall be disseminated to the applicant and Administrator for each public comment period. Both the applicant and Administrator shall respond in writing to all public comments after each major submittal, and the project will be required to attend a TRC committee meeting, before the project is issued approval.



- B. **Process Type:** Discretionary.
- C. **Pre-Application Procedure:** Every applicant for a Major Development Plan is required to meet with the Administrator prior to the submittal of an application. The purpose of this meeting is to provide clarification and assistance in the preparation and submission of plat for approval. It is recommended that the applicant provide a Sketch Plan (Section 9.3.1 B.) to the Administrator prior to or at the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Site Plan.
- D. **Required Application Information:** Site Analysis (Section 9.3.1 A.), Sketch Plan (Section 9.3.1 B.), Site Plan (Section 9.3.1 C.), Construction Documents (Section 9.3.1 D.), As-Built Drawings (Section 9.3.1 E.), Building Elevations for Design Review (Section 9.3.1 G.) —a Traffic Impact Analysis (Section 7.3.3) and/or Archeological Impact Analysis (Section 8.3) may also be necessary as determined by the Administrator.
- E. **Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public review before the Design Review Board.
- F. **Public Notification:** None.

-
- G. **Neighborhood Meeting:** Optional.
- H. **Public Meeting:** The ~~Design Review Board~~ Planning Commission shall hold a public meeting on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
- I. **Decisions/Findings of Fact:** Following the public meeting, the ~~Design Review Board~~ Planning Commission may approve, deny, or approve with conditions the application for a Major Development. No Major Development shall be approved unless the following findings of fact can be made:
1. The plan is consistent with the adopted plans and policies of the City.
 2. The plan complies with all applicable requirements of this Code.
 3. There exists adequate infrastructure (transportation and utilities) to support the plan as proposed.
 4. The proposed plan conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site.
 5. The proposed plan conforms to the Building Design Standards in Article 4.
 6. The application will not substantially lessen the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.
- J. **Time Frame for Review:** Major Development Design applications shall be acted upon within 90 days after filing; otherwise, the application shall be deemed approved, and a permit shall be issued. An extension of time may be granted by mutual consent of the ~~Design Review Board~~ Planning Commission and the applicant. Following approval, or approval with conditions, the applicant shall be directed to prepare detailed Construction Documents (Section 9.3.1 D.) for final approval by the Administrator and the TRC (as necessary).
- K. **Appeals:** Any party aggrieved by the decisions of the ~~Design Review Board~~ Planning Commission may appeal to the Circuit Court of Beaufort County within 30 days of the decision.
- L. **Permit Validity:** Upon the approval of the Major Development Design application, the applicant shall have 2 years to obtain a Project Permit. Failure to secure a permit for the permitted work within this time shall render the compliance void. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the design approval, and any subsequent building permits.
- M. **Permit Extension:** The Administrator may grant up to 5 one-year extensions of this time period upon submittal by the applicant of sufficient justification for the extension. Extensions shall be submitted at least 1 month prior to the expiration date.

Section 9.16

9.16: AMENDMENTS AND REZONINGS

9.16.1 APPLICABILITY

When the public necessity, convenience, general welfare, or good zoning practice justify such action, and after the required review and report by the Metropolitan Planning Commission (MPC), the City Council may undertake the necessary steps to amend this Code, and its accompanying map.

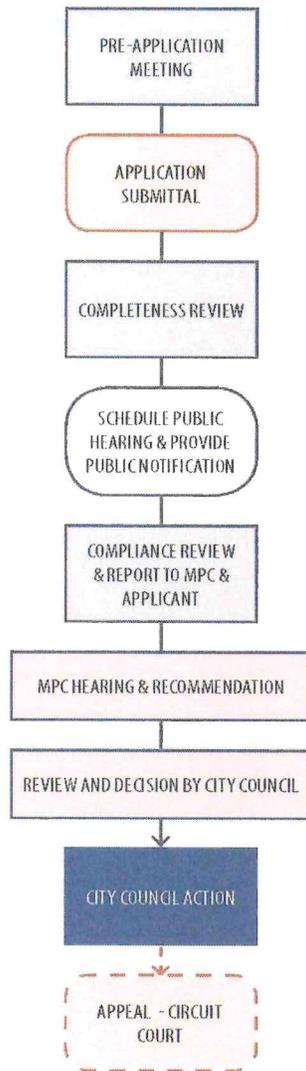
9.16.2 INITIATION OF AMENDMENTS

A proposed amendment to this Code may be initiated by any member of the City Council, the MPC, the Administrator, or by any city resident or business owner filing an application with the Administrator.

9.16.3 APPROVAL PROCESS

Requests to amend this Code shall be processed in accordance with the following requirements:

- A. **Application Procedure:** Application forms for code amendment requests shall be obtained from the Administrator. Completed forms, together with an application fee as required by Section 9.2.2, plus any additional information the applicant deems pertinent, shall be filed with the Administrator.
 1. Applications for zoning map amendments (rezoning) shall also include:



- a. Boundary map of the subject property that is prepared and sealed by a registered land surveyor.
- b. Where applicable, a copy of correspondence illustrating that the applicant has solicited written comments from the appropriate property owners' association regarding the requested amendment. Such correspondence shall encourage the association to direct any comments in writing to the Administrator and the applicant within 15 calendar days of receipt of the notification.
- c. Written consent from the owner of the property that is being considered for an amendment. This is required if the applicant is not the city.

B. Staff Review and Report:

1. The Administrator shall prepare a staff report that reviews the proposed amendment in light of the Comprehensive Plan and the general requirements of this Code. A copy shall be provided to the MPC and the applicant before the scheduled public meeting.

-
2. For amendments where the most intense permitted use in the proposed district would generate more than 50 external trips during the peak hour, a TIA (Section 7.3.3) may be required; all road improvements needed to maintain the current level of service shall be identified (based on that analysis), and assurances shall be provided so that all road improvements will be in place so the impacts of the development are accommodated, and the current level of service is maintained.

C. **Metropolitan Planning Commission Recommendation:**

1. **Public Notification:** None.
2. **Hearing by MPC:** All papers and other data submitted by the applicant on behalf of the amendment request shall be transmitted to the MPC. The MPC, at regular meetings, shall review and prepare a recommendation for transmittal to the City Council. At such meeting(s), any party may appear in person, by agent, or by attorney. Following action by the MPC, all papers and data pertinent to the application shall be transmitted to the City Council for final action. The MPC shall study the proposed amendment, taking into account all factors that it may deem relevant, including, but not limited to:
 - a. Consistency (or lack thereof) with the Comprehensive Plan and Civic Master Plan;
 - b. Compatibility with the present zoning, with conforming uses of nearby property, and with the character of the neighborhood;
 - c. Suitability of the property that would be affected by the amendment;
 - d. Compatibility with the natural features of — and any archaeological or cultural resources on — the property;
 - e. Marketability of the property that would be affected by the amendment; and
 - f. Availability of roads, sewer, water, and stormwater facilities generally suitable and adequate for the affected property.
3. At the close of the public meeting, the MPC shall recommend approval, modified approval, or denial of the amendment.
4. Upon receipt of a recommendation from the MPC, the staff shall have 30 days within which to submit its report of the MPC's deliberations and recommendation City Council. If the MPC or its staff fail to submit a report within the 30-day period, it shall be deemed to have recommended approval of the proposed amendment.
5. If, after three MPC meetings, no recommendation has been made (e.g., each meeting has resulted in the request being tabled), the item will proceed to City Council. Staff will prepare a report of the MPC deliberations within 30 days of the third MPC meeting.

D. **City Council Hearing:**

1. **Public Notification:** Levels 1, 2, and 3.
2. **Timing:** City council shall consider the proposed map or text amendment at the earliest reasonable date and shall consider the report of the MPC in making a decision.
3. **Decision:** City council shall act to approve, approve with modifications, or deny the proposed amendment.
4. **Notification of Result:** The applicant shall be notified in writing within 15 days of City Council's action.

9.16.4 UPDATE OF ZONING MAP

Following City Council's final action, any necessary changes shall be made to this Code, or to the Official Zoning Map within 7 days. A written record of the type and date of such change shall be maintained by the Administrator. After 7 days of the official action, the action by City Council shall be considered official even if the Administrator fails to make the written change to the appropriate document.

9.16.5 APPEALS

An applicant aggrieved by the amendment decisions of the City Council may appeal to the circuit court within 30 days of the decision.

Section 10.2

10.2 : METROPOLITAN PLANNING COMMISSION

10.2.1 POWERS AND DUTIES

A. Authority: Pursuant to S.C. Code 1976-§ 6-29-320 et seq., as amended, and ordinances of the Town of Port Royal, South Carolina and Beaufort County, there is established a Beaufort Port Royal Metropolitan Planning Commission (MPC), which shall perform all planning functions in the areas of jurisdiction of the City of Beaufort and the Town of Port Royal, South Carolina, and the unincorporated areas of Port Royal Island and Lady's Island, all of which have been designated as the growth area in the Northern Beaufort County Regional Plan (collectively defined herein as the "Growth Area" on the Growth Area Map in Chapter 2 of the Regional Plan). The MPC is created so that the two municipalities and Beaufort County can act together to enhance present advantages, to overcome collective problems involving these three governmental entities in which joint resolution is advisable, and to engage in orderly planning for the wise conservation of historic and natural resources, and for the growth of business enterprises providing new or expanded job opportunities in the growth area.

B. Territorial Jurisdiction

1. The MPC may exercise the power set forth in S.C. Code tit. 6-29-320, as amended, in the following areas: all lands within the City of Beaufort, the Town of Port Royal, and the growth area, as defined in the Northern Beaufort County Regional Plan and shown on the Growth Area Map.

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2. The City Council may expand the jurisdiction of the MPC by ordinance and/or intergovernmental agreement, in accordance with the provisions of S.C. Code 6-29-326.

C. Powers and Duties with Respect to the Growth Area: The MPC will have authority pursuant to state law for planning in the growth area. It will handle all matters in the growth area that are delegated to it and that require MPC action. In order to better coordinate growth within the growth area, the MPC shall

1. Prepare comprehensive planning in the growth area;

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2. Review all zoning and land development regulation amendments for conformity with the respective Comprehensive Plan. Conflicts with the Comprehensive Plan shall be noted in any report to the respective governmental entity making the regulation amendment.

3. Review and make recommendations concerning all annexations with specific attention to those of regional impact within the growth area;

4. Review and make recommendations concerning all requests for zoning within the growth area;

5. Review and make recommendations concerning major transportation projects affecting the growth area;

6. Review and make recommendations on other matters delegated by any of the governmental entities or such other matters as may appropriately come before the Commission.

a. In matters affecting the entire growth area, the MPC shall report its recommendations to the councils for the municipalities, and to the county planning commission.

b. In matters affecting only one governmental entity, the MPC shall report its recommendations to that governmental entity.

c. Municipal and county staffs will work together to share responsibility for presenting matters to the MPC as outlined in the commission's adopted "Rules of Procedure."

D. Powers and Duties with Regard to the City of Beaufort: Additionally, as to matters pertaining to lands within the City of Beaufort limits, the Beaufort City Council designates to the MPC the following additional duties:

1. ~~Review and make recommendations to the City Council in regard to planting, tree preservation, and other aesthetic considerations for land and land structures that are outside of public rights-of-way, designated open space, or public parks.~~
2. ~~Review and make recommendations on public projects.~~
3. ~~Review and approve, approve with conditions, or deny all Major Subdivision Sketch Plans.~~
4. ~~Delegate Site Plan (i.e., Preliminary Plat) and Final Subdivision Plat review and approval to city staff.~~
5. ~~Review and make recommendations to the City Council about amendments to the text of this Development Code.~~
6. ~~Review and make recommendations to the City Council about amendments to the Official Zoning Map.~~

(Ord. No. O-22-19, 12-10-2019)

A. Planning commission established. There is hereby established a planning commission for the City of Beaufort, which shall have the powers and duties as provided in S.C. Code Title 6, Chapter 29, 6-29-310, et seq.

(1) Composition of the commission. The planning commission shall consist of seven (7) members, with an interest, competence, or knowledge in Planning, appointed by Beaufort City Council for terms of three (3) years, ~~staggered so one-third of the members shall have terms expiring in each year.~~ Adoption of the ordinance codified in this subsection shall appoint two (2) members to the commission for terms of one (1) year, two (2) members to the commission for terms of two (2) years, and three (3) members for terms of three (3) years. Members shall serve until their successors are appointed and qualified. No member of the planning commission shall be the holder of an elected public office in the City of Beaufort. To the greatest extent possible, the membership of the planning commission at all times includes not less than four (4) members who are licensed either as architects, landscape architects, civil engineers, urban planners, attorneys, or licensed contractors. All members of the commission will be residents of the City of Beaufort, property owners, or own or operate a business within the City of Beaufort.

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(2) Terms: Except as otherwise described in 10.2.1 A.1, commissioners will serve three-year terms, with a max of two terms. Members who have served for two full terms shall wait one calendar year before they may serve again. Terms will not end until a replacement has been officially appointed.

(3) Powers and Duties: The commission shall have the powers and duties as provided in S.C. Code Title 6, Chapter 29, 6-29-310, et seq, and the following additional duties:

- i. Review and approve, approve with conditions, or deny all Major Subdivision Sketch Plans
- ii. Review and make recommendations to the City Council regarding amendments to the text of this development code.
- iii. Review and make recommendations to the City Council regarding amendments to the official zoning map.
- iv. Review and make recommendations to the City Council regarding amendments to the Comprehensive Plan.
- v. Review and approve, approve with conditions, or deny major Site Plans as per the requirements of Section 9.8.7, and delegate to City Staff all other Site Plan approvals not stated in Section 9.8.2.

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vi. Delegate Preliminary Plat, and Final Subdivision Plat review and approval to City Staff.

vii. Review and make recommendations to City Council regarding proposed annexations into the City.

viii. The Planning Commission shall consider the Northern Beaufort County Regional Plan and Growth Area in any review and approval as defined in this Section.

- (4) Compensation. Members of the planning commission shall serve without compensation. Reimbursement for actual expenses incurred in the performance of official duties may be reimbursed from budgeted funds pursuant to reimbursement policies and procedures for employees of the City of Beaufort.
- (5) Removal of members. Members of the planning commission may be removed at any time by Beaufort City Council for cause. The existence of cause shall be discussed by the council in executive session as permitted by the Freedom of Information Act, S.C. Code 40-4-70(a)(1), and the determination of removal shall be by vote in public session declaring a vacancy in the position without a statement of cause. Any fact which, in the discretion of council, is deemed to adversely affect the public interest, including lack of attendance at meetings, may constitute cause.
- (6) Organization and rules of procedure. The planning commission shall organize, elect officers, and adopt rules of procedure as required by S.C. Code 6-29-360. The PC shall elect a chairperson and a vice-chairperson from its members who shall serve for 1 year or until reelected, or until a successor is elected. The PC shall appoint a secretary, who may be an employee of any of the governmental entities. The PC shall adopt and adhere to rules of procedure for the conduct of business. An abstention from voting shall be considered a vote to deny the motion.
- (6) Quorum. A majority of the members appointed shall constitute a quorum.
- (7) Public hearings. The Beaufort Planning Commission shall hold all public hearings on amendments to the city zoning ordinance and zoning map pursuant to S.C. Code 6-29-760(A), Major Development as defined in Section 9.8.2 of the Beaufort Development Code, Appeals of Minor Development as defined in Section 9.8.4, Platting as defined in Section 9.9.3 and 9.9.4, recommendations on Annexations, recommendations on Text amendments of the Beaufort Development Code, and Adoption and updates of the Beaufort Comprehensive Plan.
- (8) Minutes. The PC shall keep minutes of its proceedings, showing the vote of each member in question, or indicating absence or failure to vote.
- (9) Notice. Reasonable notice of the time, place, and agendas of the meetings shall be given to the public. The news media shall be contacted in accordance with state law.

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10.2.2. MEMBERSHIP, TERMS, AND COMPENSATION

- A. Number, Appointment. All city-appointed MPC members shall be residents of the city, own property in the city, or own or operate a business in the City. The MPC shall consist of 6 members, appointed for staggered terms, 2 members from each municipality, and 2 members from Beaufort County. No member shall hold an elective public office. Appointments to the MPC shall comply with the City Council's resolution establishing the guidelines for appointments to city boards/committees as adopted on November 9, 1993 and revised from time to time.
- B. Terms. Members may be appointed to succeed themselves up to a maximum of 2 full 2-year terms. Thereafter, members may be appointed only after they have been off the MPC for at least 1 year. All terms shall end on June 30 of the applicable year, and members must continue to serve until their successors are appointed.
- C. Term Limits. No member may serve for more than 2 successive terms, except for extraordinary circumstances where the City Council believes it to be in the best interest of the community to have a particular member continue for a specific period of time. This limitation shall not prevent any person from being appointed to the MPC after an absence of 1 year. Service for a partial term of less than 11/2 years shall not constitute a term of service for purposes of this section.
- D. Vacancies. A vacancy for any reason shall be filled for the unexpired term.

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- E. ~~Removal: The City Council may remove any city-appointed member of the MPC for cause by majority vote of the council.~~
- F. ~~Compensations: Members shall serve without pay. Members may be reimbursed for actual expenses incurred in the performance of their duties from available funds approved in advance by the Administrator.~~

10.2.3 OFFICERS, MEETINGS, AND QUORUM

- A. ~~Officers: The organization of the MPC shall be as provided for under S.C. Code 1976 § 6-29-350, as amended. The MPC shall elect a chairperson and a vice chairperson from its members who shall serve for 1 year or until reelected, or until a successor is elected. The MPC shall appoint a secretary, who may be an employee of any of the governmental entities.~~
- B. ~~Meetings: Meetings of the MPC shall be held at the call of the chairperson and at such other times as the MPC may determine. All meetings of the MPC shall be open to the public.~~
- C. ~~Quorum: A majority of the members appointed shall constitute a quorum.~~
- D. ~~Notice of Meetings: Reasonable notice of the time, place, and agenda of the meetings shall be given to the public. The news media shall be contacted in accordance with state law.~~
- E. Rules of Proceeding:
 - 1. ~~The MPC shall adopt and adhere to rules of procedure for the conduct of business.~~
 - 2. ~~An abstention from voting shall be considered a vote to deny the motion.~~
- F. ~~Minutes: The MPC shall keep minutes of its proceedings, showing the vote of each member upon each question, or indicating absence or failure to vote.~~
- G. ~~Staff: The MPC shall work with the Department of Community and Economic Development for all projects within the city.~~

(Ord. No. O-22-10, 12-10-2019)

Section 10.8

10.8: Reserved ~~DESIGN REVIEW BOARD~~

10.8.1 ~~POWERS AND DUTIES~~

- A. ~~**Territorial Jurisdiction:** The Design Review Board (DRB) shall have jurisdiction over the entire city, except for the Historic District.~~
- B. ~~**Powers and Duties:** Review, and approve, or deny, in accordance with the requirements set forth in The Beaufort Development Code, the aesthetic design of all applications subject to Major Development Design Review as outline in Section 9.8.2.~~

(Ord. No. O-22-19, 12-10-2019)

10.8.2 ~~MEMBERSHIP, TERMS, AND COMPENSATION~~

- A. ~~**Number, Appointment:**~~
- ~~1. The DRB shall be appointed by the City Council.~~
 - ~~2. The DRB shall be composed of 5 voting members who shall be residents of the city, own property in the city, or own or operate a business in the City. The DRB shall include 3 design professionals, and 2 citizen representatives. With regard to the design professional positions, it is preferable that the positions be as follows: 1 landscape architect, 1 architect, and 1 engineer. With regard to the citizen representatives, it is preferable that 1 representative be a business owner, preferably owning a business on a Primary Street (see Appendix C.3).~~
- B. ~~**Terms:** All terms shall be for 3 years. All terms shall expire on June 30 of the applicable year and members must continue to serve until their successors are appointed.~~
- C. ~~**Term Limits:** No member may serve for more than 2 successive terms, except for extraordinary circumstances where the City Council believes it to be in the best interest of the community to have a particular member continue for a specific period of time. This limitation shall not prevent any person from being appointed to the HRB after an absence of 1 year. Service for a partial term of less than 1½ years shall not constitute a term of service for purposes of this section.~~
- D. ~~**Vacancies:** Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.~~
- E. ~~**Removal:** The City Council may remove any member of the DRB for cause.~~
- F. ~~**Compensation:** Members shall serve without pay. Members may be reimbursed for actual expenses incurred in the performance of their duties from available funds approved in advance by the Administrator.~~

10.8.3 ~~OFFICERS, MEETINGS, AND QUORUM~~

- A. ~~**Officers:** The DRB shall elect a chairperson and a vice chairperson from its members who shall serve for 1 year or until reelected, or until a successor is elected. The DRB shall appoint a secretary, who may be an employee of the City.~~
- B. ~~**Meetings:** Meetings of the DRB shall be held at the call of the chairperson and at such other times as the DRB may determine. All meetings of the DRB shall be open to the public.~~

C. ~~**Quorum:** At least 3 of the members of the DRB must be present to constitute a quorum.~~

D. ~~**Notice of Meetings:** Reasonable notice of the time, place and agendas of the meetings shall be given to the public. The news media shall be contacted in accordance with state law.~~

E. ~~**Rules of Proceeding:**~~

1. ~~The DRB shall adopt and adhere to rules of procedure for the conduct of business.~~

2. ~~An abstention from voting shall be considered a vote to deny the motion.~~

F. ~~**Minutes:** The DRB shall keep minutes of its proceedings, as required by state law.~~

G. ~~**Staff:** The staff of the City's Department of Community and Economic Development may provide support to the DRB from time to time.~~

~~{Ord. No. O 22 19 , 12 10 2019}~~



CITY OF BEAUFORT
DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

TO: CITY COUNCIL **DATE:** 9/16/2023
FROM: Scott Marshall, City Manager
AGENDA ITEM TITLE: Ordinance authorizing the execution and delivery of an encroachment and easement agreement and other matters related thereto - 2nd reading
MEETING DATE: 9/26/2023
DEPARTMENT: City Managers Office

BACKGROUND INFORMATION:

Magnus, LLC, is selling their Commerce Park Property located at 74 Schein Loop. In preparing to sell the property, they have encountered perceived title issues and they are seeking the City's assistance in clearing them.

Reference Attachment 1, Alta Survey dated May 12, 2023, Revised July 18, 2023

1. The northwest corner of the structure encroaches on what the survey indicates as a utility/drainage easement. To the degree that the City may have property rights in the easement, the seller is requesting approval for the encroachment of the structure through the granting of an easement.
2. The southern edge of the property, running south to northeast, abuts the northern edge of 57 Schwartz Road, a property owned by the City. Currently there is encroachment onto 57 Schwartz Road by existing Rip Rap adjacent to a retention pond located on the 74 Schein Loop property. Additionally, there is also an existing outfall from the retention pond that encroaches onto the City's property at 57 Schwartz Road.

The Ordinance presented for consideration, which was drafted and reviewed by legal counsel, will satisfy both concerns raised by Magnus, LLC. The accompanying Encroachment and Easement Agreement grants an encroachment of the building into the drainage easement limited to the rights of the City with respect to the drainage easement. It also grants a non-exclusive easement for the rip rap and runoff of water from the detention pond onto the property located at 57 Schwartz Road.

PLACED ON AGENDA FOR: Action

REMARKS:

Staff recommends approval of the Ordinance presented for consideration and suggests the following motion language:

"I move to approve the Ordinance authorizing the execution and delivery of an encroachment and

easement agreement and other matters relating thereto, as presented."

First reading was held on September 12, 2023. There have been no changes made since first reading.

ATTACHMENTS:

Description	Type	Upload Date
Ordinance	Backup Material	9/21/2023
Exhibit A - Encroachment and Easement Agreement	Backup Material	9/16/2023
Alta Survey	Backup Material	9/16/2023

ORDINANCE NO. ____

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN ENCROACHMENT AND EASEMENT AGREEMENT AND OTHER MATTERS RELATING THERETO.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Beaufort (the “*City Council*”), the governing body of the City of Beaufort, South Carolina (the “*City*”), as follows:

Section 1 Findings. The City Council hereby makes the following findings of fact in connection with the enactment of this ordinance (this “*Ordinance*”):

(a) The City is a municipal corporation of the State of South Carolina (the “*State*”) and as such possesses all general powers granted by the Constitution and statutes of the State to municipalities, including the power pursuant to Section 5-7-40 of the Code of Laws of South Carolina 1976, as amended, to convey interests in real property.

(b) The City is the owner of certain real property located within Beaufort Commerce Park, and previously owned certain real property within Beaufort Commerce Park identified by Tax Map # R120-024-000-0447-0000 (the “*Property*”), on which a subsequent property owner, Magnus BCP1, LLC (the “*Property Owner*”), has developed a spec building. The current owner of the Property intends to sell the Property, and has requested that the City grant certain encroachments and easements in connection with such sale in order to correct certain title issues.

(c) The City desires to enter into an Encroachment and Easement Agreement with the Property Owner, the form of which is attached to this Ordinance at **Exhibit A** (the “*Agreement*”) in order to facilitate the sale of the Property and the further development of Beaufort Commerce Park.

Section 2 Approval of Form of Agreement. The form, provisions, terms, and conditions of the Agreement, as attached at **Exhibit A** to this Ordinance, are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the Agreement was set out in this Ordinance in its entirety. The City Manager of the City of Beaufort (the “*City Manager*”) is hereby authorized, empowered, and directed to execute the Agreement in the name and on behalf of the City; the Clerk to the City Council (the “*City Clerk*”) is hereby authorized, empowered and directed to attest the same; and the City Manager is further authorized, empowered, and directed to deliver the Agreement to the Company. The Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the City thereunder and as shall be approved by the official or officials of the City executing the same, upon the advice of counsel, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Agreements now before this meeting.

Section 3 Repealer; Effective Date. All orders, ordinances, resolutions, and parts thereof in conflict herewith are to the extent of such conflict hereby repealed. This Ordinance shall take effect and be in full force from and after its enactment.

DONE AND ENACTED in a meeting of the Council duly assembled this 26th day of September 2023.

CITY OF BEAUFORT, SOUTH CAROLINA

[SEAL]

Michael A. McFee, Acting Mayor

Attest:

Traci Guldner, City Clerk

First Reading: September 12, 2023
Second Reading: September 26, 2023

EXHIBIT A

Encroachment and Easement Agreement

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged by the Parties, it is hereby agreed as follows:

1. Grant of Encroachment. City hereby grants, bargains, sells and conveys unto Magnus, for the benefit of the Magnus Property, the right to maintain the Building Encroachment into the Drainage Easement; provided, however, the Building Encroachment granted hereby is limited to the rights of the City with respect to the Drainage Easement. The encroachment granted herein shall include the right of the owner of the Magnus Property to perform reasonable maintenance and repair to the improvements located within the Building Encroachment.

2. Grant of Easements. City hereby grants, bargains, sells and conveys unto Magnus, for the benefit of the Magnus Property, a non-exclusive easement over the City Property for the Rip Rap Encroachments and for the flow of water from the retention pond onto the City Property. The easement granted herein shall include the right of the owner of the Magnus Property to perform reasonable maintenance and repair to the improvements located within the Rip Rap Encroachments.

3. Legal Effect. The easements and rights created by this Agreement are appurtenant and may not be transferred, assigned, or encumbered except as an appurtenant easement. Each covenant contained in this Agreement constitutes a covenant running with the land, binds the Parties and any successor or assign now having or hereafter acquiring an interest in the Magnus Property or City Property, and will inure to the benefit of the Parties, and their respective successors, assigns and mortgagees.

4. No Dedication. Nothing contained in this Agreement will be deemed to constitute a gift, grant or dedication of any portion of the easement area to the general public or for any public purpose whatsoever, it being the intention of the Parties that this Agreement will be strictly limited to the private use of the Parties named or described herein, their respective successors, assigns and mortgagees, and is not intended to confer upon any person who is not named or described herein any rights as a third party beneficiary hereunder or to give any such person any rights whatsoever.

5. Governing Law. This Agreement will be construed in accordance with the laws of the State of South Carolina.

6. Binding Effect. The provisions of this Agreement will be binding on the Parties and their respective successors, assigns and mortgagees to the extent herein provided.

7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

[SIGNATURE PAGES ATTACHED]

SIGNATURE PAGE OF ENCROACHMENT EASEMENT AGREEMENT

IN WITNESS WHEREOF, City has caused this Agreement to be signed, sealed, and delivered to be effective as of the day and year first above written.

WITNESS: **CITY OF BEAUFORT, SOUTH CAROLINA**

Witness Number 1

By: _____ (SEAL)
Name: _____
Title: _____

Witness Number 2

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) **ACKNOWLEDGMENT**

I, _____, a notary public for the State of South Carolina, do hereby certify that _____, as the _____ of City of Beaufort, South Carolina, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this _____ day of _____, 2023.

(SEAL)

Signature of Notary Public
My Commission Expires: _____

[AFFIX NOTARY SEAL HERE]

EXHIBIT A

Copy of Survey

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching subsequent to the Effective Date, but prior to the date that the proposed insured acquires record title, for value, of the estate or interest or mortgage thereon covered by this Commitment. (NOT PLOTTABLE)

2. Rights or claims of parties in possession of the Land not shown by the Public Records. (NOT PLOTTABLE)

3. Any encroachment, encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. (PLOTTED)

4. Easements, or claims of easements, not shown by the Public Records. (NOT PLOTTABLE)

5. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown in the Public Records. (NOT PLOTTABLE)

6. Taxes and assessments for the year 2023 and subsequent years, which are not yet due and payable. (NOT PLOTTABLE)

7. No insurance is afforded as to the exact amount of acreage contained in the Land. (NOT PLOTTABLE)

8. Co-Tenancy Agreement by and among METRO PH SC1 LLC [and/or its assign(s)] and 5WS LLC [and/or its assign(s)] dated 2023 and recorded 2023 in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book _____, Page _____, (NOT PLOTTABLE)

9. Terms and conditions of that certain unrecorded Management Agreement by and among METRO PH SC1 LLC [and/or its assign(s)] and 5WS LLC [and/or its assign(s)] dated 2023. (NOT PLOTTABLE)

10. Covenants, conditions, easements and restrictions set forth in that certain Title to Real Estate dated February 28, 2007, and recorded on March 13, 2007, in the Register of Deeds Office for Beaufort County in Book 2536, Page 837, and shown on Exhibit A thereof (being that certain plat recorded in Plat Book 118, Page 194, aforesaid County records); as Amended in Book 2648, Page 2095, aforesaid County records. (PLOTTED)

11. Declaration of Restrictive Covenants dated April 19, 2021 and recorded April 20, 2021 in Book 4000, Page 1625, as Re-recorded June 8, 2021 in Book 4022, Page 0108, Office of the Register of Deeds for Beaufort County. (PLOTTED)

12. Right of way to South Carolina Electric and Gas Company, recorded September 20, 1990 in Book 561, Page 1116, Office of the Register of Deeds for Beaufort County. (LOCATION CAN NOT BE DETERMINED)

13. Easement to Dominion Energy South Carolina, Inc. recorded September 9, 2021 in Book 4058, Page 2602, Office of the Register of Deeds for Beaufort County. (PLOTTED)

14. Terms and Conditions of that certain unrecorded Development Agreement dated September 24, 2020 between Beaufort County Economic Development Corporation and Magnus BCP1, LLC (as assignee of Magnus Development Partners, LLC); as amended by instrument dated May 25, 2022; as Assigned by that certain Assignment and Assumption of Development Agreement by and between Beaufort County Economic Development Corporation, Magnus BCP1, LLC, METRO PH SC1 LLC [and/or its assign(s)] and 5WS LLC [and/or its assign(s)], executed (NOT PLOTTABLE)

15. Contractor's Notice of Project Commencement file by Choate Construction Company recorded March 25, 2021 in Book 3989, Page 0211, Office of the Register of Deeds for Beaufort County, South Carolina. (NOT PLOTTABLE)

16. Contractor's Notice of Project Commencement file by Robbins Construction Group recorded October 3, 2022 in Book 4186, Page 2366, Office of the Register of Deeds for Beaufort County, South Carolina. (NOT PLOTTABLE)

17. Contractor's Notice of Project Commencement file by Robbins Construction Group recorded October 3, 2022 in Book 4186, Page 2367, Office of the Register of Deeds for Beaufort County, South Carolina. (NOT PLOTTABLE)

18. The following matters shown on that certain unrecorded plat of survey entitled "ALTA/NSPS LAND TITLE SURVEY OF 5.92 ACRES, BEAUFORT COMMERCE PARK, CITY OF BEAUFORT, BEAUFORT COUNTY, SOUTH CAROLINA, PREPARED FOR AND CERTIFIED TO METRO PH SC1 LLC, A SOUTH CAROLINA LIMITED LIABILITY COMPANY, 5WS LLC, A SOUTH CAROLINA LIMITED LIABILITY COMPANY, CLEAR TITLE AGENCY, LLC, AND CHICAGO TITLE INSURANCE COMPANY" prepared by Alexander C. Peabody, SC PLS No. 20194, Peabody & Associates, Inc. dated May 12, 2023:

- a. 20' Utility/Drainage Easements;
b. Power Pole(s);
c. Communication Pedestal/TPED;
d. [INTENTIONALLY OMITTED]
e. [INTENTIONALLY OMITTED]
f. Fiber Optic Pull Box;
g. Overhead power line(s) and underground power line (approximate location);
h. 66' R/W Schein Loop;
i. 66' R/W Schork Road;
j. Electric Transformer;
k. Electric Meter Panels;
l. Water Main, Water Valve, Water Vault, Back Flow Preventer (no defined easement area(s));
m. Sewer Sanitary Service and Sewer Cleanout (no defined easement area(s));
n. Storm Drain Curb Inlet, Storm Drain Grate Inlet;
o. Propane Tank (located in Dominion Energy Easement);
p. Gas Valve;
q. Fire Hydrant;
r. Fire Dept. Connection(s);
s. 18" RCP and Rip Rap;
t. Encroachment by 1 story concrete & structural steel building and awning(s) into 20' Utility/Drainage Easement;
u. Retention Pond, Rip Rap, Outlet Structure, and 18" RCP. (PLOTTED)

19. Terms and Conditions of that unrecorded Warehouse/Distribution Agreement of Lease by and between Magnus BCP1, LLC, a South Carolina limited liability company and Norman International, Inc., a California corporation dated May 25, 2022. (NOT PLOTTABLE)

20. Terms and Conditions of that Unrecorded Warehouse/Distribution Agreement of Lease by and between Magnus BCP1, LLC, a South Carolina limited liability company and CRP Services, LLC, a Delaware limited liability company dated September 1, 2022. (NOT PLOTTABLE)

21. Development Agreement dated October 9, 2006 between Greater Beaufort-Hilton Head Economic Partnership, Inc., a South Carolina corporation, and the governmental authority of Beaufort County, South Carolina, recorded October 20, 2006 in Book 2461, Page 2347, in the Office of the Register of Deeds for Beaufort County, South Carolina, as amended by First Amendment to Development Agreement recorded January 11, 2008 in Book 2671, Page 1314, in the Office of the Register of Deeds for Beaufort County, South Carolina. (NOT PLOTTABLE)

22. Improvements appurtenant to the Land encroach onto property adjoining to the South bearing PIN No. R120 024 000 0447 0000, as shown on that certain unrecorded plat of survey entitled "ALTA/NSPS LAND TITLE SURVEY OF 5.92 ACRES, BEAUFORT COMMERCE PARK, CITY OF BEAUFORT, BEAUFORT COUNTY, SOUTH CAROLINA, PREPARED FOR AND CERTIFIED TO METRO PH SC1 LLC, A SOUTH CAROLINA LIMITED LIABILITY COMPANY, 5WS LLC, A SOUTH CAROLINA LIMITED LIABILITY COMPANY, CLEAR TITLE AGENCY, LLC, AND CHICAGO TITLE INSURANCE COMPANY" prepared by Alexander C. Peabody, SC PLS No. 20194, Peabody & Associates, Inc. dated May 12, 2023, without the benefit of record easement(s):
a. Outlet Structure RCP over property line by +/- 24.5'
b. Rip Rap over property line by +/- 3.0' (PLOTTED)

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE MANUAL FOR SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN. ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

FLOOD ZONE DESIGNATION:

THE PROPERTIES DESCRIBED ON THIS SURVEY DOES NOT LIE WITHIN A SPECIAL FLOOD HAZARD AREA AS DEFINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. THE PROPERTY LIES WITHIN FLOOD ZONE "X" ON FLOOD INSURANCE RATE MAP NUMBER 45013C0135G. MAP REVISED 03/23/21.

LEGAL DESCRIPTION (FROM COMMITMENT NUMBER 5760.0016)

All that certain piece, parcel, lot or tract of land, with any improvements thereon, situate, lying and being in the County of Beaufort, State of South Carolina, being shown and delineated as containing 5.92 acres on a plat entitled "Subdivision of 5.92 Acres from Beaufort County Parcel R100 024 000 0449 0000 for Magnus Development Partners located in Beaufort Commerce Park" prepared for Magnus Development Partners by GEL Engineering LLC dated November 10, 2020, and recorded April 14, 2021 in Plat Book 156 at Page 94, Office of the Register of Deeds for Beaufort County, and having such boundaries and measurements as shown on the plat described herein, which is specifically incorporated by reference.

NOTES:

- 1. NO UNDERGROUND UTILITY LOCATIONS WERE PERFORMED AT THIS TIME. OTHER UNDERGROUND UTILITIES COULD BE PRESENT.
2. THE BEARINGS SHOWN HEREON ARE GRID NORTH AND DERIVED BY GNSS VIA SCVRS NETWORK NAD83 (2011).
3. PRIOR TO ANY PLANNING OR CONSTRUCTION OF ANY KIND, IT IS STRONGLY RECOMMENDED THE OWNER/BUILDER CHECK WITH THE GOVERNING PLANNERS AND BUILDING OFFICIALS AS TO THE CURRENT FLOOD REQUIREMENTS AND BUILDING REQUIREMENTS.
4. ZONING: "L1" LIGHT INDUSTRIAL DISTRICT
5. SETBACK: FRONT / STREET SIDE: MINIMUM: 15 FEET INTERIOR SIDE: MINIMUM: 0 FEET; 25 FEET WHEN ABUTTING OTHER DISTRICTS (NONE REQUIRED) REAR: MINIMUM: 10 FEET; 25 FEET WHEN ABUTTING OTHER DISTRICTS (REQUIRED: 10 FEET)
6. EXISTING BUILDING HEIGHTS: 28.3' FROM THE FINISHED FLOOR TO THE TOP OF THE BUILDING.
7. PARKING SPACES: 62 REGULAR SPACES & 3 HANDICAP SPACES
8. CURRENTLY OWNED BY: MAGNUS BCP1 LLC CURRENT DEED: BOOK 4000, PG. 1622-1624A
9. THERE ARE NO CURRENT OR PROPOSED CHANGES IN THE STREET RIGHT-OF-WAY, AND THERE IS NOT ANY EVIDENCE OF STREET OR SIDEWALK CONSTRUCTION OR REPAIRS. THERE IS CURRENTLY NO EVIDENCE OF EARTH MOVING WORK, OR ANY BUILDING CONSTRUCTION OR BUILDING ADDITIONS. (TABLE A, ITEM 16 & 17)
10. THE ADDRESS IS No. 74 SCHEIN LOOP, BEAUFORT, SC 29906 SUITES 100, 110, 120, 130.

LEGEND:

- IPF1"CAPPED - IRON PIPE FOUND WITH 1" CAP.
REBAR(S) - 5/8" REBAR SET, NEW.
MAG(S) - MAG NAIL SET, NEW.
PP - POWER POLE.
EHH - ELECTRICAL HAND HOLE.
ETRAN - ELECTRIC TRANSFORMER.
EMEP - ELECTRIC METER PANELS.
GUY - GUY WIRE.
EM - ELECTRICAL METERS.
WV - WATER VALVE.
WM - WATER METER.
FHYD - FIRE HYDRANT.
P.V. - POST INDICATOR VALVE.
FDC - FIRE DEPARTMENT CONNECTION.
BFP - BACK FLOW PREVENTER.
ICV - IRRIGATION CONTROL VALVE.
SSMH - SANITARY SEWER MANHOLE.
SS - SANITARY SEWER SERVICE.
SCO - SEWER CLEAN OUT.
AC - AIR CONDITIONING UNIT.
TPED - TELEPHONE PEDESTAL.
FOPB - FIBER OPTIC PULL BOX.
SDCI - STORM DRAIN CURB INLET.
SDGI - STORM DRAIN GRADE INLET.
RCP - REINFORCED CONCRETE PIPE.
R/W - RIGHT OF WAY.
N/O - NOW OR FORMERLY OWNED BY.
P.O.B. - POINT OF BEGINNING.
RW - RIGHT-OF-WAY.
B-H-14 - PLOTTABLE SCHEDULE B SECTION II EXCEPTION.

PERIMETER DATA

Table with columns: FOUND MAY 12, 2023 and CALLED BOOK "154", PG. 094. Rows include Id, Radius, Bearing, Distance for various points A-X.

CURVE TABLE with columns: Id, Delta, Radius, Tangent, Chord, Ch Bear. Rows C1-C4.

ENCROACHMENT TABLE with columns: ENC#, Description. Rows ENC1-ENC4.

LINE TABLE with columns: Id, Bearing, Distance. Rows L1-L14.

SURVEYOR'S CERTIFICATE

THE UNDERSIGNED, BEING A PROFESSIONAL LAND SURVEYOR OF THE STATE OF SOUTH CAROLINA CERTIFIES TO (i) METRO PH SC1 LLC, A SOUTH CAROLINA LIMITED LIABILITY COMPANY, 5WS LLC A SOUTH CAROLINA LIMITED COMPANY; (iii) CLEAR TITLE AGENCY LLC; AND (iv) CHICAGO TITLE INSURANCE COMPANY. (ITS SUCCESSORS AND/OR ASSIGNS AS THEIR RESPECTIVE INTEREST MAY APPEAR).

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARDS DETAIL REQUIREMENTS FOR ALTA / NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDED ITEMS 1-4, 6b, 7a1, 7c, 8, 9, 13, 14, AND 16-18, OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON MAY 12, 2023.

1. I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE MANUAL FOR SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN. ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

2. THE SURVEY WAS MADE ON THE GROUND MAY 12, 2023 AND CORRECTLY SHOWS THE AREA OF THE SUBJECT PROPERTY, THE LOCATION AND TYPE OF ALL BUILDINGS, STRUCTURES, AND OTHER IMPROVEMENTS SITUATED ON THE SUBJECT PROPERTY, AND ANY OTHER MATTERS SITUATED ON THE SUBJECT PROPERTY.

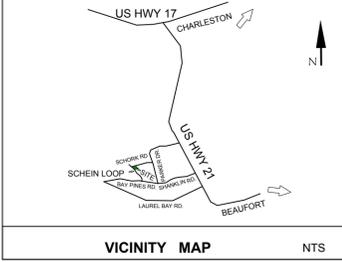
3. EXCEPT AS SHOWN ON THE SURVEY, THERE ARE NO VISIBLE ENCROACHMENTS OR RIGHT OF WAYS OF WHICH THE UNDERSIGNED HAS BEEN ADVISED.

4. EXCEPT AS SHOWN ON THE SURVEY, THERE ARE NO OBSERVABLE ABOVE GROUND ENCROACHMENTS (a) BY THE IMPROVEMENTS ON THE SUBJECT PROPERTY UPON ADJOINING PROPERTIES, STREETS, OR ALLEYS, OR (b) BY IMPROVEMENTS ON ADJOINING PROPERTIES, STREETS, OR ALLEYS UPON THE SUBJECT PROPERTY.

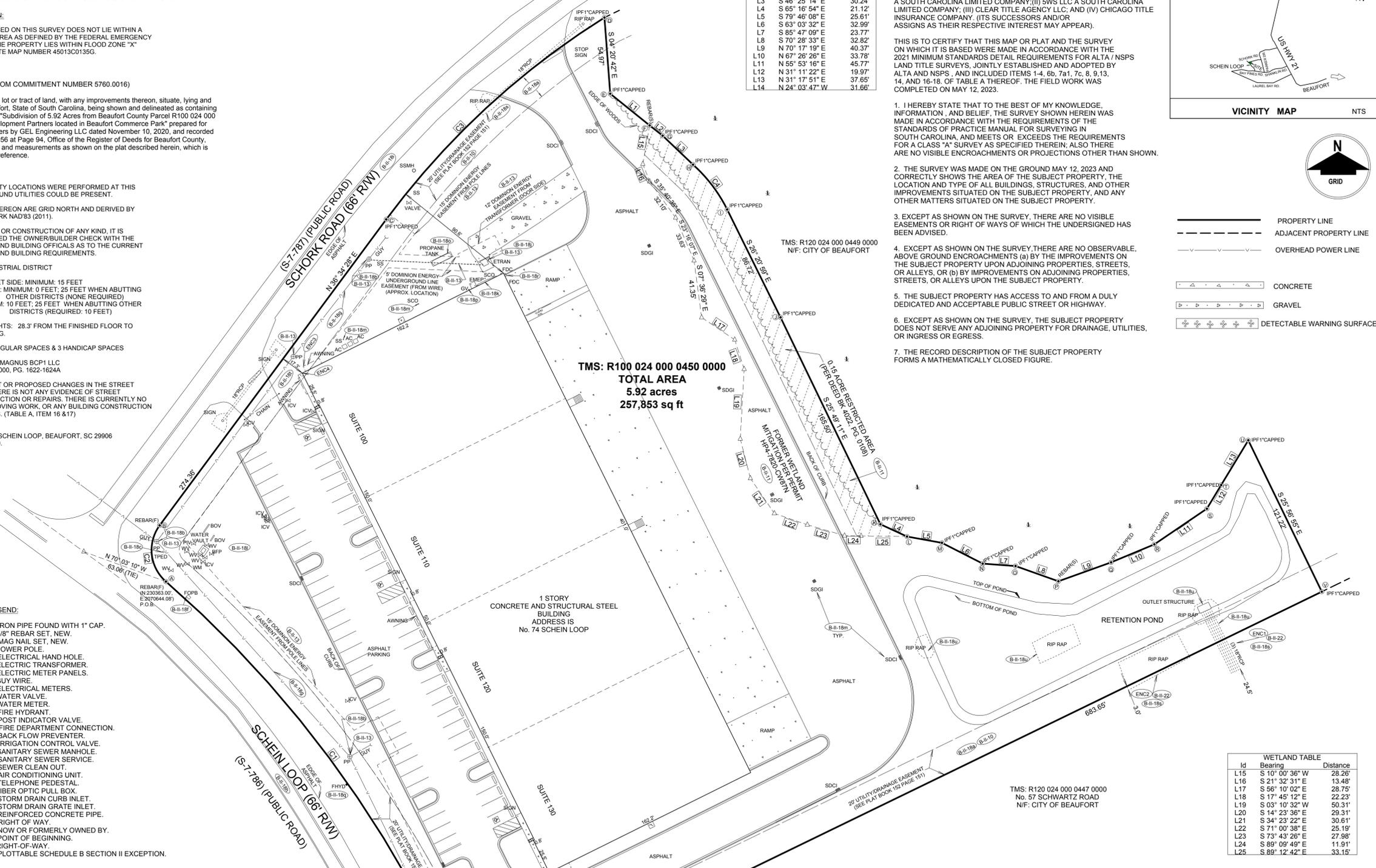
5. THE SUBJECT PROPERTY HAS ACCESS TO AND FROM A DULY DEDICATED AND ACCEPTABLE PUBLIC STREET OR HIGHWAY.

6. EXCEPT AS SHOWN ON THE SURVEY, THE SUBJECT PROPERTY DOES NOT SERVE ANY ADJOINING PROPERTY FOR DRAINAGE, UTILITIES, OR INGRESS OR EGRESS.

7. THE RECORD DESCRIPTION OF THE SUBJECT PROPERTY FORMS A MATHEMATICALLY CLOSED FIGURE.



- PROPERTY LINE
ADJACENT PROPERTY LINE
OVERHEAD POWER LINE
CONCRETE
GRAVEL
DETECTABLE WARNING SURFACE



TMS: R100 024 000 0450 0000
TOTAL AREA 5.92 acres
257,853 sq ft

ALTA / NSPS LAND TITLE SURVEY

OF 5.92 ACRES, BEAUFORT COMMERCE PARK, CITY OF BEAUFORT, BEAUFORT COUNTY, SOUTH CAROLINA. PREPARED FOR AND CERTIFIED TO METRO PH SC1 LLC, A SOUTH CAROLINA LIMITED COMPANY, 5WS LLC A SOUTH CAROLINA LIMITED COMPANY, CLEAR TITLE AGENCY, LLC AND CHICAGO TITLE INSURANCE COMPANY.



SCALE: 1" = 40'
DATE: MAY 12, 2023
REV: JULY 18, 2023
REF: BOOK 156 PAGE 194
TMS: R100 024 000 0450 0000

ALEXANDER C. PEABODY, PLS
PEABODY & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYING
P.O. BOX 22646, CHARLESTON, SC 29413
OFFICE 843-723-5225 MOBILE 843-270-4847



BEAUFORT COUNTY SOUTH CAROLINA



CITY OF BEAUFORT
DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

TO: CITY COUNCIL **DATE:** 9/16/2023
FROM: Scott Marshall, City Manager
AGENDA ITEM TITLE: Ordinance to approve a purchase agreement for Lot AA in the Beaufort Commerce Park - 2nd reading
MEETING DATE: 9/26/2023
DEPARTMENT: City Managers Office

BACKGROUND INFORMATION:

PROJECT LAUNDRY

The attached ordinance and accompanying purchase agreement, is for the sale of Parcel AA of the Beaufort Commerce Park, containing ~ 7.75 acres as a portion of PIN R120 024 000 0407 0000.

Prospective buyer is Kibo Holdings, LLC. Kibo intends to construct a building (or buildings) in which to provide commercial laundry and related services to clients in the Lowcountry South Carolina and surrounding areas.

Summary of Purchase Agreement:

- Purchase price of \$310,000, payable in full at closing.
- 60-day inspection period, during which time the buyer will exercise due diligence and may terminate the agreement if it is determined to be unsuitable for buyer's purposes.
- City may not market the property during the inspection period.
- Closing shall be on the later date of: 1) 30 days after expiration of inspection period; or 2) the date on which Kibo has secured all necessary permits and approvals to begin construction of the building.
- City maintains right of first refusal in the event Kibo attempts to subdivide or sell any portion of the property.

PLACED ON AGENDA FOR: Action

REMARKS:

First reading was held on September 12, 2023. There have been no changes made since first reading.

ATTACHMENTS:

Description	Type	Upload Date
Ordinance	Backup Material	9/21/2023
Exhibit B - Purchase Agreement	Backup Material	9/16/2023

ORDINANCE NO. ____

AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A PURCHASE AGREEMENT FOR BEAUFORT COMMERCE PARK, PARCEL AA; (2) THE CONVEYANCE OF SUCH REAL PROPERTY IN ACCORDANCE WITH THE TERMS OF SUCH AGREEMENT; AND (3) OTHER MATTERS RELATING THERETO.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Beaufort (the “*City Council*”), the governing body of the City of Beaufort, South Carolina (the “*City*”), as follows:

Section 1 Findings. The City Council hereby makes the following findings of fact in connection with the enactment of this ordinance (this “*Ordinance*”):

(a) The City is a municipal corporation of the State of South Carolina (the “*State*”) and as such possesses all general powers granted by the Constitution and statutes of the State to municipalities, including the power pursuant to Section 5-7-40 of the Code of Laws of South Carolina 1976, as amended, to sell and convey real property.

(b) The City is the owner of certain real property located within Beaufort Commerce Park and identified on the Beaufort Commerce Park Master Conceptual Plan as Parcel AA, which measures 7.75 acres in size and which is shown in greater detail on the Master Conceptual Plan for Beaufort Commerce Park attached to this Ordinance at **Exhibit A** (the “*Property*”), and which constitutes a portion of the real property owned by the City and identified by Tax Map # R120 024 000 0407 000.

(c) Kibo Holdings LLC, a Tennessee limited liability company, on its own or together with one or more of its subsidiaries, affiliates, successors, assigns, sponsors, lessors, and others (collectively, the “*Company*”), proposes to acquire the Property and to acquire, lease, construct, purchase, or install, certain real property improvements and machinery, equipment, and other personal property in order to establish a facility thereon (the “*Project*”).

(d) The City desires to enter into a Contract for Sale and Purchase of Real Estate with the Company, the form of which is attached to this Ordinance at **Exhibit B** (the “*Agreement*”). The City Council hereby finds and determines that the purchase price set forth in the Agreement constitutes fair market value for the Property.

Section 2 Approval of Form of Agreement. The form, provisions, terms, and conditions of the Agreement, as attached at **Exhibit B** to this Ordinance, are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the Agreement was set out in this Ordinance in its entirety. The City Manager of the City of Beaufort (the “*City Manager*”) is hereby authorized, empowered, and directed to execute the Agreement in the name and on behalf of the City; the Clerk to the City Council (the “*City Clerk*”) is hereby authorized, empowered and directed to attest the same; and the City Manager is further authorized, empowered, and directed to deliver the Agreement to the Company. The Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the City thereunder and as shall be approved by the official or officials of the City executing the same, upon the advice of counsel, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Agreements now before this meeting.

Section 3 Conveyance of Property. Subject to the terms of the Agreement, the conveyance of the Property to the Company is hereby authorized and approved. The City Manager and the City Clerk, for and on behalf of the City, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the performance of all obligations of the City under and pursuant to Agreement, including the conveyance of the Property. The City Manager and City Clerk, or either one of them acting alone, are hereby authorized to execute and deliver on behalf of the City all deeds and other certificates, instrument, and documents as they deem necessary, upon advice of counsel, to accomplish the foregoing, an the City Manager is hereby authorized to approve the final legal description of the Property, which shall conform substantially to the description of the Property as shown on **Exhibit A** to this Ordinance.

Section 4 Repealer; Effective Date. All orders, ordinances, resolutions, and parts thereof in conflict herewith are to the extent of such conflict hereby repealed. This Ordinance shall take effect and be in full force from and after its enactment.

DONE AND ENACTED in a meeting of the Council duly assembled this 26th day of September 2023.

CITY OF BEAUFORT, SOUTH CAROLINA

[SEAL]

Michael A. McFee, Acting Mayor

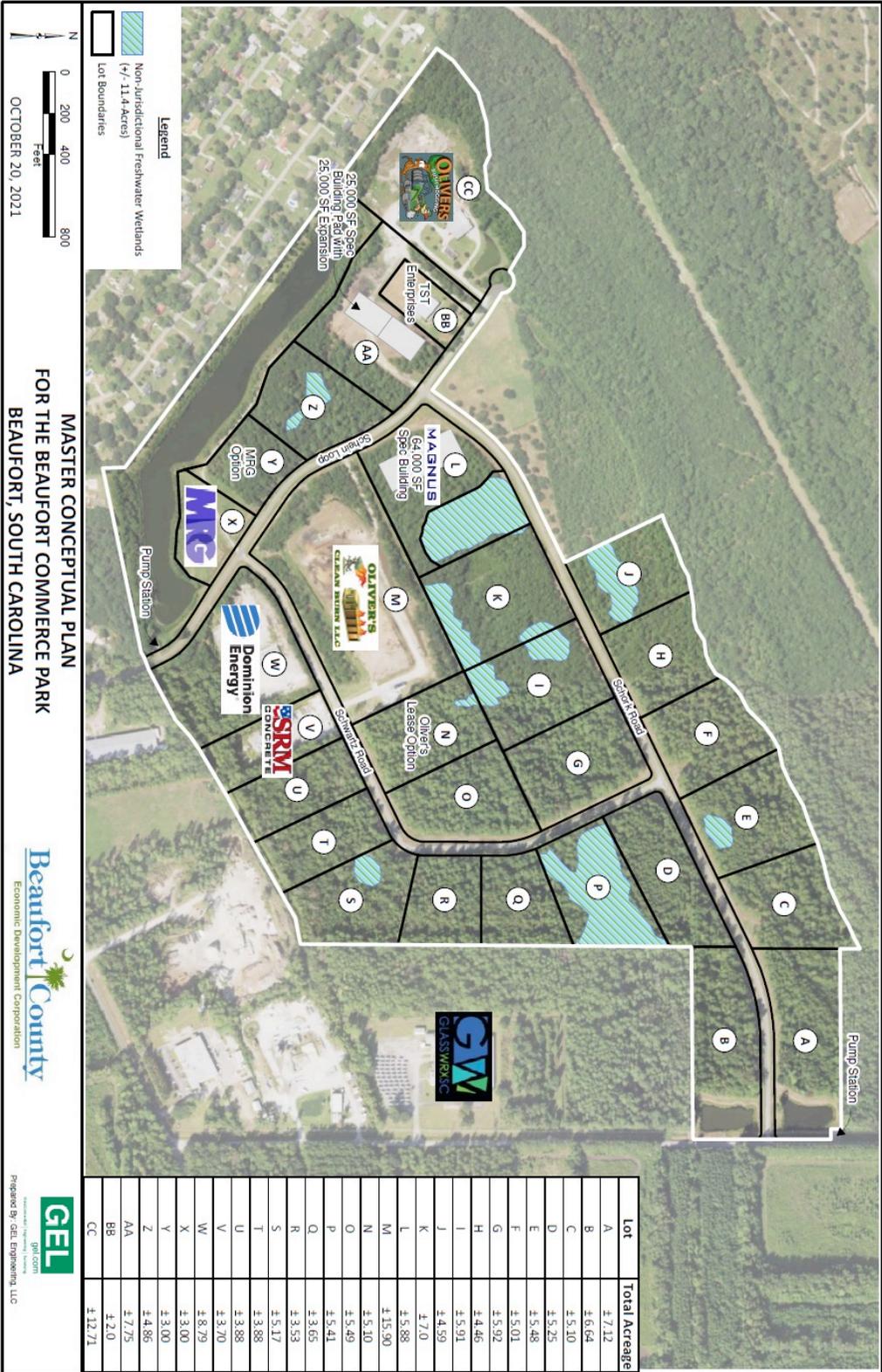
Attest:

Traci Guldner, City Clerk

First Reading: September 12, 2023
Second Reading: September 26, 2023

EXHIBIT A

Description of Property



Lot	Total Acreage
A	± 7.12
B	± 6.64
C	± 5.10
D	± 5.25
E	± 5.48
F	± 5.01
G	± 5.92
H	± 4.46
I	± 5.91
J	± 4.59
K	± 7.0
L	± 5.88
M	± 15.90
N	± 5.10
O	± 5.49
P	± 5.41
Q	± 3.65
R	± 3.53
S	± 5.17
T	± 3.88
U	± 3.88
V	± 3.70
W	± 8.79
X	± 3.00
Y	± 3.00
Z	± 4.86
AA	± 7.75
BB	± 2.0
CC	± 12.71

MASTER CONCEPTUAL PLAN
FOR THE BEAUFORT COMMERCE PARK
BEAUFORT, SOUTH CAROLINA

N
 0 200 400 800
 Feet
 OCTOBER 20, 2021

gell.com
 Prepared By: GEL Engineering, LLC

EXHIBIT B
Form of Agreement

CONTRACT FOR SALE AND PURCHASE OF REAL ESTATE

THIS CONTRACT is made and entered into as of the ____ day of _____, 2023 by and between **CITY OF BEAUFORT, SOUTH CAROLINA**, a political subdivision of the State of South Carolina (hereinafter referred to as "City") and **KIBO HOLDINGS LLC**, a Tennessee limited liability company (hereinafter referred to as "Kibo"). The "Effective Date" of this Contract shall be the date on which the last party executes this Contract.

STATEMENT OF BACKGROUND INFORMATION

- A. Kibo desires to purchase property for the construction of a building, or buildings (the Building), in which to provide commercial laundry and related services (Project Laundry) to clients in the Lowcountry SC and surrounding region.
- B. City is the owner of property in the City of Beaufort known as the Commerce Park, and has offered for sale Lot AA within the Commerce Park (the Property).
- C. Kibo has agreed to acquire the Property and to design and construct the Building thereon, subject to the conditions set forth herein.

AGREEMENT

THAT FOR and in consideration of the mutual covenants, agreements and undertakings herein set forth, and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, City agrees to sell and convey to Kibo and Kibo agrees to purchase from City the real property described in Paragraph 1 below on the terms and conditions hereinafter set forth:

1. Description of Property. The real property that is subject to this Contract consists of that tract or parcel of land designated as Parcel AA, containing 7.75 +/- acres in the 196 acre Beaufort Commerce Park located at the intersection of US Highway 21 and SC Highway 116 and shown as a portion of Beaufort County Tax Map R120 024 000 0407 000 Lot AA. The Property is described in more detail on Exhibit "A" that is attached hereto and incorporated herein by reference.

2. Purchase Price. The Purchase Price for the Property shall be \$310,000 and shall be paid by Kibo in cash, wire or by certified funds at closing.

3. Kibo's Rights Prior to Closing – Inspection Period.

(a) For a period not to exceed 60 days from the Effective Date (such period being herein referred to as the "Inspection Period"), Kibo, its authorized agents and employees, as well as others authorized by Kibo, shall have full and complete access to the Property and shall be entitled to enter upon the Property and make such surveying (including a master geotechnical survey), architectural, engineering, topographical, geological, soil, subsurface, environmental, water drainage, and other investigations, inspections, evaluations, studies, tests and measurements including verification of information provided by City regarding ad valorem taxes and building restrictions as well as verification that zoning, deed and architectural control restrictions, and building permit regulations permit Kibo's intended uses of the Property (collectively, the

“Investigations”) as Kibo deems reasonably necessary or advisable so long as same do not result in any material adverse change to the physical characteristics of the Property. During the Inspection Period, Kibo and City shall agree on the final legal description of the Property, which shall substantially conform to the description of the Property shown as Lot AA on Exhibit A hereto. Kibo agrees to indemnify and hold City harmless from and against any and all claims, costs, expenses and liabilities including reasonable attorneys’ fees arising out of or by reason of the Investigations, with the exception of acts of gross negligence and willful misconduct by the City. Kibo shall restore any disturbance of the Property caused by the Investigations into the same condition that existed prior to the Effective Date in the event Kibo fails to close or terminates this Contract. During the Inspection Period City shall use its best efforts to cooperate fully with Kibo to facilitate inspection of the Property, but City shall not be obligated to incur any costs or expenses in doing so.

(b) At any time prior to the expiration of the Inspection Period Kibo shall have the right, in its sole and absolute discretion, to terminate this Contract if Kibo determines that the Property is not suitable for Kibo's intended purposes. If Kibo elects to terminate pursuant to this paragraph, it shall give written notice of such termination to the City prior to the expiration of the Inspection Period. Upon such termination, Kibo shall deliver copies of all due diligence materials to City, and neither party shall have any further rights or obligations hereunder except for any obligations of Kibo under paragraph (a) above.

4. City’s Information. Within 5 days of the Effective Date City shall provide Kibo with copies of all non-proprietary reports pertaining to the Property in City’s possession such as title policies, land surveys, geotechnical reports, zoning information, and environmental studies.

5. Title. Kibo's obligations hereunder shall be conditioned upon the City's delivery of a good and insurable title to the Property (at standard rates), by limited warranty deed, free and clear of all liens, encumbrances and conditions which in the opinion of Kibo would adversely affect the use and marketability of the Property.

6. Title Examination. Prior to the expiration of the Inspection Period, Kibo shall deliver to City a written statement of objections, if any, to City's title to the Property and City shall have (10) days after receipt of Kibo’s written objections to City’s title in which to cure or remove the same, time being of the essence. City hereby covenants and agrees to use City's best efforts to cure or remove said objections within said period. In the event City fails or refuses to cure or remove said objections at least five (5) days prior to the closing, then, Kibo, as Kibo’s sole remedy, shall have the right to cancel this Contract. In such event, all Earnest Money shall immediately then be returned to Kibo and no party hereto shall have any further rights, liabilities or obligations hereunder.

7. City’s Representations and Warranties. City makes the following representations and warranties to Kibo:

(a) City is a body politic and political subdivision of the State of South Carolina and has the full right and authority to enter into this Contract and consummate the transaction contemplated herein. The persons signing this Contract and any document executed pursuant hereto on behalf of City have full power and authority to bind City in the manner purported in said documents.

(b) Except for offering the Property or contracting to sell the Property for sale subject to the rights of Kibo hereunder or contingent upon Kibo not purchasing the Property pursuant to the terms hereof, City shall refrain from offering the Property for sale or otherwise soliciting or negotiating an offer to sell the Property to third parties during the Inspection Period.

(c) To the best of City’s knowledge, there is no condition existing with respect to the Property or the operation of any part of the Property that violates any governmental requirements. City has

not received notice, written or otherwise, from any governmental or quasi-governmental agency requiring it to correct any condition with respect to the Property, or any part thereof, by reason of a violation of any governmental requirement or otherwise that has not been corrected, City has not received notice of, and has no other knowledge or information of, any pending or contemplated condemnation action with respect to the Property, or any part thereof.

(d) To the best knowledge of City, there are no special or other assessments for public improvements or otherwise currently affecting the Property nor does City know of (i) any pending or threatened special assessments affecting the Property or (ii) any contemplated improvements affecting the Property which may result in special assessments affecting the Property.

(e) To City's actual knowledge without independent inquiry, no portion of the Property has ever been used by City as a landfill or as a dump to receive garbage, refuse, waste or fill material, whether or not hazardous. City has not stored, handled, installed or disposed of any Hazardous Substances (as hereinafter defined) in, on or about the Property or any other location within the vicinity of the Property; and, to the best of City's knowledge, there are no Hazardous Substances on the Property. As used in this Contract, the terms "Hazardous Substances" means asbestos, polychlorinated biphenyl and such materials, waste, contaminants or other substances determined as toxic, dangerous to health or otherwise hazardous by cumulative reference to the following sources as amended from time to time: (i) the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 1601, et seq. ("RCRA"); (ii) the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq.; (iii) Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. § 9601, et seq. ("CERCLA"); (iv) applicable laws of the jurisdiction where the Property is located; and (v) any federal, state or local statutes, regulations, ordinances, rules or orders issued or promulgated under or pursuant to any of those laws or otherwise by any department, agency, or other administrative, regulatory or judicial body. The term "Hazardous Substances" does not include usual and customary cleaning and other supplies necessary for the normal operation, maintenance and/or occupancy of the Property.

(f) To the best of the City's knowledge, there are no graves or similar burial grounds located on the Property.

Kibo acknowledges and agrees that the Property shall be sold, and Kibo shall accept possession of the Property on the Closing Date, except as provided herein, AS IS, WHERE IS, WITH ALL FAULTS, with no right of set-off or reduction in the Purchase Price, except as expressly set forth herein to the contrary, and except as expressly provided in this Contract, such sale shall be without representation or warranty of any kind, whether express, implied, statutory or otherwise, including, without representation, warranties of use, merchantability or fitness for a particular purpose, and City does hereby disclaim and renounce any such representation or warranty.

The above representations, warranties, and covenants shall survive the closing date for a period of six (6) months.

8. Survey. Kibo shall obtain a survey at its own expense.

9. Closing. The Closing of the transaction herein provided shall be held on the later of (i) the date that is thirty (30) days after the expiration of the Inspection Period, or (ii) the date on which Kibo has secured all necessary permits and approvals to begin construction of the Building. Kibo and City agree to deposit in trust with Kibo's attorney (the "Closing Attorney") not later than the date of the Closing, all executed documents required in connection with this transaction including such documents as requested by Kibo's title insurance company (the "Title Company") which are necessary to enable this transaction to be consummated. Upon receipt of all necessary documents, and when the Title Company is in a position to

issue to Kibo a policy of title insurance, the Closing Attorney shall on the date of Closing, upon instructions from Kibo and City, cause the deed to the Property and any other necessary or appropriate instruments to be filed for record. At Closing, City shall deliver to Kibo the following:

(a) Satisfactory evidence of the authority of the persons executing the conveyance documents to sign such documents and consummate the transaction on behalf of City.

(b) A duly authorized and executed limited warranty deed in recordable form conveying good and insurable title to the Property.

(c) All other documents which may be reasonably required by the Title Company to insure Kibo of good and insurable title to the Property.

10. Default and Remedies. In the event that the terms and conditions of this Contract have been satisfied and Kibo does not purchase the Property in accordance with the requirements of this Contract within the time limits herein set forth, City, as City's sole and exclusive remedy, may declare this Contract cancelled in which event the Earnest Money shall be paid to the City as full liquidated damages and not as a penalty, it being agreed that the City's damages would be difficult or impossible to ascertain. In the event of City's breach of any of its obligations hereunder, Kibo shall have the rights and options as Kibo's sole and exclusive remedies to either (a) immediately terminate this Contract upon written notice to the City and receive back the full amount of the Earnest Money and upon return of same the parties hereto shall have no further rights and obligations or liabilities to each other hereunder or (b) demand and compel by an action for specific performance or similar legal proceedings, if necessary, for the immediate conveyance of the Property by City in compliance with the terms and conditions of this Contract, and to recover all costs and expenses, including reasonable attorney's fees incurred by Kibo in such action.

11. Development of Building Kibo shall submit for all necessary permits for development of the Building within six (6) months of closing on the property. Kibo agrees that the development of the Building and the Property for its stated use shall begin within eighteen (18) months of Kibo receiving all necessary permits for the development of the Property. If Kibo seeks to subdivide or attempt to sell any portion of the Property, City shall have the Right of First Refusal on said acreage. If Kibo fails to begin development within eighteen (18) of receiving all necessary permits, City shall have the right, upon written notice, to repurchase the Property for ½ of the purchase price herein, or \$20,000 per acre. While it is Kibo's intent to break ground as quickly as possible, the parties hereto may, by mutual written agreement, extend the time periods set forth herein in the event of unforeseen circumstances (i.e., pandemic, natural disaster, war, or force majeure) that prevents Kibo from timely fulfilling its obligations set forth in this paragraph.

12. Closing Costs. City shall pay the deed recording fee (formerly deed stamps), the expense of preparation of the deed and the fees of City's attorney. Kibo shall pay the premium for the owner's title insurance policy to be issued to Kibo, the grantee's cost of recordation of the deed, the costs incurred by Kibo in connection with its Investigations of the Property and the fees of Kibo's attorneys.

13. Prorations and Adjustments. The following prorations and adjustments shall be made at Closing:

(a) The Property is currently exempted from ad valorem real property taxes and no proration of taxes shall be required. City agrees the Property shall not be assessed for ad valorem taxes prior to the issuance of a certificate of occupancy for the Building.

(b) Any other item of income or expense affecting the Property that is subject to proration.

14. Brokerage. City and Kibo represent and warrant each to the other that they have not dealt with any other brokers in connection with this transaction. These warranties shall survive the Closing.

15. Notices. Any notice, approval or other communication which may be required or permitted to be given or delivered hereunder shall be in writing and shall be deemed to have been given, delivered and received (i) as of the date when the notice is personally delivered to the following addresses, or (ii) if by email to the following email addresses, when the message is received in the office of the addressee, provided that a hard copy is sent the same day by Federal Express or other overnight courier to the following addresses for next business day delivery:

To City:

City of Beaufort
1911 Boundary Street
Beaufort, SC 29902
Email: smarshall@cityofbeaufort.org

To Kibo:

[_____]
Attention: [_____]

16. Governing Law. This Contract shall be governed, interpreted and construed under the laws of the State of South Carolina.

17. Parties. This Contract shall be binding upon and enforceable against, and shall inure to the benefit of Kibo and City and their respective legal representatives, successors and assigns. City may assign this Contract, in whole or in part, to any partnership or any other entity controlled by or under common control with City, without the prior written approval of Kibo. Kibo may assign this Contract in whole or in part to any subsidiary, affiliated corporation, individuals or business organization qualified to do business in South Carolina, without the prior written approval of City; provided, however, that any assignee shall assume all of the duties, obligations and liabilities of assignor under this Contract. In the event of any such assignment, assignor shall not be relieved of its duties and obligations hereunder. The assignor and the assignee shall be jointly and severally liable. Except as hereinabove provided, neither party shall assign this Contract to any other party without the written consent of the other party, which consent will not be unreasonably withheld.

18. Time of the Essence. Time is of the essence in the performance of the terms and conditions of this Contract.

19. Condemnation. In the event of the taking of all or any portion of the Property by eminent domain proceedings, or the commencement or bona fide threat of the commencement of any such proceedings, prior to Closing, Kibo shall have the right at Kibo's option, to terminate this Contract by giving written notice thereof to City prior to Closing, in which event the Earnest Money shall be refunded to Kibo promptly upon request, all rights and obligations of the parties under this Contract shall expire, and this Contract shall become null and void. If Kibo does not so terminate this Contract, City shall assign to Kibo at Closing all rights of City in and to any awards or other proceeds paid or payable thereafter by reason of any taking. City shall notify Kibo of eminent domain proceedings within five (5) days after City learns thereof.

20. Entire Agreement. This Contract constitutes the entire agreement between the parties hereto and it is understood and agreed that all undertakings, negotiations, representations, promises, inducements and agreements heretofore had between these parties are merged herein. This Contract may not be changed orally but only by an agreement in writing signed by both Kibo and the City. No waiver of any of the provisions to this Contract shall be valid unless in writing and signed by the party against whom it is sought to be enforced. The provisions of this Contract shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, successors and assigns.

21. Attorney's Fees. If any legal action or other proceeding is commenced to enforce or interpret any term or provision of this Contract or any documents incidental thereto, including, but not limited to, any escrow agreement or any closing documents, the prevailing party shall be entitled to an award of its attorneys' fees and expenses. The phrase "prevailing party" shall include a party who receives substantially the relief desired whether by dismissal, summary judgment, judgment or otherwise. The provisions of this Section shall survive the Closing and/or the termination of this Contract.

22. Tax Deferred Exchange. Upon request, the parties agree to execute and deliver all documents and perform such acts as are reasonably necessary to enable the transactions contemplated by this Contract to qualify as a like kind exchange of real property under §1031 of the Internal Revenue Code of 1986. The requesting party shall bear all additional expenses incurred by the responding party arising out of the exchange process which would not otherwise have been attendant to this transaction.

23. Dates for Performance. If the Closing Date or any other date described in this Contract by which one party hereto must give notice to the other party hereto or must fulfill an obligation is a Saturday, Sunday or a day observed by the Federal government or by the State of South Carolina government as a legal holiday, then such Closing Date or such other date shall be automatically extended to the next succeeding day which is not a Saturday, Sunday or legal holiday.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the dates set forth below.

CITY OF BEAUFORT, SOUTH CAROLINA

By: _____

Name: _____

Title: _____

Dated: _____, 2023

KIBO HOLDINGS LLC

By: _____

Name: _____

Title: _____

Dated: _____, 2023

EXHIBIT "A"

DESCRIPTION OF PROPERTY





CITY OF BEAUFORT
DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

TO: CITY COUNCIL **DATE:** 9/20/2023
FROM: Ashley Brandon
AGENDA ITEM TITLE: The Beaufort History Museum requests to host the NY Highlanders Encampment on November 3-5 and will need parking space and trash cans
MEETING DATE: 9/26/2023
DEPARTMENT: Downtown Operations

BACKGROUND INFORMATION:

The Beaufort History Museum requests to host the NY Highlanders Encampment on November 3-5 for a reenactment at the arsenal. They are requesting 3 spaces in front of the arsenal and 10 free spaces as well as 5 paid spaces at 500 Carteret Street. They would also like to request three trash cans for the courtyard and the arsenal during the event.

PLACED ON AGENDA FOR: Action

REMARKS:

Staff recommends approval

ATTACHMENTS:

Description	Type	Upload Date
Beaufort History Museum encampment	Cover Memo	9/20/2023

BOARD MEMBERS

Kathryn S. Mixon
President

John Warley
Vice President

David Russell
Treasurer

Emily May
Secretary

Thomas J. Kelley

Col. Fred Channels

Amelie Cromer

Katherine Lang

Alan Lehman

Trish Lehman

Kevin Flanagan

Jeff Cross

EX-OFFICIO MEMBER

Josh Scallate

MUSEUM ADVISORS

Lawrence Rowland, Ph.D

Stephen Wise, Ph.D

Ian Hill

September 8, 2023

Linda Roper
Director, Downtown Operations
500 Carteret Street, Suite B2
Beaufort, SC 29902

Dear Linda,

The Beaufort History Museum (BHM) will be hosting the NY Highlanders Encampment November 3-5, 2023 (Friday afternoon thru Sunday morning), and are requesting parking and trash cans be available from the City for the duration of the event.

Parking:

- Friday afternoon (Nov. 3) and Sunday morning (Nov. 5) the re-enactors need 3 spaces in front of the Arsenal to unload and reload their gear.
- Friday afternoon-Sunday morning (Nov. 3-5), we need 10 free spaces and 5 paid spaces at the Digital Corridor for the duration of the event (Friday afternoon-Sunday morning).

Trash Cans:

- We need three trash cans Friday-Sunday for the courtyard of the arsenal. During the event, a bagpiper will be performing inside and outside the arsenal, along Craven Street, so please let me know if I need any permitting for this.

We would greatly appreciate your support for this event. If you have any questions, please feel free to contact me at CromerAmelie@gmail.com or 803/546-3728.

Respectfully,



Amelie Cromer
Beaufort History Museum, Education Chair

"Genius without education is like silver in the mine." Benjamin Franklin



CITY OF BEAUFORT
DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

TO: CITY COUNCIL **DATE:** 9/19/2023
FROM: Alan Eisenman, Finance Director
AGENDA ITEM TITLE: Ordinance to Amend the Business License Ordinance to Update the Class Schedule-1st reading
MEETING DATE: 9/26/2023
DEPARTMENT: Finance

BACKGROUND INFORMATION:

South Carolina's Act 176, the Business License Standardization Act, requires every municipality with a business license tax to update their business licensing class schedule every odd-numbered year to go into effect the following year.

As required by Act 176, the class schedule updates use the latest statistical data on business profitability from the IRS, which then receives approval from the SC Revenue and Fiscal Affairs Office.

PLACED ON AGENDA FOR: Action

REMARKS:

Staff recommends approval of attached Ordinance presented for consideration to remain in compliance with state law.

ATTACHMENTS:

Description	Type	Upload Date
Business License Ordinance	Cover Memo	9/19/2023

AN ORDINANCE

AMENDING THE BUSINESS LICENSE ORDINANCE OF THE CITY OF BEAUFORT TO UPDATE THE CLASS SCHEDULE AS REQUIRED BY ACT 176 OF 2020.

WHEREAS, the City of Beaufort (the "Municipality") is authorized by S.C. Code Section 5-7-30 and Title 6, Chapter 1, Article 3 to impose a business license tax on gross income;

WHEREAS, by Act No. 176 of 2020, known as the South Carolina Business License Tax Standardization Act and codified at S.C. Code Sections 6-1-400 to -420 (the "Standardization Act"), the South Carolina General Assembly imposed additional requirements and conditions on the administration of business license taxes;

WHEREAS, the Standardization Act requires that by December thirty-first of every odd year, each municipality levying a business license tax must adopt, by ordinance, the latest Standardized Business License Class Schedule as recommended by the Municipal Association of South Carolina (the "Association") and adopted by the Director of the Revenue and Fiscal Affairs Office;

WHEREAS, following the enactment of the Standardization Act, the Municipality enacted Ordinance No. 14-21 on September 28, 2021, in order to comply with the requirements of the Standardization Act (the "Current Business License Ordinance");

WHEREAS, the City Council of the Municipality (the "Council") now wishes to amend the Current Business License Ordinance to adopt the latest Standardized Business License Class Schedule, as required by the Standardization Act, and to make other minor amendments as recommended by the Association;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Beaufort, as follows:

SECTION 1. Amendments to Appendix A. Appendix A to the Current Business License Ordinance, the "Business License Rate Schedule," is hereby amended as follows:

- (a) Class 8.3 is hereby amended by deleting the NAICS Codes and replacing them with NAICS 517111, 517112, 517122 – Telephone Companies.
- (b) Class 8.6 is hereby amended and restated in its entirety to read as follows: "**8.6 NAICS Code Varies – Billiard or Pool Tables.** A business that offers the use of billiard or pool tables shall be subject to business license taxation under its natural class for all gross income of the business excluding the gross income attributable to the billiard or pool tables. In addition, the billiard or pool tables shall require their own separate business licenses pursuant to SC Code § 12-21-2746 and shall be subject to a license tax of \$5.00 per table measuring less than 3½ feet wide and 7 feet long, and \$12.50 per table longer than that."
- (c) The NAICS codes corresponding to Classes 9.41 and 9.42 have been eliminated. Businesses that were previously classified into 9.41 or 9.42 shall be required to apply and pay for a business license in their natural class.

SECTION 2. Amendments to Appendix B. Appendix B to the Current Business License Ordinance, the “Business License Class Schedule,” is hereby amended as follows:

- (a) Classes 1 through 8 in Appendix B to the Current Business License Ordinance, the “Business License Class Schedule,” are hereby amended and restated as set forth on the attached Exhibit A.
- (b) Class 9 in Appendix B to the Current Business License Ordinance, the “Business License Class Schedule,” shall remain in full force and effect as set forth in the Current Business License Ordinance.
- (c) The NAICS codes corresponding to Classes 9.41 and 9.42 have been eliminated. Businesses that were previously classified into 9.41 or 9.42 shall be required to apply and pay for a business license in their natural class.

SECTION 3. Repealer, Effective Date. All ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be effective with respect to the business license year beginning on May 1, 2024.

ENACTED IN REGULAR MEETING, this ____ day of _____, 20__.

Mike McFee, Acting Mayor

ATTEST:

Traci Gulder, City Clerk

First reading: September 26, 2023

Final reading: _____

**Exhibit A: Amendment to Classes 1 – 8 in Appendix B of the
Current Business License Ordinance**

APPENDIX B

Classes 1 – 8: Business License Class Schedule by NAICS Codes

NAICS Sector/Subsector	Industry Sector	Class
11	Agriculture, forestry, hunting and fishing	1
21	Mining	2
22	Utilities	1
31 - 33	Manufacturing	3
42	Wholesale trade	1
44 - 45	Retail trade	1
48 - 49	Transportation and warehousing	1
51	Information	4
52	Finance and insurance	7
53	Real estate and rental and leasing	7
54	Professional, scientific, and technical services	5
55	Management of companies	7
56	Administrative and support and waste management and remediation services	3
61	Educational services	3
62	Health care and social assistance	4
71	Arts, entertainment, and recreation	3
721	Accommodation	1
722	Food services and drinking places	2
81	Other services	4
Class 8	Subclasses	
23	Construction	8.1
482	Rail Transportation	8.2
517111	Wired Telecommunications Carriers	8.3
517112	Wireless Telecommunications Carriers (except Satellite)	8.3
517122	Agents for Wireless Telecommunications Services	8.3
5241	Insurance Carriers	8.4
5242	Insurance Brokers for non-admitted Insurance Carriers	8.4
713120	Amusement Parks and Arcades	8.51
713290	Nonpayout Amusement Machines	8.52
713990	All Other Amusement and Recreational Industries (pool tables)	8.6

2023 Class Schedule is based on a three-year average (2017 - 2019) of IRS statistical data.



CITY OF BEAUFORT
DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

TO: CITY COUNCIL **DATE:** 9/19/2023
FROM: Alan Eisenman, Finance Director
AGENDA ITEM TITLE: Authorization for City Manager to enter into a contract for Citywide VoIP Phone System
MEETING DATE: 9/26/2023
DEPARTMENT: Finance

BACKGROUND INFORMATION:

The City issued a Request for Proposal, RFP 2023-108 Citywide Voice over Internet Protocol (VoIP) Phone System request for proposal seeking qualified vendors to provide a cloud-hosted VoIP phone system to support City of Beaufort facilities.

The City received 16 sealed proposals and the selection committee interviewed the top three respondents consisting of Segra, Converge Networks and Interdev. The committee determined Converged Networks to be the most responsive bidder.

Converged Networks provided a plan to train system users and administration in small groups onsite over three days. Converged Network's bid cost stays reasonable as the lowest overall of the three finalists. Although remote phone system capabilities were not included in the original RFP, Converged Networks has expressed that they will provide this service and software to us for no additional cost to the city. This software will enable employees to handle calls directly from a web browser or through cell phone app, as well as answer messages and video calls. During potential natural disaster this will allow employees to send and receive calls through their desk phone number if they have access to internet. References provided by Converged Networks consisted of primarily municipalities and school districts, which displays that they are well versed in providing services to similarly sized entities. References confirmed that they were very satisfied with Converged Networks' work.

The committee is unanimous in their recommendation of Converged Networks for RFP 2023-108 Citywide VOIP Phone System.

PLACED ON AGENDA FOR: Action

REMARKS:

Staff recommends authorization for City Manager to enter into a contract for Citywide VoIP phone system

with Converged Networks as presented for consideration.

ATTACHMENTS:

Description	Type	Upload Date
Recommendation Memo	Cover Memo	9/19/2023
Draft Contract	Cover Memo	9/19/2023

CITY OF BEAUFORT - INTERNAL MEMORANDUM

TO: SCOTT MARSHALL
FROM: KAY MCINTYRE
SUBJECT: RFP 2023-108 – CITYWIDE VOIP PHONE SYSTEM
DATE: 9/19/2023
CC: CAROLYN BRANSON, SARAH FARROW, NATHAN FARROW, TARA HODGES, LINDA ROPER, MARTIE KAY MCTEER, CHANTE DANIELS

The City issued a Request for Proposal, RFP 2023-108 Citywide VoIP Phone System, on June 1, 2023. This request for proposal seeks qualified vendors to provide a cloud-hosted Voice over Internet Protocol (VoIP) phone system to support City of Beaufort facilities. The RFP was posted on the City’s website, Vendor Registry, the State of South Carolina (SCBO) procurement website and was advertised on the City of Beaufort Facebook page as well as in the Island News on June 1, 2023.

The City received (16) sealed proposals by 2:00 PM on June 23, 2023. The submissions were publicly opened and read in accordance with the RFP notice at 2:01 PM on that day during a Zoom Video Conference meeting.

	Cost Year 1	Cost Year 2	Cost Year 3	Cost Year 4	Cost Year 5	Installation Cost	Total All 5 Yrs and Installation
865 Tech	\$ 33,601	\$ 33,601	\$ 33,601	\$ 33,601	\$ 33,601	\$ 19,856	\$ 187,863
Spectrum Enterprise	19,566	19,566	19,566	19,566	19,566	18,558	116,388
Clarity Technologies	39,546	44,536	44,536	44,536	44,536	49,431	267,120
Communication Square, LLC	36,270	36,270	36,270	36,270	36,270	66,325	247,675
Converged Networks LLC	11,595	11,595	11,595	11,595	11,595	22,701	80,674
Fortran Communications	42,296	42,296	42,296	42,296	42,296	25,135	236,612
Granite Telecommunications LLC	91,968	91,968	91,968	91,968	91,968	-	459,841
Hargray	36,767	36,767	36,767	36,767	36,767	-	183,833
Interdev	29,472	29,472	29,472	29,472	29,472	19,977	167,335
Optivor	36,640	36,640	36,640	36,640	36,640	54,800	237,999
Segra	22,650	22,650	22,650	22,650	22,650	-	113,248
TrueIP Solutions	11,520	11,520	11,520	11,520	11,520	-	57,600
Ustronics	29,147	29,147	29,147	29,147	29,147	55,743	201,476
Verizon	45,899	45,899	45,899	45,899	45,899	5,875	235,369
Vertical Communications	26,039	26,039	26,039	26,039	26,039	31,883	162,076
Vonage	29,627	29,627	29,627	29,627	29,627	5,425	153,558

On Thursday, August 24, 2023, the independent evaluation scores of the committee were combined and ranked. The selection committee of Carolyn Branson, Sarah Farrow, Nathan Farrow, Linda Roper, Tara Hodges, and Martie Kay McTeer met at 1:00 pm on August 25, 2023, to discuss the independent evaluations.

The Committee ranked Segra, Converged Networks, Interdev, Hargray, Communication Square, Vertical Communications, Optivor, Vonage, Clarity Technologies, and True IP Solutions as the top ten respondents. After discussing the ranking of the proposals, the committee determined that the top three respondents, Segra, Converged Networks, and Interdev should be interviewed.

On Thursday, September 14, 2023, the original selection committee, as well as Chante Daniels, VOIP Administrator for Beaufort County, interviewed the top three prospective vendors from 11:00 am to 2:00 pm. Between Segra, Converged Networks, and Interdev, the committee determined Converged Networks to be the most responsive bidder.

Unlike other proposals offered, Converged Networks provided a plan to train system users and administration in small groups, on-site, over three days. Although Segra and Interdev provided plans to train employees on-site as well, Converged Network's proposed training over three days will ensure that employees in all city buildings have enough time to learn about the phone system and how to use it. In addition, Converged Network's bid cost stays reasonable as the lowest overall of the three. Although remote phone system capabilities were not included in the original RFP, Converged Networks has expressed that they will provide this service and software to us for no additional cost to the city. This software will enable employees to handle calls directly from a web browser or through cell phone app, as well as answer messages and video calls. During potential natural disaster this will allow employees to send and receive calls through their desk phone number if they have access to internet. References provided by Converged Networks consisted of primarily municipalities and school districts, which displays that they are well versed in providing services to similarly sized entities. References confirmed that they were very satisfied with Converged Networks' work.

The committee is unanimous in their recommendation of Converged Networks for RFP 2023-108 Citywide VOIP Phone System.



Scott Marshall
CITY MANAGER
843-525-7070
FAX 843-525-7013

COUNCIL MEMBERS:
Stephen Murray, Mayor
Mike McFee, Mayor Pro Tem
Neil Lipsitz
Mitch Mitchell
Josh Scallate

CITY OF BEAUFORT
1911 Boundary Street
BEAUFORT, SOUTH CAROLINA 29902

Standard Agreement Between

City of Beaufort and Converged Networks, LLC

where the basis of payment is a STIPULATED SUM

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AGREEMENT made as of the ___ day of _____ in the year **2023**

BETWEEN the Owner:

**CITY OF BEAUFORT
1911 BOUNDARY STREET
BEAUFORT, SOUTH CAROLINA 29902**

and the Contractor

**CONVERGED NETWORKS, LLC
2 STILL SHADOW DR, SUITE G
CHARLESTON, SC 29414**

The Project is:

RFP 2023 – 108 CITYWIDE VOIP PHONE SYSTEM

The Owner and Converged Networks, LLC agree as follows:

ARTICLE 1 - THE DOCUMENTS

The contract Documents consist of this Agreement, (**City of Beaufort and Converged Networks, LLC**) Conditions of the Contract (General, Supplementary and other Conditions), the Request for Proposal (RFP 2023 – 108 Citywide VOIP Phone System) and the Proposal Submitted by Converged Networks, LLC in response to this RFP, Drawings, Specifications, addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Document, other than Modifications appears in Article 8.

ARTICLE 2 - THE WORK OF THIS AGREEMENT-

Converged Networks, LLC shall fully execute the Work described in the

Agreement, except to the extent specifically indicated in the Agreement to be the responsibility of others.

ARTICLE 3 - DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below, or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

3.2 This agreement shall remain in effect for (36) thirty-six months (the "Initial Term"). The City reserves the right to renew the Agreement for an additional (2) two twelve-month periods, subject to acceptable performance by the Contractor, as determined by the City in its sole discretion (the "Renewal Term(s)"). At the end of the Initial Term, the City reserves the right to extend this agreement for a period of up to ninety days for the purpose of getting a new agreement in place.

NOTICE TO PROCEED WILL BE ISSUED WITHIN (1) DAY OF SIGNED AGREEMENT.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanic's liens and other security interests, the Owner's time requirement shall be as follows:

SEVEN (7) DAYS

3.2 Time shall be measured from the date of commencement.

3.3 **Converged Networks, LLC** shall achieve Substantial Completion of the entire Work with the timetable included in the Converged Networks, LLC proposal or as follows, subject to adjustments of the Agreement as provided in the Contract Documents.

ARTICLE 4 - CONTRACT SUM

4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be

(\$11,594.52) eleven thousand, five hundred ninety-four dollars and fifty-two cents – Annual Amount plus (\$22,701.40) twenty-two thousand, seven hundred and one dollars and forty cents – One-time Installation Fee.

subject to additions and deductions as provided in the Agreement.

ANY ADDITIONS ABOVE THE ORIGINAL DOLLAR AMOUNT WILL BE THE RESPONSIBILITY OF THE OWNER.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Agreement and are hereby accepted by the Owner:

NO ALTERNATES REQUIRED IN THIS AGREEMENT

ARTICLE 5 - PAYMENTS

5.1 The payment schedule as follows, shall be followed when Tasks completed have been approved by the Owners Representative, and an invoice for said service has been submitted and received. Monthly payment amount: \$966.21 (\$11,594.52/12 months)

ARTICLE 6 - TERMINATION OR SUSPENSION

- 6.1 The Agreement may be terminated by the Owner or **Converged Networks, LLC** prior to work commencing.
- 6.2 The work may be suspended by the Owner

ARTICLE 7 - MISCELLANEOUS PROVISIONS

- 7.1 The Owner's representative is:
**ALAN EISENMAN, FINANCE DIRECTOR
CITY OF BEAUFORT
1911 BOUNDARY ST
BEAUFORT, SOUTH CAROLINA 29902**
- 7.2 **Converged Networks, LLC's** representative is:
**MIKE DUCK
CONVERGED NETWORKS, LLC
2 STILL SHADOW DR, SUITE G
CHARLESTON, SC 29414**
- 7.3 Neither the Owner's nor the **Converged Networks, LLC's** representative shall be changed without ten days' written notice to the other party.

ARTICLE 8 - ENUMERATION OF CONTRACT DOCUMENTS

- 8.1 The Agreement, except for Modifications issued after execution of this Agreement, are enumerated as follows:
- 8.1.1 The Agreement is this executed Standard Form of Agreement Between the City of Beaufort and (Owner) and Converged Networks, LLC (Contractor)
- 8.1.2 The General Conditions are the Owner's General Conditions.
- 8.1.3 The Specifications are those of RFP 2023 – 108 CITYWIDE VOIP PHONE SYSTEM.
- 8.1.4 The Addenda, if any, are as follows:
1. **None.**
- 8.1.5 Other documents, if any, forming part of the Contract Documents are as follows:
- **THE REQUEST FOR PROPOSAL -RFP# 2023-108 CITYWIDE VOIP PHONE SYSTEM, AND THE PROPOSAL SUBMITTED IN RESPONSE TO THE RFP ARE ATTACHED HERETO AND BY THIS REFERENCE INCORPORATED HEREIN.**
 - **CERTIFICATES OF LIABILITY INSURANCE AND WORKERS COMPENSATION INSURANCE**
 - **CITY OF BEAUFORT BUSINESS LICENSE**

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Director of Finance, one to the Contractor for use in the administration of the Agreement, and the remainder to the Owner.

WITNESS
(Signature)

(Printed Name)

CITY OF BEAUFORT
(Signature)

SCOTT MARSHALL
CITY MANAGER

CONVERGED NETWORKS, LLC
(Signature)

(Printed name and title)



CITY OF BEAUFORT
DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

TO: CITY COUNCIL **DATE:** 9/20/2023
FROM: Scott Marshall, City Manager
AGENDA ITEM TITLE: Ordinance amending Part 1, Chapter 8, Section 1-8004 of the City of Beaufort Code of Ordinances on Elections - 1st reading
MEETING DATE: 9/26/2023
DEPARTMENT: City Managers Office

BACKGROUND INFORMATION:

Stephen Murray resigned from office on Friday, September 15, 2023, creating a vacancy in the office of Mayor. This vacancy to fill the remainder of the mayor's term must be filled via special election, in accordance with the South Carolina Code of Laws. In absence of this unexpected vacancy, the office of Mayor would next be on the ballot in November, 2024.

The date of the special election is fixed by state statute and must be set for the thirteenth Tuesday following the date the vacancy occurred, which in this case is December 12, 2023. Filing must open at 12:00 noon on the third Friday following the vacancy and must close 10 days later at 12:00 noon. In this case, filing must open on October 6 and must close on October 16.

For previous municipal elections the City of Beaufort enacted an ordinance for each election which specified pertinent details and requirements regarding the election, to include filing periods, election date and filing fees, among other details.

Currently, filing fees are not found in the City of Beaufort Code of Ordinances, nor are they included in the FY24 Consolidated Annual Budget.

Since all requisite election dates are codified in the SC Code of Laws, enacting a municipal ordinance for each election is redundant and unnecessary, with the exception of specifying filing fees.

A municipal ordinance is necessary to conduct this special election which must be held on December 12. However, to save from enacting an ordinance for all subsequent elections, Council is being asked to consider an ordinance to amend applicable sections of the City of Beaufort Code of Ordinances, which will apply to all subsequent municipal elections. These amendments will also include a filing fee, which may be amended from time to time as Council deems necessary.

PLACED ON AGENDA FOR: Action

REMARKS:

The ordinance presented for consideration establishes a City of Beaufort Election process that aligns with requirements mandated by the SC Code of Laws, while also establishing filing fees.

Pending approval upon first reading today, second reading must occur prior to the filing period opening date of October 6. Since the next regularly scheduled meeting of Council is October 10, a second reading will necessitate a special meeting prior to October 6.

Staff makes the following recommendations:

- Council approve the attached ordinance, as presented; and
- A special meeting of the Beaufort City Council be scheduled for Tuesday, October 3.

ATTACHMENTS:

Description	Type	Upload Date
Ordinance	Backup Material	9/21/2023
Exhibit A	Backup Material	9/21/2023

ORDINANCE

AMENDING PART 1, CHAPTER 8, SECTION 1-8004 OF THE CODE OF ORDINANCES, CITY OF BEAUFORT, SOUTH CAROLINA TO ESTABLISH MUNICIPAL ELECTION PROCEDURES AND SET FILING FEES RELATED THERETO

WHEREAS, prior to each City election, it has been the practice of the City to adopt an ordinance setting the election, related dates, and filing fees for such election; and

WHEREAS, Title 5 and Title 7 of the 1976 South Carolina Code of Laws contains specific language specifying requirements for all aspects of election, to include but not limited to conditions for candidacy, voter qualifications, filing deadlines, timing of elections and certification of election results; and

WHEREAS, the City of Beaufort desires to codify municipal election requirements in lieu of enacting a new ordinance for every municipal election; and

WHEREAS, the City of Beaufort further wishes to establish and codify filing fees for the offices of City Council and Mayor; and

WHEREAS, any and all codified municipal election requirements should align with statutory requirements mandated by applicable sections of Title 5 and Title 7 of the 1976 South Carolina Code of Laws; and

WHEREAS, it is the desire of City Council to amend The City of Beaufort Code of Ordinances to permanently codify municipal election requirements to align with the 1976 South Carolina Code of Laws, and to establish filing fees.

NOW THEREFORE, be it Ordained by the Beaufort City Council, in council duly assembled, and by the authority of the same, that Section 1-8004 of the Code of Ordinances, City of Beaufort, South Carolina, is hereby amended to read as shown on Exhibit A, hereto.

Michael A. McFee, Acting Mayor

Attest

Traci Guldner, City Clerk

First Reading and adoption: September 26, 2023

Second Reading and adoption: _____

Approved in Form: Benjamin T. Coppage

CHAPTER 8. ELECTIONS

Sec. 1-8001. Terms of office.

- (a) The mayor and council members shall be elected for a term of four (4) years.
- (b) The term of office of council members shall be staggered, so that one-half (½) of the council members shall be elected every two (2) years.

Sec. 1-8002. Method of election.

- (a) The mayor shall be elected by the city at large.
- (b) The members of council shall be elected by the city at large.

Sec. 1-8003. Reserved.

Editor's note(s)—Ord. No. O-13-22, § 3, adopted May 24, 2022, repealed § 1-8003, which pertained to election commission and derived from the Prior Code.

Sec. 1-8004. Nonpartisan elections; procedure.

- (a) All regular and special elections for the offices of mayor and council shall be nonpartisan elections pursuant to state law.
- (b) Each person offering as a candidate for election to any municipal office to be voted on at the time of the general election shall file a statement of candidacy with the ~~city Clerk's Office election commission~~ not later than noon on August 15 prior to the general election, or, if August 15 falls on a Saturday or Sunday, not later than noon on the following Monday.

In odd-numbered years, or when there is no general election, each person offering as a candidate for election to any municipal office shall file a statement of candidacy with the ~~city Clerk's Office election commission~~ by noon on the date sixty (60) days prior to the date of the election.

~~For special elections to fill vacancies in office, the time for filing of statements of candidacy to the city Clerk's Office shall be opened at noon on the third Friday after the vacancy occurs for a period to close ten days later at noon. Each person offering as a candidate for election to any municipal office shall file a statement of candidacy with the election commission by noon on the date forty-five (45) days prior to the election. The special election must be set for the thirteenth Tuesday after the vacancy occurs. If the thirteenth Tuesday after the vacancy occurs is no more than sixty days prior to the general election, the special election must be held on the same day as the general election. If the filing period closes on a state holiday, then filing must be held open through the succeeding weekday. If the date for an election falls on a state holiday, the election must be set for the next succeeding Tuesday. For purposes of this section, state holiday does not mean the general election day.~~

In each instance, the statement of candidacy shall be in writing, signed by the candidate, and in substantially the following form:

"I hereby file notice that I am a candidate for election to the office of Mayor/Council member in the regular/special municipal election to be held _____, 20___. I certify that I am a qualified elector and resident of the municipality for which I seek election."

No political affiliation shall be placed on the ballot for any candidate for election to any municipal office in the city.

(c) Persons offering as a candidate for election to the office of mayor or council member shall pay the following filing fee at the time of filing a statement of candidacy:

(1) Candidates for mayor: two hundred fifty dollars (\$250.00).

(2) Candidates for council: one hundred fifty dollars (\$150.00).

(d) Election results shall be determined by the plurality method. When more than one (1) person is seeking election to a single office, the candidates who receive the highest number of votes shall be declared elected. When more persons are seeking election to two (2) or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared elected.

(e) The Board of Voter Registration and Elections of Beaufort County shall conduct municipal elections in the City of Beaufort in accordance with Title 5 and Title 7 of the South Carolina Code of Laws, and the Code of Ordinances for the City of Beaufort. The Board of Voter Registration and Elections of Beaufort County will certify the results of each election to the municipality immediately following the certification of the votes cast in each election.

The City of Beaufort shall reimburse the Board of Voter Registration and Elections of Beaufort County for all costs incurred in providing ballots, advertising elections, printing costs, poll managers compensation and other related additional expenses incurred in its conduct of municipal elections in the City of Beaufort. Poll Managers will be paid at the standard rate set by the State Election Commission for all other elections. In the event a protest is filed, or litigation is commenced in connection with the conduct of municipal elections, the City of Beaufort shall pay all fees, costs and expenses incurred in such protest or litigation. The Board of Voter Registration and Elections of Beaufort County shall provide invoices and/or other documentation to the City of all such additional costs and expenses incurred in the conduct of City of Beaufort Municipal Elections, protests, certifications of results, litigation or other costs which may be incurred, not specifically mentioned in this ordinance.

~~Beaufort County Elections and Registration Commission shall be authorized to assist the City of Beaufort and its municipal election commission with the city's municipal elections. Pursuant to this authority and agreement, the city hereby transfers to the Beaufort County Elections and Registration Commission the following authority and responsibilities for the conduct of municipal elections:~~

~~(1) Preparation of voting machines, ballot pages, cards, and other documents, materials and equipment in conjunction therewith;~~

~~(2) The training of poll managers and election night workers;~~

~~(3) The total conduct of the absentee precinct;~~

~~(4) Assisting with the conduct of the election procedure and tabulating of the results; and~~

~~(5) Assisting with securing of polling places.~~

~~The city and its municipal election commission shall remain responsible for the total cost of conducting all municipal elections including providing the supplies to be used at the precincts, the certification of all candidates, the designation of polling places, the inspection and visitation of polls during election day, the recruitment and assignment of poll managers, securing telephones for the polling precincts, the hearing of~~

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~~challenged ballots and ruling on any protest and/or complaints regarding the election or its procedures, and the certification of the election results.~~

(Ord. No. O-36-79, 1-9-79; Ord. No. O-12-93, 2-23-93; Ord. No. O-16-97, 4-22-97; Ord. No. O-16-99, 4-13-99; Ord. No. O-13-00, 4-11-00; Ord. No. O-15-10, § 1, 8-24-10)

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Sec. 1-8005. Time of elections; notice.

- (a) Elections for city officials shall be held in even-numbered years on the first Tuesday after the first Monday in November beginning in the year 2000 except for the election in May, 2001 as set forth below. The council members and mayor elected to fill the offices of the council members and mayor whose terms expire in 1999 and 2001 respectively would serve seventeen-month terms from the date of installation in July of the year 1999 to the date of installation of the year 2000, and from the date of installation in July of the year 2001 to the date of installation in December of the year 2002. The terms will be for four (4) years thereafter.
- (b) The council shall give public notice of the general city election at least sixty (60) days prior to the date of the election.

(Ord. No. O-39-98, 7-14-98)

Sec. 1-8006. Time of taking office; contested election.

- (a) Candidates who receive the highest number of votes in the election in May, 1999 will be duly installed to the office at the first regular council meeting in July following the election. Candidates who receive the highest number of votes in the election in November, 2000 will be duly installed to the office at the first regular council meeting in December following the election. Candidates who receive the highest number of votes in the election in May, 2001 will be duly installed to the office at the first regular council meeting in July following the election. Candidates who receive the highest number of votes in all elections thereafter, which elections shall be held on the first Tuesday after the first Monday of the month of November, will be duly installed to the office at the first regular council meeting in December following the election.
- (b) If the results of the election are contested, the incumbent who fills that contested office shall hold over until the contest is finally determined.

(Ord. No. O-30-89, 11-14-89; Ord. No. O-10-93, 2-23-93; Ord. No. O-39-98, 7-14-98)

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State law reference(s)—Contested elections, S.C. Code 5-15-130.