

Regular Council Meeting  
January 24, 2023 – 6:00 p.m.  
Council Chambers

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| <b>A.</b> Call to Order  | Johnny Gardner, Chairman |
| <b>B.</b> Invocation   | Mr. Hardee               |
| <b>C.</b> Pledge of Allegiance                                   | Mr. DiSabato             |
| <b>D.</b> Public Input (Sign-up Required)                        |                          |
| <b>E.</b> Approval of Agenda Contents                            |                          |
| <b>F.</b> Approval of Minutes: Regular Meeting, January 10, 2023 |                          |
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**G. CONSENT AGENDA**

1. Third Reading – **Ordinance 137-2022** to amend Section 17.46 of Division 2 of Article III of Chapter 17.7 of the County Code pertaining to flood prevention / grading requirements. (Favorable, I&R Comm)
2. Third Reading – **Ordinance 138-2022** to add the St. Peter Missionary Baptist Church and Salem A.M.E. Church to the Horry County Historic Property Register. (Favorable, I&R Comm)
3. Third Reading – **Ordinance 139-2022** to amend the Zoning Ordinance of the County Code pertaining to parking & maneuvering room. (Favorable, I&R Comm)
4. Third Reading – **Ordinance 147-2022** approving & authorizing the county administrator to execute lease agreements with United Community Bank of certain real property located in Conway, SC. (Favorable, I&R Comm)
5. Third Reading on the following Ordinances to approve the request to amend the official zoning maps:  
**Ord 149-2022** Sarah Pringle (Mr. Causey)  
**Ord 150-2022** Harry Wilson, Jr. (Mr. Causey)
6. First Reading on the following Ordinances to approve the request to amend the official zoning maps:  
**Ord 01-2023** Benjamin DeLamar, agent for Mykayla Melton (Mr. Hardee)  
**Ord 02-2023** DDC Engineers, agent for Blackwater LLC (Mr. Allen)  
**Ord 03-2023** James Fowler & Edwin Salley (Mr. Allen)  
**Ord 04-2023** Amber Ayers, agent for Ashwood Holdings LLC (Mr. Allen)  
**Ord 05-2023** Anita & Neil Seubert (Mr. Allen)
7. **Ordinance 06-2023** to amend the Future Land Use Map of the Imagine 2040 Comprehensive Plan for PINs 27402010003 & 27402010004 to Scenic & Conservation. (Affiliated with Ord 03-2023)
8. Approval of the Arcadian Shores Special Tax District appointment of Board of Commissioners: Fred Harris, Mark Gooch, Paul Benik, Barry Meadows, and Shawn Kelly.

**H. PRESENTATIONS / RESOLUTIONS**

9. Progress Update on Highway 90 Projects (Mr. Gilreath)

**I. READING OF ORDINANCES**

10. Ordinances pertaining to PBV Conway-Myrtle Beach LLC (Project Cook): (Favorable, Administration Comm)
  - A. Third Reading and Public Hearing - **Ordinance 140-2022** to authorize and approve the execution and delivery of a Fee Agreement between Horry County and PBV Conway-Myrtle Beach LLC; providing for the payment of a fee-in-lieu of taxes and the provision of special source revenue credits; and to provide for other matters related thereto.
  - B. Third Reading and Public Hearing - **Ordinance 141-2022** to authorize & approve an agreement for the development of a joint industrial and business park by and between Horry County and Marion County with property located in Horry County (Palmetto Coast Industrial Park) ; to authorize and approve an Intergovernmental Agreement by and between Horry County and the City of North Myrtle Beach with respect to such park; to require the payment of a fee-in-lieu of ad valorem taxes by businesses & industries located in the park; to apply zoning & other laws in the park; to provide for the law enforcement jurisdiction in the park; to provide for the distribution of park revenues within Horry County.



11. Ordinances pertaining to Loris Commerce Center (Favorable, Administration Comm)

- A. Third Reading and Public Hearing - **Ordinance 142-2022** to amend Section 6 of Ordinance 113-16 relating to the distribution of revenue generated from the Loris Commerce Center pursuant to the agreement for the development of a joint industrial & business park by and between Horry County and Georgetown County so as to, among other things, further provide for the distribution of revenue to the City of Loris; providing for the addition of certain properties to the joint industrial & business park; authorizing the execution & delivery of an amended & restated park agreement between Horry County & Georgetown County; and other matters relating thereto;
- B. Third Reading and Public Hearing - **Ordinance 143-2202** to authorize & approve a 2023 Intergovernmental Agreement between the City of Loris and Horry County relating to the Loris Commerce Center so as to, among other things, set out how certain economic development incentives may be used for projects locating in the Loris Commerce Center.

12. Third Reading and Public Hearing – **Ordinance 144-2022** to authorize & approve an agreement for the development of a joint industrial & business park by and between Horry County & Georgetown County with property located in Horry County (Horry County Multi-Use Sports & Recreational Complex); to require the payment of a fee-in-lieu of ad valorem taxes by businesses and industries located in the park; to apply zoning and other laws in the park; to provide for law enforcement jurisdiction in the park and to provide for the distribution of park revenues within Horry County. (Favorable, Administration Comm)

13. Second Reading and Public Hearing – **Ordinance 118-2022** to approve the request of Carl Linton Martin et al to amend the official zoning maps. (Mr. Crawford) (Planning Commission recommends disapproval.)

14. First Reading on the following Ordinances to approve the request to amend the official zoning maps: **(Planning Commission recommends disapproval on each of the following.)**

**Ord 07-2023** Wayne Zimmerman, agent for Sinh Tran (Mr. Masciarelli)

**Ord 08-2023** Skies The Limit LLC (Mr. Causey)

**Ord 09-2023** Galacia Renovations LLC (Mr. Causey)

**J. OLD / NEW BUSINESS**

15. Election of Council Vice Chairman

**K. MEMORIAL DEDICATIONS:** Dusten Juel

**L. UPCOMING MEETINGS** – Dates/times subject to change:

Council Meetings  
Feb 7 & 21, 6pm

I&R Committee  
Feb 14, 9am

Public Safety Committee  
Feb 14, 2pm

Administration Committee  
Jan 31, 1pm

**M. EXECUTIVE SESSION:** (If necessary)

**ADJOURN**

**MINUTES  
HORRY COUNTY COUNCIL  
REGULAR MEETING  
County Council Chambers  
January 10, 2023  
6:00 p.m.**

**MEMBERS PRESENT:** Johnny Gardner, Chairman; Jenna Dukes; Gary Loftus; Bill Howard; Danny Hardee; Mark Causey; Mike Masciarelli; Al Allen; Cam Crawford; Tom Anderson; Tyler Servant; and Dennis DiSabato.

**MEMBERS ABSENT:**

**OTHERS PRESENT:** Pat Hartley; Steve Gosnell; Arrigo Carotti; Randy Webster; David Gilreath; David Jordan; and Mikayla Moskov.

In accordance with the FOIA, notices of the meeting were provided to the press stating the time, date, and place of the meeting.

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

**INVOCATION:** Mr. Allen gave the invocation.

**PLEDGE:** Mr. Howard led in the pledge.

Chairman Gardner stated every January Council started off by doing a State of the County Address which contained some of the things they had done in the past and some things that they were looking forward to.

The short version was 2022 was a challenging but a good year. They had over 280,000 911 phone calls. They kept public safety as their priority. They opened up the Randall S. Webster Emergency Operations Center. It was a state of the art facility and he wished everybody could go out there and take a look at it. That was something that they would be able to deal with hurricanes and other emergency operations as they go through there. He had often told them that public safety was their priority and County Council and staff had worked very hard to get that together.

Flooding was also a major issue for this county because we do live in a low area and everybody knows about that. As they continue to grow their county the Flood Resiliency Master Plan will help them along the way. Some of the things that they had done last year was community development. They closed 31 of the flooded property areas. That was good for the community and good for the people. They were always engaged in trying to do things that were best for this community. They were dealing now with US Army Corps of Engineers. They had a study that was launched that would be able to help them do better along the floodways of the Waccamaw River. They had dealt with more Covid-19 pandemic matters. The Horry County Emergency Mental Assistance Program provided \$25 million to some of their people who had financial challenges related to Covid-19. This county was growing. Planning and zoning reviewed 5,442 new single family lots and 2,009 multi-family lots. They had also reviewed 1,756 commercial projects. That was a lot of reviewing.

Their airport continues to grow. It was receiving all kinds of great awards. They had almost 3.5 million passengers fly through here last year. We are continuing to have state and local partnerships to help address the infrastructure related to these growing concerns and needs. The Postal Way Extension project was wrapped up in December. Now they were beginning the Middle Ridge Drive Extension, Carolina Forest Boulevard widening project. They had Ride IV kicking off.

Our Code enforcement had reduced the response time to review plans from 50 days down to 5 days or less. This saves a lot of time for our members. Over the course of last year the code enforcement team performed 133,152 inspections and 15,778 plan reviews. That was a huge task.

2023 will be a year of strategic progress. They were going to continue to do the things they do that makes Horry County a great place to live and a great place to work. Flooding will be a high priority. Roads will be a high priority. They had some infrastructure that they had planned. Nixonville/Wampee, Shell, and Forestbrook

Communities will see construction under way. They had broken ground on the three fire stations. Central Coast Complex off of International Drive would see work starting soon. The Rural Civic Center, they had the land up for that and would be moving forward with that. They had a lot of things going on. The 501 Corridor, with their partners, was going to be widened and improved and help with products that we have here. Again, we deal with the hurricanes. As our county grows we have challenges that we had met and we would continue to meet. He wanted to thank Council for all the hard work that they had done and the staff for everything they had done and 2023 would be an even better year for us. Thank you very much.

#### **PUBLIC INPUT:**

**Mr. Damien Triouleyre** spoke regarding Waites Island rezoning. It was the most magnificent place just north of Cherry Grove between there and North Carolina. It was the place where Little River comes in. He was representing friends of the Ingram Dunes which was about three years ago but now they were Preserve Waites Island. It was not currently before them but it would be coming before them in the next months. A lot of them were already aware of it but he wanted to make a few points to consider. This place was like nothing else. It was the only barrier island in Horry County. It was one of the last barrier islands on the whole east coast that hadn't either been preserved or built on. He urged them all to go out there and see it. He was sure many of them had already but when he said Waites Island that meant Little River Neck Peninsula which was surrounded by water and then the marsh and then this beautiful uninhabited island. The best way to know whether they wanted to support it or not was just to come out and visit there. There had been a lot of negotiations as they may have heard. For the last three years several conservation groups had been negotiating with the major land owners, which one major corporation owned about half. It was 3,000 acres total. One major corporation owned the half of that. The family still owned about a quarter of the land and the rest was already preserved by the Coastal Carolina Foundation where they do research. The amazing thing was there had been so much consensus. He had never seen something like this. The five family owners all wanted to preserve the land. The many, many citizens of Horry County wanted to preserve it. A lot of their representatives and a lot of them would want to preserve it. The governor had been out there twice. That was all incredibly wonderful and good but it was still going to take a lot of work of them asking other people in the state to help preserve this as a state preserve and possibly a state park even. The other thing he wanted to mention was there was a little bit of a threat. Right next to the preserved land that Coastal owned there were 29 acres that was requested to be rezoned from CFA to SF7. This would not only affect the preserved land but it could affect the whole 3,000 acres because if you had a precedent of rezoning then that could affect the rest of the land that they were trying to preserve. He urged them to all look at this very carefully and he urged them to not change the zoning. Please keep it as CFA. That should be coming up again in the next workshop with planning and then it would come to them later after that. There were many points he could mention. This was a place where shore birds can stop and rest and it cleaned our water. This was a place where fish grow but he thought the most important thing was this was a rare opportunity that would not come again. They knew how fast the county was growing. This was a jewel and was as beautiful as anywhere in the whole State of South Carolina. He asked that they make this one of their top priorities and he thanked them for their time.

**Public input was closed.**

**APPROVAL OF AGENDA CONTENTS:** **Mr. DiSabato** moved to approve, seconded by **Mr. Howard**. **Mr. Loftus** moved to defer Third Reading of Ordinance 133-2022 until the February 7<sup>th</sup> meeting, seconded by **Mr. Servant**. The motion to defer passed unanimously. The agenda contents as amended was unanimously passed.

**APPROVAL OF MINUTES:** Regular Meeting, December 13, 2022: **Mr. DiSabato** moved to approve the minutes of the Regular Meeting, December 13, 2022, meeting minutes, seconded by **Mr. Howard**. The motion was unanimously passed.

**APPROVAL OF CONSENT AGENDA:** **Mr. DiSabato** moved to approve the agenda contents, seconded by **Mr. Howard**. The motion was unanimously passed. The consent agenda consisted of the following:

Allocations of Community Benefit Funding:

**CBF-01-2023** Aynor High School, \$500 for Middle School B-Team Wrestling (Mr. Allen)

**CBF-02-2023** Academy for Technology & Academics, \$1000 for students/teachers incentives (Mr. Allen)

District Board Appointment: Paul Stecker to the Planning Commission. (Mr. Crawford)

#### **PRESENTATIONS / RESOLUTIONS:**

**Resolution R-01-2023 and Public Hearing** to approve the permit to locate a 199' monopole telecommunications tower on a 12.75-acre parcel off North Kings Highway in Horry County. **Mr. Allen moved to approve, seconded by Mr. Anderson.** Chairman Gardner stated there was an amendment on the dais for them to look at and after they looked at that, if there was any discussion they would entertain a motion to amend **Resolution R-01-2023**. **Mr. Allen moved to amend, seconded by Mr. Hardee. There was no public input. The motion to amend passed unanimously.**

**Resolution R-02-2023** authorizing the transfer of funds from the Public Safety Training Facility and the Capital Improvement Plan Contingency to the Shell Fire Rescue Station and the Nixonville/Wampee Fire Rescue Station. **Mr. Servant moved to approve, seconded by Mr. Howard. The motion passed unanimously.**

**Resolution R-03-2023** to approve the application to the South Carolina Opioid Recovery Fund Board for the discretionary sub fund and approval to accept grant, if awarded. **Mr. DiSabato moved to approve, seconded by Mr. Howard. The motion passed unanimously.**

#### **READING OF ORDINANCES:**

Second Reading and Public Hearing – **Ordinance 137-2022** to amend Section 17.46 of Division 2 of Article III of Chapter 17.7 of the County Code pertaining to flood prevention / grading requirements. **Mr. Allen moved to approve, seconded by Mr. Howard. Mr. Allen moved to amend, seconded by Mr. Howard. There was no public input.** Mr. DiSabato stated he wanted to be clear. This had nothing to do with the freeboard elements that they were discussing at the last Council meeting, correct? Chairman Gardner replied that was his understanding. **Mr. Servant moved to amend to allow the use of break-away walls, seconded by Mr. DiSabato. The motion as amended passed unanimously.**

Second Reading and Public Hearing – **Ordinance 138-2022** to add the St. Peter Missionary Baptist Church and Salem A.M.E. Church to the Horry County Historic Property Register. **Mr. Allen moved to approve, seconded by Mr. Howard. There was no public input. The motion passed unanimously.**

Second Reading and Public Hearing – **Ordinance 139-2022** to amend the Zoning Ordinance of the County Code pertaining to parking & maneuvering room. **Mr. Howard moved to approve, seconded by Mr. Loftus. There was no public input. The motion passed unanimously.**

Ordinances pertaining to Project Cook:

Second Reading - **Ordinance 140-2022** to authorize and approve the execution and delivery of a Fee Agreement between Horry County and a company identified for the time being as Project Cook; providing for the payment of a fee-in-lieu of taxes and the provision of special source revenue credits; and to provide for other matters related thereto. **Mr. Loftus moved to approve, seconded by Mr. Howard. The motion passed unanimously.**

Second Reading - **Ordinance 141-2022** to authorize & approve an agreement for the development of a joint industrial and business park by and between Horry County and Marion County with property located in Horry County (Project Cook); to authorize and approve an Intergovernmental Agreement by and between Horry County and the City of North Myrtle Beach with respect to such park; to require the payment of a fee-in-lieu of ad valorem taxes by businesses & industries located in the park; to apply zoning & other laws in the park; to provide for the law enforcement jurisdiction in the park; to provide for the distribution of park revenues within Horry County. **Mr. DiSabato moved to approve, seconded by Mr. Howard. The motion passed unanimously.**

Ordinances pertaining to Loris Commerce Center:

Second Reading - **Ordinance 142-2022** to amend Section 6 of Ordinance 113-16 relating to the distribution of revenue generated from the Loris Commerce Center pursuant to the agreement for the development of a joint industrial & business park by and between Horry County and Georgetown County so as to, among other things, further provide for the distribution of revenue to the City of Loris; providing for the addition of certain properties to the joint industrial & business park; authorizing the execution & delivery of an amended & restated park agreement between Horry County & Georgetown County; and other matters relating thereto. **Mr. DiSabato moved to approve, seconded by Mr. Howard. The motion passed unanimously.**

Second Reading - **Ordinance 143-2202** to authorize & approve a 2022 Intergovernmental Agreement between the City of Loris and Horry County relating to the Loris Commerce Center so as to, among other things, set out how certain economic development incentives may be used for projects locating in the Loris Commerce Center. **Mr. Hardee moved to approve, seconded by Mr. Howard. The motion passed unanimously.**

Second Reading – **Ordinance 144-2022** to authorize & approve an agreement for the development of a joint industrial & business park by and between Horry County & Georgetown County with property located in Horry County (Horry County Multi-Use Sports & Recreational Complex); to require the payment of a fee-in-lieu of ad valorem taxes by businesses and industries located in the park; to apply zoning and other laws in the park; to provide for law enforcement jurisdiction in the park and to provide for the distribution of park revenues within Horry County. **Mr. DiSabato moved to approve, seconded by Mr. Howard. The motion passed unanimously.**

Second Reading and Public Hearing – **Ordinance 145-2022** increasing the salaries of the twelve members of Horry County Council. **Mr. Howard moved to approve, seconded by Mr. Allen. There was no public input. A vote was held.**

<b><u>Yea</u></b>	<b><u>Nay</u></b>
Loftus	Servant
Howard	DiSabato
Masciarelli	Dukes
	Gardner
	Allen
	Hardee
	Causey
	Anderson
	Crawford

**The motion failed nine to three.**

Second Reading and Public Hearing – **Ordinance 146-2022** to amend the County Code pertaining to tree preservation standards. **Mr. Howard moved to approve, seconded by Mr. Masciarelli.**

**Mr. Trapper Fowler** stated he was there as a resident but also representing the Coastal Conservation League. He was there to say thank you to Council and the I&R Sub-Committee for working so hard to protect one of their most valuable natural resources, their trees. They all appreciated the aesthetics of large trees on the landscape, utilize the shade they cast during the hot summer months, and value the water they absorb during large storm events. These older trees were also vital for the mass production for our wildlife to consume. He would say it was extremely frustrating to hear developers attempt to spin this simple text amendment into something it was not. As staff had pointed out this had been in place since 2015. There was no change being considered other than the fines. That was it. This had nothing to do with grading, etc. This was in line with other county ordinances

and governments and still falls short of what the City of Conway had in place. This text amendment was needed to make positive change to help preserve some trees for future generations to be able to enjoy. The only reason they had large trees to appreciate today was because of fines and protections that were put in place before us. They hoped they would vote to approve this text amendment that night and represent the citizens of this county.

**Public input was closed.**

Mr. Allen asked Mr. Jordan if this tree amendment only pertained to the Live Oak trees, correct. Mr. Jordan replied no. Mr. Allen asked if they had not gotten there yet. Mr. Jordan said this was on all protected trees and he presented a slide on protected and specimen trees. Those were already protected now so the fee was put in place in 2015 based on the replacement formula. He then presented a slide of the current formula and proposed formula. At that time a 2.5 inch replacement tree was approximately \$150. Mr. Allen said per their I&R discussion they were only going to raise the fee on the Live Oak trees. Correct? Mr. Jordan replied that was not how this was drafted. They could amend it to that with ease and have the final version to them for third reading. Mr. Allen asked Mr. Howard to help him because they had a discussion about this and about raising the fee only on the older Live Oak trees. **Mr. Howard said what he would like to do was send this back to the I&R Committee and then they would work that out and get it... He did recall them talking about the Live Oaks. Mr. Servant seconded. The motion to send back to I&R Committee passed unanimously.**

Second Reading and Public Hearing – **Ordinance 147-2022** approving & authorizing the county administrator to execute lease agreements with United Community Bank of certain real property located in Conway, SC. **Mr. Servant moved to approve, seconded by Mr. DiSabato. There was no public input. The motion passed unanimously.**

Second Reading and Public Hearing on the following Ordinances to approve the request to amend the official zoning maps:

**Ord 148-2022** Robert Guyton, agent for TDC 501 Group LLC. **Mr. Masciarelli moved to approve, seconded by Mr. DiSabato.**

Ms. Christine Phillips Lindsey stated she was there before them that day to request to deny the rezoning request by TDC 501 Group. The current zoning for this parcel was highway commercial that she felt was appropriate. Commercial and only single family homes. She had faith in the county that this 20 acre parcel was zoned as such with consideration of the residents that utilize Legends Drive. It was not her intention that day to deny the developer to build on this property but she was begging for reasonable development with the community in mind. She was requesting that they do not approve rezoning to include high density multi-family dwellings. This was based on the negative impact that the adding of more traffic would have on those who rely on Legends Drive and she wanted to point out they rely on Legends Drive as their sole access to and from their homes and businesses. This was their only road. She then gave some background information on Legends Drive. At best it takes up to two traffic light cycles to exit onto Hwy 501 North from Legends Drive from Thursday through Sunday. Traffic bottlenecks at this 501 and Legends Drive turning the intersection with homeowner traffic, golf course traffic, and commercial public driveways. Please consider the following future impact in making their decision which would set a precedent. There were 8 tracts of land along Legends Drive that were currently set aside as future development and/or farmland. These 8 tracts total 2,046 acres. Within that there was Riverstoke Properties owning 1,656 acres. The Young family owned 309 acres, and that did not include their ownership of 24 acres of Legends Drive. Sawyer Land and Timber was another 105 acres. At 4 homes per acre, which was conservative, this could create 8,184 single family homes to go onto Legends Drive as their only road in and out. Any future development would have a negative impact on them that they would literally be trapped in their communities and she asked that they please consider not putting in high density multi-family dwellings so that they were not sitting in traffic and trapped in their communities.

Mr. John Patroni (sp) stated he didn't understand how this... There must be a master plan that every town and city had. How does this comport with the master plan to... It must be some change to it. He didn't see how this was an attribute to that area. Had an impact study been done on traffic? How it was going to impact the hospitals, fire, and trash. There were so many things that it impacted here. Had there been an environmental impact study done on it. How was it going to affect the police department? Were they going to be undermanned now? The demand increases. He didn't see how this benefits the residents. This wasn't a bulk variance. This was a use variance that he was going for which usually the bar was pretty high on that. He didn't see the benefit to the area or the community. It was just dollars and cents. He didn't see how it had a benefit to the residents. He moved

into this area for the logistics of it and for the area. He wasn't ready to move into a more congested area than he came from. To him it was almost a betrayal of the people that bought there that planned to be there. His neighbors across the street planned to make this their forever home and were planning for a pool. They were now having second thoughts because of all the traffic that was going to happen and the congestion. He asked that they put themselves in that position. People had invested a lot of money and then all of a sudden you were pulling the carpet out from under them to make it a high density area. You were going to make it a high commercial area. He didn't see the benefit to the people there and that was what the zoning planning boards were supposed to do. How does it benefit the community and the residents there? He just didn't see how it happens.

Ms. Patty Jernigan said she lived off of Legends Drive. To get out it was a 4.5 minute light if you were coming out and wanted to turn left onto Hwy 501. If you hit it as it turns red you had 4.5 minutes. They don't get out at the first light. You sit there and that was only with 1,200+ homes and the businesses that they had there. The second issue was there were car accidents there every week, sometimes multiple in the same day. Big, big accidents. The third situation that nobody had mentioned was they flood out. Right there at that 20 acre parcel, that road flooded out twice just in 2022. So how were they going to accommodate all that when they were going to put more housing and black top? They were going to have more water coming through and there was nowhere for them to get out. It was their only road out. The only road. When there was an accident there, they can't get out. They shut the road down and they can't get out of their neighborhood unless they take that side road and that was going the opposite direction of where they are going and it was right where they were going to build. So, high density housing was not going to work there.

Mr. Robert Guyton stated when they step before them they accept the people's will and Council does the people's will. They did this the way it was supposed to be done in compliance with the Comprehensive Plan. They submitted it with staff recommendation and planning commission approval. If they had a different opinion, then again they would accept their opinion.

Mr. DiSabato asked by show of hands how many people were there for this particular issue and a majority of the audience raised their hands.

Mr. Howard referred to Ride III and asked if they were building a service road that goes from Singleton Ridge all the way down to Carolina Forest.

Mr. Gilreath stated Middle Ridge Drive extended from Singleton Ridge down to West Perry. It did not extend this far, no. It was currently under construction.

Mr. Howard said he knew it was under construction and asked where it stopped.

Mr. Gilreath replied at West Perry right across from Carolina Forest Boulevard.

Mr. DiSabato asked if it could go farther.

Mr. Gilreath replied not in Ride III. It could potentially be a future project but there were some other obstacles in place, businesses and what not.

Mr. Howard asked if that was the reason they were putting it there to relieve those neighborhoods.

Mr. Gilreath stated that road and Postal Way were built to allow the local traffic to navigate the area without having to get on Hwy 501 if they don't want to. So that was the purpose of them but this one does not extend to this location.

Mr. DiSabato asked the applicant if there was any portion of the application where they were going to be doing road enhancements to Legends Drive paid for by the developer not by the county.

Mr. Guyton stated as he thought they were aware the issue was Legends Drive was a private road so they don't have the right to (inaudible).

Mr. Masciarelli stated he had spoken with many of the people there and spent a good bit of time with the applicant. He had spent numerous hours with staff and was well aware of the issues that were back there. At that time they

were going to try to work through this over the next few months. **He moved to defer this indefinitely until they could try to work through these issues to hopefully correct these problems. Not just for the sake of the developer but everybody that lived back there. Mr. DiSabato seconded. The motion to defer passed unanimously.**

Second Reading and Public Hearing - **Ord 149-2022** Sarah Pringle. **Mr. Causey moved to approve, seconded by Mr. Allen. There was no public input. The motion passed unanimously.**

Second Reading and Public Hearing - **Ord 150-2022** Harry Wilson, Jr. **Mr. Causey moved to approve, seconded by Mr. Howard. There was no public input. The motion passed unanimously.**

Second Reading and Public Hearing – **Ordinance 152-2022** amending portions of Chapter 9, Flood Damage Prevention and Control, of the Code of Ordinances. **Mr. Allen moved to approve, seconded by Mr. Masciarelli. There was no public input.** Mr. Allen referred to Section 9-73 on the right to appeal to the local flood plain administrator and asked instead of within 10 days can they change that to 30 days? Then further down for the transcribed, instead of the 10 days can they change that to 5 days. Would that give enough time? In the very same paragraph. The hearing shall be recorded and transcribed at the expense of the parties so requesting at least 10 days prior to the hearing. Can they change that? Mr. Carotti replied that was more restrictive to the applicant. That 10 days gives them more time to request it. Five days would give them less time. Mr. Allen said no. From the 10 days up top. Change that to 30 days in the very first sentence. Mr. Carotti stated he got that. Mr. Allen continued the hearing shall be recorded and transcribed at the expense of the parties to request at least 10 days prior to the hearing. Mr. Carotti stated they would have to request it 10 days prior to the hearing. If it was 5 days it gives them less time to request it. If that was what they wanted they could do it that way. **Mr. Allen said that was fine. He moved to send it back before third and get it right back to Council but he would like to be able to go through the agriculture section on it thoroughly.** That was his point here. **Mr. Hardee seconded.** Chairman Gardner asked if the motion was to defer it to the I&R Committee and Mr. Allen replied yes. **Mr. Howard seconded.** Mr. Carotti said if they wanted them to amend it that would be the first motion to amend. Pass that then to defer it to I&R. Chairman Gardner told Mr. Allen what he asked earlier needed to be formed into a motion so it would be on the record exactly what wording. Mr. Allen said they could and then they could make all the amendments at I&R. Chairman Gardner said that was easy enough and the public would understand that better. The motion was to defer to I&R. **The motion to defer to I&R passed unanimously.**

Second Reading and Public Hearing – **Ordinance 151-2022** to approve the request of Silvester Avant, Jr., agent for Robert Ann Corbitt et al, to amend the official zoning maps. **Mr. Anderson moved to defer, seconded by Mr. Howard.**

Mr. Eric Donovan stated he owned the property directly across from this. This was a residential area. He believed the planning and zoning commission reviewed this and recommended disapproval. A salvage yard was just not compatible within a residential neighborhood. That was not something he wanted his property to be directly across from. It was not the correct zoning. This was all residential.

Mr. Silvester Avant said he never had any intentions of any salvage yard. His motion for that were even asking to get his planning and zoning and get it corrected was to also just have his auto repair shop and help with his towing service with an impound. It was never built for a salvage yard or nothing but it was a difference for the planning and zoning he thought for code that they had to put that down. They were taking something simple as a salvage yard and running with it when that was never an intention from the start and from any further more. He wanted to clear his name as in that because of course if they looked at it you would think it was the worse and you say salvage yard or whatever of course nobody would want a salvage yard across from their houses. Nobody wants certain things from their houses or whatever. He was just a young man that was trying to be a little bit of an entrepreneur under the impression he did something the correct way and come to find out it wasn't. He was trying to correct it. He did everything in motion of it or tried to get it cleared and corrected. By no means was he trying to do anything to affect his community. He only wanted to help his community and make it affordable for everybody and not just certain people. They dealt with price gauging and all kinds of different things. Just to make it affordable. You had retirees and all kinds of people that don't have that much money. They need to get



back and forth to get by. The average person on social security now can't even afford their own place to stay. That was his only dream and hope to help his community.

Chairman Gardner stated Mr. Anderson had done a lot of work on this case.

Mr. Chris Worley said he was a longtime friend of Silvester Avant. He had had his business since 2007. He had been in this area for a long time and it was not always all these communities. It was a lot of farm lands and fields. It was there as a service center. You get your car fixed. He was a great guy. Always trying to help people and unfortunately in those situations you get people (inaudible) and just abandon their cars. Due to the laws as a small business owner himself in the automotive repair industry it was not always easy to attain the titles and dispose of those vehicles. As far as other people complaining about being across from the property he believed there was a pipeline running in there that the man got paid for and it was not usable at all. So null and void point there. He was a great man. He had helped him in his life, career, and his family when he had been injured. He would hate to see him shut down because people decided to move into an area knowing that the business was there. You saw it whenever you were shopping for your house. You moved in. He grew up on a farm that was now nothing but condos and golf courses and it had destroyed every business around the area. They moved in. They shut the farm down because they couldn't stand the smell. You moved in next to cattle. What do you expect it to be? Then they get the farm shut down and he hated to see the same thing happening over and over to his friends and his home.

Ms. Edna Bellamy DeWitt said she was a resident of the Sand Ridge Community. She stood before them that day in total opposition of rezoning 3732 Faulk Circle, Conway from residential SF20 to general manufacturing and industrial MA2. One year ago she was passed the baton to work with Keep Horry County Beautiful Board which was under the umbrella of Horry County from the previous board member Ms. Betty Gause for District 7. She was very happy to accept it. How in good faith if it was for her to sit on the board admiring other communities of Horry County having great faith in their community by keeping it clear of trash, debris and other eyesores. Here she was having to speak about this possibly happening in her own community. Some months ago she stood before them with Ashley Cohen, who was the interim director of Keep Horry County Beautiful Parks and Space and with Kevin Mishoe who was the chairman of Keep Horry County Beautiful to recognize businesses and individuals who work tirelessly to remove eyesores from the Waccamaw River like abandoned boats, fallen trees, etc. that was slowing the flow of the river and preventing recreational activities or just a safe boat ride. She can imagine Horry County feeling good knowing the hazardous eyesores were removed and normal activities could resume on the Waccamaw River. They, as residents of the Sand Ridge, take great pride in their community too. The Sand Ridge had had several unfavorable hits towards it and they pray that 3732 Faulk Circle would not be added to the list. This was a community that goes back to the 1800s in Horry County and they felt it was important to them too. She was not trying to get Mr. Avant's business shut down. That was up to Council. She just wanted their community to stay clear of ugly eyesores as the board of KHCB works with other communities doing the same thing. A good example of the disregard that their community had had to deal with was years ago huge recycling bins were brought to the Sand Ridge and placed right next to Richard's Grocery Store on Cates Bay Highway. It wasn't until after residents spoke to the Solid Waste Authority regarding this eyesore. SWA heard their voice and the bins were moved and put further down Cates Bay Highway in a space all by itself. As she closed she wanted to be clear, rezoning of Faulk Circle from residential SF20 to general manufacturing and industrial MA2 would affect the appearance and the way of life of their historical community just like the unfavorable hits that had already happened and was happening. Her question to them was what was next? She asked them, Horry County County Council, to please take consideration of their input for total opposition to rezoning for this proposal. She thanked them in advance.

Mr. Jack Plowman stated he wanted to speak for Avant Auto Parts. He was down here sometime in the early teens and he couldn't get a dealer to fix his car. He ran into someone that knew Mr. Avant and sent him to him. He fixed his car and he was able to go back to North Carolina. Then he had a gas tank problem and the dealership was up in the \$2,000 range and he bought the gas tank and other stuff from them and put it in and saved him quite a few hundred dollars. He was not the wealthiest man in town but he and his daughter work with some of the elderly people in Horry County. He sent several of them to his place and he works with them. He gives them a fair deal and doesn't look in the book from Detroit and say we charge you this much for a job. He charges and he gets the job done. It may be an eyesore but they had eyesores all over the county. So he looks after the

elderly person. Their cars are out of work and they are nervous and don't know what to do because the car was the only thing that some of them have. He thought he had been there for probably 10 – 11 years. He knows his father and sons and he thought this was an asset to the neighborhood. It was an asset for the elderly people in that area, not only the black or white. He sent an 87 year old lady to him and he did work on the car. She said she would have to wait for the dealer to do it for 3 or 4 days and she was nervous. He called him and he said if he had to he would go get her car. He had brought his car when he was sick. He came and picked his car up, fixed it, and brought it back and didn't charge him a dime. He works for the elderly folks and there was not many people that don't take advantage of the people that are old. He didn't see why he couldn't be grandfathered in. He would say to remove this from out there would be a harm to the neighborhood, a harm to the older people, and that was the only one on that side of town. There were quite a few elderly folks out that way. As they think of what they were going to do they should think of the people that he does help. It may be an eyesore but he could take them to the streets and show them a lot of eyesores. They might look at his place and say it was an eyesore.

Reverend Jerry Faulk stated he was there to speak in opposition of the business not according to people. There had been a lot of slings in some way that people don't like people. That was not true. The issue before them pertains to their governmental system that deals with zoning. They all will admit that zoning was important because zoning had a particular purpose in order to make sure that everybody has the same basic equal rights. When it comes to that property all of them want the best system that will help protect the properties that they are investing in beginning with their homes. They ought to be very careful as to what it was that they want near their home and what was it that they could really live with. So he wanted to clear the air a little bit that this has nothing really to do personally in disliking anybody. It had everything to do with the ordinances that they had passed with the residential, with the commercial, whatever it might be. Those rules were there to make sure they were not impeding on other people or assets. So he spoke that night to say they want it to remain residential. He grew up in that community and still had family in that community. Many were looking to come back home to build their homes in that community. So they plead with them don't take away the future of their community.

#### **Public input was closed.**

Mr. Anderson stated Reverend Faulk did a great job of explaining his situation. His job was to follow the rules that his team had written. He was very compassionate about the little man and small business. It was tough. He told Mr. Avant that it seemed like the rules were against him. He had been in operation for a long, long time. He appreciated that. He was able to fly under the radar and in the last year or so... This all got dumped on him on Friday and he was trying to do the best he could to make some chicken salad. He was not in favor or rezoning the property. He was not but if they don't rezone the property that night he had 30 days to wrap up his business, clear the lot, or he would be dealing with a judge. What he would like to do was work with the small businessman. He would like to defer this for a couple of months and then he would like to bring it back to a vote. At that point he was going to make a motion that they do not rezone this property. When that gets rezoned, if he was not finished doing something to clear up this business, he would have a clock ticking on him and the man breathing down his neck. This gave him a few months. He was laying his cards on the table. He understood and sympathized and he tried to go with the rules. It was not about liking or disliking someone. He liked them all. If they wanted to talk to a nice man talk to Silvester Avant. He wanted to take some cars and drop them off on Monday after he talked to him on Sunday. What a nice young man. There was somewhere for him to go. He didn't know where. He would help him anyway he could but he had been flying under the radar and they needed to make this a residential area. **He moved to defer this for 5 months, seconded by Mr. Allen.** Mr. Howard said he was not familiar with this as Mr. Anderson wasn't on Friday. He was catching bits and pieces. He asked Mr. Anderson if this business was there way before now. Was it an existing business? What was happening and why was he being forced out after he had been there 10 – 11 years? Mr. Anderson asked the planner to give them the background. Mr. Jordan stated in going through their files and meeting with the Avants a fair amount in the last 18 months, in 2007 they were licensed as a mobile mechanic for a home occupation. That was not allowed anymore because it turns into that in the backyard and displayed pictures of Avants Auto Repair on the screen. He had a business license since 2007 with a valid zoning compliance. They were complaint driven. In the summer of 2021 they had a gentleman come to public input and complain about Mr. Avant and that was when they opened their file. They had been out there with some cars on the road but that was when this process got started. Mr.

DiSabato asked if there was any method by which he can apply for a variance to the current zoning in an effort to continue to operate a business that had been existing for over a decade. It seemed patently unfair that they were going to ask somebody to close their business down. Mr. Jordan said you can't ask for a use variance. The rezoning... That was how they were working with him. They were trying to get a rezoning. The reason they had MA2, which MA2s don't fit that area, was because of the tow yard. Towing, by Council, was cracked down on before his time, 10 years ago probably, and made very industrial. It was an integral part of his business. If not they could drop back if he was just a mechanic to an AG2 and he would have to do buffers and get the site up to compliance. Maybe RE4. He didn't know if that was palatable with everybody. They had struggled with it on a staff level. Planning commission did as well. He thought the neighborhood had struggled with it as they had heard that night. They had a fair amount of input at the planning commission as well.

Chairman Gardner stated he was with Mr. DiSabato on this one. This thing was 2007. They were talking about 15 years. Mr. Howard stated he thought Mr. Anderson was doing the right thing by giving him the time to find a new location. It was in the middle of a neighborhood, correct? Mr. Jordan presented a slide with an aerial view of the property. Mr. Howard told Mr. Anderson he didn't want to step on his toes. He just wasn't sure what was going on. Mr. Anderson replied no problem. He thought discussion was an awesome tool to get to where they want to be because now he was not where he wanted to be with the Avant family and he was not where he wanted to be for the people over there who don't want this across from their street, across from their house in their neighborhood. He understood. Mr. Jordan pointed to the screen and pointed out Cates Bay. The City of Conway was not far off their screen. Mr. Avant's father lived in front. This was a newer subdivision 8 – 9 years old. You had some residents that were scattered. He pointed out the piece that the gentleman that spoke first owned. He was not sure where Ms. Bellamy lived. He pointed out Faulk Circle and stated it loops around. The new perimeter road was going to come through here. So you had scattered houses. He presented a map of future land use. All the gray was the City of Conway. He presented a slide with the rezoning map. He pointed out where you had some neighborhood commercial, CFA, and AG2 a little further out Cates Bay.

Mr. DiSabato asked if the primary here was the tow yard. Mr. Jordan said he would have to rezone without the tow yard. The tow yard was what gets you to the MA2 that makes it, from the planning perspective, so offensive. He didn't know if that was the neighbor's perspective as well but the planning perspective, MA2 in a neighborhood, that was why they didn't recommend approval, and he was sympathetic to him. His department gave him the zoning compliance in 2007 for the mobile mechanic which he wasn't supposed to have the cars there. The MA2 makes it difficult to approve.

Mr. Loftus said it was not written on the agenda but both staff recommended disapproval and the planning commission unanimously voted to disapprove. Was he correct? Mr. Jordan replied yes. Mr. Hardee asked if Mr. Anderson was just asking for 5 months to work on it, correct. He thought Council needed to give him the 5 months and let him work with both sides and bring it back. Mr. DiSabato said that was not his understanding of what was asked. Mr. Hardee asked Mr. Anderson if he wanted 5 months. Mr. Anderson said his thinking was 5 months and if he was not complete in 5 months he still had 30 days before enforcement would come knocking on the door. Mr. DiSabato said they were not telling this guy he had to be out in 5 months. They are giving this guy 5 months to work with the neighbors to try and come up with something that would be compliant. Mr. Anderson said he had had this since Friday. The staff recommended against this rezoning. The planning commission who represent the members of the council voted against the rezoning. He was not in favor of the rezoning. It happened to fly under the radar. His license says mobile mechanic since 2007. He was a small business owner and it was hard to keep up with all the licensing, insurance, permits, all the stuff you had going on but when he gets his license he read that it said general contractor. Maybe he missed it. That was not for him to have to worry about. To try to worry about to figure out. His reason for deferral was if they don't rezone it that night he had 30 days to wrap up his business and move and he didn't think that was reasonable. He didn't want to put him out of business and he hated that he had to move but he didn't start this mess. He was trying to help resolve it to the rules that County Council had written in the past. A 5 month deferral gives him 5 months to round down some of his customers, determine if he wants to stay in business, and where he can go. After 5 months it will be brought back and voted on. He didn't see it getting approved in 5 months and at that point he would have 30 days before enforcement action would take place. Chairman Gardner said okay. It sounded like it was time to vote. The motion and second was to defer this for 5 months. **A vote was held.**

<u>Yea</u>		<u>Nay</u>
Servant	Allen	Loftus
Howard	Hardee	DiSabato
Dukes	Masciarelli	Causey
Gardner	Anderson	Crawford

**The motion to defer for 5 months passed eight to four.**

There was a brief interruption in the sound and it resumed with Mr. DiSabato asking did the deferral allow him to amend the application? Mr. Anderson replied that was not his intention. His intention was if it was not rezoned that night, if they go with the staff and planning commission counsel he had 30 days to clear it out and get off. With the deferral he had up to 6 months. He would not wait until 6 months. He would start shaking the stick and moving because he really didn't think it would go well. He might not believe it, he was trying to help him. He would probably catch a lot of heat for it but it was okay. That was what he was there for. To try to make the best decision for the most people following the rules that are laid before him, following the advisement of the staff, following the advisement of the appointees of this Council who had looked at all this and reviewed it and recommended no. Chairman Gardner asked Mr. DiSabato if that clarified his point of order. Mr. DiSabato's answer was inaudible. Mr. Servant asked Mr. Jordan, for the applicant, currently he was in violation of their zoning ordinances, correct? Mr. Jordan replied yes. Mr. Servant said deferring this doesn't get him into compliance so he was still going to be subject to fines. Mr. Jordan replied correct. Their policy was if you were actively trying to come into compliance, you have a rezoning pending, a variance, a building permit, they hold off on the enforcement on the zoning side. Mr. Anderson told Mr. Servant he had that information with a little bit of experience and that was the reason for the deferral. He didn't want to start the clock that night. He went by on Sunday. He can't get gone in 30 days. It would only cause a big train wreck. Mr. Hardee told Mr. DiSabato why didn't he go help him move. If he wanted to see it done in 5 months, go help him move. Mr. DiSabato stated he was confused about the action they were currently taking. His question was were they deferring the second reading or were they just giving this guy 6 months to move. That was his question. Mr. Causey stated they were giving him 6 months to move. Mr. DiSabato stated okay.

First Reading – **Ordinance 118-2022** to approve the request of Carl Linton Martin et al to amend the official zoning maps. **Mr. Crawford moved to approve, seconded by Mr. Anderson.** Mr. Crawford moved to move this forward to second reading. **The motion passed unanimously.**

**OLD / NEW BUSINESS:** Assignments to Council Standing Committees – Chairman Gardner. Chairman Gardner stated the assignments to the Council standing committees and they were as follows:

Administration Committee: Johnny Gardner, Mark Causey, Tyler Servant, Al Allen, Danny Hardee, and Dennis DiSabato with Tyler Servant as the Chairman.

Public Safety Committee: Johnny Gardner, Danny Hardee, Tom Anderson, Gary Loftus, Dennis DiSabato, Jenna Dukes, and Cam Crawford with Danny Hardee as the Chairman.

I&R Committee: Johnny Gardner, Al Allen, Mark Causey, Bill Howard, Mike Masciarelli, and Tom Anderson with Al Allen as the Chairman.

**MEMORIAL DEDICATION:** Steve Robertson; Carolyn Foxwell; Billy Skipper; Joey Tyler; Myona M. Yates; Dr. Eston Williams; Joseph Bryan Daniels; Daniel Eugene Mills; Linda Todd Hucks; Catherine Flippett; Mariann Croll; Donald Richardson; Sharon Reavis Hyman; Robert Leo Cooper; Jean Marie Jones; Stevie Bryant; Susie Jackson; Harry Grissett; and Mary Lippman.

Chairman Gardner stated he wanted to go back to the committees. One of the things that he had talked with Council and law enforcement and educators and everybody, one of their biggest things facing our county now was mental health issues. It was across the board. He didn't know what the statistics were. It was over half of

the time a police officer or school teacher was using their time on a mental health issue when they could better be using their time for what they volunteered for and what they trained for. For police officers that was deterring crime, crime investigation, etc. For school teachers it was teaching students. It had been neglected statewide and nationwide. Horry County was one of the counties that gets ahead of things and he thought it was high time for them to do what they could do on this. This might be like the flood committee. They might not be able to get anything accomplished to everybody's satisfaction but at least they would be moving forward. So he was establishing a committee for the study of mental health and what they could do. On this committee would be Judge Kathy Ward, Danny Hardee, Cam Crawford, Jenna Dukes, Chairman David Cox, Solicitor Jimmy Richardson, Sheriff Phillip Thompson, Chief Hill, and Mayor Barbara Bellamy. He asked Cam Crawford to chair this committee. They would be meeting soon. As soon as possible.

**UPCOMING MEETINGS:** Council meetings – Jan 24, 6:00 p.m.; I & R Committee – TBD; Public Safety Committee – TBD; Administration Committee – Dec 19, 2:00 p.m.

**EXECUTIVE SESSION:** None.

Mr. DiSabato stated he wanted to reiterate his complaint from the last meeting. He did not have his iPad with him that afternoon in preparation of the night's meeting and he tried to find the agenda contents and packet of information that should be disseminated to the public prior to meetings on the website. It took him almost 40 minutes to find absolutely nothing. The website was a mess. It was a disservice to the people that they service. It almost seemed like they were trying to hide information from them. They had to work on that ASAP. Mr. Gosnell stated it was currently being worked on.

**ADJOURNMENT: With no further business, Mr. Servant moved to adjourn at approximately 7:26 p.m. The motion was unanimously passed.** The meeting was adjourned in memoriam of: Steve Robertson; Carolyn Foxwell; Billy Skipper; Joey Tyler; Myona M. Yates; Dr. Eston Williams; Joseph Bryan Daniels; Daniel Eugene Mills; Linda Todd Hucks; Catherine Flippett; Mariann Croll; Donald Richardson; Sharon Reavis Hyman; Robert Leo Cooper; Jean Marie Jones; Stevie Bryant; Susie Jackson; Harry Grissett; and Mary Lippman.

**HORRY COUNTY COUNCIL**

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Johnny Gardner, Chairman

Jenna L. Dukes, District 1	Bill Howard, District 2
Dennis DiSabato, District 3	Gary Loftus, District 4
Tyler Servant, District 5	Cam Crawford, District 6
Tom Anderson, District 7	Michael Masciarelli, District 8
R. Mark Causey, District 9	Danny Hardee, District 10
Al Allen, District 11	

Attest:

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Patricia S. Hartley, Clerk to Council

COUNTY OF HORRY                 )  
  )  
STATE OF SOUTH CAROLINA)

ORDINANCE 137-2022

**AN ORDINANCE TO AMEND SECTION 17.46 OF DIVISION 2 OF ARTICLE III OF CHAPTER 17.7 OF THE HORRY COUNTY CODE OF ORDINANCES PERTAINING TO FLOOD PREVENTION/GRADING REQUIREMENTS.**

**WHEREAS**, Horry County seeks to regulate the amount of fill utilized on residential lots in Horry County; and,

**WHEREAS**, current ordinances do not provide for specific requirements associated with lot fill; and,

**WHEREAS**, it is the desire of County Council to establish general provisions regarding lot fill in residential lots.

**NOW THEREFORE**, by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

1. **Amendment of SECTION 17.46 OF DIVISION 2 OF ARTICLE III OF CHAPTER 17.7 of the Horry County Code of Ordinances is amended as follows.** Additions in **bold & underline** text and deletions in ~~strike through~~:

Sec. 17.7-46. – Scope of plans

*Flood prevention/grading requirements.*

- (7) Lots shall not be graded more than fifteen (15 ft.) feet from the foundation of the building footprint on the rear and sides. Any additional fill added within the fifteen (15 ft.) shall not exceed a slope of 5:1. Additionally, any fill within the side or rear setback shall not exceed a 12:1 slope. For minor subdivisions this provision is applicable only to perimeter lots when a drainage and grading plan is submitted for all lots within the minor subdivision. **This requirement pertains to grading activities for minor subdivisions, individual residential lots, and lots within an existing Major Subdivision that does not have an approved grading and drainage plan.** This provision does not apply to lots with no fill within the setback and where the foundation is more than 50 feet from the property line.
2. **Severability**: If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section, or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
3. **Conflict with Preceding Ordinances**: If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section, or part shall be deemed repealed and no longer in effect.
4. **Effective Date**: This Ordinance shall become effective upon third reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED.** this 24th day of January, 2023.

## **HORRY COUNTY COUNCIL**

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Johnny Gardner, Chairman

Jenna L. Dukes, District 1	Bill Howard, District 2
Dennis DiSabato, District 3	Gary Loftus, District 4
Tyler Servant, District 5	Cam Crawford, District 6
Tom Anderson, District 7	Michael Masciarelli, District 8
R. Mark Causey, District 9	Danny Hardee, District 10
Al Allen, District 11	

Attest:

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Patricia S. Hartley, Clerk to Council



COUNTY OF HORRY )  
 )  
STATE OF SOUTH CAROLINA )

**ORDINANCE 138-2022**

**AN ORDINANCE TO ADD THE ST. PETER MISSIONARY BAPTIST CHURCH AND SALEM A. M. E. CHURCH TO THE HORRY COUNTY HISTORIC PROPERTY REGISTER.**

**WHEREAS**, Horry County has recognized the need to preserve the County's local heritage as an irreplaceable asset thru the creation of a list of historically designated individual properties, sites and landmarks; and,

**WHEREAS**, The St. Peter Missionary Baptist Church was founded in 1913 and the church structure dates to 1942 when church members built a block church in six weeks; and

**WHEREAS**, The first Salem A. M. E. Church was built in 1906 and rebuilt in 1958. The building fits into an established tradition of African American churches designed using Romanesque, Norman or Gothic Revival styles which were very different from the Neoclassical and Georgian styles predominant in antebellum Southern Churches; and

**NOW THEREFORE**, by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that;

St. Peter Missionary Church and the Salem A. M. E. Church be added to the Horry County Historic Property Register.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this 24th day of January, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

Jenna L. Dukes, District 1  
Dennis DiSabato, District 3  
Tyler Servant, District 5  
Tom Anderson, District 7  
R. Mark Causey, District 9  
Al Allen, District 11

Bill Howard, District 2  
Gary Loftus, District 4  
Cam Crawford, District 6  
Michael Masciarelli, District 8  
Danny Hardee, District 10

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: December 13, 2022  
Second Reading: January 10, 2023  
Third Reading: January 24, 2023



County Council Decision Memorandum  
Horry County, South Carolina

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Date: November 16, 2022  
From: Planning and Zoning  
Division: Infrastructure & Regulation  
Prepared By: Lou Conklin, Senior Planner  
Cleared By: Charles Suggs, Deputy Director  
Regarding: Horry County Historic Property Register

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**ISSUE:**

Should Horry County Council add the following properties to the Horry County Historic Property Register?

1. St. Peter Missionary Baptist Church, PIN# 456-14-04-0028
2. Salem A.M.E. Church, PIN# 451-02-04-0009

**PROPOSED ACTION:**

Add the referenced historic properties to the Historic Property Register.

**RECOMMENDATION:**

The Historic Preservation Commission recommended approval at their October 18, 2022 meeting.

**BACKGROUND:**

Horry County has recognized the need to preserve the County's local heritage as an irreplaceable asset through the creation of a list of designated individual properties, sites and landmarks, known as the Horry County Historic Property Register.

Horry County has established the prerequisites for a property to be added to the Register, those being, the Property:

- a. Has significant inherent character, interest, history, or value as part of the community or heritage of the community, state or nation; or
- b. Is the site of an event significant in history; or
- c. Is associated with a person or persons who contributed significantly to the culture and development of the community, state or nation; or
- d. Exemplifies the cultural, political, economic, social, ethnic or historic heritage of the community, state or nation; or
- e. Individually, or as a collection of resources, embodies distinguishing characteristics of a type, style, period or specimen in architecture or engineering; or
- f. Is the work of a designer whose work has influenced significantly the development of the community, state or nation; or
- g. Contains elements of design, detail, materials or craftsmanship which represent a significant innovation; or
- h. Is part of or related to a square or other distinctive element of community planning; or



- i. Represents an established and familiar visual feature of the neighborhood or community;  
or
- j. Has yielded, or may be likely to yield, information important in pre-history or history; or
- k. As allowed by the National Park Service standards for culturally significant properties.

The Horry County Historic Preservation Commission has been charged with the responsibility of identifying and recommending to County Council the addition of properties meeting the above standards to the Horry County Historic Property Register.

**ANALYSIS:**

After conducting a Public Hearing, the Historic Preservation Commission has unanimously determined that St. Peter Missionary Baptist Church and Salem A.M.E. Church meet the requirements of Section 1706.1 of the Horry County Zoning Ordinance, *Criteria for Historic Designation*. Each of the proposed sites is a minimum of fifty (50) years old, in addition to meeting other standards. The Historic Preservation Commission recommends adding the referenced properties to the Horry County Historic Property Register.



COUNTY OF HORRY )  
 )  
STATE OF SOUTH CAROLINA )

ORDINANCE 139-2022

**AN ORDINANCE TO AMEND APPENDIX B, ZONING ORDINANCE OF THE HORRY COUNTY CODE OF ORDINANCES PERTAINING TO PARKING & MANEUVERING ROOM.**

**WHEREAS**, Horry County seeks to allow appropriate parking & maneuvering room for all zoning districts and uses; and,

**WHEREAS**, current ordinances do not provide for specific requirements associated with individual, single-family driveways and maneuvering room; and,

**WHEREAS**, it is the desire of County Council to establish general provisions regarding individual, single-family driveways and maneuvering room, allowing for safe ingress and egress of vehicular traffic.

**NOW THEREFORE**, by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

1. **Amendment of Appendix B, Zoning Ordinance, Article VII of the Horry County Code of Ordinances is amended as follows.** Additions in **bold & underline** text and deletions in ~~strikethrough~~:

ARTICLE VII. - PARKING REGULATIONS

Section 701 – General Provisions

(F) MANEUVERING ROOM.

Maneuvering space for off-street parking shall be located on the lot upon which parking is provided. Individual driveways ~~to single family units shall be exempt.~~ **for single-family residential units on an existing public paved road shall include sufficient turnaround space (min. 10' x 10') of similar material to eliminate backing onto the roadway. Individual driveways to single family residential units within a major residential subdivision shall be exempt.**

2. **Severability**: If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section, or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
3. **Conflict with Preceding Ordinances**: If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section, or part shall be deemed repealed and no longer in effect.
4. **Effective Date**: This Ordinance shall become effective upon third reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this 24th day of January, 2023.



HORRY COUNTY COUNCIL

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Johnny Gardner, Chairman

Jenna L. Dukes, District 1  
Dennis DiSabato, District 3  
Tyler Servant, District 5  
Tom Anderson, District 7  
R. Mark Causey, District 9  
Al Allen, District 11

Bill Howard, District 2  
Gary Loftus, District 4  
Cam Crawford, District 6  
Michael Masciarelli, District 8  
Danny Hardee, District 10

Attest:

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Patricia S. Hartley, Clerk to Council

First Reading: December 13, 2022

Second Reading: January 10, 2023

Third Reading: January 24, 2023



County Council Decision Memorandum  
Horry County, South Carolina

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Date: 11/16/2022  
From: Planning and Zoning  
Division: Infrastructure and Regulation  
Prepared By: Charles Suggs, Deputy Director  
Cleared By: David Jordan, Director  
Regarding: Parking & Maneuvering Room- Single Family Residential

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**ISSUE:**

Should Horry County amend Appendix B of the Horry County Code of Ordinances pertaining to parking and maneuvering standards for individual, single-family lots of record?

**PROPOSED ACTION:**

Approve the proposed amendment.

**RECOMMENDATION:**

Staff recommends approval.

**BACKGROUND:**

Currently, parking spaces are required at a rate of 2 spaces per single-family structure. However, current ordinances do not identify specific requirements for individual, single-family driveways and associated maneuvering room. In an attempt to establish general provisions for safe ingress and egress of vehicular traffic regarding individual, single-family driveways and maneuvering room, staff recommends the following language be added to the current Code of Ordinances.

**ANALYSIS:**

ARTICLE VII. - PARKING REGULATIONS

Section 701 – General Provisions

(F) MANEUVERING ROOM.

Maneuvering space for off-street parking shall be located on the lot upon which parking is provided. Individual driveways ~~to single-family units shall be exempt.~~ **for single-family residential units on an existing public paved road shall include sufficient turnaround space (min. 10' x 10') of similar material to eliminate backing onto the roadway. Individual driveways to single family residential units within a major residential subdivision shall be exempt.**



COUNTY OF HORRY )  
STATE OF SOUTH CAROLINA )

**ORDINANCE 147-2022**

**AN ORDINANCE APPROVING AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE LEASE AGREEMENTS WITH UNITED COMMUNITY BANK OF CERTAIN REAL PROPERTY LOCATED IN CONWAY, SOUTH CAROLINA.**

**WHEREAS**, Horry County Council is empowered by section 4-9-30(2) of the South Carolina Code of Laws "to lease, sell, or otherwise dispose of real and personal property", and by Section 4-9-30(14) to enact ordinances for the implementation and exercise of that power; and

**WHEREAS**, in order to sell real property to Horry County, United Community Bank has requested that the County enter into leases allowing the bank to retain certain limited uses of the property for limited times; and

**WHEREAS**, County Council is of the opinion that such lease arrangements are consistent with the value and use of the property, and will benefit the County by providing reasonable return and fair value and otherwise provide a beneficial use of the subject property.

**NOW, THEREFORE**, by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, the following hereby is ordained and enacted:

**1. AUTHORIZATION:** The Horry County Administrator, for and on behalf of Horry County, is hereby authorized and directed to engage in lease negotiations with United Community Bank in the best interest of the County, and to execute Lease Agreements substantially similar to those attached hereto and incorporated herein by reference, subject to any requisite approvals by any agency having authority over the subject matter and terms of the Lease Agreement or the property in question.

**2. SEVERABILITY.** If any Section, Subsection, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.

**3. CONFLICT WITH PRECEDING ORDINANCES.** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, unless expressly so providing, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.

**4. EFFECTIVE DATE.** This Ordinance shall become effective on Third Reading.



**AND IT IS SO ORDAINED, ENACTED AND ORDERED.**

Dated this 24th day of January, 2023.

**HORRY COUNTY COUNCIL**

---

Johnny Gardner, Chairman

Jenna L. Dukes, District 1  
Bill Howard, District 2  
Dennis DiSabato, District 3  
Gary Loftus, District 4  
Tyler Servant, District 5  
Cam Crawford, District 6

Tom Anderson, District 7  
Michael Masciarelli, District 8  
R. Mark Causey, District 9  
Danny Hardee, District 10  
Al Allen, District 11

Attest:

---

Patricia S. Hartley, Clerk to Council

First Reading: December 13, 2022  
Second Reading: January 10, 2023  
Third Reading: January 24, 2023



# Decision Memorandum

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Date: November 30, 2022  
Prepared by: H. Randolph Haldi, Deputy County Attorney/Property Manager  
Re: Lease of real property to United Community Bank

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## **ISSUE:**

Horry County is looking to acquire additional office space in close proximity to the existing Government and Justice Center and the historic courthouse, and has negotiated with United Community Bank for purchase of the real property located at 1300 Second Avenue. As part of those negotiations, United Community Bank requires that it be able to retain a leasehold interest regarding certain aspects of the drive-thru facility.

## **DISCUSSION:**

United Community Bank is an owner of commercial office space located at 1300 Second Avenue in Conway, South Carolina. Horry County is in need of additional office space centrally located to its existing facilities at the Government and Justice Center and the historic courthouse. United Community Bank currently uses the drive-thru portion of the 1300 Second Avenue property as a local branch, but is willing to sell its interest to Horry County.

Due to federal regulations concerning the notice required to be given to existing bank customers prior to the closing of a branch, United Community Bank needs to retain operation of the drive-thru location for 120 days post-closing. Further, United Community Bank has recently installed an Interactive Teller Machine ("ITM") at the location, and desires to leave that in place for a period of time in order to realize the return on its investment.

Staff has reviewed these requests and determined that they will not impair the County's ability to utilize the property for the County's current needs. Staff has reviewed the terms of the proposed leases (short term lease for entire drive-thru facility, and longer term lease for the ITM), and feels that the terms proffered are generally agreeable to the County, are consistent with the value and use of the property, will not conflict with other operations of the County, and will benefit the citizens of Horry County.

## **RECOMMENDATION:**

Staff recommends that Horry County Council enact the attached proposed Ordinance authorizing the Administrator to engage in lease negotiations with United Community Bank in the best interest of the County, and to execute Lease Agreements substantially similar to those attached to the proposed Ordinance.



## LEASE AGREEMENT

This Lease Agreement (this "**Lease**") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2022 (the "**Effective Date**"), by and between **UNITED COMMUNITY BANK** ("**Lessee**"), and **HORRY COUNTY**, a Body Politic ("**Lessor**").

**Witnesseth:**

**Article One:**  
Premises

Lessor hereby leases unto Lessee and Lessee does hereby accept and rent from Lessor, that certain improved real property containing approximately 0.47 acres consisting of two parcels lying between Second Avenue and Third Avenue in the City of Conway, Horry County, South Carolina, bearing TMS Nos. 137-06-14-004 and 137-06-14-005 (the "**Leased Premises**").

**Article Two:**  
Use of Premises

Operation of a limited bank branch currently located and operating on the Leased Premises, which includes an ITM (as defined below) (the "**Bank Branch**") for Lessee's customers, agents, employees, guests and invitees and such uses as are incidental thereto.

**Article Three:**  
Term

Lessee is to have and to hold the Leased Premises, together with all rights, privileges and easements thereunto belonging or in any way appertaining for a term commencing on the Effective Date hereof and ending on the date that is one hundred twenty (120) days after the Effective Date (the "**Term**").

**Article Four:**  
Rental

**4.1 Rent.** Rent for the Term shall be TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$2,500.00) (the "**Rent**") to be paid to Lessor by Lessee simultaneously with Lessee's execution and delivery of this Lease.

**4.2 Place of Payment.** All payments due hereunder from Lessee shall be made to Lessor at 1301 Second Ave., Conway, SC 29526, Attn: H. Randolph Haldi, Property Manager, unless and until Lessee is notified in writing otherwise by Lessor.

**Article Five:**  
Quiet Possession

Except as otherwise provided herein, Lessor covenants and warrants that if Lessee discharges the obligations herein set forth to be performed by Lessee, Lessee shall have and enjoy



during the Term the quiet and undisturbed possession of the Leased Premises, without hindrance from Lessor.

**Article Six:**  
Protected Items

Lessee's personal property shall include the interactive teller machine, and related container, equipment and connections (together for convenience herein called an "**ITM**") and all cash and securities, computer servers, software, intellectual property, security equipment and property which could reasonably be expected to contain customer information and which may be subject to federal regulations as to ownership, possession, storage, disposal and handling (collectively, the "**Protected Items**"). Ownership of the Protected Items shall at all times be and remain vested in Lessee. The ITM shall not under any circumstances constitute, be or be deemed to be fixtures annexed to Lessor's property, and such ITM shall at all times be and remain free and clear of any claims, liens, or encumbrances created by Lessor. Lessor hereby waives any lien it has against Lessee, the Protected Items and any other Lessee's property on the Leased Premises.

**Article Seven:**  
Insurance

Lessee shall be responsible to insure the Protected Items and any and all of its other personal property stored at the Leased Premises. Additionally, Lessee at all times during the Term shall, at its own expense, keep in full force and effect comprehensive general liability insurance with minimum limits of \$1,000,000.00 on account of bodily injuries to, or death of, one or more than one person as the result of any one accident or occurrence and \$500,000.00 on account of damage to property, in form and content, and written by insurers acceptable to Lessor in its reasonable discretion; provided that Lessee may self-insure so long as its net worth exceeds \$20,000,000.00.

**Article Eight:**  
Alterations, Improvements and Utilities

**8.1 Maintenance.** Lessee shall have the right to maintain the Bank Branch and all Protected Items. It is agreed that any removable Protected Items are not and shall not be considered a part of the realty, but will at all times remain the personal property of Lessee. Lessee may, from time to time, make such alterations and repairs to the Bank Branch and Protected Items as Lessee deems necessary or desirable in connection with its use of the Leased Premises.

**8.2 Signs.** Lessee may maintain the signs advertising its business or services provided on the Leased Premises in effect on the Effective Date.

**8.3 Utilities.** Lessor shall provide electricity to the Leased Premises by means of wiring installations in existence at the time of delivery and will make available such electrical fixtures, appliances and equipment existing on the Leased Premises in working condition without charge. Any future installation of electrical fixtures, appliances and equipment within the Leased Premises shall be subject to Lessor's prior written approval, and Lessee further agrees that its use of electrical current shall not at any time exceed the capacity of the wiring installation in place.



Lessor, at its sole expense, shall provide to the Leased Premises, electricity sufficient for Lessee's normal business operations.

**Article Nine:**  
Indemnification

Lessee agrees to indemnify, defend and hold harmless Lessor from and against any and all liability, expense, or damage resulting from a claim of personal injury, death or property damage, to the extent caused by the gross negligence or willful misconduct of Lessee or Lessee's employees, agents or contractors; provided, however, in no event shall Lessee be liable for consequential, indirect or punitive damages, including, but not limited to, lost profits, loss of use and/or loss or diminution of value.

**Article Ten:**  
Default

**10.1 Default.** Every provision of this Lease is a condition and covenant on the part of Lessee; and Lessee's failure to comply with any of said provisions shall constitute default and shall give Lessor the right to pursue any and all remedies available at law or in equity.

**10.2 Removal.** Notwithstanding any contrary provisions in this Lease, Lessee shall have the right at any time (whether before or after any default or event of default or the exercise of any remedy of Lessor or any termination of this Lease) to enter the Leased Premises and remove the ITM, Protected Property, and any other property of Lessee. Lessee shall repair all material damage caused by such removal.

**Article Eleven:**  
Economic Sanctions Compliance

Lessor represents that neither Lessor nor any of its subsidiaries or, to the knowledge of Lessor, any director, officer, employee, agent, affiliate or representative of Lessor, is an individual or entity ("**Person**") currently the subject of any sanctions administered or enforced by the United States Department of Treasury's Office of Foreign Assets Control ("**OFAC**"), or other relevant sanctions authority (collectively, "**Sanctions**"), nor is Lessor located, organized or resident in a country or territory that is the subject of Sanctions; and Lessor represents and covenants that it has not knowingly engaged in, is not now knowingly engaged in, and shall not engage in, any dealings or transactions with any Person, or in any country or territory, that is the subject of Sanctions.

**Article Twelve:**  
Notice

All notices, demands or communications of any kind which may be required of Lessor or Lessee shall be in writing and be given, served, or delivered either in person, by first-class, certified mail, return receipt requested or by Federal Express (or other nationally recognized overnight carrier) with postage or delivery charge prepaid, addressed to the parties as set forth below. Any such notice, demand, or communication so sent shall be deemed given at the time that it was placed in the U.S. mails or with the overnight courier, and any other notice shall be deemed given when



delivered.

**Lessor:**

Horry County  
1301 Second Avenue  
Conway, SC 29526  
Attn: County Administrator

**With a copy to:**

Horry County Attorney's Office  
1301 Second Avenue  
Conway, SC 29526

**Lessee:**

United Community Bank  
PO Box 398  
Blairsville, GA 30514  
Attn: Accounts Payable

**With a copy to:** [legalsupport@ucbi.com](mailto:legalsupport@ucbi.com)

**With a copy to:**

Haynsworth Sinkler Boyd, P.A.  
Attn: James H. Suddeth III, Esq.  
134 Meeting Street, Third Floor  
Charleston, South Carolina 29401  
Email: [jsuddeth@hsblawfirm.com](mailto:jsuddeth@hsblawfirm.com)

**Article Thirteen:**

Miscellaneous

**13.1 Generally.** Lessor does not in any way or for any purpose become a partner of Lessee in the conduct of its business or otherwise or a joint venture with Lessee. This Lease shall be governed exclusively under the provisions hereof and by the laws of South Carolina, without regard to conflict of laws principles. Construction of this Lease shall be according to the content hereof, and without presumption or standard of construction in favor of or against either party hereto.

**13.2 Lighting Standards.** Lessor acknowledges that Lessee, because it is a bank, requires certain security measures which include appropriate lighting of the Leased Premises. Lessee shall have the right to install and maintain any necessary lighting to comply with the



requirements of any applicable laws or regulations, or with Lessee's applicable security standards (the "**Lighting Standards**"); provided, however, any new light poles to be installed upon the Leased Premises shall be in a location reasonably approved by Lessor and shall reasonably match any existing light poles upon the Leased Premises. In the event Lessee is unable to obtain, or maintain throughout the term of the Lease, adequate lighting to meet Lessee's Lighting Standards, Lessee shall have the right to terminate this Lease by providing no less than fifteen (15) days written notice to Lessor.

**13.3 Headings.** The headings used herein for each paragraph are used only for convenience and are not intended to explain the nature or contents of each paragraph.

**13.4 No Estate in Land.** This Lease shall create only the relationship of Lessor and Lessee between the parties. No estate shall pass out of Lessor; and Lessee has only a usufruct, not subject to levy and sale.

**13.5 Title to Improvements.** Lessee shall take no interest in the title to the Leased Premises as a result hereof, except as expressly provided herein. This Lease shall not be recorded in the public records.

**13.6 Modification.** This Lease may not be modified, amended or terminated except pursuant to a written instrument duly executed by the parties hereto, or their successors-in-interest.

**13.7 Attorney's Fees.** If there is any litigation arising out of this Lease, each party shall be responsible for its own attorneys' fees and costs in such litigation.

**13.8 Entire Agreement.** This Lease contains the entire agreement of the parties and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. All prior discussions have been merged into this Lease. All rights, powers and privileges conferred hereunder upon the parties hereto shall be cumulative but not restrictive to those given by law. Time is of the essence of this Lease.

**\*\*\*Remainder of Page Intentionally Left Blank\*\*\***

[Signatures on the Following Page]



**IN WITNESS WHEREOF**, the parties have caused this Lease to be executed effective as of the Effective Date.

**LESSEE:**

**UNITED COMMUNITY BANK**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**LESSOR:**

**HORRY COUNTY,**

a Body Politic

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_



STATE OF SOUTH CAROLINA )  
 )  
 ) INTERACTIVE TELLER MACHINE (ITM)  
COUNTY OF HORRY )  
 ) LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter called "***Agreement***") made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022 by and between HORRY COUNTY, a political subdivision of the State of South Carolina (hereinafter called "***County***"), and UNITED COMMUNITY BANK, a South Carolina state-chartered bank (hereinafter called "***Tenant***").

**WITNESSETH**

WHEREAS, this Agreement shall be effective one hundred and twenty days after the effective date of that certain Lease Agreement dated \_\_\_\_\_, 2022 by and between the County and the Tenant (the “**Short Term Lease**”). For the avoidance of doubt, this Agreement shall commence on \_\_\_\_\_, 2023 (hereinafter the “**Commencement Date**”); and

WHEREAS, County has purchased certain real property located at 1300 Second Avenue, Conway, South Carolina, 29526 consisting of four parcels bearing TMS Nos. 137-06-14-018, 137-06-14-004, 137-06-14-005 and 137-06-14-003 (hereinafter the “**Property**”); and

WHEREAS, prior to the County's purchase of the Property, an Interactive Teller Machine (hereinafter "**ITM**") was placed upon a portion of the Property by Tenant; and

WHEREAS, pursuant to the Short Term Lease, the County leased TMS Nos. 137-06-14-004 and 137-06-14-005 to Tenant; and

WHEREAS, Tenant desires to continue operating the ITM on that portion of the Property consisting of TMS No. 137-06-14-005.

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and conditions contained in this Agreement, County does hereby lease unto Tenant, and Tenant does hereby accept and rent from County, that certain improved real property bearing TMS No. 137-06-14-005 (the “**Premises**”) as follows:

## ARTICLE I PREMISES

- 1.01 Location and condition of Premises. Tenant shall occupy and operate the ITM from its currently existing location on the outer lane of the drive-thru facility on the Premises and Tenant accepts the condition of the Premises in its as-is condition. Tenant may not hereafter make noticeable changes to the appearance thereof without the prior written approval of the County, it being the intent of this provision that the appearance of the Premises not detract from the overall appearance of the Property. Tenant may install its own equipment and fixtures necessary for the conduct of Tenant's services at the Premises, subject to the prior approval of the County, which shall not be unreasonably withheld, conditioned, or delayed.



1.02 Furnishings, Fixtures and Equipment. Tenant shall provide for its own use and at its own expense all materials, supplies, fixtures, and equipment necessary for the efficient operation of the business herein authorized.

1.03 Utilities.

- (a) County shall provide electricity to the Premises by means of wiring installations in existence at the time of delivery and will make available such electrical fixtures, appliances and equipment existing on the Premises in working condition without charge. All installation of electrical fixtures, appliances and equipment within the Premises shall be subject to County's prior written approval, and Tenant further agrees that its use of electrical current shall not at any time exceed the capacity of the wiring installation in place.
- (b) County shall provide to the Premises, electricity sufficient for normal business operations (which shall be contiguous provided 24/7/365 days per year) at County's expense.
- (c) In all instances of any damage to any utility service line caused by Tenant, its employees, contractors, suppliers, or agents, Tenant shall be responsible for the cost of the repairs.
- (d) Should the installation of any equipment by Tenant require a modification to the building's electrical or heating systems or the relocation or installation of any electrical outlet or the use of electrical power other than that provided through the standard existing electrical outlets, the cost of such modification, installation or relocation shall be borne entirely by Tenant.

1.07 County's Right to Enter and Inspect. The County shall have the right upon reasonable prior notice to Tenant to enter any part of the Premises at reasonable or necessary times for the purposes of inspection, protection or exercising any rights under this Agreement. Notwithstanding the foregoing, the County shall not enter, tamper with, or inspect the ITM or any cash and securities, computer servers, software, intellectual property, security equipment and property which could reasonably be expected to contain customer information and which may be subject to federal regulations as to ownership, possession, storage, disposal and handling (collectively, the "**Protected Items**").

1.08 Title to Improvements.

- (a) Ownership of the Protected Items shall at all times be and remain vested in Tenant. The ITM shall not under any circumstances constitute, be or be deemed to be fixtures annexed to County's property, and such ITM shall at all times be and remain free and clear of any claims, liens, or encumbrances created by County. County hereby waives any lien it has against Tenant, the Protected Items and any other Tenant's property on the Premises. Notwithstanding the foregoing, Tenant shall take no interest in the title to the Premises. Upon expiration or earlier termination of this Agreement, County may require Tenant to remove any other improvements made by Tenant, if any, without damage to any remaining improvements or the Premises and return the Premises to County in the same condition that the same were delivered to Tenant, reasonable wear and tear excepted. Such removal and restoration shall be made at the sole cost and expense of Tenant.
- (b) Title to all materials and supplies and all personal property supplied by Tenant, including the Protected Items, shall at all times during the term, or any extension thereof, remain that of Tenant. Upon expiration or earlier termination of this Agreement all such items shall be



removed from the Premises and the Premises restored to the satisfaction of the County, normal wear and tear excepted. Said removal and restoration shall be at the sole cost and expense of Tenant.

## **ARTICLE II**

### **TERM AND COMMENCEMENT DATE**

- 2.01 Term; Commencement Date. The term of this Agreement shall be five (5) years. The term shall commence on the Commencement Date and shall end at midnight on \_\_\_\_\_, unless sooner terminated by operation of any clause herein contained. At the option of Tenant, this Agreement may be extended for a period of two (2) additional terms, each for a period of two (2) years.
- 2.02 Holding Over. At the discretion of the County, Tenant may hold over on a month-to-month basis upon termination of the Agreement. Such holding over, however, shall not be construed to renew this Agreement for any further term, but may be terminated by County or Tenant at any time for any reason upon thirty (30) days advance written notice to the other. All other terms and conditions contained herein shall remain in full force and effect during any such hold over tenancy, with the same financial conditions as for the previous year at the time of initial holdover remaining in effect throughout.

## **ARTICLE III**

### **RIGHTS GRANTED**

- 3.01 Rights Granted. County hereby grants to Tenant the following rights, uses, privileges and obligations in connection with its use of the Premises:
- (a) The exclusive right, privilege and obligation to conduct and operate ITM services at the Premises.
  - (b) The non-exclusive right (which shall extend to Tenant's employees, patrons, guests and invitees), in common with others, to use the public portions of the Property and appurtenances thereto.
  - (c) The right to maintain any identification signs on and in the Premises in effect on the Effective Date.
  - (d) The right to install new identification signs on and in the Premises, subject to prior written approval of the County.
  - (e) The right to install and maintain any necessary lighting or security equipment to comply with the requirements of any applicable laws or regulations, or with Tenant's applicable security standards (the "***Security Standards***"); provided, however, any new light poles to be installed upon the Premises shall be in a location reasonably approved by County and shall reasonably match any existing light poles upon the Premises. In the event Tenant is unable to obtain, or maintain throughout the term of the Agreement, adequate lighting or security equipment to meet Tenant's Security Standards, Tenant shall have the right to terminate this Lease by providing no less than thirty (30) days written notice to County.



- 3.02 Restrictions on Use. Each right granted to Tenant hereunder and each area constituting a part of the Premises shall be exercised and used solely and exclusively for the purposes of and in connection with the operation of an ITM and such uses as are incidental thereto and for no other purposes or activity whatsoever.

#### **ARTICLE IV** **FEES AND CHARGES**

- 4.01 Rent and Charges. Tenant's obligation to pay rent shall begin on the Commencement Date. Tenant shall pay rent in monthly installments, payable on or before the first (1st) day of each calendar month, in the amount of One Thousand and No/100 Dollars (\$1,000.00). The County shall be entitled to assess a late payment fee of one and one-half (1.5%) percent per month or fraction thereof for any amounts that are past due under this Agreement.
- 4.02 Additional Fees and Charge. If, after thirty (30) days' written notice to Tenant, County has paid any sum or sums or has incurred any obligation or expense for which Tenant has agreed in writing to pay or reimburse County, or if County is required or elects to pay any sum or sums or insure any obligations or expense by reason of the failure, neglect, or refusal of Tenant to perform or fulfill any one or more of the conditions, covenants and undertakings contained in this Agreement, Tenant agrees to pay such sums or expenses, including all interest, costs, damages and penalties, and agrees that the same shall be added to the next installment of fees due hereunder, and each and every part of the same shall be and become additional fees and charges, recoverable by the County in the same manner and with like remedies as if originally a part of the basic fees and charges set forth in Section 4.01 hereof.
- 4.03 Licenses, Fees and Taxes. Tenant shall not be responsible for any taxes or assessments premised upon the value of the Premises. Tenant shall be responsible for any fees or taxes for the personal property, business licenses, or transactional fees or taxes imposed by virtue of the operation of the ITM.

#### **ARTICLE V** **MAINTENANCE, ALTERATIONS, REPAIRS AND UPKEEP**

- 5.01 Maintenance of the Premises.
- (a) Excepting the Protected Items, the County shall be responsible for the structural maintenance, repair and upkeep of the Premises.
  - (b) Upon reasonable notice to Tenant the County may at any reasonable times enter the Premises to determine if satisfactory maintenance is being performed. Notwithstanding the foregoing, County shall not enter, tamper with, or inspect the Protected Items. If County determines that maintenance is not satisfactory, County may notify Tenant in writing. If said maintenance is not performed by Tenant within fifteen (15) days after written notice, County or its agents shall have the right to enter upon the Premises and perform the maintenance therefore and Tenant agrees to promptly reimburse County for the direct cost thereof.
  - (c) Notwithstanding the above provision, any hazardous or potentially hazardous condition shall be corrected immediately upon receipt by Tenant of written notice given by County. At County's discretion, Tenant shall close the Premises until such hazardous or potentially hazardous condition is removed.



5.02 Repairs. Tenant agrees to (except for the repairs or work which are the County's responsibility) make all repairs to the Protected Items and will maintain and keep the Premises in good condition, and will surrender and deliver up the Premises at the termination of the Agreement in as good order and condition as the same exists at the commencement of the term of the Agreement, reasonable wear and tear excepted.

5.03 Alterations to Premises. Tenant will make no alterations to the Premises except after first obtaining the County's written consent, such consent not to be unreasonably withheld or delayed. Without limiting the circumstances under which the County may withhold its approval, and by way of example the County shall be justified in withholding approval if:

- (a) Tenant has failed to make adequate plans to insure the Premises will remain free from liens of any nature;
- (b) if any such alterations would interfere with an adequate level of service during the period the alterations were taking place;
- (c) if any such alterations would result in the removal of improvements, ownership of which would vest in the County at the expiration of the term of this Agreement, without replacement by items that would also constitute such improvements of the same scope and quality; and
- (d) if any such alterations would be damaging to either the structural soundness or external appearance of any part of the Property not within the Premises; or if any such alterations would not meet the County's reasonable requirements for the safe use of the Premises or any other part of the Property.

All alterations to the Premises made by Tenant shall be at Tenant's expense, and shall be made in a workmanlike manner without damage to the Premises except such that is repaired or corrected by Tenant. The County shall have the right to review and approve or disapprove in writing the plans and specifications for such alterations.

5.04 Right to Tenant's Property. Tenant shall have the obligation upon the termination of this Agreement to remove all of its personal property, including, but not limited to, the Protected Items; provided, however, that: (1) Tenant shall not be in default hereunder; (2) Tenant, at its sole cost and expense, shall repair or reimburse the County for the cost of repairing any damage which may be caused by such removal; and (3) that such removal and repairs shall have been completed by termination. Except for the Protected Items, upon failure of Tenant to remove its personal property by the date of termination of the Agreement, the County shall have the right to remove such personal property, notwithstanding any security interest therein, and to store it at a location of its choice, and Tenant shall pay to County the cost of such removal and storage; or at the option of the County, any such property remaining after termination of this Agreement shall immediately be and become the property of the County.

## **ARTICLE VI**

### **INDEMNIFICATION AND INSURANCE**

6.01 Indemnification and Hold Harmless. It is an express condition of this Agreement that Tenant shall indemnify, defend and hold Horry County, its elected officials, officers, agents and employees harmless from and against any and all claims, debts, liabilities, losses, costs, damages, expenses (including reasonable attorneys' fees), judgments, penalties, fines, or causes of action of every kind



or character, whether in law or in equity, by reason of any death, injury or damage to any person or persons or damage or destruction of property or loss of use thereof, whether it be the person or property of Tenant, its agents or employees, or of any third persons, from any cause or causes whatsoever arising from any event or occurrence in or upon the Premises or any part thereof, or otherwise arising from Tenant's operations under this Agreement, to the extent caused by the gross negligence or willful misconduct of Tenant or Tenant's employees, agents or contractors; provided, however, in no event shall Tenant be liable for consequential, indirect or punitive damages, including, but not limited to, lost profits, loss of use and/or loss or diminution of value. Tenant's obligations pursuant to the foregoing indemnity agreement shall survive the expiration or termination of the Agreement and shall bind Tenant's successors and assignees and inure to the benefit of County's successors and assignees. Certificates of insurance shall **NAME THE COUNTY AS AN ADDITIONAL INSURED** on all policies.

- 6.02 Environmental Indemnification. Tenant shall also indemnify, defend and hold County, its directors, officers, employees, agents, assigns, and any successors to County's interest in the Premises, harmless from and against any and all loss, cost, damage, expense (including reasonable attorney's fees), claim, cause of action, judgment, penalty, fine or liability, directly or indirectly, relating to or arising from the use, storage, release, discharge, handling, or presence of Hazardous Materials on, under, or about the Premises in violation of Tenant's obligations under this Agreement during the Term of this Agreement and any extensions or renewals thereof. ("**Hazardous Materials Release**"). This indemnification shall include without limitation (a) personal injury claims, (b) the payment of liens, (c) diminution in the value of the Premises or County, (d) damages for the loss or restriction on use of the Premises or the County, (e) sums paid in settlement of claims, (f) actual attorneys' fees, consulting fees, and expert fees, (g) the cost of any investigation of site conditions, and (h) the cost of any repair, cleanup, remedial, removal, or restoration work or detoxification if required by any governmental authorities or deemed necessary in County's reasonable judgment. County shall have the right but not the obligation to join and participate in, and control, if it so elects, any legal proceedings or action initiated in connection with the Hazardous Materials Release. County may also negotiate, defend, approve, and appeal any action taken or issued by any applicable governmental authorities with regard to a Hazardous Materials Release. Any costs or expenses incurred by County for which Tenant is responsible under this Paragraph or for which Tenant has indemnified County: (i) shall be paid to County on demand, during the term of this Agreement as additional rent; and (ii) from and after the expiration or earlier termination of the Agreement shall be reimbursed by Tenant on demand. Tenant's obligations pursuant to the foregoing indemnity agreement shall survive the expiration or termination of the Agreement and shall bind Tenant's successors and assignees and inure to the benefit of County's successors and assignees. Tenant's obligations under this paragraph do not extend to any loss or claim which is caused by County's negligence.
- 6.03 Regulatory Indemnification. Tenant shall also indemnify, defend and hold County, its council members, directors, officers, employees, agents, assigns, and any successors to County's interest in the Premises, harmless from and against any and all loss, cost, damage, expense, claim, cause of action, judgement, penalty, fine or liability, directly or indirectly, relating to or arising from violation by Tenant, its agents, contractors, or anyone affiliated with Tenant of any local, state or federal laws, rules, regulations or ordinances that are or may become applicable to its activities under this Agreement.
- 6.04 Insurance. Tenant agrees to purchase and keep in force and maintain at all times during the term of this Agreement, at its own expense, for the benefit of itself and name the County as additional insured, a policy or policies of insurance, issued by an insurance company of generally recognized responsibility and licensed to do business in the State of South Carolina, all insurance as may be



required under any applicable minimum standards for Horry County airports or as otherwise directed or modified, at County's sole discretion, so as to protect its interest. At a minimum, Tenant shall maintain comprehensive general public liability with policy limits of at least \$1,000,000.00 per occurrence, vehicular liability insurance with policy limits of at least \$1,000,000.00 per occurrence and cyber liability insurance with policy limits of at least \$1,000,000.00. A certificate or certificates evidencing such insurance coverage shall be filed with the County at least thirty (30) calendar days prior to the Commencement Date or at such other times as may be required by the County, and said certificate or certificates shall provide that such insurance coverage will not be canceled, reduced or materially changed without at least thirty (30) calendar days prior written notice to the County. At least thirty (30) calendar days prior to the expiration of any such policy, a certificate showing that such insurance coverage has been renewed or extended shall be filed with the County. If such coverage is canceled, reduced or materially changed, Tenant shall, within fifteen (15) calendar days after written notice from the County of such cancellation, reduction or adverse material change of coverage, file with the County a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies.

- 6.05 Fire and Extended Coverage. The County agrees to maintain in force during the term of this Agreement fire, extended coverage and vandalism/malicious damage insurance on the Premises and any additions, alterations, or modifications thereto.

Tenant shall be responsible for obtaining its own insurance on any contents, furnishings, trade fixtures, equipment and improvements which have not assumed the nature of real estate improvements, including the Protected Items (hereinafter referred to as "*Tenant Insurance*").

- 6.06 Intentionally Omitted.

- 6.07 Intentionally Omitted.

## **ARTICLE VII**

### **DAMAGE OR DESTRUCTION OF PREMISES**

- 7.01 Repair and Rebuilding. In the event of damage or casualty to any part of the Premises, unless a decision is made by the County that the Premises will not continue to be used, any such damage or destruction shall be repaired with reasonable dispatch by the parties in cooperation with each other, but with the County in charge. Both parties shall apply all insurance proceeds received by them as a result of any such damage or destruction under the provisions of Section 6.04 to such repair and rebuilding. Should the cost of such repair or rebuilding exceed the amount of such insurance proceeds, the County shall pay the excess cost. Should the County decide that the Premises will no longer be used, all insurance proceeds paid to the County under Section 6.04 with respect to insurance purchased by, and property or improvements originally provided or paid for by County, shall belong to County, and all additional insurance proceeds with respect to insurance purchased by Tenant shall belong to Tenant.
- 7.02 Exception for Fault of Tenant. Notwithstanding the provisions of Section 9.01, if the Premises, or any part thereof, are damaged by the intentional or negligent act or omission of Tenant, its sub-Tenants, their agents or employees, the cost of such repair and replacement shall be paid by Tenant either out of Tenant's insurance proceeds or otherwise.

## **ARTICLE VIII**

### **ASSIGNMENT AND SUBLETTING**



- 8.01 Assignment and Subletting. Tenant shall neither assign nor transfer this Agreement or any right or interest granted to it by this Agreement without the prior written consent of the County, which shall not be unreasonably withheld, conditioned, or delayed. When in the best interest of the County, a successor in interest may be recognized in a novation agreement in which Tenant and the transferee shall agree that the transferee assumes all of the transferor's obligation, Tenant waives all rights under the contract as against the County, and unless Tenant guarantees performance of the contract by the transferee, the transferee shall furnish a satisfactory performance bond.

## **ARTICLE IX**

### **DEFAULT BY TENANT**

- 9.01 Event of Default. The happening of any one or more of the following listed events and the expiration of any notice and cure periods herein provided (which events, upon such expiration, are hereinafter referred to singularly as "event of default" and plurally as "events of default") shall constitute a breach of this Agreement on the part of Tenant, namely:
- (a) The filing by, on behalf of, or against Tenant of any petition or pleading to declare Tenant a bankrupt, voluntary or involuntary, under any bankruptcy act or law;
  - (b) The commencement in any court or tribunal of any proceeding, voluntary or involuntary, to declare Tenant insolvent or unable to pay its debts;
  - (c) The failure of Tenant to pay any rent or any other amount payable under this Agreement within ten (10) days after written notice by the County that the same is due and payable;
  - (d) The failure in any material respect of Tenant to perform, fully and promptly, any act required of it under the terms of this Agreement (unless specified otherwise within), or otherwise to comply with any term or provision hereof within the shorter of: (i) the time specifically required; or (ii) thirty (30) days after written notice by the County to Tenant to do so, unless such default cannot be cured within such period and Tenant has in good faith commenced and is prosecuting the cure thereof, in which case Tenant shall have a reasonable extension of such period in order to cure such default;
  - (e) The appointment by any court or under any law of a receiver, trustee, or other custodian of the property, assets or business of Tenant;
  - (f) The assignment by Tenant of all or any part of its property or assets for the benefit of creditors.
- 9.02 Waiver. No waiver by the County of default by Tenant of any of the terms, covenants, or conditions performed and preserved by Tenant shall be construed to be a waiver of any subsequent default. The acceptance of rental or the performance of all or part of this Agreement by the County for or during any period or periods after default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by Tenant, shall not be deemed a waiver of any right on the part of the County to declare a default or cancel this Agreement for a subsequent breach thereof.
- 9.03 Effect of Default by Tenant/Termination. Upon the happening of any event of default as defined in Section 9.01 above and Tenant's failure to cure such default in the manner set forth in said Section, the County shall have the right to terminate the term of this Agreement by written notice



to Tenant, which termination shall be effective as of the date of said notice. Upon any termination of the Agreement, whether by lapse of time or otherwise, Tenant shall promptly cease operating the ITM or otherwise occupying the Premises and shall deliver possession of the Premises. Tenant hereby grants to the County full and free license to enter into and upon the Premises in such event and with or without process to expel or remove Tenant and any others who may be occupying the Premises and to remove therefrom any and all property, using for such purpose such force as may be necessary without being guilty or liable for trespass, eviction, or forcible entry and detainer and without relinquishing the County's right to rent or any other right given to the County hereunder or by operation by law. Notwithstanding the foregoing, upon any termination of the Agreement, Tenant shall have the right to remove all personal property, including the Protected Items.

## **ARTICLE X**

### **TERMINATION BY CANCELLATION AND DEFAULT BY COUNTY**

10.01 Right of Tenant to Terminate by Cancellation. Tenant may terminate this Agreement and cancel all of its obligations hereunder at any time Tenant is not in default in the payment of rentals, fees or charges payable to the County hereunder ninety (90) days after giving written notice to County upon or after the happening of any one of the following events:

- (a) Tenant's inability to use the Premises for a period in excess of sixty (60) days, because of the issuance of any order, rule or regulation by the United States or any instrumentality thereof preventing Tenant from operating at the Premises for cause or causes not constituting a default under this Agreement;
- (b) The default by County in the performance of any covenant or agreement herein required to be performed by it and the failure of County to remedy such default for a period of sixty (60) days after receipt from Tenant of written notice to remedy the same, unless such default cannot be cured within such (60) day period and the County has in good faith commenced and is prosecuting the cure thereof, in which case the County shall have a reasonable extension of such period in order to cure such default; provided that no notice of cancellation, as above provided, shall be of any force or effect if the County shall have remedied the default prior to receipt of Tenant's notice of cancellation;
- (c) The assumption by the United States or an instrumentality thereof of the operation, control or use of the Property or any substantial part thereof in such a manner as to substantially restrict Tenant for a period of at least ninety (90) days from operating at the Property.

10.02 Waiver. Tenant's performance of all or any part of this Agreement for or during any period or periods after a default of any of the terms, covenants or conditions hereof to be performed, kept or observed by the County, or the occurrence of such other event as may excuse performance shall not be deemed a waiver of any right on the part of Tenant: (i) to cancel this Agreement for failure by the County so to perform, keep or observe, or by reason of such occurrence; or (ii) to enforce any other right that Tenant may have by reason of such failure or occurrence.

## **ARTICLE XI**

### **GENERAL PROVISIONS**

11.01 No Warranties or Inducements. By executing this Agreement, Tenant acknowledges that the County does not warrant the validity of any information that may have been furnished to Tenant regarding any use of the Property by the general public.



11.02 Restrictions and Regulations. The operations conducted by Tenant pursuant to this Agreement shall be subject to:

- (a) Any and all applicable rules, regulations, orders and restrictions which are now in force or which may be adopted hereafter by County;
- (b) Any and all orders, directions or conditions issued, given or imposed by the County; and
- (c) Any and all applicable laws, ordinances, rules, statutes, regulations or orders, including, but not limited to, environmental, of any governmental authority, federal, state or municipal, lawfully exercising authority over the Property or Tenant's operations.

County shall not be liable to Tenant for any diminution or deprivation of Tenant's right hereunder on account of the exercise of any such authority, nor, except as elsewhere expressly provided in this Agreement, shall Tenant be entitled to terminate the Agreement or any portion of the Agreement by reason thereof unless the exercise of such authority shall so interfere with Tenant's use and enjoyment of the Premises as to constitute a termination of this Agreement by operation of law in accordance with the laws of the State of South Carolina.

11.03 Waiver of Claim. Tenant hereby waives any claim against the County and its elected officials, officers, directors, agents or employees for loss of anticipated profits caused by any suit or proceeding directly or indirectly attacking the validity of this Agreement or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement null, void or void able or delaying the same or any part hereof.

11.04 Non-Waivers. Every provision herein imposing an obligation upon County or Tenant is a material inducement and consideration for the execution of this Agreement. No waiver by County or Tenant of any of the terms, covenants or conditions of the Agreement, or noncompliance therewith, shall be deemed or taken as a waiver at any time thereafter of the same or any other term, covenant or condition herein contained, nor of the strict and prompt performance thereof. No delay, failure or omission of the County to re-enter the Premises or to exercise any right, power, privilege or option arising from any default, or subsequent acceptance of fees then or thereafter accrued shall impair any such right, power privilege or option or be construed to be a waiver of any such default or acquiescence therein. No notice by County shall be required to restore or revive time as being of the essence hereof after waiver by County of default in one or more instances.

11.05 Situs and Service of Process. Tenant agrees that this Agreement shall be governed by and shall be construed in accordance with the laws of the State of South Carolina. All actions or proceedings arising directly or indirectly from this Agreement shall be submitted to the Horry County Court of Common Pleas for resolution. Venue for any such dispute shall be in Horry County, South Carolina, and Tenant hereby consents to said jurisdiction and venue of the Horry County Court of Common Pleas, located within the State of South Carolina, and waives personal service of any and all process upon Tenant herein, and consents that all such service of process shall be made by certified mail, return receipt requested, directed to Tenant at the address hereinafter stated, and service so made shall be complete two (2) days after the same shall have been posted as aforesaid.

11.06 Force Majeure. Neither party hereto shall be liable to the other for any failure, delay or interruption in the performance of any of the terms, covenants, or conditions of this Agreement due to causes beyond the control of that party, including, but not limited to, strikes, boycotts, labor disputes, shortages of materials, acts of God, acts of public enemy, acts of the superior governmental



authority, weather conditions, floods, riots, rebellion, sabotage, or other circumstances for which such party is not responsible or which are not in its power to control.

- 11.07 Agreement Binding Upon Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors and assign of the parties hereto.
- 11.08 Time of Essence. Time is expressly agreed to be of the essence of this Agreement.
- 11.09 Applicable Law. This Agreement and every question arising hereunder shall be construed or determined according to the laws of the State of South Carolina.
- 11.10 Quiet Enjoyment. The County agrees that Tenant, upon payment of all fees, charges and other payments required of it under the terms of this Agreement, shall lawfully acquire and hold, use and enjoy the Premises during the term of this Agreement according to the terms and conditions hereof.
- 11.11 Tenant's Dealings with County. Whenever in its Agreement Tenant is required or permitted to obtain the approval of, consult with, give notice to, or otherwise deal with the County, Tenant shall deal with the County's authorized representative who shall be the County Administrator or his/her designee.
- 11.12 Notices, Consents and Approval. Any request, demand, authorization, direction, notice, consent or waiver provided, required or permitted to be made upon, given by or furnished to County or Tenant, shall be sufficient for every purpose hereunder if in writing and addressed to the other party as follows:

TO COUNTY AT:

Horry County  
Attn: County Administrator  
1301 Second Avenue  
Conway, SC 29526

With a copy to:

Horry County Attorney's Office  
1301 Second Avenue  
Conway, SC 29526

TO TENANT AT:

United Community Bank  
PO Box 398  
Blairsville, GA 30514  
Attn: Accounts Payable

With a copy to: [legalsupport@ucbi.com](mailto:legalsupport@ucbi.com)

With a copy to:

Haynsworth Sinkler Boyd, P.A.  
Attn: James H. Suddeth III, Esq.



134 Meeting Street, Third Floor  
Charleston, South Carolina 29401  
Email: jsuddeth@hsblawfirm.com

Either party from time to time may change its address by written notice to the other party. Notices hereunder shall be deemed effective when delivered by hand delivery or overnight courier with return receipt, or upon receipt of three days after deposit in the United States mail, certified or registered mail, return receipt requested, whichever occurs sooner.

11.13 Intentionally Omitted.

11.14 Interpretation. The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either County or Tenant. The section headings appearing herein are for the convenience of the parties and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Agreement. If any provision of this Agreement is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement and all such other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, the provision shall have the meaning which renders it valid.

11.15 Entire Agreement/Amendment. The provisions of this Agreement contain the entire understanding between the parties hereto, and said Agreement may not be changed, altered or modified in any manner except by written instrument executed by both County and Tenant.

11.16 Court Approval, Where Necessary. If Tenant is a debtor, or debtor in possession, under the meanings ascribed to said terms by the United States Bankruptcy Code, as amended, then this Agreement shall be null, void, and of no effect whatsoever should Tenant fail to seek and obtain prior approval of this Agreement from the Bankruptcy Court. Said Court approval shall be considered a condition precedent to this Agreement.

***(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)***



**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be duly executed, in duplicate, with all the formalities required by law on the day and year written below.

**FOR COUNTY:**

HORRY COUNTY

\_\_\_\_\_

By: \_\_\_\_\_

Its: Administrator

**FOR TENANT:**

UNITED COMMUNITY BANK

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_



COUNTY OF HORRY

STATE OF SOUTH CAROLINA

Ordinance 149-2022

**AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE PINS 18411010014 & 18411020007 FROM RESIDENTIAL MSF 20 TO RESIDENTIAL MSF 14.5**

**WHEREAS**, Ordinance Number 71-2021 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

**WHEREAS**, a request has been filed to amend the maps for the above mentioned parcel of land; and,

**WHEREAS**, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

**WHEREAS**, Horry County Council finds that the request to rezone the property from Residential (SF 20) to Residential (MSF 14.5) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request.

**NOW THEREFORE** by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

- 1) **Amendment of Official Zoning Maps of Horry County:**  
Parcel(s) of land identified by PINS 18411010014 & 18411020007 and currently zoned Residential (MSF 20) is hereby rezoned to Residential (MSF 14.5), as included in **Attachment A** titled "Rezoning Map".
- 2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
- 3) **Conflict with Preceding Ordinances:** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.
- 4) **Effective Date:** This Ordinance shall become effective on Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this 24<sup>th</sup> day of January, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

Jenna L. Dukes, District 1  
Dennis DiSabato, District 3  
Tyler Servant, District 5  
Tom Anderson, District 7  
R. Mark Causey, District 9  
Al Allen, District 11

Bill Howard, District 2  
Gary Loftus, District 4  
Cam Crawford, District 6  
Michael Masciarelli, District 8  
Danny Hardee, District 10

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: December 13, 2022  
Second Reading: January 10, 2023  
Third Reading: January 24, 2023



# HORRY COUNTY REZONING REVIEW SHEET

PROPERTY INFORMATION			
<b>Applicant</b>	Sarah E Pringle	<b>Rezoning Request #</b>	2022-11-005
<b>PIN #</b>	184-11-01-0014 & 184-11-02-0007	<b>County Council District #</b>	9 - Causey
<b>Site Location</b>	Zeek Drive in Loris	<b>Staff Recommendation</b>	Approval
<b>Property Owner</b>	Sarah E Pringle	<b>PC Recommendation</b>	Unanimous Approval
		<b>Size (in acres) of Request</b>	1.6

ZONING INFORMATION		LOCATION INFORMATION		ADJACENT PROPERTIES		
<b>Current Zoning</b>	MSF 20	<b>Flood Information</b>	X	FA	FA	FA
<b>Proposed Zoning</b>	MSF 14.5	<b>Wetland Information</b>	N/A	MSF 20	Subject Property	MSF 20
<b>Proposed Use</b>	Manufactured homes	<b>Utilities</b>	Public	MSF 20	MSF 20	MSF 20
<b>Character of the Area</b>	Rural residential	<b>Fire in miles</b>	1.23 – Station 26 (Volunteer)			
		<b>EMS in miles</b>	4.45 – Station 35 (Career)			

## COMMENTS

<b>Comprehensive Plan District:</b> Rural Communities	<b>Overlay/Area Plan:</b>
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**Discussion:** The applicant is requesting to rezone two parcels from MSF 20 to MSF 14.5 to subdivide them and permit a manufactured home on each lot. The parcels are surrounded by MSF 20 and FA zoning. The future land use designation is Rural Communities. The Imagine 2040 Comprehensive Plan states the desired development pattern is "Single-family residential developments, including minor and major subdivisions, with lot sizes greater than 14,500 sq ft or with a maximum of 3 net units per acre."

**Public Comment:** 12/01/2022 Bernard Sibilly, Teresa McCullough Anderson, and Valerie Horney spoke in opposition of the request. Their concerns were fire safety, density, and decreased property value. Sarah Pringle was present to address questions and concerns.

<b>Proposed Improvements</b>	
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TRANSPORTATION INFORMATION		HORRY COUNTY SCHOOLS FUNCTIONAL CAPACITY			
<b>Daily Trips based on existing use / Max Daily Trips based on current zoning</b>	0 / 16		<b>Functional Capacity</b>	<b>2022-2023 ADM</b>	<b>Percent Capacity</b>
<b>Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning</b>	32 / 32	Loris High	1,059	772	73%
<b>Existing Road Conditions</b>	County, Paved, Two-lane	Loris Middle	859	704	82%
<b>Rd, Station, Traffic AADT (2021) % Road Capacity</b>	SC-9, Station (200) 13,000 AADT 30-35%	Loris Elementary	874	792	91%

DIMENSIONAL STANDARDS	Requested	Current	Adjacent	Adjacent	Adjacent	Adjacent
	MSF 14.5	MSF 20	FA			
<b>Min. Lot Size (in square feet)</b>	14,500	20,000	21,780			
<b>Front Setback (in feet)</b>	25	40	40			
<b>Side Setback (in feet)</b>	10	15	10			
<b>Corner Side Setback (in feet)</b>	15	22.5	15			
<b>Rear Setback (in feet)</b>	15	25	15			
<b>Bldg. Height (in feet)</b>	35	35	35			



**Zoning Map**

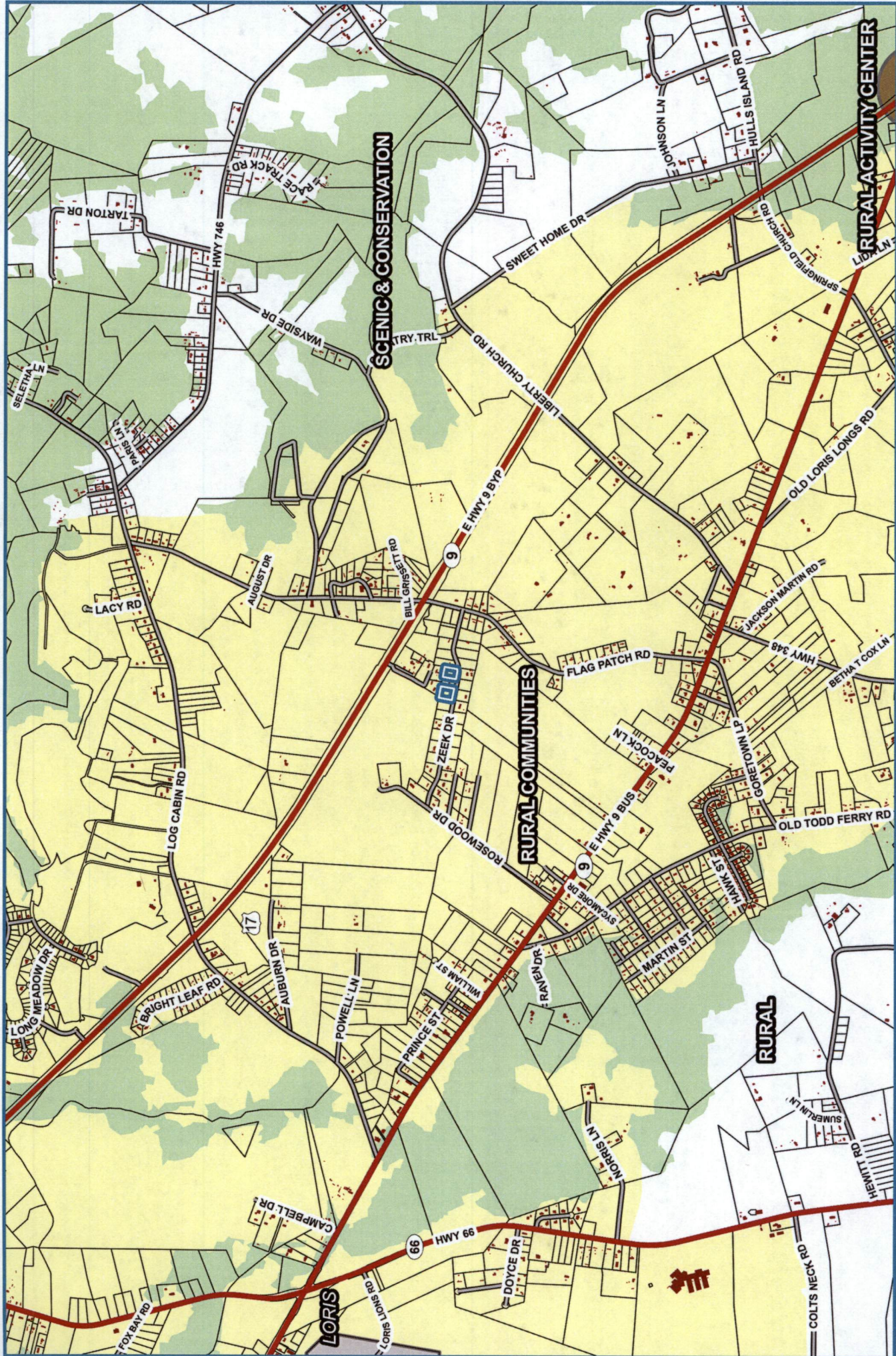
Resolving  
Case Number  
2022-11-005

Rezoning 16 acres  
from MSF-20 to MSF-14.5

Structure  
Parcel for Consideration  
Council District Boundary  
Major Road  
Other Road  
Parcel Boundary

Scale: 0 to 1500 Feet

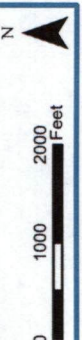




### Future Land Use Map


Rezoning  
Case Number  
2022-11-005  
Rezoning 1.6 acres  
from MSF 20 to MSF 14.5


- Parcel for Consideration
- Parcel Boundary
- Municipality
- Structure
- Major Road
- Other Road








 Parcel for Consideration

 Major Road

 Other Road

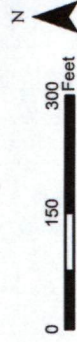
**Aerial Map**

Rezoning  
Case Number  
2022-11-005

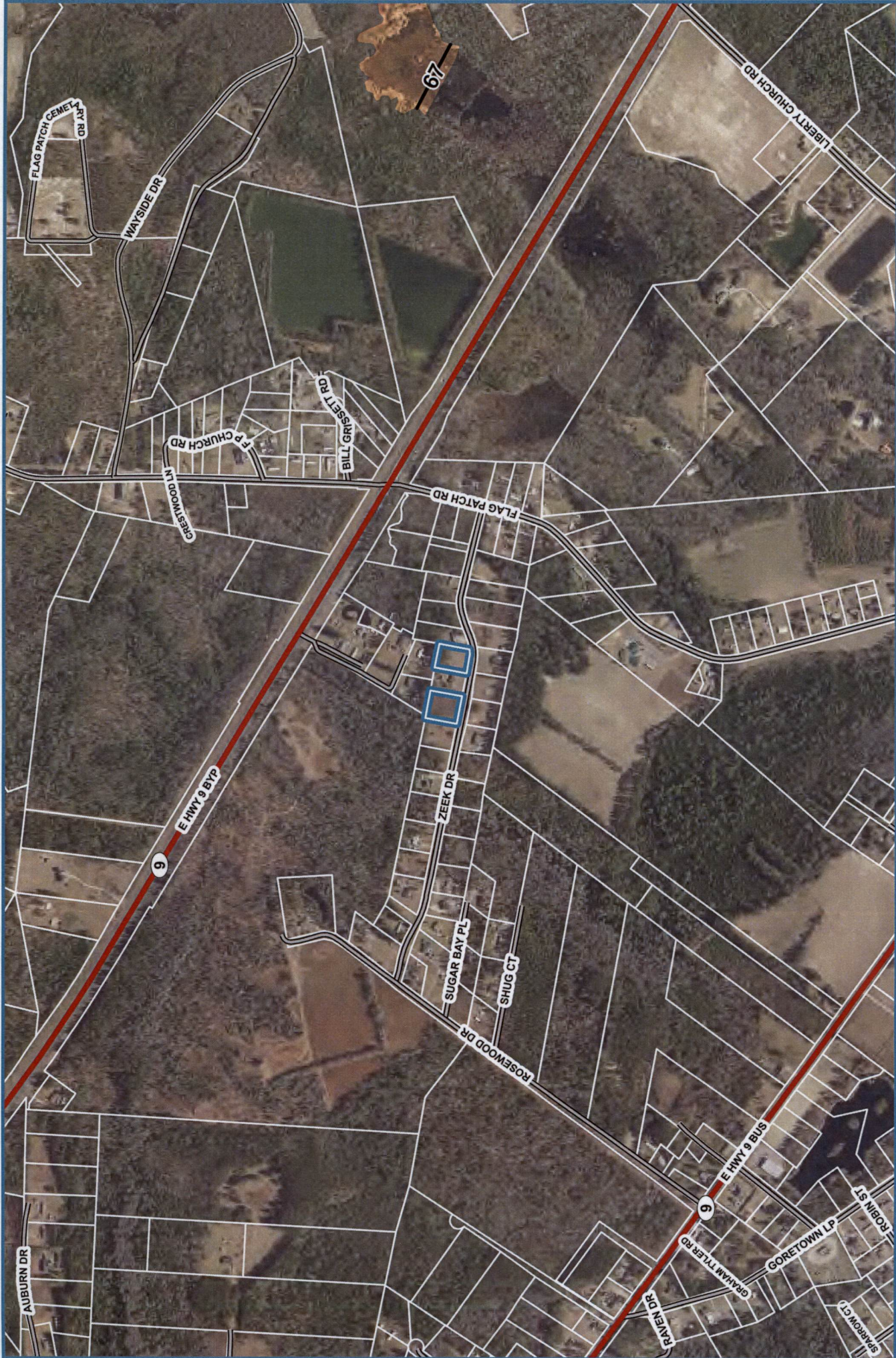
Rezoning 1.6 acres  
from MSF 20 to MSF 14.5



HC Government





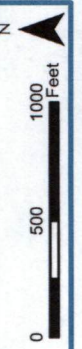
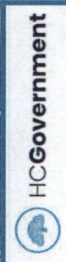


- Parcel for Consideration
- Major Road
- Other Road
- Preliminary Base Flood Elevation (BFE)
- AE - Special Flood Hazard Area

### Flood Map

Rezoning  
Case Number  
2022-11-005

Rezoning 1.6 acres  
from MSF 20 to MSF 14.5





COUNTY OF HORRY

STATE OF SOUTH CAROLINA

Ordinance 150-2022

**AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE PIN 31401030001 FROM RESIDENTIAL (SF 10) TO RESIDENTIAL (MSF 10)**

**WHEREAS**, Ordinance Number 71-2021 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

**WHEREAS**, a request has been filed to amend the maps for the above mentioned parcel of land; and,

**WHEREAS**, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

**WHEREAS**, Horry County Council finds that the request to rezone the property from Residential (SF 10) to Residential (MSF 10) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request.

**NOW THEREFORE** by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

- 1) **Amendment of Official Zoning Maps of Horry County:**  
Parcel(s) of land identified by PIN 31401030001 and currently zoned Residential (SF 10) is hereby rezoned to Residential (MSF 10), as included in **Attachment A** titled "Rezoning Map".
- 2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
- 3) **Conflict with Preceding Ordinances:** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.
- 4) **Effective Date:** This Ordinance shall become effective on Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this 24<sup>th</sup> day of January, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

Jenna L Dukes, District 1  
Dennis DiSabato, District 3  
Tyler Servant, District 5  
Tom Anderson, District 7  
R. Mark Causey, District 9  
Al Allen, District 11

Bill Howard, District 2  
Gary Loftus, District 4  
Cam Crawford, District 6  
Michael Masciarelli, District 8  
Danny Hardee, District 10

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: December 13, 2022  
Second Reading: January 10, 2023  
Third Reading: January 24, 2023



# HORRY COUNTY REZONING REVIEW SHEET

Energov #: 058903 Advertisement & Mailout Date: 11-10-2022 Date Posted: 11-9-2022 # Property Owners Notified: 15 Report Date: 11-2-2022 BY: GHS

PROPERTY INFORMATION			
<b>Applicant</b>	Harry L Wilson Jr.	<b>Rezoning Request #</b>	2022-11-002
<b>PIN #</b>	314-01-03-0001	<b>County Council District #</b>	9 - Causey
<b>Site Location</b>	Handy Dr off Tallwood Rd in Longs	<b>Staff Recommendation</b>	Approval
<b>Property Owner</b>	Harry L Wilson Jr.	<b>PC Recommendation</b>	Unanimous Approval
		<b>Size (in acres) of Request</b>	0.47

ZONING INFORMATION		LOCATION INFORMATION		ADJACENT PROPERTIES		
<b>Current Zoning</b>	SF 10	<b>Flood Information</b>	Supplemental	SF 10	SF 10	CFA
<b>Proposed Zoning</b>	MSF 10	<b>Wetland Information</b>	N/A	SF 10	Subject Property	CFA
<b>Proposed Use</b>	Manufactured Home	<b>Utilities</b>	Public	CFS	CFA	CFA
<b>Character of the Area</b>	Residential	<b>Fire in miles</b>	1.7 – Station 18 (Career)			
		<b>EMS in miles</b>	1.7 – Station 18 (Career)			

COMMENTS	
<b>Comprehensive Plan District:</b> Suburban and Scenic & Conservation	<b>Overlay/Area Plan:</b>
<p><b>Discussion:</b> The applicant is requesting to rezone from SF 10 to MSF 10 to permit a manufactured home on the property. The parcel is almost entirely surrounded by CFA zoning and there is some MSF 10 zoning nearby as well, both of which allow for manufactured homes. The future land use designation is suburban and scenic &amp; conservation. The Imagine 2040 Comprehensive Plan states "Residential development should have a density between 3-7 gross units per acre within major subdivisions and as small as 6,000 sq ft for individual, single family lots."</p> <p>This rezoning will not increase density, as the minimum lot size remains the same.</p>	

**Public Comment:** 12/01/2022 No input. Harry Wilson Jr. was present to address questions and concerns.

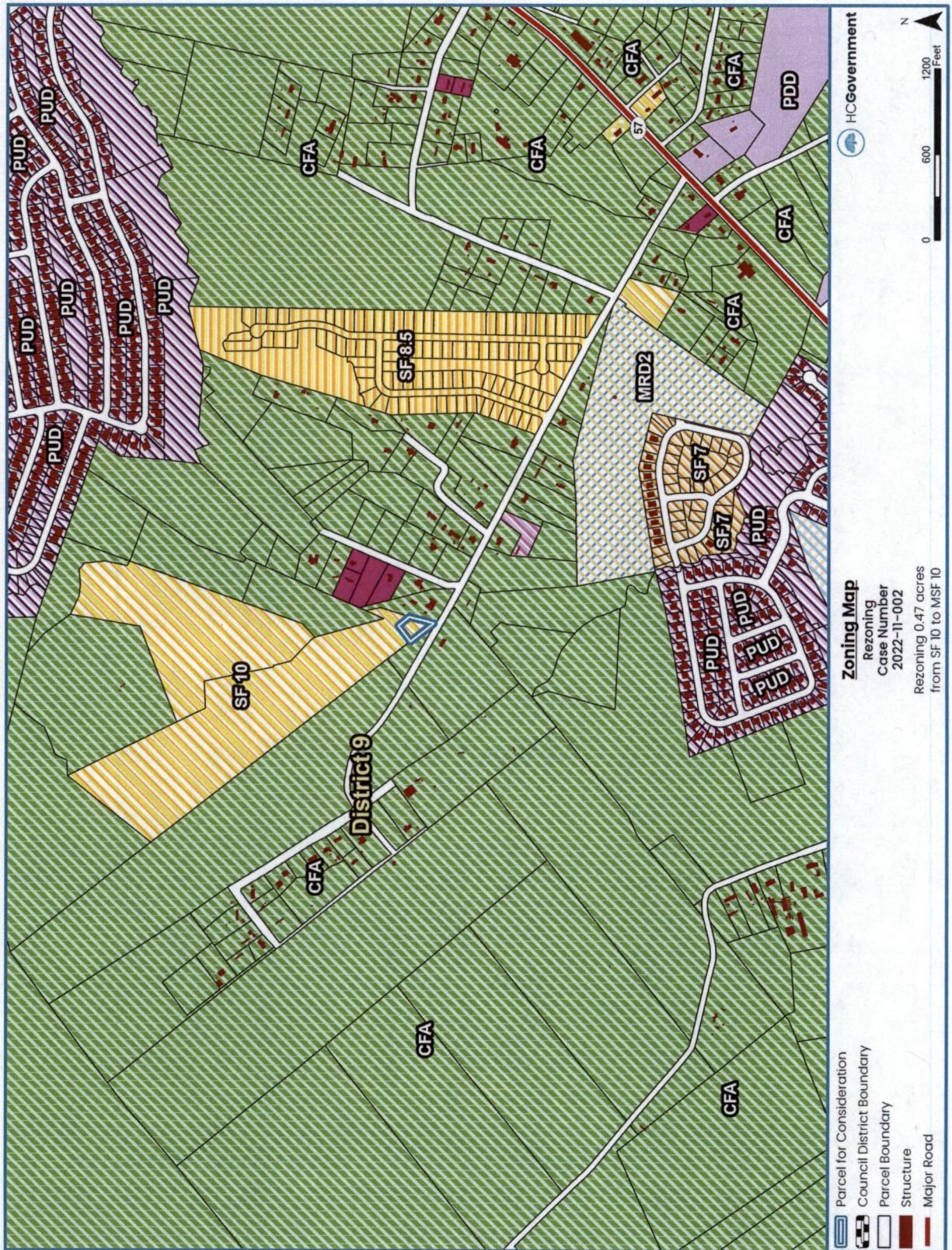
<b>Proposed Improvements</b>	
------------------------------	--

TRANSPORTATION INFORMATION		HORRY COUNTY SCHOOLS FUNCTIONAL CAPACITY			
<b>Daily Trips based on existing use / Max Daily Trips based on current zoning</b>	0 / 16		<b>Functional Capacity</b>	<b>2022-2023 ADM</b>	<b>Percent Capacity</b>
<b>Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning</b>	16 / 16	<b>North Myrtle Beach High</b>	1,464	1,420	97%
<b>Existing Road Conditions</b>	County, Unpaved	<b>North Myrtle Beach Middle</b>	1,212	1,191	98%
<b>Rd, Station, Traffic AADT (2021) % Road Capacity</b>	SC-57, Station (447) 5,550AADT 30-35%	<b>Riverside Elementary</b>	664	661	100%

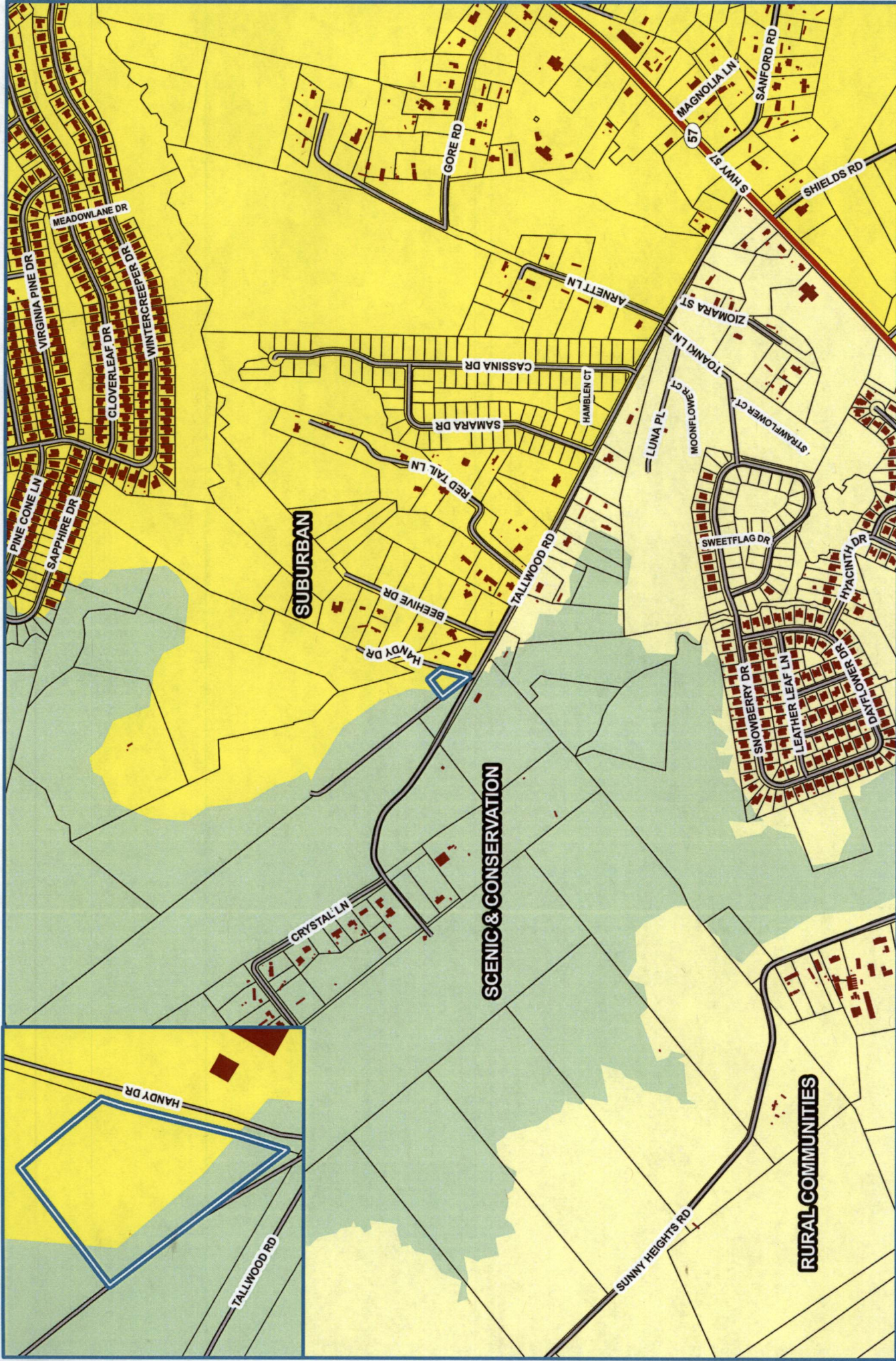
DIMENSIONAL STANDARDS	Requested	Current	Adjacent	Adjacent	Adjacent	Adjacent
	MSF 10	SF 10	CFA	SF 10		
<b>Min. Lot Size (in square feet)</b>	10,000	10,000	21,780	10,000		
<b>Front Setback (in feet)</b>	25	25	40	25		
<b>Side Setback (in feet)</b>	10	10	10	10		
<b>Corner Side Setback (in feet)</b>	15	15	15	15		
<b>Rear Setback (in feet)</b>	15	15	15	15		
<b>Bldg. Height (in feet)</b>	35	35	35	35		



# Attachment A – Rezoning Maps



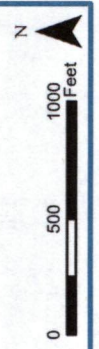




- Parcel for Consideration
- Parcel Boundary
- Structure
- Major Road
- Other Road


**Future Land Use Map**


Rezoning  
Case Number  
2022-11-002  
Rezoning 0.47 acres  
from SF 10 to MSF 10







 Parcel for Consideration

 Other Road

### Aerial Map

Rezoning  
Case Number  
2022-11-002

Rezoning 0.47 acres  
from SF 10 to MSF 10



HC Government





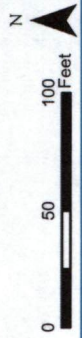


Parcel for Consideration Supplemental Flood Zone

Other Road

**Flood Map**

Rezoning  
Case Number  
2022-11-002  
Rezoning 0.47 acres  
from SF 10 to MSF 10





COUNTY OF HORRY

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STATE OF SOUTH CAROLINA

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Ordinance 01-2023

**AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE PIN 36611010006 FROM RESIDENTIAL (SF 40) TO RESIDENTIAL (SF 14.5)**

**WHEREAS**, Ordinance Number 71-2021 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

**WHEREAS**, a request has been filed to amend the maps for the above mentioned parcel of land; and,

**WHEREAS**, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

**WHEREAS**, Horry County Council finds that the request to rezone the property from Residential (SF40) to Residential (SF 14.5) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request.

**NOW THEREFORE** by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

- 1) **Amendment of Official Zoning Maps of Horry County:**  
Parcel(s) of land identified by PIN 36611010006 and currently zoned Residential (SF 40) is hereby rezoned to Residential (SF 14.5), as included in **Attachment A** titled "Rezoning Map".
- 2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
- 3) **Conflict with Preceding Ordinances:** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.
- 4) **Effective Date:** This Ordinance shall become effective on Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

Jenna L. Dukes, District 1  
Dennis DiSabato, District 3  
Tyler Servant, District 5  
Tom Anderson, District 7  
R. Mark Causey, District 9  
Al Allen, District 11

Bill Howard, District 2  
Gary Loftus, District 4  
Cam Crawford, District 6  
Michael Masciarelli, District 8  
Danny Hardee, District 10

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: January 24, 2023

Second Reading:

Third Reading:



# HORRY COUNTY REZONING REVIEW SHEET

PROPERTY INFORMATION			
Applicant	Benjamin Delamar	Rezoning Request #	2022-12-007
PIN #	366-11-01-0006	County Council District #	10 - Hardee
Site Location	Hwy 90 in Conway	Staff Recommendation	Approval
Property Owner	Mykayla Melton	PC Recommendation	Unanimous Approval
		Size (in acres) of Request	1.18

ZONING INFORMATION		LOCATION INFORMATION		ADJACENT PROPERTIES		
Current Zoning	SF 40	Flood Information	X	SF 40	SF 40	MSF 20
Proposed Zoning	SF 14.5	Wetland Information	N/A	SF 20	Subject Property	MSF 40
Proposed Use	Subdivide 3 lots	Utilities	Public	SF 20	SF 20	MSF 40
Character of the Area	Residential	Fire in miles	2.2 – Station 43 (Career)			
		EMS in miles	2.2 – Station 43 (Career)			

## COMMENTS

Comprehensive Plan District: Suburban and Scenic & Conservation	Overlay/Area Plan: Airport Environs Overlay
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**Discussion:** The applicant is requesting to rezone from SF 40 to SF 14.5 in order to subdivide 3 lots. The future land use designation is Suburban and Scenic & Conservation. The Imagine 2040 Comprehensive Plan states "residential development should have a density between 3-7 gross units per acre within major subdivisions and as small as 6,000 sq ft for individual, single family lots." The property is surrounded by SF 20 and MSF 40 zoning.

**Public Comment:** 01/05/2023 Benjamin Delamar was present to address any questions and concerns. There was no public input.

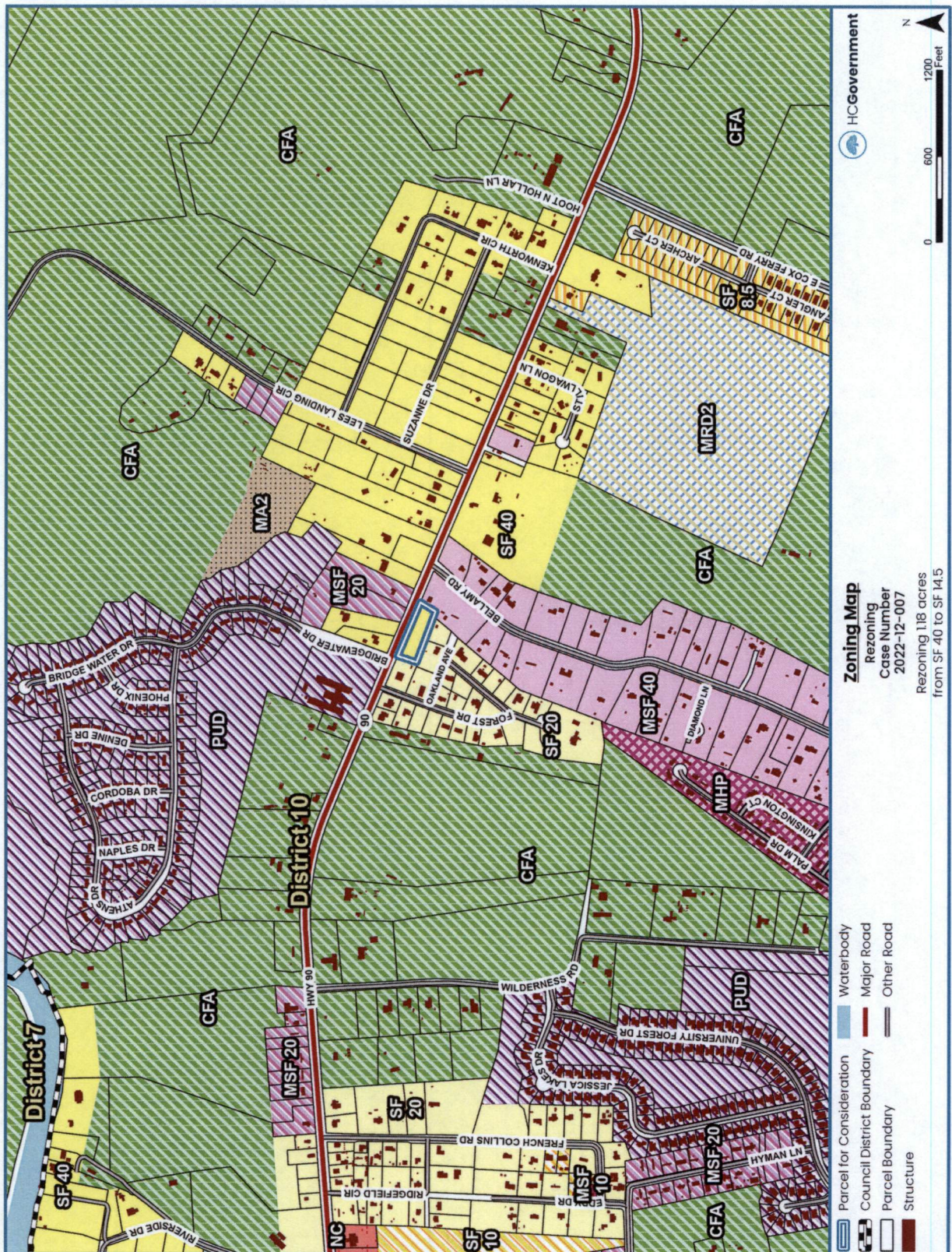
Proposed Improvements	
-----------------------	--

TRANSPORTATION INFORMATION		HORRY COUNTY SCHOOLS FUNCTIONAL CAPACITY			
Daily Trips based on existing use / Max Daily Trips based on current zoning	0 / 8		Functional Capacity	2022-2023 ADM	Percent Capacity
Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning	16 / 24	Carolina Forest High	2,388	2,802	117%
Existing Road Conditions	State, Paved, Two-lane	Black Water Middle	859	765	89%
Rd, Station, Traffic AADT (2021) % Road Capacity	SC 90, Station (223) 8,800 AADT 60-65%	Waccamaw Elementary	863	1,013	117%

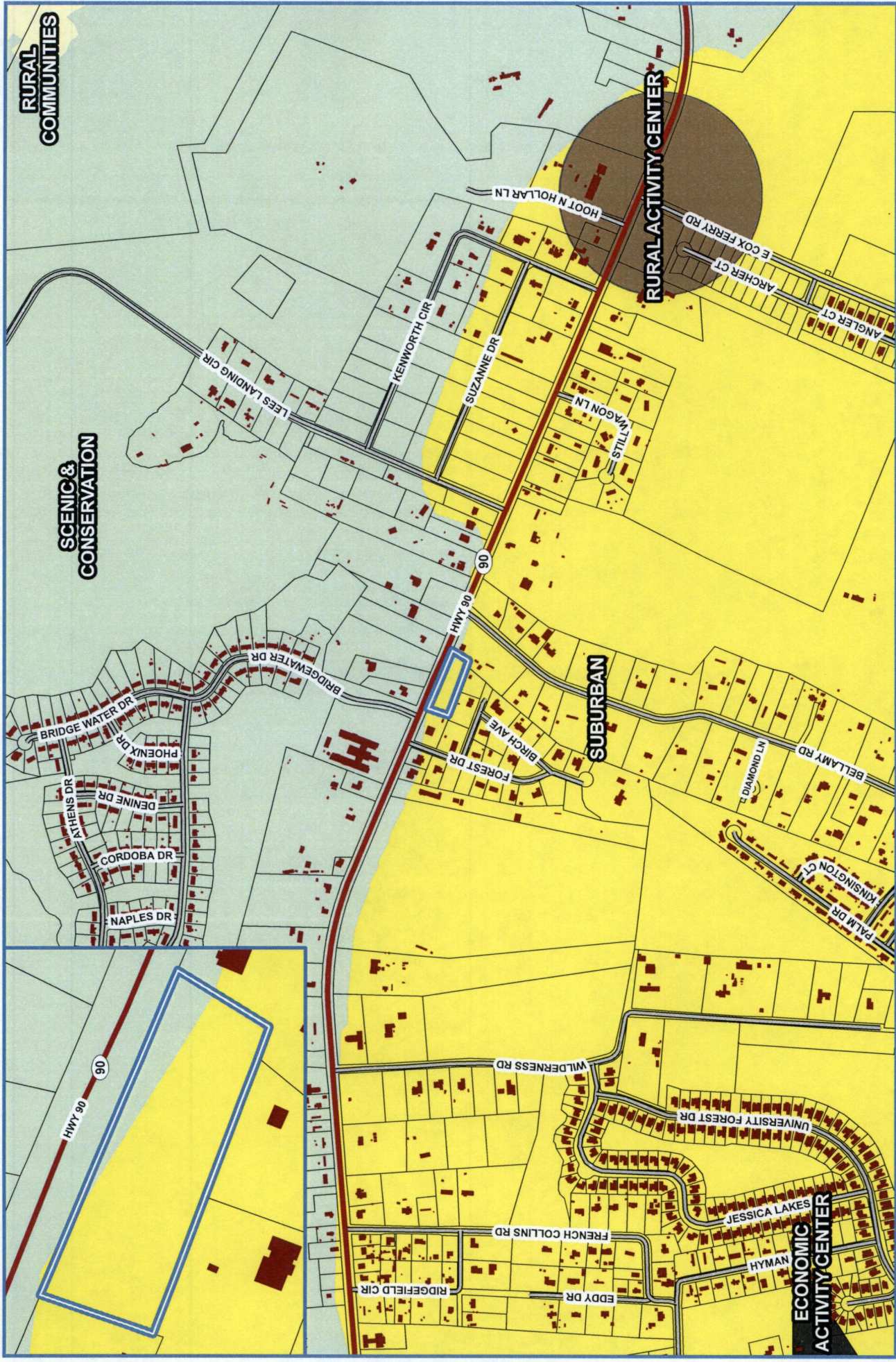
DIMENSIONAL STANDARDS	Requested	Current	Adjacent	Adjacent	Adjacent	Adjacent
	SF 14.5	SF 40	MSF 20	SF 40	SF 20	MSF 40
Min. Lot Size (in square feet)	14,500	40,000	20,000	40,000	20,000	40,000
Front Setback (in feet)	60	60	60	60	60	60
Side Setback (in feet)	10	20	15	20	15	20
Corner Side Setback (in feet)	15	30	22.5	30	22.5	30
Rear Setback (in feet)	15	30	25	30	25	30
Bldg. Height (in feet)	35	35	35	35	35	35



# Attachment A – Rezoning Maps











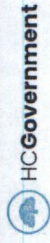
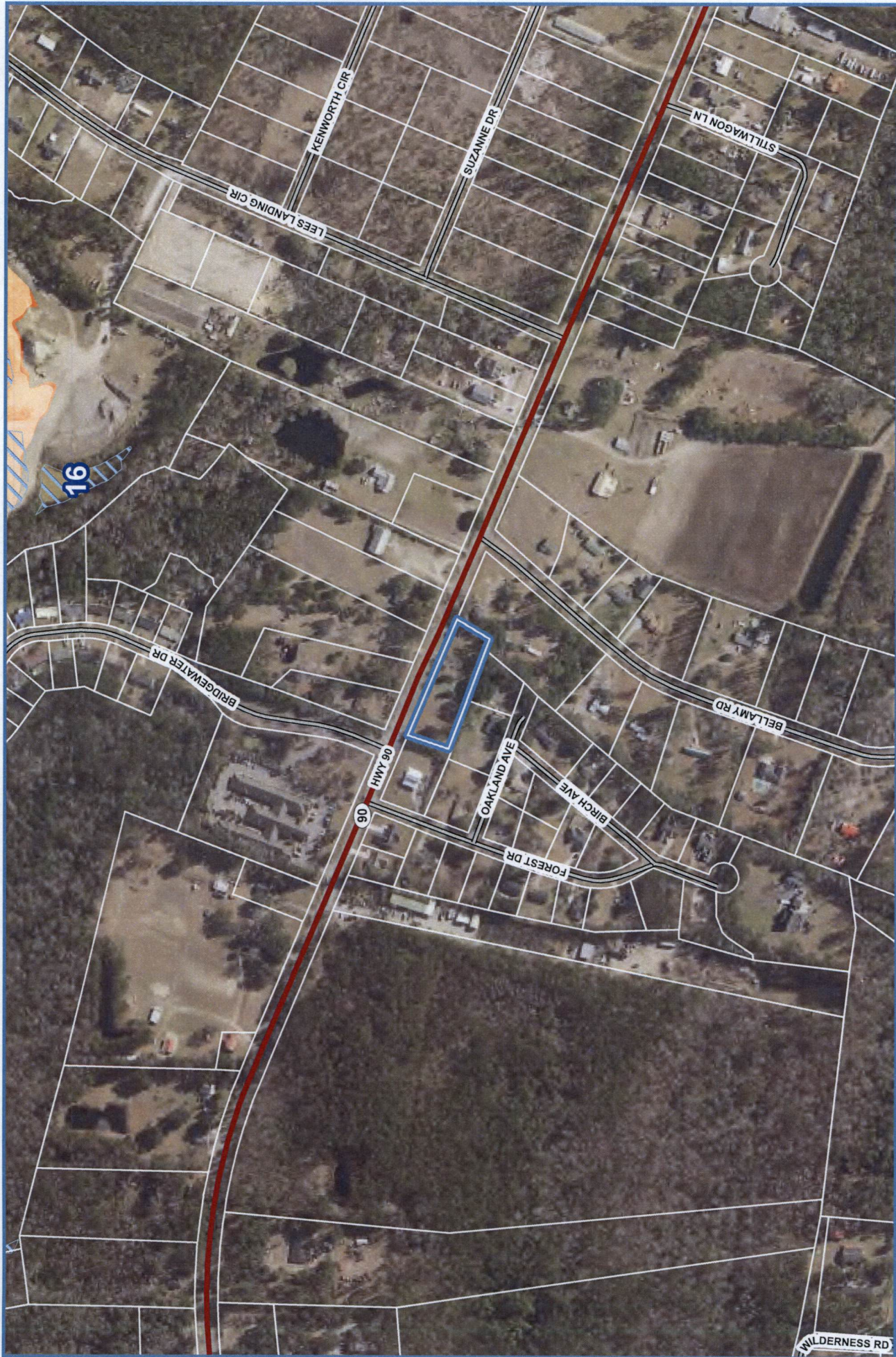
Parcel for Consideration

Major Road  
Other Road

**Aerial Map**

Rezoning  
Case Number  
2022-12-007  
Rezoning 118 acres  
from SF 40 to SF 14.5





### Flood Map

Rezoning  
Case Number  
2022-12-007

Rezoning 118 acres  
from SF 40 to SF 14.5

- Parcel for Consideration
- Major Road
- Other Road
- Supplemental Flood Zone
- AE - Special Flood Hazard Area
- 0.2% Annual Chance Flood Hazard





COUNTY OF HORRY

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Ordinance 02-2023

STATE OF SOUTH CAROLINA

**AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE A 9.48 ACRE PORTION OF PIN 27900000043 FROM HIGHWAY COMMERCIAL (HC) TO MOBILE HOME PARK (MHP)**

**WHEREAS**, Ordinance Number 71-2021 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

**WHEREAS**, a request has been filed to amend the maps for the above mentioned parcel of land; and,

**WHEREAS**, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

**WHEREAS**, Horry County Council finds that the request to rezone the property from Highway Commercial (HC) to Mobile Home Park (MHP) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request.

**NOW THEREFORE** by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

1) **Amendment of Official Zoning Maps of Horry County:**

Parcel(s) of land identified by PIN 27900000043 and currently zoned Highway Commercial (HC) is hereby rezoned to Mobile Home Park (MHP), as included in **Attachment A** titled "Rezoning Map".  
and **Attachment B** titled "Aynor Tract Conceptual Plan" and shall include the following design standards:

**A. Density**

Use	Maximum # of Units	Maximum Gross Density
Manufactured Homes	348	4 du/ac

**B. Dimension Standards**

Minimum Lot Area (in sq.ft.)	Minimum Setbacks (in feet)				Minimum Building Separation (in feet)	Maximum Height (in feet)
	Front	Side	Rear	Corner Side		
5 acres	35	25	25	35	20	35

- 2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
- 3) **Conflict with Preceding Ordinances:** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.
- 4) **Effective Date:** This Ordinance shall become effective on Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.



## HORRY COUNTY COUNCIL

---

Johnny Gardner, Chairman

Jenna L. Dukes, District 1	Bill Howard, District 2
Dennis DiSabato, District 3	Gary Loftus, District 4
Tyler Servant, District 5	Cam Crawford, District 6
Tom Anderson, District 7	Michael Masciarelli, District 8
R. Mark Causey, District 9	Danny Hardee, District 10
Al Allen, District 11	

Attest:

---

Patricia S. Hartley, Clerk to Council

First Reading: January 24, 2023

Second Reading:

Third Reading:



# HORRY COUNTY REZONING REVIEW SHEET

PROPERTY INFORMATION			
Applicant	DDC Engineers	Rezoning Request #	2022-12-008
PIN #	279-00-00-0043	County Council District #	11 - Allen
Site Location	Hwy 501 in Conway	Staff Recommendation	Approval
Property Owner	Blackwater, LLC	PC Recommendation	Unanimous Approval
		Size (in acres) of Request	9.48 (Portion)

ZONING INFORMATION		LOCATION INFORMATION		ADJACENT PROPERTIES		
Current Zoning	HC	Flood Information	X	CFA	CFA	CFA
Proposed Zoning	MHP	Wetland Information	1.18 acres of wetlands and 700 linear feet of tributary	FA	Subject Property	MRD 1
Proposed Use	348 manufactured homes	Utilities	Public	FA	FA	CFA
Character of the Area	Rural residential	Fire in miles	5.25 – Station 27 (Career)			
		EMS in miles	5.25 – Station 27 (Career)			

## COMMENTS

Comprehensive Plan District: Rural	Overlay/Area Plan:
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**Discussion:** The applicant is requesting to rezone a 9.48-acre portion (87.1 acres total) from Highway Commercial to Mobile Home Park. The parent tract is split-zoned with 77.62 acres currently zoned MHP. The applicant intends to develop the MHP. The project will consist of a 348 unit manufactured home community with a gross density of 4 du/ac. The plan proposes 5,000 sqft lots with an access on Hwy 501 and one on Dog Bluff Rd. The property falls within an ISO 10 area. The closest fire station is Allens (station 27), which is 5.25 miles away.

The future land use designation is Rural. The Imagine 2040 Comprehensive Plan states the desired development pattern is "active working lands, such as farms and forests, and large single family lots or family subdivisions with a minimum lot size of ½ an acre or maximum of 2 net units per acre."

**Public Comment:** 01/05/2023 Mike Wooten was present to answer any questions and concerns. Katrina Morrison and Gerald Blackmon spoke in opposition of the request. Their concerns were stormwater, traffic, and buffers.

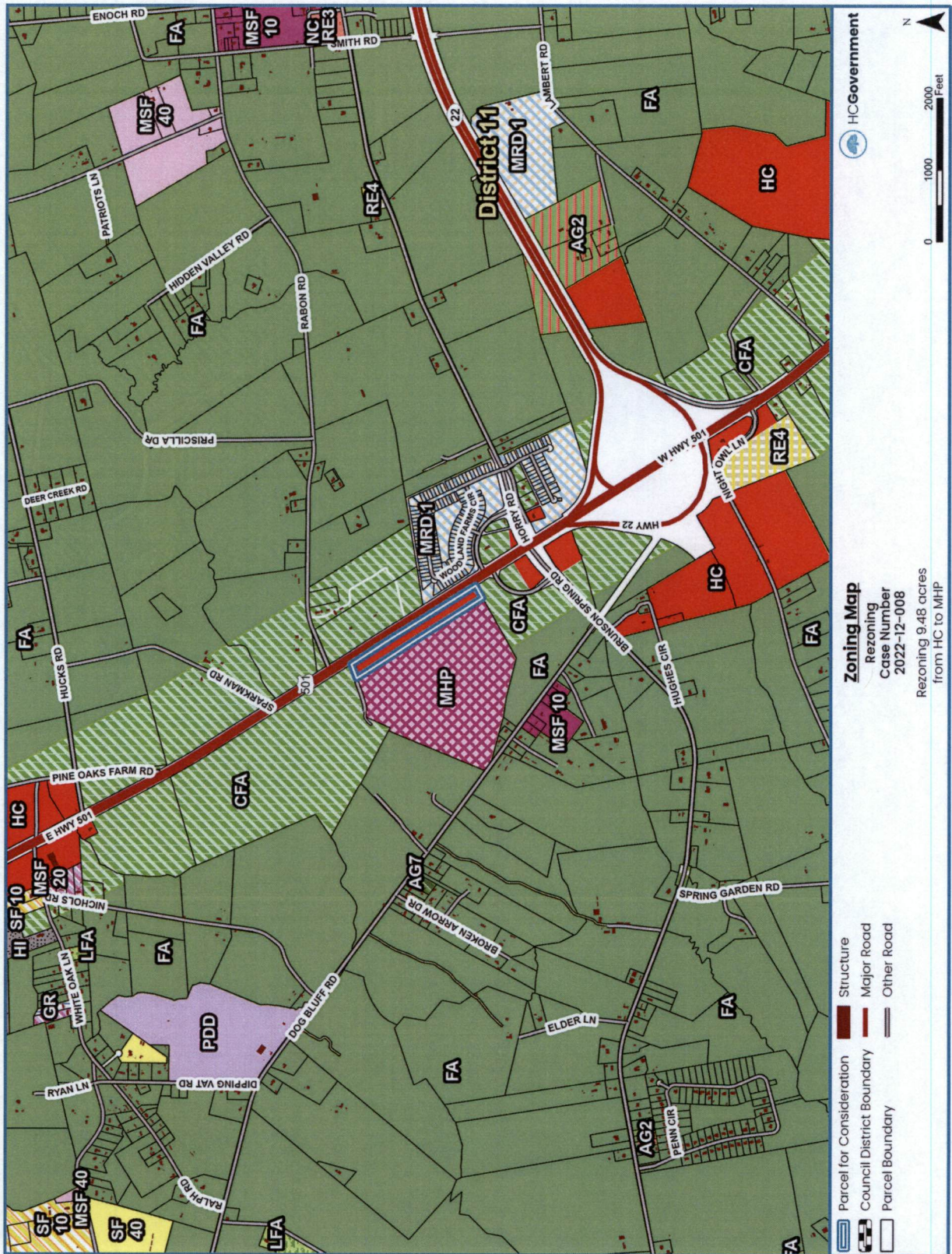
Proposed Improvements	
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TRANSPORTATION INFORMATION		HORRY COUNTY SCHOOLS FUNCTIONAL CAPACITY			
Daily Trips based on existing use / Max Daily Trips based on current zoning	0 / 4,000		Functional Capacity	2022-2023 ADM	Percent Capacity
Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning	2,784 / 3,000	Aynor High	1,059	783	74%
Existing Road Conditions	501: State, Paved, Four-lane, Divided. Dog Bluff: State, Pave, Two-lane	Aynor Middle	707	758	107 %
Rd, Station, Traffic AADT (2021) % Road Capacity	US 501, Station (105) 26,600 AADT 65-70%	Aynor Elementary	714	819	115%

DIMENSIONAL STANDARDS	Requested	Current	Adjacent	Adjacent	Adjacent	Adjacent
	MHP	HC Comm / Res	MHP	CFA Comm / Res	FA	MRD 1 Woodland Farms
Min. Lot Size (in square feet)	5 acres	10,000 / 6,000	5 acres	43,560 / 21,780	21,780	7,000
Front Setback (in feet)	35	50 / 20	35	60 / 40	40	15
Side Setback (in feet)	25	10	25	25 / 10	10	5
Corner Side Setback (in feet)	35	15	35	37.5 / 15	15	15
Rear Setback (in feet)	25	15	25	40 / 15	15	10
Bldg. Height (in feet)	35	120 / 35	35	35	35	35



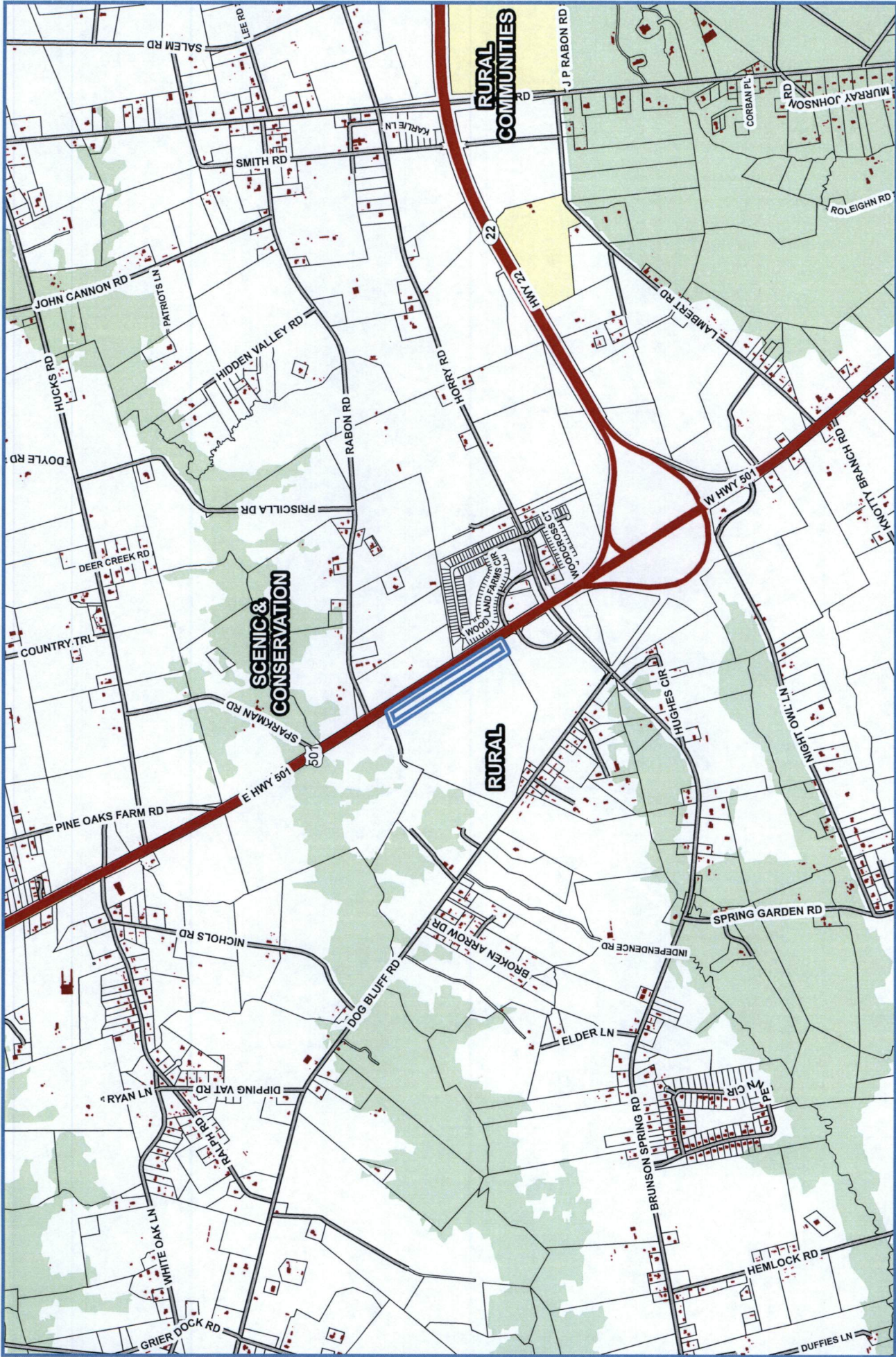
# Attachment A – Rezoning Map





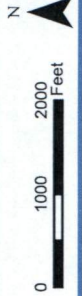






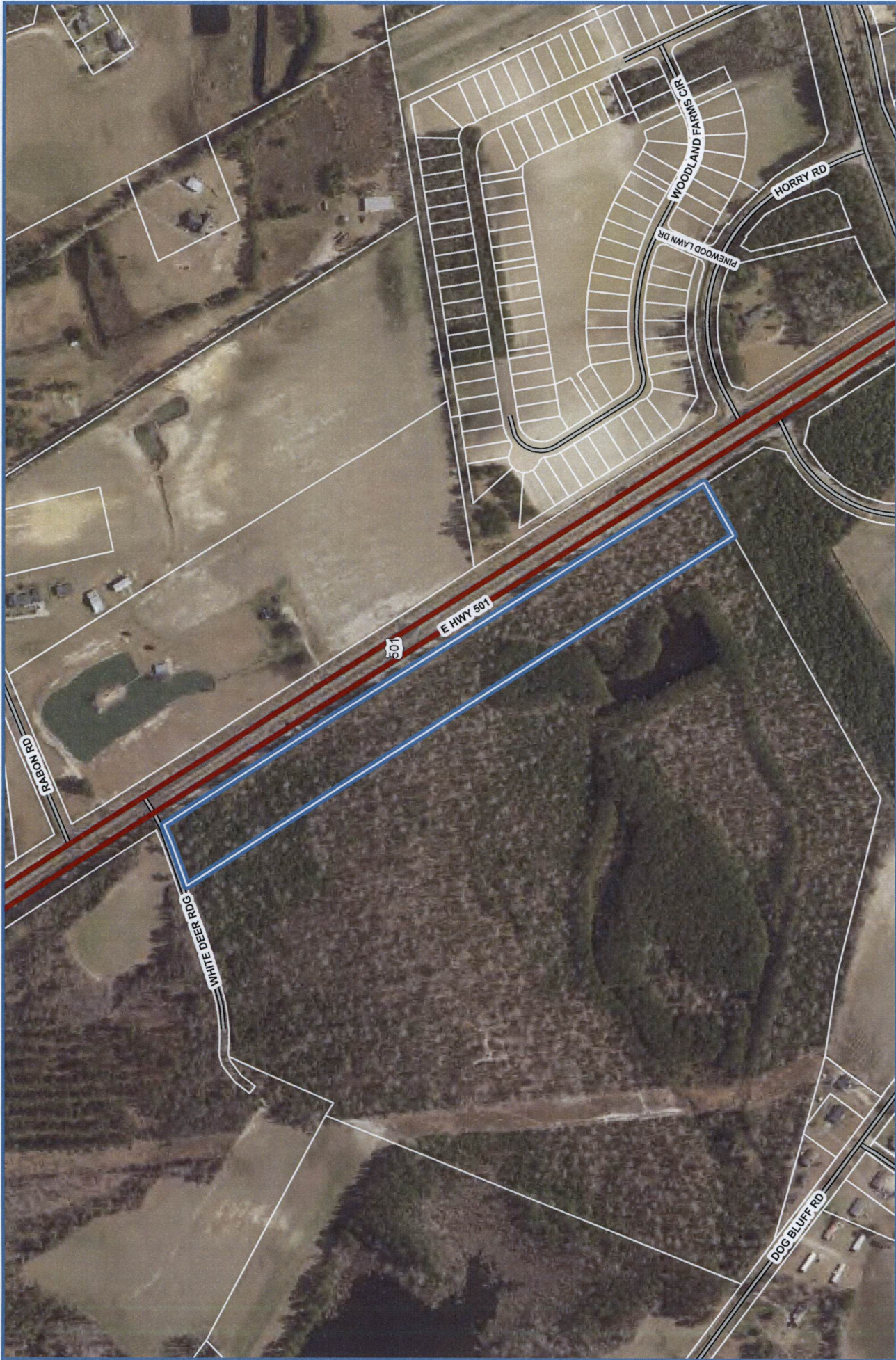
### Future Land Use Map

Rezoning  
Case Number  
2022-12-008  
Rezoning 9.48 acres  
from HC to MHP



- Parcel for Consideration
- Parcel Boundary
- Structure
- Major Road
- Other Road



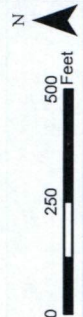
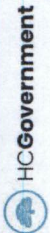


Parcel for Consideration

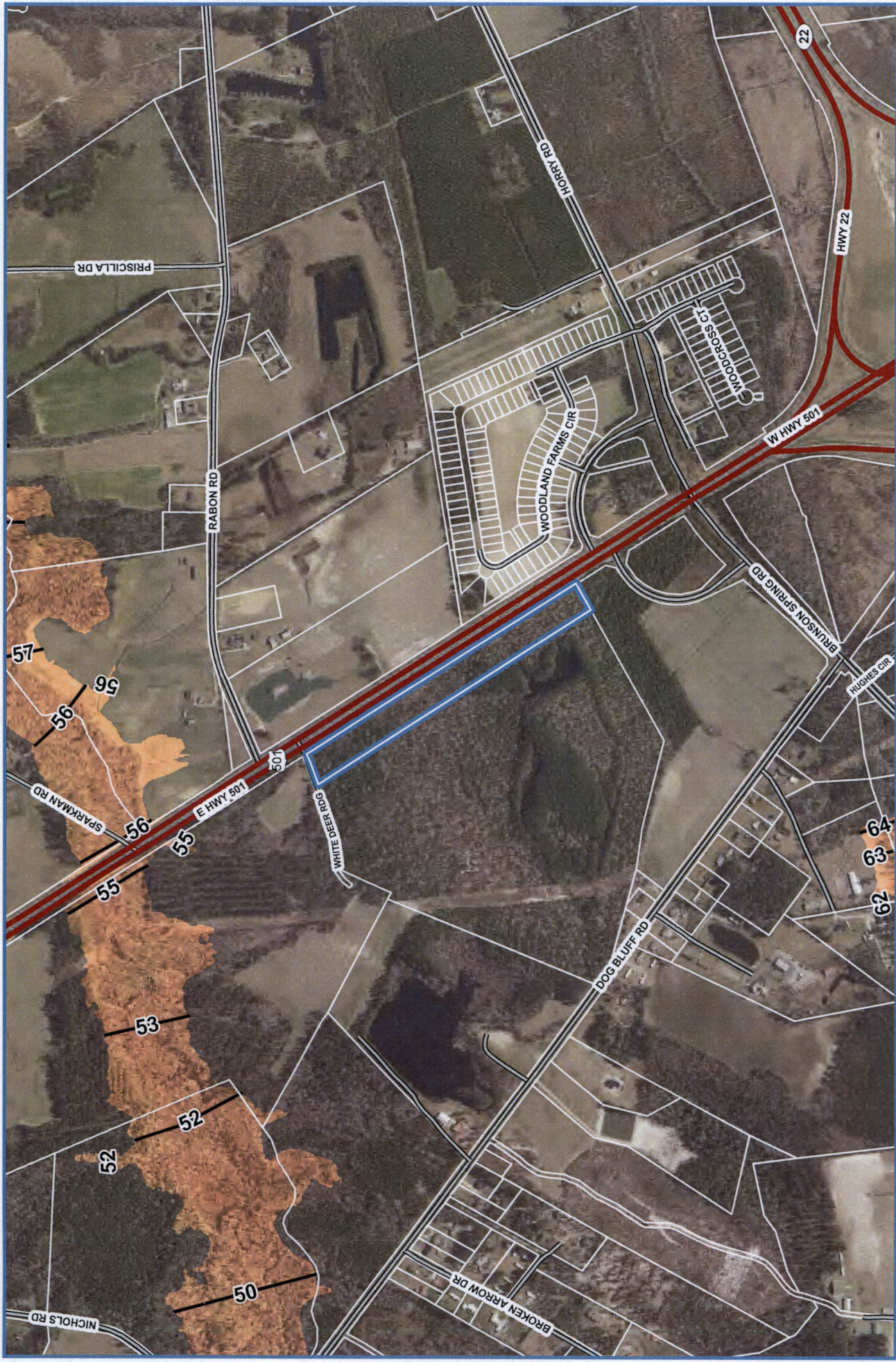
- Major Road
- Other Road


### Aerial Map

Rezoning  
Case Number  
2022-12-008  
Rezoning 9.48 acres  
from HC to MHP











**HC Government**


**Flood Map**  
Rezoning Case Number 2022-12-008  
Rezoning 9.48 acres from HC to MHP


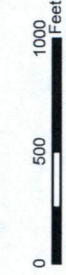
 Parcel for Consideration

 Major Road

 Other Road

 Preliminary Base Flood Elevation (BFE)

 AE - Special Flood Hazard Area

 N  
 0 500 1000 Feet



COUNTY OF HORRY

STATE OF SOUTH CAROLINA

Ordinance 03-2023

**AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE PINS 27402010003 & 27402010004 FROM RESIDENTIAL (SF10) TO AGRICULTURAL RANCHETTES (AG 6)**

**WHEREAS**, Ordinance Number 71-2021 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

**WHEREAS**, a request has been filed to amend the maps for the above mentioned parcel of land; and,

**WHEREAS**, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

**WHEREAS**, Horry County Council finds that the request to rezone the property from Residential (SF 10) to Agricultural Ranchettes (AG 6) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request.

**NOW THEREFORE** by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

- 1) **Amendment of Official Zoning Maps of Horry County:**  
Parcel(s) of land identified by PIN 27402010003 & 27402010004 and currently zoned Residential (SF 10) is hereby rezoned to Agricultural Ranchettes (AG 6), as included in **Attachment A** titled "Rezoning Map".
- 2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
- 3) **Conflict with Preceding Ordinances:** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.
- 4) **Effective Date:** This Ordinance shall become effective on Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

Jenna L. Dukes, District 1	Bill Howard, District 2
Dennis DiSabato, District 3	Gary Loftus, District 4
Tyler Servant, District 5	Cam Crawford, District 6
Tom Anderson, District 7	Michael Masciarelli, District 8
R. Mark Causey, District 9	Danny Hardee, District 10
Al Allen, District 11	

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: January 24, 2023  
Second Reading:  
Third Reading:



# HORRY COUNTY REZONING REVIEW SHEET

Energov #: 60201 Advertisement & Mailout Date : 12-15-2022 Date Posted: 12-13-2022 # Property Owners Notified: 13 Report Date: 12-9-2022 BY: GHS

## PROPERTY INFORMATION

Applicant	James Fowler & Edwin Salley	Rezoning Request #	2022-12-009
PIN #	274-02-01-0003 & 274-02-01-0004	County Council District #	11 – Allen
Site Location	Corner of Sabrina Ln & Adrian Hwy in Conway	Staff Recommendation	Approval
Property Owner	James Fowler & Edwin Salley	PC Recommendation	Unanimous Approval
		Size (in acres) of Request	10.6

## ZONING INFORMATION

Current Zoning	SF 10
Proposed Zoning	AG 6
Proposed Use	Residential / hobby farm
Character of the Area	Industrial & rural residential

## LOCATION INFORMATION

Flood Information	X	FA	FA	FA
Wetland Information	1.9 acres	SF 10	Subject Property	FA
Utilities	Public	SF 10	FA	FA
Fire in miles	2.2 – Station 21 (Volunteer)			
EMS in miles	5.2 – Station 15 (Career)			

## ADJACENT PROPERTIES

## COMMENTS

Comprehensive Plan District: Rural and Scenic & Conservation	Overlay/Area Plan: Hwy 22 Overlay
--	-----------------------------------

**Discussion:** The applicant's are requesting to rezone from SF 10 to AG 6 in order to down-zone their properties and set a new minimum lot size precedent in the area. They are also requesting comprehensive plan amendments from Rural and Scenic & Conservation to just Scenic & Conservation. The parcels are surrounded by SF 10 and CFA zoning and are in close proximity to an Economic Activity Center and the industrial complex, Ascott Valley.

The current future land use designation is Scenic & Conservation and Rural. The Imagine 2040 Comprehensive Plan states the desire development pattern is "Active working lands, such as farms and forests, and large single family lots or family subdivisions with a minimum lot size of ½ an acre or maximum of 2 net units per acre."

**Public Comment:** 01/05/2023 James Fowler and Edwin Salley were present to answer any questions and concerns. There was no public input.

Proposed Improvements	
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## TRANSPORTATION INFORMATION

Daily Trips based on existing use / Max Daily Trips based on current zoning	16 / 270
Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning	100 / 100
Existing Road Conditions	State, Paved, Two-lane
Rd, Station, Traffic AADT (2021) % Road Capacity	S-97 (Adrian Hwy), 850 AADT 5-10%

## HORRY COUNTY SCHOOLS FUNCTIONAL CAPACITY

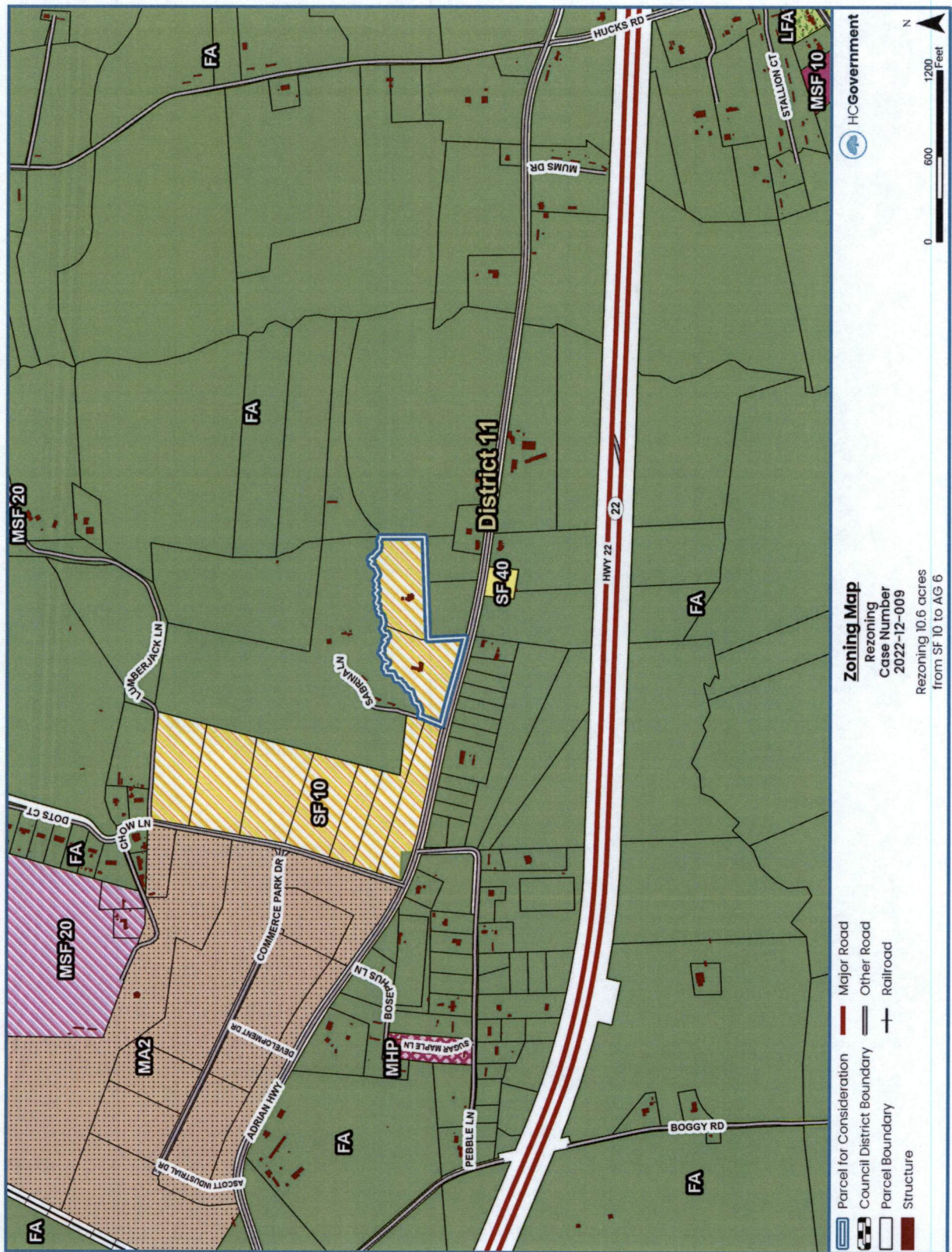
	Functional Capacity	2022-2023 ADM	Percent Capacity
Conway High	2,095	1,438	69%
Whittemore Park Middle	884	836	95%
Homewood Elementary	639	675	106%

## DIMENSIONAL STANDARDS

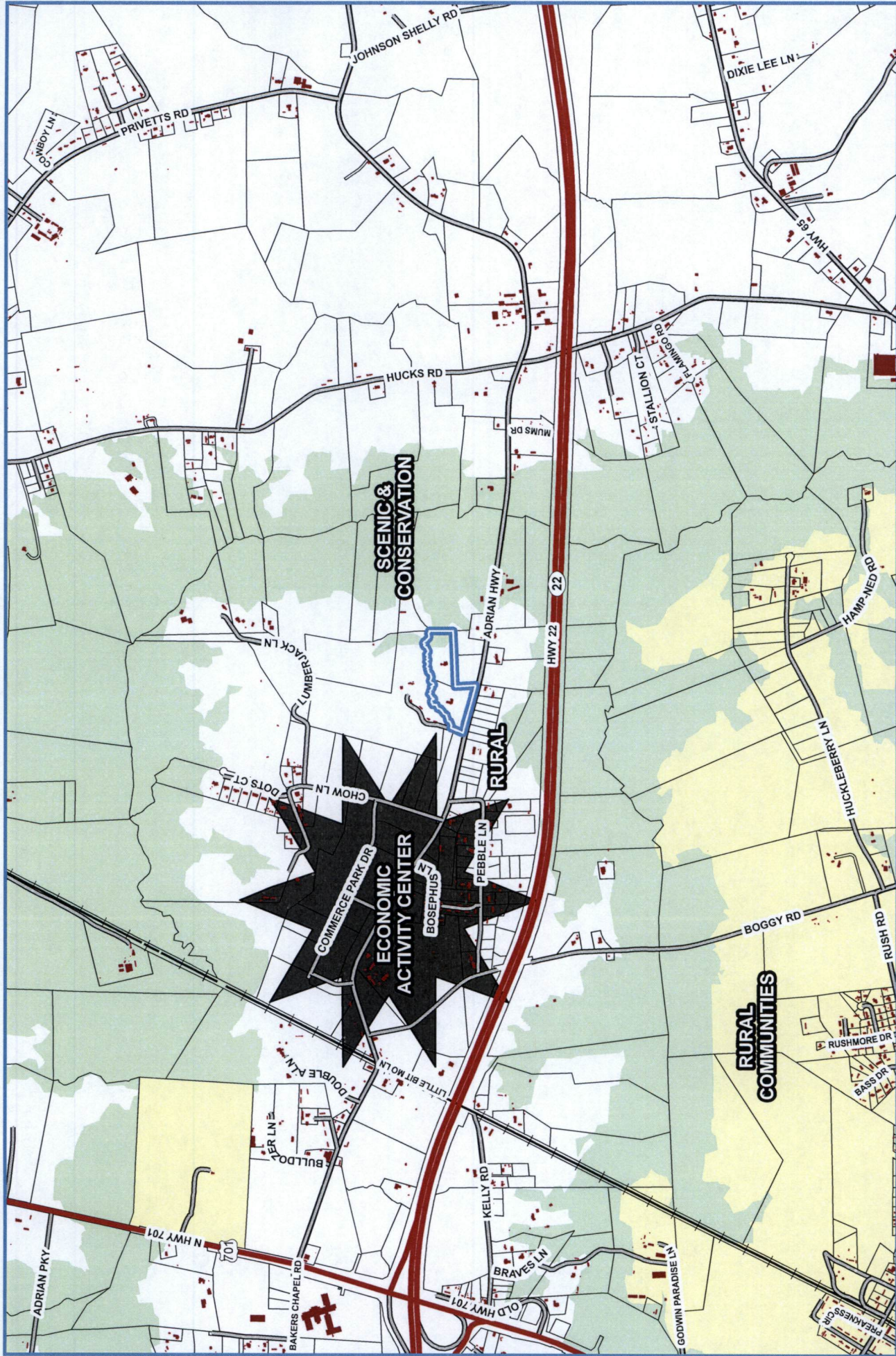
	Requested	Current	Adjacent	Adjacent	Adjacent	Adjacent
	AG 6	SF 10	FA	SF 10		
Min. Lot Size (in square feet)	1.5 acres	10,000	21,780	10,000		
Front Setback (in feet)	40	25	40	25		
Side Setback (in feet)	15	10	10	10		
Corner Side Setback (in feet)	22.5	15	15	15		
Rear Setback (in feet)	25	15	15	15		
Bldg. Height (in feet)	35	35	35	35		



# Attachment A – Rezoning Maps







**Future Land Use Map**

Rezoning Case Number 2022-12-009  
Rezoning 10.6 acres from SF 10 to AG 6

HC Government

0 1000 2000 Feet

N

Parcel for Consideration

Parcel Boundary

Structure


Major Road


Other Road

Railroad





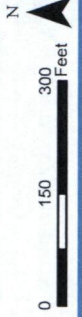
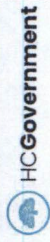
 Parcel for Consideration

 Other Road

### Aerial Map


Rezoning  
Case Number  
2022-12-009


Rezoning 10.6 acres  
from SF 10 to AG 6









 Parcel for Consideration


 Preliminary Base Flood Elevation (BFE)

 Major Road

 Other Road


### Flood Map

Rezoning  
Case Number  
2022-12-009  
Rezoning 10.6 acres  
from SF 10 to AG 6



HC Government

0 250 500 Feet





COUNTY OF HORRY

STATE OF SOUTH CAROLINA

Ordinance 04-2023

**AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE PIN 19214020002 FROM RESIDENTIAL (SF 40) TO RESIDENTIAL (MSF 40)**

**WHEREAS**, Ordinance Number 71-2021 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

**WHEREAS**, a request has been filed to amend the maps for the above mentioned parcel of land; and,

**WHEREAS**, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

**WHEREAS**, Horry County Council finds that the request to rezone the property from Residential (SF 40) to Residential (MSF 40) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request.

**NOW THEREFORE** by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

- 1) **Amendment of Official Zoning Maps of Horry County:**  
Parcel(s) of land identified by PIN 19214020002 and currently zoned Residential (SF 40) is hereby rezoned to Residential (MSF 40), as included in **Attachment A** titled "Rezoning Map".
- 2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
- 3) **Conflict with Preceding Ordinances:** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.
- 4) **Effective Date:** This Ordinance shall become effective on Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

Jenna L. Dukes, District 1	Bill Howard, District 2
Dennis DiSabato, District 3	Gary Loftus, District 4
Tyler Servant, District 5	Cam Crawford, District 6
Tom Anderson, District 7	Michael Masciarelli, District 8
R. Mark Causey, District 9	Danny Hardee, District 10
Al Allen, District 11	

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: January 24, 2023  
Second Reading:  
Third Reading:



# HORRY COUNTY REZONING REVIEW SHEET

PROPERTY INFORMATION			
<b>Applicant</b>	Amber Ayers	<b>Rezoning Request #</b>	2022-12-005
<b>PIN #</b>	192-14-02-0002	<b>County Council District #</b>	11 - Allen
<b>Site Location</b>	Ellwood Rd off Mill Pond Rd in Galivants Ferry	<b>Staff Recommendation</b>	Approval
<b>Property Owner</b>	Ashwood Holdings, LLC	<b>PC Recommendation</b>	Unanimous Approval
		<b>Size (in acres) of Request</b>	2.75

ZONING INFORMATION		LOCATION INFORMATION		ADJACENT PROPERTIES		
<b>Current Zoning</b>	SF 40	<b>Flood Information</b>	X	FA	FA	FA
<b>Proposed Zoning</b>	MSF 40	<b>Wetland Information</b>	N/A	SF 40	Subject Property	SF 40
<b>Proposed Use</b>	Manufactured home	<b>Utilities</b>	Septic	SF 40	SF 40	SF 40
<b>Character of the Area</b>	Farmland	<b>Fire in miles</b>	1.55 – Station 28 (Volunteer)			
		<b>EMS in miles</b>	5.61 – Station 15 (Career)			

COMMENTS	
Comprehensive Plan District: Rural	Overlay/Area Plan:
<p><b>Discussion:</b> The applicant is requesting to rezone from SF 40 to MSF 40 to permit a manufactured home. The parcel is surrounded by FA and SF 40 zoning. The future land use designation is Rural. The Imagine 2040 Comprehensive Plan states the desired development pattern is "active working lands, such as farms and forests, and large single family lots or family subdivisions with a minimum lot size of ½ an acre or maximum of 2 net units per acre." The parcel is surrounded by vacant farmland.</p>	

**Public Comment:** 01/05/2023 Amber Ayers was present to answer any questions and concerns. There was no public input.

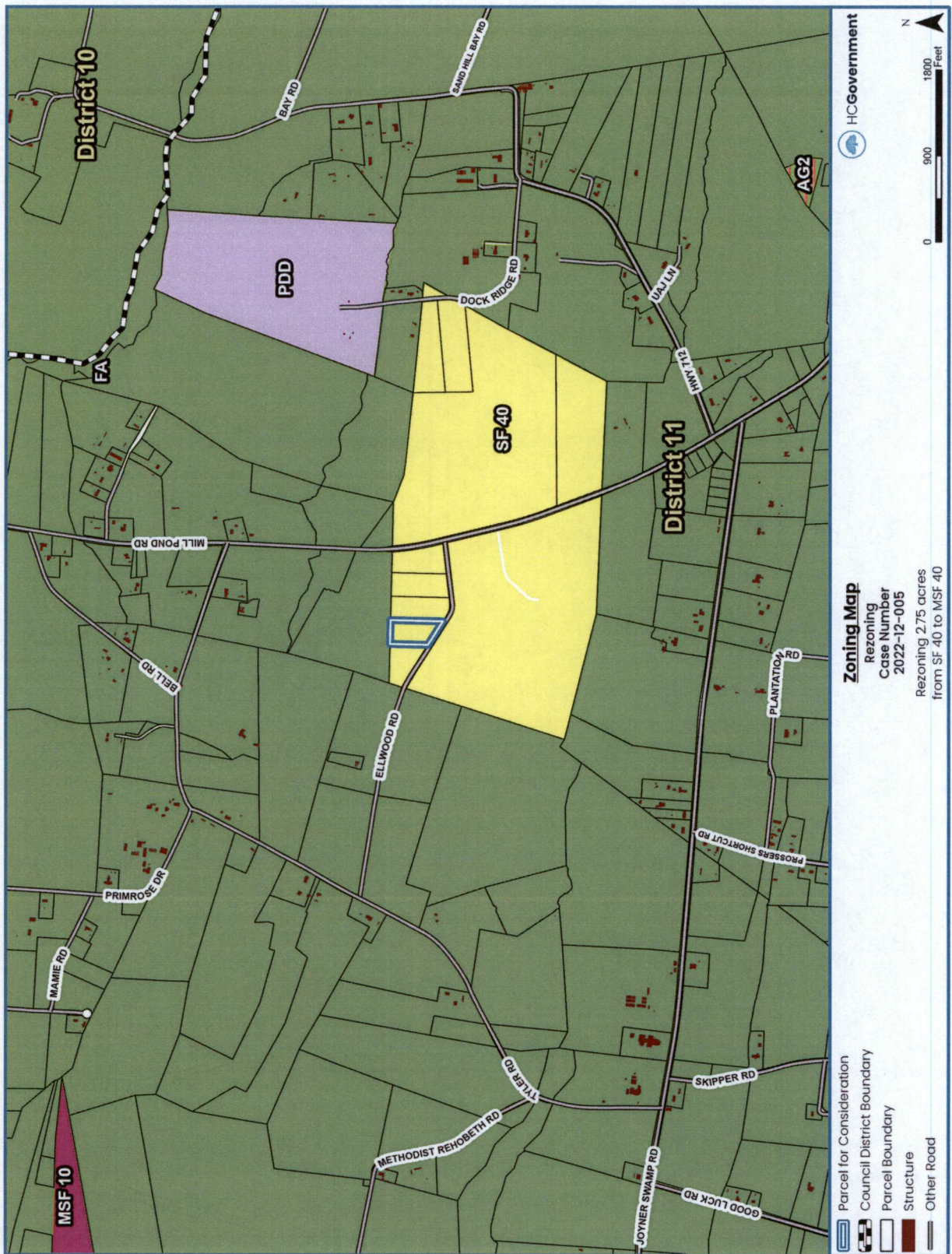
<b>Proposed Improvements</b>	
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TRANSPORTATION INFORMATION		HORRY COUNTY SCHOOLS FUNCTIONAL CAPACITY			
<b>Daily Trips based on existing use / Max Daily Trips based on current zoning</b>	0 / 16		<b>Functional Capacity</b>	<b>2022-2023 ADM</b>	<b>Percent Capacity</b>
<b>Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning</b>	16 / 16	<b>Aynor High</b>	1,059	783	74%
<b>Existing Road Conditions</b>	County, Unpaved	<b>Aynor Middle</b>	707	758	107%
<b>Rd, Station, Traffic AADT (2021) % Road Capacity</b>	S-45 (Joyner Swamp Rd), Station (264) 800 AADT 5-10%	<b>Midland Elementary</b>	735	576	78%

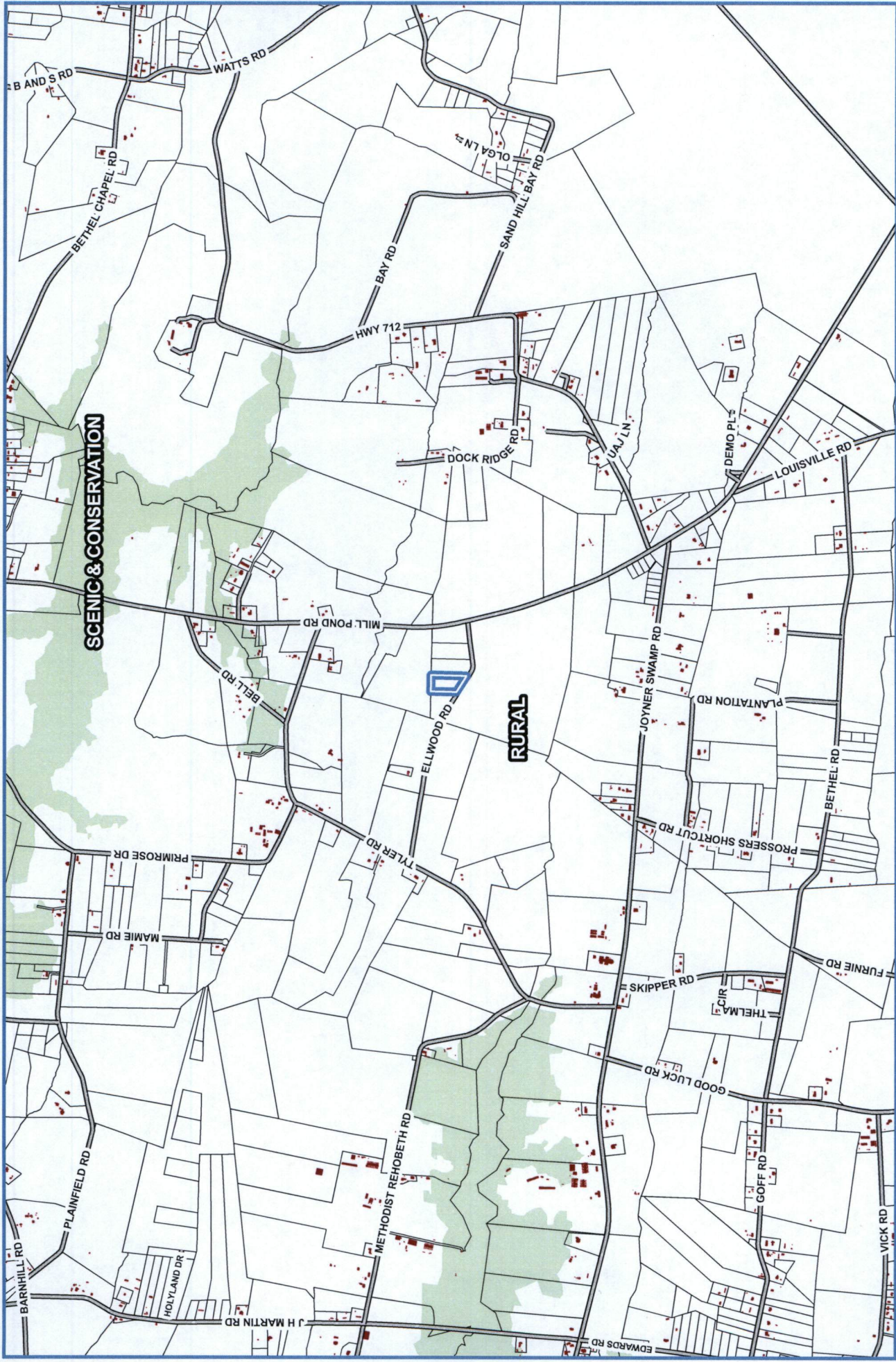
DIMENSIONAL STANDARDS	Requested	Current	Adjacent	Adjacent	Adjacent	Adjacent
	MSF 40	SF 40	FA Comm / Res	SF 40		
<b>Min. Lot Size (in square feet)</b>	40,000	40,000	43,560 / 21,780	40,000		
<b>Front Setback (in feet)</b>	50	50	60 / 40	50		
<b>Side Setback (in feet)</b>	20	20	25 / 10	20		
<b>Corner Side Setback (in feet)</b>	30	30	37.5 / 15	30		
<b>Rear Setback (in feet)</b>	30	30	40 / 15	30		
<b>Bldg. Height (in feet)</b>	35	35	35	35		



# Attachment A – Rezoning Maps











### Future Land Use Map


Rezoning  
Case Number  
2022-12-005  
Rezoning 2.75 acres  
from SF 40 to MSF 40


-  Parcel for Consideration
-  Parcel Boundary
-  Structure
-  Other Road







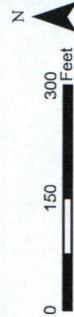
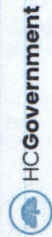
 Parcel for Consideration

 Other Road

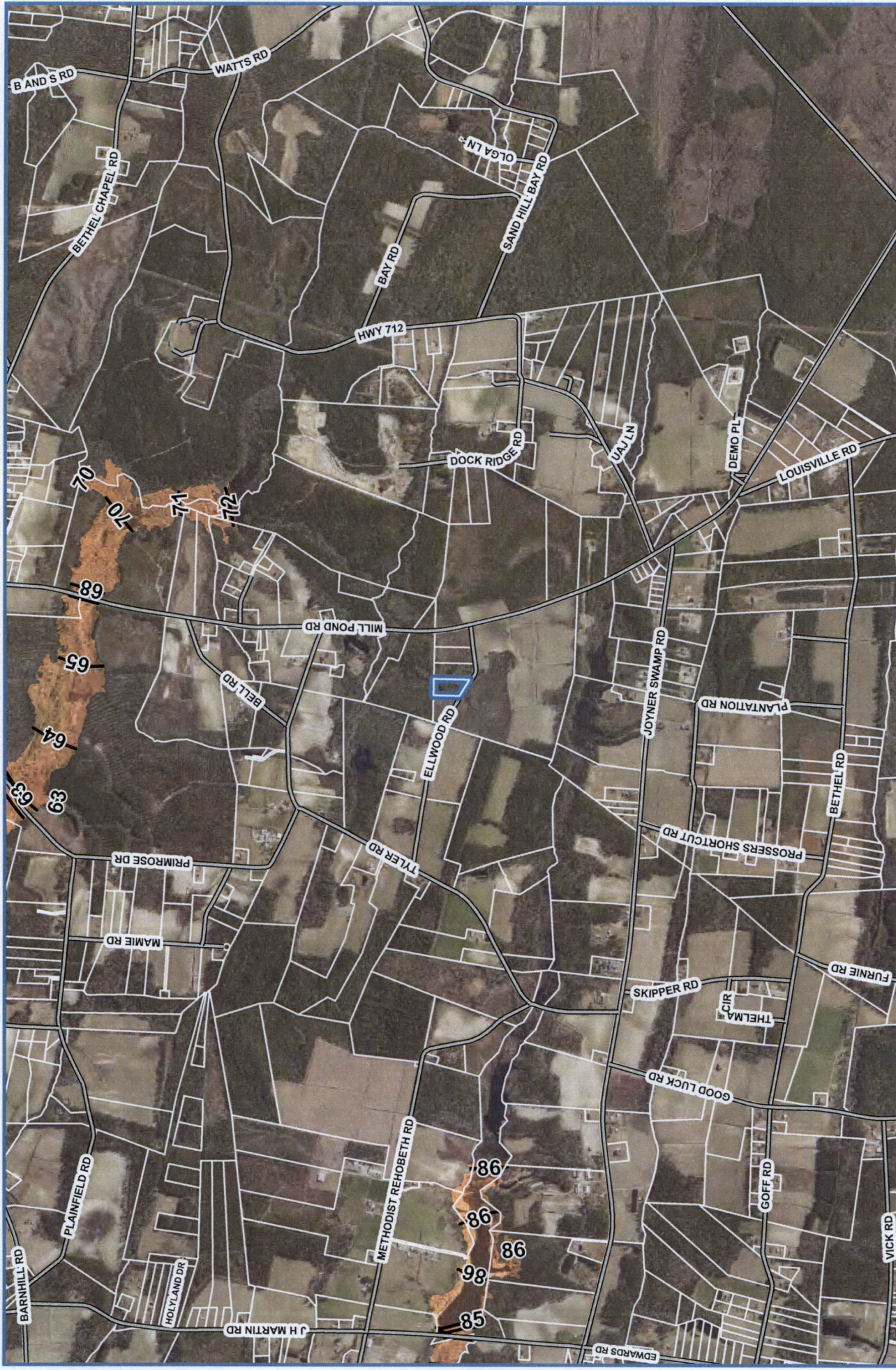
### Aerial Map

Rezoning  
Case Number  
2022-12-005

Rezoning 2.75 acres  
from SF 40 to MSF 40








**HC Government**

**Flood Map**  
Rezoning Case Number 2022-12-005  
Rezoning 2.75 acres from SF 40 to MSF 40

 Parcel for Consideration

 Preliminary Base Flood Elevation (BFE)

 AE - Special Flood Hazard Area

 Other Road

 N

  
0 1000 2000 Feet



COUNTY OF HORRY

STATE OF SOUTH CAROLINA

Ordinance 05-2023

**AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE PIN 19116010004 FROM RESIDENTIAL (SF 40) TO AGRICULTURAL MANUFACTURED ESTATE DISTRICT (AG 5)**

**WHEREAS**, Ordinance Number 71-2021 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

**WHEREAS**, a request has been filed to amend the maps for the above mentioned parcel of land; and,

**WHEREAS**, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

**WHEREAS**, Horry County Council finds that the request to rezone the property from Residential (SF 40) to Agricultural Manufactured Estate District (AG 5) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request.

**NOW THEREFORE** by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

- 1) **Amendment of Official Zoning Maps of Horry County:**  
Parcel(s) of land identified by PIN 19116010004 and currently zoned Residential (SF 40) is hereby rezoned to Agricultural Manufactured Estate District (AG 5), as included in **Attachment A** titled "Rezoning Map".
- 2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
- 3) **Conflict with Preceding Ordinances:** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.
- 4) **Effective Date:** This Ordinance shall become effective on Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

Jenna L. Dukes, District 1	Bill Howard, District 2
Dennis DiSabato, District 3	Gary Loftus, District 4
Tyler Servant, District 5	Cam Crawford, District 6
Tom Anderson, District 7	Michael Masciarelli, District 8
R. Mark Causey, District 9	Danny Hardee, District 10
Al Allen, District 11	

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: January 24, 2023  
Second Reading:  
Third Reading:



# HORRY COUNTY REZONING REVIEW SHEET

Energov #: 60117 Advertisement & Mailout Date : 12-15-2022 Date Posted: 12-13-2022 # Property Owners Notified: 6 Report Date: 11-18-2022 BY: GHS

PROPERTY INFORMATION			
Applicant	Anita & Neil Seubert	Rezoning Request #	2022-12-003
PIN #	191-16-01-0004	County Council District #	11 - Allen
Site Location	Dock Ridge Rd in Galivants Ferry	Staff Recommendation	Approval
Property Owner	Anita & Neil Seubert	PC Recommendation	Unanimous Approval
		Size (in acres) of Request	6.34

ZONING INFORMATION		LOCATION INFORMATION		ADJACENT PROPERTIES		
Current Zoning	SF 40	Flood Information	X	SF 40	SF 40	SF 40
Proposed Zoning	AG 5	Wetland Information	N/A	SF 40	Subject Property	FA
Proposed Use	Manufactured home & hobby farm	Utilities	Septic	SF 40	SF 40	SF 40
Character of the Area	Farmland & rural residential	Fire in miles	2.8 – Station 28 (Volunteer)			
		EMS in miles	5.8 – Station 15 (Career)			

## COMMENTS

Comprehensive Plan District: Rural	Overlay/Area Plan:
------------------------------------	--------------------

**Discussion:** The applicant is requesting to rezone from SF 40 to AG 5 to permit a manufactured home and have farm animals. The future land use designation is Rural. The Imagine 2040 Comprehensive Plan states the desire development pattern is "Active working lands, such as farms and forests, and large single family lots or family subdivisions with a minimum lot size of ½ an acre or maximum of 2 net units per acre." The property is surrounded by SF 40 and FA zoning.

The applicant is requesting to down-zone the property which currently has a minimum lot size of 40,000 sqft to a zoning district that has a minimum lot size of 5 acres.

There is a PDD at the end of Dock Ridge Rd that was rezoned from FA to PDD in 2006. The permitted uses within the PDD are, mine/borrow pit, mulch processing, and mulch stock piles.

**Public Comment:** 01/05/2023 Anita Seubert was present to answer any question and concerns. There was no public input.

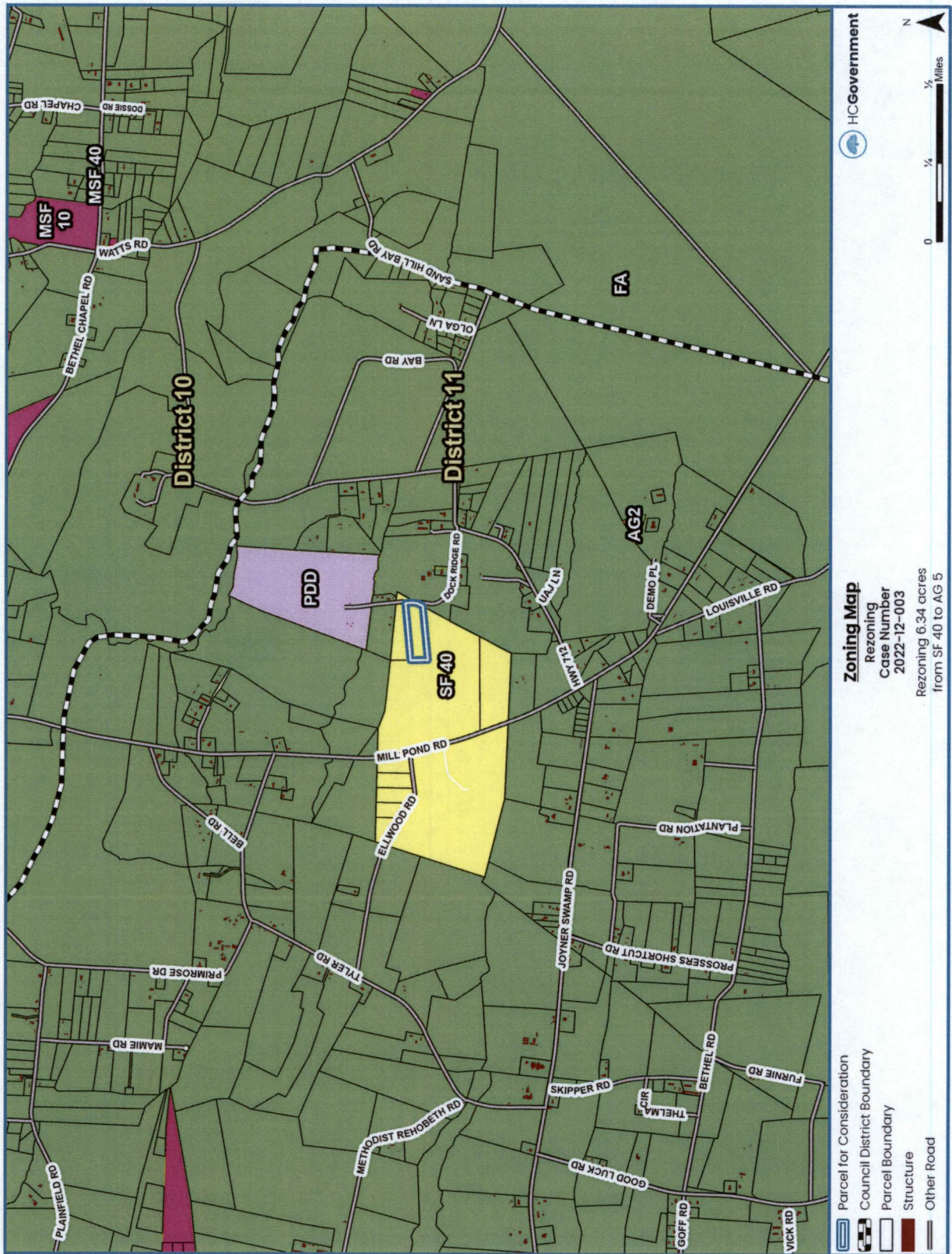
Proposed Improvements	
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TRANSPORTATION INFORMATION		HORRY COUNTY SCHOOLS FUNCTIONAL CAPACITY			
Daily Trips based on existing use / Max Daily Trips based on current zoning	0 / 48		Functional Capacity	2022-2023 ADM	Percent Capacity
Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning	8 / 8	Aynor High	1,059	783	74%
Existing Road Conditions	County, Unpaved	Aynor Middle	707	758	107%
Rd, Station, Traffic AADT (2021) % Road Capacity	S-45 (Joyner Swamp Rd), Station (264) 800 AADT 5-10%	Midland Elementary	735	576	78%

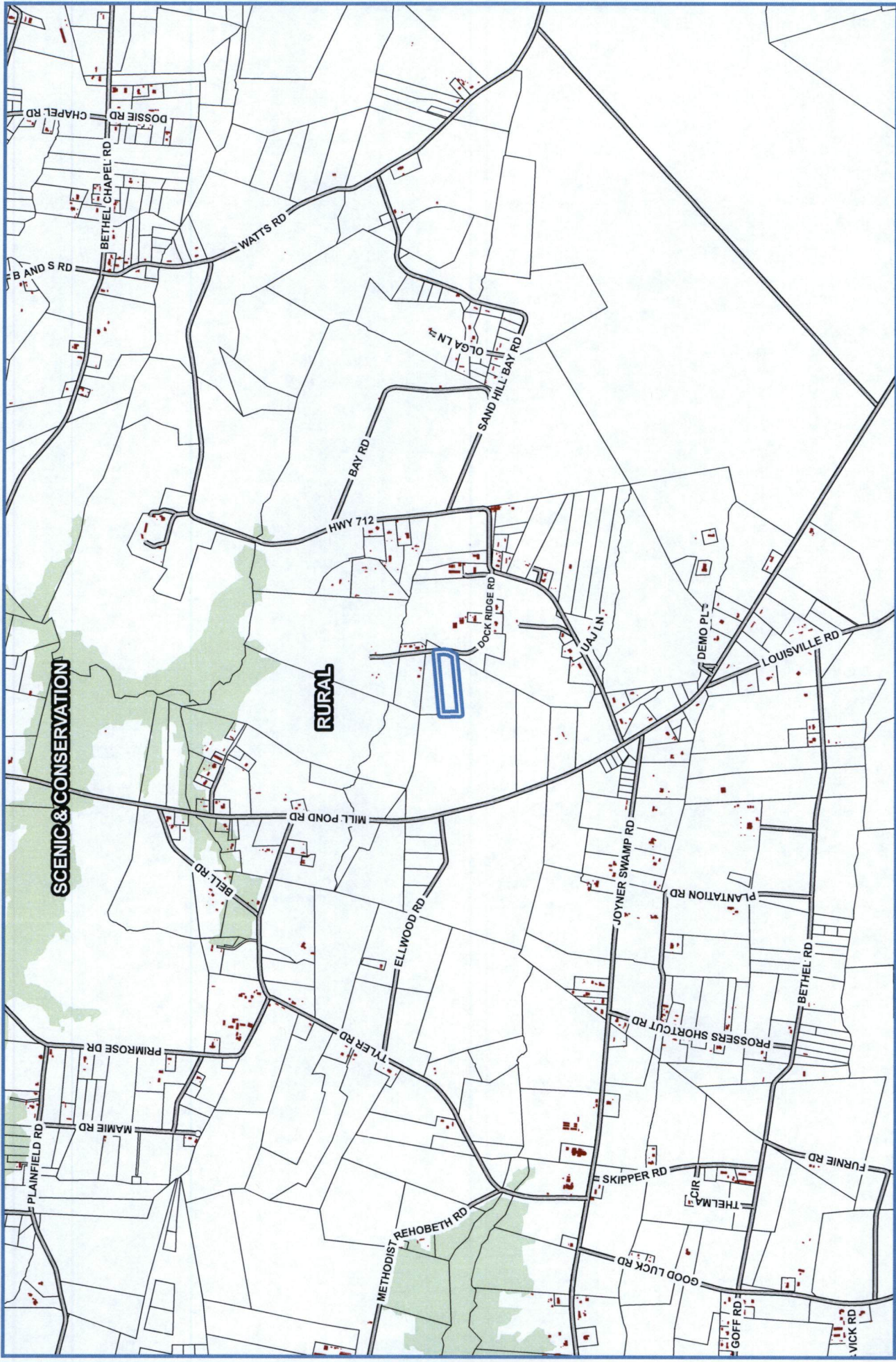
DIMENSIONAL STANDARDS	Requested	Current	Adjacent	Adjacent	Adjacent	Adjacent
	AG 5	SF 40	SF 40	FA		
Min. Lot Size (in square feet)	5 Acres	40,000	40,000	21,780		
Front Setback (in feet)	60	50	50	40		
Side Setback (in feet)	25	20	20	10		
Corner Side Setback (in feet)	37.5	30	30	15		
Rear Setback (in feet)	25	30	30	15		
Bldg. Height (in feet)	35	35	35	35		



# Attachment A – Rezoning Maps







**Future Land Use Map**

Rezoning  
Case Number  
2022-12-003  
Rezoning 6.34 acres  
from SF 40 to AG 5


- Parcel for Consideration
- Parcel Boundary
- Structure
- Other Road





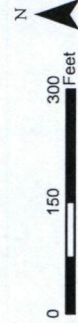


 Parcel for Consideration

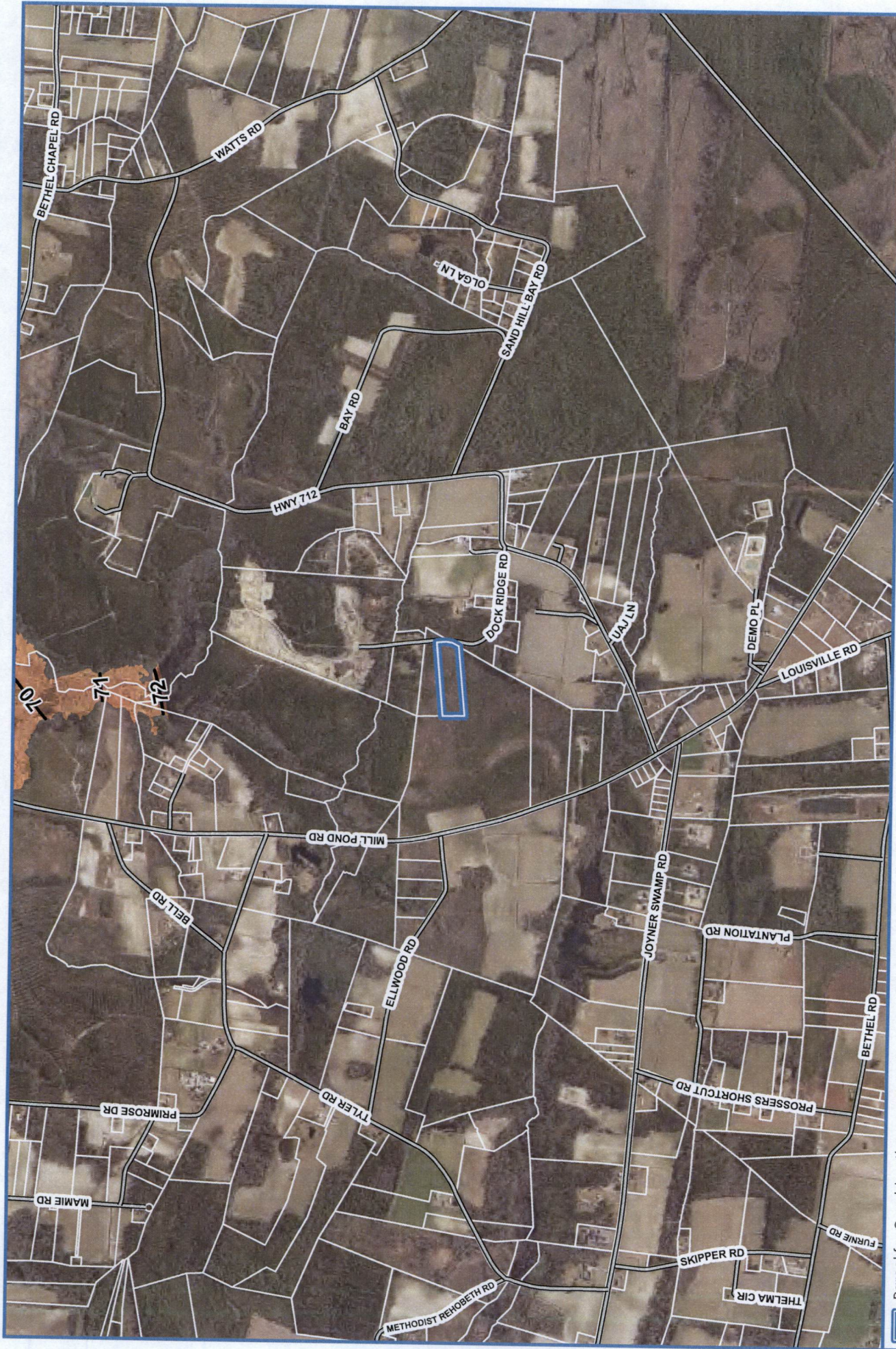
 Other Road

### **Aerial Map**

Rezoning  
Case Number  
2022-12-003  
Rezoning 6.34 acres  
from SF 40 to AG 5





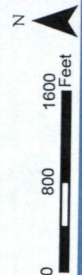


### Flood Map

Rezoning Case Number 2022-12-003

Rezoning 6.34 acres from SF 40 to AG 5

- Parcel for Consideration
- Preliminary Base Flood Elevation (BFE)
- AE - Special Flood Hazard Area
- Other Road





**AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE IMAGINE 2040 COMPREHENSIVE PLAN FOR PIN 27402010003 AND 27402010004 FROM RURAL TO SCENIC & CONSERVATION.**

**WHEREAS**, Horry County Council approved Ordinance 54-19 on December 10, 2019 adopting the Horry County Comprehensive Plan, Imagine 2040; and

**WHEREAS**, the property owner requested an amendment the Future Land Use Map of the Comprehensive Plan; and

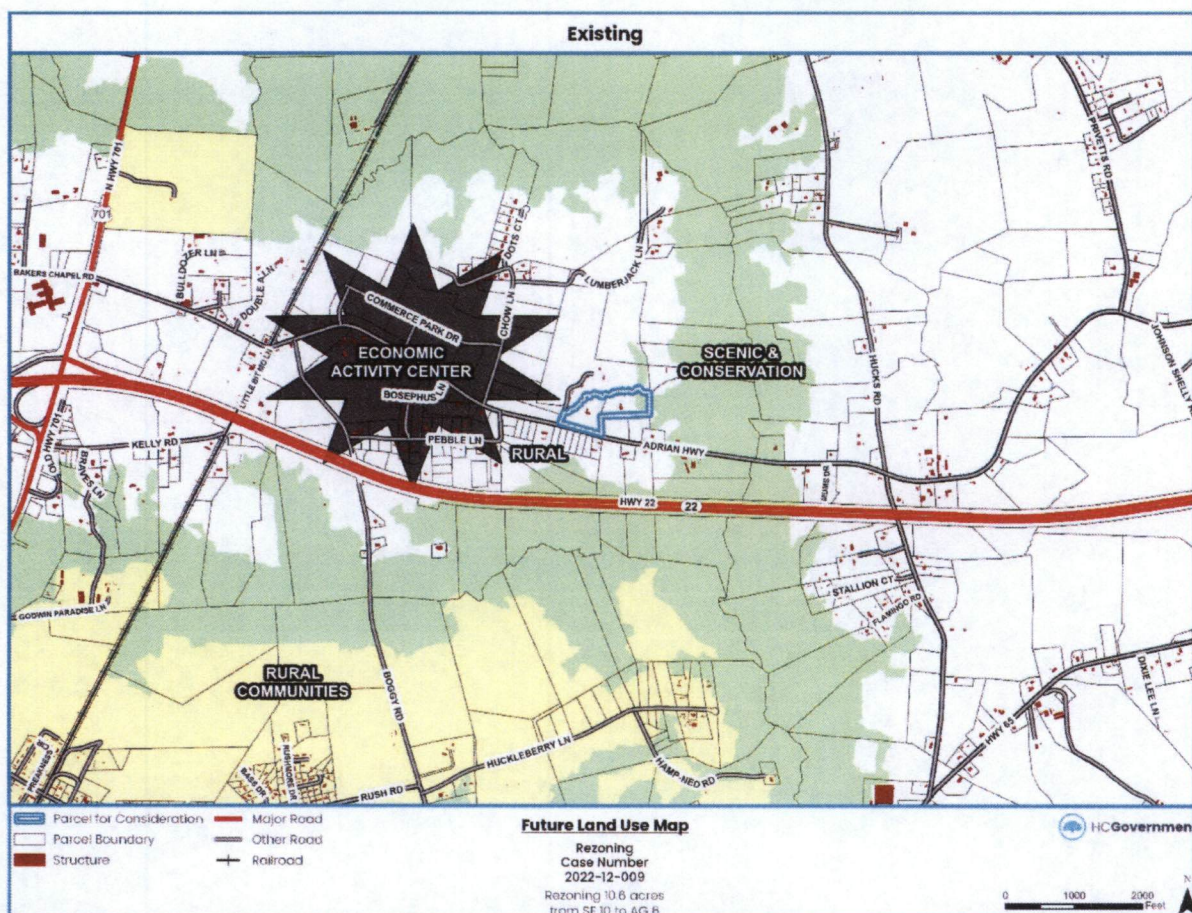
**WHEREAS**, Horry County Planning Commission has publicly advertised this proposed amendment to the Comprehensive Plan to meet the requirements of Chapter 15, Article 1, Section 1 of the Horry County Code of Ordinances; and

**WHEREAS**, Horry County Planning Commission having held public hearing deems that the proposed change to the Comprehensive Plan is necessary.

**NOW, THEREFORE, BE IT RESOLVED** that Horry County Planning Commission recommends the following amendment to the Future Land Use Map of the Imagine 2040 Comprehensive Plan:

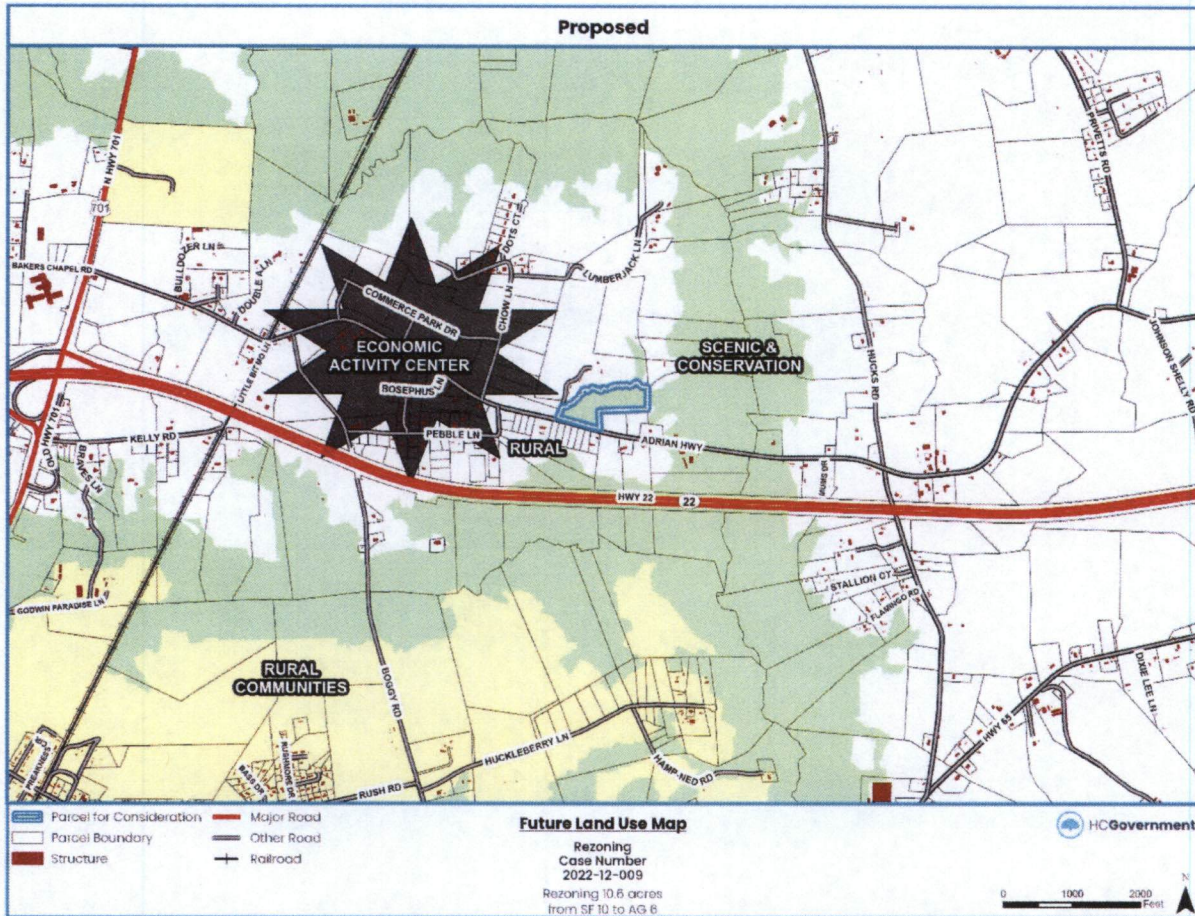
- 1) **Adoption of the Amendment to the Imagine 2040 Comprehensive Plan, amending the Future Land Use Map for PIN 27402010003 and 27402010004 from the future land use shown in Map A to the future land use shown in Map B.**

Map A: Adopted Imagine 2040 Future Land Use Map





Map B: Amendment to the Imagine 2040 Future Land Use Map



- 2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section, or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
- 3) **Conflict with Preceding Ordinances:** If a Section, Sub-section, or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section, or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section., or part shall be deemed repealed and no longer in effect.
- 4) **Effective Date:** This Ordinance shall become effective upon Third Reading.

AND IT IS SO ORDAINED, ENACTED, AND ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

### HORRY COUNTY COUNCIL

\_\_\_\_\_  
Johnny Gardner, Chairman

Jenna L. Dukes, District 1  
Dennis DiSabato, District 3  
Tyler Servant, District 5  
Tom Anderson, District 7  
R. Mark Causey, District 9  
Al Allen, District 11

Bill Howard, District 2  
Gary Loftus, District 4  
Cam Crawford, District 6  
Michael Masciarelli, District 8  
Danny Hardee, District 10

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: January 24, 2023

Second Reading:

Third Reading:



County Council Decision Memorandum  
Horry County, South Carolina

Date: January 6, 2023  
From: Planning and Zoning  
Division: Infrastructure and Regulation  
Prepared By: Yasmine Gore, Senior Planner  
Cleared By: Charles Suggs, Deputy Planning Director  
Regarding: Future Land Use Map Amendment to PIN 27402010003 and 27402010004

District: 11

**ISSUE:**

Should the Future Land Use Map of the Imagine 2040 Comprehensive Plan be amended from Rural to Scenic & Conservation for PIN 27402010003 and 27402010004?

**PROPOSED ACTION:**

Amend the Horry County Comprehensive Plan "Imagine 2040" by changing the Future Land Use Designation for PIN 27402010003 and 27402010004 from Rural to Scenic & Conservation.

**RECOMMENDATION:**

Planning Commission recommended Approval on 1/5/23

**BACKGROUND:**

Horry County Council approved Ordinance 54-19 on December 10, 2019 adopting the **Horry County Comprehensive Plan, Imagine 2040** and the Future Land Use Map therein. The Future Land Use Map was developed based on a strategy of public input and geo-spatial analysis. Public input included hearings in front of Planning Commission and County Council as well as a community survey, open houses held throughout the County, and a Land Use Workshop in May 2018. Development trends, existing land use and existing and planned infrastructure informed a development analysis while natural assets, priority conservation areas and environmental constraints were the framework of the environmental analysis of the Future Land Use Map.

**The agent for PIN 27402010003 and 27402010004 applied to amend the future land use from Rural to Scenic & Conservation. This request coincides with rezoning request (2022-12-009) to rezone the property from SF10 to AG6 to allow for rural estates and hobby farm.**

**Current Future Land Use**

The property is designated as **Rural**, which supports active working lands, such as farms and forests, and large single family lots or family subdivisions with a minimum lot size of ½ an acre or maximum of 2 net units per acre. This designation was derived from an analysis of surrounding land uses, zoning, public input, and the lack of important infrastructure to support more intense land uses. The following Rural land use policy guidance from the Imagine 2040 Comprehensive Plan that are applicable to this request include:

- Protect active agricultural and forestry operations, prime farmland, and erodible soils, in addition to other important natural features.
- Major residential subdivisions are discouraged to minimize the impact on public services and infrastructure.

**Requested Future Land Use**

The applicant's request is to amend the future land use of PIN 27402010003 and 27402010004 to **Scenic & Conservation**. *If approved, the future land use would support limited development. If developed, design should use low-impact design principles to support environmental preservation and avoid natural hazards. Subdivision of land into lots less than 5 acres in size for new developments is discouraged. In suburban and urbanizing areas of the County, these areas should be considered for dedication as open space in new development.* This designation was derived from an analysis of surrounding land uses, zoning, public input, and the lack of important infrastructure to support more intense land uses. The following Scenic & Conservation land use policy guidance from the Imagine 2040 Comprehensive Plan that are applicable to this request include:

- These areas should be considered to meet or mitigate open space criteria within major residential subdivisions, as defined within the Land Development Regulations.
- If development is deemed appropriate, it should incorporate best management practices for protecting environmentally sensitive areas and water quality, in addition to avoiding natural hazards and addressing public safety issues.

**ANALYSIS:**

**Public Schools:** Conway High School functional capacity is 69%. Whittemore Park Middle is functioning near capacity at 95%. However, Homewood Elementary is functioning over capacity at 106%. Horry County Schools has plans to rebuild Whittemore Park Middle in a new location on El Bethel Rd to meet growing demands. Horry County Schools anticipates it will open by the summer of 2024.

**Road Maintenance:** Adrian Highway (S- 97) is a paved two- lane road maintained by SCDOT.

**Public Safety:** Maple (Station 15) is the nearest volunteer fire station located within the vicinity of the subject property (2.5 miles way). Bayboro (Station 21) is the nearest career fire station located within the vicinity of the subject property (4.2 miles way). This facility provides both Fire and EMS services. A strategy of the Imagine 2040 Plan says to "ensure that public safety departments are adequately staffed and properly equipped to meet the needs of the existing and growing population."



Water System: This property is currently located within Grand Strand Water and Sewer's service area. Water and sewer lines are readily available on the property.

Veteran's Highway Overlay Zone: The front of property is located within the Veteran's Highway Overlay Zone. The purpose of the overlay zone is to preserve the exceptional scenic value of the highway and maintain the serene farm field and natural vistas from the highway for all travelers to enjoy. The Veteran's Highway Overlay Zone provides supplemental sign regulations. The overlay zone extends 1,000 feet of the right-of-way line on either side of Veteran's Highway.

Adjacent Land Use: This property is located within the vicinity of an Economic Development Center (0.25 miles away). The Horry County Comprehensive Plan, Imagine 2040, states that an Economic Development Center can be described as a concentrated areas of high quality employment facilities, adjacent to complementary retail and commercial uses and/ or residential uses. This category encourages development of manufacturing, industrial, distribution, services, and office uses in locations that will minimally affect surrounding properties. Commercial uses are secondary to major employment uses.

Conclusion: Amending the future land use for PIN 27402010003 and 27402010004 to **Scenic & Conservation** suggests that the property is environmentally constrained or in an area prone to natural hazards. The Scenic & Conservation land use is applied to areas of the County that scored exceptionally high on the environmental constraint analysis and/or received strong recommendation from the community for future conservation. While not "off limits" to development, policy guidance is clear that more site specific information is needed to ensure a site is not constrained before considering different uses. In major residential subdivisions, these areas are recommended to remain within neighborhood open space.



January 17, 2023

Pat Hartley, Clerk of Horry County Council

Re: Arcadian Shores Special Tax District appointment of Board of Commissioners

Dear Ms. Hartley: The Board has nominated the following people to serve as Commissioners of the Arcadian Shores Special Tax District and asks that they be appointed by County Council at Council's earliest convenience. Thank you.

July 1, 2020 to June 30, 2024 term: Fred Harris, Mark Gooch

July 1, 2022 to June 30, 2026 term: Paul Benik; Barry Meadows; Shawn Kelly

Respectfully submitted,

Teresa Poster, President

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STATE OF SOUTH CAROLINA

COUNTY OF HORRY

ORDINANCE ~~20~~-140-2022

AN ORDINANCE TO AUTHORIZE AND APPROVE THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BETWEEN HORRY COUNTY, SOUTH CAROLINA AND ~~(PROJECT COOK)~~ PBV CONWAY-MYRTLE BEACH LLC PROVIDING FOR THE PAYMENT OF A FEE-IN-LIEU OF TAXES AND THE PROVISION OF SPECIAL SOURCE REVENUE CREDITS; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

By the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina, and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

**Section 1. Findings and Determinations**

Council finds and determines that:

(a) Horry County, South Carolina (the "County") acting by and through its County Council (the "Council"), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the "Code"), and specifically Title 12, Chapter 44 of the Code (the "Fee in Lieu of Tax Simplification Act" or "FILOT Act"), to enter into agreements with business and industry, to offer certain privileges, benefits, and incentives as inducements for economic development within the County whereby the industry would pay fees in lieu of *ad valorem* taxes ("FILOT Payments") with respect to qualified business and industrial projects, through all such powers the industrial development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain and expand in the State and thus utilize and employ the workforce, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise adequately provided locally; and

(b) The County, acting by and through its Council, is authorized and empowered to establish, multicounty parks (an "MCP") pursuant to Article VIII, Section 13(D) of the Constitution of South Carolina, and Sections 4-1-170, 4-1-172, and 4-1-175 of the Code, as amended (the "MCP Act") to further the investment of capital and the creation of jobs in the County; and

(c) Section 12-44-70 of the FILOT Act, Section 4-1-175 of the MCP Act and Section 4-29-68 of the Code authorizes the Council to provide special source revenue credits ("SSRCs") that are applied against FILOT Payments made pursuant to the FILOT Act and MCP Act to reimburse a project for the costs of designing, acquiring, constructing, improving, or expanding, among other things, (i) infrastructure serving the project, or (ii) improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise; and

(d) ~~(Project Cook)~~ PBV Conway-Myrtle Beach LLC, acting for itself, one or more affiliates, and/or other project sponsors (collectively, the "Company"), is considering the investment in a facility in the County (the "Project"), and the Company anticipates that, should plans proceed as expected, investment in the Project will equal or exceed \$15,000,000 within the County, and the retention of at least 146 full time jobs in the County; and



(e) Pursuant to Resolution No. R-~~20~~-142-2022, adopted on ~~December 13~~, 2022, the Council approved an Inducement Resolution providing for, amongst other things, the commitment of the County to enter into a fee-in-lieu of tax and incentive agreement (“Fee Agreement”) with the Company (identified in such Resolution as “Project Cook”) and the provision of SSRCs; and

(f) The Company has caused to be prepared and presented the form of the Fee Agreement by and between the County and Company, which provides for FILOT Payments utilizing a 6% assessment ratio for an initial period of 30 years for each phase of the Project or each component thereof placed in service during the initial investment period (and any extension to which the parties agree) and SSRCs against such FILOT Payments, amongst other things; and

(g) It appears that the Fee Agreement attached to this ordinance is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

## **Section 2. Statutory Findings**

As contemplated, in part, by Section 12-44-40(I) of the FILOT Act, based on information provided to the County by the Company, the County makes the following findings and determinations:

- (a) The Project will constitute a “project” as referred to and defined in the FILOT Act; and
- (b) The Project, and the County’s actions herein, will subserve the purposes of the FILOT Act; and
- (c) The Project is anticipated to benefit the general public welfare of the State and the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; and
- (d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either; and
- (e) The purposes to be accomplished by the Project, *i.e.*, economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes; and
- (f) The benefits of the Project are greater than the costs.

## **Section 3. Approval of Fee Agreement**

The Fee Agreement, attached to this ordinance as Exhibit A, is authorized, ratified and approved, and all the provisions, terms, and conditions thereof are authorized, ratified and approved and the Fee Agreement is incorporated herein by reference as if the Fee Agreement were set out in this ordinance in its entirety. The Council Chairman is authorized, empowered, and directed to execute the Fee Agreement in the name of and on behalf of the County, and thereupon to cause the Fee Agreement to be delivered to the Company. The Clerk to Council is authorized, empowered and directed to attest the Fee Agreement. The Fee Agreement is to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such official’s execution thereof to constitute conclusive evidence of such official’s approval of any and all changes or revisions therein



from the form of the Fee Agreement attached to this ordinance. In addition, the County approves the addition of PCIP 4 Partners LLC as a Sponsor Affiliate under the Fee Agreement upon its execution and delivery of a joinder agreement in substantially the form attached as Exhibit B to the Fee Agreement.

**Section 4. Authority to Act**

The Council Chairman, the County Administrator, the Clerk to Council, and any other appropriate official of the County, for and on behalf of the County, 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 County under and pursuant to the Fee Agreement.

**Section 5. Severability**

If a section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, the invalid or unconstitutional portion is deemed a separate, distinct, and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

**Section 6. Conflicting Provisions**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Horry County Code or other County ordinances and resolutions, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 7. Effective Date**

This ordinance is effective upon third reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this 24<sup>th</sup> day of January, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

~~Harold G. Worley~~ Jenna L. Dukes, District 1  
District 2  
Dennis DiSabato, District 3  
Tyler Servant, District 5  
~~Orton Bellamy~~ Tom Anderson, District 7  
Masciarelli, District 8  
R. Mark Causey, District 9  
Al Allen, District 11

Bill Howard,  
Gary Loftus, District 4  
Cam Crawford, District 6  
~~Johnny Vaught~~ Michael  
Danny Hardee, District 10

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: \_\_\_\_\_, 20 December 13, 2022



Second Reading: \_\_\_\_\_, ~~20~~ January 10, 2023  
Third Reading: \_\_\_\_\_, ~~20~~ January 24, 2023  
Public Hearing: \_\_\_\_\_, ~~20~~ January 24, 2023



**Exhibit A to Ordinance ~~20~~ 140-2022**

**FEE AGREEMENT  
BETWEEN  
HORRY COUNTY, SOUTH CAROLINA, AND ~~(PROJECT COOK)~~ PBV CONWAY-  
MYRTLE BEACH LLC**

See attached.

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FEE AGREEMENT

between

HORRY COUNTY, SOUTH CAROLINA

and

~~[PROJECT COOK]~~

PBV CONWAY-MYRTLE BEACH LLC

Dated as of \_\_\_\_\_, January 24, 2023



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## FEE AGREEMENT

This FEE AGREEMENT (this “Agreement”), is dated as of January 24, 2023, and is between HORRY COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”), and PBV CONWAY-MYRTLE BEACH LLC, a Delaware limited liability company ~~identified for the time being as PROJECT COOK~~, acting for itself, one or more affiliates, and/or other project sponsors (the “Company”).

## RECITALS

WHEREAS, the County, acting by and through its County Council (the “Council”), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the “Code”), and specifically Title 12, Chapter 44 of the Code (the “Fee in Lieu Tax Simplification Act” or “FILOT Act”), and Sections 4-1-170, 4-1-172 and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution (the “Multi-County Park Act”) (collectively, the FILOT Act and the Multi-County Park Act are referred to the “Act”): (i) to enter into agreements with certain investors to construct, operate, maintain, and improve such projects through which the economic development of the State of South Carolina (the “State”) will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the workforce, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain fee in lieu of *ad valorem* tax (“FILOT”) payments with respect to a project; (iii) to permit such investors to claim special source revenue credits against their FILOT payments to reimburse such investors for expenditures in connection with infrastructure serving the County or improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County; and (iv) to maintain, create or expand, in conjunction with one or more other counties, a multi-county industrial park; and

WHEREAS, the Company is considering the establishment of a facility in the County and the Company anticipates that, should its plans proceed as expected, its investment, or the investment it will cause, in such facility will equal or exceed \$15,000,000, in the aggregate, within the County; and

WHEREAS, the County has determined that the Project, as defined below, will (i) subserve the purposes of the Act and has made certain findings pertaining thereto in accordance with the Act; (ii) give rise to no pecuniary liability of the County or incorporated municipality and to no charge against the general credit or taxing power of either the County or any incorporated municipality; and (iii) the benefits of the Project to the public are greater than the costs to the public; and

WHEREAS, in accordance with such findings and determinations, and in order to induce the Company to locate the Project in the County, the Council adopted ~~a~~ Resolution No. R-142-2022 on December 13, 2022 (the “Inducement Resolution”), whereby the County committed, among other things, to enter into a Fee Agreement for the Project that provides FILOT and special source revenue credit incentives and to include the land on which the Project is to be located in a multi-county park, the terms of all of which are set forth in greater detail in this Agreement; and



WHEREAS, the County has determined it is in the best interest of the County to enter into this Agreement with the Company, subject to the terms and conditions set forth herein and, by Ordinance ~~2023~~ 140-2022 enacted on January 24, 2023 (the "Ordinance"), Council approved the form, terms and conditions of this Agreement and ratified all prior actions taken with respect to the Project.

## A G R E E M E N T

NOW, THEREFORE, in consideration of the premises; the potential investment by, or caused by, the Company which contributes to the tax base and the economic welfare of the County; the respective representations, benefits and agreements hereinafter contained; and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and Company agree as follows:

### ARTICLE I

#### DEFINITIONS

Section 1.01. Definitions. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings unless the context or use indicates another or different meaning or intent.

"*Act*" shall mean, collectively, the FILOT Act and the Multi-County Park Act.

"*Administration Expenses*" shall mean the reasonable and necessary expenses incurred by the County in the fulfillment of its obligations under this Agreement and in the implementation and administration of its terms and provisions, including reasonable attorneys' fees, but excluding any expenses incurred by the County in defending suits brought by the Company or any other Sponsor or Sponsor Affiliate under **Section 8.04** hereof; *provided*, that the County shall have furnished to the Company an itemized statement of all expenses incurred. Nothing herein shall be construed as prohibiting the County from engaging the counsel of its choice for matters deemed necessary and prudent by the County.

"*Affiliate*" shall mean any corporation, limited liability company, partnership or other Person or entity which owns all or part of the Company or any other Co-Investor, as the case may be, or which is owned in whole or in part by the Company or any other Co-Investor, as the case may be, or by any partner, shareholder or owner of the Company or any other Co-Investor, as the case may be.

"*Agreement*" shall mean this Fee Agreement as originally executed and from time to time supplemented or amended as permitted herein.

"*Code*" shall mean the Code of Laws of South Carolina 1976, as amended, unless the context clearly requires otherwise.

"*Co-Investor*" shall mean each of the Company and any other Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the FILOT Act, any Affiliate



of the Company or of any such other Sponsor or Sponsor Affiliate, any developer in a build-to-suit arrangement with respect to the Project, any lessor of equipment or other property comprising a part of the Project, and any financing entity or other third party investing in, or providing funds, for the Project. The Company shall notify the County in writing of the identity of any other Sponsor, Sponsor Affiliate or Co-Investor and shall, to the extent the Company and any such Co-Investor intend to extend the benefits of the FILOT to property owned by such Co-Investor pursuant to **Section 6.02** hereof, comply with any additional notice requirements, or other applicable provisions, of the FILOT Act. As of the date of original execution and delivery of this Agreement, the Co-Investors are the Company and ~~a company identified for the time being as~~ Project Cook Co-Investor.

*"Commencement Date"* shall mean the last day of the Property Tax Year during which initial FILOT Property comprising all or a portion of the Project is placed in service, except that this date must not be later than the last day of the Property Tax Year which is three years from the year in which the County and Company or Sponsor entered into this Agreement.

*"Company"* shall mean ~~a company identified for the time being as Project Cook~~ PBV Conway-Myrtle Beach LLC, and any surviving, resulting, or transferee entity in any merger, consolidation or transfer of assets permitted under **Sections 4.05** or **6.01** hereof or any other assignee hereunder which is designated by the Company and approved by the County.

*"County"* shall mean Horry County, South Carolina, a body politic and corporate and a political subdivision of the State, and its successors and assigns.

*"Council"* shall mean the governing body of the County and its successors.

*"Deficiency Payment"* shall have the meaning specified in **Section 5.01(e)** hereof.

*"Department of Revenue"* shall mean the South Carolina Department of Revenue and any successor entity thereto.

*"Event of Default"* shall mean an Event of Default, as set forth in **Section 8.01** hereof.

*"Existing Property"* shall mean property proscribed from becoming FILOT Property under this Agreement pursuant to Section 12-44-110 of the FILOT Act, including without limitation property which has been subject to *ad valorem* taxes in the State prior to commencement of the Investment Period and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; *provided, however*, that Existing Property shall not include: (a) the Land; (b) property acquired or constructed by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period which has not been placed in service in this State prior to the commencement of the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property, or property which has been placed in service in the State pursuant to an inducement agreement or other preliminary approval by the County, including, without limitation the Inducement Resolution, prior to the execution of this Agreement pursuant to Section 12-44-40(E) of the FILOT Act; (c) property purchased by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period in a transaction other than between any of the entities specified in Section 267(b) of the Internal Revenue Code, as defined under



Chapter 6 of Title 12 of the Code as of the time of the transfer, to the extent that the Company or such other Sponsor or Sponsor Affiliate invests, or causes to be invested, at least an additional \$45,000,000 in the Project, exclusive of the property identified in this item (c); or (d) modifications which constitute an expansion of the real property portion of Existing Property, all as determined pursuant to Section 12-44-110 of the FILOT Act.

"*FILOT*" shall mean fee in lieu of *ad valorem* property taxes.

"*FILOT Act*" shall mean Title 12, Chapter 44 of the Code, as amended.

"*FILOT Payment*" or "*FILOT Payments*" shall mean the FILOT due pursuant to **Section 5.01** hereof with respect to that portion of the Project consisting of FILOT Property which qualifies pursuant to the FILOT Act for the negotiated assessment ratio and millage rate described in **Section 5.01(b)(ii)** hereof.

"*FILOT Property*" shall mean all property qualifying for the FILOT as economic development property within the meaning of Section 12-44-30(6) of the FILOT Act, including, without limitation, each item of real and tangible personal property comprising the Project which is placed in service prior to the end of the Investment Period and which meets the requirements of Sections 12-44-30(6) and 12-44-40(C) of the FILOT Act, together with all Replacement Property, but excluding any Non-Qualifying Property and any Released Property.

"*Force Majeure Event*" shall have the meaning specified in **Section 9.12** hereof.

"*Infrastructure Costs*" shall mean, to the extent paid for by the Company or any other Sponsor or Sponsor Affiliate, the costs of designing, acquiring, constructing, improving, or expanding the infrastructure serving the Project, and the improved and unimproved real property, buildings, and structural components of buildings and the personal property including machinery and equipment (all as set forth in Section 4-1-175 of the Code and described in Section 4-29-68(A)(2)(i)(a) and (b) of the Code), used in the operation of the Project.

"*Investment Period*" shall mean, initially, the period beginning with the first day that FILOT Property is purchased or acquired and ending five years after the Commencement Date; *provided*, that if the Minimum Contractual Investment Requirement is satisfied within the initial Investment Period and the Company is in compliance with the Minimum Contractual Job Requirement, the Investment Period may be extended, upon approval of such extension by Council in its sole discretion, to a period not to exceed the tenth anniversary of the end of the Property Tax Year in which the initial FILOT Property comprising all or a portion of the Project is placed in service, in order to also extend the benefits of the FILOT to investment in the Project made during the extended period.

"*Land*" shall mean the land upon which the Project is or will be located, as described in **Exhibit A** attached hereto. Additional land may be made subject to this Agreement only by amendment of **Exhibit A** as provided in **Section 9.09** below.

"*Minimum Contractual Investment Requirement*" shall mean investment in the Project of at least \$15,000,000 (without regard to subsequent depreciation or other diminution in value) by the Company and all Co-Investors, in the aggregate, by the end of the initial Investment Period



and maintained thereafter in any year in which the Company is receiving a Special Source Revenue Credit.

*"Minimum Contractual Job Requirement"* shall mean the retention of not less than 146 full-time jobs in the County in connection with the Project by the Company and all Co-Investors and maintained thereafter in any year in which the Company is receiving a Special Source Revenue Credit.

*"Minimum Statutory Investment Requirement"* shall mean investment in the Project of not less than \$2,500,000 (without regard to depreciation or other diminution in value) within the period beginning with the first day in which the initial FILOT Property comprising a portion of the Project is placed in service and ending on the fifth anniversary of the Commencement Date, as required by Section 12-44-30(14) of the FILOT Act, which investment amount shall be calculated in accordance with Section 12-44-130 of the FILOT Act and **Section 6.02** hereof in determining whether the Company and any other Sponsor or Sponsor Affiliate qualifies for the FILOT.

*"Multi-County Park"* shall mean the multi-county industrial or business park established pursuant to the Multi-County Park Act and the Multi-County Park Agreement. "Multi-County Park" includes any subsequent park or any subsequent park agreement that includes the Land, and as authorized by the Multi-County Park Act.

*"Multi-County Park Act"* shall mean Sections 4-1-170, 4-1-172 and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution, as amended through the date hereof.

*"Multi-County Park Agreement"* shall mean that certain Agreement for the Development of a Joint Industrial and Business Park between the County and Marion County, South Carolina, approved by Council in Ordinance No. 2023 141-2022 on January 24, 2023, as supplemented, modified or amended, and as such agreement may be further supplemented, modified, amended, or replaced from time to time.

*"Non-Qualifying Property"* shall mean that portion of the Project consisting of (i) Existing Property, (ii) except as to Replacement Property, qualified property which the Company or any other Sponsor or Sponsor Affiliate places in service after the end of the Investment Period, and (iii) any other property which fails or ceases to qualify for FILOT Payments under the FILOT Act, including without limitation property as to which the Company or any other Sponsor or Sponsor Affiliate has terminated the FILOT pursuant to **Section 4.02(e)(iii)** hereof.

*"Person"* shall mean and include any individual, association, unincorporated organization, corporation, partnership, limited liability company, joint venture, or government or agency or political subdivision thereof.

*"Project"* shall mean (i) the Land and all buildings, structures, fixtures and other real property improvements now or hereafter constructed on the Land, (ii) all machinery, equipment, furnishings and other personal property heretofore or hereafter acquired by or on behalf of the Company or any Co-Investors for use on or about the Land, and (iii) any Replacement Property; *provided, however*, except as to Replacement Property, the term Project shall be deemed to



include such real property improvements and personal property, whether now existing or hereafter constructed or acquired, only to the extent placed in service in the County within the Investment Period. The Company anticipates that the investment in the Project will equal or exceed \$15,000,000, in the aggregate (without regard to depreciation or other diminution in value).

*"Project Cook Co-Investor"* shall mean ~~a company indentified for the time being as Project Cook Co-Investor~~ PCIP 4 Partners LLC, a Delaware limited liability company, and any transferee entity in any transfer of assets permitted under **Section 6.01** hereof or any other assignee hereunder which is designated by Project Cook Co-Investor and approved by the County.

*"Property Tax Year"* shall mean the annual period which is equal to the fiscal year of the Company or any other Co-Investor, as the case may be, *i.e.*, with respect to the Company and the Project Cook Co-Investor, the period ending on ~~{December 31}~~ of each year.

*"Released Property"* shall include (i) property which was initially FILOT Property but which is scrapped, sold, disposed of, or released from this Agreement by the Company or any other Sponsor or Sponsor Affiliate pursuant to **Section 4.02(e)** hereof and Section 12-44-50(B) of the FILOT Act, (ii) property which the Company or such Sponsor or Sponsor Affiliate dedicates to the public use within the meaning of Section 12-6-3420(C) of the Code, and (iii) any FILOT Property damaged, destroyed, or taken by process of eminent domain and not restored or replaced.

*"Replacement Property"* shall mean all property placed in service in substitution of, or as replacement for, any Released Property, regardless of whether such property serves the same function as the property it replaces and regardless of whether more than one piece replaces a single piece of FILOT Property, but only to the extent that such property may be included in the calculation of the FILOT pursuant to **Section 5.01(d)** hereof and Section 12-44-60 of the FILOT Act.

*"Special Source Revenue Credits"* shall mean the Special Source Revenue Credits described in **Section 5.02** hereof.

*"Sponsor"* and *"Sponsor Affiliate"* shall mean an entity whose investment with respect to the Project will qualify for the FILOT pursuant to **Section 6.02** hereof and Sections 12-44-30(19) or (20) and Section 12-44-130 of the Code. As of the original execution and delivery of this Agreement, the only Sponsor is the Company and the only Sponsor Affiliate is the Project Cook Co-Investor.

*"SSRC Deficiency Payment"* shall have the meaning specified in **Section 5.02(d)** hereof.

*"State"* shall mean the State of South Carolina.

*"Term"* shall mean the term of this Agreement, as set forth in **Section 7.01** hereof.

*"Transfer Provisions"* shall mean the provisions of Section 12-44-120 of the FILOT Act.



Section 1.02. References to Agreement. The words “hereof”, “herein”, “hereunder”, and other words of similar import refer to this Agreement as a whole.

END OF ARTICLE I



## ARTICLE II

### REPRESENTATIONS

Section 2.01. Representations by County. The County represents that (i) it is a body politic and corporate and a political subdivision of the State, (ii) it is authorized by the FILOT Act to enter into this Agreement, (iii) it has approved this Agreement in accordance with the procedural requirements of the FILOT Act and any other applicable state law, and (iv) it has authorized its officials to execute and deliver this Agreement.

Section 2.02. Representations by Company. The Company makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company organized and existing and in good standing under the laws of the State of Delaware and authorized to do business in the State; has all requisite power to enter into this Agreement and to carry out its obligations hereunder; and by proper action has been duly authorized to execute and deliver this Agreement. The Company's fiscal year end is ~~December 31~~, and the Company will notify the County of any changes in the fiscal year of the Company.

(b) The Company presently intends to operate, or cause operation of, the Project for warehousing and distribution and related activities in the County.

(c) The Company has retained legal counsel to confirm, or has had a reasonable opportunity to consult legal counsel to confirm, its eligibility for FILOT payments and other incentives granted by this Agreement and has not relied on the County, its officials, employees or legal representatives with respect to any question of eligibility or applicability of the FILOT and other incentives granted by this Agreement.

END OF ARTICLE II



### ARTICLE III

#### COVENANTS OF COUNTY

Section 3.01. Agreement to Accept FILOT Payments. The County agrees to accept FILOT Payments in accordance with **Section 5.01** hereof in lieu of *ad valorem* taxes with respect to that portion of the Project consisting of FILOT Property until this Agreement expires or is sooner terminated.

Section 3.02. Multi-County Park Designation. The County agrees to take action to place the Project, including, but not limited to, the Land in the Multi-County Park, if not already located in the Multi-County Park, and agrees to use its best efforts to maintain the Project within the boundaries of the Multi-County Park pursuant to the provisions of the Multi-County Park Act until the date this Agreement is terminated. If it becomes necessary to move the Land from one multi-county park to another prior to the termination of this Agreement, the County agrees to use its best efforts to place the Land in a multi-county park established pursuant to the Multi-County Park Act and to maintain the multi-county park designation until the date this Agreement is terminated. The parties acknowledge and agree that the County's agreement to place and maintain the Land in a multi-county park may be subject to the exercise of discretion by a governmental entity other than the County and the exercise of that discretion is not controlled by the County.

Section 3.03. Commensurate Benefits. The parties acknowledge the intent of this Agreement, in part, is to afford the Company and each other Co-Investor the FILOT and Special Source Revenue Credit benefits in consideration of the Company's decision to locate the Project within the County, and this Agreement has been entered into in reliance upon the enactment of the Act and the County's compliance with the requirements thereof. In the event that a court of competent jurisdiction holds that the Act is, in whole or in part, unconstitutional or this Agreement and/or the Multi-County Park Agreement, or agreements similar in nature to this Agreement or the Multi-County Park Agreement are invalid or unenforceable in any material respect, then the parties agree to adjust payments under this Agreement to the permitted level so determined. In the event that the Act and/or the above-described payments in lieu of taxes are declared invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions that such payments and this Agreement be reformed so as to most closely effectuate the legal, valid, and enforceable intent thereof and so as to afford the Sponsor and each Sponsor Affiliate with the benefits to be derived hereof, it being the intention of the County to offer the Sponsor and any Sponsor Affiliates an inducement to locate the Project in the County. If the Project is deemed to be subject to *ad valorem* taxation, the payment in lieu of *ad valorem* taxes to be paid to the County by the Company and each other Sponsor Affiliate shall become equal to the amount which would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the Project was and had not been Economic Development Property under the Act. In such event, any amount determined to be due and owing to the County from the Company and each other Sponsor Affiliate with respect to a year or years for which FILOT payments have been previously remitted by the Company and each other Sponsor Affiliate to the County hereunder, shall be



reduced by the total amount of FILOT payments made by the Sponsor and each Sponsor Affiliate with respect to the Project pursuant to the terms hereof.

END OF ARTICLE III



## ARTICLE IV

### COVENANTS OF COMPANY

Section 4.01. Minimum Contractual Investment Requirement and Minimum Contractual Job Requirement. The Company agrees that it will comply with, or cause compliance with, the Minimum Contractual Investment Requirement and the Minimum Contractual Job Requirement.

Section 4.02. Investment in Project.

(a) The Company hereby agrees to acquire, equip, or construct, or cause to be acquired, equipped, or constructed, the Project, as the same shall be determined from time to time by the Company, in its sole discretion. As required by Section 12-44-30(2) of the FILOT Act, at least a portion of the FILOT Property comprising the Project shall be placed in service no later than the end of the Property Tax Year which is three years from the year in which this Agreement is executed and delivered, *i.e.* the Property Tax Year ending on December 31, 2026.

(b) Expenditures by Co-Investors shall, together with expenditures by the Company, count toward all investment requirements set forth in this Agreement, including the Minimum Contractual Investment Requirement and, to the full extent permitted by the FILOT Act, the Minimum Statutory Investment Requirement. Aggregate investment shall generally be determined by reference to the property tax returns of the Company and all other Co-Investors filed with respect to the Project, including without limitation, each such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Act and filed with respect to each Property Tax Year during the Investment Period, without regard to depreciation or other diminution in value.

(c) The County agrees that if the Minimum Contractual Investment Requirement is satisfied and the Company is in compliance with the Minimum Contractual Job Requirement, the Investment Period may be extended, upon approval of such extension by Council in its sole discretion, to a period which does not exceed the tenth anniversary of the Commencement Date, in order to also extend the benefits of the FILOT to investment in the Project made during the extended period. There shall be no extension, however, of the period for meeting the Minimum Statutory Investment Requirement.

(d) Subject to the provisions of **Sections 4.05 and 6.01**, the Company and/or each other Co-Investor shall retain title to, or other property rights in, its respective portion of the Project throughout the Term of this Agreement, and the Company and each other Co-Investor shall have full right to lease, mortgage or encumber the Project, including, without limitation, in connection with any financing transactions, in its sole discretion, all without the consent of the County.



(e) The Company and each other Co-Investor shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) The Company and each other Co-Investor may, at its own expense, add to the Project all such real and personal property as the Company or such Co-Investor, as the case may be, in its discretion deems useful or desirable, including FILOT Property qualifying for the FILOT under **Section 5.01** hereof without any limit as to the amount thereof.

(ii) Subject to the provisions of **Section 5.01(f)** hereof, in any instance when the Company or any other Co-Investor, in its discretion, determines any items included in the Project, including, without limitation, any FILOT Property and any portion of the Land, have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, the Company or such Co-Investor, as the case may be, may remove such property or portions of the Land from the Project and sell, trade in, exchange, or otherwise dispose of them as a whole or in part without the consent of the County.

(iii) The Company and each other Co-Investor may, at any time and in its discretion by written notice to the County, remove any Project property, including, without limitation, FILOT Property, real or personal, from the FILOT arrangement set forth in this Agreement and retain such property for use as part of its operations in the County, and, effective as of the date of any such removal, such property will be subject to *ad valorem* taxes, or FILOT payments pursuant to the Multi-County Park Act, as the case may be; *provided*, that any such notice requirement may be, but shall not be required to be, satisfied by property tax returns filed with respect to the Project and any other such property, including without limitation, such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Act, and in such event, any such removal reflected by any such return shall be deemed to be effective as of the date of such removal.

(iv) If the Company or any other Co-Investor sells, leases, or otherwise disposes of any portion of the Land, or removes any portion of the Land from the Project while retaining such property for use as part of its operations in the County, all as permitted herein, the Company or such other Co-Investor shall deliver to the County, a revised **Exhibit A** to this Agreement or supplements to **Exhibit A** and such revised or supplemented **Exhibit A** shall, effective as of the date of any such disposal or removal, be automatically made a part of this Agreement without the necessity of additional action or proceedings by the County; *provided*, that any requirement to provide such revisions or supplements to the County may be, but shall not be required to be, satisfied by property tax returns filed with respect to the Project and any other such property, including without limitation, such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in



connection with projects under the Act, and in such event, any such disposal or removal reflected by any such return shall be automatically deemed effective as of the date of any such disposal or removal.

(v) All FILOT Property sold, leased or otherwise disposed of under this Section shall be deemed Released Property for purposes of this Agreement.

Section 4.03. Payment of Administration Expenses. The Company will reimburse, or cause reimbursement of, the County from time to time for its Administration Expenses promptly upon written request therefor, but in no event later than sixty (60) days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same. The County acknowledges it imposes no charge in the nature of recurring fees in connection with the Project or the incentives authorized by this Agreement, and, aside from attorney's fees, the County does not reasonably foresee that any out of pocket expenses in connection with the Agreement and the transactions authorized hereby will be incurred. The parties hereto understand that the County has incurred, and will incur, legal fees and other expenses for review of the Inducement Resolution, this Agreement, the Multi-County Park Agreement and all resolutions, ordinances and other documentation related thereto.

Section 4.04. Use of Project for Lawful Activities. During the Term of this Agreement, the Company and any other Co-Investor shall use the Project as it deems fit for any lawful purpose.

Section 4.05. Maintenance of Existence. Except in the event the resulting, surviving or transferee entity is the Company or an Affiliate of the Company, as to which such consolidation, merger, or transfer the County hereby consents, unless the County shall provide prior consent or subsequent ratification otherwise, which consent or ratification shall not be unreasonably withheld, conditioned, or delayed, the Company covenants that it will maintain its separate existence and will not dissolve or consolidate with, merge into or transfer, or otherwise dispose of substantially all of its property to any other entity or permit one or more other entities to consolidate with or merge into it or purchase substantially all of its property unless:

(a) the Company shall be the continuing business entity, or the business entity formed by such consolidation, or into which the Company is merged, or the entity which acquires by conveyance or transfer all or substantially all of the Company's assets, shall (i) be an entity organized and existing under the laws of the United States of America or any state thereof or the District of Columbia and qualified to do business in the State, (ii) have a net worth equal to or greater than the net worth of the Company immediately preceding the date of such merger, consolidation or transfer, and (iii) expressly and unconditionally assume, by written agreement supplemental hereto and acceptable to the County as to form and content, in its reasonable discretion, every payment obligation of the Company herein and the performance of every covenant of this Agreement on the part of the Company to be performed or observed;

(b) immediately after giving effect to such transaction, no Event of Default, and no event, which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing; and



(c) the Company shall have delivered to the County (i) a certificate of a duly authorized officer of the Company accompanied by financial statements of the surviving company (if other than the Company) showing compliance with the net worth requirements specified in paragraph (a) above and (ii) an opinion of counsel for the Company and/or counsel to the transferee company, each stating that such consolidation, merger, conveyance or transfer and such supplement to this Agreement comply with this Section and that all conditions precedent herein provided for relating to such transaction have been complied with.

Upon any consolidation or merger or any conveyance or transfer of all or substantially all of the Company's assets in accordance with this Section, the successor business entity formed by such consolidation or into which the Company is merged or to which such conveyance or transfer is made shall succeed to, and be substituted for, and may exercise every right and power of the Company under this Agreement with the same effect as if such successor entity had been named as the Company herein, and thereafter the Company shall be relieved of all obligations and covenants under this Agreement.

If a consolidation, merger or conveyance or transfer is made as permitted by this Section, the provisions of this Section shall continue in full force and effect and no further consolidation, merger or conveyance or transfer shall be made except in compliance with the provisions of this Section.

The Company acknowledges transfers of this Agreement or FILOT Property may cause the FILOT Property to become ineligible for a FILOT or result in penalties under the FILOT Act absent compliance by the Company with the Transfer Provisions.

Section 4.06. Records and Reports.

(a) The Company and each other Sponsor and Sponsor Affiliate will maintain, or cause to be maintained, such books and records as will permit (1) the identification of those portions of the Project which it places in service in each Property Tax Year during the Investment Period, the amount of investment with respect thereto, (2) the computation of all FILOT Payments to be made with respect to such property hereunder, and (3) the computation of any Special Source Revenue Credit to be provided with respect to any FILOT Payments. The record keeping requirement includes the maintenance of records of compliance with the requirements applicable to Special Source Revenue Credits. The Company and each other Sponsor and Sponsor Affiliate agree to comply with all reporting requirements of the State and the County applicable to FILOT Property under the FILOT Act, including without limitation the reports required by Section 12-44-90 of the FILOT Act (collectively, "Filings"). Specifically, the following shall be provided:

(i) Upon direction of the governing body of the County, a County Official may request and obtain such financial books and records from the Company and any other Sponsor or Sponsor Affiliate that support the FILOT returns of such Sponsor or Sponsor Affiliate as may be reasonably necessary to verify the calculations of the FILOT Payments by such Sponsor or Sponsor Affiliate. For purposes of this item, the term "County Official" shall include the Administrator, Auditor, Assessor and Treasurer of the County.



(ii) Each year during the Term hereof, the Company and each other Sponsor or Sponsor Affiliate shall deliver to the County Auditor, the County Assessor, and the County Treasurer a copy of its most recent annual filings made with the Department of Revenue with respect to the Project at the same time as delivery thereof to the Department of Revenue.

(iii) The Company shall cause a copy of this Agreement, as well as a copy of the completed Form PT-443 required by the Department of Revenue, to be filed within thirty (30) days after the date of execution and delivery hereof with the County Auditor, the County Assessor, and the County Treasurer of the County, and with the Department of Revenue, and shall update such Form PT-443 from time to time to the extent that the information therein is no longer accurate.

(iv) To assist the County in calculating the FILOT Payments and the amount of the Special Source Revenue Credits, the Company shall annually provide the County with a schedule reflecting the Company's calculation of the FILOT and the Special Source Revenue Credits.

(b) Pursuant to Section 12-44-55(B) of the FILOT Act, the parties have agreed to waive all of the requirements of Section 12-44-55 of the FILOT Act, including specifically, Section 12-44-55(A) of the FILOT Act.

(c) The Company agrees that the County and its authorized agents have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project and to have access to and examine and inspect all the Company's books and records pertaining to the Project. The right of examination and inspection shall be exercised only upon reasonable and necessary terms and conditions prescribed by the Company to protect the Company's confidentiality and proprietary rights. Any such entrance upon and examination and inspection of the Project shall be at the County's expense.

(d) The County acknowledges and understands that the Filings may contain, and the Company may have and maintain at the Project, certain confidential and proprietary information, including, but not limited to, trade secrets, financial, sales or other information concerning the operations and processes of the Company and other Co-Investors ("Confidential Information") and that any disclosure of the Confidential Information could result in substantial harm to the Company or other Co-Investors and could have a significant detrimental impact on the employees of the Company or other Co-Investors and also upon the County. Except as required by law, including, without limitation, court orders, the County agrees to use its best reasonable efforts to keep confidential, and to cause employees, agents and representatives of the County to keep confidential, the Confidential Information which may be obtained from the Company or any other Co-Investor, its agents or representatives, when the Confidential Information is clearly marked and identified as Confidential Information and known to the County to be Confidential Information. The County shall not knowingly and willfully disclose and shall cause all employees, agents and representatives of the County to not knowingly and willfully disclose the marked and identified Confidential Information to any person or



entity other than in accordance with the terms of this Agreement. If a demand is made for the release, under color of law, to a third party of any Confidential Information, the County shall notify the Company or other Co-Investor and give the Company or other providing Co-Investor the opportunity to contest the release.

Section 4.07. Indemnification Covenants.

(a) Except as provided in paragraph (e) below, Company shall, and agrees to, indemnify and save the County, its employees, elected officials, officers and agents (each, an "Indemnified Party") harmless against and from all liability or claims arising from the County's execution of this Agreement, performance of the County's obligations under this Agreement or the administration of its duties pursuant to this Agreement, or otherwise by virtue of the County having entered into this Agreement. Further, the Company shall, and agrees to, indemnify and save each Indemnified Party harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on, the Project during the Term of this Agreement. Further, Company shall, and agrees to, indemnify and save each Indemnified Party harmless against and from all claims arising during the Term of this Agreement from (i) any condition of the Project, (ii) any breach or default on the part of the Company in the performance of any of its obligations under this Agreement, (iii) any act of negligence of the Company or any of its agents, servants, or employees on or with respect to the Project, (iv) any act of negligence of any assignee or sublessee of the Company with respect to the Project, or of any agents, servants, or employees of any assignee or sublessee of the Company with respect to the Project, or (v) any environmental violation, condition, or effect with respect to the Project. The indemnity provided in this **Section 4.07** is from and against all costs and expenses incurred in or in connection with any such liability or claim arising as aforesaid in connection with the Project or in connection with any action or proceeding brought thereon.

(b) Notwithstanding the fact that it is the intention of the parties that an Indemnified Party shall not incur pecuniary liability by reason of the terms of this Agreement, or the undertakings required of an Indemnified Party hereunder, or by reason of the performance of any act requested of an Indemnified Party by the Company, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if an Indemnified Party should incur any such pecuniary liability, then in such event the Company shall indemnify and hold the Indemnified Party harmless against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon.

(c) Each Indemnified Party is entitled to defend itself in any action or proceeding and may use counsel of its choice and the Company shall reimburse the Indemnified Party for all of the Indemnified Party's costs, including attorneys' fees, incurred in connection with the response to or defense against such liability or claims. The Indemnified Party shall provide a detailed statement of the costs incurred in the



response or defense, and the Company shall pay the Indemnified Party within thirty (30) days of receipt of the statement. The Company may request reasonable documentation evidencing the costs shown on the statement. However, the Indemnified Party is not required to provide any documentation which may be privileged or confidential to evidence the costs.

(d) An Indemnified Party may request the Company to resist or defend against any claim on behalf of the Indemnified Party. On such request, the Company shall resist or defend against such claim on behalf of the Indemnified Party, at the Company's expense. The Company is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; *provided, however*, the Company is not entitled to settle any such claim without the consent of that Indemnified Party.

(e) Notwithstanding anything herein to the contrary, the Company is not required to indemnify, save harmless, or resist or defend any claim against any Indemnified Party against or reimburse the County for costs arising from any claim or liability (i) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Agreement, performance of the County's obligations under this Agreement, or the administration of its duties under this Agreement, or otherwise by virtue of the County having entered into this Agreement; or (ii) resulting from that Indemnified Party's own gross negligence, bad faith, fraud, deceit, or willful misconduct.

(f) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided unless it provides the Company with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims.

END OF ARTICLE IV



## ARTICLE V

### FEES IN LIEU OF TAXES; SPECIAL SOURCE REVENUE CREDITS

#### Section 5.01. Payment of Fees in Lieu of *Ad Valorem* Taxes.

(a) In accordance with the FILOT Act, the parties hereby agree, that during the Term hereof, there shall be due annually with respect to that portion of the Project constituting FILOT Property, whether owned by the Company or by any other Sponsor or Sponsor Affiliate, a FILOT calculated as set forth in this Section. The FILOT shall be collected and enforced in accordance with Section 12-44-90 of the FILOT Act. It is anticipated, but not required, that, with respect to the Company, the initial FILOT Payment, which shall be due under current Code requirements on the January 15 following the year in which the County adds the initial FILOT Property to its tax rolls, will be due on January 15, 2025 if the Company places the initial FILOT Property in service in the Property Tax Year ending December 31, 2023. If the Company designates any other Sponsor or Sponsor Affiliates, as the same shall have been consented to or ratified by the County pursuant to **Section 6.02** hereof or as otherwise approved and consented to in this Agreement, if such consent or ratification is required thereunder, the Company must notify the County in writing at the time of such designation as to whether such Sponsor or Sponsor Affiliate shall be primarily liable for the FILOT Payments hereunder with respect to such entity's portion of the FILOT Property. Unless and until any such additional notification is received, and the County consents in writing, the Company shall be primarily liable for all other FILOT Payments to the extent set forth hereinabove in this paragraph (a).

(b) Subject to adjustment pursuant to the provisions of this **Section 5.01**, the FILOT shall be calculated each year in accordance with the following provisions:

(i) For each annual increment of investment in FILOT Property, the FILOT Payments shall be payable for a period of thirty (30) years; *provided*, that the Company or any other Sponsor or Sponsor Affiliate may, prior to the end of such period, apply to the County for an extension of such period up to the maximum such extension permitted by the FILOT Act, and the County may approve of such extension, in its sole discretion. Accordingly, if such FILOT Property is placed in service during more than one year, each year's investment during the Investment Period shall, prior to any such additional extension or reduction set forth above, be subject to the FILOT for a period of thirty (30) years.

(ii) The FILOT shall be calculated using: (1) an assessment ratio of 6%; (2) a millage rate of 226.3 mills, which such millage rate shall be fixed for the entire term of the FILOT; and (3) the fair market value of the FILOT Property, determined in accordance with the FILOT Act, typically by using the original income tax basis without regard to depreciation or reassessment for



any real property and the original income tax basis less allowable depreciation (except depreciation due to extraordinary obsolescence) for any personal property; *provided, however*, that to the extent permitted by law, the Company or any other Sponsor or Sponsor Affiliate and the County may agree to hereafter amend this Agreement as to FILOT Property owned by such entity so as to determine the fair market value of any such property in accordance with any other method permitted by the FILOT Act.

(iii) All such calculations shall take into account all deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, and those tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the five-year exemption from taxes allowed for certain manufacturing, distribution, corporate headquarters and research and development facilities pursuant to Section 3(g) of Article X of the Constitution of the State and Sections 12-37-220(B)(32) and (34) of the Code.

(iv) For purposes of calculating the FILOT, the FILOT Property shall not include any Released Property or Non-Qualifying Property.

(c) The FILOT Payments are to be recalculated:

(i) to reduce such payments in the event the Company or any other Sponsor or Sponsor Affiliate disposes of any part of the FILOT Property within the meaning of Section 12-44-50(B) of the FILOT Act, and as provided in **Section 4.02(e)(ii)** hereof, by the amount applicable to the Released Property;

(ii) to reduce such payments in the event that the FILOT Property or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings, or otherwise removed from the Project as a result of circumstances beyond the control of the Company or any other Sponsor or Sponsor Affiliate;

(iii) to increase such payments in the event the Company or any other Sponsor or Sponsor Affiliate adds any FILOT Property (other than Replacement Property) to the Project; or

(iv) to adjust such payments if the Company or any other Sponsor or Sponsor Affiliate elects to convert any portion of the FILOT Property from the FILOT to *ad valorem* taxes, or FILOT payments pursuant to the Multi-County Park Act, as the case may be, as permitted by **Section 4.02(e)(iii)**.

(d) Upon installation or placing in service by the Company or any other Sponsor or Sponsor Affiliate of any Replacement Property for any Released Property, such Replacement Property shall become subject to FILOT Payments to the fullest extent allowed by law, pursuant to the following rules in accordance with Section 12-44-60 of the FILOT Act:



(i) Such Replacement Property does not have to serve the same function as the Released Property it is replacing. Replacement Property is deemed to replace the oldest property subject to the FILOT, whether real or personal, which is disposed of in the same Property Tax Year as the Replacement Property is placed in service. Replacement Property qualifies for FILOT Payments up to the original income tax basis of the Released Property which it is replacing in the same Property Tax Year. More than one piece of property can replace a single piece of property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Released Property which it is replacing, the excess amount is subject to payments equal to the *ad valorem* taxes, or to the FILOT payments pursuant to the Multi-County Park Act, as the case may be, which would have been paid on such property but for this Agreement. Replacement Property is entitled to the FILOT Payments for the remaining portion of the FILOT Payment period set forth in **Section 5.01(b)(i)** hereof applicable to the Released Property.

(ii) The Company and any other Sponsor or Sponsor Affiliate shall maintain, or cause to be maintained, records sufficient to identify all Replacement Property it places in service, and the FILOT Payments with respect thereto shall be calculated using the millage rate and assessment ratio provided on the property it is replacing.

(e) In the event that, for any reason, the FILOT Act and/or the FILOT or any portion thereof is, by a court of competent jurisdiction following allowable appeals, declared invalid or unenforceable in whole or in part, or the portion of the Project consisting of FILOT Property is deemed not to be eligible for a FILOT pursuant to the FILOT Act in whole or in part, the Company and the County express their intentions that such payments be reformed so as to afford the Company and any other Sponsor or Sponsor Affiliate, benefits commensurate with those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under Title 4, Chapter 12 and Title 4, Chapter 29 of the Code, as applicable, to the extent allowed by law, but expressly excluding any benefits afforded under Title 12, Chapter 6 of the Code. Absent the legal authorization to effect such reformation, the Company and the County agree that there shall be due hereunder with respect to the portion of the FILOT Property affected by such circumstances *ad valorem* taxes, and that, to the extent permitted by law, the Company and any other Sponsor and Sponsor Affiliate shall be entitled: (1) to enjoy any exemption from *ad valorem* taxes, or from FILOT payments pursuant to the Multi-County Park Act, as the case may be, provided by Article X, Section 3 of the Constitution of the State, and any other exemption allowed by law; and (2) to enjoy all allowable depreciation. To the extent that under such circumstances the FILOT Payments hereunder are subject to retroactive adjustment, then there shall be due and payable with respect to the portion of the FILOT Property in question an amount equal to the difference between the FILOT Payments theretofore actually paid and the amount which would have been paid as *ad valorem* taxes, or as FILOT payments pursuant to the Multi-County Park Act, as the case may be, together with interest on such deficiency as provided in Section 12-54-25(D) of the Code, or any successor Code provision (a "Deficiency Payment").



(f)

(i) In the event that the investment in the Project, without regard to depreciation or other diminution in value, is insufficient to satisfy the Minimum Statutory Investment Requirement, and subject to the provisions of Section 12-44-130 and Section 12-44-30(19) of the FILOT Act, then all FILOT Payments shall revert retroactively to *ad valorem* taxes, or FILOT payments pursuant to the Multi-County Park Act, as the case may be, calculated as set forth in **Section 5.01(e)** hereof, and a Deficiency Payment shall be due and payable from each such owing entity with respect to FILOT Payments theretofore made. To the extent necessary to collect a Deficiency Payment under this clause (i) due to failure to satisfy the Minimum Statutory Investment Requirement, Section 12-44-140(D) of the Code provides that any statute of limitations that might apply pursuant to Section 12-54-85 of the Code is suspended as this provision is intended to survive termination of this Agreement.

(ii) In the event that investment in the Project, without regard to depreciation or other diminution in value, satisfies the Minimum Statutory Investment Requirement, but following the Investment Period falls below the Minimum Statutory Investment Requirement, the Project shall thereafter be subject to *ad valorem* taxes calculated as set forth in **Section 5.01(e)** hereof.

(iii) In accordance with the provisions of **Sections 4.02(b)** and **6.02** hereof, the fair market value of all property utilized by the Company and any other Co-Investor, as the case may be, at the Project site, whether owned outright by the Company or any other Co-Investor or utilized by the Company or any other Co-Investor pursuant to any financing agreement or any lease or other arrangement with any Co-Investor and whether or not subject to this Agreement, shall be counted toward all investment obligations under this Agreement, including, to the extent permitted by law, investment obligations under the FILOT Act.

(g) Except as otherwise set forth in this Agreement or as otherwise required by the FILOT Act, any amounts due to the County under this **Section 5.01** as a Deficiency Payment or other retroactive payment shall be paid within ninety (90) days following receipt by the owing Company or other Sponsor or Sponsor Affiliate, as the case may be, of notice from the County that such a Deficiency Payment or other retroactive payment is due from such entity and shall be collected and enforced in accordance with Section 12-44-90 of the FILOT Act.

(h) Notwithstanding any other provision of this Agreement, the Company acknowledges and agrees that County's obligation to provide for FILOT Payments ends, and this Agreement is terminated, if the Land and building in which the Project is located is applied to a use other than a use which qualifies for the incentives available under the FILOT Act. The provisions of subsection (f) relating to retroactive payments apply if this Agreement is terminated in accordance with this subsection prior to the end of the Investment Period and before the Company has achieved the Minimum Statutory



Investment Requirement. The Company agrees that if this Agreement is terminated pursuant to this subsection, that under no circumstance shall the County be required to refund or pay any monies to the Company.

(i) Notwithstanding any other provision of this Agreement, the Company acknowledges and agrees that County's obligation to provide the FILOT incentive and the Special Source Revenue Credits ends, and this Agreement is terminated, if the Company ceases operations. For purposes of this **Section 5.01(i)**, "cease operations" means permanent closure of the facilities comprising the Project following commencement of commercial operations. The Company agrees that if this Agreement is terminated pursuant to this **Section 5.01(i)**, that under no circumstance shall the County be required to refund or pay any monies to the Company.

**Section 5.02. Special Source Revenue Credit.**

(a) The Company and any other Sponsor Affiliate agree to pay, or cause to be paid, the cost of such entity's portion of the Infrastructure Costs as and when due. The Company agrees that, as of any date during the Term of this Agreement, the cumulative dollar amount expended by the Company and all other Sponsor Affiliates on the Infrastructure Costs shall equal or exceed the cumulative dollar amount of the respective Special Source Revenue Credits received by such entities.

(b) Pursuant to Section 4-1-175 of the Multi-County Park Act, the County authorizes and grants to the Company and each Sponsor Affiliate Special Source Revenue Credits as follows: Special Source Revenue Credits of 50% against each FILOT Payment due from the Company and each Sponsor Affiliate with respect to the Project for a period of ten (10) consecutive tax years, commencing with the first tax year for which a FILOT Payment is due with respect to the Project.

(c) The Special Source Revenue Credits described in **Section 5.02(b)** hereof are conditioned on satisfaction of the Minimum Contractual Investment Requirement and the satisfaction of the Minimum Contractual Job Requirement prior to the end of the Investment Period and the maintenance of the Minimum Contractual Investment Requirement and the maintenance of the Minimum Contractual Job Requirement for each year thereafter in which the Company and each Sponsor Affiliate receive a Special Source Revenue Credit. Such Special Source Revenue Credits shall be made available to pay or reimburse the payment of all or a portion of the aggregate Infrastructure Costs incurred by the Company and/or any Sponsor Affiliate.

(d) In the event either: (i) the Minimum Contractual Investment Requirement is not satisfied at the end of the Investment Period (prior to any extension thereof permitted herein) or is not maintained for each year thereafter in which the Company or a Sponsor Affiliate would otherwise be entitled to receive a Special Source Revenue Credit, or (ii) the Minimum Contractual Job Requirement is not maintained during the Investment Period or is not maintained for each year thereafter in which the Company or a Sponsor Affiliate would otherwise be entitled to receive a Special Source Revenue Credit, the Special Source Revenue Credits applicable to each FILOT Payment due with respect to the Project, as set forth in **Section 5.02(b)** hereof, shall be terminated on a



retroactive and prospective basis. To the extent that the Special Source Revenue Credit is terminated, then there shall be due and payable an amount equal to the difference between the FILOT Payments theretofore actually paid, after taking into account any Special Source Revenue Credits that did apply to such FILOT Payments, and the FILOT Payments which would have been paid in the absence of any Special Source Revenue Credits pursuant to this **Section 5.02(d)**, together with interest on such difference calculated in the manner as provided in Section 12-54-25 of the Code, or any successor Code provision (an "SSRC Deficiency Payment").

(e) The Treasurer of the County shall display and subtract the Special Source Revenue Credits from the FILOT Payment statement sent to the Company and each Sponsor Affiliate for the duration of the Special Source Revenue Credits.

(f) This Agreement and the Special Source Revenue Credits authorized in this Agreement are limited obligations of the County provided by the County solely from the stated FILOT Payments paid by the Company and each Sponsor Affiliate hereunder, and do not and shall never constitute an indebtedness of the County within the meaning of any constitutional provision and do not and shall never constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing power. The full faith, credit, and taxing power of the County are not pledged for the Special Source Revenue Credits.

(g) Notwithstanding any other provisions of this Agreement, no breach by the County of this Agreement shall result in the imposition of any pecuniary liability upon the County or any charge upon its general credit or against its taxing power. The liability of the County under this **Section 5.02** or any warranty in this **Section 5.02** included or for any breach or default by the County of any of the foregoing is limited solely and exclusively to the provision of Special Source Revenue Credits against the FILOT Payments. The County is not required to execute or perform any of its duties, obligations, powers, or covenants in this **Section 5.02** except to the extent of the FILOT Payments received from the Company and each Sponsor Affiliate. The Special Source Revenue Credits shall not constitute a general obligation or indebtedness of the County nor a pledge of the full faith and credit or the taxing power of the County.

(h) If the Company or any Sponsor Affiliate removes or disposes of personal property from the Project during the Term of this Agreement and has claimed a Special Source Revenue Credit against its FILOT Payments based upon the personal property being included in the Infrastructure Costs, then the Company or such Sponsor Affiliate, as the case may be, is required to continue to make FILOT Payments on the removed personal property for the two years immediately following the year in which the personal property is removed from the Project. The amount of the FILOT Payments due on the removed personal property is equal to the FILOT Payment due on the personal property for the year in which the personal property is removed or disposed of by the Company or such Sponsor Affiliate, as the case may be. If the personal property is replaced with Replacement Property, then the removed personal property is deemed not to have been removed from the Project. Notwithstanding anything in this subsection to the contrary, the Company shall be required to make the FILOT Payments required in this subsection



only if and to the extent that the Sections 4-29-68 and 12-44-70 of the Code so require at the time that the personal property is removed or disposed of.

Section 5.03. Statutory Lien. The parties acknowledge the County's right to receive FILOT Payments hereunder constitutes a statutory lien with respect to the FILOT Property pursuant to Section 12-44-90(E) of the Code and Title 12, Chapter 54 of the Code relating to the collection and enforcement of *ad valorem* property taxes.

END OF ARTICLE V



## ARTICLE VI

### THIRD PARTY ARRANGEMENTS

Section 6.01. Conveyance of Liens and Interests; Assignment. The Company and each other Sponsor or Sponsor Affiliate may at any time (a) transfer all or any of its rights and interests hereunder or with respect to all or any part of the FILOT Property to any Person; or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing entity or other Person with respect to this Agreement or all or any part of the FILOT Property, including without limitation any sale-leaseback, equipment lease, build-to-suit lease, synthetic lease, nordic lease, defeased tax benefit or transfer lease, assignment, sublease or similar arrangement or succession of such arrangements, regardless of the identity of the income tax owner of such portion of the FILOT Property, whereby the transferee in any such arrangement leases a portion of the FILOT Property in question to the Company or such other Sponsor or Sponsor Affiliate or any Affiliates of the Company or such other Sponsor or Sponsor Affiliate or operates such assets for the Company or any other Sponsor or Sponsor Affiliate or any of their respective Affiliates or is leasing such portion of the FILOT Property in question from the Company or any other Sponsor or Sponsor Affiliate or any of their respective Affiliates. In order to preserve the benefits of the FILOT hereunder with respect to property so transferred: (i) except in connection with any transfer to another Sponsor or Sponsor Affiliate or an Affiliate of the Company or such other Sponsor or Sponsor Affiliate or transfers pursuant to clause (b) above (as to which such transfers the County hereby consents), the Company or such other Sponsor or Sponsor Affiliate shall obtain the prior consent or subsequent ratification of the County which consent or subsequent ratification may be granted by the County, in its sole discretion; (ii) except when a financing entity which is the income tax owner of all or part of the FILOT Property is the transferee pursuant to clause (b) above and such financing entity assumes in writing the obligations of the Company or such other Sponsor or Sponsor Affiliate hereunder, or when the County consents in writing or when the transfer relates to Released Property pursuant to **Section 4.02(e)** hereof, no such transfer shall affect or reduce any of the obligations of the Company or such Sponsor or Sponsor Affiliate hereunder; (iii) to the extent the transferee or financing entity shall become obligated to make FILOT payments hereunder, the transferee shall assume the then current basis of the Company or other Sponsor or Sponsor Affiliate (or prior transferee) in the FILOT Property transferred; (iv) the Company or such other Sponsor or Sponsor Affiliate, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department of Revenue notification of any such transfer; and (v) the Company or such other Sponsor or Sponsor Affiliate and the transferee shall comply with all other requirements of the Transfer Provisions.

Subject to County consent or ratification when required under this **Section 6.01**, and at the expense of the Company or such other Sponsor or Sponsor Affiliate (including the payment of any Administration Expenses of the County), the County agrees to take such further action and execute such further agreements, documents, and instruments as may be reasonably required to effectuate the assumption by any such transferee of all or part of the rights of the Company or such other Sponsor or Sponsor Affiliate under this Agreement and/or any release of the Company or such other Sponsor or Sponsor Affiliate pursuant to this **Section 6.01**.

The Company acknowledges such a transfer of an interest under this Agreement or in the



FILOT Property may cause all or part of the FILOT Property to become ineligible for a FILOT or result in penalties under the FILOT Act absent compliance by the Company with the Transfer Provisions.

Section 6.02. Sponsors and Sponsor Affiliates. The Company may designate from time to time other Sponsors or Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the FILOT Act, which Sponsors or Sponsor Affiliates shall be Persons who join with the Company and make investments with respect to the Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions of this Agreement, and who shall be Affiliates of the Company or other Persons described in **Section 6.01(b)** hereof, provided, such entity or individual must deliver to the County and the Department of Revenue a joinder agreement in the form attached hereto as **Exhibit B**. All other Sponsors or Sponsor Affiliates who otherwise meet the requirements of Section 12-44-30(19) or (20) and Section 12-44-130 of the FILOT Act must be approved by resolution of the County Council. Subject to the provisions of Sections 12-44-130 and 12-44-30(19) of the FILOT Act, to the extent that a Sponsor or Sponsor Affiliate invests an amount equal to the Minimum Statutory Investment Requirement at the Project prior to the end of the Investment Period the investment by such Sponsor or Sponsor Affiliate shall qualify for the FILOT payable under **Section 5.01** hereof (subject to the other conditions set forth therein). The Company shall provide the County and the Department of Revenue with written notice of any Sponsor or Sponsor Affiliate designated pursuant to this **Section 6.02** within ninety (90) days after the end of the calendar year during which any such Sponsor or Sponsor Affiliate has placed in service assets to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the FILOT Act, provided that delivery of the joinder agreement as described above shall satisfy such notice requirement. Notwithstanding anything in this Agreement to the contrary, the County consents to the addition of the Project Cook Co-Investor as a Sponsor Affiliate under this Agreement upon its execution and delivery of a joinder agreement in substantially the form attached hereto as **Exhibit B**.

END OF ARTICLE VI



## ARTICLE VII

### TERM; TERMINATION

Section 7.01. Term. Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date upon which the County approved this Agreement, and ending at midnight on the day the last FILOT Payment is made hereunder and any applicable Special Source Revenue Credits have been applied thereto.

Section 7.02. Termination. The County and the Company may mutually agree to terminate this Agreement at any time. The Company may, at its sole option, unilaterally terminate this Agreement at any time with respect to all, or a portion of, the Project, in which event such portion of the Project shall be subject to *ad valorem* taxes, or to FILOT payments pursuant to the Multi-County Park Act, as the case may be, from the date of termination. The rights of the County to receive payment for any retroactive *ad valorem* taxes, Deficiency Payments, SSRC Deficiency Payments, interest or penalties, Administration Expenses, and the enforcement rights with respect to such obligations all survive the termination of this Agreement. In the event that this Agreement is terminated by the operation of this **Section 7.02** prior to the Company meeting the Minimum Statutory Investment Requirement, amounts due to the County as a result thereof shall be calculated as provided in **Section 5.01(f)** above. The indemnification covenants in **Section 4.07** above survive the termination of this Agreement.

Section 7.03. Damage or Destruction of Project.

(a) In the event the Project is damaged by fire, explosion, or any other casualty, the Company shall be entitled to terminate this Agreement; *provided, however*, that (i) if there has been only partial damage of the Project due to any of such casualties and the Company elects to terminate this Agreement, and (ii) the Company has not met the Minimum Statutory Investment Requirement at the time of such termination, the Company shall owe the County a Deficiency Payment, but to the extent permitted by law if the Company has met the Minimum Statutory Investment Requirement within the time period required under the Act, it shall owe no Deficiency Payment.

(b) In the event the Project is damaged by fire, explosion, or any other casualty, and if the Company does not elect to terminate this Agreement, the Company may in its sole discretion commence to restore the Project with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company. All such restorations and replacements shall be considered, to the extent permitted by law, substitutions of the destroyed portions of the Project and shall be considered part of the Project for all purposes hereof, including, but not limited to any amounts due by the Company to the County under this Agreement.

(c) In the event the Company elects not to terminate this Agreement pursuant to subsection (a) and elects not to rebuild pursuant to subsection (b), the damaged portions of the Project shall be treated as Released Property.



END OF ARTICLE VII



## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

Section 8.01. Events of Default. Any one or more of the following events (herein called an “Event of Default”, or collectively “Events of Default”) shall constitute an Event of Default by the Company or any other Sponsor or Sponsor Affiliate (the “Defaulting Entity”) but only with respect to such Defaulting Entity’s rights, duties, and obligations contained herein:

(a) if default shall be made in the due and punctual payment of any FILOT Payments, which default shall not have been cured within thirty (30) days following receipt of written notice of such default from the County; or

(b) if default shall be made in the due performance of or compliance with any of the terms hereof, other than those referred to in the foregoing **paragraph (a)**, and such default shall continue for ninety (90) days after the County shall have given the Defaulting Entity written notice of such default; *provided*, the County may, in its discretion, grant the Defaulting Entity a longer period of time as necessary to cure such default if the Defaulting Entity proceeds with due diligence to cure such default; *provided however*, that no Event of Default shall exist under this Agreement during any period when there is pending, before any judicial or administrative tribunal having jurisdiction, any proceeding in which the Defaulting Entity has contested in good faith the occurrence of such default.

Notwithstanding anything herein to the contrary, failure to meet any investment requirement set forth herein shall not be deemed to be an Event of Default under this Agreement.

Section 8.02. Remedies on Event of Default. Upon the occurrence of any Event of Default, the County may exercise any of the following remedies only as to the Defaulting Entity:

(a) terminate this Agreement by delivery of written notice to the Defaulting Entity not less than sixty (60) days prior to the termination date specified therein;

(b) have access to and inspect, examine, and make copies of the books and records and accounts of the Defaulting Entity pertaining to the construction, acquisition, or maintenance of its respective portion of the Project or calculation of the FILOT required to be paid by the Defaulting Entity pursuant hereto as provided in **Section 4.06** hereof; or

(c) take whatever action at law or in equity as may appear necessary or desirable to collect the amount then due or enforce the County’s rights hereunder, it being the express intent of the parties that the County, without limitation, shall have the same remedies available by law to collect FILOT payments as if they were delinquent *ad valorem* tax payments, including execution upon the lien referred to in **Section 5.03** hereof.



Section 8.03. Defaulted Payments. In the event the Company or any other Sponsor or Sponsor Affiliate should fail to make any of the payments required to be made by such entity under this Agreement, the item or installment so in default shall continue as an obligation of such entity until the amount in default shall have been fully paid. If any such default relates to its obligations to make FILOT Payments hereunder, such entity shall pay the same with interest thereon at the rate per annum provided by the Code for late payment of *ad valorem* taxes together with any penalties provided by the Code for late payment of *ad valorem* taxes, all as provided in Section 12-44-90 of the Code.

Section 8.04. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, each of the Company or any other Co-Investor may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation a suit for *mandamus* or specific performance.

END OF ARTICLE VIII



## ARTICLE IX

### MISCELLANEOUS

Section 9.01. Rights and Remedies Cumulative. Each right, power, and remedy of the County or of the Company or any other Co-Investor provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers, and remedies are sought to be enforced; and the exercise by the County or by the Company or any other Co-Investor of any one or more of the rights, powers, or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company or any other Co-Investor of any or all such other rights, powers, or remedies.

Section 9.02. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, each Co-Investor designated pursuant to **Section 6.02** hereof and their respective successors and assigns as permitted hereunder. Except as otherwise set forth in **Sections 6.01** or **6.02** hereof, with the prior written consent of the County or a subsequent written ratification by the County, unless Section 12-44-120 of the FILOT Act or any successor provision expressly does not require consent, and in accordance with the FILOT Act, the Company may assign its respective interest in this Agreement in whole or in part. Notwithstanding the foregoing, no prior written consent or subsequent written ratification by the County is required for transfers to Sponsor Affiliates or other financing related transfers, as defined in the FILOT Act.

Section 9.03. Notices; Demands; Requests. Any notice, election, demand, request or other communication to be provided under this Agreement shall be in writing and shall be effective (i) when delivered to the party named below, (ii) when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, or (iii) when deposited in any reputable national "next day" delivery service, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

(a) As to the County:

Horry County  
Attn: County Administrator  
1301 Second Avenue  
Conway, South Carolina 29526

with a copy (which shall not constitute notice) to:

Horry County  
Attn: County Attorney



1301 Second Avenue  
Conway, South Carolina 29526

(b) As to the Company:

c/o Pepsi Bottling Ventures  
Attn: Scott Bell, CFO  
4141 ParkLake Avenue, Suite 600  
Raleigh, NC 27612

with a copy (which shall not constitute notice) to:

Smith Anderson  
Attn: Brian Meacham  
150 Fayetteville Street, Suite 2300 (27601)  
PO Box 2611 (27602)  
Raleigh, NC

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Section 9.04. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State. To the extent of any conflict between the provisions of this Agreement and the Act, the Act controls.

Section 9.05. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other and supersedes all prior and contemporaneous discussions of the parties hereto, whether oral or written, and neither party hereto has made or shall be bound by any agreement or any warranty or representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 9.06. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 9.07. Headings and Table of Contents; References. The headings of the Agreement and any Table of Contents annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular articles or Sections or paragraphs of this Agreement are references to the designated articles or Sections or paragraphs of this Agreement.



Section 9.08. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

Section 9.09. Amendments. Subject to the limitations set forth in Section 12-44-40(K)(2) of the FILOT Act, this Agreement may be amended, and the rights and interest of the parties hereunder surrendered, only by a writing signed by all parties.

Section 9.10. Waiver. Any party may waive compliance by any other party with any term or condition of this Agreement only in a writing signed by the waiving party.

Section 9.11. Further Proceedings. To the extent additional proceedings are required by law, the County agrees to undertake all such additional proceedings as may be reasonably required or appropriate to effectuate the intent of this Agreement.

Section 9.12. Force Majeure. Except for payments in lieu of taxes under this Agreement the due dates of which are statutorily mandated, the Company shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fire, floods, pandemics, inability to obtain materials, conditions arising from government orders, acts or regulations, war or national emergency, or acts of God (each, a "Force Majeure Event"), but only for so long as Force Majeure Event continues.

END OF ARTICLE IX

SIGNATURES FOLLOW ON NEXT PAGE.



IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Agreement to be effective as of the date first written above.

HORRY COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Johnny Gardner, Chairman, County Council

[SEAL]

Attest:

By: \_\_\_\_\_  
Patricia S. Hartley, Clerk to Council  
Horry County, South Carolina

SIGNATURE PAGE 1 TO FEE AGREEMENT



~~[PROJECT COOK]~~  
PBV CONWAY-MYRTLE BEACH LLC

By: Pepsi Bottling Ventures LLC,  
Its sole member and manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_ Scott Bell  
Title: \_\_\_\_\_ Chief  
Financial Officer

SIGNATURE PAGE 2 TO FEE AGREEMENT



**EXHIBIT A**  
**LAND DESCRIPTION**

~~[to be inserted]~~

ALL AND SINGULAR, that certain piece, parcel or tract of land, lying and being near North Myrtle Beach, Horry County, South Carolina and more particularly described as 25.09 Acres (Total), more or less, and shown on a plat entitled "Subdivision Plat of New Parcel Being a Portion of PIN: 389-00-00-0002 & PIN: 360-00-00-0007 North Myrtle Beach, Horry County, South Carolina, Prepared For: Edgewater Ventures" prepared by Development Resource Group, LLC dated November 2, 2022 and recorded in the Office of the Register of Deeds for Horry County on December 14, 2022 in Plat Book 309, at page 133.



**EXHIBIT B**  
**FORM OF JOINDER AGREEMENT**  
**JOINDER AGREEMENT**

Reference is hereby made to that certain Fee Agreement, dated as of January 24, 2023 ("Fee Agreement"), between Horry County, South Carolina ("County") and PBV Conway-Myrtle Beach LLC ("Sponsor").

**1. Joinder to Fee Agreement.**

\_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_ (the "Company"), hereby: (a) joins as a party to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement with respect to its portion of the Project, as a Sponsor Affiliate thereunder; and (b) acknowledges and agrees that (i) in accordance with the Fee Agreement, the Company has been designated as a Sponsor Affiliate by the Sponsor for purposes of the Project and such designation has been previously consented to by the County in the Fee Agreement in accordance with the FILOT Act, but only to the extent that the FILOT Act requires the County's consent, (ii) the Company qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Sections 12-44-30(20) and 12-44-130 of the FILOT Act upon the execution and delivery to the County and the Department of Revenue of this Joinder Agreement, and (iii) the Company shall have all of the rights and obligations of a Sponsor Affiliate as set forth in the Fee Agreement with respect to its portion of the Project.

**2. Capitalized Terms.**

All capitalized terms used but not defined in this Joinder Agreement shall have the meanings set forth in the Fee Agreement.

**3. Representations.**

The Company, as a Sponsor Affiliate under the Fee Agreement, represents and warrants to the County as follows:

- (a) The Company is a \_\_\_\_\_ validly existing and in good standing under the laws of the State of \_\_\_\_\_ and is, or will be prior to operation of the Project, authorized to do business in the State of South Carolina, has all requisite power to enter into this Joinder Agreement and to carry out its obligations hereunder and under the Fee Agreement, and by proper action has been duly authorized to execute and deliver this Joinder Agreement. The Company's fiscal year end is \_\_\_\_\_ and the undersigned will notify the County of any changes in the fiscal year of the Company.
- (b) The Company intends that its respective portion of the Project be operated for [\_\_\_\_\_] and related activities.



(c) To the best knowledge of the Company, no actions, suits, proceedings, inquiries or investigations are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal, which would materially adversely affect this Joinder Agreement or which would, in any way, adversely affect the validity or enforceability of this Joinder Agreement, or the transactions contemplated hereby.

**4. Governing Law.**

This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to any principles of choice of law that would refer the governance of this Joinder Agreement to the laws of any other jurisdiction.

**5. Notice.**

Notices under Section 9.03 of the Fee Agreement with respect to the Company shall be sent to:

[                      ]

**6. Multiple Counterparts.**

This Joinder Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

[Signature Page Follows]



IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Entity

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

IN WITNESS WHEREOF, the Sponsor consents to the addition of the above-named entity as a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

~~[PROJECT COOK]~~  
PBV CONWAY-MYRTLE BEACH LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

County Acknowledgement:

[REQUIRED ONLY FOR THOSE ADDITIONAL SPONSOR AFFILIATES FOR WHICH COUNTY CONSENT IS REQUIRED BY THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, CODIFIED AS TITLE 12, CHAPTER 44, CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED.]

IN WITNESS WHEREOF, the County acknowledges it has consented to the addition of the above-named entity as a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

HORRY COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_



STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )

ORDINANCE ~~20~~ 141-2022

AN ORDINANCE TO AUTHORIZE AND APPROVE AN AGREEMENT FOR THE DEVELOPMENT OF A JOINT INDUSTRIAL AND BUSINESS PARK BY AND BETWEEN HORRY COUNTY AND MARION COUNTY WITH PROPERTY LOCATED IN HORRY COUNTY ~~(PROJECT COOK)~~; (PALMETTO COAST INDUSTRIAL PARK); TO AUTHORIZE AND APPROVE AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN HORRY COUNTY AND THE CITY OF NORTH MYRTLE BEACH WITH RESPECT TO SUCH PARK; TO REQUIRE THE PAYMENT OF A FEE IN LIEU OF *AD VALOREM* TAXES BY BUSINESSES AND INDUSTRIES LOCATED IN THE PARK; TO APPLY ZONING AND OTHER LAWS IN THE PARK; TO PROVIDE FOR LAW ENFORCEMENT JURISDICTION IN THE PARK; TO PROVIDE FOR THE DISTRIBUTION OF PARK REVENUES WITHIN HORRY COUNTY.

By the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina, and the powers granted to the County by the General Assembly of the State, it is ordained and enacted by the Council, as follows:

**Section 1. Findings and Determinations; Purpose.**

A. The Council finds and determines that:

(1) the County is authorized by article VIII, section 13(D) of the South Carolina Constitution and by Sections 4-1-170, -172 and -175 of the Code of Laws of South Carolina 1976, as amended (the "Code"), to jointly develop, in conjunction with contiguous counties, industrial and business parks ("Multi-County Parks");

(2) the use of Multi-County Parks is important in attracting and encouraging the investment of capital and the creation of new jobs in the County; and

(3) if property in a Multi-County Park encompasses all or a portion of a municipality, the consent of the municipality must be obtained prior to the creation of the Multi-County Park.

B. It is the purpose of this ordinance to authorize and approve a multi-county park agreement with Marion County, South Carolina ("Marion County") for properties located in Horry County, specifically, one or more parcels associated with ~~[Project Cook]~~; the Palmetto Coast Industrial Park and the location of PBV Conway-Myrtle Beach LLC (formerly known as "Project Cook") therein, all as more fully described in Exhibit A to the multi-county park agreement (the "Park").

C. It is the further purpose of this ordinance to authorize and approve an Intergovernmental Agreement with the City of North Myrtle Beach, South Carolina ("North Myrtle Beach") relating to the consent of North Myrtle Beach to the creation of the Park, and the distribution to North Myrtle Beach of a portion of the fees-in-lieu of tax paid on behalf of taxpayers with respect to the property located in the Park ~~to North Myrtle Beach~~; as set forth herein.

**Section 2. Approval of Park Agreement.**

The County Administrator is authorized, empowered and directed, in the name of and on behalf of Horry County, to execute, acknowledge and deliver an Agreement for the Development of a Joint Industrial and Business Park ~~(Project Cook)~~; (Palmetto Coast Industrial Park) with Marion County (the "Park Agreement"). The Clerk to Council is authorized to attest the execution of the Park Agreement by the County Administrator. The form of the Park Agreement is attached to this ordinance as Exhibit A and all



terms, provisions and conditions of the Park Agreement are incorporated into this ordinance as if the Park Agreement were set out in this ordinance in its entirety. By adoption of this ordinance, County Council approves the Park Agreement and all of its terms, provisions and conditions. The Park Agreement is to be in substantially the form as attached to this ordinance and hereby approved, or with such changes therein as the County Administrator determines, upon advice of counsel, necessary and that do not materially change the matters contained in the form of the Park Agreement attached to this ordinance.

### **Section 3. Imposition of Fee In Lieu of Tax.**

The businesses or industries located in the Park must pay a fee in lieu of *ad valorem* taxes as provided for in the Park Agreement. With respect to properties located in the Horry County portion of the Park, the fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Horry County. Except as otherwise provided in Section 6 of this ordinance, that portion of the fee allocated pursuant to the Park Agreement to Marion County shall be thereafter paid by the Treasurer of Horry County to the Treasurer of Marion County within ten (10) business days of receipt for distribution in accordance with the Park Agreement. With respect to properties located in the Marion County portion of the Park, the fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Marion County. That portion of such fee allocated pursuant to the Park Agreement to Horry County shall thereafter be paid by the Treasurer of Marion County to the Treasurer of Horry County within ten (10) business days of receipt for distribution in accordance with the Park Agreement. The provisions of Section 12-2-90 of the Code, or any successor statutes or provisions, apply to the collection and enforcement of the fee in lieu of *ad valorem* taxes.

### **Section 4. Applicable Ordinances and Regulations.**

The ordinances and regulations of Horry County concerning zoning, health and safety, and building code requirements apply to the Park properties in Horry County unless the properties are within the boundaries of a municipality in which case the municipality's ordinances and regulations apply. The ordinances and regulations of Marion County concerning zoning, health and safety, and building code requirements apply to the Park properties in Marion County unless the properties are within the boundaries of a municipality in which case the municipality's ordinances and regulations apply.

### **Section 5. Law Enforcement Jurisdiction.**

Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties in Horry County is vested with the Horry County Police Department. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties in Marion County is vested with the Marion County Sheriff. If any of the Park properties located in either Horry County or Marion County are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement jurisdiction is vested with the law enforcement officials of the municipality.

### **Section 6. Distribution of Revenues.**

A. Revenues generated from industries or businesses located in the Horry County portion of the Park (net any reductions due to the applicability of any special source revenue credits), subject to the provisions of the Intergovernmental Agreement (as defined below), less one percent (1%) of the fee in lieu of tax ("FILOT") revenue distributed to Marion County, shall be distributed as follows:

First, North Myrtle Beach shall receive a distribution of revenue calculated in the manner described in the Intergovernmental Agreement (as defined below). After such distribution to North Myrtle Beach, one percent (1%) of remaining revenue shall be divided among each applicable taxing entity (excluding North



Myrtle Beach) in the same proportion as each such entity's millage rate bears to the total millage rate of all applicable taxing entities (provided, however, millage levied by or on behalf of North Myrtle Beach shall be excluded from such calculation); the remainder to Horry County for economic development. With respect to amounts receivable in any fiscal year by a taxing entity in the Park, the governing body of the taxing entity shall allocate the revenues received to operations and maintenance and/or debt service of the taxing entity.

B. Revenues generated from industries or businesses located in the Marion County portion of the Park and allocated to Horry County shall be retained by Horry County for its use.

**Section 7. Intergovernmental Agreement.**

The County Administrator is authorized, empowered and directed, in the name of and on behalf of Horry County, to execute, acknowledge and deliver an Intergovernmental Agreement with North Myrtle Beach (the "Intergovernmental Agreement"). The Clerk to Council is authorized to attest the execution of the Intergovernmental Agreement by the County Administrator. The form of the Intergovernmental Agreement is attached to this ordinance as Exhibit B and all terms, provisions and conditions of the Intergovernmental Agreement are incorporated into this ordinance as if the Intergovernmental Agreement were set out in this ordinance in its entirety. By adoption of this ordinance, County Council approves the Intergovernmental Agreement and all of its terms, provisions and conditions. The Intergovernmental Agreement is to be in substantially the form as attached to this ordinance and hereby approved, or with such changes therein as the County Administrator determines, upon advice of counsel, necessary and that do not materially change the matters contained in the form of the Intergovernmental Agreement attached to this ordinance.

**Section 8. Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Horry County Code or other County ordinances and resolutions, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 9. Severability.**

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, the invalid or unconstitutional portion is deemed a separate, distinct, and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

**Section 10. Effective Date.**

This Ordinance is effective upon third reading.



AND IT IS SO ORDAINED, ENACTED AND ORDERED this 24<sup>th</sup> day of January, 2023,

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

~~Harold G. Worley~~, Jenna L. Dukes, District 1

~~Orton Bellamy~~, District 7

Bill Howard, District 2

~~Johnny Vaught~~, District 8

Dennis DiSabato, District 3

Gary Loftus, District 4

Tyler Servant, District 5

Cam Crawford, District 6

Tom Anderson, District 7

Michael Masciarelli, District 8

R. Mark Causey, District 9

~~Gary Loftis~~, District 4

Danny Hardee, District 10

~~Tyler Servant~~, District 5

Al Allen, District 11

~~Cam Crawford~~, District 6

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: \_\_\_\_\_, 20 December 13, 2022

Second Reading: \_\_\_\_\_, 20 January 10, 2023

Third Reading: \_\_\_\_\_, 20 January 24, 2023

Public Hearing: \_\_\_\_\_, 20 January 24, 2023

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**Exhibit A to Ordinance ~~20~~ 141-2022**

**Agreement for the Development  
of a  
Joint Industrial and Business Park  
(Horry County and Marion County)**

**~~{(PROJECT COOK)}~~  
(PALMETTO COAST INDUSTRIAL PARK)**

See attached.

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STATE OF SOUTH CAROLINA )  
)  
) **AGREEMENT FOR THE DEVELOPMENT**  
) **OF A JOINT INDUSTRIAL**  
COUNTY OF HORRY )  
COUNTY OF MARION ) **AND BUSINESS PARK**  
) ~~(PROJECT COOK~~  
(PALMETTO COAST INDUSTRIAL PARK)

This multi-county park agreement applies to the following property in Horry County associated with ~~{Project Cook}; {an} approximately \_\_\_\_\_-acre parcel[s] located at {address} in \_\_\_\_\_, South Carolina,~~ the Palmetto Coast Industrial Park and the location of PBV Conway-Myrtle Beach LLC therein;

1. Horry County PIN: 38900000240 (as of January 24, 2023), approximately 22.15 acres;

2. Horry County PIN: 38902020001 (as of January 24, 2023), approximately 2.96 acres;

all as more fully described in Exhibit A (Horry) to this Agreement.

This multi-county park agreement applies to the following properties in Marion County:  
none.

More specific information on the properties may be found in the body of this agreement and in the exhibits.

This AGREEMENT for the development of a joint county industrial and business park to be located initially within Horry County is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, ~~20\_\_~~ 2023 (the "Effective Date"), by and between Horry County and Marion County.

**RECITALS:**

WHEREAS, Horry County, South Carolina ("Horry County") and Marion County, South Carolina ("Marion County") are contiguous counties which, pursuant to Ordinance No. \_\_-\_\_, adopted by the Marion County Council on \_\_\_\_\_, ~~20\_\_, 2023,~~ and Ordinance ~~\_\_20\_\_, 141-2022,~~ adopted by Horry County Council on \_\_\_\_\_, ~~20\_\_~~ January 24, 2023 (collectively, the "Enabling Ordinances"), have each determined that, in order to promote economic development and thus encourage investment and provide additional employment opportunities within both of said counties, there should be established, initially in Horry County, a Joint County Industrial and Business Park (the "Park"), to be located upon the property described in Exhibit A (Horry) hereto; and

WHEREAS, as a consequence of the establishment of the Park, property comprising the Park and all property having a situs therein is exempt from *ad valorem* taxation pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, but the owners or lessees of such property shall



pay annual fees in an amount equivalent to the property taxes or other in-lieu-of payments that would have been due and payable except for the exemption.

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:



1. Binding Agreement. This Agreement serves as a written instrument setting forth the entire agreement between the parties and is binding on Marion County and Horry County, and their successors and assigns.

2. Authorization. Article VIII, Section 13(D) of the South Carolina Constitution provides that counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of the member counties, provided that certain conditions specified therein are met and that the General Assembly of the State of South Carolina provides by law a manner in which the value of property in the park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability pursuant to any provision of law which measures the relative fiscal capacity of a school district to support its schools based on the assessed valuation of taxable property in the district as compared to the assessed valuation of taxable property in all school districts in South Carolina. Section 4-1-170, Code of Laws of South Carolina 1976, as amended (the “Code”) satisfies the conditions imposed by Article VIII, Section 13(D) of the Constitution and provides the statutory vehicle whereby a joint county industrial or business park may be created.

3. Location of the Park. (A) As of the Effective Date, the Park consists of properties located in Horry County, as further identified in Exhibit A (Horry) to this Agreement. As of the Effective Date, no properties are located in Marion County, as further identified in Exhibit B (Marion) to this Agreement. It is specifically recognized that the Park may, from time to time, consist of non-contiguous properties within each county. The boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinance of the county within which such property is to be added to or removed from the Park (the “Host County”) and without any action by the non-host county. The addition or removal of property is complete upon the provision to the non-host county by the Host County of the revised exhibit as provided in Section 3(B) below. If any property proposed for inclusion in the Park, in whole or in part, is located within the boundaries of a municipality, then the municipality must give its consent prior to the inclusion of the property in the Park. Notwithstanding the foregoing, no consent of a municipality shall be required for any property to remain in the Park in the event that such property is annexed by such municipality after the date such property has become part of the Park and subject to the provisions of this Agreement. Further, if any property located in the Park is annexed by a municipality after the property has been included in the Park, the municipality’s act of annexation shall serve as the municipality’s consent to the inclusion of the property in the Park.

(B) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and there shall be attached hereto a revised Exhibit A (Horry) or Exhibit B (Marion), as the case may be, which shall be prepared by the county in which the added or removed property is located and the revised exhibit must contain a description or other identification of the properties included in the Park, after the enlargement or diminution.

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4. Fee in Lieu of Taxes. Pursuant to Article VIII, Section 13(D), of the South Carolina Constitution, all property located in the Park is exempt from all *ad valorem* taxation. The owners or lessees of any property situated in the Park shall pay in accordance with this Agreement an amount (referred to as fees in lieu of *ad valorem* property taxes) equivalent to the *ad valorem* property taxes or other in-lieu-of payments that would have been due and payable but for the location of such property within the Park.

5. Allocation of Expenses. Horry County and Marion County shall bear any expenses, including, but not limited to, development, operation, maintenance and promotion of the Park and the cost of providing public services, to the extent that either Horry County or Marion County incurs such expenses and costs, in the following proportions:

If property is in the Horry County portion of the Park:

(1) Horry County	100%
(2) Marion County	0%

If property is in the Marion County portion of the Park:

(1) Horry County	0%
(2) Marion County	100%

6. Allocation of Revenues. Marion County and Horry County shall receive an allocation of revenue generated by the Park through payment of fees in lieu of *ad valorem* property taxes (net of any reductions due to the application of any special source revenue credits) in the following proportions:

If property is in the Horry County portion of the Park:

(1) Horry County	99%
(2) Marion County	1%

If property is in the Marion County portion of the Park:

(1) Horry County	1%
(2) Marion County	99%

7. Revenue Allocation Within Each County. (A) Revenues generated by the Park through the payment of fees-in-lieu-of *ad valorem* property taxes shall be distributed to Horry County and to Marion County, as the case may be, according to the proportions established by Paragraph 6 of this Agreement. With respect to revenues allocable to Marion County or Horry County by way of fees in lieu of taxes generated within its own County as Host County, such revenue shall be distributed within the Host County in the manner provided by ordinance of the county council of the Host County; provided, that (i) all taxing districts which overlap the applicable revenue-generating portion of the Park shall receive at least some portion of the



revenues generated from such portion, and (ii) with respect to amounts received in any fiscal year by a taxing entity, the governing body of the taxing entity shall allocate the revenues received to operations and/or debt service of the entity. Each Host County is specifically authorized to use a portion of the revenue for economic development purposes as permitted by law and as established by ordinance of the county council of the Host County.

(B) Revenues allocable to Marion County by way of fees in lieu of taxes generated within Horry County shall be distributed solely to Marion County. Revenues allocated to Horry County by way of fees in lieu of taxes generated within Marion County shall be distributed solely to Horry County.

8. Fees In Lieu of Taxes Pursuant to Title 4 and Title 12 Code of Laws of South Carolina. It is hereby agreed that the entry by Horry County into any one or more fee-in-lieu-of tax agreements pursuant to Title 4 or Title 12 of the Code ("Negotiated Fee-in-Lieu of Tax Agreements") or arrangements relating to the granting of special source revenue credits or issuance of special source revenue bonds, with respect to property located within the Horry County portion of the Park and the terms of such agreements or arrangements shall be at the sole discretion of Horry County. It is further agreed that entry by Marion County into any one or more Negotiated Fee-in-Lieu of Tax Agreements or arrangements relating to the granting of special source revenue credits or issuance of special source revenue bonds with respect to property located within the Marion County portion of the Park and the terms of such agreements or arrangements shall be at the sole discretion of Marion County.

9. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59-20-20(3) of the Code, allocation of the assessed value of property within the Park to Marion County and Horry County and to each of the taxing entities within the participating counties shall be identical to the allocation of revenue received and retained by each of the counties and by each of the taxing entities within the participating counties, pursuant to Paragraphs 6 and 7 of this Agreement.

10. Severability. To the extent, and only to the extent, that any provision or any part of a provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision or part of a provision of this Agreement.

11. Termination. Notwithstanding any provision of this Agreement to the contrary, Horry County and Marion County agree that this Agreement shall terminate on December 31, 2072; provided, however, this Agreement may be terminated earlier than, or extended beyond, such date by mutual agreement of Horry County and ~~Georgetown~~ Marion County.



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IN WITNESS WHEREOF, the parties have executed this Agreement on the dates below found, to be effective as of the Effective Date.

**MARION COUNTY, SOUTH CAROLINA**

(Seal)

\_\_\_\_\_  
Tim Harper, County Administrator

ATTEST:

DATE: \_\_\_\_\_

\_\_\_\_\_  
Sabrina Davis, Clerk to Council

HORRY COUNTY SIGNATURES FOLLOW ON NEXT PAGE.



HORRY COUNTY, SOUTH CAROLINA

(Seal)

\_\_\_\_\_  
Steve Gosnell, County Administrator

ATTEST:

DATE: \_\_\_\_\_

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

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**EXHIBIT B**

**Marion County Properties**

NONE.

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**Exhibit B to Ordinance ~~20~~ 141-2022**

**Intergovernmental ~~Agreement for the Development~~  
~~of a~~  
~~Joint Industrial and Business Park~~  
~~(Horry County and Marion County)~~  
  
~~{(PROJECT COOK)}~~**

See attached.

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STATE OF SOUTH CAROLINA ) INTERGOVERNMENTAL AGREEMENT  
)  
COUNTY OF HORRY ) JOINT INDUSTRIAL AND BUSINESS PARK  
CITY OF NORTH MYRTLE BEACH ) ~~(PROJECT COOK~~ (PALMETTO  
COAST INDUSTRIAL PARK)

This INTERGOVERNMENTAL AGREEMENT – JOINT INDUSTRIAL AND BUSINESS PARK (~~PROJECT COOK~~ PALMETTO COAST INDUSTRIAL PARK) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, ~~20\_\_~~ 2023, by and between HORRY COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”), and the CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, a municipality organized and existing pursuant to the laws of the State of South Carolina (the “City”) (the “Intergovernmental Agreement” or “IGA”).

RECITALS

WHEREAS, the Joint Industrial and Business Park (~~Project Cook~~ Palmetto Coast Industrial Park) (the “Park”) to be established between the County and Marion County, South Carolina (“Marion County”) ~~is~~ will be a location for businesses and industries to locate and invest capital and create jobs;

WHEREAS, the City and County seek to facilitate the investment of capital and the creation of jobs at the Park by using various incentives available to county and municipal governments pursuant to state law;

WHEREAS, one incentive available to counties is multi-county parks, which are authorized pursuant to Article VIII, Section 13(D) of the South Carolina Constitution and Sections 4-1-170, -172, and -175 of the Code of Laws of South Carolina 1976, as amended (the “MCP Law”), and the MCP Law allows contiguous counties to jointly develop industrial and business parks within the geographical boundaries of one or more of the participating counties (“Multi-County Park”);

WHEREAS, Section 4-1-170(C) of the MCP Law provides that “[i]f the industrial or business park encompasses all or a portion of a municipality, the counties must obtain the consent of the municipality prior to the creation of the multi-county industrial park”;

WHEREAS, the Park ~~is~~ which shall be a Multi-County Park, is to be located within the boundaries of the City;

WHEREAS, it is the purpose of this Intergovernmental Agreement to provide for the consent of the City to Multi-County Park status for parcels located in the Park and to set out the agreement of the City and County on how certain economic development incentives may be used in the recruitment of businesses and industries to the Park, all subject to, and as set forth in, the provisions of this Intergovernmental Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties hereto, intending to be legally bound, agree as follows:

SECTION 1. BINDING AGREEMENT.



This Intergovernmental Agreement serves as a written instrument setting forth the entire agreement between the parties with respect to the matters set forth herein and is binding on the County and the City, and their successors and assigns.

## SECTION 2. INCORPORATION OF RECITALS.

The above recitals are incorporated into this Intergovernmental Agreement as if the recitals were set out in this Intergovernmental Agreement in their entirety.

## SECTION 3. CONSENT TO MULTI-COUNTY PARK.

Pursuant to Section 4-1-170(C) of the MCP Law, the City consents to the creation of the Park as a multi-county industrial park. As used in this Intergovernmental Agreement, unless the context ~~clearly~~expressly indicates otherwise, the "Park" means only those parcels set forth below, identified by the parcel identification number (PIN) used by the Horry County Assessor's Office: (as of January 24, 2023), the owner: (as of January 24, 2023), and, if available, acreage:

1. PIN: 38900000240, property of PCIP 4 Partners LLC, 22.15 acres; and
2. PIN: 38902020001, property of PCIP 4 Partners LLC, 2.96 acres.

## SECTION 4. AGREEMENTS OF COUNTY.

### A. Use of Negotiated Fee in Lieu of Tax and Special Source Revenue Credit Incentives.

City acknowledges and agrees that County may enter into any one or more fee-in-lieu-of tax agreements and any arrangements for the provision of special source revenue credits pursuant to Chapters 1, 12 and 29 of Title 4 and Chapter 44 of Title 12 of the Code of Laws of South Carolina 1976, as may be amended from time to time (collectively, "Negotiated Fee-in-Lieu of Tax Agreements"), with a business or industry that is located, or may locate, in the Park and that the entry into a Negotiated Fee-in-Lieu of Tax Agreement, and the terms of those agreements, are at the sole discretion of the County: provided, however, that notwithstanding anything herein to the contrary, the County may not enter into any such agreement or arrangement to the extent that such agreement or arrangement would preclude or prevent the City's receipt of the distribution of Net Park Revenues set forth in Section 4.B. hereof.

### B. Distribution of Multi-County Park Revenues.

City acknowledges and agrees that the ~~multi-county park~~Multi-County Park agreement between the County and Marion County (the "Park Agreement"), and the County ordinance approving the ~~multi-county park~~Multi-County Park agreement (the "Park Ordinance"), both with respect to the Park, provide for the distribution of revenues received from businesses and industries located in the Park between the two counties and within the County. Further, the Park Ordinance provides that, with respect to the revenues received by the County, net of any reduction due to the application of any special source revenue credits and following the distribution of 1% of such net revenues to Marion County (the "Net Park Revenues"), the City shall receive a distribution of such Net Park Revenues calculated in the manner described in this Intergovernmental Agreement.

Accordingly, the County and the City agree that the City shall receive a distribution of such Net Park Revenues calculated on the basis of: (A) (i) ~~45 mills~~the City's millage rate for the applicable tax year, (ii)



the assessment ratio set forth in any applicable Negotiated Fee-in-Lieu of Tax Agreement (or, in the absence thereof, the applicable assessment ratio provided by law), (iii) the taxable value set forth in any applicable Negotiated Fee-in-Lieu of Tax Agreement (or, in the absence thereof, the applicable value provided by law), and (iv) the *inapplicability* of any special source revenue credits, *less* (B) the City's portion of the 1% distribution to Marion County based on the a fraction where the numerator equals ~~45 mills~~ the City's millage rate for the applicable tax year, and the denominator equals the total millage rate applicable to the property in the Park for such tax year.

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By way of example, assume for a particular tax year:

- Negotiated FILOT Payment (prior to application of 50% special source revenue credit): \$203,670

- Taxable Value of Capital Investment: \$15,000,000
- Assessment Ratio: 6%
- Total Millage Rate: 226.3 mills
- City's Millage Rate: 45 mills

$$\$15,000,000 \times .06 \times .2263 = \$203,670$$

- Negotiated FILOT Payment (after applicability of 50% special source revenue credit): \$101,835

$$\$203,670 \times .50 = \$101,835$$

$$\$203,670 - \$101,835 = \$101,835$$

- 1% Distribution from Horry County to Marion County: \$1,018.35

$$\$101,835 \times .01 = \$1,018.35$$

- Net Park Revenues: \$100,816.65

$$\$101,835 - \$1,018.35 = \$100,816.65$$

- Distribution to City: \$40,297.50

- Capital investment taxable value: \$15,000,000
- Assessment ratio: 6%
- Millage rate: 45 mills

$$\$15,000,000 \times .06 \times .045 = \$40,500$$



*Less*

$$\$1,018.35 \times 45/226.3 = \$202.50$$

$$\$40,500.00 - \$202.50 = \$40,297.50$$

- Remaining Net Park Revenues for Distribution by Horry County: \$60,316.65

$$\$100,816.65 - \$40,297.50 = \$60,519.15$$

#### Section 5. ENFORCEMENT.

The City and County shall each have the right to enforce the terms, provisions and conditions of this Intergovernmental Agreement by any remedy available at law or in equity, including specific performance, and the right to recover attorney's fees and costs associated with enforcement.

#### Section 6. TERMINATION.

This Intergovernmental Agreement terminates on December 31, 2072; provided, however: (i) this agreement may be terminated earlier than, or extended beyond, such date by mutual agreement of the City and the County, and (ii) this agreement shall automatically terminate in the event of the termination of the Park Agreement.

#### Section 7. MISCELLANEOUS PROVISIONS.

##### A. Representations and Warranties.

1. County represents and warrants, as the basis for the undertakings on its part contained in this Intergovernmental Agreement, that it (i) is a body politic and corporate and a political subdivision of the State of South Carolina, (ii) is authorized by state law to enter into this Intergovernmental Agreement, (iii) has approved this Intergovernmental Agreement in accordance with the procedural requirements of state law and any other applicable state law, and (iv) has authorized its officials to execute and deliver this Intergovernmental Agreement.

2. City represents and warrants, as the basis for the undertakings on its part contained in this Intergovernmental Agreement, that it (i) is a municipality organized and existing pursuant to the laws of the State of South Carolina, (ii) is authorized by state law to enter into this Intergovernmental Agreement, (iii) has approved this Intergovernmental Agreement in accordance with the procedural requirements of state law and any other applicable state law, and (iv) has authorized its officials to execute and deliver this Intergovernmental Agreement.

##### B. Entire Agreement.

This Intergovernmental Agreement sets forth, and references all of the agreements, conditions, and understandings between the City and County relative to the purpose of this Intergovernmental Agreement and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied,



between the City and County relative to the matters addressed in this Intergovernmental Agreement other than as set forth or as referred to in this Intergovernmental Agreement.

C. Governing Law.

This Intergovernmental Agreement is governed by the laws of South Carolina.

D. Counterparts.

This Intergovernmental Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

E. Notices.

Any notice, election, demand, request or other communication to be provided under this Intergovernmental Agreement shall be in writing and shall be effective (i) when delivered to the party named below, (ii) when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, or (iii) when deposited in Federal Express (or any other reputable national "next day" delivery service) addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

To the County: County of Horry  
Attn: County Administrator  
1301 Second Avenue (29526)  
P.O. Box 1236 (29528)  
Conway, SC

With Copy to: County of Horry  
Attn: County Attorney  
1301 Second Avenue (29526)  
P.O. Box 1236 (29528)  
Conway, SC

And to the City: City of North Myrtle Beach  
Attn: City Manager  
1018 2nd Avenue South  
North Myrtle Beach, SC 29582

With Copy to: City of North Myrtle Beach  
Attn: City Attorney  
1018 2nd Avenue South  
North Myrtle Beach, SC 29582

F. Amendments and Waiver.



This Intergovernmental Agreement may be amended or cancelled by mutual consent of the parties to the Intergovernmental Agreement. An amendment to this Intergovernmental Agreement must be in writing. No statement, action or agreement made after the date of this Intergovernmental Agreement shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this Intergovernmental Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom the change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

G. Effective Date.

This Intergovernmental Agreement is effective as of the date first above written.

IN WITNESS WHEREOF, HORRY COUNTY, SOUTH CAROLINA, and the CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, pursuant to due authority, have duly executed this Intergovernmental Agreement, all as of \_\_\_\_\_, 2023.

HORRY COUNTY, SOUTH CAROLINA

\_\_\_\_\_  
Steve Gosnell, County Administrator

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

CITY OF NORTH MYRTLE BEACH,  
SOUTH CAROLINA

\_\_\_\_\_  
Mike Mahaney, City Manager

Attest:

\_\_\_\_\_  
Allison Galbreath, City Clerk

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STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )

ORDINANCE ~~22~~142-2022

**AN ORDINANCE TO AMEND SECTION 6 OF ORDINANCE 113-16, RELATING TO THE DISTRIBUTION OF REVENUE GENERATED FROM THE LORIS COMMERCE CENTER PURSUANT TO THE AGREEMENT FOR THE DEVELOPMENT OF A JOINT INDUSTRIAL AND BUSINESS PARK BY AND BETWEEN HORRY COUNTY AND GEORGETOWN COUNTY, SO AS TO, AMONG OTHER THINGS, FURTHER PROVIDE FOR THE DISTRIBUTION OF REVENUE TO THE CITY OF LORIS; PROVIDING FOR THE ADDITION OF CERTAIN PROPERTIES TO THE JOINT INDUSTRIAL AND BUSINESS PARK; AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED PARK AGREEMENT BETWEEN HORRY COUNTY AND GEORGETOWN COUNTY; AND OTHER MATTERS RELATING THERETO.**

By the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina, and the powers granted to the County by the General Assembly of the State, it is ordained and enacted by the Council, as follows:

**Section 1. Findings and determinations; Purpose.**

A. The Council finds and determines that:

1. by passage of Ordinance 113-16, the County approved an Agreement for the Development of a Joint Industrial and Business Park by and between the County and Georgetown County dated as of January 1, 2016 (the "Park Agreement") relating to the Loris Commerce Center located within the City of Loris (the "Multi-County Park");

2. the City of Loris consented to the establishment of the Multi-County Park subject to certain conditions set forth in an Intergovernmental Agreement, dated January 24, 2017, between the County and the City of Loris (the "2017 IGA");

3. the experiences of the City and County with the 2017 IGA and the Multi-County Park have led the City and County to conclude that certain aspects of the prior agreements need to be modified to further facilitate the investment of capital and the creation of jobs at the Loris Commerce Center;

4. by passage of separate ordinance, the County has agreed to enter into a revised Intergovernmental Agreement with the City of Loris which includes the County's agreement to amend Ordinance 113-16 as it relates to the distribution of revenues received from the Multi-County Park;

5. certain properties should be added to the Multi-County Park, and the City has consented to the addition of such properties to the Multi-County Park pursuant to the revised Intergovernmental Agreement; and

6. it is appropriate for certain provisions of the Park Agreement to be modified and, as such, an Amended and Restated Park Agreement has been prepared for approval by the County and Georgetown County.

B. Purposes.

The purposes of this ordinance are to (i) amend Section 6 of Ordinance 113-16 in fulfillment of the County's agreement contained in the revised Intergovernmental Agreement with the City of Loris, (ii) authorize the addition of certain parcels to the Multi-County Park, and (iii) authorize the execution and delivery of an Amended and Restated Agreement for the Development of a Joint County Industrial and Business Park between the County and Georgetown County with respect to the Multi-County Park.



**Section 2.      Amendment of Section 6, Ordinance 113-16.**

Section 6 of Ordinance 113-16, relating to the Distribution of Revenue, is amended to read:

A. As used in this section, "Intergovernmental Agreement" means the Intergovernmental Agreement Loris Commerce Center (Revised ~~2022~~2023) by and between Horry County and the City of Loris, dated \_\_\_\_\_, ~~2022~~2023, and approved by Council by passage of Ordinance ~~---~~143-2022.

B. Revenues generated from industries or businesses located in the Horry County portion of the Park, less (i) one percent (1%) of the fee-in-lieu of tax revenue distributed to Georgetown County and (ii) any applicable special source revenue incentive that is allocated among the applicable taxing entities based on the proportion that the respective taxing entity's millage rate bears to the total millage rate of all applicable taxing entities and in accordance with Section 4.C.1. of the Intergovernmental Agreement, shall be distributed as follows:

First, to the City of Loris for industries or businesses located within the boundaries of the City of Loris, the City of Loris's proportionate share of the revenue as determined based on the proportion that the City of Loris's millage rate bears to the total millage rate of all applicable taxing entities. There shall be deducted from the City of Loris proportionate share any Loris Special Source Revenue Credit provided pursuant to Section 4.C.2. of the Intergovernmental Agreement.

Second, after the distribution to the City of Loris, one percent (1%) of the remaining fee-in-lieu of tax revenues to be divided among each applicable taxing entity, but not including the City of Loris, in the same proportion as each such entity's millage rate bears to the total millage rate of all applicable entities.

Third, after the distribution to the City of Loris and the distribution of one percent (1%) to other taxing entities, the remainder to be distributed to Horry County for economic development.

C. With respect to amounts receivable in any fiscal year by a taxing entity in the Park, the governing body of the taxing entity shall allocate the revenues received to operations and maintenance and / or debt service of the taxing entity.

D. Revenues generated from industries or businesses located in the Georgetown County portion of the Park shall be retained by Horry County for its use.



**Section 3.      Addition of Properties to the Multi-County Park**

The County approves the addition to the Multi-County Park of the following parcels identified by the parcel identification number (PIN) used by the Horry County Assessor's Office, (as of January 24, 2023), the owner, (as of January 24, 2023), and, ~~if available~~, acreage:

1.      PIN: 176-00-00-0025, property of Laudisi Properties LLC, 17.06

**Section 4.      Approval of Amended and Restated Park Agreement.**

The County Administrator is authorized, empowered and directed, in the name of and on behalf of Horry County, to execute, acknowledge and deliver an Amended and Restated Agreement for the Development of a Joint Industrial and Business Park with Marion County related to the Loris Commerce Center (the "Amended and Restated Park Agreement"). The Clerk to Council is authorized to attest the execution of the Park Agreement by the County Administrator. The form of the Amended and Restated Park Agreement is attached to this ordinance as Exhibit A and all terms, provisions and conditions of the Amended and Restated Park Agreement are incorporated into this ordinance as if the Amended and Restated Park Agreement were set out in this ordinance in its entirety. By adoption of this ordinance, County Council approves the Amended and Restated Park Agreement and all of its terms, provisions and conditions. The Amended and Restated Park Agreement is to be in substantially the form as attached to this ordinance and hereby approved, or with such changes therein as the County Administrator determines, upon advice of counsel, necessary and that do not materially change the matters contained in the form of the Amended and Restated Park Agreement attached to this ordinance.

**Section 5.      Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Horry County Code or other County ordinances and resolutions, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 6.      Severability.**

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, the invalid or unconstitutional portion is deemed a separate, distinct, and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

**Section 6.      Effective Date.**

This ordinance is effective upon third reading.

SIGNATURES FOLLOW ON NEXT PAGE.



AND IT IS SO ORDAINED, ENACTED AND ORDERED this 24<sup>th</sup> day of January, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

~~Harold G. Worley~~ Jenna L. Dukes, District 1  
~~7~~

~~Orton Bellamy~~, District

Bill Howard, District 2

~~Johnny Vaught~~, District 8

Dennis DiSabato, District 3

Gary Loftus, District 4

Tyler Servant, District 5

Cam Crawford, District 6

Tom Anderson, District 7

Michael Masciarelli, District 8

R. Mark Causey, District 9

~~Gary Loftis~~, District 4

Danny Hardee, District 10

~~Tyler Servant~~, District 5

Al Allen, District 11

~~Cam Crawford~~, District 6

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: \_\_\_\_\_ December 13, 2022

Second Reading: January 10, 2023

Third Reading: January 24, 2023

Public Hearing: January 24, 2023

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**Exhibit A to Ordinance ~~22~~142-2022**

**Amended and Restated Park Agreement  
Loris Commerce Center**

See attached.

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STATE OF SOUTH CAROLINA )  
 )  
 )  
COUNTY OF HORRY )  
COUNTY OF GEORGETOWN )

AMENDED AND RESTATED  
AGREEMENT FOR THE DEVELOPMENT  
OF A JOINT INDUSTRIAL  
AND BUSINESS PARK

---

This multi-county park agreement applies to the parcels in Horry County located in the Loris Commerce Center, all as more fully described in Exhibit A (Horry) to this Agreement.

This multi-county park agreement applies to the following properties in Georgetown County: none.

More specific information on the properties may be found in the body of this agreement and in the exhibits.

---

This AMENDED AND RESTATED AGREEMENT for the development of a joint county industrial and business park to be located initially within Horry County is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date"), by and between Horry County and Georgetown County.

RECITALS:

WHEREAS, Horry County, South Carolina ("Horry County") and Georgetown County, South Carolina ("Georgetown County") are contiguous counties which, pursuant to Ordinance No. \_\_-\_\_, adopted by the Georgetown County Council on \_\_\_\_\_, 20\_\_, and Ordinance ~~20\_\_~~, 142-2022, adopted by Horry County Council on \_\_\_\_\_, ~~20\_\_~~ January 24, 2023 (collectively, the "Enabling Ordinances"), have each determined that, in order to promote economic development and thus encourage investment and provide additional employment opportunities within both of said counties, there should be established, initially in Horry County, a Joint County Industrial and Business Park (the "Park"), to be located upon the property described in Exhibit A (Horry) hereto; and

WHEREAS, as a consequence of the establishment of the Park, property comprising the Park and all property having a situs therein is exempt from *ad valorem* taxation pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, but the owners or lessees of such property shall pay annual fees in an amount equivalent to the property taxes or other in-lieu-of payments that would have been due and payable except for the exemption.

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:



1. Binding Agreement. This Agreement serves as a written instrument setting forth the entire agreement between the parties and is binding on Georgetown County and Horry County, and their successors and assigns.

2. Authorization. Article VIII, Section 13(D) of the South Carolina Constitution provides that counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of the member counties, provided that certain conditions specified therein are met and that the General Assembly of the State of South Carolina provides by law a manner in which the value of property in the park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability pursuant to any provision of law which measures the relative fiscal capacity of a school district to support its schools based on the assessed valuation of taxable property in the district as compared to the assessed valuation of taxable property in all school districts in South Carolina. Section 4-1-170, Code of Laws of South Carolina 1976, as amended (the "Code") satisfies the conditions imposed by Article VIII, Section 13(D) of the Constitution and provides the statutory vehicle whereby a joint county industrial or business park may be created.

3. Location of the Park. (A) As of the Effective Date, the Park consists of properties located in Horry County, as further identified in Exhibit A (Horry) to this Agreement. As of the Effective Date, no properties are located in Georgetown County, as further identified in Exhibit B (Georgetown) to this Agreement. It is specifically recognized that the Park may, from time to time, consist of non-contiguous properties within each county. The boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinance of the county within which such property is to be added to or removed from the Park (the "Host County") and without any action by the non-host county. The addition or removal of property is complete upon the provision to the non-host county by the Host County of the revised exhibit as provided in Section 3(B) below. If any property proposed for inclusion in the Park, in whole or in part, is located within the boundaries of a municipality, then the municipality must give its consent prior to the inclusion of the property in the Park.

(B) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and there shall be attached hereto a revised Exhibit A (Horry) or Exhibit B (Georgetown), as the case may be, which shall be prepared by the county in which the added or removed property is located and the revised exhibit must contain a description or other identification of the properties included in the Park, after the enlargement or diminution.

4. Fee in Lieu of Taxes. Pursuant to Article VIII, Section 13(D), of the South Carolina Constitution, all property located in the Park is exempt from all *ad valorem* taxation. The owners or lessees of any property situated in the Park shall pay in accordance with this Agreement an amount (referred to as fees in lieu of *ad valorem* property taxes) equivalent to the *ad valorem* property taxes or other in-lieu-of payments that would have been due and payable but for the location of such property within the Park.



5. Allocation of Expenses. Horry County and Georgetown County shall bear any expenses, including, but not limited to, development, operation, maintenance and promotion of the Park and the cost of providing public services, to the extent that either Horry County or Georgetown County incurs such expenses and costs, in the following proportions:

If property is in the Horry County portion of the Park:

(1) Horry County	100%
(2) Georgetown County	0%

If property is in the Georgetown County portion of the Park:

(1) Horry County	0%
(2) Georgetown County	100%

6. Allocation of Revenues. Georgetown County and Horry County shall receive an allocation of revenue generated by the Park through payment of fees in lieu of *ad valorem* property taxes (net of any reductions due to the application of any special source revenue credits) in the following proportions:

If property is in the Horry County portion of the Park:

(1) Horry County	99%
(2) Georgetown County	1%

If property is in the Georgetown County portion of the Park:

(1) Horry County	1%
(2) Georgetown County	99%

7. Revenue Allocation Within Each County. (A) Revenues generated by the Park through the payment of fees-in-lieu-of *ad valorem* property taxes shall be distributed to Horry County and to Georgetown County, as the case may be, according to the proportions established by Paragraph 6 of this Agreement. With respect to revenues allocable to Georgetown County or Horry County by way of fees in lieu of taxes generated within its own County as Host County, such revenue shall be distributed within the Host County in the manner provided by ordinance of the county council of the Host County; provided, that (i) all taxing districts which overlap the applicable revenue-generating portion of the Park shall receive at least some portion of the revenues generated from such portion, and (ii) with respect to amounts received in any fiscal year by a taxing entity, the governing body of the taxing entity shall allocate the revenues received to operations and/or debt service of the entity. Each Host County is specifically authorized to use a portion of the revenue for economic development purposes as permitted by law and as established by ordinance of the county council of the Host County.



(B) Revenues allocable to Georgetown County by way of fees in lieu of taxes generated within Horry County shall be distributed solely to Georgetown County. Revenues allocated to Horry County by way of fees in lieu of taxes generated within Georgetown County shall be distributed solely to Horry County.

8. Fees In Lieu of Taxes Pursuant to Title 4 and Title 12 Code of Laws of South Carolina. It is hereby agreed that the entry by Horry County into any one or more fee-in-lieu-of tax agreements pursuant to Title 4 or Title 12 of the Code ("Negotiated Fee-in-Lieu of Tax Agreements") or arrangements relating to the granting of special source revenue credits or issuance of special source revenue bonds, with respect to property located within the Horry County portion of the Park and the terms of such agreements or arrangements shall be at the sole discretion of Horry County. It is further agreed that entry by Georgetown County into any one or more Negotiated Fee-in-Lieu of Tax Agreements or arrangements relating to the granting of special source revenue credits or issuance of special source revenue bonds with respect to property located within the Georgetown County portion of the Park and the terms of such agreements or arrangements shall be at the sole discretion of Georgetown County.

9. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59-20-20(3) of the Code, allocation of the assessed value of property within the Park to Georgetown County and Horry County and to each of the taxing entities within the participating counties shall be identical to the allocation of revenue received and retained by each of the counties and by each of the taxing entities within the participating counties, pursuant to Paragraphs 6 and 7 of this Agreement.

10. Severability. To the extent, and only to the extent, that any provision or any part of a provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision or part of a provision of this Agreement.

11. Termination. Notwithstanding any provision of this Agreement to the contrary, Horry County and Georgetown County agree that this Agreement shall terminate on December 31, 2072; provided, however, this Agreement may be terminated earlier than, or extended beyond, such date by mutual agreement of Horry County and Georgetown County.

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IN WITNESS WHEREOF, the parties have executed this Agreement on the dates below found, to be effective as of the Effective Date.

**GEORGETOWN COUNTY, SOUTH  
CAROLINA**

(Seal)

\_\_\_\_\_  
Angela Christian, County Administrator

ATTEST:

DATE: \_\_\_\_\_

\_\_\_\_\_  
Theresa Floyd, Clerk to Council

HORRY COUNTY SIGNATURES FOLLOW ON NEXT PAGE.



HORRY COUNTY, SOUTH CAROLINA

(Seal)

---

Steve Gosnell, County Administrator

ATTEST:

DATE: \_\_\_\_\_

---

Patricia S. Hartley, Clerk to Council

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**EXHIBIT A**

**Horry County Properties**

The following parcels located in the area generally known as the Loris Commerce Center are included in the multi-county park and are identified below by the parcel identification number (PIN) used by the Horry County Assessor's Office, (as of January 24, 2023), the owner, (as of January 24, 2023), and, if available, acreage:

1. PIN: 176-00-00-0017, property of South Carolina Public Service Authority, 47.31 acres.
2. PIN: 176-00-00-0018, property of Partners Economic Development Corporation, 16.26 acres.
3. PIN: 176-06-02-0001, property of Worley Investments LLC, 8.98 acres.
4. PIN: 176-06-02-0002, property of Partners Economic Development Corporation, 2.27 acres.
5. PIN: 176-00-00-0019, property of South Carolina Public Service Authority, 15.82 acres.
6. PIN: 176-05-01-0001, property of CFS of Loris LLC, 9.22 acres.
7. PIN: 176-05-04-0002, property of South Carolina Public Service Authority, 7.68 acres.
8. PIN: 176-06-03-0001, property of B&B Crane Service LLC, 4.37 acres.
9. PIN: 176-05-03-0002, property of Partners Economic Development Corporation, 0.85 acres.
10. PIN: 176-00-00-0025, property of Laudisi Properties LLC, 17.06

The Park shall include all property vertically or horizontally located on or within the PIN numbers identified above, including, but not limited to, properties subject to any horizontal property regime, notwithstanding that such property bears different PIN numbers from those identified above.

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**EXHIBIT B**

**Georgetown County Properties**

NONE.

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STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )

ORDINANCE ~~22~~143-2022

AN ORDINANCE TO AUTHORIZE AND APPROVE A ~~2022~~2023 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LORIS AND HORRY COUNTY RELATING TO THE LORIS COMMERCE CENTER, SO AS TO, AMONG OTHER THINGS, SET OUT HOW CERTAIN ECONOMIC DEVELOPMENT INCENTIVES MAY BE USED FOR PROJECTS LOCATING IN THE LORIS COMMERCE CENTER.

By the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina, and the powers granted to the County by the General Assembly of the State, it is ordained and enacted by the Council, as follows:

**Section 1. Findings and determinations; Purpose.**

A. The Council finds and determines that:

1. Subsequent to Council's approval by passage of Ordinance 115-16, the County and the City of Loris ("Loris") entered into an Intergovernmental Agreement – Loris Commerce Center dated January 24, 2017, for the purpose of, among other things, providing for how certain economic development incentives would be used in the recruitment of businesses and industries to the Loris Commerce Center (the "2017 IGA"); and

2. The experiences of the City and County with the 2017 IGA has led the City and County to conclude that certain aspects of the 2017 IGA need to be modified to further facilitate the investment of capital and the creation of jobs at the Loris Commerce Center through the use of various incentives available to county and municipal governments under state law.

B. Purpose.

It is the purpose of this ordinance to approve the replacement of the 2017 IGA with a ~~2022~~2023 Intergovernmental Agreement that continues to provide for the consent of the City to Multi-County Park status for certain parcels located in the Loris Commerce Center and revises the agreement of the City and County on how certain economic development incentives may be used in the recruitment of business and industry to the Loris Commerce Center.

**Section 2. Approval of ~~2022~~2023 Intergovernmental Agreement.**

The Council Chair is authorized, empowered and directed, in the name of and on behalf of the County, to execute, acknowledge, and deliver a ~~2022~~2023 Intergovernmental Agreement by and between the City of Loris and the County relating to the Loris Commerce Center (the "~~2022~~2023 Intergovernmental Agreement"). The Clerk to Council is authorized to attest the execution of the ~~2022~~2023 Intergovernmental Agreement by the Council Chair. The form of the ~~2022~~2023 Intergovernmental Agreement is attached to this ordinance as Exhibit A and all terms, provisions and conditions of the ~~2022~~2023 Intergovernmental Agreement are incorporated into this ordinance as if the ~~2022~~2023 Intergovernmental Agreement were set out in this ordinance in its entirety. By adoption of this ordinance, County Council approves the ~~2022~~2023 Intergovernmental Agreement and all of its terms, provisions and conditions. The ~~2022~~2023 Intergovernmental Agreement is to be in substantially the form as attached to this ordinance and hereby approved, or with such changes therein as the Council Chair determines, upon advice of counsel, necessary and that do not materially change the matters contained in the form of the ~~2022~~2023 Intergovernmental Agreement.



**Section 3. Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Horry County Code or other County ordinances and resolutions, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 4. Severability.**

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, the invalid or unconstitutional portion is deemed a separate, distinct, and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

**Section 5. Effective Date.**

This ordinance is effective upon third reading.

AND IT IS SO ORDAINED, ENACTED AND ORDERED this 24th day of January, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

~~Harold G. Worley~~ Jenna L. Dukes, District 1  
~~7~~

~~Orten Bellamy, District~~

Bill Howard, District 2 \_\_\_\_\_ ~~Johnny Vaught, District 8~~

Dennis DiSabato, District 3 \_\_\_\_\_ ~~Gary Loftus, District 4~~

~~Tyler Servant, District 5~~ \_\_\_\_\_ ~~Cam Crawford, District 6~~

~~Tom Anderson, District 7~~ \_\_\_\_\_ ~~Michael Masciarelli, District 8~~

R. Mark Causey, District 9

~~Gary Loftis, District 4~~ \_\_\_\_\_ Danny Hardee, District 10

~~Tyler Servant, District 5~~ \_\_\_\_\_ Al Allen, District 11

~~Cam Crawford, District 6~~

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: \_\_\_\_\_ December 13, 2022

Second Reading: January 10, 2023

Third Reading: January 24, 2023

Public Hearing: January 24, 2023

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**Exhibit A to Ordinance ~~22~~143-2022**

**Intergovernmental Agreement  
Loris Commerce Center  
(Revised ~~2022~~2023)**

See attached.

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STATE OF SOUTH CAROLINA

) INTERGOVERNMENTAL AGREEMENT

COUNTY OF HORRY

CITY OF LORIS

) LORIS COMMERCE CENTER

) (Revised 20222023)

This INTERGOVERNMENTAL AGREEMENT – LORIS COMMERCE CENTER is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_ 20222023, by and between HORRY COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”), and the CITY OF LORIS, SOUTH CAROLINA, a municipality organized and existing pursuant to the laws of the State of South Carolina (the “City”) (the “20222023 Intergovernmental Agreement” or “20222023 IGA”).

#### RECITALS

WHEREAS, the City and County entered into an Intergovernmental Agreement – Loris Commerce Center dated January 24, 2017, for the purpose of providing for the consent of the City to Multi-County Park status for certain parcels located in the Loris Commerce Center and to set out the agreement of the City and County on how certain economic development incentives would be used in the recruitment of businesses and industries to the Loris Commerce Center (the “2017 IGA”);

WHEREAS, the experiences of the City and County with the 2017 IGA has led the City and County to conclude that certain aspects of the 2017 IGA need to be modified to further facilitate the investment of capital and the creation of jobs at the Loris Commerce Center through the use of various incentives available to county and municipal governments under state law; and

WHEREAS, it is the purpose of this 20222023 Intergovernmental Agreement to continue to provide for the consent of the City to Multi-County Park status for certain parcels located in the Loris Commerce Center and to revise the agreement of the City and County on how certain economic development incentives may be used in the recruitment of business and industry to the Loris Commerce Center.

#### AGREEMENT

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties hereto, intending to be legally bound, agree as follows:

#### SECTION 1. BINDING AGREEMENT.

This 20222023 Intergovernmental Agreement serves as a written instrument setting forth the entire agreement between the parties and is binding on the County and the City, and their successors and assigns.

#### SECTION 2. INCORPORATION OF RECITALS.

The above recitals are incorporated into this 20222023 Intergovernmental Agreement as if the recitals were set out in this 20222023 IGA in their entirety.

#### SECTION 3. DEFINITIONS.

As used in this 20222023 IGA:



“*Loris Commerce Center*” means those parcels located in the area generally known as the Loris Commerce Center and identified below by the parcel identification number (PIN) used by the Horry County Assessor’s Office, the owner, and, if available, acreage:

1. PIN: 176-00-00-0017, property of South Carolina Public Service Authority, 47.31 acres.
2. PIN: 176-00-00-0018, property of Partners Economic Development Corporation, 16.26 acres.
3. PIN: 176-06-02-0001, property of Worley Investments LLC, 8.98 acres.
4. PIN: 176-06-02-0002, property of Partners Economic Development Corporation, 2.27 acres.
5. PIN: 176-00-00-0019, property of South Carolina Public Service Authority, 15.82 acres.
6. PIN: 176-05-01-0001, property of CFS of Loris LLC, 9.22 acres.
7. PIN: 176-05-04-0002, property of South Carolina Public Service Authority, 7.68 acres.
8. PIN: 176-06-03-0001, property of B&B Crane Service LLC, 4.37 acres.
9. PIN: 176-05-03-0002, property of Partners Economic Development Corporation, 0.85 acres.
10. PIN: 176-00-00-0025, property of Laudisi Properties LLC, 17.06
11. Such further parcels, identified in the same manner as described above, as may be included in the Multi-County Park in the future by ordinance enacted by the County, subject to consent to such inclusion by resolution or ordinance of the City.

“*MCP Law*” means Article VIII, Section 13(D) of the South Carolina Constitution and Sections 4-1-170, -172, and -175 of the Code of Laws of South Carolina 1976, as amended, that allows contiguous counties to jointly develop industrial and business parks within the geographical boundaries of one or more of the participating counties; and

“*Multi-County Park*” means, for purposes of the Loris Commerce Center, the industrial or business park jointly developed pursuant to the MCP Law by Horry County and Georgetown County and as set forth in the Agreement for the Development of a Joint Industrial and Business Park made and entered into as of January 1, 2016 by Horry County and Georgetown County, as amended and restated by the Amended and Restated Agreement for the Development of a Joint Industrial and Business Park dated as of \_\_\_\_\_, 20\_\_ by Horry County and Georgetown County.

#### SECTION 4. AGREEMENTS RELATING TO INCENTIVES.

##### A. Consent to Multi-County Park.

Pursuant to Section 4-1-170(C) of the MCP Law, the City consents to the creation of the Loris Commerce Center as a Multi-County Park.



B. Use of Negotiated Fee-in-Lieu of Tax Incentive.

City acknowledges and agrees that County may enter into any one or more fee-in-lieu-of tax agreements pursuant to Chapters 12 and 29 of Title 4 and Chapter 44 of Title 12 of the Code of Laws of South Carolina 1976, as may be amended from time to time ("Negotiated Fee-in-Lieu of Tax Agreements"), with a business or industry that is located, or may locate, in the Loris Commerce Center and that the entry into a Negotiated Fee-in-Lieu of Tax Agreement, and the terms of those agreements, except as provided in Section 4.C. below, are at the sole discretion of the County.

C. Special Source Revenue Bonds and Credits.

1. *Proportionate Allocation.*

County agrees that if the County provides a special source revenue incentive to a business or industry that is located, or may locate, in the Loris Commerce Center, whether in a Negotiated Fee-in-Lieu of Tax Agreement or an agreement separate from a Negotiated Fee-in-Lieu of Tax Agreement (for example, a special source revenue credit agreement), then the allocation of the special source revenue incentive among the applicable taxing entities must be identical to the proportion that the respective taxing entity's millage rate bears to the total millage rate of all applicable taxing entities.

2. *Loris Special Source Revenue Credit*

County agrees to include in each Negotiated Fee-in-Lieu of Tax Agreement, and, when applicable, in special source revenue incentive agreements that are separate from a Negotiated Fee-in-Lieu of Tax Agreement, for a business or industry that is located, or may locate, in the Loris Commerce Center, a special source revenue credit applicable only to the Loris portion of the payments-in-lieu of *ad valorem* taxes to be made by the business or industry, in an amount equivalent to thirty and eight-tenths (30.8) mills (the "Loris SSRC"). The Loris SSRC is over and above, separate from, any special source revenue incentive otherwise provided by the County as set forth in Section 4.C.1. above.

D. Distribution of Revenue.

City acknowledges and agrees that the Multi-County Park agreement between the County and Georgetown County and the County ordinance approving the Multi-County Park agreement provide for the distribution of revenues received from businesses and industries located in the Loris Commerce Center. County agrees to amend Ordinance 113-16, the ordinance approving the Multi-County Park agreement, by amending Section 6 so as to provide for the distribution of revenues generated from businesses or industries located in the Horry County portion of the Multi-County Park in the following manner:

Section 6. Distribution of Revenues.

A. As used in this section, "Intergovernmental Agreement" means the Intergovernmental Agreement Loris Commerce Center (Revised ~~2022~~2023) by and between Horry County and the City of Loris, dated \_\_\_\_\_, ~~2022~~2023, and approved by Council by passage of Ordinance \_\_\_\_-\_\_.



B. Revenues generated from industries or businesses located in the Horry County portion of the Park, less (i) one percent (1%) of the fee-in-lieu of tax revenue distributed to Georgetown County and (ii) any applicable special source revenue incentive that is allocated among the applicable taxing entities based on the proportion that the respective taxing entity's millage rate bears to the total millage rate of all applicable taxing entities and in accordance with Section 4.C.1. of the Intergovernmental Agreement, shall be distributed as follows:

First, to the City of Loris for industries or businesses located within the boundaries of the City of Loris, the City of Loris's proportionate share of the revenue as determined based on the proportion that the City of Loris's millage rate bears to the total millage rate of all applicable taxing entities. There shall be deducted from the City of Loris proportionate share any Loris Special Source Revenue Credit provided pursuant to Section 4.C.2. of the Intergovernmental Agreement.

Second, after the distribution to the City of Loris, one percent (1%) of the remaining fee-in-lieu of tax revenues to be divided among each applicable taxing entity, but not including the City of Loris, in the same proportion as each such entity's millage rate bears to the total millage rate of all applicable entities.

Third, after the distribution to the City of Loris and the distribution of one percent (1%) to other taxing entities, the remainder to be distributed to Horry County for economic development.

C. With respect to amounts receivable in any fiscal year by a taxing entity in the Park, the governing body of the taxing entity shall allocate the revenues received to operations and maintenance and / or debt service of the taxing entity.

D. Revenues generated from industries or businesses located in the Georgetown County portion of the Park shall be retained by Horry County for its use.

#### SECTION 5. IMPACT FEES.

The City agrees to waive all fire impact fees or equivalent charges, all water and sewer impact fees or equivalent charges, all water and sewer tap fees or equivalent charges, and all other impact fees or development fees as defined in Section 6-1-920(8), Code of Laws of South Carolina 1976, as amended, that may be imposed by the City as a condition of approval to construct or install a new building or structure or change in use of an existing building or structure, that may be imposed on a business or industry located in, or that may be locating in, the Loris Commerce Center Multi-County Park.

#### SECTION 6. ENFORCEMENT.

The City and County shall each have the right to enforce the terms, provisions and conditions of this ~~2022~~2023 Intergovernmental Agreement by any remedy available at law or in equity, including specific performance, and the right to recover attorney's fees and costs associated with enforcement.

#### SECTION 7. TERMINATION.

This ~~2022~~2023 Intergovernmental Agreement terminates on December 31, 2072.



## SECTION 8. MISCELLANEOUS PROVISIONS.

### A. Representations.

#### 1. *County Representations.*

County represents, as the basis for the undertakings on its part contained in this ~~2022~~2023 IGA, that it (i) is a body politic and corporate and a political subdivision of the State of South Carolina, (ii) is authorized by state law to enter into this ~~2022~~2023 IGA, (iii) has approved this ~~2022~~2023 IGA in accordance with the procedural requirements of state law and any other applicable state law, and (iv) has authorized its officials to execute and deliver this ~~2022~~2023 IGA.

#### 2. *City Representations.*

City represents, as the basis for the undertakings on its part contained in this ~~2022~~2023 IGA, that it (i) is a municipality organized and existing pursuant to the laws of the State of South Carolina, (ii) is authorized by state law to enter into this ~~2022~~2023 IGA, (iii) has approved this ~~2022~~2023 IGA in accordance with the procedural requirements of state law and any other applicable state law, and (iv) has authorized its officials to execute and deliver this ~~2022~~2023 IGA.

### B. Entire Agreement; Controlling Agreement.

#### 1. *Entire Agreement.*

This ~~2022~~2023 Intergovernmental Agreement sets forth, and references all of the agreements, conditions, and understandings between the City and County relative to the purpose of this ~~2022~~2023 Intergovernmental Agreement and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, between the City and County relative to the matters addressed in this ~~2022~~2023 Intergovernmental Agreement other than as set forth or as referred to in this ~~2022~~2023 Intergovernmental Agreement.

#### 2. *Controlling Agreement.*

This ~~2022~~2023 Intergovernmental Agreement supersedes and replaces in its entirety, in all respects, the 2017 IGA.

### C. Governing Law.

This ~~2022~~2023 Intergovernmental Agreement is governed by the laws of South Carolina.

### D. Counterparts.

This ~~2022~~2023 Intergovernmental Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.



E. Notices.

Any notice, election, demand, request or other communication to be provided under this ~~2022~~2023 Intergovernmental Agreement shall be in writing and shall be effective (i) when delivered to the party named below, (ii) when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, or (iii) when deposited in Federal Express (or any other reputable national "next day" delivery service) addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

To the County: County of Horry  
Attn: County Administrator  
1301 Second Avenue (29526)  
P.O. Box 1236 (29528)  
Conway, SC

With Copy to: County of Horry  
Attn: County Attorney  
1301 Second Avenue (29526)  
P.O. Box 1236 (29528)  
Conway, SC

And to the City: City of Loris  
Attn: Mayor  
4101 Walnut Street  
Loris, SC 29569

With Copy to: City of Loris  
Attn: City Administrator  
4101 Walnut Street  
Loris, SC 29569

F. Amendments and Waiver.

This ~~2022~~2023 Intergovernmental Agreement may be amended or cancelled by mutual consent of the parties to the ~~2022~~2023 Intergovernmental Agreement. An amendment to this ~~2022~~2023 Intergovernmental Agreement must be in writing. No statement, action or agreement made after the date of this ~~2022~~2023 Intergovernmental Agreement shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this ~~2022~~2023 Intergovernmental Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom the change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

G. Effective Date.

This ~~2022~~2023 Intergovernmental Agreement is effective as of the date first above written.



IN WITNESS WHEREOF, HORRY COUNTY, SOUTH CAROLINA, and the CITY OF LORIS, SOUTH CAROLINA, pursuant to due authority, have duly executed this ~~2022~~2023 Intergovernmental Agreement, all as of date first above written.

HORRY COUNTY, SOUTH CAROLINA

\_\_\_\_\_  
Johnny Gardner, Chair, County Council

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

CITY OF LORIS, SOUTH CAROLINA

\_\_\_\_\_  
Todd M. Harrelson, Mayor

Attest:

\_\_\_\_\_  
Todd K. Massey II, City Clerk

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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

ORDINANCE 144-2022

**AN ORDINANCE TO AUTHORIZE AND APPROVE AN AGREEMENT FOR THE DEVELOPMENT OF A JOINT INDUSTRIAL AND BUSINESS PARK BY AND BETWEEN HORRY COUNTY AND GEORGETOWN COUNTY WITH PROPERTY LOCATED IN HORRY COUNTY (HORRY COUNTY MULTI-USE SPORTS AND RECREATIONAL COMPLEX); TO REQUIRE THE PAYMENT OF A FEE IN LIEU OF *AD VALOREM* TAXES BY BUSINESSES AND INDUSTRIES LOCATED IN THE PARK; TO APPLY ZONING AND OTHER LAWS IN THE PARK; TO PROVIDE FOR LAW ENFORCEMENT JURISDICTION IN THE PARK; AND TO PROVIDE FOR THE DISTRIBUTION OF PARK REVENUES WITHIN HORRY COUNTY.**

By the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina, and the powers granted to the County by the General Assembly of the State, it is ordained and enacted by the Council, as follows:

**Section 1. Findings and Determinations; Purpose.**

A. The Council finds and determines that:

(1) the County is authorized by article VIII, section 13(D) of the South Carolina Constitution and by Sections 4-1-170, -172 and -175 of the Code of Laws of South Carolina 1976, as amended (the "Code"), to jointly develop, in conjunction with contiguous counties, industrial and business parks ("Multi-County Parks"); and

(2) the use of Multi-County Parks is important in attracting and encouraging the investment of capital and the creation of new jobs in the County.

B. It is the purpose of this ordinance to authorize and approve a multi-county park agreement with Georgetown County, South Carolina ("Georgetown County") for properties located in Horry County, specifically, the parcels more fully described in Exhibit A to the multi-county park agreement (the "Park").

**Section 2. Approval of Park Agreement.**

The County Administrator is authorized, empowered and directed, in the name of and on behalf of Horry County, to execute, acknowledge and deliver an Agreement for the Development of a Joint Industrial and Business Park (Horry County Multi-Use Sports and Recreational Complex) with Georgetown County (the "Agreement"). The Clerk to Council is authorized to attest the execution of the Agreement by the County Administrator. The form of the Agreement is attached to this ordinance as Exhibit A and all terms, provisions and conditions of the Agreement are incorporated into this ordinance as if the Agreement were set out in this ordinance in its entirety. By adoption of this ordinance, County Council approves the Agreement and all of its terms, provisions and conditions. The Agreement is to be in substantially the form as attached to this ordinance and hereby approved, or with such changes therein as the County Administrator determines, upon advice of counsel, necessary and that do not materially change the matters contained in the form of the Agreement attached to this ordinance.

**Section 3. Imposition of Fee In Lieu of Tax.**

The businesses or industries located in the Park must pay a fee in lieu of *ad valorem* taxes as provided for in the Agreement. With respect to properties located in the Horry County portion of the Park, the fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Horry County. Except as otherwise provided



in Section 6 of this ordinance, that portion of the fee allocated pursuant to the Agreement to Georgetown County shall be thereafter paid by the Treasurer of Horry County to the Treasurer of Georgetown County within ten (10) business days of receipt for distribution in accordance with the Agreement. With respect to properties located in the Georgetown County portion of the Park, the fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Georgetown County. That portion of such fee allocated pursuant to the Agreement to Horry County shall thereafter be paid by the Treasurer of Georgetown County to the Treasurer of Horry County within ten (10) business days of receipt for distribution in accordance with the Agreement. The provisions of Section 12-2-90 of the Code, or any successor statutes or provisions, apply to the collection and enforcement of the fee in lieu of *ad valorem* taxes.

#### **Section 4.      Applicable Ordinances and Regulations.**

The ordinances and regulations of Horry County concerning zoning, health and safety, and building code requirements apply to the Park properties in Horry County unless the properties are within the boundaries of a municipality in which case the municipality's ordinances and regulations apply. The ordinances and regulations of Georgetown County concerning zoning, health and safety, and building code requirements apply to the Park properties in Georgetown County unless the properties are within the boundaries of a municipality in which case the municipality's ordinances and regulations apply.

#### **Section 5.      Law Enforcement Jurisdiction.**

Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties in Horry County is vested with the Horry County Police Department. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties in Georgetown County is vested with the Georgetown County Sheriff. If any of the Park properties located in either Horry County or Georgetown County are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement jurisdiction is vested with the law enforcement officials of the municipality.

#### **Section 6.      Distribution of Revenues.**

A.      Revenues generated from industries or businesses located in the Horry County portion of the Park, less one percent (1%) of the fee in lieu of tax ("FILOT") revenue distributed to Georgetown County and less any special source revenue credits, shall be distributed as follows:

One percent (1%) to be divided among each applicable taxing entity in the same proportion as each such entity's millage rate bears to the total millage rate of all applicable taxing entities; thirty percent (30%) to be allocated for infrastructure associated with the Park including debt service used to fund infrastructure, economic development, and/or recreational facilities and operations; the remainder to each applicable taxing entity in the same proportion as such entity's millage rate bears to the total millage rate of all applicable taxing entities. With respect to amounts receivable in any fiscal year by a taxing entity in the Park, the governing body of the taxing entity shall allocate the revenues received to operations and maintenance and/or debt service of the taxing entity.

B.      Revenues generated from industries or businesses located in the Georgetown County portion of the Park and allocated to Horry County shall be retained by Horry County for its use.

#### **Section 7.      Conflicting Provisions.**



To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Horry County Code or other County ordinances and resolutions, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 8.      Severability.**

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, the invalid or unconstitutional portion is deemed a separate, distinct, and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

**Section 9.      Effective Date.**

This Ordinance is effective upon third reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

Jenna Dukes, District 1  
Bill Howard, District 2  
Dennis DiSabato, District 3  
Gary Loftis, District 4  
Tyler Servant, District 5  
Cam Crawford, District 6

Tom Anderson, District 7  
Michael Masciarelli, District 8  
R. Mark Causey, District 9  
Danny Hardee, District 10  
Al Allen, District 11

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading:            December 13, 2022  
Second Reading:        January 10, 2023  
Third Reading:

Public Hearing:

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**Exhibit A to Ordinance 144-2022**

**Agreement for the Development  
of a  
Joint Industrial and Business Park  
(Horry County and Georgetown County)**

(Horry County Multi-Use Sports and Recreational Complex)

See attached.

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STATE OF SOUTH CAROLINA )

)

**AGREEMENT FOR THE DEVELOPMENT  
OF A JOINT INDUSTRIAL**

COUNTY OF HORRY )

**AND BUSINESS PARK**

COUNTY OF GEORGETOWN )

**(HORRY COUNTY MULTI-USE SPORTS AND  
RECREATIONAL COMPLEX)**

---

**This multi-county park agreement applies to multiple properties in Horry County associated with Horry County Multi-Use Sports and Recreational Complex all as more fully described in Exhibit A (Horry) to this Agreement.**

**This multi-county park agreement applies to the following properties in Georgetown County: none.**

**More specific information on the properties may be found in the body of this agreement and in the exhibits.**

---

This AGREEMENT for the development of a joint industrial and business park to be located initially within Horry County is made and entered into as of the [ ] day of [ ], 2022] (the "Effective Date"), by and between Horry County and Georgetown County.

**RECITALS:**

WHEREAS, Horry County, South Carolina ("Horry County") and Georgetown County, South Carolina ("Georgetown County") are contiguous counties which, pursuant to Ordinance No. \_\_\_, adopted by the Georgetown County Council on [ ], 2022], and Ordinance \_\_\_, 2022, adopted by Horry County Council on [ ], 2022] (collectively, the "Enabling Ordinances"), have each determined that, in order to promote economic development and thus encourage investment and provide additional employment opportunities within both of said counties, there should be established, initially in Horry County, a Joint County Industrial and Business Park (the "Park"), to be located upon the properties described in Exhibit A (Horry) hereto; and

WHEREAS, as a consequence of the establishment of the Park, property comprising the Park and all property having a situs therein is exempt from *ad valorem* taxation pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, but the owners or lessees of such property shall pay annual fees in an amount equivalent to the property taxes or other in-lieu-of payments that would have been due and payable except for the exemption.

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:



1. Binding Agreement. This Agreement serves as a written instrument setting forth the entire agreement between the parties and is binding on Georgetown County and Horry County, and their successors and assigns.

2. Authorization. Article VIII, Section 13(D) of the South Carolina Constitution provides that counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of the member counties, provided that certain conditions specified therein are met and that the General Assembly of the State of South Carolina provides by law a manner in which the value of property in the park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxing ability pursuant to any provision of law which measures the relative fiscal capacity of a school district to support its schools based on the assessed valuation of taxable property in the district as compared to the assessed valuation of taxable property in all school districts in South Carolina. Section 4-1-170, Code of Laws of South Carolina 1976, as amended (the "Code") satisfies the conditions imposed by Article VIII, Section 13(D) of the Constitution and provides the statutory vehicle whereby a joint county industrial or business park may be created.

3. Location of the Park. (A) As of the Effective Date, the Park consists of properties located in Horry County, as further identified in Exhibit A (Horry) to this Agreement. As of the Effective Date, no properties are located in Georgetown County, as further identified in Exhibit B (Georgetown) to this Agreement. It is specifically recognized that the Park may, from time to time, consist of non-contiguous properties within each county. The boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinance of the county within which such property is to be added to or removed from the Park (the "Host County") and without any action by the non-host county. The addition or removal of property is complete upon the provision to the non-host county by the Host County of the revised exhibit as provided in Section 3(B) below. If any property proposed for inclusion in the Park, in whole or in part, is located within the boundaries of a municipality, then the municipality must give its consent prior to the inclusion of the property in the Park. Notwithstanding the foregoing, no consent of a municipality shall be required for any property to remain in the Park in the event that such property is annexed by such municipality after the date such property has become part of the Park and subject to the provisions of this Agreement. Further, if any property located in the Park is annexed by a municipality after the property has been included in the Park, the municipality's act of annexation shall serve as the municipality's consent to the inclusion of the property in the Park.

(B) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and there shall be attached hereto a revised Exhibit A (Horry) or Exhibit B (Georgetown), as the case may be, which shall be prepared by the county in which the added or removed property is located and the revised exhibit must contain a description or other identification of the properties included in the Park, after the enlargement or diminution.



4. Fee in Lieu of Taxes. Pursuant to Article VIII, Section 13(D), of the South Carolina Constitution, all property located in the Park is exempt from all *ad valorem* taxation. The owners or lessees of any property situated in the Park shall pay in accordance with this Agreement an amount (referred to as fees in lieu of *ad valorem* property taxes) equivalent to the *ad valorem* property taxes or other in-lieu-of payments that would have been due and payable but for the location of such property within the Park.

5. Allocation of Expenses. Horry County and Georgetown County shall bear any expenses, including, but not limited to, development, operation, maintenance and promotion of the Park and the cost of providing public services, to the extent that either Horry County or Georgetown County incurs such expenses and costs, in the following proportions:

If property is in the Horry County portion of the Park:

(1) Horry County	100%
(2) Georgetown County	0%

If property is in the Georgetown County portion of the Park:

(1) Horry County	0%
(2) Georgetown County	100%

6. Allocation of Revenues. Georgetown County and Horry County shall receive an allocation of revenue generated by the Park through payment of fees in lieu of *ad valorem* property taxes (net of any reductions due to the application of any special source revenue credits) in the following proportions:

If property is in the Horry County portion of the Park:

(1) Horry County	99%
(2) Georgetown County	1%

If property is in the Georgetown County portion of the Park:

(1) Horry County	1%
(2) Georgetown County	99%

7. Revenue Allocation Within Each County. (A) Revenues generated by the Park through the payment of fees-in-lieu-of *ad valorem* property taxes shall be distributed to Horry County and to Georgetown County, as the case may be, according to the proportions established by Paragraph 6 of this Agreement. With respect to revenues allocable to Georgetown County or Horry County by way of fees in lieu of taxes generated within its own County as Host County, such revenue shall be distributed within the Host County in the manner provided by ordinance of the county council of the Host County; provided, that (i) all taxing districts which overlap the applicable revenue-generating portion of the Park shall receive at least some portion of the



revenues generated from such portion, and (ii) with respect to amounts received in any fiscal year by a taxing entity, the governing body of the taxing entity shall allocate the revenues received to operations and/or debt service of the entity. Each Host County is specifically authorized to use a portion of the revenue for economic development purposes as permitted by law and as established by ordinance of the county council of the Host County.

(B) Revenues allocable to Georgetown County by way of fees in lieu of taxes generated within Horry County shall be distributed solely to Georgetown County. Revenues allocated to Horry County by way of fees in lieu of taxes generated within Georgetown County shall be distributed solely to Horry County.

8. Fees In Lieu of Taxes Pursuant to Title 4 and Title 12 Code of Laws of South Carolina. It is hereby agreed that the entry by Horry County into any one or more fee-in-lieu-of tax agreements pursuant to Title 4 or Title 12 of the Code (“Negotiated Fee-in-Lieu of Tax Agreements”) or arrangements relating to the granting of special source revenue credits or issuance of special source revenue bonds, with respect to property located within the Horry County portion of the Park and the terms of such agreements or arrangements shall be at the sole discretion of Horry County. It is further agreed that entry by Georgetown County into any one or more Negotiated Fee-in-Lieu of Tax Agreements or arrangements relating to the granting of special source revenue credits or issuance of special source revenue bonds with respect to property located within the Georgetown County portion of the Park and the terms of such agreements or arrangements shall be at the sole discretion of Georgetown County.

9. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59-20-20(3) of the Code, allocation of the assessed value of property within the Park to Georgetown County and Horry County and to each of the taxing entities within the participating counties shall be identical to the allocation of revenue received and retained by each of the counties and by each of the taxing entities within the participating counties, pursuant to Paragraphs 6 and 7 of this Agreement.

10. Severability. To the extent, and only to the extent, that any provision or any part of a provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision or part of a provision of this Agreement.

11. Termination. Notwithstanding any provision of this Agreement to the contrary, Horry County and Georgetown County agree that this Agreement shall terminate on December 31, 2072; provided, however, this Agreement may be terminated earlier than, or extended beyond, such date by mutual agreement of Horry County and Georgetown County.

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IN WITNESS WHEREOF, the parties have executed this Agreement on the dates below found, to be effective as of the Effective Date.

**GEORGETOWN COUNTY,  
SOUTH CAROLINA**

(Seal)

\_\_\_\_\_  
Angela Christian, County Administrator

ATTEST:

DATE: \_\_\_\_\_

\_\_\_\_\_  
Theresa Floyd, Clerk to Council

HORRY COUNTY SIGNATURES FOLLOW ON NEXT PAGE.



**HORRY COUNTY, SOUTH CAROLINA**

(Seal)

\_\_\_\_\_  
Steve Gosnell, County Administrator

ATTEST:

DATE: \_\_\_\_\_

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

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**EXHIBIT A**

**Horry County Properties**

The following parcels in Horry County associated with Horry County Multi-Use Sports and Recreational Complex are included in the Park and are identified by the parcel identification number (PIN) used by the Horry County Assessor's Office, and the owner, all as of the Effective Date of this Agreement, and, if available, acreage:

PIN (current)	Owner (current)	Acreage
29100000026	Burroughs & Chapin Company, Inc	27.05
29100000030	Timbervest Partners III SC LLC	200.01
29100000007	Enoch Road LLC	62.06
29100000031	501 Holdings LLC	194.21
29200000039	Horry County A Body Politic	498.04
29100000029	Timbervest Partners III SC LLC	35.03
29100000006	Palmetto Preserve LLC	516.21
29200000035	R & R Wise Investments LLC	115.69
29100000028	Gienger Land Holdings LLC	180.89
29200000036	Burroughs & Chapin Company, Inc	19.51
29200000002	Verlon L & Ada L Brown	59.52
27700000022	Bay Lakes Inc	805.57
29200000003	Daniel T Decarlo Etal	121.07
29200000004	Diamond Shores LLC	83.03
27700000023	Thomas Farms Inc	199.27
27700000025	Russell Wise Etal	14.27
29300000051	Diamond Shores LLC	29.74
29301010009	CHS of 1995 Investments Inc	5.01
27700000026	Daniel T Decarlo Etal	39.13
27600000016	Amy W Morris TR Etal	18.36
27600000017	Timbervest Partners III SC LLC	40.18
27600000018	Creekside Custom Homes LLC	29.67
27600000020	Amy W Morris TR Etal	74.20
32703020013	Burroughs & Chapin Company Inc	8.41
29100000008	Kingston Pointe Marina LLC	35.29
29200000034	Jackie Darryl Lewis	11.04

The Park shall include all property vertically or horizontally located on or within the PIN numbers identified above, including, but not limited to, properties subject to any horizontal property regime, notwithstanding that such property bears different PIN numbers from those identified above.

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**EXHIBIT B**

**Georgetown County Properties**

NONE.

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# County Council Decision Memorandum

## Horry County, South Carolina

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**Date:** June 27, 2022  
**From:** Barry Spivey, Assistant County Administrator  
**Division:** Administration  
**Cleared By:** Steve Gosnell, County Administrator  
David Gilreath, Assistant County Administrator  
Arrigo Carotti, County Attorney  
**Re:** Multi-County Business Park Ordinance for the Horry County Multi-Use Sports and Recreation Complex

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### **ISSUE**

Consideration of a Multi-County Business Park for use in funding the offsite infrastructure for the Horry County Multi-Use Sports and Recreation Complex.

### **BACKGROUND**

Horry County has established a priority for the Multi-Use Sports and Recreation Complex (Rural Civic Center) with Horry Electric as a funding partner through its Rural Development Act (RDA) funding. Land of approximately 500 acres has been purchased with funding from both Horry Electric RDA and American Rescue Plan Act resources. County Council has set aside \$33.725 million for the site improvements and construction of the arena and supporting structures.

The property is located in the center of approximately 3,400 undeveloped acres of property around Hardwick Road from Hwy 501 to Hwy 319. Offsite infrastructure is currently being evaluated and funding from various sources is being examined. One consideration is leveraging the additional growth this project will bring to the surrounding properties through a Tax Increment or Multi-County Business Park (MCBP) structure. As a green field (rural undeveloped property), development of these tracts over time can provide resources to assist with the basic infrastructure of paved roads, intersection improvements, water, and sewer to serve the general area. Care will be given to select and size infrastructure for the basic needs with individual projects paying the incremental cost of the specific development infrastructure needs. We are recommending the MCBP as the most appropriate structure in this scenario. There are 26 undeveloped parcels in the general area excluding current homesites (see attached parcel map).

For tax year 2021, the collective parcels paid a total property tax of approximately \$7,700. Tax year 2022 billing total approximately \$20,225. In a fully developed state, taxes could exceed \$3.7 million annually. This growth would occur over an extended number of years to reach that projected amount.

After meeting with Horry County Schools Leadership and hearing their sensitivities to the proposed structure, it is recommended to limit the portion of tax devoted to infrastructure needs to 30% (after the 1% required for the partnering County and 1% required to all taxing jurisdictions) with the remainder distributed to Horry County Schools and Horry County in proportion to their respective annual millage.

Property placed into a MCBP has the same obligations and benefits to the individual property owner. Each owner would receive all benefits provided by State Statutes as if the property was not in a Park.

### **RECOMMENDATION**

Staff requests the Administration Committee recommend to Council the attached Ordinance to establish a Multi-County Business Park for the Horry County Horry County Multi-Use Sports and Recreation Complex



The Data is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. The burden for determining accuracy, completeness, timeliness, and fitness for or the appropriateness for use rests solely on the user. Horry County makes no warranties, express or implied, as to the use of the Data. There are no implied warranties or warranties of fitness for a particular purpose or merchantability, and Horry County shall have no liability for actual or consequential losses arising from use of the data. The GIS data and mapping application represent the parcel fabric as used for taxing purposes and not for survey purposes.

The map displays several land parcels, each labeled with a unique ID number. The parcels are colored in light blue. The surrounding area includes roads such as ALBERT RD, COGS RD, HWY 501, ROLFE RD, ENOCH RD, PARTY PINE RD, JIMMY JOHNSON RD, LAMBERT RD, NONAME, BAY WATER DR, ALLEN RD, BAKERS CHAPEL RD, HEARTWOOD DR, COOP RD, KING FARM RD, OLE KING ST, STILLPOND RD, SEASIDE RD, CANIKI DR, ALFORD RD, GARY RD, DALES RD, OLIN RD, WILLARD RD, WILIE JAMES RD, ELDON RD, PLUMBER RD, and HWY 931. The title 'Multi-County Business Park' is prominently displayed in the center-right of the map.

# Multi-County Business Park



COUNTY OF HORRY

STATE OF SOUTH CAROLINA

Ordinance 118-2022

AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE A 0.64 ACRE PORTION OF PIN 44009010002 FROM RESIDENTIAL (SF40) TO RESIDENTIAL (SF20)

**WHEREAS**, Ordinance Number 71-2021 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

**WHEREAS**, a request has been filed to amend the maps for the above mentioned parcel of land; and,

**WHEREAS**, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

**WHEREAS**, Horry County Council finds that the request to rezone the property from Residential (SF40) to Residential (SF 20) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request.

**NOW THEREFORE** by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

- 1) **Amendment of Official Zoning Maps of Horry County:**  
Parcel(s) of land identified by PIN 44009010002 and currently zoned Residential (SF40) is hereby rezoned to Residential (SF20) , as included in **Attachment A** titled "Rezoning Map".
- 2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
- 3) **Conflict with Preceding Ordinances:** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.
- 4) **Effective Date:** This Ordinance shall become effective on Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

Jenna L. Dukes, District 1  
Dennis DiSabato, District 3  
Tyler Servant, District 5  
Tom Anderson, District 7  
R. Mark Causey, District 9  
Al Allen, District 11

Bill Howard, District 2  
Gary Loftus, District 4  
Cam Crawford, District 6  
Mike Masciarelli, District 8  
Danny Hardee, District 10

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: January 10, 2023  
Second Reading: January 24, 2023  
Third Reading:



# HORRY COUNTY REZONING REVIEW SHEET

## PROPERTY INFORMATION

Applicant	Carl Linton Martin	Rezoning Request #	2022-06-006
PIN #	440-09-01-0002	County Council District #	6 - Crawford
Site Location	Julious Ln in Myrtle Beach	Staff Recommendation	Disapproval
Property Owner	Carl Linton Martin ETAL	PC Recommendation	Unanimous Disapproval
		Size (in acres) of Request	0.64

## ZONING INFORMATION

Current Zoning	SF 40
Proposed Zoning	SF 20
Proposed Use	Residential
Character of the Area	Residential

## LOCATION INFORMATION

Flood Information	AE, Supplemental, & 500-Year
Wetland Information	N/A
Utilities	Public
Fire in miles	1.7 - Station 1 (Career)
EMS in miles	1.7 - Station 1 (Career)

## ADJACENT PROPERTIES

MSF 10	MSF 10	MSF 10
SF 40	Subject Property	SF 40
SF 40	SF 40	SF 40

## COMMENTS

Comprehensive Plan District: Suburban and Scenic & Conservation

Overlay/Area Plan:

**Discussion:** This rezoning request was previously heard at the July 7<sup>th</sup> Planning Commission Meeting. It was unanimously disapproved at Planning Commission. County Council remanded it back to Planning Commission and the applicant decreased the acreage to be rezoned. The applicant is now requesting to rezone a 0.64 acre portion from SF 40 to SF 20 to subdivide the existing home from the remainder of the parent tract. The future land use designation is Scenic & Conservation and Suburban. The Imagine 2040 Comprehensive Plan states "Residential development should have a density between 3-7 gross units per acre within major subdivisions and as small as 6,000 sq ft for individual, single family lots."

The entirety of the parcel is within the AE, Supplemental, & 500-year flood zones.

**Public Comment:** 10/6/2022 There was no public input. Carl Martin was present to address questions and concerns.

Proposed Improvements

## TRANSPORTATION INFORMATION

Daily Trips based on existing use / Max Daily Trips based on current zoning	8 / 24
Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning	56 / 56
Existing Road Conditions	Private, Unpaved
Rd, Station, Traffic AADT (2020) % Road Capacity	S 616 (Dick Pond Rd), Station 717 17,800 AADT 95-100%

## HORRY COUNTY SCHOOLS FUNCTIONAL CAPACITY

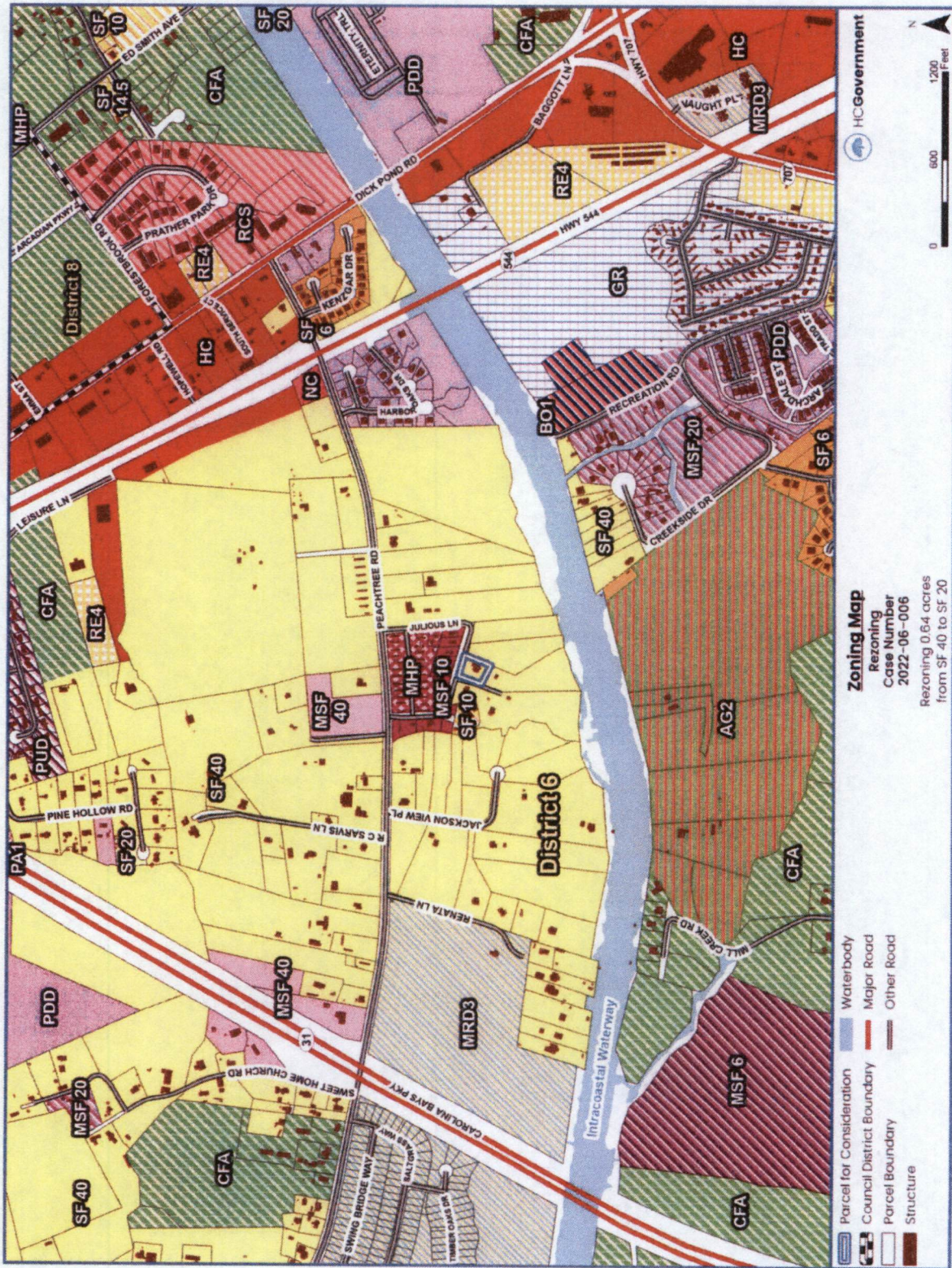
	Functional Capacity	2022-2023 ADM	Percent Capacity
Socastee High	1,644	1,618	98%
Forestbrook Middle	1,086	829	76%
Forestbrook Elementary	1,030	873	85%

## DIMENSIONAL STANDARDS

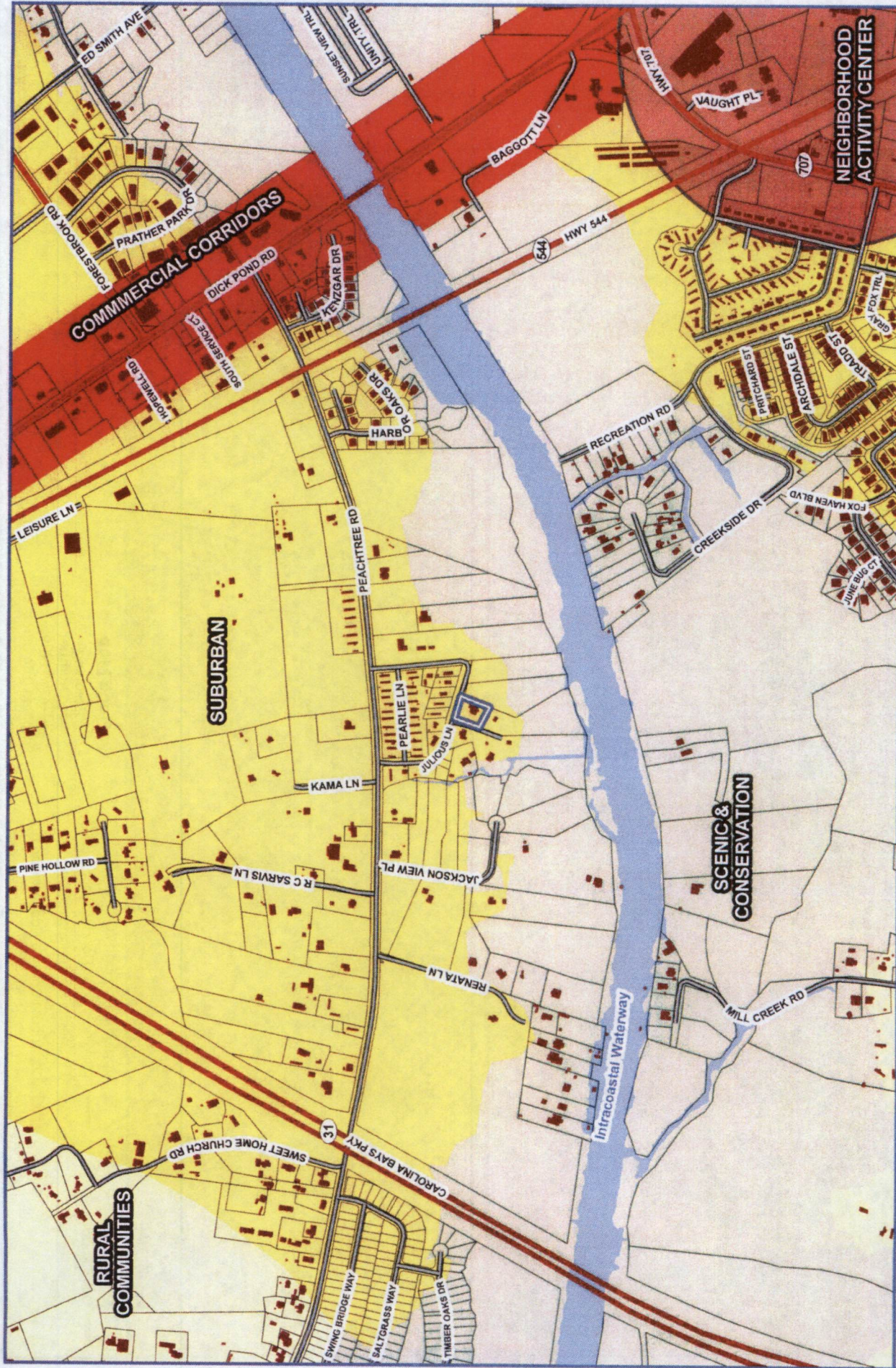
	Requested	Current	Adjacent	Adjacent	Adjacent	Adjacent
	SF 20	SF 40	MSF 10	SF 40		
Min. Lot Size (in square feet)	20,000	40,000	10,000	40,000		
Front Setback (in feet)	40	50	25	50		
Side Setback (in feet)	15	20	10	20		
Corner Side Setback (in feet)	22.5	30	15	30		
Rear Setback (in feet)	25	30	15	30		
Bldg. Height (in feet)	35	35	35	35		



# Attachment A – Rezoning Maps







**Future Land Use Map**

Rezoning  
Case Number  
2022-06-006  
Rezoning 0.64 acres  
from SF 40 to SF 20

HC Government

0 500 1000 Feet

N

**Legend:**

- Parcel for Consideration
- Parcel Boundary
- Structure
- Waterbody
- Major Road
- Other Road

**Map Labels:**

COMMERCIAL CORRIDORS

SUBURBAN

RURAL COMMUNITIES

SCENIC & CONSERVATION

NEIGHBORHOOD ACTIVITY CENTER

INTRACOASTAL WATERWAY

HWY 544

HWY 707

CAROLINA BAYS PKY

SWEET HOME CHURCH RD

ED SMITH AVE

FORESTBROOK RD

PRATHER PARK DR

DICK POND RD

KEYZGAR DR

VAUGHT PL

BAGGOTT LN

RECREATION RD

ARCHDALE ST

TRAD ST

FOX TRL

GRAY TRL

PERTCHARD ST

FOX HAVEN BLVD

JUNE BUG CT

PEACHTREE RD

PEARLIE LN

JULIUS LN

JACKSON VIEW PL

KAMA LN

R C SARVIS LN

RENTA LN

WILL CREEK RD

SALTGRASS WAY

TIMBER OAKS DR

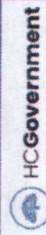
SWING BRIDGE WAY





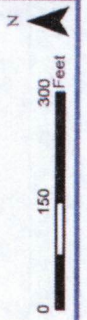
Parcel for Consideration

Other Road



### Aerial Map

Rezoning  
Case Number  
2022-06-006  
Rezoning 0.64 acres  
from SF 40 to SF 20







**Parcel for Consideration**

**Other Road**

**Supplemental Flood Zone**

Preliminary Base Flood Elevation (BFE)

AE - Special Flood Hazard Area

0.2% Annual Chance Flood Hazard

**Flood Map**

Rezoning Case Number 2022-06-006

Rezoning 0.64 acres from SF 40 to SF 20

HC Government

0 100 200 Feet

N



COUNTY OF HORRY

STATE OF SOUTH CAROLINA

Ordinance 07-2023

**AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE PIN 42816020002 FROM RESIDENTIAL (MSF 20) TO GENERAL MANUFACTURING & INDUSTRIAL DISTRICT (MA 2)**

**WHEREAS**, Ordinance Number 71-2021 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

**WHEREAS**, a request has been filed to amend the maps for the above mentioned parcel of land; and,

**WHEREAS**, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

**WHEREAS**, Horry County Council finds that the request to rezone the property from Residential (MSF 20) to General Manufacturing & Industrial District (MA 2) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request.

**NOW THEREFORE** by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

- 1) **Amendment of Official Zoning Maps of Horry County:**  
Parcel(s) of land identified by PIN 42816020002 and currently zoned Residential (MSF 20) is hereby rezoned to General Manufacturing & Industrial District (MA 2), as included in **Attachment A** titled "Rezoning Map".
- 2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
- 3) **Conflict with Preceding Ordinances:** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.
- 4) **Effective Date:** This Ordinance shall become effective on Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

Jenna L. Dukes, District 1	Bill Howard, District 2
Dennis DiSabato, District 3	Gary Loftus, District 4
Tyler Servant, District 5	Cam Crawford, District 6
Tom Anderson, District 7	Michael Masciarelli, District 8
R. Mark Causey, District 9	Danny Hardee, District 10
Al Allen, District 11	

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: January 24, 2023  
Second Reading:  
Third Reading:



# HORRY COUNTY REZONING REVIEW SHEET

Masgiarelli

Energyov #: 60184 Advertisement & Mailout Date : 12-15-2022 Date Posted: 12-13-2022 # Property Owners Notified: 16 Report Date: 12-8-2022 BY: GHS

## PROPERTY INFORMATION

Applicant	Wayne Zimmerman	Rezoning Request #	2022-12-006
PIN #	428-16-02-0002	County Council District #	8 <del>Vaught</del>
Site Location	Rosebud Ln & Sunlight Dr in Myrtle Beach	Staff Recommendation	Disapproval
Property Owner	Sinh Tran	PC Recommendation	Unanimous Disapproval
		Size (in acres) of Request	1.35

## ZONING INFORMATION

Current Zoning	MSF 20
Proposed Zoning	MA 2
Proposed Use	Trucking business w/ outdoor storage
Character of the Area	Residential

## LOCATION INFORMATION

Flood Information	X
Wetland Information	N/A
Utilities	Pubic
Fire in miles	2.18 – Station 1 (Career)
EMS in miles	2.18 – Station 1 (Career)

## ADJACENT PROPERTIES

MSF 20	MSF 20	PUD
MSF 20	Subject Property	PUD
MSF 20	MSF 20	PUD

## COMMENTS

Comprehensive Plan District: Suburban

Overlay/Area Plan:

**Discussion:** The applicant is requesting to rezone from MSF 20 to MA 2 for a trucking business with outdoor storage. The property is surrounded by residential zoning. The future land use designation is Suburban. The Imagine 2040 Comprehensive Plan states "Smaller commercial uses and services are allowed along major arterial roadways if compatible with the community and the property is adequately sized to support the proposed use and development requirements."

MA 2 allows many uses that may not be considered capatible with surrounding residential zoning. If approved, the parcel will likely need variances in order to develop, due to a double front setback and the property only being approximately 110' wide.

**Public Comment:** 01/05/2023 Victor Arache was present to address any questions and concerns. Harriett Lang, Kimberly Warnick, and Dusty McDonald spoke in opposition of the request. Their concerns were traffic, flooding, and character of the area. Melody Spencer spoke in favor of the request.

Proposed Improvements	
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## TRANSPORTATION INFORMATION

Daily Trips based on existing use / Max Daily Trips based on current zoning	0 / 16
Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning	75 / 75
Existing Road Conditions	Sun Light: County, Paved, Two lane Rose Bud: County, Unpaved
Rd, Station, Traffic AADT (2021) % Road Capacity	SC 544, Station (239) 33,400 AADT 85-90%

## HORRY COUNTY SCHOOLS FUNCTIONAL CAPACITY

	Functional Capacity	2022-2023 ADM	Percent Capacity
Socastee High	1,644	1,618	98%
Forestbrook Middle	1,086	829	76%
Forestbrook Elementary	1,030	873	85%

## DIMENSIONAL STANDARDS

	Requested	Current	Adjacent	Adjacent	Adjacent	Adjacent
	MA 2	MSF 20	PUD (Arcadia)	MSF 20		
Min. Lot Size (in square feet)	21,780	20,000	5000	20,000		
Front Setback (in feet)	50	40	15	40		
Side Setback (in feet)	25	15	5	15		
Corner Side Setback (in feet)	37.5	22.5	7.5	22.5		
Rear Setback (in feet)	25	25	10	25		
Bldg. Height (in feet)	75	35	35	35		



**Zoning Map**

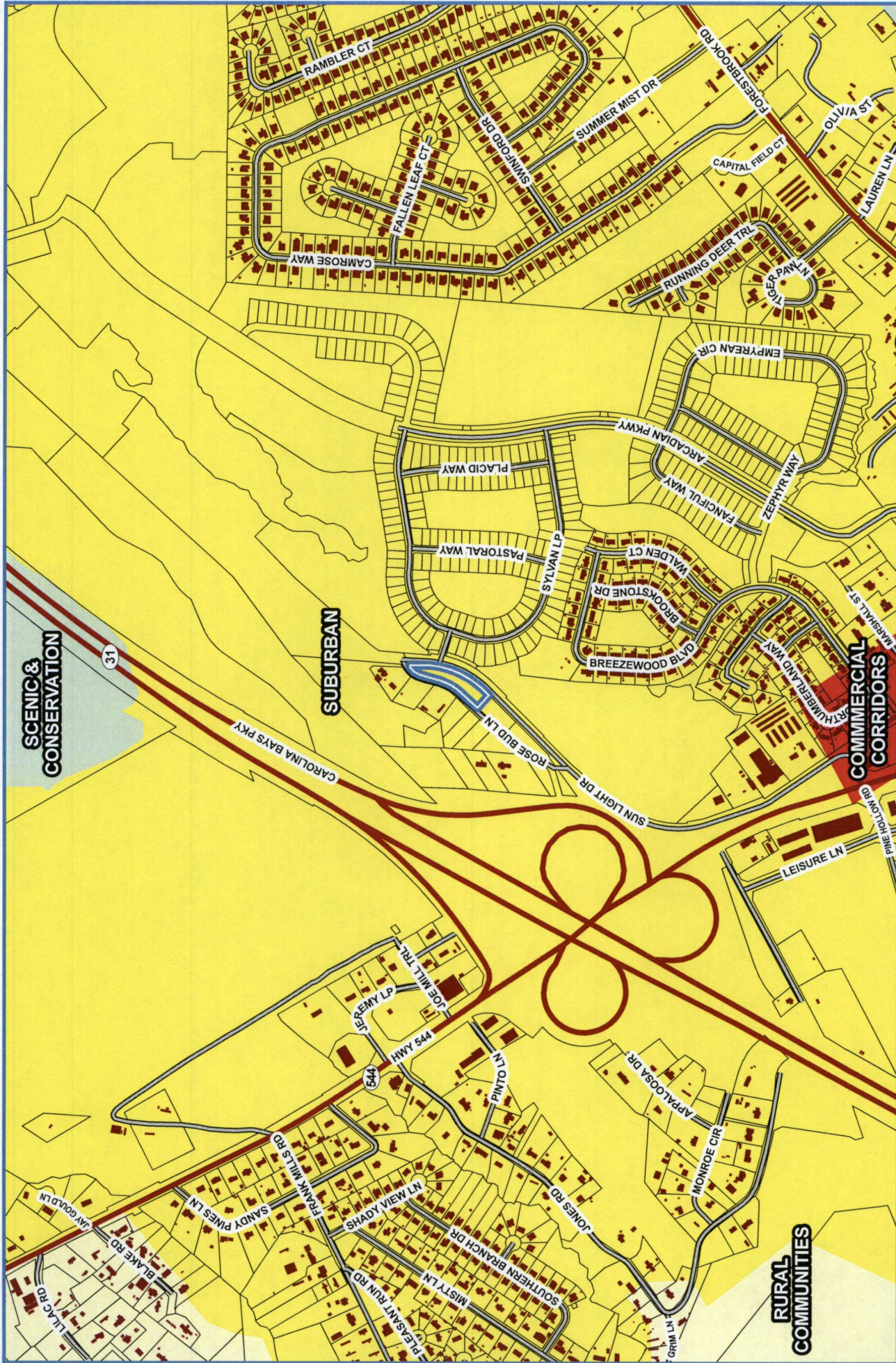
Resolving  
Case Number  
2022-12-006

Rezoning 1.35 acres  
from MSF 20 to MA 2

Structure  
Parcel for Consideration  
Council District Boundary  
Major Road  
Other Road  
Parcel Boundary

Scale: 0 to 1200 Feet

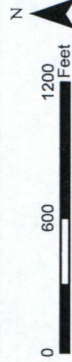




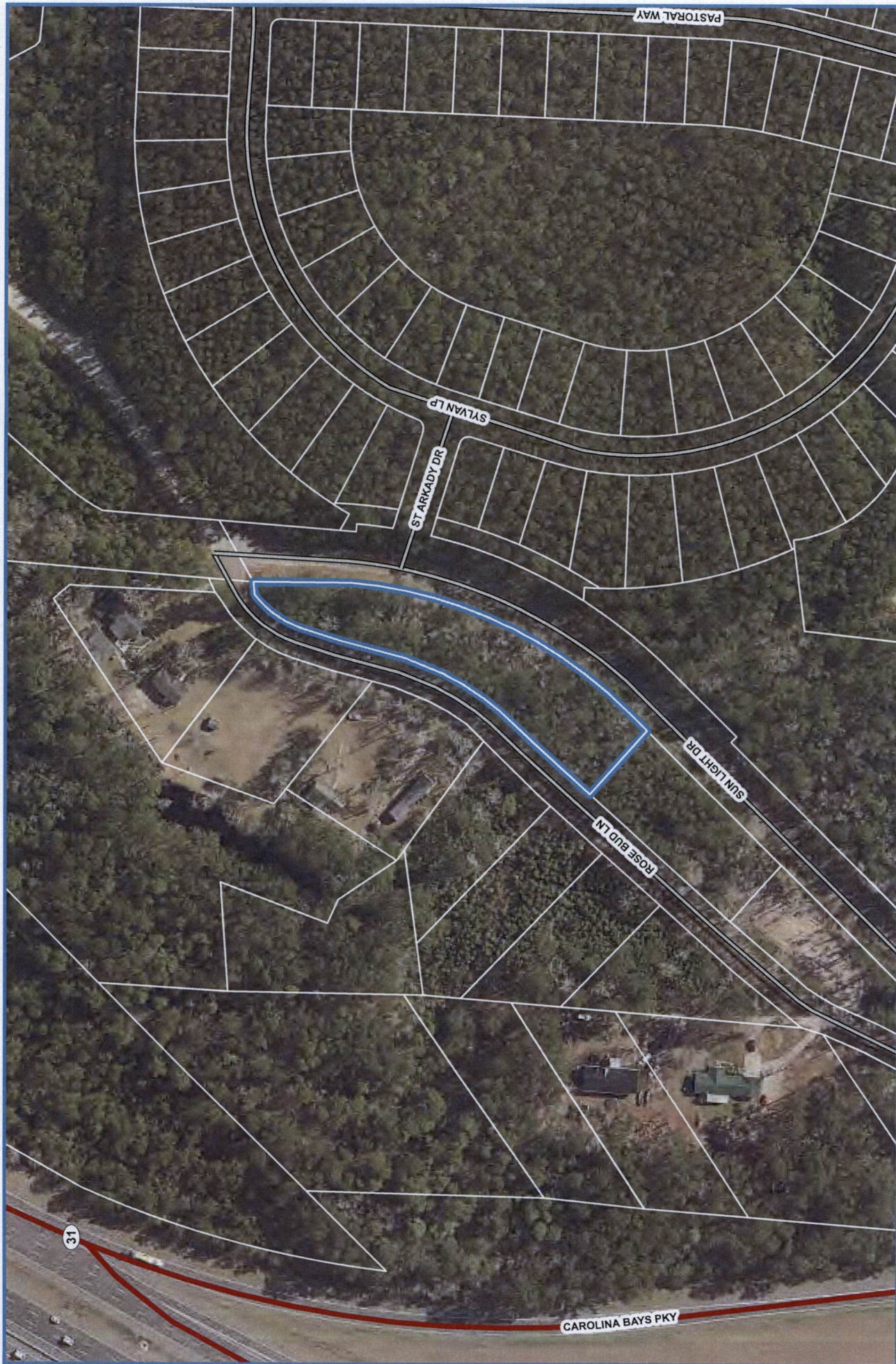
- Parcel for Consideration
- Parcel Boundary
- Structure
- Major Road
- Other Road

### Future Land Use Map

Rezoning  
Case Number  
2022-12-006  
Rezoning 135 acres  
from MSF 20 to MA 2







Parcel for Consideration



Major Road



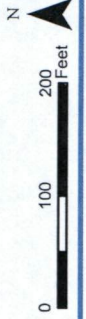
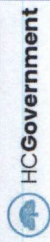
Other Road



### Aerial Map

Rezoning  
Case Number  
2022-12-006

Rezoning 1.35 acres  
from MSF 20 to MA 2









COUNTY OF HORRY

STATE OF SOUTH CAROLINA

Ordinance 08-2023

**AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE PIN 15000000009 FROM FOREST AGRICULTURE (FA) TO OUTDOOR AMUSEMENT COMMERCIAL DISTRICT (AM 2)**

**WHEREAS**, Ordinance Number 71-2021 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

**WHEREAS**, a request has been filed to amend the maps for the above mentioned parcel of land; and,

**WHEREAS**, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

**WHEREAS**, Horry County Council finds that the request to rezone the property from Forest Agriculture (FA) to Outdoor Amusement Commercial District (AM 2) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request.

**NOW THEREFORE** by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

- 1) **Amendment of Official Zoning Maps of Horry County:**  
Parcel(s) of land identified by PIN 15000000009 and currently zoned Forest Agriculture (FA) is hereby rezoned to Outdoor Amusement Commercial District (AM 2), as included in **Attachment A** titled "Rezoning Map".
- 2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
- 3) **Conflict with Preceding Ordinances:** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.
- 4) **Effective Date:** This Ordinance shall become effective on Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

Jenna L. Dukes, District 1	Bill Howard, District 2
Dennis DiSabato, District 3	Gary Loftus, District 4
Tyler Servant, District 5	Cam Crawford, District 6
Tom Anderson, District 7	Michael Masciarelli, District 8
R. Mark Causey, District 9	Danny Hardee, District 10
Al Allen, District 11	

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: January 24, 2023  
Second Reading:  
Third Reading:



# HORRY COUNTY REZONING REVIEW SHEET

Energov #: 59905 Advertisement & Mailout Date : 12-15-2022 Date Posted: 12-13-2022 # Property Owners Notified: 12 Report Date: 11-14-2022 BY: GHS

## PROPERTY INFORMATION

Applicant	Skies The Limit, LLC	Rezoning Request #	2022-12-002
PIN #	150-00-00-0009	County Council District #	9 - Causey
Site Location	Hwy 141 off Hwy 701 N in Loris	Staff Recommendation	Disapproval
Property Owner	Skies The Limit, LLC	PC Recommendation	Unanimous Disapproval
		Size (in acres) of Request	12.41

## ZONING INFORMATION

Current Zoning	FA
Proposed Zoning	AM 2
Proposed Use	Outdoor events
Character of the Area	Farm land & rural residential

## LOCATION INFORMATION

Flood Information	X	FA	FA	FA
Wetland Information	N/A	FA	Subject Property	FA
Utilities	Public	FA	FA	FA
Fire in miles	2 – Tabor City Fire			
EMS in miles	2 – Tabor City Fire			

## ADJACENT PROPERTIES

## COMMENTS

Comprehensive Plan District: Rural	Overlay/Area Plan:
------------------------------------	--------------------

**Discussion:** The applicant is requesting to rezone from FA to AM 2 to hold outdoor events like weddings, banquets, holiday parties, etc. Typically, venue owners apply for a rural tourism permit in order to allow for the outdoor events. That isn't an option in this case due to the rural tourism permit having a minimum lot size requirement of 20 acres.

The parcel is surrounded by FA zoning. The future land use designation is Rural. The Imagine 2040 Comprehensive Plan states "Land development should retain the rural character by retaining large tracts of land, preserving wide natural buffers between differing land uses, and discouraging land uses that are incompatible to adjacent agricultural uses." It also states "If rural amusement, outdoor shooting ranges, or campgrounds are pursued, an evaluation of the surrounding natural resources and communities should strongly be taken into consideration."

A parcel located on Morgan Rd was rezoned (2006-07-012) to AM 2 back in 2006 for mud and sand races.

**Public Comment: 01/05/2023** Surroy Hemingway was present to answer any questions and concerns. David Holmes, Melissa Middleton, and Meredith Holmes spoke in opposition of the request. Their concerns were noise, traffic, and criminal activity.

Proposed Improvements	
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## TRANSPORTATION INFORMATION

Daily Trips based on existing use / Max Daily Trips based on current zoning	0 / 425
Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning	800 / 800
Existing Road Conditions	State, Paved, Two-lane
Rd, Station, Traffic AADT (2021) % Road Capacity	US 701, Station (194) 11,200 AADT 65-70%

## HORRY COUNTY SCHOOLS FUNCTIONAL CAPACITY

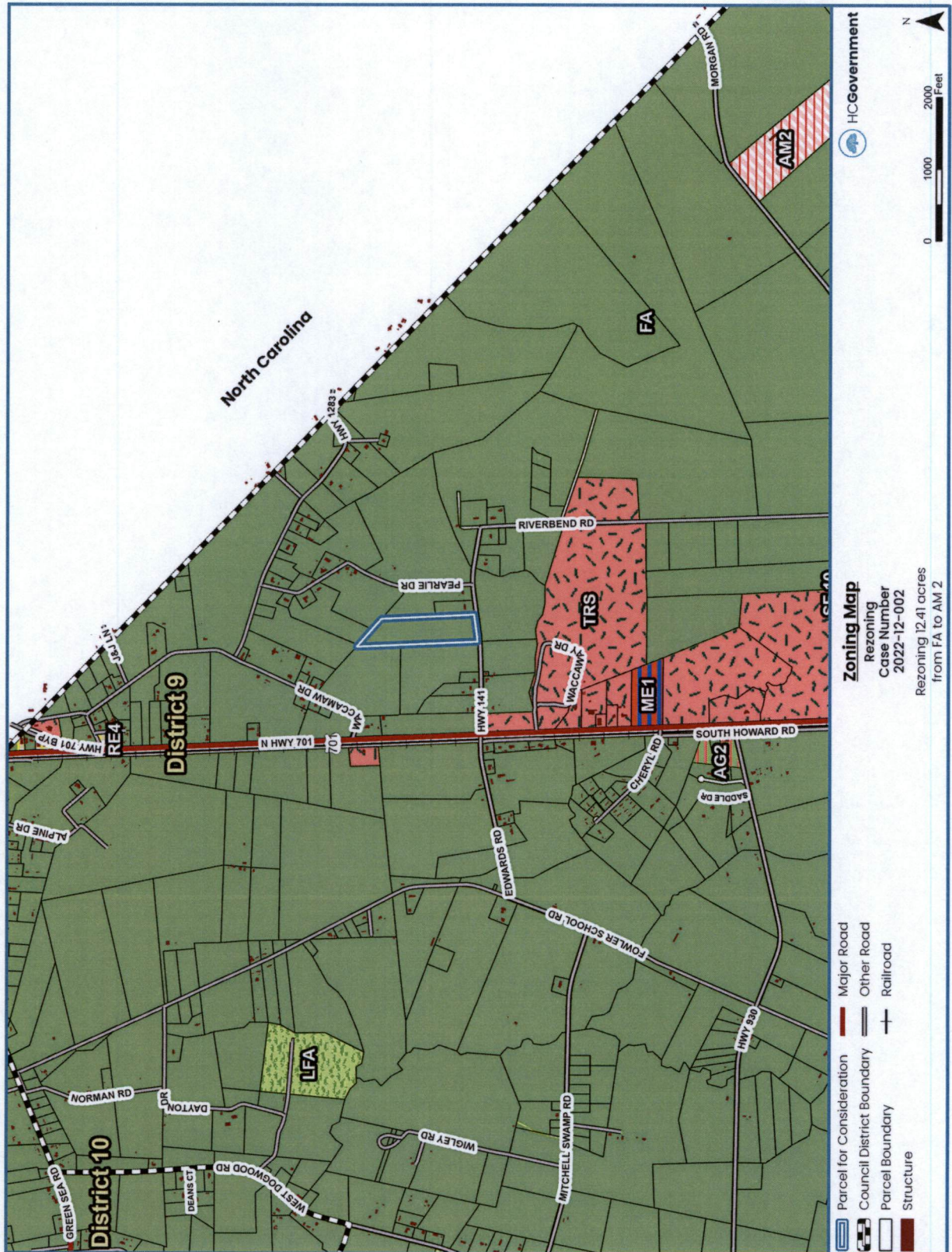
	Functional Capacity	2022-2023 ADM	Percent Capacity
Green Sea Floyds High	819	617	75%
Middle	N/A	N/A	N/A
Green Sea Floyds Elementary	681	569	84%

## DIMENSIONAL STANDARDS

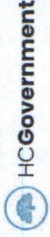
	Requested	Current	Adjacent	Adjacent	Adjacent	Adjacent
	AM 2	FA	FA			
Min. Lot Size (in square feet)	21,780	21,780	21,780			
Front Setback (in feet)	50	40	40			
Side Setback (in feet)	10	10	10			
Corner Side Setback (in feet)	15	15	15			
Rear Setback (in feet)	15	15	15			
Bldg. Height (in feet)	36 per ½ acre not to exceed 300	35	35			



# Attachment A – Rezoning Maps







# **Future Land Use Map**

Rezoning  
Case Number  
2022-12-002  
Rezoning 12.41 acres  
from FA to AM 2

- Parcel for Consideration
- Parcel Boundary
- Structure
- Major Road
- Other Road
- Railroad





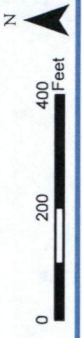


**Aerial Map**

Rezoning  
Case Number  
2022-12-002  
Rezoning 12.41 acres  
from FA to AM 2

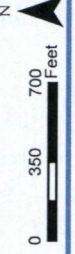
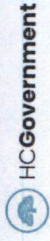
Parcel for Consideration

- Major Road
- Other Road
- Railroad





North Carolina



### Flood Map

Rezoning  
Case Number  
2022-12-002

Rezoning 12.41 acres  
from FA to AM 2

Parcel for Consideration

Preliminary Base Flood Elevation (BFE)

AE - Special Flood Hazard Area

Major Road

Other Road

Railroad





COUNTY OF HORRY

STATE OF SOUTH CAROLINA

Ordinance 09-2023

AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE PIN 15215020002 FROM FOREST AGRICULTURE (FA) TO RESIDENTIAL (MSF 14.5)

WHEREAS, Ordinance Number 71-2021 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

WHEREAS, a request has been filed to amend the maps for the above mentioned parcel of land; and,

WHEREAS, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

WHEREAS, Horry County Council finds that the request to rezone the property from Forest Agriculture (FA) to Residential (MSF 14.5) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request.

NOW THEREFORE by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

- 1) **Amendment of Official Zoning Maps of Horry County:**  
Parcel(s) of land identified by PIN 15215020002 and currently zoned Forest Agriculture (FA) is hereby rezoned to Residential (MSF 14.5), as included in **Attachment A** titled "Rezoning Map".
- 2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.
- 3) **Conflict with Preceding Ordinances:** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.
- 4) **Effective Date:** This Ordinance shall become effective on Third Reading.

AND IT IS SO ORDAINED, ENACTED AND ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**HORRY COUNTY COUNCIL**

\_\_\_\_\_  
Johnny Gardner, Chairman

Jenna L. Dukes, District 1	Bill Howard, District 2
Dennis DiSabato, District 3	Gary Loftus, District 4
Tyler Servant, District 5	Cam Crawford, District 6
Tom Anderson, District 7	Michael Masciarelli, District 8
R. Mark Causey, District 9	Danny Hardee, District 10
Al Allen, District 11	

Attest:

\_\_\_\_\_  
Patricia S. Hartley, Clerk to Council

First Reading: January 24, 2023  
Second Reading:  
Third Reading:



# HORRY COUNTY REZONING REVIEW SHEET

Energyov #: 59904 Advertisement & Mailout Date : 12-15-2022 Date Posted: 12-13-2022 # Property Owners Notified: 20 Report Date: 11-14-2022 BY: GHS

PROPERTY INFORMATION			
Applicant	Galacia Renovations, LLC	Rezoning Request #	2022-12-001
PIN #	152-15-02-0002	County Council District #	9 - Causey
Site Location	Trotter Ridge Rd in Loris	Staff Recommendation	Disapproval
Property Owner	Galacia Renovations, LLC	PC Recommendation	Unanimous Disapproval
		Size (in acres) of Request	1.47

ZONING INFORMATION		LOCATION INFORMATION		ADJACENT PROPERTIES		
Current Zoning	FA	Flood Information	X	FA	FA	FA
Proposed Zoning	MSF 14.5	Wetland Information	N/A	FA	Subject Property	FA
Proposed Use	Manufactured homes	Utilities	Public	FA	FA	FA
Character of the Area	Rural residential	Fire in miles	3.25 – Station 35 (Career)			
		EMS in miles	3.25 – Station 35 (Career)			

## COMMENTS

Comprehensive Plan District: Rural, Scenic & Conservation, and Rural Communities	Overlay/Area Plan: Bennett Loop Neighborhood Plan & Airport Environs Overlay
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**Discussion:** The applicant is requesting to rezone from FA to MSF 14.5 to subdivide the parcel and permit manufactured homes. The property is surrounded by FA Zoning. The future land use designation is Scenic & Conservation, Rural, & Rural Communities. The Imagine 2040 Comprehensive Plan states the desired development pattern for rural is "active working lands, such as farms and forests, and large single family lots or family subdivisions with a minimum lot size of ½ an acre or maximum of 2 net units per acre." For Rural Communities the desired development pattern is "single-family residential developments, including minor and major subdivisions, with lot sizes greater than 14,500 sq ft or with a maximum of 3 net units per acre."

This parcel is within the Bennett Loop Neighborhood Plan. The plan recommends replacing mobile and manufactured homes with more durable housing options, encouraging the development of a variety of **permanent** housing types in the neighborhood, & improve the quality and durability of housing stock in the Bennett Loop community.

The plan also states "Horry County has a role to play in the revitalization of the housing stock in the Community. Zoning districts may be considered which would allow for a wider variety of new housing stock without altering the density of housing currently allowed. The development of duplexes, apartments and other residential housing options may improve the likelihood of new investment within the Bennett Loop Neighborhood."

**Public Comment: 01/05/2023** Jenny Duarte was present to address any questions and concerns. Edward King, Eddie King, and Katrina Morrison spoke in opposition of the request. Their concerns were traffic, density, and the Comprehensive Plan District being Scenic & Conservation. Antonio Oteso spoke in favor of the request.

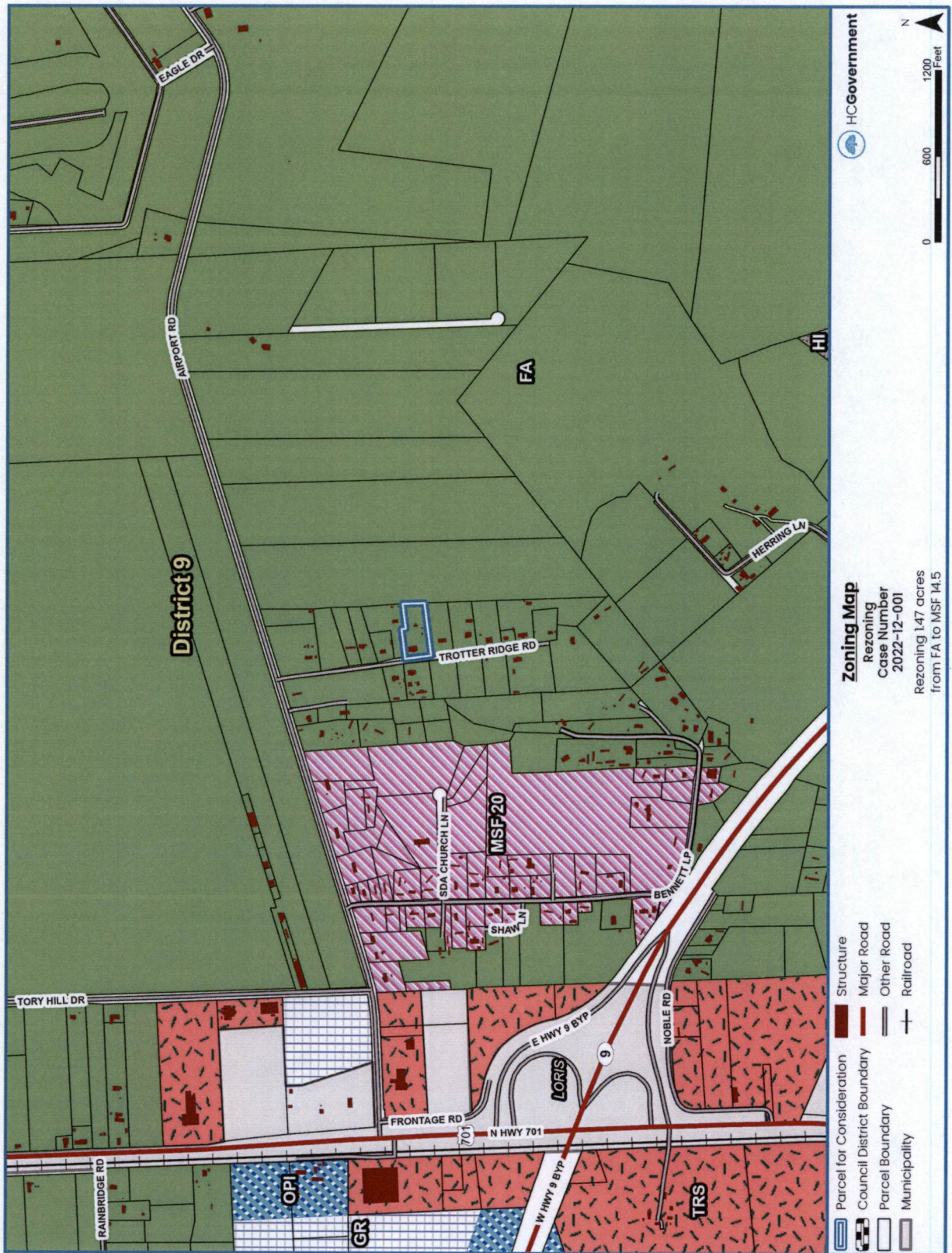
Proposed Improvements	
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TRANSPORTATION INFORMATION		HORRY COUNTY SCHOOLS FUNCTIONAL CAPACITY			
Daily Trips based on existing use / Max Daily Trips based on current zoning	8 / 16		Functional Capacity	2022-2023 ADM	Percent Capacity
Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning	24 / 32	Loris High	1,059	772	73%
Existing Road Conditions	County, Unpaved	Loris Middle	859	704	82%
Rd, Station, Traffic AADT (2021) % Road Capacity	US 701, Station (194) 11,200 AADT 65-70%	Loris Elementary	874	792	91%

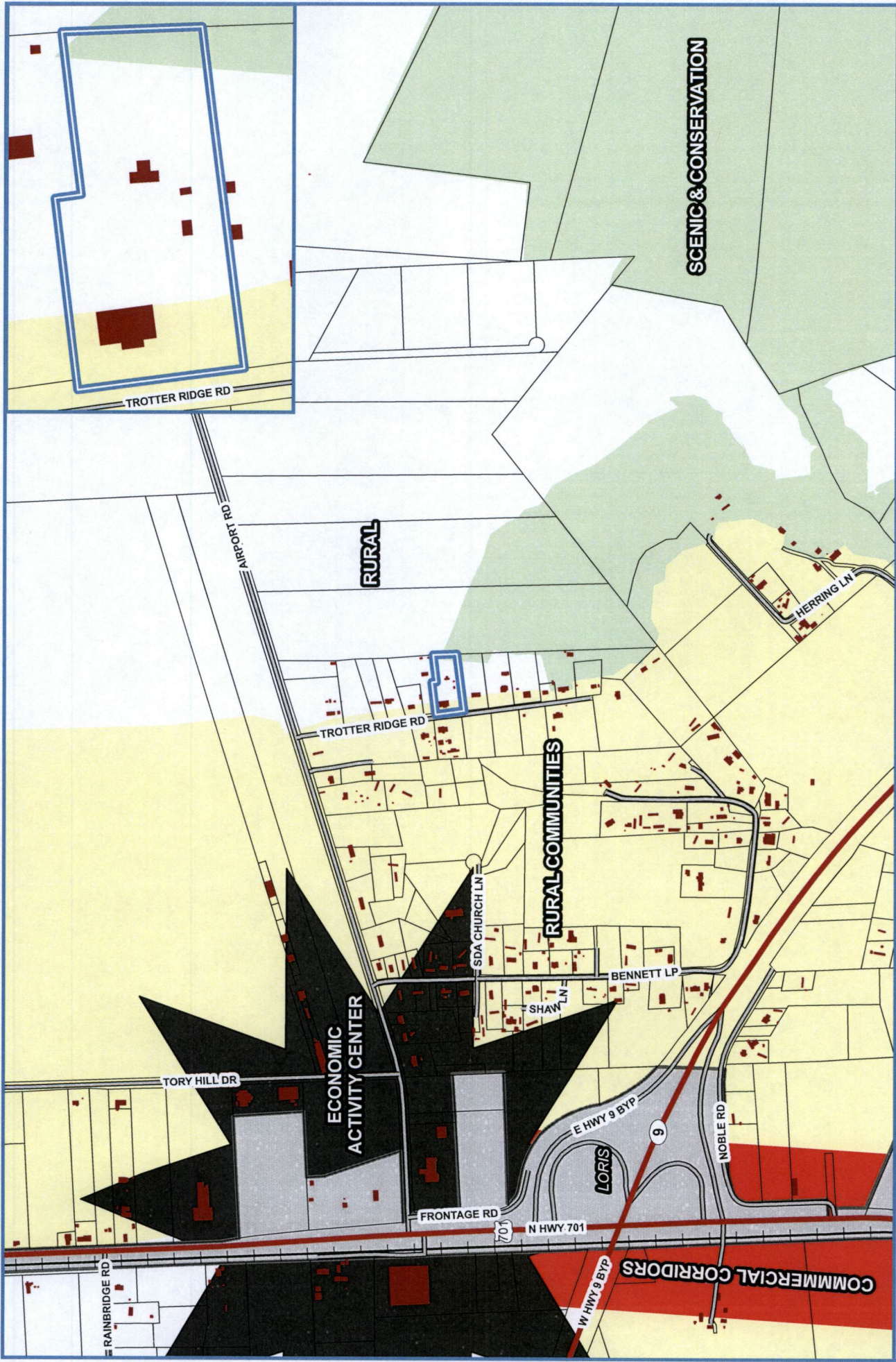
DIMENSIONAL STANDARDS	Requested	Current	Adjacent	Adjacent	Adjacent	Adjacent
	MSF 14.5	FA	FA			
Min. Lot Size (in square feet)	14,500	21,780	21,780			
Front Setback (in feet)	25	40	40			
Side Setback (in feet)	10	10	10			
Corner Side Setback (in feet)	15	15	15			
Rear Setback (in feet)	15	15	15			
Bldg. Height (in feet)	35	35	35			



# Attachment A – Rezoning Maps



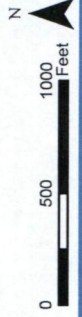




**Future Land Use Map**

Rezoning  
Case Number  
2022-12-001  
Rezoning 1.47 acres  
from FA to MSF 14.5

- Parcel for Consideration
- Parcel Boundary
- Municipality
- Structure
- Major Road
- Other Road
- Railroad







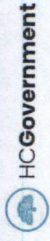
Parcel for Consideration

Other Road

### Aerial Map

Rezoning  
Case Number  
2022-12-001

Rezoning 1.47 acres  
from FA to MSF 14.5







**Flood Map**

Resoning Case Number 2022-12-001

Resoning 1.47 acres from FA to MSF 14.5

Parcel for Consideration

Major Road

Other Road

Railroad

Preliminary Base Flood Elevation (BFE)

AE - Special Flood Hazard Area

HC Government

0 680 1360 Feet

N