

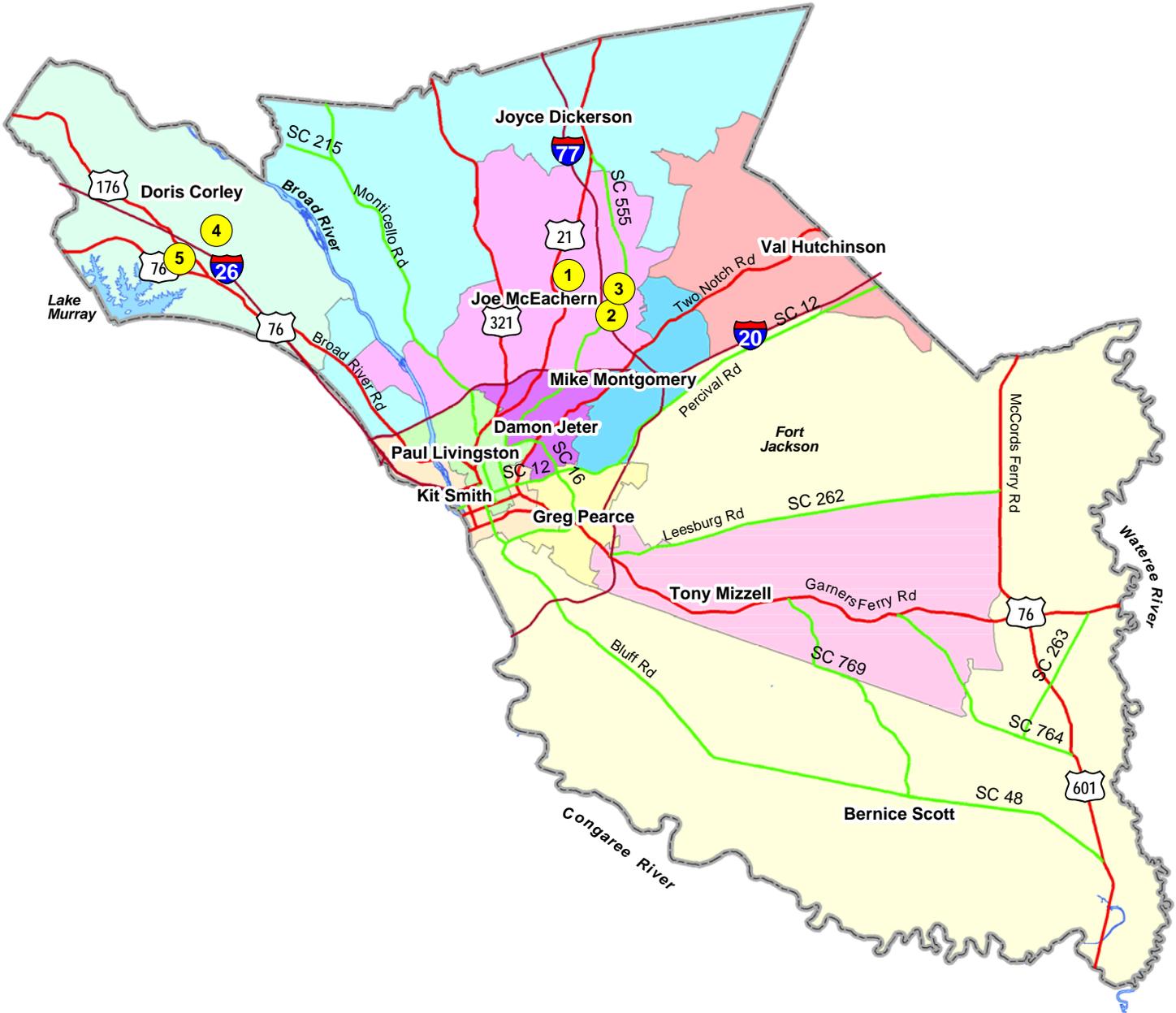
RICHLAND COUNTY  
PLANNING COMMISSION



NOVEMBER 6, 2006



# RICHLAND COUNTY PLANNING COMMISSION NOVEMBER 6, 2006



CASE NO.	APPLICANT	TMS NO.	LOCATION	DISTRICT
1. 06-38 MA	Boyleston Plantation	14600-03-27/43/44	Wilson Blvd., Blythewood	McEachern
2. 06-54 MA	The Beach Equity Investment, LLC	17200-03-01	Farrow Rd. & Business Park Blvd.	McEachern
3. 06-55 MA	The Beach Equity Investment, LLC	17200-03-24	Farrow Rd. & Business Park Blvd.	McEachern
4. 06-58 MA	Frank Casen	03500-04-09	Old Tamah Rd.	Corley
5. 06-59 MA	Lakewood Church/Gary Brooks	03400-05-09 & 02500-06-03	Broad River Rd.	Corley



**RICHLAND COUNTY PLANNING COMMISSION**

**Monday, November 6, 2006**

**Agenda**

**1:00 PM**

**2020 Hampton Street  
2<sup>nd</sup> Floor, Council Chambers**

**STAFF** Donny Phipps ..... Interim Planning Director  
Anna Almeida ..... Development Services Manager  
Jennie Sherry-Linder ..... Land Development Administrator  
Amelia R. Linder, Esq. .... Assistant County Attorney

**I. 1:00 PM - PUBLIC MEETING CALL TO ORDER** Pat Palmer, Chairman

**II. PUBLIC NOTICE ANNOUNCEMENT**

**III. PRESENTATION OF MINUTES FOR APPROVAL**

Consideration of the October 2, 2006 Minutes

**IV. AGENDA AMENDMENTS**

**V. NEW BUSINESS - ZONING MAP AMENDMENTS**

CASE # 06 - 38 MA		Page
APPLICANT	Boyleston Plantation	01
REQUESTED AMENDMENT	RU to PDD (305.5 acres)	
PURPOSE	Mixed-Use Development	
TAX MAP SHEET NUMBER (S)	14600-03-27/43/44	
LOCATION	Wilson Blvd. Blythewood	

CASE # 06 - 54 MA		Page
APPLICANT	The Beach Equity Investment, LLC/ Stephen Spangler	09
REQUESTED AMENDMENT	HI to RM-HD (6.45 acres)	
PURPOSE	Multi-Family Dwellings	
TAX MAP SHEET NUMBER (S)	17200-03-01 (p)	
LOCATION	Farrow Rd. & Business Park Blvd.	

CASE # 06 – 55 MA		Page
APPLICANT	The Beach Equity Investment, LLC/ Stephen Spangler	15
REQUESTED AMENDMENT	HI to RM-HD (16.5 acres)	
PURPOSE	Multi-Family Dwellings (Existing)	
TAX MAP SHEET NUMBER (S)	17200-03-24	
LOCATION	Farrow Rd. & Business Park Blvd.	

CASE # 06 - 58 MA		Page
APPLICANT	Frank Casen	21
REQUESTED AMENDMENT	RU to RS-MD (6.45 acres)	
PURPOSE	Residential Use	
TAX MAP SHEET NUMBER (S)	03500-04-09	
LOCATION	Old Tamah Rd.	

CASE # 06 - 59 MA		Page
APPLICANT	Lakewood Church Gary Brooks	27
REQUESTED AMENDMENT	RU to GC (11.67 & 1.43 acres)	
PURPOSE	Church with Commercial Frontage	
TAX MAP SHEET NUMBER (S)	03400-05-09 & 02500-06-03	
LOCATION	Broad River Rd.	

**VI. NEW BUSINESS – TEXT AMENDMENTS**

- a. Amendment to permit Tattoo Parlors on property zoned General Commercial. (GC)

**VII. COMPREHENSIVE PLAN**

- a. Comprehensive Plan Revision Status Report

**VIII. COUNTY COUNCIL & STAFF ACTIONS REPORT**

- a. Development Review Team Actions

**IX. ROAD NAME APPROVALS .....47**

**X. ADJOURNMENT**



# Richland County Planning & Development Services Department Map Amendment Staff Report

**PC MEETING DATE:** November 6, 2006  
**RC PROJECT:** 06-38 MA  
**APPLICANT:** Boyleston Plantation/ MW&W Richland, LLC  
**LOCATION:** Wilson Blvd 1 mile south of Killian Road

**TAX MAP NUMBER:** 14600-03-27, 43 & 44  
**ACREAGE:** 305.5  
**EXISTING ZONING:** RU  
**PROPOSED ZONING:** PDD

**PC SIGN POSTING:** October 21, 2006

## Staff Recommendation

**Approval**

## Background /Zoning History

The site is currently vacant land with a total area of 305.5 acres and approximately 377 linear feet of frontage on Wilson Blvd and is surrounded by rural single family dwellings and large areas of undeveloped land. According to County records no map amendment has been requested to date and the current zoning of Rural District (RU) reflects the original zoning as adopted September 7, 1977.

## Summary

The Planned Development District (PDD) zoning designation is intended to allow flexibility in development that will result in improved design, character, and quality of new mixed-use developments while preserving natural and scenic features of open spaces. Planned Development District must involve innovation in site planning for all permitted uses within the district. The Planned Development District is required to establish a master plan for the development proposed for the site to be rezoned. The uses permitted in a PDD district shall be the uses described in the approved site plan. Manufactured home parks are not permitted as part of a PDD District. The District must specify minimum lot area, lot width, structure size standards, and maximum height. However, the Planning Commission and County

Council shall ascertain if the dimensional requirements proposed, fulfill the intent of this chapter and the Comprehensive Plan. The Richland County Land Development Code does establish minimum standards for landscape, parking, sidewalk and pedestrian amenities, signs, recreation/open space, design and operation standards. Planned Developments are expected to exceed these minimum requirements. The Recreation/Open Space Standards may be enhanced by the Planning Commission and/or County Council during the review and approval of the Planned Development District (PDD).

**Roads**

The site fronts along Wilson Boulevard which is a two lane undivided collector. Additional access will be provided from Fairlawn Court which is a local road which services a dozen existing homes and Boyleston Road.

<b>Existing Zoning</b>		
<b><u>North:</u></b>	RU/GC	
<b><u>South:</u></b>	RU/RS-LD	
<b><u>East:</u></b>	RU/RS-MD/M-1	
<b><u>West:</u></b>	RU/RM-MD	

**Plans & Policies**

The Imagine Richland 2020 Comprehensive Plan/ “I-77 Corridor Subarea Proposed Land Use Map” designates this area as Low Density Residential in the Developing Urban area.

Objectives: “Attract quality residential development in the area by restricting uses which would compromise the area’s residential qualities”.

Non-Compliance: The residential quality of the area consists of large land areas and few residences. Other areas have subdivisions with higher density, however, no current development exceeds 1.3 dwellings per acre.

Principal: “Mixed residential densities are appropriate within the Developing Urban Area and should conform to the proposed land use map. Where single family development occurs adjacent to higher intensity uses, multifamily development at a compatible density may be used as a buffer.

Compliance: The Planned Development will provide a variety of residential uses from single family dwelling, town homes, and live work units. The proposed development includes commercial to support the needs of the created community.

## **Traffic Impact**

The current traffic counts were received from SCDOT in June, 2006 and represent the Annual Average Daily trips in 2004. The nearest SCDOT traffic count station is # 135 located on Wilson Boulevard, and the current volume is 6,000 ADT. According to the Trip Generation Manual the average daily weekday trips for apartments is 6.63 ADT; single-family is 9.57 ADT; high-density is 3.43 ADT. This site is estimated to generate approximately 5,993.80 trips per day therefore increasing the current volume of Wilson Boulevard to 11,993.80 ADT resulting in a level-of-service "F".

## **Conclusion**

The development consists of 305.5 acres of predominately rural with large land masses and no commercial. The current land uses are consistent with the zoning of Rural District (RU). The development will add approximately: 682 dwellings, 10.35 acres of commercial, office, institutional uses and maintain 80.89 acres of open space and park areas. The open space/park area is approximately 26 percent of the gross acreage, of which there is substantial wetlands, especially along Crane Creek.

The development creates a new community, a new town, but utilizes the existing roadways, some internal to current development as access. The inclusion of commercial to support the newly created community reduces the impact on the existing community, however, the scope of the development requires provision of civic uses for the community created, i.e. post offices, emergency facilities, schools, library, and places of worship. The design of the development must promote connectivity. The current density would allow approximately 282 dwellings and no commercial.

The staff recommendation is for approval with incorporation of all of the conditions of approval listed below.

### **Development Review Team (DRT) Conditions**

1. Provided transit facility.
2. Provided internal access for all commercial lots.
3. Provide sidewalks along Wilson Blvd.
4. Include right turn lane with deceleration lane and left turn lane with deceleration lane to entrance of development on Wilson Blvd.
5. Label land use on conceptual land plan.
6. Provide two additional points of access
7. Incorporate walking trail between multi-family development and community recreation area.
8. Represent 100 yr. Floodplain boundary on plan.

## **Development Services Department Review**

1. Minimum standards for Landscaping Code not provided.
2. Staff recommended that the third access point into Fairlawn Road be designated as emergency access only.
3. Appendix H should be deleted from the PDD document.
4. The Map identified as Conceptual Zoning Plan and Conceptual Land Plan must be identified as the “Master Plan for PDD purposes.
5. All parking provided must be minimum code requirements.

## **Proposed PDD Conditions**

1. The site development shall be limited to 378 single-family (RS-MD) units; 260 multi-family high density (RM-HD) units; 44 Single-family High density (RS-HD) units; 4 units of (NC); 18 units of Office/Institutional (OI); 6 outparcels General Commercial (GC).
2. The applicant shall transmit a phasing plan to the Department prior to reviewing any construction plans; and
3. Unless otherwise provided herein, all development shall conform to all current relevant land development regulations; and
4. Proposed changes to the approved Master Plan shall be subject to the requirement of Section 26-59 (j)(1) of the Richland County Land Development Code,
5. Approval of the Master Plan shall constitute approval of the Sketch Plan for subdivision purposes only; and
6. Access to the subject site shall be limited to one entrance on Wilson Boulevard, one entrance on Boyleston Road, and one emergency access only on Fairlawn Road for Responders & Providers; and
7. All internal streets shall be publicly owned and maintained by Richland County; and
8. The applicant shall construct a deceleration lane along Wilson Boulevard; and
9. The applicant shall construct a dedicated left turn lane along Wilson Boulevard; and
10. The applicant shall construct a dedicated right turn acceleration lane along Wilson Boulevard; and
11. Along Wilson Boulevard shared access shall be provided to limit the number of curb cuts ;and
12. All commercial lots shall provide vehicular and pedestrian connectivity; and
13. Requirement to meet the minimum standards in the Richland County Land Development Code for landscape/tree protection standards, parking, sidewalks and pedestrian amenities, signs, recreation/open space design and operational standards to promote connectivity, and pedestrian access from all areas to recreation and commercial sections, to include sidewalks along external roadways.
14. Planning Commission and County Council may require enhancements to proposed recreation and open space areas; and
15. If applicable the Department shall receive written US Army Corps of Engineers approval of the wetlands delineation and/or encroachment permit prior to approval of the preliminary plans;
16. If applicable the Department shall receive written FEMA approval of the 100 year flood elevation statement prior to approval of the preliminary subdivision plans; and

17. Richland County shall not be responsible for the enforcement of any deed restrictions imposed by the applicant, the developer, or their successors in interest; and
18. All the conditions described herein shall apply to the applicant, the developer and/or their successors in interest.
19. The applicant should enter into a development agreement to ensure the installation of all improvements and amenities described herein in an established timeframe.

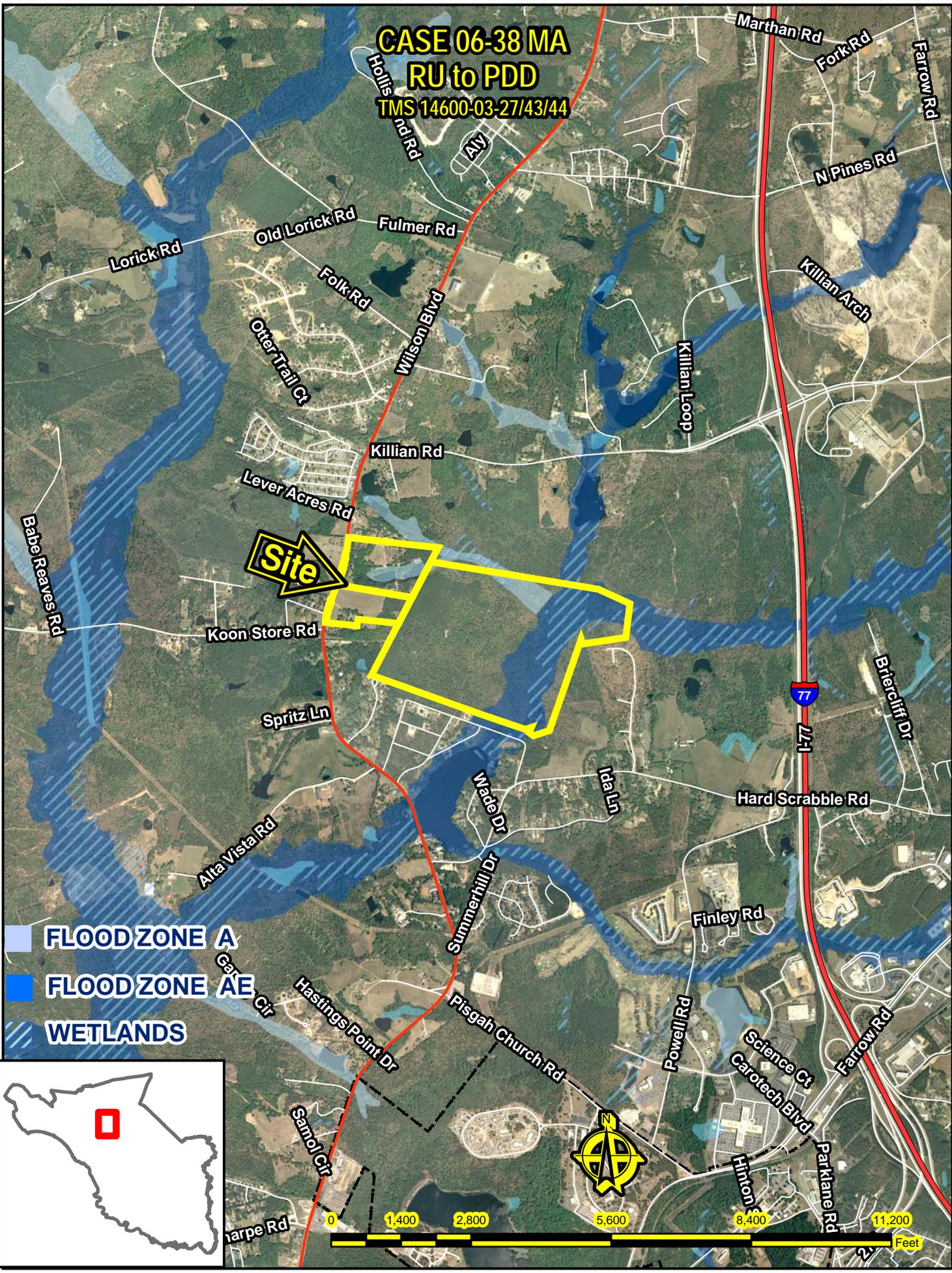
<b>County Council Meeting Date</b>
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**November 28, 2006**

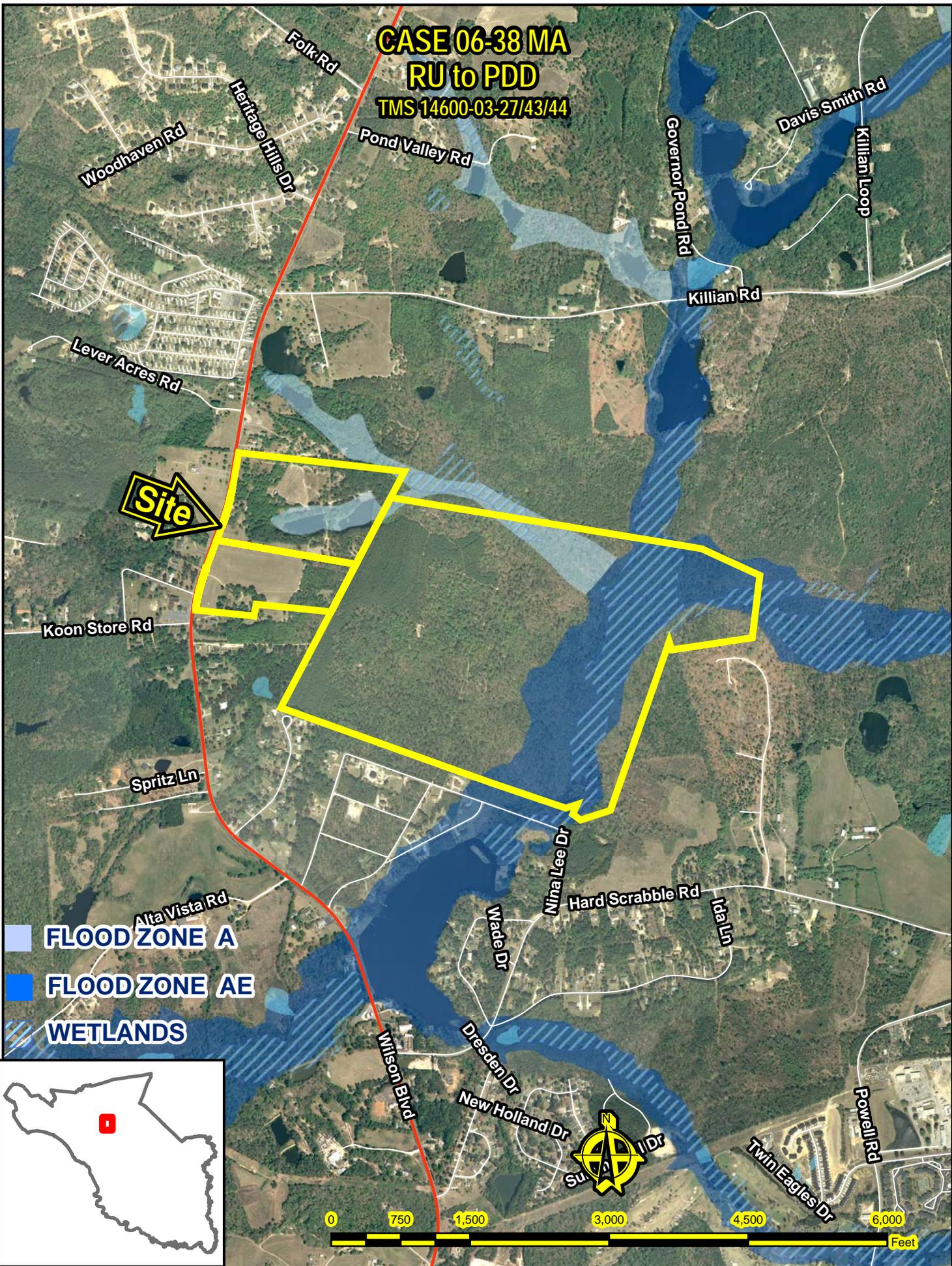
**CASE 06-38 MA**  
**RU to PDD**  
**TMS 14600-03-27/43/44**

**Site**

-  FLOOD ZONE A
-  FLOOD ZONE AE
-  WETLANDS



**CASE 06-38 MA**  
**RU to PDD**  
**TMS 14600-03-27/43/44**

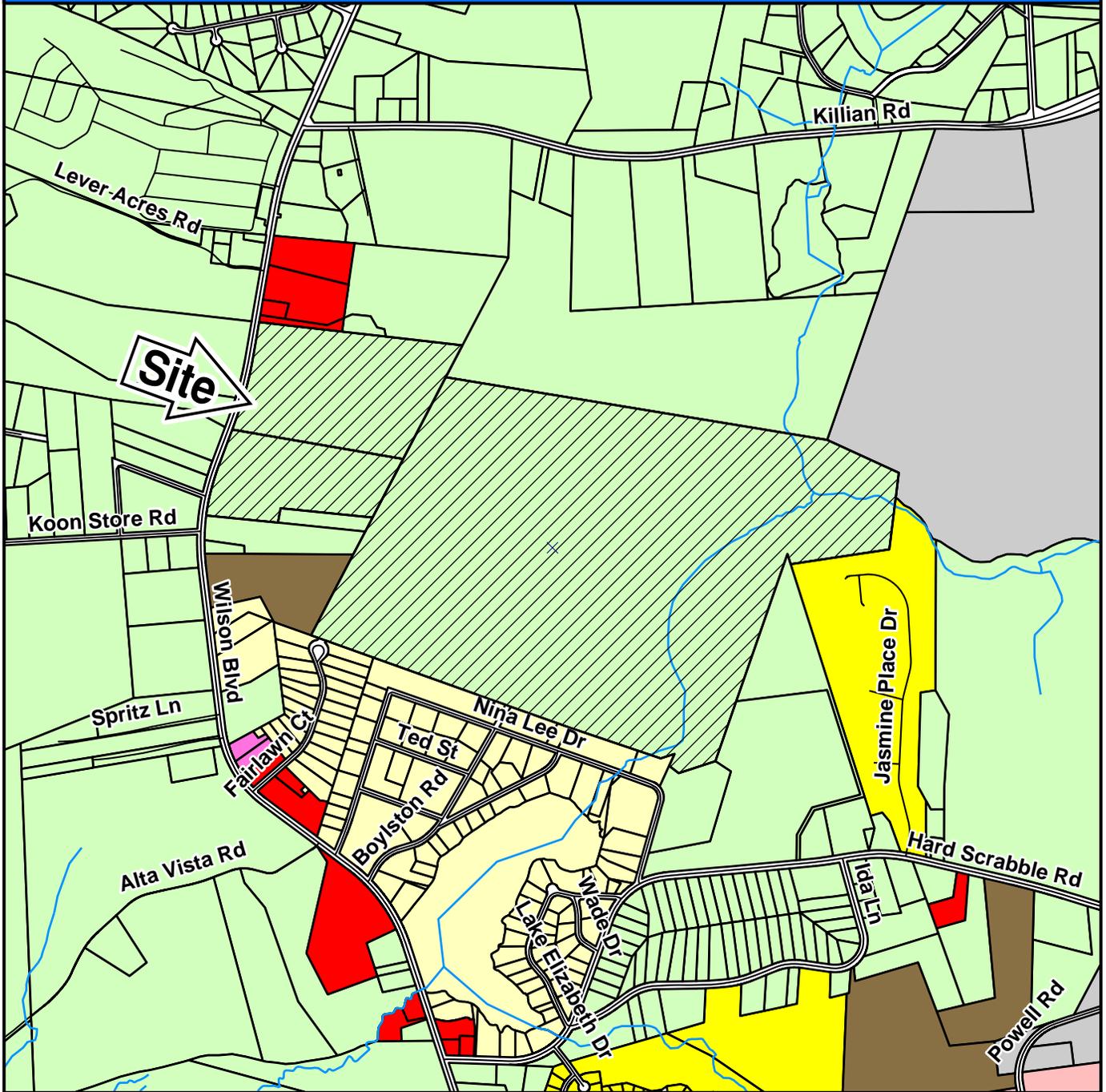


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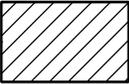
-  **FLOOD ZONE A**
-  **FLOOD ZONE AE**
-  **WETLANDS**



# CASE 06-38 MA RU to PDD



## ZONING CLASSIFICATIONS

	 RR	 RS-MD	 RM-MD	 NC	 HI
Subject Property	 RS-E	 RS-HD	 RM-HD	 GC	 PDD
	 RS-LD	 MH	 OI	 M-1	 RU





# Richland County Planning & Development Services Department Map Amendment Staff Report

**PC MEETING DATE:** November 6, 2006  
**RC PROJECT:** 06-54 MA  
**APPLICANT:** The Beach Equity Investment, LLC/ Stephen Spangler  
**LOCATION:** Farrow Road & Business Park Blvd.

**TAX MAP NUMBER:** 17200-03-01  
**ACREAGE:** 6.45  
**EXISTING ZONING:** HI  
**PROPOSED ZONING:** RM-HD

**PC SIGN POSTING:** October, 2006

## Staff Recommendation

### Denial

## Background/ Zoning History

This parcel is approximately six (6) acres located off Business Park Blvd with approximately 700 linear feet of road frontage. The parcel was subdivided from a thirteen (13) acre site on September 11, 2006. This property is located in the I-77 Business Park adjacent to Providence Park Apartments which currently houses 216 units. This current multi-family residential use has been approved as a special exception on June 4, 2003 and therefore, legitimate.

According to County records no map amendment has been requested to date and the current zoning of Heavy Industrial District (HI) reflects the original zoning as adopted September 7, 1977.

## Summary

The Richland County Land Development Ordinance Residential, Multi-Family- High Density (RM-HD) is intended for high-density residential development, allowing compact development consisting of the full spectrum of residential unit types where adequate public facilities are available. This district may serve as a transitional district between lower density

residential and low intensity commercial uses. There is no minimum lot area; maximum density is sixteen (16) units per acre.

**Roads**

The site is located on Business Park Boulevard which serves the park and intersects with Farrow Road (SC 555) a divided minor arterial.

**Existing Zoning**

<b><u>North:</u></b>	RU	Single family homes/vacant
<b><u>South:</u></b>	HI	Vacant
<b><u>East:</u></b>	HI	Blue Cross Blue Shield Offices, Midlands Tech
<b><u>West:</u></b>	HI	I-77

**Plans & Policies**

The Imagine Richland 2020 Comprehensive Plan/ “I-77 Corridor Subarea Proposed Land Use Map” designates this area as Industrial Commercial/Technological in the Developing Urban Area.

Objectives: “Encourage the development and location of industrial uses in those areas identified by the Plan, and where possible, protect such areas with industrial zoning”.

Non-Compliance: The incompatibility of these land uses creates a nuisance for the industrial uses which are by right permitted.

Principal: “Mixed residential densities are appropriate within the Developing Urban Area and should conform to the Proposed Land Use Map”.

Compliance: The Proposed Land Use Map designates this area industrial.

**Traffic Impact**

The current traffic counts were received from SCDOT in June, 2006 and represent the Annual Average Daily trips in 2004. The nearest SCDOT traffic count station is # 281 located south on (SC 555) Farrow Road, and the current volume is 27,600 ADT. According to the Trip Generation Manual the average daily weekday trips for apartments is 6.63 ADT. This site is estimated to generate 1,432 trips per day therefore increasing the current volume of Farrow Road to 29,032 ADT resulting in a level-of-service “F”.

## **Conclusion**

The Heavy Industrial District (HI) is intended to accommodate and promote intense uses as manufacturing, industrial and functionally related industries such as distribution, storage, processing. General Commercial uses are allowed but considered incidental, supporting uses, to the intensive uses permitted. The current industries located in this vicinity are in an industrial park: employment, distribution and business centers. The industrial uses have located in this area due to the proximity of Interstate-77 access. Though the current uses may or may not be considered compatible with multi-family residential, clearly the list of permitted uses in Heavy Industrial District (HI) including but not limited to sewage treatment plants, animal processing plants, chemical plants, mining, transportation facilities and Lumber mills, would not be considered compatible.

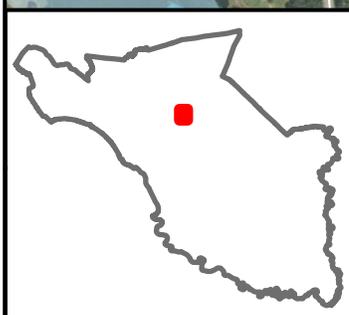
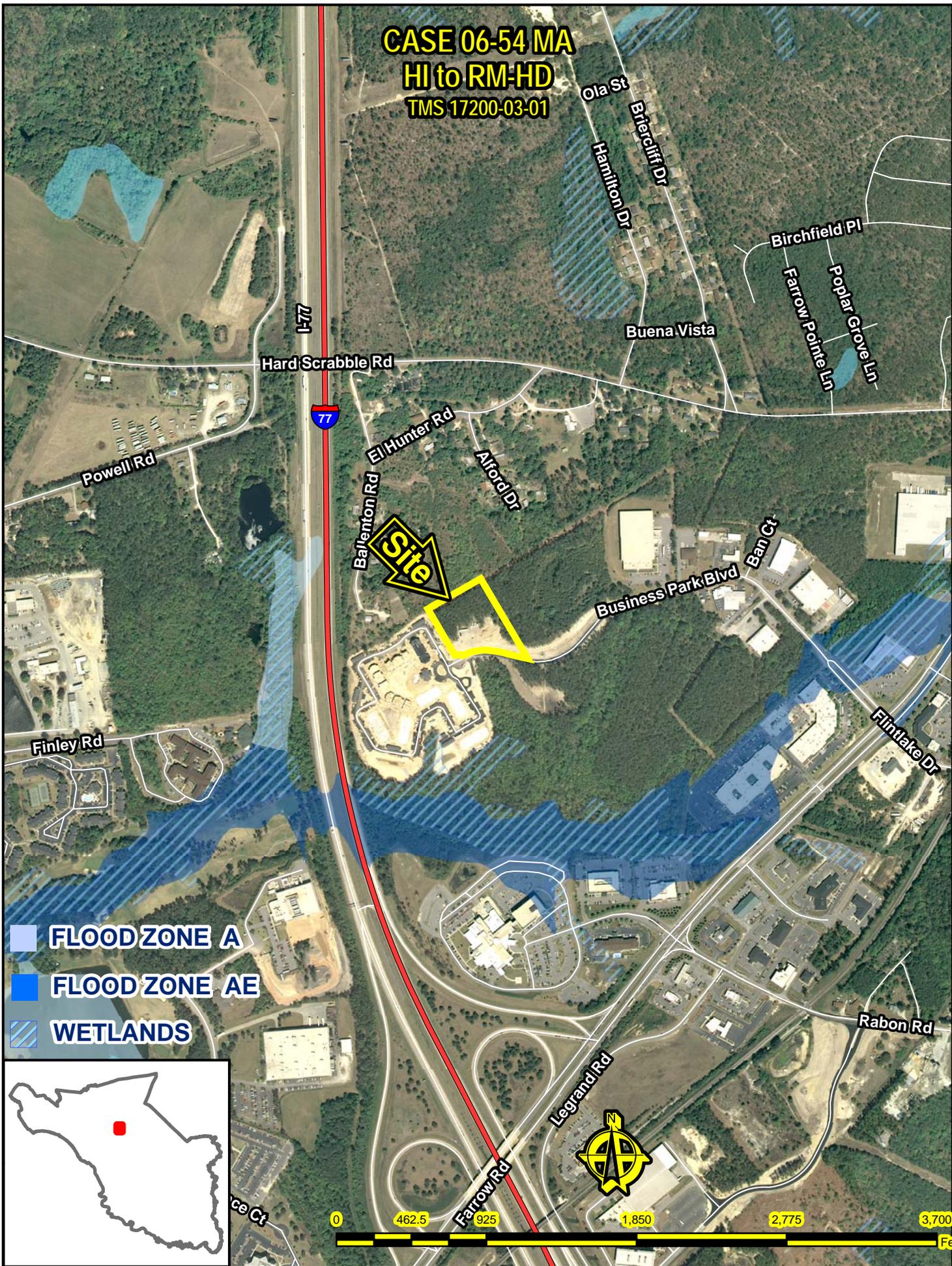
Industrial zoned lands throughout the I-77 corridor have requested rezoning, due to the high residential and commercial demands in this region. The staff recommendation is denial consistent with the Comprehensive Plan for the industrial corridor and the encroaching residential demand. Industrial uses are not compatible with residential, in such close proximity. Staff does not recommend increasing the residential use.

This area along the I-77 and Farrow Road corridor has become a magnet for large corporate offices and a research park for small businesses. Gateway Business Park and Carolina Research Park are within a mile radius and are home to many of our larger employers in the region. These areas are highly accessible and compatible to the surrounding properties.

## **Zoning Public Hearing Date**

**November 28, 2006**

**CASE 06-54 MA**  
**HI to RM-HD**  
**TMS 17200-03-01**



**CASE 06-54 MA**  
**HI to RM-HD**  
**TMS 17200-03-01**

Ballenton Rd

Alford Dr

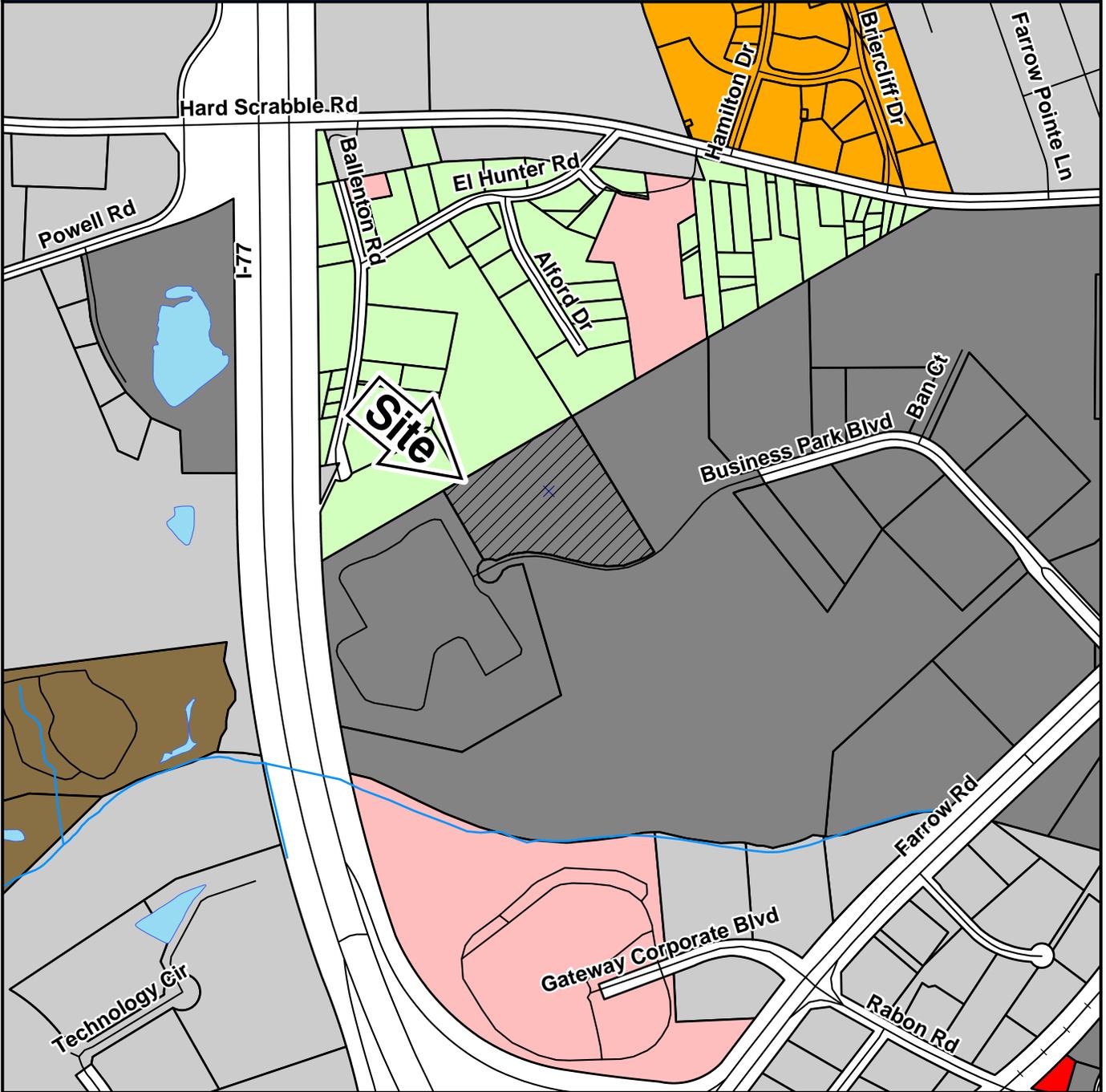
**Site**

Busin's Park Yrd

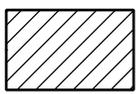
-  FLOOD ZONE A
-  FLOOD ZONE AE
-  WETLANDS



# CASE 06-54 MA HI to RM-HD



## ZONING CLASSIFICATIONS



Subject  
Property



RR



RS-MD



RM-MD



NC



HI



RS-E



RS-HD



RM-HD



GC



PDD



RS-LD



MH



OI



M-1



RU





# Richland County Planning & Development Services Department Map Amendment Staff Report

**PC MEETING DATE:** November 6, 2006  
**RC PROJECT:** 06-55 MA  
**APPLICANT:** The Beach Equity Investment, LLC/ Stephen Spangler  
**LOCATION:** Farrow Road & Business Park Blvd.

**TAX MAP NUMBER:** 17200-03-24  
**ACREAGE:** 16.5  
**EXISTING ZONING:** HI  
**PROPOSED ZONING:** RM-HD

**PC SIGN POSTING:** October 21, 2006

## Staff Recommendation

**Denial**

## Background /Zoning History

On June 4, 2003 the parcel was approved by the Board of Zoning Appeals for a special exception to construct apartments in a Heavy Industrial District (HI). The Richland County Land Development Code allowed for this use under a special exception. The current Richland County Land Development Code Adopted July 2005, deleted this provision.

The site currently includes nine apartment buildings which provides for 216 units, 416 parking spaces, a clubhouse, a pool and six garages. According to County records no map amendment has been requested to date and the current zoning of Heavy Industrial District (HI) reflects the original zoning as adopted September 7, 1977.

## Summary

The Residential, Multi-Family- High Density, (RM-HD)) zoning designation allows for a mix of residential unit types to provide a balance of housing opportunities while maintaining neighborhood compatibility. This district may serve as a transitional district between lower density residential and low intensity commercial uses. There is no minimal lot area requirement; maximum density is sixteen (16) units per acre and minimum lot width is fifty

(50) feet. The proposed second phase of the development would add four (4) buildings, ninety-six (96) units, 192 additional parking spaces. The total proposed development would have 312 units on 22.95 acres.

**Roads**

The site is located on Business Park Boulevard which serves the park and intersects with Farrow Road (SC 555) a divided minor arterial.

<b>Existing Zoning</b>		
<b><u>North:</u></b>	RU	Single family homes/vacant
<b><u>South:</u></b>	HI	Vacant
<b><u>East:</u></b>	HI	Blue Cross Blue Shield Offices, Midlands Tech
<b><u>West:</u></b>	HI	I-77

**Plans & Policies**

The Imagine Richland 2020 Comprehensive Plan/ “I-77 Corridor Subarea Proposed Land Use Map” designates this area as Industrial Commercial/ Technology in the Developing Urban Area.

Objectives: “Encourage the development and location of industrial uses in those areas identified by the Plan, and where possible, protect such areas with industrial zoning”.

Non-Compliance: The proposed use would encourage more high density residential development within the business park and limit the availability of land set aside for industrial uses.

Principal: “Mixed residential densities are appropriate within the Developing Urban Area and should conform to the Proposed Land Use Map”.

Non-Compliance: The Proposed Land Use Map designates this area industrial.

**Traffic Impact**

The current traffic counts were received from SCDOT in June, 2006 and represent the Annual Average Daily trips in 2005. The nearest SCDOT traffic count station is # 281 located south on (SC 555) Farrow Road, and the current volume is 27,600 ADT. According to the Trip Generation Manual the average daily weekday trips for apartments is 6.63 ADT. This site is estimated to generate 1,432 trips per day therefore increasing the current volume of Farrow Road to 29,032 ADT resulting in a level-of-service “F”.

## **Conclusion**

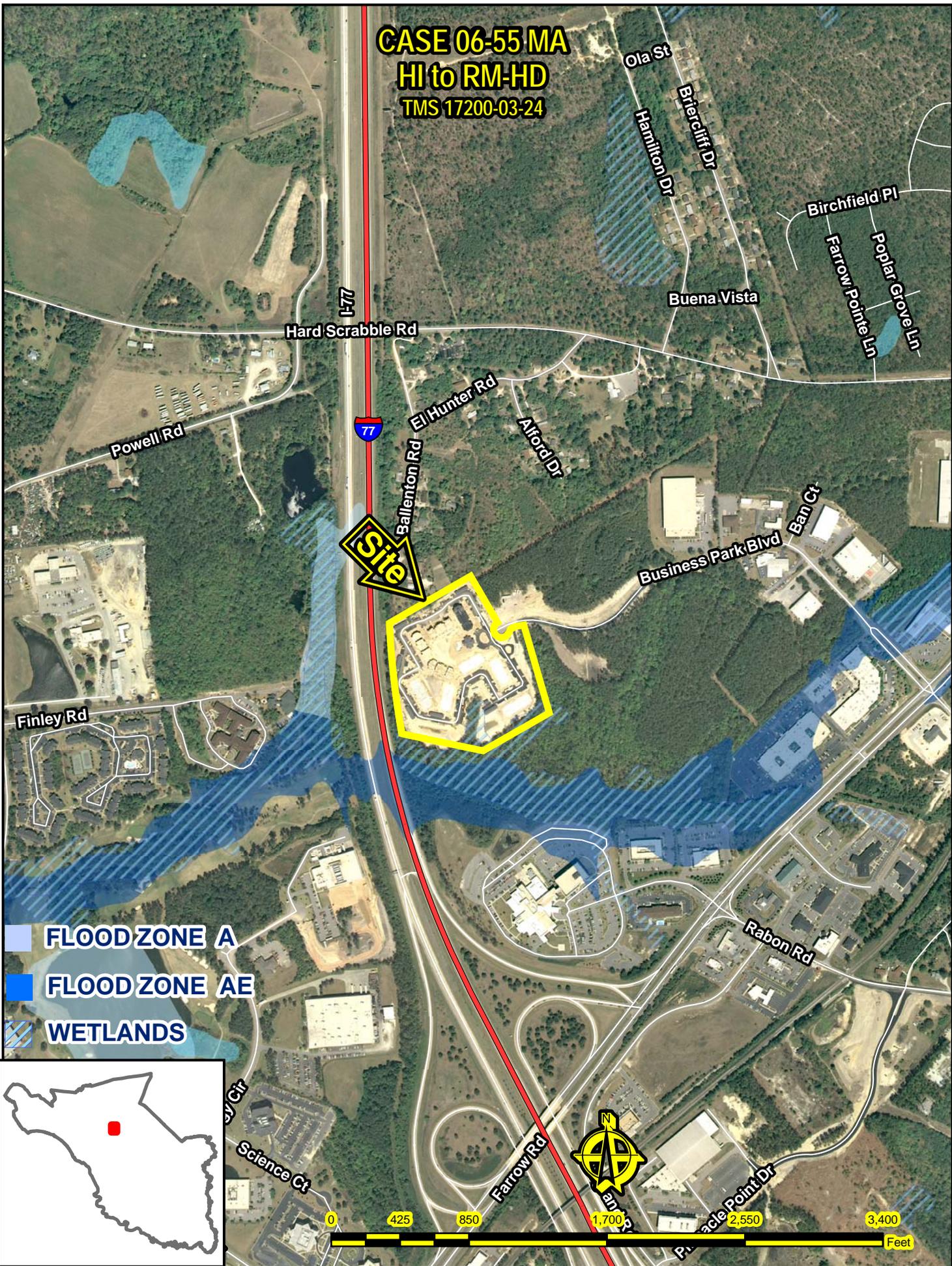
The Heavy Industrial District (HI) is intended to accommodate and promote intense uses as manufacturing, industrial and functionally related industries such as distribution, storage, processing. General Commercial uses are allowed but considered incidental, supporting uses, to the intensive uses permitted. The current industries located in this vicinity are in an industrial park: employment, distribution and business centers. The industrial uses have located in this area due to the proximity of Interstate-77 access. Though the current uses may or may not be considered compatible with multi-family residential, clearly the list of permitted uses in Heavy Industrial District (HI) including but not limited to sewage treatment plants, animal processing plants, chemical plants, mining, transportation facilities and Lumber mills, would not be considered compatible.

Industrial zoned lands throughout the I-77 corridor have requested rezoning, due to the high residential and commercial demands in this region. The staff recommendation is denial consistent with the Comprehensive Plan for the industrial corridor and the encroaching residential demand. Industrial uses are not compatible with residential, in such close proximity. This current multi-family residential use has been approved as a special exception and therefore, legitimate. Staff does not recommend increasing the residential use.

## **Zoning Public Hearing Date**

**November 28, 2006**

**CASE 06-55 MA**  
**HI to RM-HD**  
**TMS 17200-03-24**



**CASE 06-55 MA**  
**HI to RM-HD**  
**TMS 17200-03-24**

Ballenton Rd

Alford Dr

I-77

77

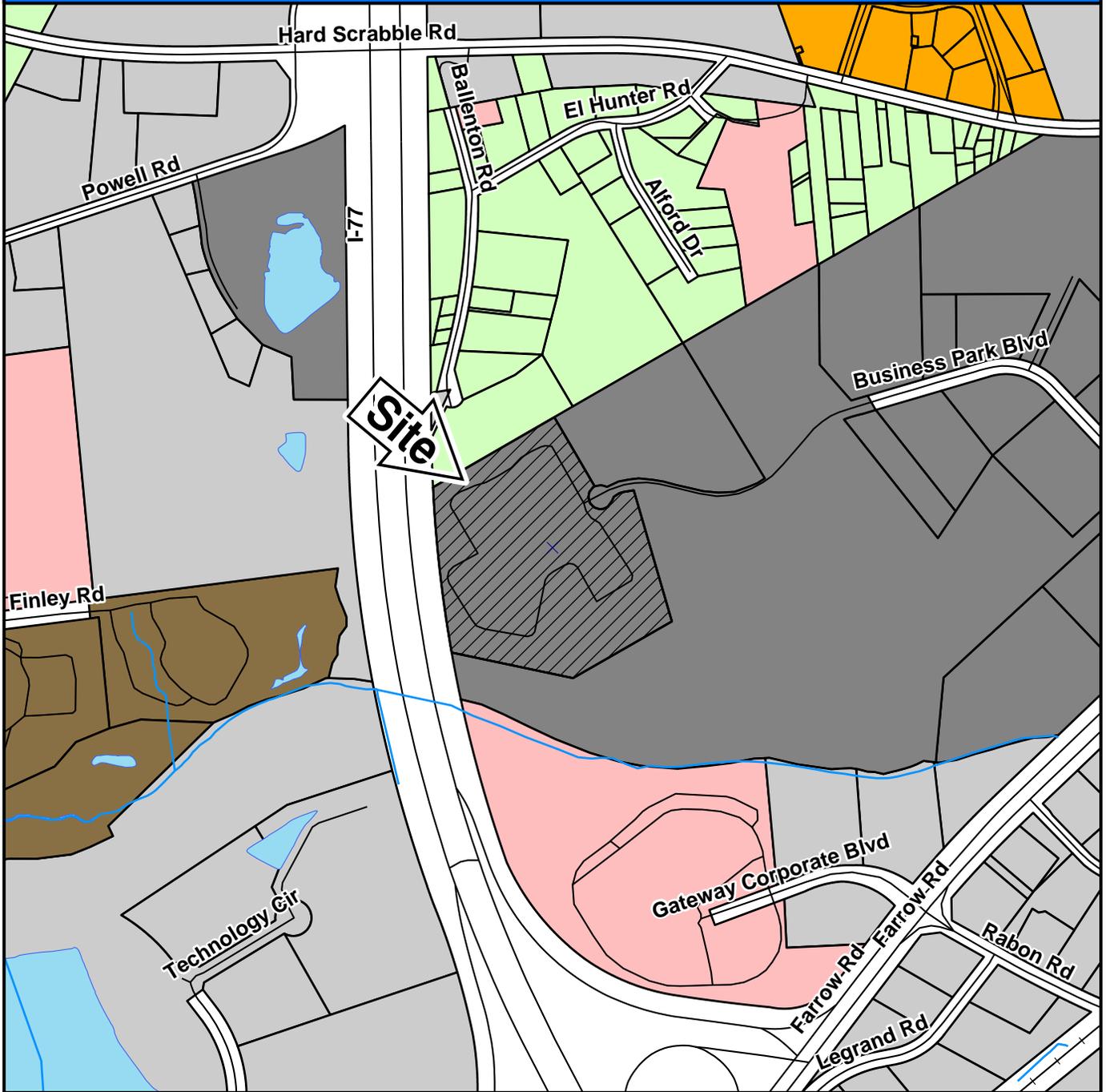
**Site**

Business Park Blvd

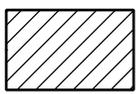
-  FLOOD ZONE A
-  FLOOD ZONE AE
-  WETLANDS



# CASE 06-55 MA HI to RM-HD



## ZONING CLASSIFICATIONS



Subject  
Property



RR



RS-E



RS-LD



RS-MD



RS-HD



MH



RM-MD



RM-HD



OI



NC



GC



M-1



HI



PDD



RU





# Richland County Planning & Development Services Department Map Amendment Staff Report

**PC MEETING DATE:** November 6, 2006  
**RC PROJECT:** 06-58 MA  
**APPLICANT:** Lee Blythe/ Frank Casen  
**LOCATION:** Old Tamah Road

**TAX MAP NUMBER:** 03400-05-09; 02500-06-03  
**ACREAGE:** 6.45  
**EXISTING ZONING:** RU  
**PROPOSED ZONING:** RS-MD

**PC SIGN POSTING:** October 21, 2006

## Staff Recommendation

### Approval

## Background/ Zoning History

The parcel is currently zoned Rural District (RU) is located on Old Tamah Road with approximately 360 linear feet of frontage, is approximately six (6) acres of which the rear two (2) acres contains a pond. The parcel is surrounded by Rural District (RU) zoned property.

According to County records no map amendment has been requested to date and the current zoning of Rural District (RU) reflects the original zoning as adopted September 7, 1977.

## Summary

The RS-MD (Residential, Single Family- Medium Density) zoning designation will require a minimum lot area of 8,500 square feet; no more than one (1) principal dwelling unit on a lot except for permitted accessory dwellings.

- The gross density for this site is approximately: 33 homes (5.12 DU/acre)
- The net density for this site is approximately: 23 homes ( 3.56 DU/acre)

## Roads

The site is located on Old Tamah Road which is classified as a two lane undivided collector road.

## Existing Zoning

<b><u>North:</u></b>	RU	Single-family on large lots
<b><u>South:</u></b>	RU	Vacant
<b><u>East:</u></b>	RU/RS-MD	Single-family subdivision
<b><u>West:</u></b>	RU	Single-family

## Plans & Policies

The Imagine Richland 2020 Comprehensive Plan/ “Northwest Subarea Proposed Land Use Map” designates this area as Residential Medium/Low Density in the Developing Urban Area.

Objectives: “Promote a variety of residential densities for the development of affordable, quality housing while blending with the character of the surrounding area”.

Compliance:

Principal: “Mixed residential densities are appropriate and should conform to the low-medium (3 to 5 DU/acre)”.

Compliance: The projected net density would not exceed the principals found in the Comprehensive Land Use Map.

## Traffic Impact

The current traffic counts were received from SCDOT in June, 2006 and represent the Annual Average Daily trips in 2005. The nearest SCDOT traffic count station is # 573 located east of Koon Road on Old Tamah Road, the current volume is 2,100 ADT. According to the Trip Generation Manual the average daily weekday trips for single-family detached housing is 9.57 ADT. This site is estimated to generate 220 trips per day therefore increasing the current volume to 2,320 ADT resulting in a level-of-service “A”.

## Conclusion

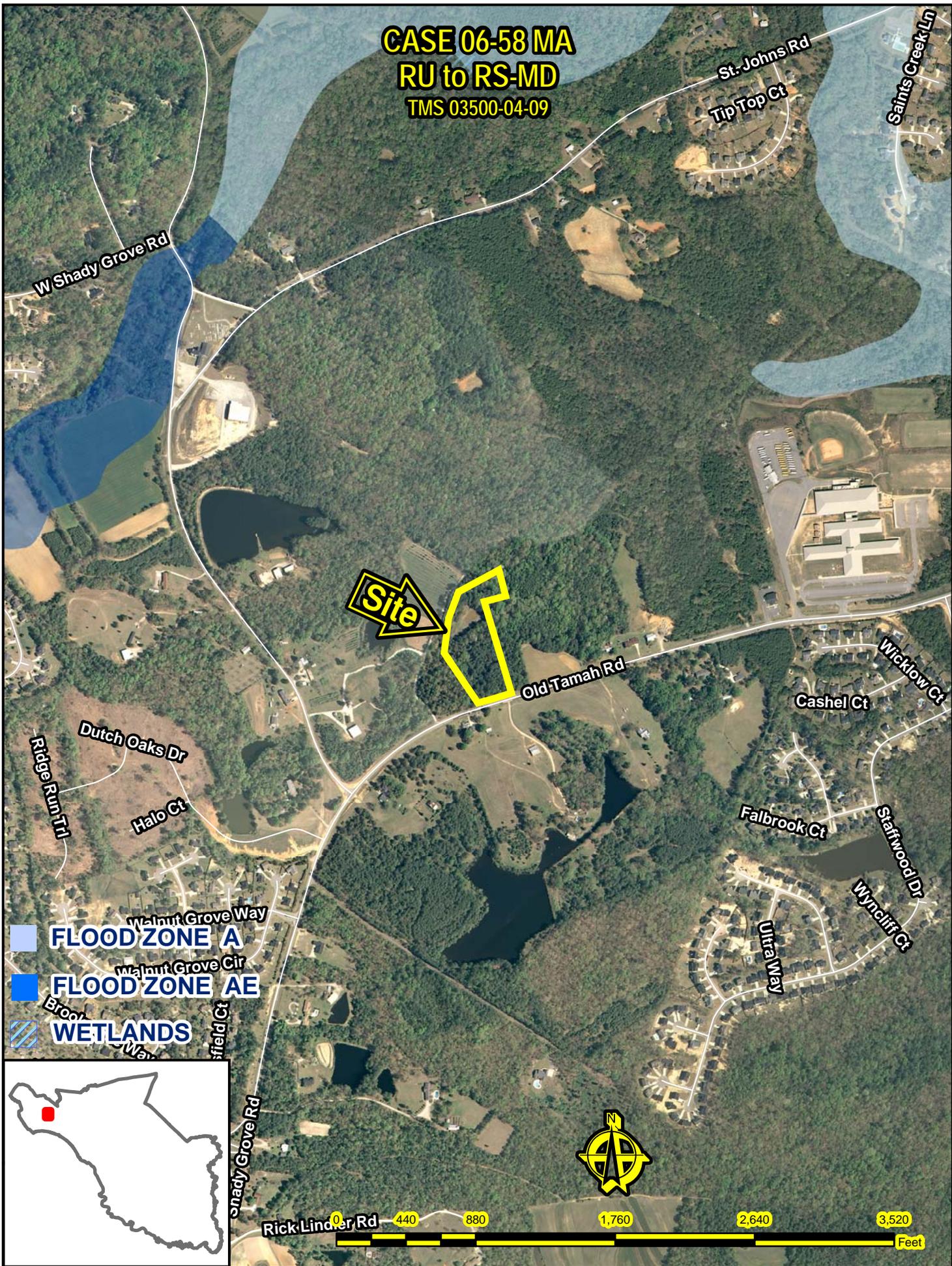
The subject parcel has Rural District (RU) zoning with a maximum gross density available of eight (8) residential lots. The proposed zoning of Residential, Single Family – Medium Density District (RS-MD) would allow a maximum gross density available of thirty-three (33) residential lots. The proposed development is twenty-six (26) residential lots and

preservation of over three (3) acres including the pond. The medium density is consistent with the comprehensive plan and the Northwest Subarea Proposed Land Use Map. The staff recommendation is for approval.

<b>Zoning Public Hearing Date</b>
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**November 28, 2006**

**CASE 06-58 MA**  
**RU to RS-MD**  
**TMS 03500-04-09**



**CASE 06-58 MA**  
**RU to RS-MD**  
**TMS 03500-04-09**

**Site**

**Old Tamah Rd**

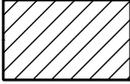
-  **FLOOD ZONE A**
-  **FLOOD ZONE AE**
-  **WETLANDS**



# CASE 06-58 MA RU to RS-MD



## ZONING CLASSIFICATIONS

	 RR	 RS-MD	 RM-MD	 NC	 HI
Subject Property	 RS-E	 RS-HD	 RM-HD	 GC	 PDD
	 RS-LD	 MH	 OI	 M-1	 RU





# Richland County Planning & Development Services Department Map Amendment Staff Report

**PC MEETING DATE:** November 6, 2006  
**RC PROJECT:** 06-59 MA  
**APPLICANT:** Lakewood Church /Gary Brooks  
**LOCATION:** Broad River Road near Bickley Road

**TAX MAP NUMBER:** 03400-05-09; 02500-06-03  
**ACREAGE:** 13.1  
**EXISTING ZONING:** RU  
**PROPOSED ZONING:** GC

**PC SIGN POSTING:** October 21, 2006

## Staff Recommendation

**Denial**

## Background/ Zoning History

The parcel is approximately thirteen (13) acres and located on Broad River Road with approximately 500 linear feet and a depth of 1,100 linear feet surrounding properties are large land areas. The site is currently a farm residence. According to County records no map amendment has been requested to date and the current zoning of Rural District (RU) reflects the original zoning as adopted September 7, 1977.

## Summary

The GC (General Commercial) zoning designation allows for an array of permitted uses which can be found in the Richland County Land Development Code under Article V, Sec.26-141. Table of Permitted Uses. There is no minimum lot area; the GC district does allow residential use with maximum of sixteen (16) dwelling units per acre.

## Roads

Broad River Road (U.S. Hwy 176) is a two lane minor arterial.

<b>Existing Zoning</b>		
<b><u>North:</u></b>	RU	Vacant with a single family home
<b><u>South:</u></b>	RS-MD	Large lots with single family home
<b><u>East:</u></b>	RU	Single family
<b><u>West:</u></b>	RU	Vacant/ Agricultural

**Plans & Policies**

The Imagine Richland 2020 Comprehensive Plan/ “Northwest Subarea Proposed Land Use Map” designates this area as Residential Medium/ Low Density in the Developing Urban Area.

Objectives: “To protect rural areas by guiding development compatible with their open character and natural resources”

Non-Compliance:

Principal: “In general, commercial and office activities should be confined to or expanded at existing clusters, and/or proposed locations as identified on the Proposed Land Use Map”.

Non-Compliance: This site is currently surrounded by rural agricultural land with single family homes.

**Traffic Impact**

The current traffic counts were received from SCDOT in June, 2006 and represent the Annual Average Daily trips in 2005. The nearest SCDOT traffic count station is # 180 located northwest on Broad River Road north of Bickley Road, and the current volume is 6,300 ADT. Currently the level-of-service on Broad River Road near the site is operating at an LOS “B”. Due to the broad range of uses found in the GC district the department has not estimated the possible traffic impacts that could be generated.

**Conclusion**

The parcels of the requested map amendment total approximately 13.1 acres. The current Rural District (RU) zoning is reflected in the single family dwellings on large lots, farm buildings, and large land masses. The neighboring/contiguous parcels are six (6) acres, three (3) acres, and two (2) acres, and are the prevailing character of the area for the last decade. The next largest parcel is twenty-eight (28) acres. The nearest commercial is approximately 4 miles on Broad River Road. The parcel is one of the largest in the general vicinity and the land use has great impact on the character of the community as well as neighboring parcels. The General Commercial District (GC) zoning designation allows the broadest commercial uses and highest density residential and has intense uses including but not limited to large retail, motor vehicle sales/repair, warehouses, and wholesales.

The subject parcel is pre-dominant in the area and the development of this scope requires a comprehensive plan to compliment the community. Land use goals promote identifiable, individual communities and protect rural areas by guiding development compatible with the existing character. Staff does not recommend approval of this map amendment.

<b>Zoning Public Hearing Date</b>
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**November 28, 2006**

# CASE 06-59 MA RU to GC

TMS 03400-05-09 & 02500-06-03

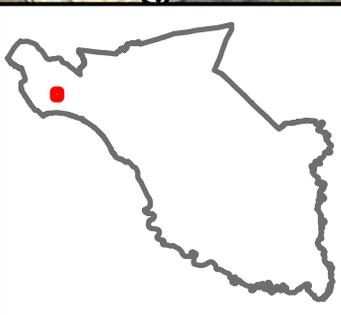


**CASE 06-59 MA  
RU to GC**

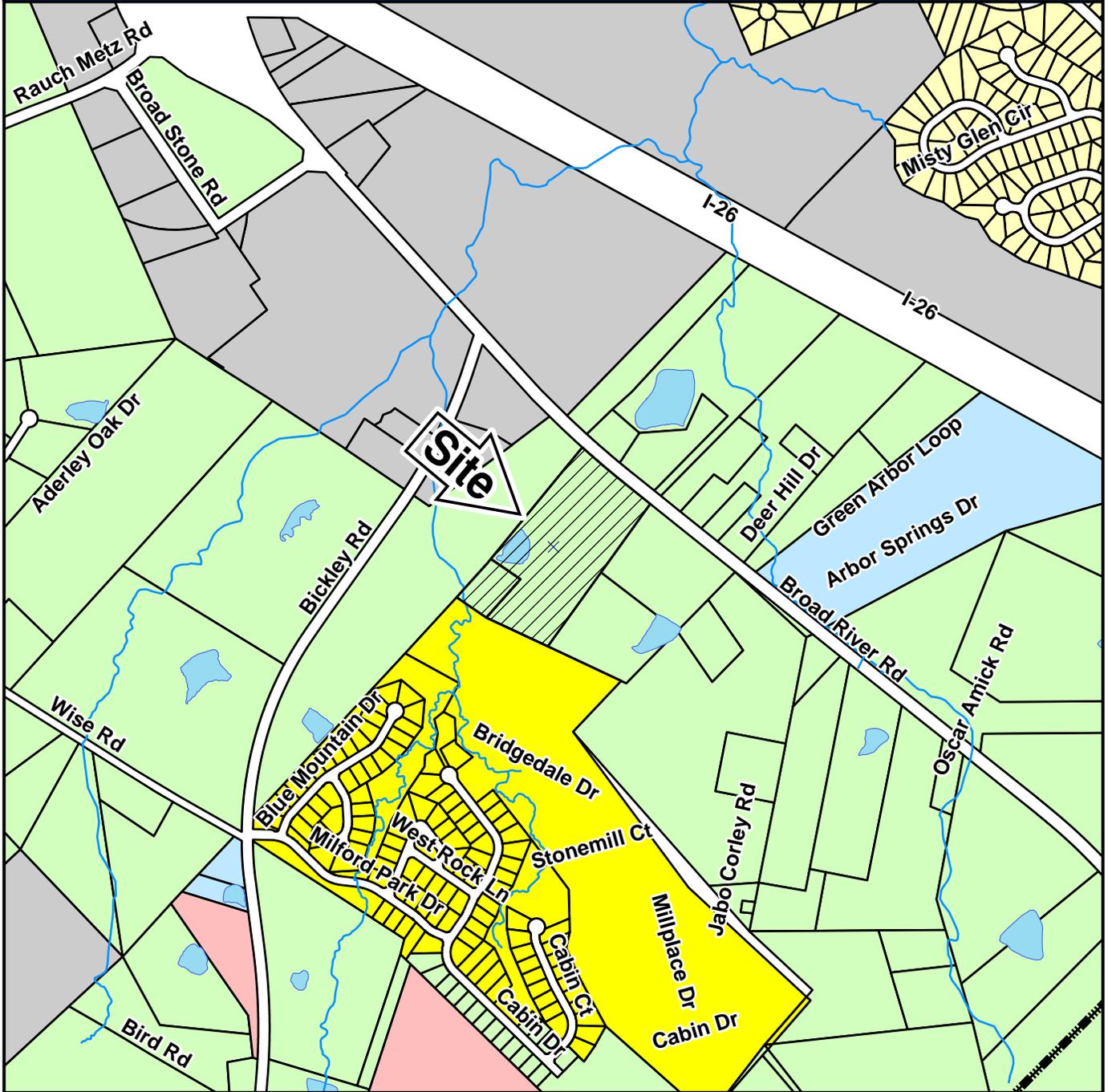
**TMS 03400-05-09 & 02500-06-03**

**Site**

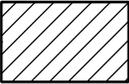
-  FLOOD ZONE A
-  FLOOD ZONE AE
-  WETLANDS



# CASE 06-59 MA RU to GC



## ZONING CLASSIFICATIONS

	 RR	 RS-MD	 RM-MD	 NC	 HI
Subject Property	 RS-E	 RS-HD	 RM-HD	 GC	 PDD
	 RS-LD	 MH	 OI	 M-1	 RU





FEMA

RECEIVED  
SEP 11 2006

August 30, 2006

Larry C. Smith, Esq.  
Richland County Attorney  
Office of the County Attorney  
Post Office Box 192  
Columbia, South Carolina 29202

Re: Columbia Venture v. FEMA

Dear Mr. Smith:

Thank you for your letter dated June 5, 2006, to the Department of Homeland Security's Federal Emergency Management Agency (FEMA). In your letter, you requested that FEMA expedite its review of floodplain data for the Congaree River floodplain and provide the revised data to be used for the Richland County floodplain regulations. I also understand that Jordan Fried, FEMA's Associate General Counsel for Litigation, spoke with you regarding the issues raised by your letter and provided an oral briefing of the circumstances related to your request. I apologize for the delay in responding.

\* As you are aware, the United States District Court for the District of South Carolina issued a November 18, 2005, Order setting aside FEMA's Base Flood Elevation (BFE) determinations for the Congaree River in Richland County that became effective on February 20, 2002. The Court's Order followed the Court's determination that the publication of the August 12, 1999, proposed BFEs for Richland County's Unincorporated Areas in the Federal Register for comment did not occur until February 16, 2001. As noted, the Court limited its review to Columbia Venture's procedural claims, and the Court expressly did not address the merits of Columbia Venture's scientific and technical challenges contained in its underlying Complaint.

Currently, the parties to the lawsuit are participating in a Fourth Circuit Court of Appeals mediation in an effort to resolve the issues in the lawsuit. Since this process is ongoing, and may definitively resolve the matter if successful, there has been no occasion for FEMA to take a formal action. If the mediation fails to resolve the litigation, FEMA will take other action as appropriate.

In any event, FEMA continues to recommend communities adopt and enforce floodplain management regulations commensurate with the best flood data that is available to the community. The National Flood Insurance Program establishes "minimum" flood protection standards, but supports and encourages the adoption of standards that provide a higher level of protection to reduce the devastating effects of flooding. It is important to note that the Court's November 18, 2005, Order substituted the 1995 BFEs for the Richland County BFEs contained

Larry C. Smith, Esq.

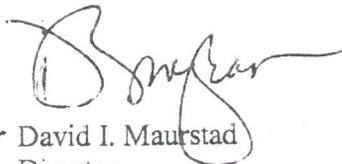
August 30, 2006

Page 2

in the February 16, 2001, Federal Register Notice, but did not otherwise change the chargeable flood insurance rates for Richland County that continue to be based on the effective Flood Insurance Rate Map dated February 20, 2002.

I hope this information is helpful to you.

Sincerely,



 David I. Maurstad  
Director  
Mitigation Division

IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF SOUTH CAROLINA  
 COLUMBIA DIVISION

Columbia Venture, LLC,	)	
Plaintiff,	)	
	)	
and	)	C/A No. 3:01-4100-MBS
	)	
Heathwood Hall Episcopal School,	)	
Plaintiff-Intervenor,	)	
	)	
v.	)	<b>ORDER OF VACATUR</b>
	)	
The Federal Emergency Management	)	
Agency,	)	
Defendant,	)	
	)	
and	)	
	)	
South Carolina Wildlife Federation,	)	
Riverland Park Neighborhood Association,	)	
Dr. John Grego, and Dr. Daniel Tufford,	)	
Defendant-Intervenors.	)	
	)	

This matter is before the court on a motion to vacate filed by Columbia Venture, LLC (“CV”) on August 22, 2005. In its motion, CV requested that the court vacate the revised flood elevation determinations for the Congaree River that were promulgated by the Federal Emergency Management Agency (“FEMA”) in 2001. FEMA filed its memorandum in opposition to CV’s motion to vacate on September 9, 2005. South Carolina Wildlife Federation, Riverland Park Neighborhood Association, Dr. John Grego and Dr. Dan Tufford (“Defendant-Intervenors”) also filed a memorandum in opposition to CV’s motion to vacate on September 9, 2005. CV filed a response to FEMA’s memorandum in opposition on September 21, 2005. CV also filed a response to Defendant-Intervenors’ memorandum in opposition on September 21, 2005. Defendant-

Intervenors filed a surreply to CV's response on September 29, 2005. Plaintiff-Intervenor Heathwood Hall Episcopal School ("Heathwood Hall") did not file a response to CV's motion. The court held oral arguments on the motion on October 31, 2005.

In its motion, CV contends that FEMA failed to comply with the procedures required by federal law when it enacted its 2001 flood elevation determinations for the Congaree River. Pursuant to 5 U.S.C. § 706, this court must "hold unlawful and set aside agency action, findings, and conclusions found to be—(D) without observance of procedure required by law. . . ." After a careful review of the record, this court finds that FEMA failed to comply with 28 U.S.C. § 4104(a). For the reasons enumerated herein, FEMA's 2001 base flood elevation determinations are null and void. This matter is remanded to FEMA for further administrative action consistent with this order.

#### GOVERNING STATUTE

Through the National Flood Insurance Act of 1968 ("NFIA"), as amended, 42 U.S.C. §§ 4001-4129, Congress has delegated to FEMA the authority to promulgate flood hazard determinations. Congress specifically limited the scope of FEMA's authority by providing a scheme with which FEMA must comply when proposing or modifying flood elevation determinations. See 42 U.S.C. § 4104. Section 4104(a) requires that FEMA must "first propose [its flood elevation] determinations for comment in the Federal Register, by direct notification to the chief executive officer of the community, and by publication in a prominent local newspaper." 42 U.S.C. § 4104(a). Section 4104(b) requires that FEMA "shall publish notification of flood elevation determinations in a prominent local newspaper at least twice during the ten-day period following notification to the local government. During the ninety-day period following the second publication, any owner or lessee of real property within the community . . . may appeal [FEMA's] determination to the local

government.” 42 U.S.C. § 4104(b). The NFIA provides that the sole basis for an appeal shall be the possession of knowledge or information indicating that the proposed determinations are scientifically or technically incorrect. Id.

During the appeals period, private persons are directed to make their appeals to the chief executive officer of the community. 42 U.S.C. § 4104(c). The community is directed to review and consolidate the appeals and issue a written opinion stating whether the evidence presented is sufficient to justify an appeal on behalf of such persons by the community in its own name. Id. Even if the community decides not to appeal FEMA’s determination, individual appeals are to be sent to FEMA as they are received by the community. Id. FEMA is expected to conduct a de novo review of the appeals from private persons and issue a written opinion to be sent to the chief executive officer of the community and to each individual appellant. 42 U.S.C. § 4104(d). After review of appeals from private persons and appeals from property owners, FEMA may finalize its flood elevation determinations. 42 U.S.C. § 4104(e). FEMA is authorized to resolve any appeals “by consultation with officials of the local government involved, by administrative hearing, or by submission of the conflicting data to an independent scientific body or appropriate Federal agency for advice.” Id. Any reports and information used by FEMA in making its final determination should be made available for public inspection and judicial review in the event that the determination is appealed to a United States district court. Id.

The district court’s review of FEMA’s determination is limited to the scope of review enumerated in the Administrative Procedures Act (“APA”), 5 U.S.C. § 706. See 42 U.S.C. § 4104(g). The APA provides, inter alia, that a reviewing court shall--

(2) hold unlawful and set aside agency action, findings, and conclusions found to be--

- (A) arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law;
- (B) contrary to constitutional right, power, privilege, or immunity;
- (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
- (D) without observance of procedure required by law;
- (E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or
- (F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

5 U.S.C. § 706(2).

While CV has alleged that FEMA's determination is unlawful on several grounds, its motion to vacate is based solely on the allegation that FEMA did not observe procedures required by law. See 5 U.S.C. § 706(2)(D).

#### FACTS

CV is a South Carolina limited liability company with its principal place of business in Columbia, South Carolina. Complaint at ¶ 5. CV is engaged in the business of developing commercial real estate. Id. ¶ 39. At all times relevant to the events described herein, CV owned 4,474.512 acres of land in Richland County along the Congaree River. Id. In 1999, CV announced its plans "to build a high tech research development park on this property projected to cost in excess of \$4 billion." Id. ¶ 58. CV alleges that a number of persons and groups were and remain opposed to this proposed development. Id. ¶ 59.

On August 12, 1999, FEMA issued its proposed base flood elevation determinations for portions of the Congaree River in Richland and Lexington Counties, South Carolina. Complaint, ¶ 52. Consistent with all previously issued base flood elevation determinations, the proposed map found no floodway on the landward side of the Manning levee, which is located on the Richland

County side of the Congaree River. Id. ¶ 53. These initial determinations were satisfactory to CV because it “agreed with the engineering judgment implicit therein that no floodway existed behind the Manning levee.” Id. ¶ 60. As such, CV did not appeal the August 12, 1999 proposed base flood elevation determinations. In an effort to apprise the community of its proposed flood elevation determinations and to elicit feedback, FEMA held a meeting on August 19, 1999, to present its proposed base flood elevation determinations for the Richland County area of the Congaree River. Plaintiff’s Memorandum in Support of Plaintiff’s Motion to Vacate, Exhibit 5. On September 1, 1999, FEMA mailed a letter to Mr. T. Cary McSwain, Richland County Administrator, advising him of proposed modifications to the flood elevation determinations. Id. In this letter, FEMA indicated that public notification would be given in The State newspaper on or about September 7, 1999 and September 14, 1999. Id. FEMA also indicated that the required notice would be published in the Federal Register but did not provide an exact date of publication. Id. FEMA enclosed its proposed August 12, 1999 base flood elevation determinations with its September 1, 1999 letter to the county. Id.

FEMA published its first notice in The State on September 7, 1999. Id. at Exhibit 7. FEMA published its second notice in The State on September 14, 1999. Id. at Exhibit 7. FEMA referenced the August 12, 1999 proposed flood elevation determinations in the publications. Id. The ninety-day appeals period detailed in 42 U.S.C. § 4104(b) began on September 14, 1999, the date of the second publication in The State. The appeals period ended on December 13, 1999. No notice was published in the Federal Register during this time period.

On September 26, 2000, FEMA issued an appeal resolution reversing its previous base flood elevation determinations and designating a floodway on the landward side of the Manning levee but

did not publish this resolution for public comment in the Federal Register. Complaint, ¶ 64. According to CV, FEMA unreasonably adopted a different engineering approach as a deliberate effort to restrict development on most of CV's property. Id. ¶ 66. After September 26, 2000, FEMA allowed an additional 90 days for comment and additional submissions by CV and other interested persons concerning the September 26, 2000 appeal resolution. Id. ¶ 68. CV provided a myriad of technical data for FEMA's review, including expert reports from a scientific and engineering consulting firm. Id. ¶ 69. FEMA reviewed the appeals and decided not to modify its September 26, 2000 base flood elevation determinations. Id. ¶ 85. As further explained herein, these claims have not been examined by this court, and the scope of the court's review is limited to CV's procedural claims, rather than its scientific or technical challenges.

FEMA published the Federal Register Notice, Proposed Rules Federal Emergency Management Agency Proposed Flood Elevation Determinations in the Federal Register on February 16, 2001. 66 FR 10653 (Feb. 16, 2001). For reasons unascertainable by the court, FEMA referenced the August 12, 1999 proposed flood elevation determinations in the publication, rather than its September 26, 2000 revised findings. The comment period set forth in the Federal Register was "ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community." Id. Accordingly, the comment period ended on December 13, 1999, which was over a year before notice was given in the Federal Register.

FEMA issued its final determination on August 20, 2001 and adopted its September 26, 2000 appeal resolution for the Congaree River in Richland and Lexington Counties, South Carolina.

#### PROCEDURAL HISTORY

CV appealed FEMA's August 20, 2001 final determination pursuant to 42 U.S.C. § 4104(g).

In its complaint, CV challenged the technical and scientific aspects of FEMA's final determination and contended that FEMA's conclusions were invalid pursuant to 5 U.S.C. § 706(2)(A) (permitting a reviewing court to set aside agency action, findings, and conclusions found to be "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law"). Complaint, ¶¶ 33-35. CV did not challenge the procedural aspects of FEMA's final determination pursuant to 5 U.S.C. § 706(2)(D) in its complaint.

#### DISCUSSION

This case has been pending before the court for over four years. The case was first before the Honorable Matthew J. Perry and was re-assigned to the undersigned on July 17, 2004. During this time, the court has grappled with numerous contentious discovery disputes between the parties because FEMA has resisted disclosing the administrative record relating to its decision-making process. At the heart of these disputes has been the question of whether certain documents within FEMA's control are protected by privilege, including those afforded to an attorney/client, work product, and the deliberative process. In an effort to resolve these disputes, the court has reviewed portions of the administrative record in camera. In addition, the court has directed FEMA on several occasions to produce portions of the administrative record for CV's review. The last discovery dispute was not resolved until August 2005.

Once the entire administrative record was compiled, it became evident that FEMA's administrative procedures for publishing notice of its 2001 base flood elevation determinations were flawed. Although claims pursuant to 5 U.S.C. § 706(2)(D) normally would be raised in an initial pleading, the court permitted CV to argue its August 22, 2005 motion to vacate given the unique facts surrounding the belated disclosure of information in this case.

*Timing of Publication of Notice in the Federal Register*

The issue before the court centers on whether FEMA filed the required notice in the Federal Register as required by Section 4104(a). As noted above, this section provides that “[i]n establishing projected flood elevations for land use purposes with respect to any community pursuant to section 4102 of this title, the Director shall first propose such determination by publication for comment in the Federal Register, by direct notification to the chief executive officer of the community, and by publication in a prominent local newspaper.” 42 U.S.C. § 4104(a). CV does not challenge the timeliness of the newspaper publications or the notification of the chief executive officer of the community. CV contends that the 2001 flood elevation determinations must be set aside because FEMA failed to publish its proposed flood elevation determinations in the Federal Register prior to the appeals period enumerated in Section 4104(b). Plaintiff’s Memorandum in Support of Plaintiff’s Motion to Vacate, p. 5. FEMA claims its notice in the Federal Register complied with the statute because it was filed before the determinations became final. Defendant FEMA’s Memorandum in Opposition to Plaintiff’s Motion to Vacate, pp. 7-8.

Publication of a notice in the Federal Register is a central part of the agency decision-making process because it gives notice to the public at-large of pending agency action. CV contends that Section 4104(a) requires that FEMA publish in the Federal Register to “notify the public at-large, the United States, the world, if you will, and solicit comments.” Transcript of Hearing on October 31, 2005, p. 25. FEMA’s understanding of the purpose of publication in the Federal Register appears to comport with CV’s explanation. Id. at 35 (adding that “all that is required by the statute is that prior to establishing or making final your flood hazard determinations, you have got to let the world know that you are doing this.”).

In addressing CV's challenge to FEMA's interpretation of Section 4101(a), the court applies the two-step analysis established in Chevron U.S.A. v. NRDC, 467 U.S. 837 (1984). The court must first ask "whether Congress has directly spoken to the precise question at issue." Id. at 842-43. If Congress has spoken on the issue, the court's inquiry is complete, and the court must "give effect to the unambiguously expressed intent of Congress." Id. If Congress has not clearly spoken, the court must decide whether FEMA's interpretation is a "permissible construction of the statute." Id.

The plain language of Section 4101(a) requires that FEMA publish a notice in the Federal Register, in the local newspaper, and give notice to the CEO of the community whenever it creates a projected flood elevation determination. While the statute does not explicitly provide a timeframe in which this must be done, Congress's use of the introductory phrase "[i]n establishing projected flood elevations for land use purposes" makes Congress's intent clear, and the court need not consider whether FEMA's interpretation is a permissible construction of the statute. See 42 U.S.C. § 4101(a). The two operative words in the introductory phrase of the statute are "establishing" and "projected." The American Heritage College Dictionary defines the verb "establish" as "to bring about or generate." AMERICAN HERITAGE COLLEGE DICTIONARY 469 (3d ed. 2000). The same source defines the verb "project" as "to calculate, estimate, or predict" for the future. Id. at 1094. By extension, the adjective "projected" refers to flood elevations that "are calculated, estimated, or predicted for the future."

In the context of Section 4101(a), the introductory phrase makes it clear that FEMA must comply with the requirements of the subsection at the time that its "calculated, estimated, or predicted" determinations are "brought about or generated" and not at the time that those determinations are being finalized. In its simplest form, this means that FEMA must publish notice

in the Federal Register, in the local newspaper, and must provide notice to the CEO of the community pursuant to 42 U.S.C. § 4101(a) at the moment that it has a proposal for the affected landowners, community, and public to consider. While the court does not interpret Section 4101(a) to require that all three notices must be published prior to the appeals period enumerated in 42 U.S.C. § 4101(c)-(e), it does find that the notices should be published relatively contemporaneously to allow both landowners and the public to consult with the community at some point during the appeals period.

In the case at bar, FEMA did not provide an adequate opportunity for the public at-large to comment on the proposed base flood elevation determinations. As noted above, the required notice was not published in the Federal Register until February 16, 2001, which was over a year after the appeals period had expired. Since FEMA informed the public in its notice that the time to comment was tied to the 1999 appeals period, its publication in the Federal Register was not in compliance with Section 4101(a).

*Harmless Error*

FEMA claims that its failure to comply with Section 4101(a) is harmless to the extent that CV was not prejudiced and was able to actively participate in the administrative process. Defendant FEMA's Memorandum in Opposition to Plaintiff's Motion to Vacate, pp. 8-14. In Friends of Iwo Jima v. National Planning Commission, 176 F.3d 768 (4th Cir. 1999), the Fourth Circuit Court of Appeals applied the harmless error rule and held that certain notice deficiencies may be excused if those deficiencies were not prejudicial. Id. at 774 (citing Air Canada v. Dep't. of Trans., 148 F.3d 1142, 1156 (D.C. Cir. 1998)). In addition, the APA provides that "due account shall be taken of the rule of prejudicial error." 5 U.S.C. § 706.

The court finds that CV has made a prima facie showing of prejudice. By the time that the public at-large received official notice in the Federal Register, the comment period already had expired. As such, FEMA was deprived of critical feedback from persons and groups who did not have access to The State or were otherwise unaware of the proposed changes. Moreover, CV was deprived of the opportunity to elicit support from the public at-large in its challenge of FEMA's proposed base flood elevation determinations. In addition, this court has found that FEMA provided erroneous information regarding the date that the notice was published in the Federal Register. This contravenes both the letter and spirit of Section 4101(a).

FEMA also intimates that its error is harmless because the public had notice of its rule-making through extensive publication on FEMA's website. Unless Congress amends Section 4104(a) to allow for notification of the public at-large through alternative means, such as the Internet, a failure to publish a notification for comment in the Federal Register cannot be cured through alternate forms of publication. See 42 U.S.C. § 4104(a); cf. 42 U.S.C. § 4101(h) (permitting FEMA to provide notice by publication in the Federal Register or by "another comparable method."). Therefore, the court declines to examine whether alternate forms of notice might satisfy the requirement of Section 4104(a).

#### *Failure to Exhaust*

FEMA also argues that CV's claim is barred because CV failed to exhaust its administrative remedies by raising its procedural claim during the appeal. Generally, exhaustion is an important requirement because it gives an agency the opportunity to rule and correct a problem prior to judicial review. See Barry v. Barchi, 443 U.S. 55, 63 (1978). Nevertheless, it is well-settled that the exhaustion requirement often is frustrated in cases challenging the substance of an agency's remedy

or procedure, rather than its findings or conclusions. Id. (citing Gibson v. Berryhill, 411 U.S. 564, 575 (1973)). As such, CV will not be required to bring its defective notice claim before FEMA prior to it being resolved by this court.

CONCLUSION

Because FEMA failed to comply with procedures required by federal law, the court must set aside FEMA's 2001 base flood elevation determinations for the Congaree River in Richland County pursuant to 5 U.S.C. §706. Accordingly, the 2001 base flood elevation determinations are null and void. By operation of law, the 1995 base flood elevation determinations are in effect until FEMA revises them pursuant to its authority under the NFIA. This matter is hereby remanded to FEMA for further proceedings consistent with this order. CV's motion to vacate is granted. The case is dismissed without prejudice.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Court

Columbia, South Carolina  
November 18, 2005

**RICHLAND COUNTY, SOUTH CAROLINA  
PLANNING & DEVELOPMENT SERVICES DEPARTMENT**

**TO:** Planning Commission Members: Interested Parties  
**FROM:** Alfreda W. Tindal, E9-1-1 Addressing Coordinator  
**DATE:** October 26, 2006  
**RE:** Subdivision and Street Name Approval

**Pursuant Section 6-29-1200 (A), SC Code of Laws requires the Planning Commission to approve street names. Specifically, states "...A local planning commission created under the provisions of this chapter shall, by proper certificate, approve and authorize the name of a street or road laid out within the territory over which the commission has jurisdiction..."**

The proposed street/road/subdivision names listed below have been given preliminary approval as related to the Emergency 9-1-1 system requirements. **The proposed subdivision/commercial names are included for your information only.**

**Action Requested**

The Addressing Office recommends the Commission give **final** approval of the street/road names listed below. **Unless specifically stated, the street name suffixes are added after receipt of the subdivision lot layout.**

<b>APP'D SUBDIVISION NAMES</b>	<b>GENERAL LOCATION</b>
Indigo Hill S/D	Off Three Dog Rd, Irmo
Red Gate Farms	Off Muller Rd, Blythewood
Saluda Woods S/D	Off Saluda River Rd, Northwest

<b>PROPOSED STREET NAMES</b>	<b>GENERAL LOCATION</b>
Acacia	Summit Hill, Ph 3, Off Summit Parkway
Blazing Star	Proposed Rabon Farms, Off Flora Drive, Northeast
Blue Willow	Summit Hill, Ph 3, Off Summit Parkway , Northeast
Caladium	Summit Hills, Off Summit Parkway, Northeast
Candytuff	Proposed Rabon Farms, Off Flora Drive, Northeast
Crims Branch Court	Courtyards @ Rolling Creek, Northwest
Crims Creek Way	Courtyards @ Rolling Creek, Northwest

Cypress Pond Ln	Private Drive Off North Jay Dr, Elgin
Fork Branch Court	Courtyards @ Rolling Creek, Northwest
Indigo Hills Loop	Proposed Indigo Hill S/D, Off Three Dog Road, Irmo
Indigo Valley Dr	Proposed Indigo Hill S/D, Off Three Dog Road, Irmo
Peppercorn	Proposed Allan's Mills S/D, Off Percival Rd
Pinnata	Proposed Rabon Farms, Off Flora Drive, Northeast
Rabon Farms	Proposed Rabon Farms, Off Flora Drive, Northeast
Rabon Pond	Proposed Rabon Farms, Off Flora Drive, Northeast
Rabon Springs	Proposed Rabon Farms, Off Flora Drive, Northeast
Rose Mallow	Proposed Rabon Farms, Off Flora Drive, Northeast
Scarlet Sage	Proposed Rabon Farms, Off Flora Drive, Northeast
Twinspur	Summit Hills, Off Summit Parkway, Northeast
Valley Heights	Proposed Rabon Farms, Off Flora Drive, Northeast
Viola	Summit Hills, Off Summit Parkway, Northeast
Yarrow	Proposed Rabon Farms, Off Flora Drive, Northeast





Richland County Government  
2020 Hampton Street  
Columbia, SC 29204

Phone (803) 576-2180  
Fax (803) 576-2182

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