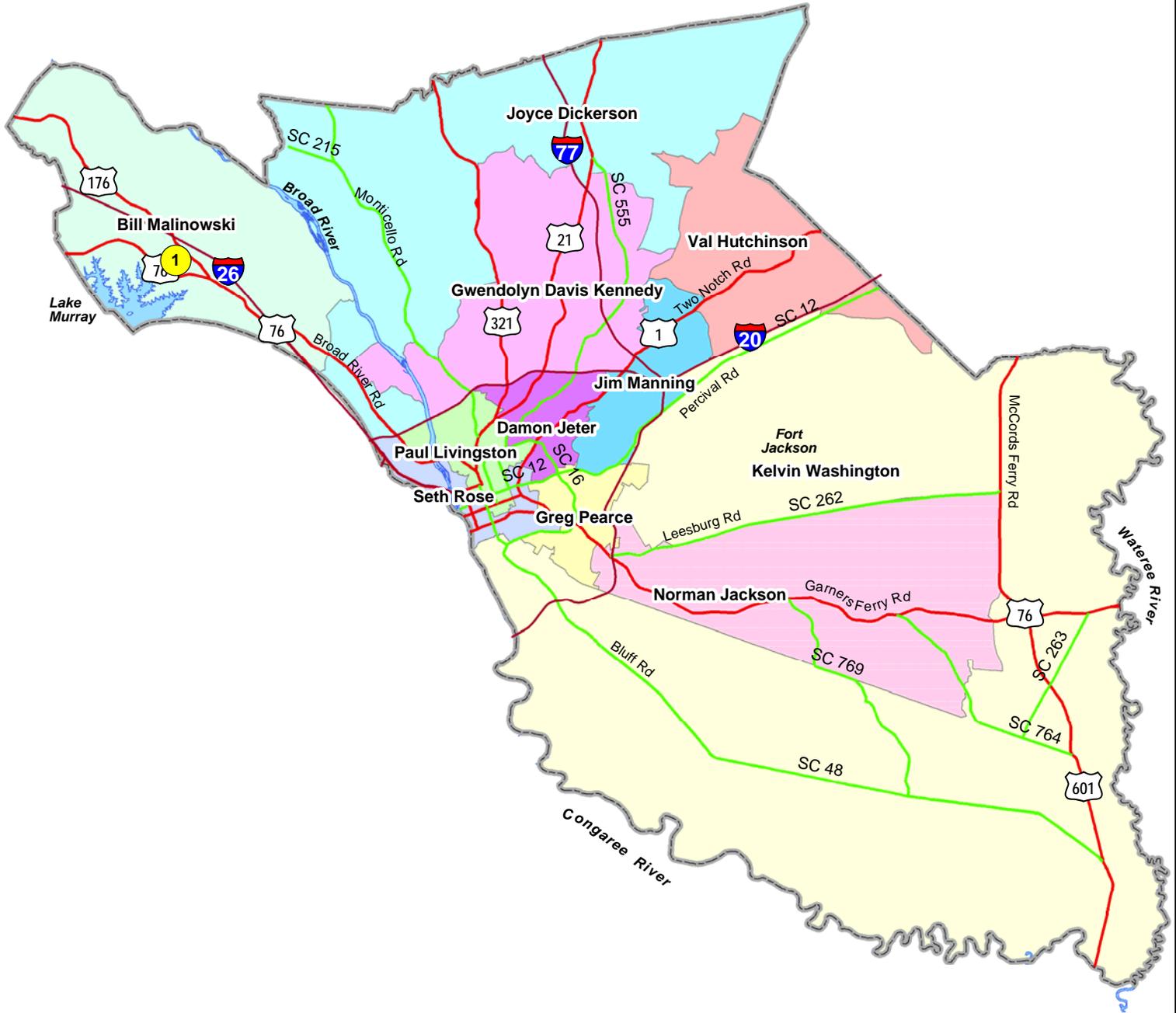


RICHLAND COUNTY COUNCIL
ZONING PUBLIC HEARING



FEBRUARY 22, 2011

*RICHLAND COUNTY COUNCIL
ZONING PUBLIC HEARING
FEBRUARY 22, 2011*



CASE NO.	APPLICANT	TMS NO.	LOCATION	DISTRICT
1. 11-01 MA	Carolina Child Care Properties, LLC	02416-01-05	Bickley Road	Malinowski



RICHLAND COUNTY COUNCIL ZONING PUBLIC HEARING

**Tuesday, February 22, 2011
7:00 P.M.**

**2020 Hampton Street
2nd Floor, Council Chambers
Columbia, South Carolina**

STAFF:

Anna Almeida, AICP Planning Director
Amelia R. Linder, Esq. Attorney

CALL TO ORDERHonorable Paul Livingston
Chairman of Richland County Council

ADDITIONS / DELETIONS TO THE AGENDA

OPEN PUBLIC HEARING

TEXT AMENDMENT

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES;
CHAPTER 26, LAND DEVELOPMENT; ARTICLE X, SUBDIVISION REGULATIONS;
SECTION 26-224, DIVISION OF REAL PROPERTY TO HEIRS OF A DECEDENT; SO
AS TO PERMIT THE SUBDIVISION OF PROPERTY TO FAMILY MEMBERS.

[FIRST READING]

Planning Commission Denied 8-0
Page 1

CLOSE PUBLIC HEARING

MAP AMENDMENT

Case #11-01 MA
Carolina Child Care Properties, LLC
Dennis Drew
OI to GC (3.6 acres)
Bickley Rd.
TMS # 02416-01-05 **[FIRST READING] [NO PUBLIC HEARING]**
Planning Commission Denied 7-2
Page 9

OTHER BUSINESS

ADJOURNMENT

MEMORANDUM

TO: Richland County Council Members

FROM: Amelia R. Linder, Esq.

DATE: February 7, 2011

RE: Text Amendment (Ordinance to permit the subdivision of property to family members)

On February 7, 2011, the Richland County Planning Commission discussed the above-referenced ordinance and unanimously recommended DENIAL on a vote of 8-0. Their concerns included the following:

1. There will be difficulty in enforcing this ordinance. (The subdivision of property is limited to family members and staff would have difficulty verifying legal proof of family relationships and whether or not a future grantee is actually a family member).
2. The draft ordinance should only apply in the (RU) rural zoning district.
3. There is a lack of clarification as to why this ordinance only applies to family members and not to the public at large, since the effect of the subdivision (and subsequent burden to the county) would remain the same.
4. There is a lack of clarification as to why the subdivision is limited to 7 lots. There was a concern that this number was arbitrary.
5. There should be clarification that only conveyances that are made without the exchange of money be allowed (i.e. the grantor should not make a profit on transferring his/her land).
6. The Commission felt that this ordinance would not be improving the quality of life within communities and would decrease land values in specific areas.

The Planning Commission recommended denial of the ordinance as presented, and the consensus of the members present was to have the opportunity to draft their own ordinance and bring it before County Council for consideration.

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-11HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 26, LAND DEVELOPMENT; ARTICLE X, SUBDIVISION REGULATIONS; SECTION 26-224, DIVISION OF REAL PROPERTY TO HEIRS OF A DECEDENT; SO AS TO PERMIT THE SUBDIVISION OF PROPERTY TO FAMILY MEMBERS.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. The Richland County Code of Ordinances, Chapter 26, Land Development; Article X, Subdivision Regulations; Section 26-224, Division of Real Property to Heirs of a Decedent; is hereby amended to read as follows:

~~Sec. 26-224. Division of real property to heirs of a decedent.~~

- ~~(a) — *Purpose.* Real property held by a deceased person is frequently devised to other family members, and a probate estate is opened. Probate judges will oversee the division of all property of the deceased, including real property. However, probate judges sometimes see the heirs' difficulty in transferring real property of the deceased due to the county's land development regulations, especially as they apply to subdivisions and the need to construct paved roads and install sidewalks. The purpose of this section is to ease the burden of Richland County citizens and to reduce the expenses that heirs may be required to expend in settling the deceased's estate. It also provides a means for real property to be subdivided and transferred to heirs of deceased property owners.~~

- ~~(b) — *Applicability.* The provisions of this section shall apply to all zoning districts.~~

- ~~(c) — *Special requirements for private road subdivisions.*~~
 - ~~(1) — *Review.* Subdivision of heir property is subject to the minor subdivision review procedure found at Sec. 26-54(e)(2). All Planning Department subdivision plan review fees shall be waived; provided, however, all fees charged by DHEC (and collected by the Richland County Public Works Department) shall be paid by the applicant.~~

 - ~~(2) — *Roads.* Roads in subdivisions of heir property shall be exempt from the road paving requirements of Sec. 26-181 of this chapter, but shall not be exempt from any other road design requirement. Roads in subdivisions of heir property shall not be eligible or accepted for county maintenance, which is otherwise provided pursuant to Section 21-5 of the Richland County Code of Ordinances, until they meet the road construction standards provided in Chapter 21 of the Richland County Code. The roadway shall have a minimum right of way width of sixty six (66) feet and minimum twenty (20)~~

~~foot wide passable surface, which meets the standards established and set forth by the county engineer. The subdivision documents shall include a conspicuous statement stating that improvements to the roadway without the approval of the county engineer are prohibited.~~

~~(3) — Sidewalks. Subdivisions of heir property shall be exempt from the sidewalk requirements of Sec. 26-179 of this chapter.~~

~~(4) — Size of lots. Any and all lots created in a subdivision of heir property shall conform to the zoning district's requirements.~~

~~(5) — Number of dwelling units. Only one (1) dwelling unit shall be permitted on each lot.~~

~~(6) — E-911 requirements. The road, and each lot, shall conform to the county's E-911 system addressing and posting requirements.~~

~~(d) — Legal documents required. An applicant for a subdivision of heir property shall submit:~~

~~(1) — A copy of the certificate of appointment from the probate court.~~

~~(2) — A copy of the probate court's order that divides the property amongst the heirs, if there is one.~~

~~(3) — A copy of the will, if there is one.~~

~~(4) — The necessary legal documents that:~~

~~a. — Clearly provide permanent access to each lot.~~

~~b. — State that the county shall not be responsible for either construction or routine (i.e. recurring) maintenance of the private road.~~

~~c. — Clearly state that the parcels created by this process shall not be divided again, except in full compliance with all regulations in effect at the time.~~

~~(5) — A "Hold Harmless Agreement" as to Richland County.~~

~~All legal documents shall be provided in a form acceptable to the county legal department.~~

Sec. 26-224. Private driveway subdivisions.

(a) *Purpose.*

- (1) It is the intent and purpose of this section to furnish a means of subdividing property in the county without incurring the costs associated with major subdivisions. For the purposes of this section, family members are defined as the grantor, his or her spouse, parents, grandparents, great-grandparents, brothers, sisters, children, grandchildren, and great-grandchildren of either the grantor or the spouse of the grantor.
- (2) Notwithstanding any of the provisions of this section, a private driveway subdivision road will be accepted in to the county road system, provided the road meets all applicable standards as set forth in Chapter 21, “Roads, Highways and Bridges”, of the Code of Ordinances for Richland County.
- (3) Subdivision of land meeting the intent and purpose of this section is exempt from the road access and paving requirements of this Chapter, but is not exempt from the road design requirements to permit acceptable ingress and egress of emergency vehicles.

(b) *Approval procedure.*

- (1) The applicant shall submit a sketch plan for review by the staff of the planning department prior to expenditure of major funds. The applicant must certify that the conveyance shall be to family members only.
- (2) If the sketch plan meets the requirements of this section, it may be scheduled for the next meeting of the development review team for conceptual approval. If conceptual approval is given, the applicant shall comply with all conditions listed in subsection (c), below.
- (3) Once the conditions listed in subsection (c) are satisfied, the restrictive covenants and plat shall be submitted to the staff of the planning department. The development review team shall review and approve, disapprove, or approve with modifications, the restrictive covenants and plat at the meeting in which it is presented. Review and approval of the restrictive covenants is limited to the purpose of assuring compliance with the requirements of this section. If the restrictive covenants and plat are approved, the staff of the planning department shall collect from the owner the necessary recording fees and shall promptly record the plat and restrictive covenants for the owner.

(c) *Conditions for approval.*

- (1) An owner of land may subdivide a tract of land pursuant to this section provided that no more than seven (7) lots result from the subdivision, and each lot has a minimum size of one (1) acre, exclusive of the private driveway. After recording a final subdivision plat under the provisions of this section, subdivision of the remaining tract of land into smaller parcels

shall not be permitted except in full compliance with the provisions of all land development regulations.

(2) *Restrictive covenants.* Prior to the transfer of any interest in land and/or the recording of any deed or plat subdividing the property, the owner shall submit to the planning department a properly executed set of restrictive covenants covering the tract to be subdivided. These restrictive covenants shall be in a form acceptable to the county attorney and shall provide at a minimum:

a. A privately maintained driveway, which has an acceptable all-weather surface as determined by the county engineer and approved by the development review team, having a minimum access width of fifty (50) feet, an approved encroachment to a public road, and which provides access to all lots and shall be established by one (1) of the following methods:

1. Cross easements in favor of each lot owner fronting on the driveway containing a provision for common maintenance of the driveway with fee simple owned by each lot owner.

2. Conveyance of an undivided interest of each lot owner fronting on the driveway, the numerator of which is one (1) and the denominator of which is the number of lots fronting on the driveway, together with a provision for cross easements and for maintenance of the driveway by all lot owners. Said driveway shall be jointly owned and maintained by all property owners abutting the driveway. Such private driveway shall comply with any lending requirements of FHA and VA.

b. Provision shall be made for maintenance of the private driveway in perpetuity by the property owners abutting the driveway. All lot owners shall be jointly and severally financially required to maintain the driveway, said obligation to be enforceable by the filing of a lien by the remaining property owners against the property of a defaulting owner. The following statement in capital letters shall be conspicuously displayed in the restrictive covenants:

THE PRIVATE DRIVEWAY PROVIDING ACCESS TO LOTS IN THIS DEVELOPMENT IS NOT AND WILL NOT BE MAINTAINED BY RICHLAND COUNTY. OWNERS OF LOTS IN THIS DEVELOPMENT ARE FINANCIALLY OBLIGATED TO MAINTAIN THIS DRIVEWAY IN PERPETUITY FOR THE

BENEFIT OF ALL PROPERTY OWNERS IN THE DEVELOPMENT.

- c. The requirements of subsection (c)(2)a. may be modified at the discretion of the county engineer, subject to the following:
 - 1. The all-weather surface driveway may be omitted upon showing undue hardship and a plat showing a maximum of four (4) lots.
 - 2. A restriction limiting the total number of dwellings to five (5) overall.
 - 3. A cleared, passable surface of a minimum of twenty-four (24) feet is maintained.
- d. The restrictive covenants shall require that any deed or document conveying any interest in a lot in the subdivision shall conspicuously contain the following language with an appropriate space for signature by the grantee or grantees acknowledging same:

THE REAL PROPERTY DESCRIBED IN THIS DEED IS SUBJECT TO RESTRICTIVE COVENANTS RECORDED IN DEED BOOK ____ AT PAGE ____. THESE RESTRICTIVE COVENANTS PROVIDE, AMONG OTHER THINGS, A FINANCIAL OBLIGATION TO MAINTAIN A PRIVATE DRIVEWAY. THESE RESTRICTIVE COVENANTS ARE SPECIFICALLY ACKNOWLEDGED BY THE GRANTEE(S).

GRANTEE(S)

- (3) *Plat.* A plat of the development shall be prepared by a licensed surveyor. This plat shall, at a minimum, show the borders of all lots resulting from the proposed subdivision, the size and acreage of each lot exclusive of the access driveway, the frontage of the overall tract on public roads and streets, and the locations and dimensions of the privately maintained access driveway. The following statement must be conspicuously shown on the plat in capital letters:

THE PRIVATE DRIVEWAY PROVIDING ACCESS TO LOTS (INSERT THE LOT NUMBERS) SHOWN HEREON IS NOT, AND WILL NOT BE, MAINTAINED BY RICHLAND COUNTY. SEE DECLARATION OF RESTRICTIVE COVENANTS RECORDED IN

DEED BOOK ____, PAGE ____, IN THE REGISTER OF DEEDS OFFICE FOR RICHLAND COUNTY, SOUTH CAROLINA.

- (4) *Road frontage.* The tract proposed to be subdivided must have frontage of no less than fifty (50) feet on a public road or street. A minimum distance of not less than two hundred (200) feet shall be required between the centerlines of such driveways.
- (5) *Sign.* The owner shall conspicuously place on the privately maintained driveway near the entrance to the development a street sign with an approved name for E9-1-1 coordination.
- (6) *Driveway improvements and drainage.* Any impermeable or semipermeable improvements to the driveway at any point shall require submission of a storm drainage plan to the public works department for review and approval by the county engineer. Submittal of a storm drainage plan under other circumstances prior to plat approval shall be at the discretion of the county engineer. In any event, the deed or any document conveying any interest in the subdivision shall conspicuously contain the following language with an appropriate space for signature(s) by the grantee(s) acknowledging same:

ALTERATION OF STORM DRAINAGE FLOW IS PROHIBITED WITHOUT A STORM DRAINAGE PLAN PREPARED IN ACCORDANCE WITH THE RICHLAND COUNTY STORM DRAINAGE REGULATIONS, AND AS REQUIRED AND APPROVED BY THE COUNTY ENGINEER.

GRANTEE(S)

The aforementioned language shall be conspicuously displayed in capital letters in the restrictive covenants and on the plat as a disclosure statement.

Secs. 26-225 – 26-250. Reserved.

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

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be effective from and after _____, 2011.



**Richland County
Planning & Development Services Department**

Map Amendment Staff Report

PC MEETING DATE: January 6, 2011
RC PROJECT: 11-01 MA
APPLICANT: Dennis Drew
PROPERTY OWNER: Carolina Child Care Properties, LLC

LOCATION: Bickley Road

TAX MAP NUMBER: 02416-01-05
ACREAGE: 3.59 acres
EXISTING ZONING: OI
PROPOSED ZONING: GC

PC SIGN POSTING: December 17, 2010

Staff Recommendation

Denial

Background /Zoning History

The current zoning, Office and Institutional District (OI) reflects the zoning as adopted June 6, 2006. Prior to the June 6, 2006 rezoning, the property was zoned Rural District (RU).

In April 2006, a map amendment request (06-13MA) was submitted to the Planning Commission. On June 6, 2006 County Council approved the rezoning request from Rural District (RU) to Office and Institutional District (OI) under Ordinance Number 046-06HR.

The parcels contain five hundred and sixty four (564) feet of frontage along Bickley Road.

Summary

The General Commercial (GC) District is intended to accommodate a variety of commercial and nonresidential uses characterized primarily by retail, office, and service establishments oriented primarily to major traffic arteries or extensive areas of predominantly commercial usage.

No minimum lot area, except as required by DHEC. The maximum allowed density for residential uses is sixteen (16) dwelling units per acre.

- The gross density for this site is approximately: 57 dwelling units
- The net density for this site is approximately: 40 dwelling units

Direction	Existing Zoning	Use
<u>North:</u>	PDD	Insurance Agency
<u>South:</u>	RU	Undeveloped, Vegetated
<u>East:</u>	RU	Ballentine Elementary school
<u>West:</u>	RS-MD	Undeveloped/Vegetated

Plans & Policies

The 2009 Richland County Comprehensive Plan “Future Land Use Map” designates this area as a **Priority Investment Area** in the **Northwest Planning Area**.

Priority Investment Area

Objective: “Commercial/Office activities should be located along arterial roads, traffic junctions, or areas where existing commercial and office uses are located.”

Non-Compliance: Bickley Road is classified as a collector road and the parcel is not located at a traffic junction.

Traffic Impact

The 2009 SCDOT traffic count (Station # 145) located southeast of the subject parcel on Dutch Fork Road identifies 18,450 Average Daily Trips (ADT’s). Dutch Fork Road is classified as a four lane undivided Minor Arterial, maintained by SCDOT with a design capacity of 21,600 ADT’s. Dutch Fork Road is currently operating at Level of Service (LOS) “C”.

There are no planned or programmed improvements for this section of Dutch Fork Road. However a 3.12 mile section of Dutch Fork Road west of the site from Three Dogs Road to Twin Gates Road is part of the 2035 COATS Cost Constrained Plan. The project is ranked 34th and funding has not been identified at this time.

Conclusion

The proposed map amendment is not compatible with the Comprehensive Plan.

The parcel north and west of the subject parcel was rezoned to Planned Development District (PDD) for an interior design business under case 02-40MA Ord. No. 014-02HR. The PDD includes TMS# 02416-01-04 and a portion of TMS#02416-01-01. The PDD is permitted to include an interior design studio and a small scale retail business in the main building. The secondary structure permits a storage facility while the proposed Phase two includes antique shops, community service structures (i.e. civic centers and libraries), gift shops, florists, and a small professional office building (i.e. architects, engineers, and dentist). Phase one of the PDD has been completed, although phase two has yet to be initiated. Otherwise, there is an existing insurance agency operating onsite.

There is a minimal amount of commercial use along Bickley Road at this time. Southeast of the subject property on Bickley Road is an undeveloped parcel with split zoning. The parcel totals 36.42 acres, with a 22.44 acre portion zoned General Commercial District (GC) and a 13.98 acre portion zoned Office Institutional District (OI) under Ord. No. 020-03HR (03-39MA). In 2008, the 14.18 tract west of the subject parcel was rezoned to Residential Single-Family Medium Density District (RS-MD) under Ord. No. 40-08HR (08-18MA). This site remains

vegetated and undeveloped. The Planned Development District (PDD) to the North of the subject parcel contains an existing office use while the southern portion of Bickley Road, north of the rail road, does not contain any retail uses. The subject parcel is not located along an arterial road or a traffic junction. The surrounding Rural District (RU) and Residential Single-Family Medium Density District (RS-MD) zoning is residential by permitted use.

The subject parcel is located to the west of Ballentine Elementary School, which is part of Lexington/Richland School District Five. The Dutch Fork/Ballentine fire station (number 20) is located on Broad River Road 1.2 miles southeast of the subject parcel. The proposed map amendment would not significantly impact public services or traffic. However, approval of this rezoning may set a precedent for additional similar rezoning requests, which may serve to the detriment of traffic circulation near the school and soccer park. Otherwise, water is provided by the City of Columbia and sewer is provided by Richland County.

The proposed Zoning Map Amendment **is not in compliance** with the Comprehensive Plan. Planning Staff recommends **Denial** of this map amendment.

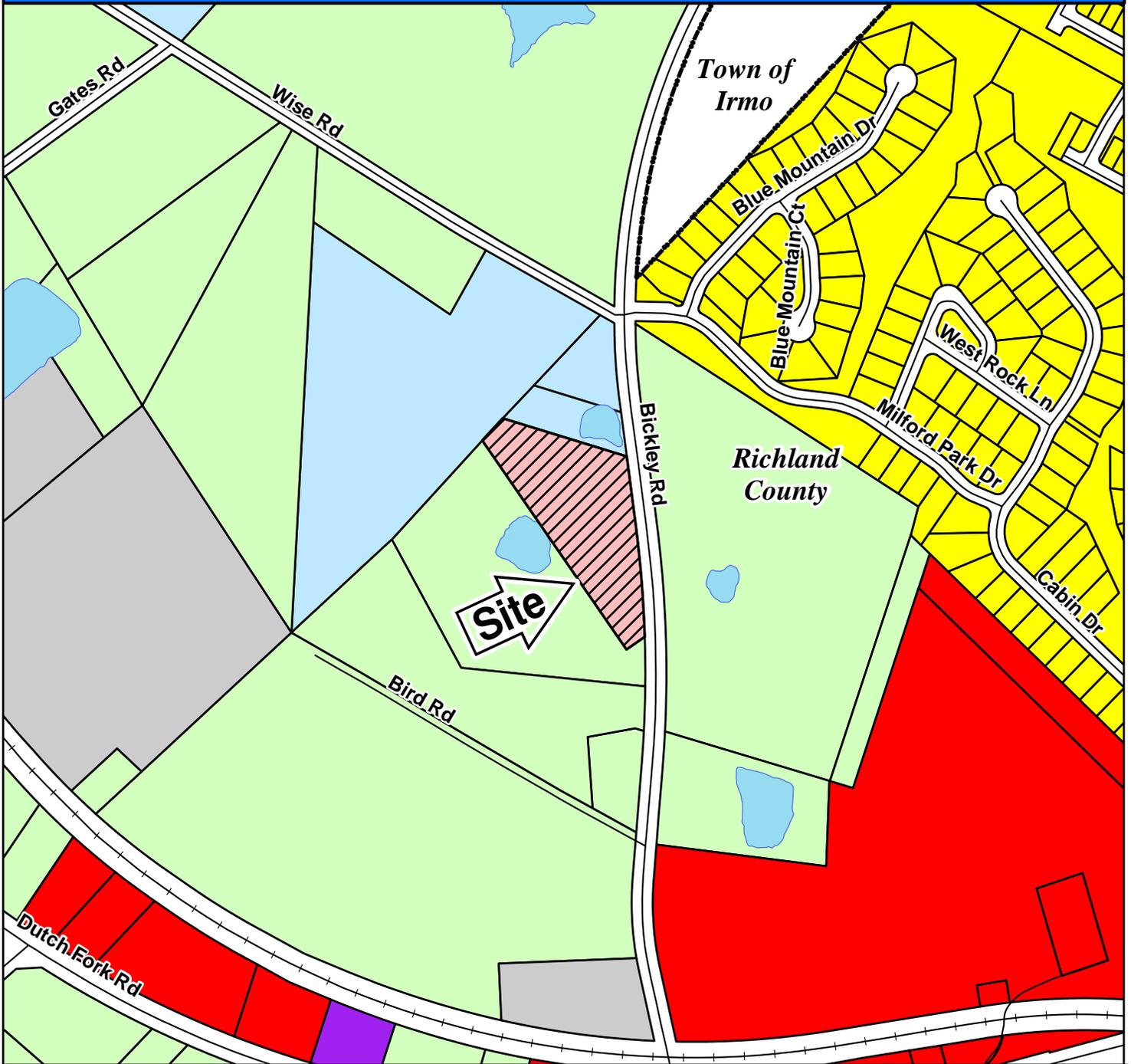
Zoning Public Hearing Date

January 25, 2011

Planning Commission Action

At their meeting of **January 6, 2011** the Richland County Planning Commission **agreed** with the PSDS recommendation and recommends the County Council initiate the ordinance consideration process to **deny the proposed Amendment** for **RC Project # 11-01 MA** at the next available opportunity.

Case 11-01 MA OI to GC



ZONING CLASSIFICATIONS

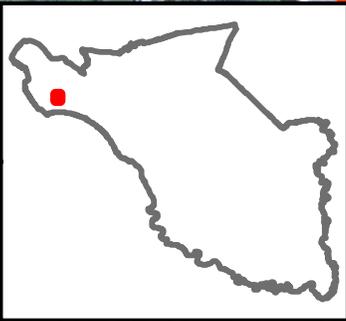
RR	RS-E	MH	NC	LI	TROS
C-1	RS-LD	RM-MD	GC	HI	Subject Property
C-3	RS-MD	RM-HD	RC	PDD	
RG-2	RS-HD	OI	M-1	RU	



Case 11-01 MA
OI to GC
TMS 02416-01-05



-  FLOOD ZONE A
-  FLOOD ZONE AE
-  WETLANDS

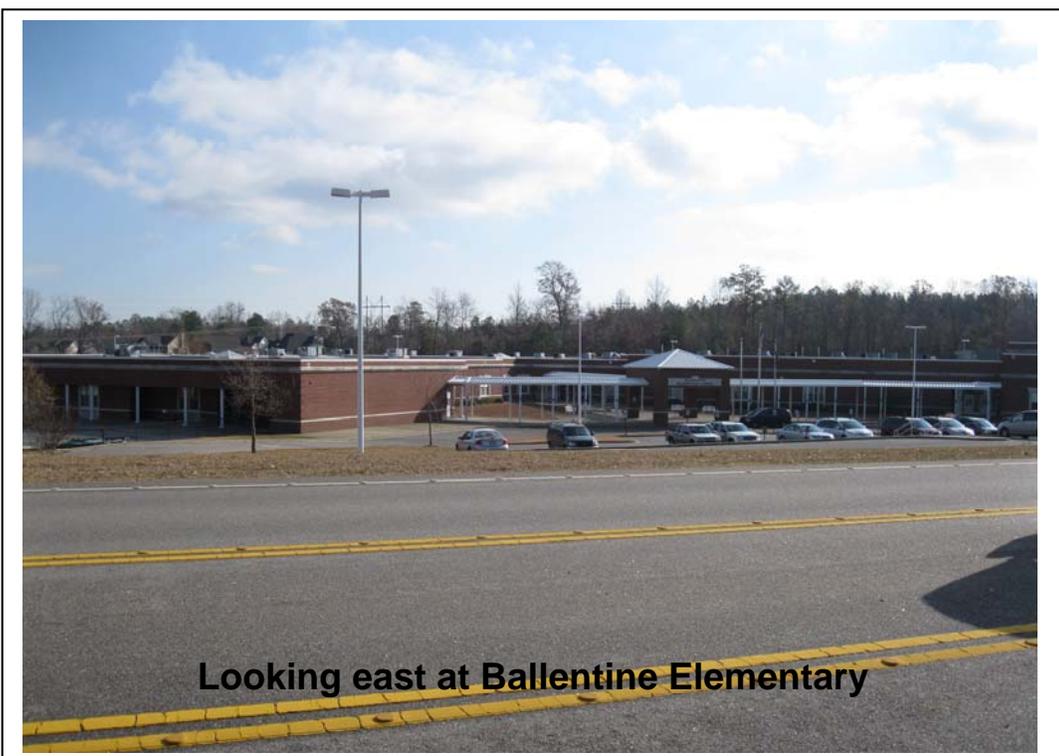


CASE 11-01 MA

From OI to GC

TMS# 02416-01-05

Bickley Road



STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-11HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # 02416-01-05 FROM OI (OFFICE AND INSTITUTIONAL DISTRICT) TO GC (GENERAL COMMERCIAL DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 02416-01-05 from OI (Office and Institutional District) zoning to GC (General Commercial District) zoning.

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

Section III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Effective Date. This ordinance shall be effective from and after _____, 2011.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of
_____, 2011.

Michielle R. Cannon-Finch
Clerk of Council

Public Hearing: January 25, 2011
First Reading: February 22, 2011 (tentative)
Second Reading:
Third Reading:

PROCEDURES FOR SENDING REZONING MATTERS ‘BACK’ TO THE PLANNING COMMISSION

PLANNING COMMISSION	PLANNING COMMISSION RECOMMENDATION	COUNTY COUNCIL ACTION AT THE ZONING PUBLIC HEARING	Goes back to PC and is reviewed	Goes back to PC and starts over	Does not go back to PC
Zoning District X to Zoning District Y	APPROVE	APPROVE			X
Zoning District X to Zoning District Y	DENY	APPROVE			X
Zoning District X to Zoning District Y	APPROVE	DENY			X
Zoning District X to Zoning District Y	DENY	DENY			X
Zoning District X to Zoning District Y	APPROVE	Zoning District X to Zoning District Z		X	
Zoning District X to Zoning District Y	DENY	Zoning District X to Zoning District Z		X	
Zoning District X to PDD	APPROVE	Zoning District X to PDD with less restrictions	X		
Zoning District X to PDD	APPROVE	Zoning District X to PDD with more restrictions			X
Zoning District X to PDD	DENY	Zoning District X to PDD with less restrictions	X		
Zoning District X to PDD	DENY	Zoning District X to PDD with more restrictions			X