

RICHLAND COUNTY COUNCIL DEVELOPMENT & SERVICES COMMITTEE

Bernice G. Scott
District 10

Joyce Dickerson
District 2

Norman Jackson, Chair
District 11

Val Hutchinson
District 9

Bill Malinowski
District 1

*May 22, 2007
3:00 PM*

**Richland County Council Chambers
County Administration Building
2020 Hampton Street**

Call to Order

Approval of Minutes – April 24, 2007: Regular Session Meeting [Pages 3 – 7]

Adoption of Agenda

I. Items for Action

- A. An ordinance amending the Richland County Code of Ordinances; Chapter 17, Motor Vehicles and Traffic; Article II, General Traffic and Parking Regulations; Section 17-10, Parking in Residential Zones of the County; So as to prohibit the parking of motor vehicles in the front yard in certain residential zoning districts**
[Pages 8 – 16]
- B. An ordinance authorizing the amendment of a development agreement between Richland County, South Carolina and Lake Carolina Development, Inc. to reflect the addition of land to the Lake Carolina PUD-2**
[Pages 17 – 23]
- C. Ordinance authorizing the granting of a sanitary sewer easement to the City of Columbia across county-owned property on Elder's Pond Drive**
[Pages 24 – 30]
- D. Ordinance authorizing the granting of a water line easement to the City of Columbia across county-owned property on Elder's Pond Drive**
[Pages 31 – 36]

E. Request to consider a petition to close a portion of Hobart Road
[Pages 37 – 46]

F. Discussion of the use of fill in floodplain areas
[Pages 47 – 50]

II. Items for Discussion / Information

A. Update on clear cutting fines and rezoning requests

B. Update on judicial decisions regarding local smoking ordinances

III. Items Pending Analysis

A. Request to allow the Administrator to negotiate the acceptance of the Town of Eastover's water and sewer system for ownership, operation and maintenance by Richland County

B. Sewer Extension Policy

C. Fair Housing Incentives

D. Approval of Construction Contract for the Paving of 2.15 Miles of Dirt Roads in the North Paving Contract

Adjournment

Staffed by: Joe Cronin

**Richland County Council
Development and Services Committee
April 24, 2007
4:00 PM**



In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, persons requesting notification, and was posted on the bulletin board located in the lobby of the County Administration Building.

Members Present:

Chair: Norman Jackson
Member: Joyce Dickerson
Member: Valerie Hutchinson
Member: Bill Malinowski
Member: Bernice G. Scott

Others Present: L. Gregory Pearce, Jr., Kit Smith, Joseph McEachern, Paul Livingston, Michelle Cannon-Finch, Milton Pope, Tony McDonald, Roxanne Matthews, Joe Cronin, Larry Smith, Amelia Linder, Michael Byrd, Stephany Snowden, Jennifer Dowden, Tamara King, John Hixon, Donny Phipps, Anna Almeida, Jennie Sherry-Linder, Andy Metts, Teresa Smith, Monique Walters, Michelle Onley

CALL TO ORDER

The meeting was called to order at approximately 4:08 p.m.

APPROVAL OF MINUTES

March 24, 2007 (Regular Session) – Ms. Scott moved, seconded by Ms. Hutchinson, to approve the minutes as submitted. The vote in favor was unanimous.

ADOPTION OF AGENDA

Ms. Scott moved, seconded by Ms. Dickerson, to adopt the agenda as distributed. The vote in favor was unanimous.

PRESENTATIONS

Air Quality and Non-Attainment Issues in the Columbia Area – Ms. Myra Reece, SCDHEC, have a brief overview of the non-attainment and air quality issues facing the Columbia area in the near future.

City Readiness Initiative – Ms. Leslie Orr briefed Council regarding the City Readiness Initiative program. The program was established to prepare for the event of a large scale biological terrorist threat.

ITEMS FOR ACTION

Request to Approve a Memorandum of Understanding with Clemson University's Institute for Economic and Community Development for the Purpose of Developing a 5 year Strategic Plan – Ms. Hutchinson moved, seconded by Ms. Dickerson, to forward this item to Council with a recommendation for approval. A discussion took place.

The vote in favor was unanimous.

Request to Approve Change Order #2 for the 2006 Resurfacing Project (Awarded to Sloan Construction Company, Inc.) to Authorize the Resurfacing/Repair of the SCDOT Portion of Mallet Hill Rd. - Ms. Scott moved, seconded by Ms. Dickerson, to forward this item to Council with a recommendation for approval. The vote in favor was unanimous.

Request to Allow the Administrator to Negotiate the Acceptance of the Town of Eastover's Water and Sewer System for Ownership, Operation and Maintenance by Richland County – Ms. Scott moved, seconded by Ms. Dickerson, to defer this item. The vote in favor was unanimous.

Funding Options and Prioritization for Electric Traffic Signals on New and Existing County Roads

- a. **Funding Options for Electric Traffic Signals**
- b. **Proposed Traffic Signal Prioritization Policy**

A discussion took place. Ms. Hutchinson moved to forward these items to Council with a recommendation for approval using the assessment district, but also having the information of liability and other pertinent information available to Council at the next Council meeting. The motion died for a lack of second.

Ms. Dickerson moved, seconded by Ms. Scott, to defer this item until the next committee meeting.

<u>In Favor</u>	<u>Oppose</u>
Dickerson	Malinowski
Scott	Jackson
	Hutchinson

The motion to defer failed.

Ms. Hutchinson moved, seconded by Mr. Malinowski, to forward the adoption of the prioritization policy listed with a recommendation for approval with the assessment district as a source of funding. The vote was in favor.

Request to Approve the Installation and Maintenance of a Traffic Signal at the Intersection of Summit Parkway and Summit Ridge Drive – A discussion took place. Ms. Hutchinson moved, seconded by Mr. Malinowski, to forward this item to Council with a recommendation for approval. A discussion took place.

The vote in favor was unanimous.

Mr. Malinowski moved, seconded by Ms. Hutchinson, to go into Executive Session for a legal briefing. The vote in favor was unanimous.

=====
Council went into Executive Session at approximately 5:17 p.m. and came out at approximately 5:26 p.m.
=====

Mr. Malinowski moved, seconded by Ms. Dickerson, to come out of Executive Session. The vote in favor was unanimous.

Request for Approval of a Sanitary Sewer Extension Agreement for Sewer Service to the Rothstein Tract, Walmart Shopping Center and the Upgrade of Several Existing System Components – Mr. Malinowski moved, seconded by Ms. Hutchinson, to forward this item to Council with a recommendation for approval. A discussion took place.

The vote in favor was unanimous.

Request for Approval of a Sanitary Sewer Extension Agreement for the Upgrade of an Existing Sewer Lift Station and the Construction of an Odor Control Building to Serve the Eagles Rest Subdivision – Ms. Scott moved, seconded by Ms. Dickerson, to forward this item to Council with a recommendation for approval. The vote was in favore.

Request for Approval of a Sanitary Sewer Extension Agreement for Sewer Service to River Shoals Subdivision – Mr. Malinowski moved, seconded by Ms. Hutchinson, to forward this item to Council with a recommendation for approval. A discussion took place.

The vote in favor was unanimous.

Request to Approve the Award of a Construction Contract to Sloan Construction Company, Inc. for the Paving Program (South Contract) – Ms. Scott moved, seconded by Ms. Dickerson, to forward this item to Council with a recommendation for approval.

Ms. Hutchinson made a substitute motion, seconded by Mr. Malinowski, to forward this item to Council without a recommendation.

<u>In Favor</u>	<u>Oppose</u>
Malinowski	Scott
Jackson	Dickerson
Hutchinson	

The substitute motion passed.

Request to Place Sewer Extension Authority Under Richland County Council – A discussion took place.

Mr. Malinowski moved, seconded by Ms. Hutchinson, to forward this item to Council with a recommendation for approval and to initiate a study of elimination of the current policy of allowing developers to extend sewer in exchange for taps; that the administration will conduct a study and make recommendations to Council, as soon as possible, as to another direction to go; that we suspend sewer extension agreements until this particular study has been completed and that Council has acted on those recommendations of staff; the study will include the growth plan for the entire county; a review of consent of the older items; the provision for establishment of a Richland County service area for both water and sewer; and that we need to adopt an ordinance or a resolution that establishes a life of up to five years for all taps, so that all developers have the same benefit.

Request to Place Subdivision Authority Under the Richland County Planning Commission – A discussion took place. Mr. Malinowski moved, seconded by Ms. Hutchinson, to forward this item to Council with a recommendation for approval.

Ms. Dickerson made a substitute motion to forward this item to Council without a recommendation, seconded by Ms. Scott. The substitute motion failed.

The vote on the main motion was in favor.

ITEMS PENDING ANALYSIS

Upgrade on Clear Cutting Fines and Rezoning Requests – This item is still being analyzed.

Update on Judicial Decisions Regarding Local Smoking Ordinances – This item is still being analyzed.

Sewer Tap Fees for Affordable Housing – This item is still being analyzed.

Fair Housing Incentives – This item is still being analyzed.

Approval of Construction Contract for the Paving of 2.15 Miles of Dirt Roads in the North Paving Contract – This item is still being analyzed.

ADJOURNMENT

Ms. Dickerson moved, seconded by Ms. Scott, to adjourn.

**Richland County Council
Development and Services Committee
April 24, 2007
Page Five**

The meeting adjourned at approximately 5:53 p.m.

Submitted by,

Norman Jackson, Chair

The minutes were transcribed by Michelle M. Onley

Richland County Council Request of Action

Subject: Parking Ordinance Amendment

A. Purpose

Council is asked to amend Chapter 17 of the Richland County Code of Ordinances to prohibit the parking of vehicles in the front yard of any property zoned RS-LD, RS-MD, or RS-HD. This subsection is not intended to prohibit the temporary parking of a motor vehicle upon a driveway.

B. Background/Discussion

During the Council meeting of June 6, 2006, Councilman Mike Montgomery made a motion to consider the prohibition of parking in front yards in residential areas in unincorporated Richland County.

Legal staff developed an amendment to the existing parking ordinance and the request was considered by the D&S Committee on June 27, 2006. The D&S Committee reviewed the ordinance and referred it to the full council without recommendation.

Council gave first reading to the amended ordinance on July 11, 2006. The ordinance was deferred during second reading on July 18, 2006, and was ultimately tabled on July 25, 2006.

During the council meeting on April 17, 2007, Mr. Montgomery made a request to remove the ordinance from the table and send it back to the D&S Committee.

If adopted, the amended ordinance currently before council will prohibit the parking of any motor vehicle, including, but not limited to, automobiles, trucks, vans, buses, motorcycles, all-terrain or similar off-road vehicles, recreational vehicles, motor homes, campers or camping trailers, trailers, boats, and jet skis within the front yard of any property zoned RS-LD, RS-MD, or RS-HD. Provided, however, the amendment is not intended to prohibit the temporary parking of a motor vehicle upon a driveway.

For the purpose of enforcing the ordinance, the ordinance also outlines definitions for the following terms:

- Driveway
- Primary front yard
- Secondary front yard
- Street-facing façade of the principal building

C. Financial Impact

There will be a financial impact associated with this request due to increased enforcement requirements. A dollar amount has not been determined at this point.

D. Alternatives

1. Approve the amendment to the ordinance prohibiting the parking of motor vehicles in the front yard of any property zoned RS-LD, RS-MD, or RS-HD, excluding temporary parking on driveways.
2. Do not approve the amendment to the ordinance prohibiting the parking of motor vehicles in the front yard of any property zoned RS-LD, RS-MD, or RS-HD, excluding temporary parking on driveways.

E. Recommendation

This request was made by council motion, and is therefore at the discretion of County Council.

Recommended by: Council Motion **Date:** April 17, 2007

F. Reviews

Planning

Reviewed by: Geonard H. Price

Date: 5/18/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: I would like clarity on a couple of issues.

The language seems to indicate that any parking in the front yard, except for temporary parking, is prohibited (17-10 (e) and 17-10 (e) (2)) in a residentially zoned district. The definition of temporary parking seems to require that the vehicle leave and return approximately once a day. Therefore, if a licensed vehicle is parked for more than week, it would be in violation of this section.

Also, section 26-173 (f) (1) and (2) of the Land Development Code, prohibits the parking of recreational vehicles, boats and travel trailers in front of the principal structure on a residentially zoned lot. Therefore, there would be dual enforcement of these types of vehicles regarding parking in the front yard.

Finance

Reviewed by: Daniel Driggers

Date: 5/09/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: This is left to Council discretion.

Legal

Reviewed by: Amelia Linder

Date: 5/10/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: This amendment conflicts with existing language found in Chapter 26 at Section 26-173 (f); therefore, if it is Council's desire to approve this request, I recommend also amending Section 26-173 (f). Both sections [Section 26-173 (f) and Section 17-10] should be consistent in order to avoid potential confusion. If approved, the attached ordinance is pending **second** reading.

Administration

Reviewed by: Tony McDonald

Date: 5/18/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: This is a policy decision and, therefore, left to the discretion of the Council; however, the Council needs to be aware of ambiguities and/or conflicts with existing ordinances. The Legal and Planning Departments will brief the D & S Committee on these issues at Tuesday's meeting.

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-07HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 17, MOTOR VEHICLES AND TRAFFIC; ARTICLE II, GENERAL TRAFFIC AND PARKING REGULATIONS; SECTION 17-10, PARKING IN RESIDENTIAL ZONES OF THE COUNTY; SO AS TO PROHIBIT THE PARKING OF MOTOR VEHICLES IN THE FRONT YARD IN CERTAIN RESIDENTIAL ZONING DISTRICTS.

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 17, Motor Vehicles and Traffic; Article II, General Traffic and Parking Regulations; Section 17-10, Parking in Residential Zones of the County; is hereby amended to read as follows:

Section 17-10. Parking in residential zones of the county.

a. It shall be unlawful for a truck tractor, a semi-trailer having more than two (2) axles, or a trailer having more than two (2) axles to be parked on any public street, road, right-of-way or as otherwise prohibited by the Richland County Code of Ordinances in the unincorporated portions of the county which are or hereafter shall be designated as Rural Residential, Single-Family Residential, Manufactured Home, or General Residential under the Richland County Zoning Ordinance and the “Zoning Map of Unincorporated Richland County”, as amended. For the purpose of this paragraph, the following definitions shall apply:

1. *Truck tractor* means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and the load so drawn.
2. *Semi-trailer* means every vehicle having more than two (2) axles, with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.
3. *Trailer* means every vehicle having more than two (2) axles, with or without motive power, other than a pole trailer, designed for carrying persons or property

and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

b. It shall be unlawful for an automobile, motor vehicle, or wheeled conveyance of any kind required by law to be licensed that is unlicensed, or is displaying an expired or invalid licenses to be parked on any public street, road, right-of-way or as otherwise prohibited by the Richland County Code of Ordinances in the unincorporated portions of the county which are or hereafter shall be designated as Rural Residential, Single-Family Residential, Manufactured Home, or Multi-Family Residential under the Richland County Zoning Ordinance and the “Zoning Map of Unincorporated Richland County”, as amended.

c. All motor vehicles and/or trailers without a valid state issued license plate permitting operation on public roads and highways, which are stored, parked, or located on a lot in any zoning district in the unincorporated areas of the county, except for those parcels that are five (5) acres or greater in the (RU) Rural zoning district, are required to be kept in a garage, carport, or protected from the elements by a fitted cover; provided, however, in the case of a vehicle protected from the elements by a cover, such covered vehicle shall not be visible from the public right-of-way. Licensed automobile dealerships, persons licensed to conduct businesses involving storage and sale of junk and scrap, trailers utilized as temporary structures in conjunction with construction activities, and vehicles used in agricultural operations and which are not operated on the public roads and highways are exempt.

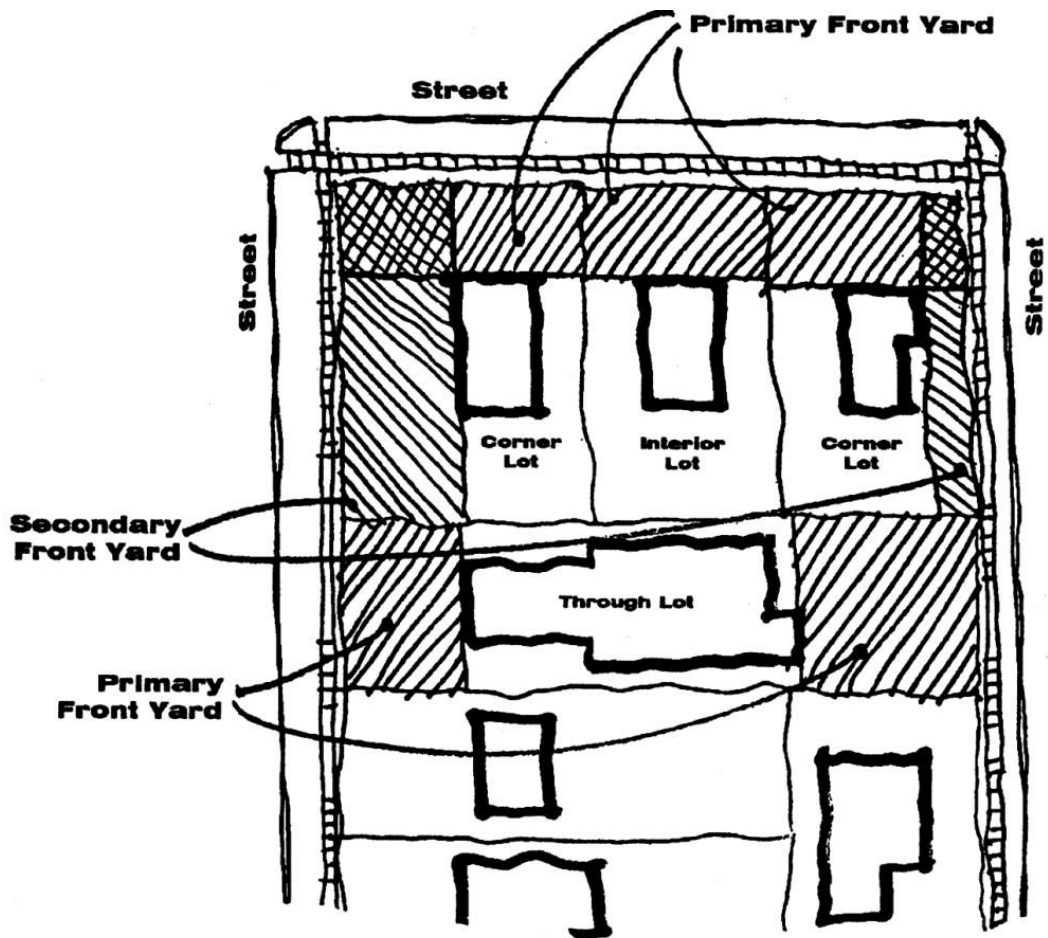
d. Any motor vehicle and/or trailer that is not capable of operating in accordance with South Carolina law and/or capable of moving under its own power (even if it has a valid state-issued license plate permitting operation on public roads and highways) shall not be stored, parked, or located on a lot in any residential zoning district in the unincorporated areas of the county (except for those parcels that are five (5) acres or greater in the (RU) Rural zoning district) for more than a single period of thirty (30) consecutive days during any calendar year unless it is kept in an enclosed garage, in a carport attached to the residence, or protected from the elements by a fitted cover; provided, however, in the case of a vehicle protected from the elements by a cover, such vehicle shall not be visible from the public right-of-way.

e. Parking within the front yard of any property zoned RS-LD, RS-MD, or RS-HD is prohibited.

1. *Definitions.* For purposes of this subsection only, the following words and phrases shall have the following meaning:

Driveway means an area improved in accordance with paragraph 3, below, leading from a street or alley to a parking space.

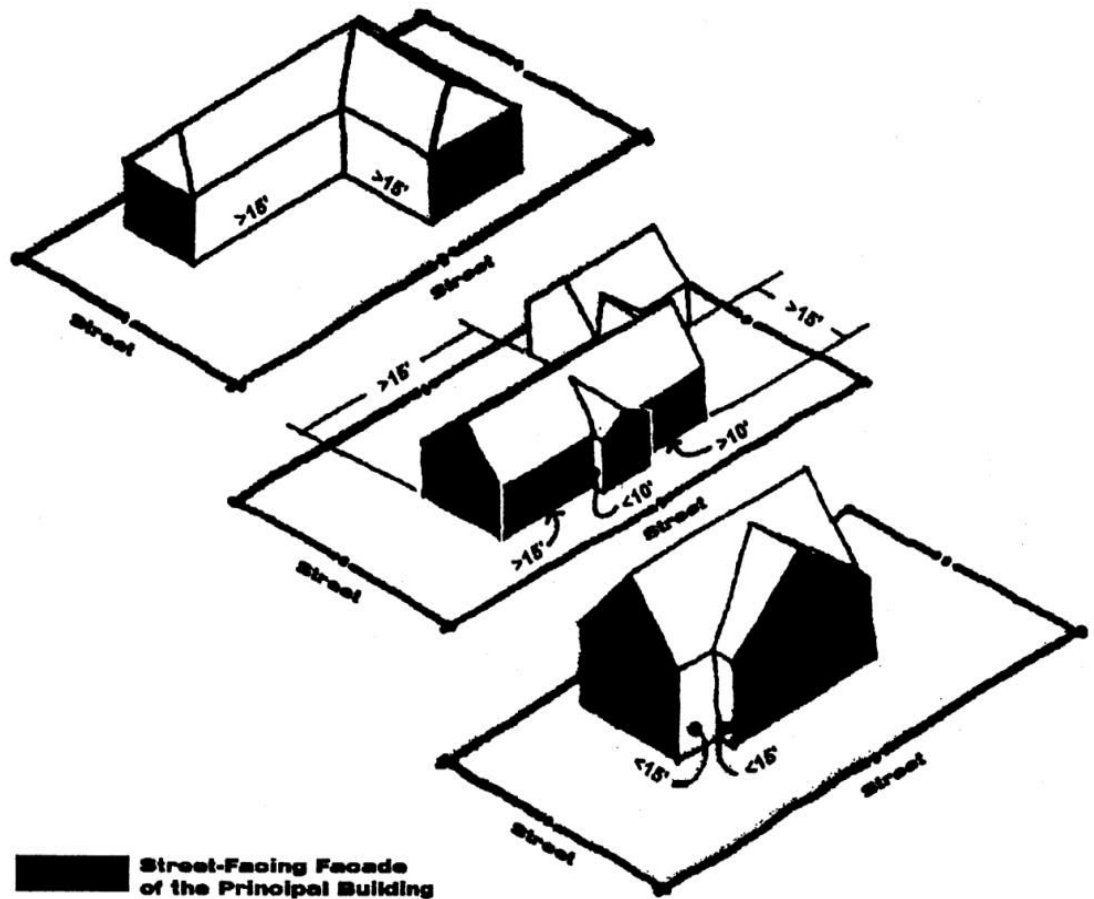
Primary front yard means that area between the street-facing facade of the principal building, the front lot line, and either both side lot lines (for interior lots and through lots) or a side lot line and the secondary front lot line (for corner lots). See graphic figure below:



Secondary front yard means that area between the street-facing facade of the principal building, the secondary front lot line, the front lot line, and the rear lot line. See graphic figure above.

Street-facing facade of the principal building means any facade of the principal building which approximately parallels a street lot line(s), exceeds

ten feet in length, and is located within 15 feet of that portion of, or is, the facade of the principal building closest to the corresponding street lot line. See graphic example below:



Temporary parking means that the vehicle leaves from and returns to the property approximately once per business day in conjunction with a trip, visit, errand, or other similar reason.

2. No person shall park a motor vehicle of any description, including, but not limited to, automobiles, trucks, vans, buses, motorcycles, all-terrain or similar off-road vehicles, recreational vehicles, motor homes, campers or camping trailers, trailers, boats, and jet skis within the front yard of any property zoned RS-LD, RS-MD, or RS-HD. Provided, however, this subsection is not intended to prohibit the temporary parking of a motor vehicle upon a driveway.
3. Driveways shall be paved with asphalt, brick, concrete, or covered with pervious material such as crushed stone, gravel, or mulch.

4. Where the driveway is covered with a pervious material, such material shall be confined to the driveway with a device expressly designed for such purposes including but not limited to bricks, railroad ties, and plastic/PVC landscaping boarders. The pervious material shall be renewed or replaced as reasonably necessary to maintain a neat and orderly appearance.

e. f. Penalties: Unless otherwise prescribed by law, any owner and/or operator of a motor vehicle and/or trailer violating the provisions of this Section shall be deemed guilty of a misdemeanor. In addition, any owner and/or occupant of the residential property on which a motor vehicle and/or trailer is parked in violation of this Section shall be deemed guilty of a misdemeanor.

f. g. Administration and enforcement: The sheriff of the county shall be authorized to enforce the provisions of this Section, and may engage a towing service to remove any vehicle parked in violation of these regulations, provided the cost of towing services shall be charged to the registered owner of any vehicle so removed.

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 _____, 2007.

RICHLAND COUNTY COUNCIL

BY: _____
Joseph McEachern, Chair

ATTEST THIS THE ____ DAY
OF _____, 2007

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading: July 11, 2006
Second Reading: June 5, 2007 (tentative)
Public Hearing:
Third Reading:

RICHLAND COUNTY COUNCIL REQUEST OF ACTION

Subject: Ordinance authorizing an amendment to the Lake Carolina Development Agreement

A. Purpose

Council is asked to consider an ordinance authorizing the amendment of a development agreement between the County and Lake Carolina Development, Inc. to reflect the addition of land to the Lake Carolina PUD-2.

B. Background/Discussion

During the Council meeting of April 17, 2007, Council gave third reading approval to Ordinance No. 038-07HR which approved the addition of some 167.1 acres of adjacent property into the Lake Carolina PUD-2 development.

Lake Carolina is currently being developed under a Development Agreement with Richland County, dated September 4, 2001 and recorded in the Office of Register of Deeds for Richland County on September 5, 2001 in Deed Book 00563, Page 0123.

The developer's intention in purchasing this adjacent property was to annex it into the Lake Carolina PUD-2 and subject it to the Development Agreement. That Development Agreement allows for additional property to be added to the Lake Carolina community by an amendment approved by the County Council.

The developer states that they were advised by County staff in both the planning and legal departments that this necessitated a two-step process. The first step was to bring the additional property into the Lake Carolina PUD-2, which was accomplished with third reading approval on April 17, 2007. The second step is to then present the attached First Amendment to the Development Agreement to the Development and Services Committee for consideration and recommendation to the full Council.

C. Financial Impact

There is no direct financial impact associated with this request.

D. Alternatives

1. Approve the ordinance authorizing the amendment of a development agreement between the County and Lake Carolina Development, Inc. to reflect the addition of land to the Lake Carolina PUD-2.
2. Do not approve the ordinance authorizing the amendment of a development agreement between the County and Lake Carolina Development, Inc. to reflect the addition of land to the Lake Carolina PUD-2.

E. Recommendation

This request is at the discretion of county council.

Recommended by: Staff **Department:** Administration **Date:** April 17, 2007

F. Reviews

Finance

Reviewed by: Anna Almeida Date: 5/18/2007

Recommend Council approval Recommend Council denial

Comments regarding recommendation: After careful consideration it is the Planning department's position that the proposed development which has been rezoned to a PUD-2 and would be part of Lake Carolina's covenants and restrictions be recommended to be subject to the existing development agreement. The development agreement currently has limitations on density which would bind this proposed development.

Finance

Reviewed by: Daniel Driggers Date:

Recommend Council approval Recommend Council denial

Comments regarding recommendation:

Legal

Reviewed by: Amelia Linder Date: 5/17/07

Recommend Council approval Recommend Council denial

Comments regarding recommendation: The approval of the attached ordinance is a formality needed to keep the existing development agreement current and complete. County Council has already approved the addition of the additional 167.1 acres of adjacent property into the Lake Carolina PUD-2 zoning district.

Administration

Reviewed by: Tony McDonald Date: 5/18/07

Recommend Council approval Recommend Council denial

Comments regarding recommendation:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-07HR

AN ORDINANCE AUTHORIZING THE AMENDMENT OF A DEVELOPMENT AGREEMENT BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND LAKE CAROLINA DEVELOPMENT, INC. TO REFLECT THE ADDITION OF LAND TO THE LAKE CAROLINA PUD-2.

WHEREAS, the South Carolina Local Government Development Agreement Act, South Carolina Code Annotated, Title 6, Chapter 31 (1976), as amended (the “Act”), authorizes local governments to enter into development agreements with a developer as therein defined; and

WHEREAS, Lake Carolina Development, Inc. (the “Owner”), owner of certain land in northeast Richland County being developed as a mixed-use retail, office, and residential community, as well as other land uses appropriate to the property, zoned Lake Carolina PUD-2, and the County entered into a Development Agreement dated September 4, 2001, Effective As Of July 1, 2001, and recorded in the Office of Richland County Register of Deeds in Deed Book 00563 Page 0123 (the “Development Agreement”) with respect to such Lake Carolina PUD-2 land; and

WHEREAS, the Development Agreement contemplates the amendment of the Development Agreement to take into account the addition of any land to the Lake Carolina PUD-2; and

WHEREAS, pursuant to Ordinance No. 038-07HR, additional land comprising 167.10 acres, adjacent to the Lake Carolina Development was added to the Lake Carolina PUD-2;

WHEREAS, the County has determined that the coordinated development of the land added by Ordinance No. 038-07HR to the original acreage of the Lake Carolina Development in the Development Agreement will assist in the County’s planning for suitable growth in northeast Richland County, consistent with the comprehensive plan and land development regulations; and

WHEREAS, pursuant to the Act, the County is authorized to amend the Development Agreement to add to the property therein described the land added to the Lake Carolina PUD-2 by Ordinance No. 038-07HR; and

WHEREAS, the County and the Owner are mindful to amend the Development Agreement for Lake Carolina;

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

SECTION I. The First Amendment to the Development Agreement between Richland County, South Carolina and Lake Carolina Development, Inc., a copy of which is attached hereto and incorporated herein, is hereby approved, and the chair of County Council is authorized to execute same.

SECTION II. Severability. If any section, subsection, or clause of this Ordinance shall be held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such finding shall not affect the validity of the remaining sections, subsections, and clauses of this Ordinance.

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 enforced from and after _____, 2007.

RICHLAND COUNTY COUNCIL

BY: _____
Joseph McEachern, Chair

ATTEST THIS THE ____ DAY

OF _____, 2007

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading: June 5, 2007 (tentative)
Second Reading:
Public Hearing:
Third Reading:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

FIRST AMENDMENT
OF
DEVELOPMENT AGREEMENT

This First Amendment of Development Agreement ("Agreement"), is entered into this _____ day of _____, 2007, effective as of _____, 2007 ("Effective Date") by and between Richland County, South Carolina ("County"), and Lake Carolina Development, Inc. ("Lake Carolina Development"), a South Carolina corporation (referred to herein as "Developer"). The term County shall include any and all of its subdivisions. The term Developer as used throughout this Agreement shall include all subsidiaries and affiliates of LandTech (defined herein) and Lake Carolina Development, and shall also include any successors in interest or successors in title and/or assigns by virtue of assignment or other instrument pursuant to the terms hereof. The County and the Developer may be referred to collectively hereafter as the "Parties".

RECITALS

WHEREAS, County and Developer entered into a Development Agreement dated September 4, 2001, effective as of July 1, 2001, and recorded in the Office of Register of Deeds for Richland County on September 5, 2001 in Deed Book 00563, Page 0123 (the "Development Agreement"), dealing with the development process for the approximately 1,678.343 acre Lake Carolina PUD-2, which is located along the east side of Hard Scrabble Road in Richland County, South Carolina; and

WHEREAS, County has approved pursuant to Ordinance No. 038-07HR the addition of approximately 167.10 acres to the Lake Carolina PUD-2, and pursuant to such Ordinance the Developer has reduced overall residential densities within the Lake Carolina PUD-2, and, by integrating the additional land into the Lake Carolina community, has fostered better traffic circulation to the additional land and reduced traffic impacts to Kelly Mill Road; and

WHEREAS, the Development Agreement contemplated that with the addition of land to the Lake Carolina PUD-2, the Development Agreement would be amended upon mutual agreement of County and the Developer to reflect the additional acreage added to the Lake Carolina PUD-2 that is the subject matter of the Development; and

WHEREAS, the South Carolina Local Government Development Agreement Act, South Carolina Code of Laws Sections 6-31-10 through 6-31-160, inclusive, (the "Development Agreement Act") authorize the County to execute and deliver the within First Amendment to development Agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Definitions. Except as may otherwise be provided herein, the capitalized words and terms set forth herein shall have the same definition as set forth in the Development Agreement.
2. Amendment. The definition of "Property" is amended to include all that certain piece, parcel and lot of land described on Exhibit A hereto and made a part hereof by this reference.
3. Completeness. Except as herein provided, the Development Agreement shall remain in full force and effect, and as amended and supplemented hereby, shall constitute the complete text of said instrument at the date hereof.

IN WITNESS WHEREOF THE PARTIES AFFIX THEIR SIGNATURES HERETO.

Witnesses:

Witnesses:

COUNTY:

Richland County, South Carolina

By: _____

Its: _____

DEVELOPER

Lake Carolina Development, Inc.
a South Carolina corporation

By: _____

Its: _____

Exhibit A

ALL that certain piece, parcel, or lot of land, together with improvements thereon, situate, lying and being about four (4) miles East of the Town of Blythewood, in the county of Richland, State of South Carolina, on the South side of the public road Kelly Mill Road leading to Blythewood, containing 170 acres, more or less, as shown on a plat prepared for E.J. Wilson and V.E. Barnett prepared by J.C. Covington, dated March 26, 1953, and recorded in the office of the Register of Deeds for Richland County in Plat Book "Q" at Page 180, and according to said plat being bounded as follows: Said property being bounded on the North by aforesaid public road; on the Southeast by another public road leading towards Columbia' on the South and Southwest by property now or formerly of Hawley and now or formerly known as Tract H and Tract C of Hawley lands' on the West by property now or formerly of the Nick Young Estate. Being further shown and delineated as 167.10 acres, more or less, on a Boundary Plat entitled "Tract off Kelly Mill & Bud Keef Road" prepared for Land Tech Columbia, LLC by U.S. Group, Inc. dated November 14, 2006, revised November 20, 2006, and recorded at Richland County Register Of Deeds office in book 1255 page 3807. Reference is hereby made to said latter plat for a more complete and accurate description of said tract of land, be all measurements a little more or less.

Richland County Council Request of Action

Subject: Ordinance Authorizing the Granting of a Sewer Easement Across County Property for Elder's Pond

A. Purpose

County Council is requested to grant a fifteen foot sanitary sewer main easement for connection of the Columbia Apartments (The Shores at Elder's Pond) across the front of the Richland County Emergency Services Station property RC tax map # 20212-07-02 to the City of Columbia system.

B. Background / Discussion

It has been determined by BP Barber, engineering services for Hardscrabble Road Associates, L.L.C., that the installation of the gravity sanitary sewer system at this connection point is the only feasible location due to location of existing City of Columbia sewer trunk line and the topography of the surrounding area. An agreement with the Developer has been requested to insure that service from the fire station will not be interrupted by coordinating the installation of this main, in three separate sections, through Richland County Facilities Division. This agreement states that the disturbed property will be restored to its previous or an improved condition. This agreement also states that all costs associated with the installation and connection of this main will be paid to the City directly by Hardscrabble Road Associates, L.L.C.. This will insure the county can connect the emergency services station, to the City sewer system, at no cost other than the service connection construction.

C. Financial Impact

There will be no financial impact to Richland County.

D. Alternatives

1. Approve the request to grant the easement and allow the connection to the Cities trunk line and allow the development to proceed.
2. Do not approve permission to grant the easement and have Hardscrabble Road Associates, L.L.C. find alternative handling for the sewer system and/or have to pursue condemnation action against the County.

E. Recommendation

It is recommended for County Council to approve recommendation #1 and allow the easement to the City of Columbia.

Recommended by: John Mincy **Department:** DPW – Facilities and Grounds **Date:** 5/14/07

F. Reviews

Emergency Services

Reviewed by: Michael Byrd

Date: 5/18/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Finance

Reviewed by: Daniel Driggers

Date:

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Legal

Reviewed by: Amelia Linder

Date: 5/17/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Administration

Reviewed by: Tony McDonald

Date: 5/18/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND) **EASEMENT**

For and in consideration of the sum of One (\$1.00) Dollar, each to the other paid, the receipt of which is hereby acknowledged, It, **RICHLAND COUNTY**, does hereby grant unto the **CITY OF COLUMBIA, SOUTH CAROLINA**, its successors and/or assigns, an easement and right-of-way **fifteen and five hundredths (15.05) feet in width to fifteen and fifteen hundredths (15.15) feet in width**, together with the right of ingress and egress at all times for the purpose of constructing, operating, reconstructing and maintaining a **sanitary sewer main** and with the right to remove shrubbery, trees and other growth from the right-of-way and construction areas provided that the property will be restored as nearly as practicable to its original condition upon completion of the construction and any trees which must be removed shall be moved from the premises, and any damaged shrubbery will be replaced with the same variety from nursery stock, said easement and right-of-way to run through property which the Grantor owns or in which the Grantor has an interest, situate, lying and being

In the State of South Carolina, County of Richland, and near the City of Columbia, designated as Parcel 5 located on the south side of Elder's Pond Drive, and being further identified as Richland County tax map number 20212-07-02, shown on tax maps prepared by the Office of the Richland County Tax Assessor, 2007 Edition.

A permanent, exclusive easement for a sanitary sewer main, fifteen and five hundredths (15.05) feet in width to fifteen and fifteen hundredths (15.15) feet in width and having the following perimeter measurements: beginning on the eastern property line of the subject property, one hundred eighty-one and forty-six hundredths (181.46) feet southwest of the northeastern property corner of the subject property; thence extending therefrom S02°06'12"W along the eastern property line of the subject property, for a distance of fifteen and fifteen hundredths (15.15) feet to a point, twenty-eight and sixty-nine hundredths (28.69) feet northeast of the southeastern property corner of the subject property; thence turning and extending therefrom N79°50'36"W crossing the subject property for a distance of six and twenty-seven hundredths (6.27) feet to a point; thence turning and extending therefrom S87°20'14"W crossing the subject property, for a distance of one hundred ninety-four and forty-seven hundredths (194.47) feet to intersect the western property line of the subject property at a point, twenty-one and thirty-three hundredths (21.33) feet northeast of the southwestern property corner of the subject property; thence turning and extending therefrom N02°05'51"E along the western property line of the subject property, for a distance of fifteen and five hundredths (15.05) feet to a point, one hundred eighty-eight and seventy-nine hundredths (188.79) feet southwest of the northwestern property corner of the subject property; thence turning and extending therefrom N87°20'14"E crossing the subject property, for a distance of one hundred ninety-four and ninety hundredths (194.90) feet to a point; thence turning and extending therefrom S79°50'36"E crossing the subject property for a distance of five and eighty-three hundredths (5.83) feet to intersect the eastern property line of the subject property, also being the point of beginning; thence terminating.

Be all measurements a little more or less.

This easement being more clearly shown and delineated on an easement plat for The Shores at Elder's Pond f/k/a Columbia Apartments for Hardscrabble Road Associates, LLC, drawing 2 of 2, dated May 9, 2007, prepared for the City of Columbia, South Carolina, by B. P. Barber & Associates, Inc., and being on file in the Office of the Department of Utilities and Engineering, City of Columbia, South Carolina under file reference #271-25.

A copy of said easement plat being attached hereto and made a part hereof as Exhibit "A".

Easement 2 of 2

TO HAVE AND TO HOLD the aforesaid rights to the Grantee, its successors and/or assigns, as aforesaid.

And the Grantor does hereby bind the Grantor and Grantor's successors and/or assigns to warrant and forever defend all and singular the said premises unto the City of Columbia, its successors and assigns against the Grantor and Grantor's successors and assigns and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

IN WITNESS WHEREOF, this instrument is being executed this _____ day of _____, 2007.

WITNESSES:

RICHLAND COUNTY

By: _____

Title: _____

By: _____

Title: _____

STATE OF _____)

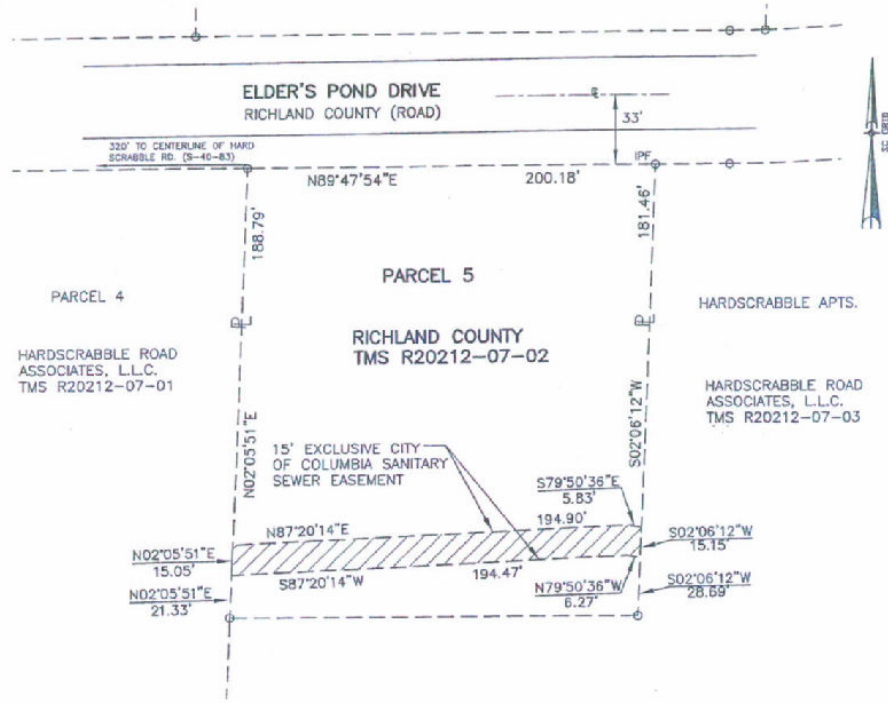
COUNTY OF _____)

ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before me this _____ day of _____, 2007 by _____ of _____
(Name and Title of Officer)

_____ on behalf of the within-named Grantor.
(City and State)

NOTARY PUBLIC FOR STATE OF _____
MY COMMISSION EXPIRES: _____



AREA OF PERMANENT EASEMENT = 0.07 ACRE



PROJECT NAME:
 THE SHORES AT ELDER'S POND
 f/k/a COLUMBIA APARTMENTS

THIS EXHIBIT BASED ON UTILITY LINE SURVEY
 AND FROM MAP COMPARISONS. NO PROPERTY
 SURVEY PERFORMED.

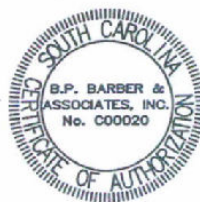
RICHLAND COUNTY TMS R20212-07-01



VICINITY MAP
 NOT TO SCALE

LEGEND

- IFF IRON PIN FOUND
- CP CALCULATED POINT
- ◻ CM CONCRETE MONUMENT
- CENTER LINE
- PROPERTY LINE
- R/W RIGHT-OF-WAY



OWNER ADDRESS:
 RICHLAND COUNTY
 EMERGENCY SERVICES
 1400 LAURENS ST.
 COLUMBIA, S.C. 29202
 ATTN.: MICHAEL BYRD

PREPARED BY:



B. P. BARBER & ASSOCIATES, INC.
 ENGINEERS - PLANNERS - SURVEYORS
 COLUMBIA • SPARTANBURG • CHARLESTON • FLORENCE

101 RESEARCH BLVD.
 COLUMBIA, S.C. 29203
 (803) - 254 - 4400

CITY OF COLUMBIA DEPARTMENT OF ENGINEERING COLUMBIA, SOUTH CAROLINA		
SCALE: 1" = 60'	APPROVED BY: JAMES M. FUTTER	DRAWN BY: WHJ
DATE: 05/09/07	15' EXCLUSIVE CITY OF COLUMBIA SANITARY SEWER EASEMENT ACROSS PROPERTY OF RICHLAND COUNTY LOCATED IN RICHLAND COUNTY, NEAR COLUMBIA, S.C.	
COLUMBIA APARTMENTS—HARDSCRABBLE ROAD ASSOCIATES, L.L.C.		DWG.No. 2 OF 2

BPB JOB No. 02665

N:\Projects\02665\wg\RECORD DRAWING\0266533-EAS-1-2.dwg 5/15/2007 4:52:28 PM EDT

34,155-A10

Richland County Council Request of Action

Subject: Ordinance Authorizing the Granting of a Water Easement Across County Property for Elder's Pond

A. Purpose

County Council is requested to grant a ten and one hundredth foot water distribution main easement for connection of the Columbia Apartments (The Shores at Elder's Pond) across the front of the Richland County Emergency Services Station property RC tax map # 20212-07-02 to the City of Columbia system.

B. Background / Discussion

It has been determined by BP Barber, engineering services for Hardscrabble Road Associates, L.L.C., that the installation of the water distribution system at this connection point is the only feasible location due to location of existing City of Columbia water line and the topography of the surrounding area. An agreement with the Developer has been requested to insure that service from the fire station will not be interrupted by coordinating the installation of this main through Richland County Facilities Division. This agreement states that the disturbed property will be restored to its previous or an improved condition. This agreement also states that all costs associated with the installation and connection of this main will be paid to the City directly by Hardscrabble Road Associates, L.L.C.. This will insure the county can connect the emergency services station, to the City water system, at no cost other than the service connection construction.

C. Financial Impact

There will be no financial impact to Richland County.

D. Alternatives

1. Approve the request to grant the easement and allow the connection to the Cities water line and allow the development to proceed.
2. Do not approve permission to grant the easement and have Hardscrabble Road Associates, L.L.C. find alternative handling for the water system and/or have to pursue condemnation action against the County.

E. Recommendation

It is recommended for County Council to approve recommendation #1 and allow the easement to the City of Columbia.

Recommended by: John Mincy **Department:** DPW – Facilities and Grounds **Date:** 5/14/07

F. Reviews

Emergency Services

Reviewed by: Michael Byrd

✓ Recommend Council approval

Comments regarding recommendation:

Date: 5/18/2007

Recommend Council denial

Finance

Reviewed by: Daniel Driggers

Recommend Council approval

Comments regarding recommendation:

Date:

Recommend Council denial

Legal

Reviewed by: Amelia Linder

✓ Recommend Council approval

Comments regarding recommendation:

Date: 5/17/07

Recommend Council denial

Administration

Reviewed by: Tony McDonald

✓ Recommend Council approval

Comments regarding recommendation:

Date: 5/18/07

Recommend Council denial

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND) EASEMENT

For and in consideration of the sum of One (\$1.00) Dollar, each to the other paid, the receipt of which is hereby acknowledged, It, RICHLAND COUNTY, does hereby grant unto the CITY OF COLUMBIA, SOUTH CAROLINA, its successors and/or assigns, an easement and right-of-way **ten and one hundredth (10.01) feet in width**, together with the right of ingress and egress at all times for the purpose of constructing, operating, reconstructing and maintaining a **water main** and with the right to remove shrubbery, trees and other growth from the right-of-way and construction area provided that the property will be restored as nearly as practicable to its original condition upon completion of the construction and any trees which must be removed shall be moved from the premises, and any damaged shrubbery will be replaced with the same variety from nursery stock, said easement and right-of-way to run through property which the Grantor owns or in which the Grantor has an interest, situate, lying and being

In the State of South Carolina, County of Richland, and near the City of Columbia, located on Elder's Pond Drive, Site of Richland County Emergency Services, and being further identified as Richland County tax map number 20212-07-02, shown on tax maps prepared by the office of the Richland County Tax Assessor, 2007 Edition.

A permanent, exclusive easement for a water main, ten and one hundredth (10.01) feet in width, and having the following perimeter measurements: beginning at the northeastern property corner of the subject property; thence extending therefrom S02°06'12"W along the eastern property line of the subject property, for a distance of ten and one hundredth (10.01) feet to a point; thence turning and extending therefrom S89°47'54"W crossing the subject property, for a distance of two hundred and eighteen hundredths (200.18) feet to intersect the western property line of the subject property; thence turning and extending therefrom N02°05'51"E along the western property line of the subject property, for a distance of ten and one hundredth (10.01) feet to intersect the northwestern property corner of the subject property; thence turning and extending therefrom N89°47'54"E along the northern property line of the subject property, for a distance of two hundred and eighteen hundredths (200.18) feet to intersect the northeastern property corner of the subject property, also being the point of beginning; thence terminating. Be all measurements a little more or less.

This easement being more clearly shown and delineated on an easement drawing for The Shores at Elder's Pond f/k/a Columbia Apartments for Hardscrabble Road Associates, L.L.C., drawing 2 of 2, dated January 16, 2007, prepared for the City of Columbia, South Carolina by B. P. Barber & Associates, Inc., and being on file in the Office of the Department of Utilities and Engineering, City of Columbia, South Carolina under City file reference #271-25.

A copy of said easement drawing being attached hereto and made a part hereof as Exhibit "A".

Easement 2 of 2

DD

(2)

TO HAVE AND TO HOLD the aforesaid rights to the Grantee, its successors and/or assigns, as aforesaid.

And the Grantor does hereby bind the Grantor and Grantor's successors and/or assigns to warrant and forever defend all and singular the said premises unto the City of Columbia, its successors and assigns against the Grantor and Grantor's successors and/or assigns and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

IN WITNESS WHEREOF, this instrument is being executed this _____ day of _____, 2007.

WITNESSES:

RICHLAND COUNTY

By: _____

Title: _____

By: _____

Title: _____

STATE OF _____)

COUNTY OF _____)

ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before me this _____ day of _____, 2007 by _____ of _____ (Name and Title of Officer)

_____ on behalf of the within-named Grantor. (City and State)

NOTARY PUBLIC FOR STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

Richland County Council Request for Action

Subject: Petition to close Road/portion of Hobart Road

A. Purpose

County Council is requested to consider a petition filed with the circuit court to close a portion of Hobart Road, which is currently an unpaved County maintained road, so that it may be realigned.

B. Background / Discussion

Petitioner, The Mungo Company, Inc., filed with the circuit court to close a portion of Hobart Road, which is an unpaved County maintained road, so that it may be realigned as a part of the Brookhaven Subdivision. According to the petition, petitioner has received subdivision approval from the Richland County Planning and Development Services Department. A portion of this road in the Deer Creek Subdivision has already been closed and realigned so as to join with the new terminus of the road as it exists on Petitioner's property on the east (see Deer Creek Development Co., LLC v. The County of Richland; CA# 04-CP-40-4934). Petitioner believes that realignment of the road to both straighten it and shorten it, as well as the paving of the realigned portion, will be a benefit to the public. When completed to required County specifications, petitioner will deed the road back to Richland County with the remaining roads in the Brookhaven Subdivision. Petitioner requests that the court close the roadway and vest title with the Petitioner so that it may realign such road in accordance with the Subdivision plans. A copy of the petition is attached for your convenience.

The Legal Department now needs Council's guidance in answering this lawsuit.

C. Financial Impact

There is no known financial impact associated with this request.

D. Alternatives

1. Approve petitioner's request to close the subject road and direct Legal to answer the suit accordingly.
2. Deny petitioner's request to close the road, state reasons for such denial, and direct Legal to answer the suit accordingly.

E. Recommendation

This request is at the discretion of County Council.

Recommended by: Elizabeth A. McLean **Department:** Legal **Date:** April 10, 2007

F. Reviews

Public Works

Reviewed by: Howard Boyd

Date: 5/18/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Planning

Reviewed by: Brenda Carter

Date: 4/17/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: In reference to the portion of road that is to be closed formerly known as Hobart Road, after discussing this matter with the addressing coordinator, we find that there is no reason not to close that portion of road, however, for clarity it should be made clear that the portion to be closed was formerly called Hobart Road. (See insert below identifying the current realignment of Hobart Road) To assist emergency personnel in locating Murchison Drive from the commercial end of Hobart Road, a street sign should be erected at the intersection of Hobart Road (at the track) and Murchison Drive which identifies that section as Murchison Drive. This is just in case there is an emergency and the units are coming off the commercial side of Hobart Road.

Also be aware that some E911 issues may arise if the railroad intersection is not built as outlined in the subdivision plans. Right now Hobart Road exists on both sides of the railroad track and is not continual. The commercial businesses have been in existence off Hobart Road for a long time and it would not be appropriate to change those addresses. If the railroad crossing is not built so that Hobart Road can continue across the tracks, a portion will have to be renamed. Since there is no residential lots that access Hobart Road, that portion could be renamed thus leaving Hobart Road as the street name for the commercial businesses. The street name would have to be changed because in essence we have created two different streets with the same name that are not connected and critical response time issues may arise when trying to direct emergency personnel.

Emergency Services

Reviewed by: Michael Byrd

Date: 4/13/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Finance

Reviewed by: Daniel Driggers

Date: 5/09/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Item is left to Council discretion.

Legal

Reviewed by: Amelia Linder

Date: 5/10/07

Recommend Council approval Recommend Council denial
Comments regarding recommendation: Both alternatives appear to be legally sufficient; therefore, this request is at the discretion of County Council.

Administration

Reviewed by: Tony McDonald

Date: 5/18/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:



Department of Public Works
Memorandum



May 18, 2007

To: Elizabeth McLean, Esquire, Legal Division

From: Howard Boyd, PE, County Engineer, Department of Public Works

Subject: Approval of Plat of Brookhaven Phase Eight(L. R. 5/1/07) /Abandonment of a
Portion of Hobart Road

I am confirming my approval of the plat of Brookhaven (L. R. 5/1/07), indicating the abandonment of a specified portion of Hobart Road. I appreciate your assistance with this project. Please call me at 576-2412 should you have further questions regarding this issue.

jm/HB

cc: Teresa Smith, PE, Director, Department of Public Works
Joe Cronin,

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 THE MUNGO COMPANY, INC.)
)
 Plaintiff(s))
)
 vs.)
)
 THE COUNTY OF RICHLAND, A BODY)
)
 POLITIC IN THE STATE OF SOUTH)
)
 CAROLINA)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

- CP -

2007 CP 4 00225

Defendant(s)

(Please Print)
 Submitted By: ALICE S. MOORE
 Address: .P.O BOX 456
 COLUMBIA, SC 29202

SC Bar #: 004043
 Telephone #: 803-252-1524
 Fax #: 803-799-6946
 Other:
 E-mail: gmommydear@aol.com

FILED
 2007 APR 11 PM 2:55
 BARBARA SCOTT
 CLERK

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
- This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|--|--|
| <p>Contracts</p> <ul style="list-style-type: none"> <input type="checkbox"/> Constructions (100) <input type="checkbox"/> Debt Collection (110) <input type="checkbox"/> Employment (120) <input type="checkbox"/> General (130) <input type="checkbox"/> Breach of Contract (140) <input type="checkbox"/> Other (199) | <p>Torts - Professional Malpractice</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dental Malpractice (200) <input type="checkbox"/> Legal Malpractice (210) <input type="checkbox"/> Medical Malpractice (220) <input type="checkbox"/> Notice/ File Med Mal (230) <input type="checkbox"/> Other (299) | <p>Torts - Personal Injury</p> <ul style="list-style-type: none"> <input type="checkbox"/> Assault/Slander/Libel (300) <input type="checkbox"/> Conversion (310) <input type="checkbox"/> Motor Vehicle Accident (320) <input type="checkbox"/> Premises Liability (330) <input type="checkbox"/> Products Liability (340) <input type="checkbox"/> Personal Injury (350) <input type="checkbox"/> Other (399) | <p>Real Property</p> <ul style="list-style-type: none"> <input type="checkbox"/> Claim & Delivery (400) <input type="checkbox"/> Condemnation (410) <input type="checkbox"/> Foreclosure (420) <input type="checkbox"/> Mechanic's Lien (430) <input type="checkbox"/> Partition (440) <input type="checkbox"/> Possession (450) <input type="checkbox"/> Building Code Violation (460) <input checked="" type="checkbox"/> Other (499) <p>ROAD CLOSING</p> |
| <p>Inmate Petitions</p> <ul style="list-style-type: none"> <input type="checkbox"/> PCR (500) <input type="checkbox"/> Sexual Predator (510) <input type="checkbox"/> Mandamus (520) <input type="checkbox"/> Habeas Corpus (530) <input type="checkbox"/> Other (599) | <p>Judgments/Settlements</p> <ul style="list-style-type: none"> <input type="checkbox"/> Death Settlement (700) <input type="checkbox"/> Foreign Judgment (710) <input type="checkbox"/> Magistrate's Judgment (720) <input type="checkbox"/> Minor Settlement (730) <input type="checkbox"/> Transcript Judgment (740) <input type="checkbox"/> Lis Pendens (750) <input type="checkbox"/> Other (799) | <p>Administrative Law/Relief</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reinstate Driver's License (800) <input type="checkbox"/> Judicial Review (810) <input type="checkbox"/> Relief (820) <input type="checkbox"/> Permanent Injunction (830) <input type="checkbox"/> Forfeiture (840) <input type="checkbox"/> Other (899) | <p>Appeals</p> <ul style="list-style-type: none"> <input type="checkbox"/> Arbitration (900) <input type="checkbox"/> Magistrate-Civil (910) <input type="checkbox"/> Magistrate-Criminal (920) <input type="checkbox"/> Municipal (930) <input type="checkbox"/> Probate Court (940) <input type="checkbox"/> SCDOT (950) <input type="checkbox"/> Worker's Comp (960) <input type="checkbox"/> Zoning Board (970) <input type="checkbox"/> Administrative Law Judge (980) <input type="checkbox"/> Public Service Commission (990) <input type="checkbox"/> Employment Security Comm (991) <input type="checkbox"/> Other (999) |
| <p>Special/Complex /Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Medical (620) <input type="checkbox"/> Other (699) <input type="checkbox"/> Pharmaceuticals (630) <input type="checkbox"/> Unfair Trade Practices (640) <input type="checkbox"/> Out-of-State Depositions (650) | | | |

Submitting Party Signature:

Alice S. Moore

Date: APRIL 9, 2007

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Florence, Horry, Lexington, Richland, Greenville**, and Anderson**

** Contact Respective County Clerk of Court for modified ADR Program Rules

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral within 210 days of filing of this action, and the Plaintiff shall file a "Stipulation of Neutral Selection" on or before the 224th day after the filing of the action. If the parties cannot agree upon the selection of the neutral within 210 days, the Plaintiff shall notify the Court by filing a written "Request for the Appointment of a Neutral" on or before the 224th day after the filing of this action. The Court shall then appoint a neutral from the Court-approved mediator/arbitrator list.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Case are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Cases which are appellate in nature such as appeals or writs of certiorari;
 - c. Post Conviction relief matters;
 - d. Contempt of Court proceedings;
 - e. Forfeiture proceedings brought by the State;
 - f. Cases involving mortgage foreclosures; and
 - g. Cases that have been submitted to mediation with a certified mediator prior to the filing of this action.
4. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference had been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND)	
The Mungo Company, Inc.,)	
)	CA#
Plaintiff)	
)	
vs)	
)	
The County of Richland, a))	
Body Politic in the State of))	
South Carolina,)	
)	
Defendant.)	


2007 APR -9 PM 2:56
 BARBARA A. SCOTT
 C.C.C. & G.S.

FILED

SUMMONS

TO: THE DEFENDANT ABOVE-NAMED:

You are HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your answer to the said Complaint on the subscriber, at his office, 1416 Laurel Street, Post Office Box 456, Columbia, South Carolina 29202 within thirty (30) days after the service hereof upon you exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.


 Alice S. Moore
 GERTZ & MOORE
 1416 Laurel Street
 Post Office Box 456
 Columbia, South Carolina 29202
 (803) 252-1524
 Attorneys for Plaintiff

Columbia, South Carolina
 April 9, 2007

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
 The Mungo Company, Inc.,)
 Plaintiff)
 vs)
 The County of Richland, a)
 Body Politic in the State of)
 South Carolina,)
 Defendant.)

IN THE COURT OF COMMON PLEAS

2001 APR -9 PM 2:56
 BERBANA A. SCOTT
 CLERK
 C.C.C. & G.S.

FILED

CA#

PETITION FOR
 ROAD CLOSING AND
 RELOCATION
 (Hobart Road)

Plaintiff, for its complaint, alleges that:

1. The Plaintiff is a corporation duly incorporated and doing business in South Carolina.
2. The Defendant is a body politic within the State of South Carolina and is the owner of an unpaved road in Richland County known as Hobart Road.
3. Plaintiff is the owner and developer of a tract of land in Richland County over which a portion of Hobart Road passes; there being no other parties owning any property or other interest in the portion of Hobart Road which the Plaintiff seeks to have closed and relocated.
4. Plaintiff is a party entitled to petition for the closing and realignment of a street, road or highway pursuant to §57-9-10 of the South Carolina Code of Laws 1976, as amended.
5. Plaintiff is in the process of developing its property as a residential subdivision known as Brookhaven, which has received

approval from the Richland County Planning and Zoning Department. A copy of an aerial photo showing the affected portions of Hobart Road is attached as Exhibit A and incorporated herein by reference.

6. The subdivision plan provides for the closing of the existing portion of Hobart Road as it crosses Plaintiff's property and the realignment of the road so that it crosses Plaintiff's property in an approximately straight line. A portion of Hobart Road in the Deer Creek Subdivision has already been closed and realigned so as to join with the new terminus of the road as it exits Plaintiff's property on the east. (Deer Creek Development Co., LLC v The County of Richland; CA# 04-CP-40-4934).

7. Plaintiff believes that the closing of the existing portion of Hobart Road that passes through its property, the realignment of the road to both straighten and shorten it and the paving of the realigned portion will be a benefit to the public.

8. Pursuant to current plans, a connector road to join the terminus of Hobart Road as it exits Plaintiff's property on the west to the remaining portion of Hobart Road is to be completed in the future.

9. Until the connector that is referred to in paragraph 8 is completed, the public will be able to use existing roads in the Brookhaven subdivision as a detour when traveling Hobart Road.

10. Plaintiff will deed the roads within Brookhaven to Richland County when completed to the required specifications.

11. The Plaintiff is informed and believes that Richland County is in agreement with the closing and realignment of this portion of Hobart Road as set forth in the Brookhaven Subdivision Plan.

WHEREFORE, the Plaintiff prays that this Honorable Court inquire into this matter and issue its order closing the existing portion of Hobart Road as it passes over and through Plaintiff's property and allowing Plaintiff to realign said road in accordance with the Subdivision Plan for Brookhaven and such other and further relief as may be just and proper.



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April 9, 2007

Richland County Council Request of Action

Subject: Using fill in the floodplain

A. Purpose

This is for clarification and review concerning the elevation of a structure using fill in the floodplain and general uses of fill in the floodplain.

B. Background / Discussion

The language of the current Land Development Code, in the sections that deal with the Floodplain (Section 26-104) state that fill is discouraged in floodplain areas. The code explains standards, guidelines and restrictions that apply to conditions where fill is allowed, however other segments can be construed differently to reflect that fill is allowed in the floodplain, but that the fill can not be used to elevate a structure.

Clarity is needed for these two questions should fill be allowed in the floodplain? If so, should structures be allowed to be constructed on fill that has been placed in the floodplain?

Below is the language from the current Floodplain Overlay District which highlights the section where the language can be made clear so that it leaves no doubts about what is or is not permitted.

Section 26-104 FP Floodplain Overlay District

Section J. Fill

Fill is discouraged because its use removes storage capacity from floodplains. Elevating buildings by other methods must be considered. An applicant shall demonstrate, using a registered engineer, that fill is the only alternative to raising the building to at least two (2) feet above the base flood elevation, and that the amount of fill used will not affect the flood storage capacity or adversely affect adjacent properties. Any change to the flood flow within a regulatory floodplain through fill must be approved by FEMA in addition to review by the flood coordinator.

** The section above states that fill is discouraged and gives the reasons why, however, if the applicant can have a registered engineer to demonstrate that fill is the only alternative to raising a building to at least two feet above the base flood elevation and that the amount of fill used will not affect the flood storage capacity or adversely affect adjacent properties, then fill would be allowed.

Fill is not the only alternative to raising a building, but would a licensed engineer be able to demonstrate that fill is the only alternative to raising a building to at least two feet above the BFE and 3, will a licensed engineer be able to demonstrate that the fill used will not affect the flood storage capacity or adversely affect adjacent properties.

C. Financial Impact

The National Flood Insurance Program (NFIP) provides federally backed flood insurance that encourages communities to enact and enforce floodplain regulations. To be covered by a flood insurance policy, a property must be in a community that participates in the NFIP. To qualify for the program, a community adopts and enforces a floodplain management ordinance to regulate development in flood hazard areas. The basic objective of the ordinance is to ensure that such development will not aggravate existing flooding conditions and that new buildings will be protected from flood damage. The Community Rating System (CRS) provides incentives for communities to do more than just regulate construction of new buildings to minimum national standards. Credit is provided for regulations that require that new development be provided more protection than that of the National Flood Insurance Program's (NFIP's) minimum requirements. Under the CRS, flood insurance premiums are adjusted to reflect community activities that reduce flood damage to existing buildings, manage development in areas not mapped by the NFIP (Zone X), protect new buildings beyond the minimum NFIP protection level, help insurance agents obtain flood data, and help people obtain flood insure.

Richland County is a participant in the Community Rating System (CRS) program. Currently our citizens receive a 5% discount on flood insurance premiums. Because of our ordinance, and other floodplain management activities Richland County has the potential to move from a grade 9 to a grade 8 which will save the citizens and additional 5% on their premiums.

D. Alternatives

1. Replace existing language with more specific language and requirements concerning new construction on fill.
 - a. All new construction must be constructed on foundations that are approved by a licensed professional engineer or;
 - b. All new construction must be constructed on properly designed and compacted fill (ASTM D-698 or equivalent) that extends beyond the building walls before dropping below the base flood elevation and has appropriate protection from erosion and scour. The fill design or the fill standard must be approved by a licensed professional engineer
2. Strengthen the existing language that protects the floodplain storage capacity.
 - a. Create regulations where regulations require that new developments provide compensatory storage at hydraulically equivalent sites. Although a building built on fill and elevated above the base flood elevation meets the NFIP rules, filling a substantial portion of the floodplain reduces storage for flood water and tends to increase peak flows downstream. Prohibiting fill will reduce this problem, as will requiring the provision of a similar volume of compensatory storage if fill is placed in the floodplain. Example: Whenever any portion of a floodplain is authorized for use, the space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically

equivalent volume of excavation taken from below the base flood elevation. All such excavations shall be constructed to drain freely to the watercourse.

3. Prohibit fill within floodplains or flood fringes, including construction of buildings on fill.
 - a. Regulations to prohibit all activities in the floodplain that may be hazardous to public health or water quality.

E. Recommendation

The recommendation is to replace the existing language in **Section J Fill** which states:

Fill is discouraged because its use removes storage capacity from floodplains. Elevating buildings by other methods must be considered. An applicant shall demonstrate, using a registered engineer, that fill is the only alternative to raising the building to at least two (2) feet above the base flood elevation, and that the amount of fill used will not affect the flood storage capacity or adversely affect adjacent properties. Any change to the flood flow within a regulatory floodplain through fill must be approved by FEMA in addition to review by the flood coordinator.

With the language of alternative 1b:

Section J. Fill All new construction must be constructed on properly designed and compacted fill (ASTM D-698 or equivalent) that extends beyond the building walls before dropping below the base flood elevation and has appropriate protection from erosion and scour. The fill design or the fill standard must be approved by a licensed professional engineer. Any change to the flood flow within a regulatory floodplain through fill must be approved by FEMA in addition to review by the flood coordinator.

Recommended by: Brenda L. Carter, GIS Manager **Department:** Planning & Development
Date: May 15, 2007

F. Reviews

Finance

Reviewed by: Daniel Driggers

Date:

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Legal

Reviewed by: Amelia Linder

Date: 5/17/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Recommend Option 2, which clarifies the use of fill in a floodplain.

Administration

Reviewed by: Tony McDonald

Date: 5/17/07

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Recommend approval of option 2.