

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

Apr 03 2024

S.C. SUPREME COURT

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas
The Honorable R. Kirk Griffin, Circuit Court Judge

Case No. 2019-CP-22-00212
Appellate Case No. 2023-00646

The Gulfstream Café, Inc. Appellant,

v.

Georgetown County; Georgetown County Council;
and Steve Goggans, individually and in his official
capacity as Georgetown County Councilmember..... Respondents.

**CORRECTED RECORD ON APPEAL
(VOLUME II)**

Sean M. Foerster (SC Bar# 77466)
Local Counsel
ROGERS TOWNSEND LLC
1221 Main Street, 14th Floor (29201)
Post Office Box 100200
Columbia, South Carolina 29202-3200
(803)771-7900
sean.foerster@rogerstownsend.com

Henrietta Golding (SC Bar No. 2173)
Taylor K. Voegel (SC Bar No. 04770)
Burr & Forman LLP
2411 Oak Street, Suite 206 (29577)
P.O. Box 336
Myrtle Beach, SC 29578
(843) 444-1107
hgolding@burr.com
tvoegel@burr.com

Simon H. Bloom (GA Bar# 064298)
Andrea J. Pearson (GA Bar# 409604)
Admitted Pro Hac Vice
BLOOM PARHAM, LLP
977 Ponce de Leon Avenue NE
Atlanta, Georgia 30306
(404) 577-7710
sbloom@bloom-law.com
apearson@bloom-law.com

Counsel for Respondents Georgetown
County; Georgetown County Council;
and Steve Goggans, individually and in his
official capacity as Georgetown County
Councilmember

Counsel for Appellant The Gulfstream Café, Inc.

1 correct?

2 A: Yes, but not a change in zoning classification.

3 Q: Well, we can debate that, we can argue about that because
4 you spent three hours telling this Court that the zoning
5 classification for this property is the PD. It is the PD and
6 whatever is in the PD, right? Those are the zoning rules, you
7 said.

8 A: Yes.

9 Q: That is the zoning?

10 A: Yes.

11 Q: And so, you are amending or moving to amend the zoning of
12 the subject property, correct?

13 A: That's right. But the zoning type is planned
14 development.

15 Q: Ah. Well, please tell me where it says zoning type in
16 1702.1?

17 A: Type and classification, I'm using those -- the zoning
18 classification is PD.

19 Q: So, type is not in there?

20 A: No, sir.

21 Q: Okay. Is this another gray area?

22 A: No, I think a zoning -- PD is a zoning classification.
23 We have them listed in the table of contents, the different
24 zoning classifications and PD is one of those.

25 Q: And let's turn to the application and what it is required

1 to include. In the -- I think we're still in Exhibit 20,
2 which is the application, right? Plaintiff's 20. Ma'am?

3 A: Yes, sir.

4 Q: Okay. The purpose of getting the complete application is
5 to allow the staff to conduct its analysis and make
6 recommendations about what is being proposed, is it not?

7 A: Yes.

8 Q: That's the reason that you have a list of things that you
9 want an applicant to provide with the application, right?

10 A: Correct.

11 Q: And in your 17 years, you've probably rejected
12 applications because it has not included the stuff that is
13 required by the code section, correct?

14 A: If it doesn't include the application, the fee, the
15 required property owner notice information, such as the
16 envelopes, and then whatever the application for that case
17 requires.

18 Q: So, the answer is yes, you have rejected applications in
19 the last 17 years when they were incomplete, correct?

20 A: I don't have a lot of examples, but yes; there have been
21 instances.

22 Q: One of the other reasons that you want to have and that
23 the code requires a complete application 45 days in advance of
24 the Planning Commission hearing is so that the public can see
25 what's being proposed, correct?

1 A: I think the main reason to require the complete
2 application is so that staff can begin their review.

3 Certainly, anything that's submitted to us is for the -- is
4 public information for the public to review.

5 Q: And maybe I'm not asking my questions clearly. I know
6 it's late in the day. But all I asked was, isn't another
7 important reason to have a complete application 45 days in
8 advance of the Planning Commission meeting so that if the
9 public wants to see what's being proposed that they can see
10 it?

11 A: I would agree with you that that's important, but there
12 are instances where information comes later throughout the
13 process. And once that is available to us, that becomes
14 available to the public as well.

15 Q: So, what do I need to do if I'm a neighbor? Check in
16 with you every day to see if you've gotten more information
17 from the applicant?

18 A: You certainly could, and I would be glad to respond to
19 you and give you whatever information we have.

20 Q: But, if you don't have it, you can't give it to me, can
21 you?

22 A: That's correct.

23 Q: Okay. There are very specific notice requirements the
24 code has when you're doing a rezoning amendment like 3.0,
25 correct?

1 A: Yes.

2 Q: And the application in Exhibit 20 did not contain all of
3 the things that were required by the code, did it?

4 A: I don't think I agree with that. I think the application
5 was complete in its proper form.

6 Q: In August 27, 2018?

7 A: Yes. We may have received additional information.

8 Q: Do you remember giving a deposition in this case?

9 A: Yes.

10 Q: Do you -- did you swear to tell the truth, the whole
11 truth, and nothing but the truth during that deposition?

12 A: Yes.

13 Q: Similar to the oath that you gave today?

14 A: Yes.

15 Q: Was the parking site in the original -- the parking site
16 plan in the original application?

17 A: To my recollection, the original application did have a
18 conceptual plan.

19 Q: I'm just asking whether you know with the original
20 application submitted in August of 2018, whether the site plan
21 was included?

22 A: Yes, I think so.

23 Q: Could you show me which one? And I'm not just asking
24 about any site plan; I'm asking about the parking site plan
25 that's required by your code.

1 A: I think this DEFS8 shows the building layout. The
2 parking wasn't changing in this.
3 Q: It doesn't show anything about parking?
4 A: It doesn't show the parking; no, sir.
5 Q: Okay. So, you don't have parking information at the time
6 this application was provided, did you?
7 A: No. But again, the parking wasn't changing.
8 Q: I understand, but your code asks -- it doesn't ask; it
9 requires the applicant to provide the parking information with
10 the application, doesn't it?
11 A: The code says it requires a parking plan?
12 Q: Your code, Ms. Richardson, not mine.
13 A: The code 1702.2 said completed forms together with an
14 application fee to cover the costs, plus any additional
15 information the applicant feels to be pertinent.
16 Q: So, what is required, according to the code, at the time
17 of the providing of the application?
18 A: The application, the fee, on the other additional
19 information, which in this case -- remember in this case, this
20 was a change from Version 2 to Version 3, so a site plan of
21 what changed, which would be the building layout.
22 Q: Woah, woah, woah, you just got done telling the Judge
23 that the 12 months didn't apply because this was not a change
24 in the zoning classification, but I think what you just said
25 was that we didn't need all the same stuff over again because

1 they had already provided it to us and 2.0? Is that what
2 you're saying?

3 A: I think I said that it was not a change in zoning
4 classification, and PD is still in the zoning classification,
5 and PD is the zoning classification for Version 2 and Version
6 3. But I think what I did say that the building layout
7 changed. That was a change, and that's the change that was
8 reflected here in what they submitted with their application.

9 Q: All right. So, would you please look at Exhibit 29?
10 That's when Mr. Stacy, on October 12th, 2018, which is two
11 months plus from the original application, is providing you
12 with -- as he says, the final plans had not yet been completed
13 when we made our application, but I wanted to make sure you
14 confirm this for your records and for your discussion among
15 staff and the Planning Commission. So, here, Mr. Stacy is
16 conceding, is he not, that the final plans were not provided
17 as part of the application; isn't that right?

18 A: That's correct, but final plans are not what's required
19 at the time of submission.

20 Q: What if they change the, the seating plan or the heated
21 square feet between the application in October when you're
22 drawing up the plan? Your whole plan -- your whole
23 recommendation might change, right?

24 A: Yes. And we would have to take that into consideration
25 as we were doing our review.

1 Q: With that -- I'm sorry to keep pushing you back to Number
2 20 -- were there any elevations provided with the application
3 of 3.0?

4 A: No, sir; and they were not required.

5 Q: Where in Exhibit 20 does it talk about the seating
6 layout, where the seats are gonna be on the decks?

7 A: It does not.

8 Q: Where does it tell you the difference in the heated
9 versus unheated square feet or the gross floor area in the
10 application that you received in August 2018?

11 A: It is not. That came through conversations that we had
12 after the initial submittal of the application.

13 Q: And how was the public supposed to learn about those
14 conversations?

15 A: Again, any information we have is made available to the
16 public, and the information that we present to the Planning
17 Commission a week ahead of time is also made available to the
18 public.

19 Q: By made available you mean if I asked for it you'd give
20 it to me?

21 A: I believe it is also put on our website; the packet is
22 uploaded on the County's website and can be viewed by the
23 public.

24 Q: The packet that the Planning Commission is supposed to
25 review and the County Council is ultimately put on the website

1 made available to the County Council, right?

2 A: Yes.

3 Q: That's the packet you're talking about?

4 A: Yes.

5 Q: And is there anything else -- have you reviewed the
6 packet that was provided to County Council in consideration of
7 3.0?

8 A: Not recently in great detail.

9 Q: Do you know whether the actual packet that was provided
10 to County Council for the consideration of 3.0 in 2019
11 included all the things that we've been talking about?

12 A: I think it did; yes, sir.

13 Q: Do you know?

14 A: To my knowledge it did.

15 Q: Let's talk about notice. The -- can we agree that the
16 code requires that the -- in a zoning amendment like 3.0, that
17 it is the responsibility of the County and/or the applicant to
18 make sure that personal notice by US mail is delivered to all
19 property owners within 400 feet of the subject property?
20 Isn't that right?

21 A: Yes.

22 Q: The code requires that?

23 A: The code requires that.

24 Q: And there are -- counsel elicited this testimony, you
25 were sitting here, but there's 60-some-odd owners of property

1 within the Marlin Quay condominium building, correct?

2 A: Yes.

3 Q: And neither the County nor the applicant since written
4 mail notice to the 60 owners, did it?

5 A: No, because based on the tax records, which is what our
6 ordinance says, that information was not available to us based
7 upon the customary method that we used to pull that 400-foot
8 radius from our GIS maps, those names did not come up.

9 Because we knew that, we then sent a letter to the POA, and we
10 also notified her by email and asked her for to forward that
11 to those individual property owners.

12 Q: Emails?

13 A: Yes.

14 Q: And did she forward -- did you have the email address for
15 all 60 owners?

16 A: I think she came back later and told us that she did
17 forward it to her list.

18 MR. BLOOM: Your Honor, I'm gonna have to move to strike
19 that last portion as hearsay.

20 MS. GOLDING: Your Honor, he asked her a question if she
21 knew. She responded, yes, I was told it had.

22 THE COURT: You asked the question; you're stuck with the
23 answer you got. Overruled.

24 MR. BLOOM: I think the question was slightly different
25 than that, Judge, but it's not a huge -- well ---

1 THE COURT: Well, I mean, she said ---

2 MR. BLOOM: It is a big point, actually.

3 THE COURT: She said that they were outside the 400 feet.

4 MR. BLOOM: No, that's not what she said; I'm sorry.

5 Respectfully, Judge, the issue is we all agreed that the
6 Marlin Quay condo building is within the 400 square feet,
7 don't we?

8 A: Yes.

9 MS. GOLDING: No, not all of it, Your Honor.

10 MR. BLOOM: Judge, she can't testify.

11 THE COURT: Hold on. Guys, it's -- it's too late in the
12 day for us to argue. Is it true or not, Mr. Bloom, that the
13 entirety of the condominiums is within the 400 feet. Is that
14 your ---

15 MR. BLOOM: That's what I'm asking, sir.

16 THE COURT: My recollection is that they pulled -- using
17 their GIS program and determined which people were within the
18 400 feet -- within 400 feet and which were not. Let's go over
19 that again, since there's an obvious misunderstanding.

20 MR. BLOOM: Yes, sir.

21 THE COURT: Let's go back to the notice issue.

22 MR. BLOOM: Yes, sir.

23 BY MR. BLOOM:

24 Q: When you -- well, first of all let me ask this, Whose
25 responsibility is it to ensure that written mailed notice gets

1 to all property owners within 400 feet of the subject?

2 A: The Planning Department.

3 Q: And does the code actually also require the applicant to
4 state the list of those 400 -- I'm sorry -- the list of those
5 owners within 400 feet?

6 A: Can I take just a minute?

7 Q: Oh, yeah, sure. 1702.206.

8 A: It says letters addressed to each property owner within
9 400 feet of the subject property.

10 Q: Must be included with the application?

11 A: Yes.

12 Q: And were letters addressed to all of the people that
13 owned property within 400 feet of the subject property
14 included with the application? Yes or no?

15 A: The applicant provided the envelopes ---

16 MR. BLOOM: Your Honor ---

17 MS. GOLDING: Your Honor, she's trying -- please ---

18 MR. BLOOM: I'd like a yes or no answer.

19 THE COURT: Let's see what she says was -- all we know is
20 the envelopes were provided. We don't know what those
21 envelopes -- ask her what -- ask her what the envelopes
22 stated. What were the -- you know, we know there are
23 envelopes, we don't know what was in the envelopes.

24 MR. BLOOM: Your Honor, I know it's getting late in the
25 day, but that -- I didn't ask about envelopes. My question is

1 ---

2 THE COURT: How else would you know if letters were
3 included if they weren't in envelopes?

4 MR. BLOOM: It requires a list, Judge. Applicants ---

5 THE COURT: Well, you didn't ask about a list. You asked
6 about letters.

7 MR. BLOOM: I'll ask about a list now.

8 THE COURT: You asked about letters.

9 MR. BLOOM: I won't argue -- if that's what I said, then
10 I -- we'll do it again. I know it's getting late.

11 BY MR. BLOOM:

12 Q: What does the code require the applicant to do in respect
13 to written notice mailed to owners within 400 feet?

14 A: The code says, Letters addressed to each property owner
15 within 400 feet of the subject property. And then it the last
16 sentence refers to a list of all property owners as reflected
17 by the tax records must accompany the application.

18 Q: So, what does the applicant have to provide in the
19 application, both envelopes and the list, just the envelopes,
20 just the list; what's the requirement? This is your -- what
21 you do for a living. Please tell the Judge what is required.

22 A: Okay. 1702.206 refers to letters and a list. But I
23 would like to speak to how we certify that that information is
24 provided.

25 Q: You're gonna have an opportunity to be redirected ---

1 MS. GOLDING: Your Honor ---

2 MR. BLOOM: Judge, this is not -- this is not an
3 opportunity for the witness to just talk about whatever she
4 wants. I've asked a simple question. And the question is ---

5 THE COURT: Okay. Here is the question that needs to be
6 answered. What was provided with the application by way of
7 letters and a list? And if she -- I want that direct question
8 answered first. And if it requires further examination, we'll
9 see, but what was -- if this is what the code -- the ordinance
10 requires to be produced, I need to know what came with the
11 application.

12 So, Ms. Richardson, go ahead.

13 A: Applicant provided envelopes for those within 400 feet.
14 I cannot speak to whether or not there was a list included
15 because I didn't do the intake. I was informed by my staff
16 that a list was provided, but I am not the one that takes that
17 information in and checks it when it comes into the office.

18 BY MR. BLOOM:

19 Q: Would you please point the Court out to where in Exhibit
20 20 there is anything about any envelopes or any lists included
21 from the applicant's application?

22 A: Well, the envelopes that he sent aren't included here
23 because they were then subsequently mailed out. But I don't
24 see a list shown here.

25 Q: All right. So, at least we agree on that. The applicant

1 did not comply with the last part of 1702.206, which says a
2 list of all property owners as reflected by the tax records to
3 whom letters are addressed must accompany the application.

4 Can we at least agree that was not complied with by the
5 applicant?

6 A: I can agree that that's not here in Number 20.

7 Q: And can we also agree that there were property owners
8 that lived in the condo building, in the Marlin Quay condo
9 building that did not get written mailed notice from either
10 the planning staff or the applicant?

11 A: I can agree to that, but that was based on the
12 information we pulled from the tax records. Those names did
13 not come up when we pulled that information that was reflected
14 on the tax records that we could access from our office.

15 Q: So, let me ask -- thank you for the answer. Let me ask
16 this question. When you look at a tax record, when you look
17 at the GIS and you look at a tax parcel and it shows a condo
18 building, is there a way to then click on that condo building
19 and find out who all the 60 owners are?

20 A: Not that I'm aware of. Sometimes it depends if it's a
21 townhome arrangement and they might own the dirt; sometimes it
22 comes up differently based on whether it's in HPR or what type
23 development it is.

24 Q: So, certainly, this is not the first time that you have
25 had to provide notice to condo owners in a tax map in the GIS

1 system was insufficient to tell you who they were, right?

2 Surely that's come up. There are lots of condos. You went
3 through 400 of them in the immediate vicinity.

4 A: I'm sure it has come up, and our approach in those cases
5 to my knowledge was the same as what we did here. We reached
6 out to the POA, who would be a representative of those people,
7 and made sure that they had the current information.

8 MR. BLOOM: And that is the answer that was hearsay that
9 I did not ask for, Your Honor. We're back to exactly where we
10 started on this issue. I did not ask for what someone told
11 her they did or didn't do at all.

12 THE COURT: Well, I mean, I think you've made your point
13 that you are highlighting that this notice may have been
14 deficient under 1702.206, so I understand the point you're
15 trying to make. You can move on.

16 MR. BLOOM: Yes, sir.

17 BY MR. BLOOM:

18 Q: I direct your attention to Exhibit 26.

19 A: Now, where back to the black notebook?

20 MR. BLOOM: 26 stipulated?

21 COURT REPORTER: No, sir.

22 BY MR. BLOOM:

23 Q: Then, yes, were in the black notebook. Do you see the
24 bottom third or bottom half of that email is an email from a
25 woman named Constance Lowry (spelled phonetically) to you,

1 correct?

2 A: It looks like it's to Tiffany, but I am copied.

3 Q: Yes. And there's an -- she writes to Tiffany, and the re
4 line is notice of public hearing, Thursday, October 18th,
5 amendment of the Marlin Quay Planed Development. Do you know
6 who Ms. Lowry is?

7 A: I think I remember who she is.

8 Q: Who is she?

9 A: I think she is a condo owner at Marlin Quay.

10 Q: One of the 60 that was required to receive written notice
11 of the proposed plan amendment change?

12 A: Yes. She is a member of the Marlin Quay condo within the
13 400 feet.

14 Q: Thank you. And Ms. Lowry writes to you and identifies
15 some -- what she perceived are deficiencies in the
16 application. She says I note that you forwarded the notice to
17 Nancy Gardner of the above meeting. I also note that you
18 forwarded to Chris Sanders, Marlin Quay homeowner by email the
19 application to amend the PD submitted by Attorney Stacy for
20 Palmetto. While I see signatures of Mr. Stacy and Dr. Lawhon
21 on Page 3, no dates appear. Is she right? You can look at
22 20.

23 A: Can I jump back to 20?

24 Q: Yes, please.

25 MS. GOLDING: Your Honor, just a matter of course, I had

1 objected to this email because of what he just read out to Ms.
2 Constance, she's not a witness -- Ms. Constance Lowry, excuse
3 me. She's not a witness and I advised Plaintiff's counsel
4 that that would be inadmissible due to hearsay.

5 MR. BLOOM: Those records were sent to us, Judge. This
6 was their production, their document, they -- they -- this is
7 an email that they had in their records. I can go about
8 laying the foundation if you'd like.

9 THE COURT: I will allow it. Objection overruled.

10 BY MR. BLOOM:

11 Q: Are you back to 20?

12 A: Yes, sir.

13 Q: The applicant didn't sign the application, did it?

14 A: It, it ---

15 Q: I'm sorry. Didn't date it. I'm sorry.

16 A: Yes. It's signed on Page 3, but there isn't a date after
17 the signature.

18 Q: The next observation by Ms. Lowry is that there were
19 preliminary redlined drawings but no hard information as to
20 the elevations or number of floors of the planned building
21 included. Is she right about that?

22 A: I would assume so.

23 Q: And then she says, I am most interested in knowing of
24 this latter information. Do you see where she says that?

25 A: Yes.

1 Q: And this is exactly what we were talking about before.
2 Why it's important to make sure, number one, that the
3 applicant provides you with all of this critical information
4 so that the public can understand what's being proposed.
5 Isn't that what we talked about earlier?

6 A: We did talk about that earlier. But in this case, I did
7 send Ms. Lowry that information as soon as it became
8 available, I believe.

9 Q: Don't disagree. I don't blame you, but let's look at the
10 next page. She says, I own two units within 400 feet of the
11 subject property and did not receive this notice in the US
12 Mail. Do you see that?

13 A: Yes.

14 Q: Do you have any reason to dispute that?

15 A: No.

16 Q: I submit that Paragraphs 1 and 2 on Page 3 have not
17 properly been executed. I agree that the many owners within
18 400 feet of the subject property are entitled to receive this
19 notice of public hearing by US Mail as outlined in the
20 application, not a two-step to three-step blanket process of
21 email. Do you see that?

22 A: Yes.

23 Q: So, certainly, when you were made aware of this in
24 October of 2018, did you stop the presses and say, we need to
25 make sure that we do this right. We've got to hold off on

1 doing the Planning Commission. We've got to comply with the
2 notice requirements and get mailed notices to everyone like
3 this. Did you do any of that?

4 A: No, I did not do that, but like I said, I did I believe
5 continue to email correspondence with Ms. Lowry to make sure
6 she had the information that she requested.

7 MR. BLOOM: Tender 26, Your Honor.

8 THE COURT: Yes, sir. It's admitted over Defendants'
9 objection.

10 MR. BLOOM: Thank you.

11 PLAINTIFF'S EXHIBIT NUMBER 26

12 ADMITTED INTO EVIDENCE

13 BY MR. BLOOM:

14 Q: Turn to Exhibit 33 if you would, please, I think still
15 within the black notebook. Are you there?

16 A: Yes, sir.

17 Q: Did you receive a copy of this letter from my law firm on
18 or around October 17th, 2018?

19 A: I think so.

20 Q: And this is the document that would've been retained by
21 the Planning Department in its records relating to this file?

22 A: Yes.

23 Q: And in this letter, my partner, former partner, is
24 writing around some of these procedural defects that we
25 contend occurred in respect to 3.0?

1 A: Yes.

2 Q: And I know you don't agree with them, but you've got
3 notice from us of what we perceived to be procedural defects,
4 correct?

5 A: Yes.

6 Q: And you did not -- you nor anyone in the department or
7 the county hold off on going forward with the Planning
8 Commission meeting, right? You kept going?

9 A: We did

10 Q: Even though Ms. Lowrey has told you that there are
11 procedural mistakes, we've told you there are procedural
12 mistakes, and I think George Redman at some point tells you
13 there all right procedural mistakes, but you didn't pump the
14 breaks and postpone the meeting, you just kept on going,
15 correct?

16 A: We did, because we discussed it amongst our department
17 and perhaps with Mr. Bryant here, and we felt that from our
18 perspective there were not procedural issues and that the case
19 could move forward.

20 Q: This was such a contentious project, right? You had a
21 mad neighbor owner, Gulfstream, you had homeowners that were
22 raising arms, you could've eliminated any procedural questions
23 about defects simply by honoring what the code said, and it
24 may be delayed what 30 days? Right? Couldn't you have done
25 that?

1 A: Again ---

2 MR. BLOOM: Your Honor, could I get a yes or no, first,
3 please?

4 A: My concern is ---

5 THE COURT: Answer ---

6 A: Yes, yes.

7 THE COURT: And now you can explain it.

8 A: We could've done that. Our concern is that the Planning
9 Commission does have to act within an application within so
10 many days; so we were concerned about that piece of it. And
11 again, we met, and me along with my director, and with Mr.
12 Bryant at the time and went over those procedural issues and
13 determined we felt like they had been complied with.

14 BY MR. BLOOM:

15 Q: And you maintain that position today, I think, right?

16 A: Yes, sir.

17 Q: You still don't think there were any procedural defects
18 in the process of 3.0?

19 A: That is correct.

20 Q: Even after we just went through all the problems, not
21 having a list, not getting mail notice to everybody, the 12-
22 month penalty box, none of those are defects in your opinion?

23 A: No, sir, because I think I've explained what we did in
24 terms of addressing the people within 400 feet.

25 Q: Okay. The email, that was the email stuff you talked

1 about.

2 A: Yes.

3 Q: And so, you didn't pump the brakes on the process going
4 to Planning Commission, and in October of 2018, who -- what
5 company was the architect firm for the applicant?

6 A: SGA.

7 Q: And who owned SGA in 2018?

8 A: I'm not sure about the ownership. I would assume Steve
9 Goggans.

10 Q: It's SGA for Steve Goggans Architects, right?

11 A: Yes, sir. That's why I would make that assumption.

12 Q: Thank you. Those are my questions.

13 MS. GOLDING: May I proceed, Your Honor?

14 THE COURT: Yes, ma'am.

15 MS. GOLDING: Thank you, Your Honor.

16 THE COURT: Ms. Richardson do you need any more water or
17 anything?

18 MS. RICHARDSON: I think I could use some water if it's
19 okay.

20 THE COURT: If y'all will -- if someone will pour her a
21 cup of water.

22 MS. RICHARDSON: Thank you.

23 CROSS-EXAMINATION OF HOLLY RICHARDSON BY MS. GOLDING:

24 Q: Ms. Richardson, can you -- let's go back and fill in some
25 of the information that's not been provided to the Court.

1 Give us your educational background.

2 A: I have a Bachelor of Arts from Wofford College, and a
3 Master in public administration from the University of South
4 Carolina.

5 Q: And with respect, when did you get your master's degree?

6 A: 1999.

7 Q: And with respect to your master's degree, did that
8 involve studies regarding land planning, zoning, and things of
9 that nature?

10 A: Not specific. Sometimes with planning and zoning,
11 although it did involve local government administration.

12 Q: Do you have any membership in any type of professional
13 associations?

14 A: I'm a member of the American Planning Association and the
15 American Institute of Certified Planners.

16 Q: And what is the American Institute of Certified Planners?

17 A: It's a designation for planners. It means that you have
18 completed the requirements to sit for an exam in terms of a
19 mixture of education and experience. You have to feel out an
20 application to take the exam. You have to pass the exam. And
21 then there are continuing education hours that are required
22 every year to maintain the status.

23 Q: And have you complied and abided with the continuing
24 education requirements each year?

25 A: Yes.

1 Q: Okay. I didn't ask you, how long have you been a member
2 of this association -- I believe it was American Institute of
3 Certified Planners?

4 A: I believe since 2008.

5 Q: And what -- how large an association is that
6 organization?

7 A: Over 10,000, I believe.

8 Q: And what's the importance or significance of you being a
9 member of the American Institute of Certified Planners?

10 A: It means that I get training every year to keep up with
11 the current events, networking with other professionals, some
12 -- it means we adhere to some ethics standards. It kind of
13 gives validity to the profession.

14 Q: When you say communication in association with other
15 individuals that are certified planners, is that in the State
16 of South Carolina or is it throughout the Southeast, or in
17 what ---

18 A: It's both. Because of budget, usually my networking is
19 typically to the state association meetings. Sometimes, we
20 have ones with North Carolina, and I have been to the APA
21 Association meeting once.

22 Q: With respect to that being in the American Institute of
23 Certified Planners, does that's also involved planned
24 developments, PDs, or PUDs are sometimes called?

25 A: There would certainly be sessions on that from time to

1 time, different zoning requirements.

2 Q: Okay. With respect to Georgetown County, what size is
3 this county geographically?

4 A: I believe it's over 800 square miles.

5 Q: And what is its approximate population?

6 A: A little over 60,000 the last number I saw.

7 Q: And is this a fast-growing county or one of the slowest-
8 growing counties; how would you describe it?

9 A: Georgetown County has a fast-growing area on the Waccamaw
10 Neck, but overall I don't think our numbers have been fast
11 growing as a county.

12 Q: What type of government is in Georgetown County?

13 A: It's the council administrator form.

14 Q: Okay. And with the council administrator form, who then
15 essentially operates the county government?

16 A: The County Administrator.

17 Q: Okay. And who is the County administrator?

18 A: Her name is Angela Christian.

19 Q: Okay. And how many employees are there in the county
20 government?

21 A: I think there's a little over 700 on a typical day to
22 day.

23 Q: I believe this may've been covered, but when did you
24 start working with Georgetown County?

25 A: December of 2005.

1 Q: And have you been exclusively employed with Georgetown
2 County since December of 2005 to today?

3 A: Yes, ma'am.

4 Q: And as a current -- what is your position currently?

5 A: Director of Planning and Code Enforcement.

6 Q: And how long have you been in that position?

7 A: Since November of 2020.

8 Q: And what is your responsibilities in that position?

9 A: I oversee the Building Department, the Zoning Department,
10 and the Planning Department. We oversee the development of a
11 comprehensive plan and the enforcement of the zoning ordinance
12 and the land development regulations. We write and make our
13 recommendations to the Planning Commission, which then go up
14 to County Council. We also staff the Board of Zoning Appeals.
15 We deal with transportation issues. And overall, general -- I
16 oversee the general planning function for the County.

17 Q: And with respect to PDs, can you approximate the number
18 of PDs we have in Georgetown County?

19 A: Over 100.

20 Q: And are PDs unique to Georgetown County?

21 A: No, ma'am. That is a zoning tool that is provided for in
22 the state enabling legislation.

23 Q: And if this zoning tool, PDs, is that something that is a
24 integral part of county zoning, or is it separate and apart
25 from county zoning?

1 A: It is an integral part of county zoning, just based on
2 the fact that we have so many. But each planned development
3 is its own zoning and has its own requirements.

4 Q: Okay. Could you describe that -- a PD as a zoning
5 district within the zoning ordinance?

6 A: Yes.

7 Q: Okay. Now, we've heard some talk about the building
8 code, the fire codes, the zoning code. Are those three
9 different codes?

10 A: Yes.

11 Q: And when you handle zoning matters such as this
12 amendment, the Number 3 amendment we are talking about, do you
13 go in and use the building code to determine the efficiency of
14 an application for an amendment?

15 A: No, ma'am.

16 Q: Okay. Do you use the fire code to determine the
17 efficiency or the applicability or the approvability of an
18 amendment to zoning?

19 A: No, ma'am.

20 Q: With respect to Marlin Quay, I heard that it was -- it
21 became a PD in about 1982; is that correct?

22 A: Yes.

23 Q: Okay. And over the years since 1982 to the present, have
24 there been a number of amendments to that PD?

25 A: Yes.

1 Q: Do you know approximately how many?

2 A: I'm speaking on this based on my review of the file and
3 the information I can pull from there. But based on that it
4 appears to me that maybe five or six times it went before
5 either Planning Commission or Council for changes and
6 amendments.

7 Q: Okay. And do any of those -- do you recall if any of
8 those amendments were made by Gulfstream Restaurant or Café?

9 A: Not to my knowledge.

10 Q: With respect to the -- you've heard some information or
11 testimony about easements, what -- how do easements play into
12 the zoning staff review of an amendment to a zoning ordinance?

13 A: We don't review easements as part of the zoning
14 ordinance. Those are generally between individual property
15 owners as a civil matter.

16 Q: Does the zoning staff -- do you staff when you get an
17 amendment application? Is there a title search conducted?

18 A: No, ma'am.

19 Q: With respect to the application for Version 2, do you
20 recall when Version 2 was first submitted?

21 A: Version 2 went to the Planning Commission in December
22 21st, so it would've been submitted sometime in early
23 November, November 3rd, I believe.

24 Q: I'm gonna give you this notebook with some of Defendants'
25 exhibits, and I'm going to ask you to look at several of the

1 exhibits and identify them so we can get them introduced into
2 evidence. Sorry about all these notebooks in front of you.

3 In that notebook, I will ask you to look at Defendants'
4 Exhibit Number 2 and ask you to identify that document,
5 please.

6 A: This is the ad in a newspaper, the notification of the
7 public hearing that was taking place on December 21st before
8 the Planning Commission.

9 Q: And this -- was this an ad for Version 2?

10 A: Yes, ma'am.

11 MS. GOLDING: Your Honor, we would offer Defendants'
12 Exhibit Number 2 into evidence.

13 THE COURT: Mr. Bloom?

14 MR. BLOOM: Objection, relevance. It has nothing to do
15 with 3.0. She said it was 2.0.

16 MS. GOLDING: It is for 2.0, Your Honor.

17 THE COURT: Well, 2.0 has been discussed plenty in this
18 case. So, I think it's relevant. I'll admit it over the
19 plaintiff's objection.

20 DEFENDANTS' EXHIBIT NUMBER 2

21 ADMITTED INTO EVIDENCE

22 BY MS. GOLDING:

23 Q: Next, look at Defendants' Exhibit Number 3, Ms.
24 Richardson. Have you got that in front of you?

25 A: Yes, ma'am.

1 Q: Defendants' Number 3, is that an ad from the Coastal
2 Observer for December 21, 2017 Planning Commission public
3 hearing?

4 A: Yes, ma'am.

5 Q: And is that to do with the application for Version 2?

6 A: Yes.

7 MS. GOLDING: Your Honor, we would offer Exhibit Number 3
8 into evidence.

9 MR. BLOOM: Same objection.

10 THE COURT: Number 3 is admitted over Plaintiff's
11 objection.

12 DEFENDANTS' EXHIBIT NUMBER 3

13 ADMITTED INTO EVIDENCE

14 BY MS. GOLDING:

15 Q: Next, ask you to look at Defendants' Exhibit Number 4.
16 Are those emails from Judy Blankenship to the Georgetown Times
17 and the Coastal Observer regarding the notice of public
18 hearing on December 21, 2017?

19 A: Yes.

20 Q: And do these emails relate to the advertising for Version
21 2?

22 A: Yes.

23 MS. GOLDING: Your Honor, we would offer Defendants'
24 Exhibit 4 into evidence.

25 MR. BLOOM: Same objection.

1 THE COURT: It's admitted over ---

2 MR. BLOOM: Actually, now I'll add cumulative. We've
3 gone and fully established with the Planning Commission
4 hearing was scheduled for.

5 THE COURT: Well, I'm gonna admit it for whatever it's
6 worth over your objection, Mr. Bloom. Plaintiff's -- or
7 excuse me -- Defendants' 4 is admitted over Plaintiff's
8 objection.

9 DEFENDANTS' EXHIBIT NUMBER 4

10 ADMITTED INTO EVIDENCE

11 BY MS. GOLDING:

12 Q: Defendants' Exhibit Number 5, which is the Planning
13 Commission staff report for the December 21, 2017. Is that
14 staff report relate -- for Version 2?

15 A: Yes, ma'am.

16 MS. GOLDING: Your Honor, we would offer Defendants'
17 Exhibit 5 into evidence.

18 MR. BLOOM: Same objection, Your Honor.

19 THE COURT: All right. Defendants' 5 is admitted over
20 Plaintiff's objection.

21 DEFENDANTS' EXHIBIT NUMBER 5

22 ADMITTED INTO EVIDENCE

23 BY MS. GOLDING:

24 Q: Defendants' Exhibit Number 6, the minutes of the
25 Georgetown County Council for January 9, 2018 meeting for the

1 first reading to hear -- to pass the proposed ordinance for
2 Version 2. Is that a true and accurate copy of those minutes?

3 A: Yes.

4 MS. GOLDING: Your Honor, we would offer Defendants'
5 Exhibit Number 6 into evidence.

6 MR. BLOOM: Objection, relevance.

7 THE COURT: What do you have to say about that, Ms.
8 Golding?

9 MS. GOLDING: It shows the attendance at the first
10 reading with Gulfstream Café being present at that time, Your
11 Honor. It also shows that Steve Goggans excused himself when
12 the matter came up.

13 THE COURT: All right. I believe based on what I see
14 that those, those issues do weigh in favor of relevance. So,
15 I will admit Number 6 over Plaintiff's objection.

16 DEFENDANTS' EXHIBIT NUMBER 6

17 ADMITTED INTO EVIDENCE

18 BY MS. GOLDING:

19 Q: Ms. Richardson, Defendants' Exhibit Number 7, the minutes
20 of the Georgetown Council meeting for February 13, 2018, the
21 second reading. Does Defendants' Exhibit Number 7, are those
22 true and accurate copies of the minutes of that meeting?

23 A: Yes.

24 MS. GOLDING: Your Honor, we would offer Exhibit 7 into
25 evidence.

1 MR. BLOOM: Objection, relevance.

2 THE COURT: Same grounds, Ms. Golding MS. GOLDING:
3 Same grounds, Your Honor.

4 THE COURT: Defendant 7 is admitted over the plaintiff's
5 objection.

6 DEFENDANTS' EXHIBIT NUMBER 7

7 ADMITTED INTO EVIDENCE

8 BY MS. GOLDING:

9 Q: Defendants' Exhibit Number 8 is the minutes of the
10 Georgetown County Council for February 27, 2018 meeting, which
11 is the third reading. Is Defendants' Exhibit Number 8 a true
12 and accurate copy of the minutes of that County Council
13 meeting?

14 A: Yes, ma'am.

15 MS. GOLDING: We would offer Defendants' Exhibit Number 8
16 into evidence.

17 MR. BLOOM: Objection, relevance.

18 THE COURT: Same grounds?

19 MS. GOLDING: Again, the same reasons, Your Honor.

20 THE COURT: All right. Defendants' 8 is admitted over
21 the plaintiff's objection.

22 DEFENDANTS' EXHIBIT NUMBER 8

23 ADMITTED INTO EVIDENCE

24 BY MS. GOLDING:

25 Q: Defendants' Exhibit Number 9, Ms. Richardson, is an

1 Ordinance Number 2018-03 that was adopted February 27, 2018.

2 Can you identify that ordinance, please?

3 A: Yes. This is an ordinance for MQ2, Version 2.

4 MS. GOLDING: Your Honor, we would offer Defendants'
5 Exhibit Number 9 into evidence.

6 MR. BLOOM: No objection.

7 THE COURT: All right. Defendants' 9 is admitted without
8 objection.

9 DEFENDANTS' EXHIBIT NUMBER 9

10 ADMITTED INTO EVIDENCE

11 BY MS. GOLDING:

12 Q: Ms. Richardson, Defendants' Exhibit Number 10 is a hand-
13 delivered letter dated August 27, 2018, from Oxner & Stacy, PA
14 to Georgetown Planning Commission. Is that a true and
15 accurate copy of the letter that was delivered to the Planning
16 Commission?

17 A: Yes, ma'am.

18 Q: And that letter -- can you please read the letter out?

19 MR. BLOOM: Your Honor, it hasn't been -- well, my
20 objection would be to the admission of this document as
21 hearsay. No foundation has been set for that purpose.

22 MS. GOLDING: That's the reason I wanted to read ---

23 BY MS. GOLDING:

24 Q: With respect to that letter, what was the purpose -- what
25 is set forth as the purpose of that letter?

1 MR. BLOOM: Your Honor, that does not set the foundation
2 for the hearsay exception, if she seeks to enter it around
3 through a hearsay exception, the foundation has not been laid.

4 THE COURT: It looks to me -- can't we all agree that --
5 it looks to me this letter is in connection with the
6 application fee, and this would be the type of letter that
7 would generally be a business record under 803(6)?

8 MS. GOLDING: Yes, sir, Your Honor

9 THE COURT: I mean, I -- Mr. Bloom, we don't have a jury.
10 I mean, I know what this is for. I think it -- I think it
11 comes in to show actions that are in furtherance of the
12 ordinary course of the Planning Department's business. So, I
13 -- I don't see any harm in letting it in. I will ---

14 MR. BLOOM: Your Honor -- I'm sorry.

15 THE COURT: I will -- I was gonna say I will assign
16 whatever the appropriate amount of weight that I see fit, but
17 I think it is -- I think it's admissible.

18 MR. BLOOM: Your Honor, if I may?

19 THE COURT: Yes, sir.

20 MR. BLOOM: One of the primary problems with this letter
21 is it says, Please find the stamped envelopes to use to mail
22 out the owner notification letters, and there are no
23 envelopes.

24 THE COURT: Well, I think that goes -- I think that goes
25 to the weight not the admissibility, Mr. Bloom. You know, I

1 understand where you're coming from, but whether the envelopes
2 were sent will have to be a finding of fact that I -- will be
3 a finding of fact that I have to make or not. We've got
4 testimony that it wasn't done properly, so I will weigh the
5 evidence and make that decision in the future. But I think
6 that this falls into 803(6).

7 MR. BLOOM: And, Judge, just want to make sure that the
8 record reflects the completeness -- the completeness doctrine
9 objection. I also may -- and I think I might've been talking
10 over Your Honor. I just want to make sure the record reflects
11 that accurately.

12 THE COURT: All right. It's so shall reflect.

13 MS. GOLDING: Thank you, Your Honor.

14 BY MS. GOLDING:

15 Q: Ms. Richardson, with respect to the hand-delivered letter
16 and as indicated in the letter in Exhibit Number 10, the
17 envelopes were accompanying, what happened to the envelopes
18 that came with the letter?

19 A: They were checked and then they were mailed to the people
20 that they were dressed to in order to send notice of the
21 meeting.

22 MR. BLOOM: Object and move to strike that answer to the
23 extent that it relies upon hearsay for her to know that. She
24 doesn't have personal knowledge of what happened to the
25 envelopes, then she could only find that out through someone

1 else's testimony or information told to her.

2 THE COURT: Ms. Golding, rephrase your question, ma'am.

3 BY MS. GOLDING:

4 Q: To your knowledge, do you know what happened to the
5 envelopes that accompanied the letter from Oxner & Stacy on
6 August 27, 2018?

7 A: To my knowledge, they were reviewed and checked by
8 someone in our staff and then mailed out.

9 MR. BLOOM: Judge, that's the whole point of the hearsay
10 objection. To your knowledge does not call for personal
11 knowledge; it is just another way of saying that somebody tell
12 you what happened to the envelopes.

13 THE COURT: Maybe the question can be asked this way. Is
14 it the -- was the standard of practice of the Planning
15 Department when these issues arise?

16 BY MS. GOLDING:

17 Q: Ms. Richardson, you were -- on August 27, 2018, what was
18 your position at the Planning Department?

19 A: Chief planner.

20 Q: And as chief planner, did you have under -- did you have
21 under your supervision individuals that were responsible for
22 mailing out envelopes that accompanied application amendments
23 for zoning?

24 A: Yes, ma'am.

25 Q: Okay. And who was that individual?

1 A: Tiffany Coleman is who typically would handle that.

2 Q: And is the normal practice of the Planning Department to
3 -- what is the normal practice of the Planning Department when
4 envelopes were delivered with an application to amend the
5 zoning ordinance?

6 A: They would be reviewed and checked against the list we
7 produced, people within 400 feet, and then we would include
8 the notification inside the letters, inside the envelopes, and
9 mail those out.

10 Q: When you say the notification inside the envelopes, what
11 are you referring to?

12 A: We call that the adjacent property owner notice,
13 sometimes the APN. It basically says there will be a meeting
14 held on this topic. It gives the location, tells when and
15 where the meeting will be and what time, and there is a
16 location map on the back of the letter of the notice.

17 Q: And is that standard and customary practice in your
18 office to have that type of notice?

19 A: Yes, ma'am.

20 Q: Is it also standard and customary in your office to copy
21 the envelopes that are delivered placed in the file?

22 A: No, ma'am.

23 Q: Okay. Next, with respect to Defendants' Exhibit Number
24 11, that's a picture of a signpost ---

25 THE COURT: Let's go back to Number 10 real quick.

1 MS. GOLDING: Certainly.

2 THE COURT: And just for the record, I think it's
3 admissible under 803(6). I also think that it's admissible
4 under Rule 406, which is habit, routine practice.

5 MS. GOLDING: Thank you, Your Honor.

6 DEFENDANTS' EXHIBIT NUMBER 10

7 ADMITTED INTO EVIDENCE

8 BY MS. GOLDING:

9 Q: We've heard testimony when you earlier testified to
10 questions of Mr. Bloom with respect to the letters that are
11 sent out to the property owners within that 400 feet. Can you
12 tell me what are those letters?

13 A: The letters that are mailed to the adjacent property
14 owners?

15 Q: Yes, ma'am.

16 A: That's what I was just referring to, the public notice.

17 Q: Okay. Going to Defendants' Exhibit Number 11. Is that a
18 picture of a sign that was posted for the Planning Commission
19 meeting in October 2018?

20 MR. BLOOM: Objection. Object, Your Honor, lacks
21 foundation.

22 MS. GOLDING: Let me withdraw that, Your Honor.

23 THE COURT: All right.

24 MS. GOLDING: Okay.

25 BY MS. GOLDING:

1 Q: Ms. Richardson, with respect to your -- the Planning
2 Department and sending out notice and providing notice to the
3 public, tell this Court about what is customarily done and
4 what is the practice with respect to posting of signs.

5 A: Okay. We -- when we get a request, we have to post a
6 sign on the right-of-way or so it can be seen from the right-
7 of-way in front of the property in question that notifies the
8 public that there will be a public hearing taking place. So,
9 a member of our staff -- it's typically the zoning staff goes
10 out the required number of days prior to the meeting and posts
11 the sign. And we try to take a picture to verify that the
12 property was posted as required.

13 Q: And is the photograph of that sign, is that customary and
14 standard when respect -- with respect to advertising
15 applications to amend the zoning ordinance?

16 A: Yes, for a zoning map change or a PD change.

17 Q: And with respect to Defendants' Exhibit Number 11, is
18 that a photograph of the sign that was posted for the Version
19 3 amendment to the zoning ordinance?

20 MR. BLOOM: Your Honor, objection, lacks foundation. She
21 can't tell you when this picture was taken, she can't tell you
22 when this post was posted. You can't even tell from the
23 picture whether it's for 2.0 or 3.0. There is simply no
24 foundation for this witness to provide personal knowledge as
25 to where that -- where that posting was made, when it was

1 made, and for which application it was made.

2 THE COURT: Ms. Richardson, do you know by looking at
3 this photo that this is the posting of the sign for Version 3?

4 A: Not sure what about it would tell me it's Version 3. I
5 -- no, I'm not certain I could say that's for Version 3.

6 THE COURT: All right. Any ---

7 MS. GOLDING: May I ask her one more question?

8 THE COURT: Yes, ma'am.

9 BY MS. GOLDING:

10 Q: With respect to Defendants' Exhibit 11, did this
11 photograph come from your department's file relating to the
12 advertising and the notice of publications for Version 3?

13 A: Yes.

14 MS. GOLDING: I believe that's the foundation that's
15 sufficient, Your Honor.

16 THE COURT: Mr. Bloom, anything else?

17 MR. BLOOM: It does not set the foundation for whether in
18 fact this photograph was taken at the time 3.0 was posted or
19 not posted. This is an important point, Your Honor. In order
20 to prove that the posting was sufficient for 3.0, they need
21 someone to testify that this posting was in place on the
22 right-of-way with sufficient advance notice of the 3.0
23 Planning Commission hearing, and this witness cannot do that.
24 Simply saying it was in their files does not establish that
25 the posting requirement was satisfied.

1 MS. GOLDING: She said more than that, Your Honor. She's
2 also testified as to its practice and procedures and what is
3 done, and she's also with respect to posting of these notices,
4 having a photograph taken and putting in the file.

5 MR. BLOOM: Your Honor, this is akin to a chain of
6 custody issue as well that you might analogize it to. There's
7 no chain of custody for this picture whatsoever.

8 THE COURT: Well, I think, again, that -- she's testified
9 that it was the photograph of the notice that was placed in
10 the file. I think that, again, goes to the weight of the
11 evidence and not its admissibility. It looks like the
12 condominium building perhaps is behind the, the hallmark
13 trailer. You know, I'm just supposing that, but I think it's
14 a close call, Mr. Bloom, but I think, you know, she has
15 testified enough to lay the foundation. So, I'm gonna allow
16 Defendants' 11 over Plaintiff's objection.

17 MR. BLOOM: Your Honor, may I perfect the record on this
18 just one more point.

19 THE COURT: Sure.

20 MR. BLOOM: 11 does not set forth any date on the sign
21 itself where you could tell for which Planning Commission it
22 was being posted. If you look at the actual sign, it just
23 says there's a Planning Commission Committee meeting coming
24 up, and if you want to know the date and time you call the
25 phone number. So, that's number one. Number two, there has

1 been insufficient foundation to establish that this is
2 authentic. Number three, it's inadmissible for lack of
3 foundation just under normal admissibility requirements.

4 THE COURT: All right. Well, I appreciate you
5 delineating those grounds. I think the first two, again, go
6 to the weight of the evidence and perhaps that the notice was
7 deficient. But as far as the admissibility of the photograph,
8 I don't think those really go to the admissibility. I think
9 number three, like I said, I think it was a close call, but
10 she testified as to what she did to ensure that this was the
11 sign that was posted in relation to Version 3.0. So, I think
12 sufficient foundation has been laid, and I will note your
13 exception and objection for the record to Defendants' 11.

14 MR. BLOOM: Thank you, Your Honor.

15 DEFENDANTS' EXHIBIT NUMBER 11

16 ADMITTED INTO EVIDENCE

17 BY MS. GOLDING:

18 Q: Next, Ms. Richardson, I asked you to go to Exhibit Number
19 19, Defendants' Exhibit. Is that the public sign-in sheet for
20 the Planning Commission hearing that occurred on October 18,
21 2018?

22 A: Yes, ma'am.

23 Q: And with respect to this document, the sign-in sheet, how
24 is this document maintained after -- at the close of the
25 Planning Commission?

1 A: After the meeting, then a staff member would take it and
2 include it with a binder we keep of the Planning Commission
3 meetings with all the relevant information and would include
4 it at the front of that meeting agenda packet.

5 MS. GOLDING: Your Honor, we would offer Defendants'
6 Exhibit 19 into evidence.

7 MR. BLOOM: Objection, relevance.

8 MS. GOLDING: It just shows Gulfstream attending that
9 Planning Commission hearing, Your Honor.

10 THE COURT: And I assume you are meaning Mr. Greg
11 Greenbaum?

12 MS. GOLDING: Yes. Yes, Your Honor.

13 THE COURT: All right. I think -- I think it's relevant
14 for showing whether the plaintiff received notice. So, I will
15 admit Defendants' 19 over the plaintiff's objection.

16 MR. BLOOM: Judge, may I further perfect -- and I don't
17 -- this is not something that needs to be belabored, but I
18 think Your Honor knows that we're not challenging the
19 procedural due process compliance for 2.0. We're not saying
20 that we didn't get notice for 2.0.

21 THE COURT: I understand that but ---

22 MS. GOLDING: Your Honor, this is for Number 3. This is
23 for Version 3.

24 MR. BLOOM: Same objection, Judge, lack of foundation.

25 THE COURT: I'm gonna admit it. I think, you know, it's

1 -- I think the foundation has been sufficiently laid and I
2 overrule your objection, Mr. Bloom, and note it for the
3 record.

4 MR. BLOOM: Thank you.

5 DEFENDANTS' EXHIBIT NUMBER 19

6 ADMITTED INTO EVIDENCE

7 BY MS. GOLDING:

8 Q: Ms. Richardson, I next direct you to Defendants' Exhibit
9 Number 20, which is a sign-in sheet for a County Council
10 meeting that occurred on December 11, 2018. Do you see that
11 document?

12 A: Yes, ma'am.

13 Q: At the County Council meeting on December 11, 2018, was
14 Version Number 3 brought up as a first reading?

15 A: Yes, I believe so.

16 Q: And with respect to the sign-in sheet for a County
17 Council meeting on December 18, 2018, does it reflect
18 individuals that signed on behalf or appeared on behalf of
19 Gulfstream Café?

20 A: Yes, it does.

21 MS. GOLDING: We would offer Defendants Exhibit 20 into
22 evidence, Your Honor.

23 MR. BLOOM: No objection.

24 THE COURT: Defendants' 20 is admitted without objection.

25 DEFENDANTS' EXHIBIT NUMBER 20

1 ADMITTED INTO EVIDENCE

2 BY MS. GOLDING:

3 Q: Ms. Richardson, with respect to the Planning Commission
4 meeting that occurred in October, 2018, were you present
5 during that time for Version 3?

6 A: I believe that's the meeting that I did not attend.

7 Q: Did you then thereafter attend the County Council meeting
8 readings one, two, and three for Version 3?

9 A: It's hard to remember. We had several meetings on this
10 topic, but it would have been unusual for me to attend a
11 Council meeting at that time as Mr. Johnson was the director
12 and he attended that those.

13 Q: With respect to Mr. Goggans, you've known Mr. Goggans?

14 A: Yes, ma'am.

15 Q: You classify Mr. Goggans as a personal friend?

16 A: No, ma'am. We are acquaintances, friendly. Certainly, I
17 have known him a long time in a work capacity.

18 Q: With respect to Mr. Goggans and the Version 2 that was
19 passed or the application that occurred on November 3, 2017,
20 and subsequently Version 2, do you recall having any
21 communications with Mr. Goggans with respect to the approval
22 of Version 2?

23 A: No.

24 Q: Same question with respect to the approval of Version 3.
25 Do you recall having any communication, contact with Mr.

1 Goggans with respect to the approval of Version 3?

2 A: No.

3 Q: Who else -- who on behalf of SGA Architect was involved
4 with respect to the approval of Version 3?

5 A: You said with regards to SGA Architects?

6 Q: Yes, ma'am.

7 A: My main contact at that time was Luda Sobchuk.

8 Q: Is there any way you can spell that for the court
9 reporter?

10 A: Luda, L-U-D-A; and the last name is S-O-B-C-H-U-K.

11 Q: Thank you. Now, with respect to the application that was
12 submitted, and I believe that is Plaintiff's Exhibit Number 20
13 that was submitted on August 27, 2018, if I recall, it may be
14 24th, the application is Plaintiff's Exhibit 20?

15 A: Yes, ma'am.

16 Q: Exhibit Number 20, is this the application form that your
17 department has with respect to seeking an application to amend
18 a PD?

19 A: Yes, ma'am.

20 Q: Does this application apply to amend anything else but a
21 PD?

22 A: No.

23 Q: This application that is set form in Plaintiff's Exhibit
24 20, is this the form that is provided to the public ---

25 A: Yes.

1 Q: --- and used by your department?

2 A: Yes.

3 Q: With respect to an application to amend a PD, do you
4 accept an application to amend a PD in any other form other
5 than as in Plaintiff's Exhibit 20?

6 A: No.

7 Q: Is Plaintiff's Exhibit 20 then the proper form that was
8 used to apply for an amendment to a PD?

9 A: Yes.

10 Q: Going through this application, go to the third page. It
11 has Section B. There are some blanks in Section B, setback
12 amendment. There is nothing that is provided. Why is that?

13 A: Because they weren't requesting a setback amendment for
14 this PD.

15 Q: Okay. So, if there is no request for setback amendment,
16 that section doesn't have to be completed; is that correct?

17 A: Yes.

18 Q: The same question for the next section, Section C,
19 signage amendment. Why is that part incomplete?

20 A: They were requesting a change to the signage for the PD.

21 Q: Then, Section D has a site plan amendment, and is
22 information provided as for the site plan amendment?

23 A: Yes.

24 Q: And what was the purpose of that is set forth in this
25 request?

1 A: The purpose that's listed here is to bring the site into
2 compliance with a court order.

3 Q: Okay. And is that a proper purpose with respect to the
4 public in zoning?

5 A: Yes, I think so. It applies to convenience, it applies
6 to the general welfare of bringing the site into compliance
7 with a court order. It is certainly good zoning practice.
8 And, putting the building wholly on property that the property
9 owner owned is certainly good zoning practice, and part of the
10 general welfare provision.

11 Q: When it has Section D, it has site plan amendment. That
12 is the form, the site plan amendment; is that correct?

13 A: Yes. That only which comes from the form.

14 Q: And, also, has proposed amendment request, that is also
15 part of the form?

16 A: I think so, yes.

17 Q: And that was completed; is that correct?

18 A: Yes.

19 Q: Then the next item has reason for amendment, and there's
20 a reason provided; is that correct?

21 A: Yes.

22 Q: But then it has submittal requirements, and to your
23 knowledge were all these submittal requirements met?

24 A: Yes. We did get further calculations on the site
25 throughout the review process.

1 Q: Let me ask you about that. With respect to your
2 department and obtaining amendments to the zoning or PD, does
3 your department and your staff members do y'all communicate
4 with the applicants or the applicant's representatives?

5 A: Yes, almost every time.

6 Q: Okay. And is it only with regard to Marlin Quay or is it
7 with every PD, every application?

8 A: There's always a back and forth between us and the
9 applicant or the applicant's agent as to further information
10 we might need, further questions we've come across. We start
11 our analysis once we see the application and once we receive
12 in information that's provided. So, that often many times
13 leads to further clarifications, further information that's
14 needed.

15 Q: Okay. Is that customary and standard in the Planning
16 Department to have these constant communications with the
17 applicant or the applicant's representative?

18 A: In my experience it certainly has been.

19 Q: And with respect to your experience, is it your
20 experience that this process of amending a PD, for instance,
21 or amending any part of the zoning, is that an adversarial
22 process?

23 A: Not -- not typically, no. I mean, we receive the
24 information they submit, and we review it from a neutral
25 position and analyze the data, and then make our report.

1 Q: In your report, is that a recommendation that is done?

2 A: Well, we -- in this case, yes, we did make a
3 recommendation at the end of the report.

4 Q: Okay. Let's look at Plaintiff's Exhibit Number 35. Do
5 you have that in front of you?

6 A: Yes.

7 Q: Okay. Plaintiff's Exhibit 35 --

8 MS. GOLDING: I believe it is already been admitted into
9 evidence, Your Honor.

10 BY MS. GOLDING:

11 Q: And to the Court, tell -- what is Exhibit 35?

12 A: Exhibit 35 is the staff report that my office prepares to
13 present to the Planning Commission on a -- in this case, on a
14 PD amendment.

15 Q: Okay. And with respect to Exhibit 35, did you go into
16 the calculations of what the existing PD ordinance was and
17 what was requested to be altered to a new PD ordinance or
18 rezoning?

19 A: I think we give some of the background on the situation
20 here, but the main reason -- at this point, we were at Version
21 3, so a lot of this report gets to the differences between
22 what they approved for Version 2 and what's being proposed for
23 Version 3.

24 Q: Is that on the second page of your staff report?

25 A: Yes.

1 Q: Okay. And on the -- in Defendants' Exhibit -- excuse me
2 -- Plaintiff's Exhibit 35, with respect to Version 2, what was
3 the total restaurant heated square footage?
4 A: 2,641.
5 Q: And what was the total heated square footage in the
6 restaurant for Version 3?
7 A: 2,630.
8 Q: And what is the difference?
9 A: Reduction of 11 square feet.
10 Q: And with respect to the unheated total restaurant, was
11 there a difference between Version 2 and Version 3?
12 A: Yes.
13 Q: And what was the difference?
14 A: A reduction of 51 square feet.
15 Q: Then, with respect to the marina retail, was there a
16 difference in the retail square footage between the two
17 versions?
18 A: Heated or unheated?
19 Q: Both.
20 A: It looks like the heated increased 11 square feet, and
21 the unheated increased 220 square feet.
22 Q: Okay. Over the total heated square feet between Version
23 2 and Version 3, was there any change?
24 A: This is showing no change.
25 Q: Okay. And the total heated in Version 2 was what?

1 A: The total heated in Version 2 was 4,596.
2 Q: And the total for Version 3 was the same?
3 A: This shows the same, yes.
4 Q: Ms. Richardson, I forgot to ask you, did you ever go to
5 the Marlin Quay Restaurant?
6 A: You're referring to the previous building?
7 Q: Yes.
8 A: Yes.
9 Q: Okay. And for what purpose did you go?
10 A: I think I went in 2015-2016, when we started kind of
11 talking about the site and the question of demolishing it came
12 up.
13 Q: And did you dine at the restaurant?
14 A: Yes; we had lunch there.
15 Q: And did you sit at a table and were served with food?
16 A: Yes.
17 Q: Okay. Now, with respect to Version 2, the ordinance that
18 was passed on Version 2, that ordinance had -- of course, we
19 talked about the heated square feet not to exceed 4,598. Why
20 was that recommended by your department?
21 A: Because we were seeking to maintain the same amount of
22 heated square footage for the building that it had in its
23 previous location before it was demolished.
24 Q: And that previous square footage, how did you receive
25 that information?

1 A: We received it in an email from an architect/engineer.

2 Q: Okay. And was that Mr. Goggans?

3 A: I think that was the email from Mr. Victoria, Chris
4 Hollingsworth, one of those.

5 Q: And then it had in Version 2, it had 62 parking spaces
6 will be provided, with three compact spaces. And what was the
7 basis for the 62 parking spaces?

8 A: I think the 62 parking spaces is the parking spaces in
9 the parking lot at the time.

10 Q: We've heard a lot about the parking portion of the zoning
11 ordinance. Tell the Court why that does not apply?

12 A: A couple of reasons. We are dealing with the planned
13 development. It has its own requirements. The section -- the
14 planned development section of the zoning ordinance talks
15 about the PD providing flexibility in terms of parking,
16 landscaping setbacks. It also says that the planned
17 development ordinance is treated as an amendment to the zoning
18 ordinance. So, it's just as if you took the zoning ordinance
19 and went through as happens and had to Council amend the
20 zoning, but the PD is the same thing as an amendment to the
21 zoning ordinance and is treated as such. That's what we were
22 dealing with in this case was a planned development. Also,
23 Article XI refers to changes in use beyond the initial
24 construction, and here we were dealing with the building that
25 had to be torn down based on its current state and had to be

1 replaced. And so, our review was based on maintaining the
2 capacity of that previous building so that the impact on
3 parking remained the same.

4 Q: So, under the auspices of parking regulation, Article XI,
5 it has general requirements. Area suitable for parking or
6 storing automobiles shall hereafter be required in all
7 districts at the time of initial construction. We use the
8 word at the time of initial construction. When was the
9 initial construction of this building?

10 A: The initial construction of the building that was there
11 prior, I'm not sure when it was built.

12 Q: Okay. Or conversion in use, was there any conversion of
13 use from the prior building to the building now?

14 A: That building contained a restaurant and a retail store,
15 as does the new building.

16 Q: Okay. And what was the purpose for then the total
17 seating capacity should not exceed 110; what was the purpose
18 of that?

19 A: Again, the purpose of that was to make sure that the
20 impact of the new building in terms of parking demand remained
21 the same with the new construction.

22 Q: And the 110 seating capacity, does that apply to the
23 whole building?

24 A: Yes.

25 Q: And that 110, where did you obtain that information from?

1 A: That information came from the applicant.

2 Q: Okay. After the passage of Version 2, did Gulfstream
3 appeal Version 2 in any way?

4 A: I don't think so; no.

5 Q: Next, I just want to hit highlights of what they contend
6 for some of the -- we heard earlier that there had to be a 12-
7 month delay in the zoning ordinance under the amendment
8 provision, did that apply to the application that Marlin Quay
9 had on August 27, 2018?

10 A: No.

11 Q: And why not?

12 A: Because it was not a request for a different zoning
13 classification. It was a planned development before and it
14 was a planned development after. That is the zoning
15 classification for the property. And it was a different
16 request in terms of the location of the building.

17 Q: The information that was provided with respect to a list
18 of property owners as reflected by the tax records -- and the
19 tax records that are utilized by the Planning Commission, what
20 is that call?

21 A: We use the GIS mapping system that's available online to
22 pull those names.

23 Q: Is that an internal Georgetown County system?

24 A: Yes.

25 Q: Okay. And is that the system that is utilized routinely

1 by your department to obtain the tax records of the
2 individuals within the 400 feet?

3 A: That's what we use every time.

4 MS. GOLDING: Indulgence of the Court for just a minute,
5 Your Honor?

6 THE COURT: Yes, ma'am.

7 BY MS. GOLDING:

8 Q: With respect to the ordinance that was passed, which we
9 refer to as Version 2, and the ordinance that was passed with
10 respect to Version 3, what is the difference between them?
11 How was this -- the PD zoning ordinance, how was it amended
12 from 2 to 3.

13 A: Again, the location of the building changed, each refers
14 to a different site plan. The height changed slightly. I
15 think the square feet went down two square feet. Seating
16 capacity is the same. The parking statement is the same. I
17 think that's about the differences.

18 MS. GOLDING: I believe that -- that concludes my
19 examination, Your Honor.

20 THE COURT: All right. Thank you, ma'am.

21 Mr. Bloom, any redirect?

22 MR. BLOOM: No, sir.

23 BY THE COURT:

24 THE COURT: All right. Folks, I assume this is a good
25 time for us to end for the day.

1 MR. BLOOM: Yes, sir.

2 THE COURT: All right. Y'all want to start at 9 o'clock
3 tomorrow morning?

4 MR. BLOOM: Yes, please.

5 THE COURT: All right. We'll be in recess until 9
6 o'clock tomorrow morning.

7 MS. GOLDING: Thank you. Can I ask Plaintiff's counsel
8 as to who they will call tomorrow?

9 MR. BLOOM: Boyd, Goggans, and I think those are your
10 people for tomorrow. And Castles and Moring, at a minimum.
11 And Knight will be on standby.

12 MS. GOLDING: And may I inquire, they've also subpoenaed
13 Dan Stacy, Tiffany Coleman, Teresa Floyd, Louis Morant, and
14 Lilly Johnson. Everybody wants to know if they're going to be
15 here and when they're gonna be here.

16 MR. BLOOM: Well, two of those -- two of those are
17 dependent upon whether you stipulate to those documents.

18 MS. GOLDING: What documents are you talking about?

19 MR. BLOOM: We don't need to do this in front of the
20 Judge.

21 MS. GOLDING: The only reason is, I have all of these
22 people asking me. They want me to tell him at night.

23 THE COURT: How about let's do this, I'll hang around for
24 a little while longer, y'all talk. If you need me to mediate
25 anything I'll be willing to, but, you know, I certainly don't

1 feel like Mr. Bloom is trying to play hide the ball with any
2 of his witnesses. So, if y'all can nail down who is expected
3 tomorrow to give Ms. Golding's folks some better idea of when
4 they will be required to be here, I think that'd be -- would
5 be beneficial for all of us.

6 MR. BLOOM: Well, Judge, let me be very clear.
7 Tomorrow's lineup is Boyd Johnson, Steve Goggans, Moring, Jake
8 Knight, and Castles, five witnesses. I don't know if we're
9 gonna get to past five witnesses, but that's what I said and
10 that's what we're gonna do.

11 THE COURT: All right. If ---

12 MS. GOLDING: That tells me enough, so I know what to ---

13 THE COURT: I hope will be able to do five witnesses
14 tomorrow. But if we don't, we won't, so that's all right.

15 All right?

16 Will be in recess until 9 o'clock.

17 MS. GOLDING: Thank you, Your Honor.

18 **RECESS - 5:21 P.M. - END OF DAY TWO**

19 *****OFF THE RECORD*****

20 **AUGUST 31, 2022 - DAY THREE**

21 **ON THE RECORD - 9:07 A.M.**

22 **BY THE COURT:**

23 THE COURT: Mr. Bloom, are you ready to proceed with the
24 plaintiff's case?

25 MR. BLOOM: Yes, Your Honor; we are.

1 MS. GOLDING: Your Honor, just as a matter. Yesterday
2 afternoon, as we closed, I provided opposing counsel, as well
3 as I believe it was delivered to you, excerpts from the
4 30(b)(6) deposition of Gulfstream Café. I'd like to, when I
5 get into my case, I'd like to have those read to reflect -- if
6 the Court desires, I will provide the sealed deposition.

7 THE COURT: Okay. All right. Thank you, ma'am.

8 MS. GOLDING: Would the Court care for me to mark it as
9 an exhibit or just have him present it is fine?

10 MR. BLOOM: We haven't looked at them yet. We're happy
11 to take a look at them. We're happy to have the Court read it
12 as opposed to someone reading them in. I don't -- if we had a
13 jury, it may be different, but you'll end up reading it anyway
14 so...

15 THE COURT: Right.

16 MR. BLOOM: And we want to be economical with our time.
17 So, just give us a chance to take a look, and if there are any
18 objections that we need to reiterate, we can take those up,
19 but I anticipate we'll probably just stipulate to the
20 transcript.

21 MS. GOLDING: Okay. I'll just hand this to the court
22 reporter then, the identification ---

23 THE COURT: Yes, ma'am.

24 MS. GOLDING: Thank you Your Honor.

25 THE COURT: Mr. Bloom?

1 MR. BLOOM: Yes, Your Honor. The Plaintiffs call Boyd
2 Johnson.

3 THE COURT: Come on up, Mr. Johnson.

4 LESTER BOYD JOHNSON, HAVING BEEN DULY
5 SWORN, TESTIFIED AS FOLLOWS:

6 THE CLERK: Thank you. Please be seated, state and spell
7 your first and last name.

8 MR. JOHNSON: Lester Boyd Johnson, Jr.; L-E-S-T-E-R, B-O-
9 Y-D, J-O-H-N-S-O-N, J-R.

10 DIRECT EXAMINATION OF LESTER BOYD JOHNSON BY MR. BLOOM:

11 Q: Thank you. Good morning, Mr. Johnson, please tell the
12 Court what you do, please.

13 A: I am retired.

14 Q: The envy of all of us in this room I take it?

15 A: Yes.

16 Q: And you've been retired for how long?

17 A: Since September-October of 2020.

18 Q: And at that time, Ms. Holly Richardson assumed your role
19 with Georgetown County?

20 A: That's correct.

21 Q: And when did you start working for Georgetown County?

22 A: 2005.

23 Q: And were you in the Planning Department throughout your
24 15 years that you were there?

25 A: Yes, I was.

1 Q: And when did you ascend to becoming the director of
2 planning?

3 A: I was hired as -- I can't remember if the title was chief
4 planner or senior planner, like I said, in October of '05.
5 And approximately six months later the planning director left
6 to go take a job in Horry County, and I was promoted at that
7 time. So, about six months after I was hired, I was promoted
8 to planning director.

9 Q: You were the director of planning for Georgetown County
10 at the time the subject PD amendment was proposed by Palmetto;
11 is that correct?

12 A: Yes, I was.

13 Q: And you were familiar in the 2015-2016 timeframe with the
14 efforts of Mark Lawhon and Palmetto to redevelop the ship
15 store and snack bar at Marlin Quay?

16 A: I am, the best I can remember, yes.

17 Q: And do you recall it being basically redevelopment effort
18 of that Marlin Quay Marina store that they wanted to tear down
19 what was there and put something else up in its place?

20 A: Yes.

21 Q: And I'm not gonna test your memory. We've got documents
22 to refresh if we need them. And at the time that this
23 started, let's just say 2016, Dr. Lawhon was represented by
24 Dan Stacy and Steve Goggans; is that correct?

25 A: I certainly remember Dan Stacy initially, and

1 subsequently Steve Goggans. I'm not sure if Steve Goggans was
2 there the very first time but he -- yes, he was at some point.

3 Q: And I will submit to you that the record has already been
4 established that a guy named Victoria was the architect in the
5 beginning, and then January of 2016 Mr. Goggans came on; does
6 that sound roughly for me here?

7 A: Yes, roughly, yes.

8 Q: Is it fair to say that you had multiple conversations
9 with both Stacy and Goggans about this project starting in
10 2016?

11 A: Some conversations, yes. I don't recall how many, but
12 some, more than one.

13 Q: And I'm not asking for a number; definitely more than
14 one.

15 A: More than one.

16 Q: Maybe less than a hundred, but more than one.

17 A: Absolutely, yes.

18 Q: And in the beginning, when Mr. Goggans and his
19 architectural firm, SGA, were representing the owner. And at
20 the time in 2016 -- I guess you would call them the applicant
21 -- to seek a minor amendment to the PD, the Marlin Quay PD; is
22 that your recollection?

23 A: Yes; yes, sir.

24 Q: And would you agree that Mr. Goggans was advocating on
25 behalf of the owner to make the amendment process a minor

1 amendment as opposed to a major amendment?

2 A: At that timeframe, yes.

3 Q: And we can agree that -- the Judge has already heard this
4 -- but a minor amendment involves no public notice, no public
5 hearings, no Planning Commission recommendations, no County
6 Council action; do we agree on that?

7 A: Yes, sir.

8 Q: A major change, you've got to have all that stuff.

9 A: That's correct.

10 Q: And so, unless a neighboring property owner either
11 provided you with a records request or came and asked, a
12 neighboring property owner would not necessarily know that a
13 minor amendment was going through the process, would he?

14 A: That's correct.

15 Q: And I think this goes without saying, but you knew at the
16 time that Mr. Goggans was advocating and representing
17 Palmetto, that he was also a County Councilman, correct?

18 A: Yes, sir.

19 Q: Had he been involved with the County before being elected
20 to -- as a councilman?

21 A: Being that he was involved with -- as an architect with
22 projects.

23 Q: I mean, as an official with the County, Planning
24 Commission, BZA, volunteer on any boards or other commissions.

25 A: That was before my time, but I think they had an

1 architectural committee that he was a part of to come up with
2 architectural guidelines for Highway 17. I do not believe he
3 was on the Planning Commission or ZBA.

4 Q: And in 2016, let's see, you had been -- you had been at
5 the County for 11 years, and Mr. Goggans had been doing
6 projects as an architect for some or all that time? I am
7 trying to get back to when you first started interacting with
8 Mr. Goggans on any level.

9 A: On any level?

10 Q: Yes.

11 A: Even at my prior employment with the City of Georgetown,
12 I was the -- left as the City Administrator in 2005. Mr.
13 Goggans, with the City, would occasionally have a project that
14 the City would be involved with from a review perspective.

15 Q: Do you remember how long back those interactions might've
16 gone?

17 A: Pretty much as long as I would work with the City of
18 Georgetown, and I started in Georgetown in '86 or '87; it was
19 probably as long as I was there. It wasn't a lot, but I just
20 remember certain occasions.

21 Q: Okay. So, is it safe to say at least as early as 1990
22 you started interacting with Mr. Goggans on a professional
23 level?

24 A: Yes, sir.

25 Q: You on behalf of the public authority and he on behalf of

1 the owner?

2 A: Yes, sir.

3 Q: And then I think he said he was in his seventh or eighth
4 year. Do you remember when he came on as a councilmember?

5 A: I do not remember.

6 Q: I think it was '14-'15; we'll ask him. But certainly,
7 this was the first time that you can recall Mr. Goggans as a
8 councilman also advocating for a project for an applicant in
9 Georgetown County, correct?

10 A: I don't recall any other cases exactly like that, like
11 you're describing.

12 Q: Just so we are really clear, when Mr. Goggans advocated
13 and represented Palmetto with the subject application starting
14 in 2016, he was also a councilman, and it was the first time
15 and only time you can recall him advocating for an applicant
16 while at the same time being a councilman. Do I have that
17 right?

18 A: There were other projects that didn't go. For instance,
19 rise to the level maybe of Planning Commission like reviewing
20 house plans in DeBordieu to see if they met building codes.
21 There were issues like that, yes, sir, that didn't involve
22 County Council.

23 Q: Right, but in terms of a major amendment or a minor
24 amendment, this was the only time that it fit that scenario?

25 A: I can't remember any other cases.

1 Q: Okay. We got into this a little bit yesterday, but what
2 body approves the budget for the Planning Department?

3 A: Ultimately, well, the city administration along with the
4 department heads, and particularly the Finance Department
5 prepares the budget, and Georgetown County Council has to have
6 three readings to adopt it, an ordinance adopting the budget;
7 so, Georgetown County Council ultimately.

8 Q: The body on which Mr. Goggans sat in 2016 through 2019?

9 A: Yes, sir.

10 Q: Was he on the budget committee for the Council?

11 A: I don't know that there was actually a budget committee;
12 there wasn't one to my knowledge.

13 Q: Your compensation would be included as part of that
14 budget?

15 A: Yes, sir.

16 Q: Any raises, COLAs or other raises would be included as
17 far as that budget?

18 A: Yes, sir.

19 Q: Are you generally familiar with the Marlin Quay PD?

20 A: Generally, yes, sir.

21 Q: Exhibit 93 -- would you pull it up, please. Again, it's
22 not a memory test, I just want to make sure that we're all
23 talking about the same thing.

24 Do you know what these different uses are?

25 A: Yes, sir. I would say, you know, the condos are part of

1 the PD as well.

2 Q: Agreed.

3 A: Not just what's in red; yes, sir.

4 Q: Oh, I agree. I don't mean to indicate we think it's just
5 in red.

6 A: Okay. Thank you.

7 Q: I'm gonna trace what I think is the PD, you tell me if
8 you agree. I think that's probably it?

9 A: Yes, sir; I think so.

10 Q: So, the uses would be Gulfstream Restaurant, the marina
11 slips, the ship store, the snack bar, and the condos?

12 A: Yes, sir.

13 Q: So, those are the uses in the Marlin Quay PD. Do you
14 agree that the PD starting in 2016 and even up until today
15 requires that Gulfstream be a restaurant -- be used as a
16 restaurant?

17 A: Gulfstream? I believe that would be the case, yes.

18 Q: And when calculating parking requirements, that's
19 something that you I'm sure did more times than you'd like to
20 remember in your various roles with Planning Departments?

21 A: Primarily staff under me, but, yes, I'm familiar with it.

22 Q: One day at some point, you were part -- you were that
23 staff, weren't you, in just -- being the director?

24 A: Right. One day, I certainly -- cases I would be sitting
25 in just with the staff doing it.

1 Q: And at some point in your history, did you actually run
2 parking calculations for City or County or another authority?

3 A: At some -- at some point of my career, I'm certain I
4 pulled up a book and calculated something -- parking for
5 proposed use, yes, sir.

6 Q: And when you pull up a book, you'd look at the book
7 which, I guess you mean the zoning ordinance to see what the
8 parking requirements were.

9 A: Yes, sir.

10 Q: So, you'd pull up the book, you look at a table, you'd
11 see what the use was, and then you'd see how many square feet
12 of that use there was, and you'd look at the ratio of square
13 feet to parking spaces. Is that basically the process?

14 A: However the ordinance calculated it, yes, sir.

15 Q: But isn't that the way most ordinances calculate parking
16 requirements?

17 A: Yes. Depending on the use, some may do square footage,
18 some may do seating for instance, but primarily, yes, sir.

19 Q: Okay. And in this instance with Georgetown County, the
20 data that you would need to know to calculate parking
21 requirements would be, first of all, what the use was. Was it
22 a restaurant, or a church, or a house, or an office or a
23 retail -- you'd have to know the use, correct?

24 A: Yes, sir, in general. And specific to this PD, you know,
25 it was obviously a different process, but yes.

1 Q: You'd have to know the use and you'd also have to know
2 the number of square feet of that use, correct?

3 A: Generally, yes, sir.

4 Q: And if you knew the use and the number of square feet of
5 that use, you could look at the ratio contained in the table
6 and determine the number of parking spaces required, correct?

7 A: If that's what the ordinance dictated that particular use
8 for it to be like requiring square footage, then, yes, sir.

9 Q: And in the subject proposed development, the proposed new
10 building included two uses. Do you remember?

11 A: Yes, sir.

12 Q: What were the two uses?

13 A: Restaurant and a ship store.

14 Q: So, the restaurant would be considered a restaurant ---

15 A: Yes, sir.

16 Q: --- under the various categories under Article XI of the
17 code, and the ship store would be considered retail, correct?

18 A: Yes, sir. In general, not specific to the parking
19 ordinance, but in general that's right, to the PD. They were
20 a restaurant and they were a store.

21 Q: Okay. Well, you saw not specific to the parking
22 ordinance ---

23 A: Well, I'm just saying there are other -- it could -- yes,
24 it is for the parking, but the PD specifically said it could
25 be a store, it could be restaurant, it could be a marina. So,

1 yes, I'm saying that PD dictated the uses, too; that's all I'm
2 saying.

3 Q: I'm not asking about what uses were dictated. I'm just
4 asking about the parking. The parking -- in order to
5 determine the parking requirements for various uses, you need
6 to know what the use is, you need to know how many square feet
7 is that use, and then you apply the ratio and Article XI.

8 A: For what we call straight zoning, correct, but not
9 necessarily in a PD.

10 Q: Got it. I'd like -- I don't know what's in front of you
11 anymore. Are there any notebooks there?

12 You've got them all here. Okay.

13 Pull up Article XI please.

14 It'll be both on the screen and in this book.

15 A: Okay.

16 Q: Whichever you prefer. Probably easier on the screen,
17 because Ms. Pearson will highlight things that I'm talking
18 about.

19 A: Okay.

20 Q: Let's start with 1102.1, the table.

21 A: Yes, sir. I see it.

22 Q: And this is in fact the table of parking requirements
23 that are contained in Article XI of the Georgetown County
24 Zoning Ordinance, correct?

25 A: I believe it to be, yes.

1 Q: And if you look at 1102.1, you will see this table that
2 we've talked about, and it does exactly what you and I just
3 talked about. It tells you what the property use is, and then
4 it tells you what the minimum parking requirements are,
5 correct?

6 A: Yes, sir.

7 Q: So, if we find out what the uses were and, in this
8 instance, we have a marina; we had general retail use on Page
9 11-3; and we had a restaurant, standard, correct?

10 A: Yes, sir.

11 Q: And in the restaurant, standard, it requires one space
12 per 100 square feet of gross floor area, correct?

13 A: Yes, sir, but not in this PD; but, yes, sir.

14 Q: I understand that's the County's argument.

15 A: Okay.

16 Q: I'm just asking you what this says. This says one -- one
17 space per 100 square feet of gross floor area. Gross floor
18 area is everything inside the walls of the building?

19 A: Yes, sir. Yes, sir; that's correct.

20 Q: It could be heated, it could be unheated, but is
21 everything inside the walls?

22 A: Yes, sir.

23 Q: There is a distinction between what's inside the walls,
24 regardless of its heating status, and outdoor seating area.

25 Do you see that in the table?

1 A: Yes, sir.

2 Q: So, in order to calculate parking pursuant to Article XI,
3 you would have to know how many gross -- I put the gross floor
4 area or GFA is, and you run a calculation of that total gross
5 floor area divided by hundred and you know you parking spaces,
6 correct?

7 A: Yes, sir.

8 Q: And in order to determine your parking spaces required
9 for the outdoor seating, you would have to notice square
10 footage of the outdoor seating area, correct?

11 A: I don't know. This is a little fuzzy, but I -- I can
12 barely read it to make -- can I look in the book?

13 Q: Yes, of course you can. It's at 11-3 in the book. It's
14 in the highlighted on the screen, but if it's fuzzy, it's
15 fuzzy.

16 A: Yes, sir; that's correct.

17 Q: Now, when you look at the ratio for outdoor seating area,
18 it tells you that you have to have one space for every 150
19 square feet, correct?

20 A: Yes, sir.

21 Q: It does not say anywhere in that table that you count the
22 number of seats, does it?

23 A: Not in this table, no.

24 Q: And nowhere in the Article XI parking ordinance does it
25 say you look at how many seats are there, does it?

1 A: Not current -- not the current ordinance, no.

2 Q: Okay.

3 A: The reason I say that is it used to, and the Planning
4 Commission several or many years ago changed it to square
5 footage instead of that.

6 Q: Well, that's interesting. So, at some point early --
7 earlier on in your time in Georgetown County that asked for
8 seats and they then made a text amendment to change it to just
9 look at square footage?

10 A: The Planning Commission did, yes. I don't remember the
11 timeframe but it was a long time ago.

12 Q: But we know at least in 2018, the applicable code that's
13 in front of you does not ask you to count seats, it asked you
14 to count square footage for outdoor seating, correct?

15 A: Yes, sir. That's the task -- what that table says.

16 Q: For retail, it's one parking space for every 200 square
17 feet of gross floor area, correct?

18 A: That sounds correct.

19 Q: Don't take my word for it, is just higher up on that same
20 page.

21 A: Under retail trade, general, yes, sir.

22 Q: Can you point this Court to any distinction in the
23 parking or amidst Article 11 where there was a distinction
24 between heated and unheated space when you're counting for
25 parking spaces?

1 A: I don't recall that being in there, no.

2 Q: So, that distinction does not exist when you are
3 evaluating parking spaces, does it?

4 A: In Article XI, I believe that to be the case, correct.

5 Q: When you're counting parking spaces for an amendment,
6 applying Article XI, looking at a restaurant, the only things
7 you need to know for the restaurant are how much gross floor
8 area, the square footage inside walls, and how much outdoor
9 seating area, correct?

10 A: You use the word for amendment, certainly for an initial
11 construction, yes. And then an amendment would be, obviously,
12 depending on what the amendment was.

13 Q: So, anytime you build a new building, you've got to make
14 sure that you comply with parking, don't you?

15 A: Not necessarily in a PD, but generally, yes.

16 Q: But generally, when you're building a new building you
17 have to -- and why is that? Why is it so important that when
18 you build a new building, you've got to make sure that you've
19 got enough parking?

20 A: It kind of depends on the location. For instance, if
21 you're on Highway 17, you obviously don't want cars out on
22 Highway 17 stacking up because of the traffic volume.
23 Basically, you want the customers contained in that space and
24 not -- you know, basically contained in space being able to
25 park and get to the building.

1 Q: It's a public health and safety issue, isn't it?

2 A: Yes.

3 Q: And my thinking, but you can tell me what yours is,
4 please, is the reason that land use ordinances require on-site
5 off-street parking because that puts fewer people trying to
6 cross streets and walk up and down the streets to go park
7 their car to make the -- to use whatever the subject use is?

8 A: Depending on a particular location, that could be one,
9 yes.

10 Q: And in -- on South Waccamaw Drive, there are no
11 sidewalks, are there?

12 A: I don't believe there are.

13 Q: And so, if you were gonna walk to Marlin Quay Marina,
14 you'd have to walk on the street to get there, wouldn't you?

15 A: You could walk in the median adjacent to the street which
16 obviously is a tremendous amount of people to do that it being
17 a beach community.

18 Q: Right.

19 A: Or drive their golf cart, one of the two.

20 Q: Right.

21 A: But walking is extremely common on that road if that's
22 the question.

23 Q: How many people have been run over doing that?

24 A: I don't know, but certainly that's the way beach
25 communities work.

1 Q: And is there some reason that the County did not see fit
2 to put sidewalk on South Waccamaw?

3 A: I think that's actually a state road. I believe it's a
4 state road, so that would be up to South Carolina DOT. And
5 they're -- it's probably a right-of-way issue, width issues, I
6 would assume.

7 Q: If you would be kind enough to turn your attention to
8 Exhibit 35. Exhibit 35 is the staff report that you reviewed,
9 approved, signed, and submitted to the Planning Commission for
10 its consideration of what we've been calling 3.0, the last
11 iteration of this proposed project, was that right?

12 A: So, this is MQ3.

13 Q: You all call it MQ3. I think we've agreed in this room
14 to call it 3.0.

15 A: Okay.

16 Q: But that's the same thing.

17 A: Yes, sir.

18 Q: And like I said, you -- I think someone else might've put
19 pen to paper on this, but you reviewed it, maybe commented on
20 it, approved it, and signed it, correct?

21 A: Yes, sir.

22 Q: And in doing so, you adopted all of the content of this
23 document, correct?

24 A: Agreed to it or you said adopted it?

25 Q: Adopted it. You signed your name to it?

1 A: Okay. I just wouldn't use the word adopted, but, yes, I
2 signed it; I approved it.

3 Q: Okay. If you would look at the bottom of the first page,
4 it says points to consider, and there is Item 2.

5 A: Yes, sir; I see it.

6 Q: If you look at the very bottom line of that the word --
7 the line start -- or the sentence starts with, According to an
8 email.

9 A: Yes, sir; I see that.

10 Q: It says according to an email from the property owner's
11 representative, the building contained in title 4603 square
12 feet at that time. And that's the time it was demolished. Is
13 that consistent with your recollection?

14 A: Yes, sir.

15 Q: If you look at point Number 3, I'll give you a chance to
16 read it, but essentially it takes the position that the
17 proposed square -- the proposed heated square feet in the new
18 building will be the same as the square feet in the old
19 building. Is that your understanding of what you wrote there?

20 A: Yes, sir. I believe it actually is slightly less.

21 Q: Slightly less? So, the proposed square -- the proposed
22 heated square feet of the new building is slightly less than
23 the total square footage of the old building, correct?

24 A: Yes, sir.

25 Q: You aren't comparing apples to apples, are you?

1 A: I don't understand the question.

2 Q: This comparison, in Points to Consider Number 3, compares
3 the total amount of heated square feet in the new building to
4 total square feet of the old building. Do you see that?

5 A: Yes, sir. This table is actually comparing MQ -- what we
6 call -- 2, and MQ3.

7 Q: I'm not asking you about the table, Mr. Johnson. I'm
8 asking you about Item Number 3.

9 A: I read 3. What was your question again? I'm sorry.

10 Q: So, let's talk about what we already know.

11 We know that the total square footage of the original building
12 was 4603, we just read that. That was in Item Number 2,
13 correct?

14 A: Yes, sir.

15 Q: And in Item Number 3, it says that the proposed heated
16 square footage is less than the original 4603 for the original
17 building. But what we know by logical extension is that this
18 Item Number 3 is comparing the heated square footage of the
19 proposed building to the total square footage of the prior
20 building. They're not comparing total square footage to total
21 square footage, are they?

22 A: No, sir. We -- using the heated square footage in like
23 -- in this sentence, for instance, it starts with the proposed
24 heated square feet.

25 Q: That's right. And so when you made a comparison of the

1 old building to the proposed building, if you were gonna do
2 total square footage to total square footage, it would be more
3 like 4603 in the old to 13,000 in the new, wouldn't it?
4 A: I'm assuming you're using deck space in that number you
5 just used.
6 Q: Total square footage is total square footage, isn't it?
7 A: If you were to ask me in general a building, how many
8 square feet in the building, I wouldn't necessarily -- I would
9 not include the outdoor decking in that answer.
10 Q: Where do I find that in the code?
11 A: I'm not sure where you would find that.
12 Q: But you, your report makes a distinction between heated
13 square footage, so I won't even count the decks. We don't
14 even need to count the decks for the purposes of this
15 discussion. There is unheated square footage in the proposed
16 building that is far -- that is more than the 4600 square feet
17 of heated, correct?
18 A: Unheated ---
19 Q: Unheated.
20 A: Yes, sir.
21 Q: So, you're still not comparing apples to apples. You're
22 not comparing heated square foot of the original to heated
23 square foot of the new, and you're not comparing total square
24 foot of the original to total square foot of the new.
25 A: Again, in the table in Number 3 ---

1 Q: I'm not asking about the table.

2 MS. GOLDING: Your Honor, he's interrupting the witness.

3 A: Well, that's where the answer is.

4 MS. GOLDING: He's done that a couple of times. Please
5 let the witness ---

6 MR. BLOOM: The witness has prefaced his answer with a
7 misnomer.

8 THE COURT: I understand that. Let's -- if you want to
9 talk about the table, he's asked you about the references in
10 the Item Number 3. So, answer the question he's asked. If
11 you want to explain it further, you may, but answer the direct
12 question.

13 A: Yes, sir.

14 THE COURT: And let's, again, not interrupt the witness
15 when he's answering the question.

16 MR. BLOOM: Yes, sir.

17 THE COURT: All right. Mr. Johnson, go ahead.

18 BY MR. BLOOM:

19 Q: Again, just focusing on Item Number 3 in your report, you
20 were comparing the total square footage of the original
21 building to only the heated square footage of the proposed
22 building; is that correct?

23 A: Where we used the term -- the number 4603, that would be
24 correct.

25 Q: And in fact, when you add the unheated square footage of

1 the proposed building, it becomes more than 4603 in the new
2 building?

3 A: That is my recollection.

4 Q: A couple of thousand feet more, actually. Now, you can
5 look at the table to see the answer to that question.

6 A: Okay.

7 Q: You're adding 2943 of unheated restaurant and 1224 of
8 unheated retail. So, you're actually adding 4100 square feet
9 of unheated space in the new building, correct?

10 A: I'm sorry; I'm not following that.

11 Q: If you look at the table, on the left side it says total
12 restaurant unheated ---

13 Do you have the table up? Yeah.

14 A: Yes, sir. I see that.

15 Q: So, 2943 is MQ3, that's 2943 of unheated restaurant, and
16 you would add that to -- a couple of lines down where it says
17 total marina retail, 1224. If my math is correct, that's
18 about 4100 feet.

19 A: Yes, sir. I see -- yes, sir. I see that.

20 Q: So, we agree that 4603 with the original building's total
21 square feet. And when you compare -- even without the decks
22 to the heated/unheated, all the square feet inside the walls,
23 it's an extra 4100 square feet in the proposed building,
24 right?

25 A: Based on what we just said -- looked at on the table,

1 yes, sir.

2 Q: Next -- so, that's an increase, isn't it? The proposed
3 square footage of the new building is 40 -- at least 4100
4 square feet greater than the original building, right?

5 A: Not when you just look at heated, which is what we were
6 focusing on primarily.

7 Q: I know -- sorry -- I know that's what you were focusing
8 on, but we've now realized the error of our ways, and if you
9 were going to compare total to total -- you just told me don't
10 use the decks, I'm not using the decks -- total to total, you
11 had 4603 in the before and you had a proposal of 4603 plus
12 4100, correct?

13 MS. GOLDING: Your Honor, I'm gonna make an objection to
14 the question. He began -- we now recognize the error of our
15 ways, I think that's completely improper, that's not what's
16 the evidence been before this Court.

17 THE COURT: That's more argumentative, so I'll sustain
18 the objection. Strike, we've realized the error of our ways,
19 but the remainder of the question is appropriate.

20 A: Okay. Repeat the question; I'm sorry.

21 BY MR. BLOOM:

22 Q: That's fine. I know that you keep going back to heated
23 versus unheated, but we've already agreed that that
24 distinction does not exist in Article XI of your code, right?

25 A: I'm not a hundred percent sure on that; I don't remember

1 that.

2 Q: When, in Item Number 3 -- you're telling -- this is the
3 report that goes to County Council to tell them your
4 recommendation about a rezoning amendment and what you
5 recommend and why, isn't it?

6 A: If it's going to County Council, no, sir; it's the
7 recommendation from the Planning Commission.

8 Q: Well, didn't the same recommendation go to the County
9 Council?

10 A: The Planning Commission did adopt -- did approve the
11 project, and I'm sure they used these points in their
12 approval.

13 Q: That's all I'm asking.

14 A: Yes, sir.

15 Q: And you know when you write this recommendation that
16 there's a good chance that that recommendation is gonna be
17 what's presented to the County Council as to why you think
18 approval is warranted, right?

19 A: No. There are plenty of times where that doesn't happen.

20 Q: Okay. But when you write it, you do the best you can to
21 analyze the data and make a recommendation to whoever the
22 audience is gonna be?

23 A: Planning Commission, yes, sir.

24 Q: And in this instance, you told the audience, whether it
25 be Planning Commission or County Council, that there was a

1 comparison that you made. You compared the total square
2 footage of the original building of 4603 feet and you compared
3 it to only the heated square footage of the proposed building;
4 have we got that right?

5 A: Yes, sir.

6 Q: And had -- so, you actually touted the fact that there
7 was gonna be less square footage when you used heated, didn't
8 you?

9 A: When heated was used, yes.

10 Q: The more complete comparison that you did not draw was
11 the comparison of the original square footage of the building
12 of 4603 with the total square footage of the proposed, which
13 would be over 8,000 feet, correct?

14 A: When you said the more complete answer would be to do
15 that ---

16 Q: Well, let's just put it this way, you didn't point that
17 out?

18 A: It was in the staff report. We wouldn't have said in
19 that sentence about the 4603 if there was something trying to
20 be, you know, hidden or something. So, I mean, just like you
21 read Section 3, they read Section 3.

22 Q: And all I'm saying is you didn't point out a comparison
23 of apples to apples. You didn't compare total square feet to
24 total square feet? That's the only question I'm asking you in
25 this report.

1 A: I don't see that. You're correct; I do not.

2 Q: And you did not tell the Planning Commission or County
3 Council that when you compared total square feet in the
4 original to total square feet in the proposed that the
5 proposed was almost two times the size of total square feet;
6 you did not tell anybody that, Council or the Planning
7 Commission.

8 A: I do not remember, but it's certainly possible during the
9 great discussion that occurred at the Planning Commission that
10 that was brought up. I do not remember that particular thing
11 being stated. But what goes on at the Planning Commission is
12 a lot more than just the staff report. I mean, they ask
13 questions, there's back and forth, people from the audience
14 come up, present their concerns, then the Planning Commission
15 talks about those concerns. So, there are -- I just can't
16 remember if that particular thing was discussed or how it was
17 discussed. But you're right, not in this report.

18 Q: You also identify in this report on Item 4 that's -- you
19 go three lines down, the site contains a total of 62 spaces.
20 Do you see where I'm reading?

21 A: Yes, sir.

22 Q: You then say this exceeds the zoning ordinance
23 requirement of 51 spaces for the proposed building. Do you
24 see that?

25 A: Yes, sir.

1 Q: And that zoning ordinance requirement ZO comes from
2 Article XI, doesn't it?

3 A: Yes, sir. If you used Article XI, that would be how that
4 was calculated.

5 Q: Then, so you -- somebody calculated the parking spaces
6 that the planning staff thought was required using Article XI
7 and put that conclusion in the staff report, didn't they?

8 A: Not that was required, but was given as information.

9 Q: Well, I understand the County's position about that.
10 It's in here, isn't it?

11 A: Yes. That statement is in there.

12 Q: So, someone on your team must've done the calculations
13 using Article XI and the information provided by the applicant
14 in order to arrive at the 51 spaces, correct?

15 A: Yes, sir. You used the term required, and I just wanted
16 to say it was not required.

17 Q: Oh, if I did, I'm sorry. I didn't -- the required would
18 be once you're in Article XI, those are the number of spaces
19 required?

20 A: Yes, sir.

21 Q: Semantics are important, so I appreciate that
22 clarification. You also identified that the parking lot is
23 also used by Gulfstream Café and the marina, don't you?

24 A: Yes, sir.

25 Q: You don't say anything more about how many parking spaces

1 Gulfstream Café or the marina needed according to Article XI,
2 do you?

3 A: We did not.

4 Q: You never conducted that analysis in the entire process
5 going from 2015 to today, have you?

6 A: No, sir.

7 Q: Item Number 16 -- I'm sorry -- Item Number 6 here,
8 there's a discussion of seats. Is there anything in Article
9 XI that calls for you to calculate the number of seats?

10 A: For a restaurant or store, no, sir.

11 Q: Would you be kind enough still in Exhibit 35 to turn to
12 -- I want him to look A101, which are part of the plans that
13 were attached to your staff report, and it is Plan Sheet A101.

14 A: Page 23, is that -- I'm looking at it. It's titled Page
15 23.

16 Q: It may be. I don't have the pages on my version.

17 Do you have it up?

18 It's what's on the screen. Do you see that on the screen
19 -- on the screen here?

20 A: Yes, sir. I see it. It looks like an outline of a
21 building.

22 Q: Does it show the floor plans for Floor 2 and Floor 3?

23 A: Floor 2 and 3.

24 Q: The second and third floor.

25 A: Yes, sir; it does.

1 MR. BLOOM: Do you have it up, Judge?

2 THE COURT: I do.

3 MR. BLOOM: Okay.

4 BY MR. BLOOM:

5 Q: So, if you look at -- and this is what was attached to
6 your recommendation, your staff report and recommendation, if
7 you look at the second and third floors, we can agree
8 throughout the second and third floors that there is outdoor
9 seating, correct?

10 A: It identifies a space as outdoor seating -- yes, sir --
11 on the third floor, I believe.

12 Q: I can't hear you; I'm sorry.

13 A: On the third floor, I see a designation that says outdoor
14 seating.

15 Q: And what about on the second floor?

16 A: Yes, sir. I do now.

17 Q: So, in calculating the 51 spaces that Article XI would
18 require in your staff report, did you take into consideration
19 the outdoor seating in calculating the square footage?

20 A: I do not know the answer to that question.

21 Q: Have you ever run the math yourself?

22 A: No, sir.

23 Q: Would you be kind enough to turn your attention to
24 Exhibit 10? Would you prefer to look at it on the screen, or
25 you like looking at the paper?

1 A: This is -- I can see this. It's the memo.
2 Q: We'll leave this here, too.
3 A: Okay.
4 Q: Okay. We're looking at Exhibit 10. Exhibit 10 appears
5 to be the bottom half is an email from Joanne Ochal to Heather
6 copying you and Holly; is that right?
7 A: Yes, sir.
8 Q: August 25th, 2017, correct?
9 A: Yes, sir.
10 Q: Now, this would be during the process of the
11 consideration of 2.0, or what you call MQ2, wouldn't it?
12 A: I believe that will be the case.
13 Q: Joanne, who worked for you at the time ---
14 A: Yes, sir.
15 Q: --- is giving a meeting summary from August 24th, 2017
16 meeting, correct?
17 A: Yes, sir. She's giving it to Heather and ---
18 Q: And Heather was with Mr. Goggans?
19 A: Yes, sir.
20 Q: And what apparently happened at this meeting was that
21 heated square footage of the proposed building was 4598. We
22 need to make sure that is not any larger than the building
23 that was torn down. That's what you all agreed to, arrived at
24 during that meeting?
25 A: According to Ms. Ochal's note, yes, sir.

1 Q: That statement has absolutely nothing to do with unheated
2 space in the proposed building, correct?

3 A: I do not know the answer to that. I would assume it was
4 heated, but I don't know for sure.

5 Q: Well, the next bullet point clarifies that for us because
6 she said that the proposed unheated area is 4,250, that number
7 sounds familiar because that's what we just talked about based
8 upon your chart, right?

9 A: Yes, sir.

10 Q: And she says that can be constructed as long as parking
11 can be met. Isn't that what she says?

12 A: Yes, sir.

13 Q: And she says the parking calculations have been
14 confirmed, there is adequate parking on-site. Well, who did
15 that calculation?

16 A: Either Heather did it and submitted it to Joanne at this
17 time, or Joanne did it on her own; I do not know the answer.

18 Q: Well, wouldn't it be pretty important to know whether
19 they properly calculated the number of spaces needed for 4250
20 square foot of unheated?

21 A: At that time, obviously, Joanne was the one reviewing the
22 proposal. So, yeah, she would certainly do that.

23 Q: Okay. Well, let's do the math real quickly. I don't
24 know that you'll need that calculator but it's there if you
25 do. We know that if we're applying Article XI in a

1 restaurant, we need 100 -- we need one space for every 100
2 square feet, right?

3 A: For straight zoning, yes sir.

4 Q: And 4600 square feet would require 46 spaces, wouldn't
5 it?

6 A: Yes, sir; I believe so.

7 Q: That's just the heated?

8 A: Uh-huh, (affirmative response).

9 Q: Yes?

10 A: Yes, sir.

11 Q: And if the unheated is 4250, you'd need another 42
12 spaces, wouldn't you?

13 A: For a new restaurant, straight zoning, yes, sir.

14 Q: So, if you were applying Article XI to the proposed
15 building, not even talking about the decks just heated and
16 unheated, you'd need 83 parking spaces, wouldn't you?

17 A: Based on that email, yes.

18 Q: There weren't 83 parking spaces at the Marlin Quay PD,
19 were there?

20 A: My recollection is there is 63, I think.

21 Q: Let me turn your attention if I could, please, sir, to
22 Exhibit 76.

23 MR. BLOOM: Oh, did I tender -- before we go to 76, I
24 would tender 10, Your Honor.

25 THE COURT: Ms. Golding, Plaintiff has offered

1 Plaintiff's Exhibit Number 10.

2 MS. GOLDING: I'm sorry, Your Honor. No objection, Your
3 Honor.

4 THE COURT: All right. Plaintiff's 10 is admitted.

5 PLAINTIFF'S EXHIBIT NUMBER 10

6 ADMITTED INTO EVIDENCE

7 BY MR. BLOOM:

8 Q: Sorry to bounce back and forth, Mr. Johnson. Are you at
9 76 now?

10 A: Yes, sir.

11 Q: Okay. Exhibit 76 -- now I'm turning our timeframe back
12 to 2016. Exhibit 76 deals with a discussion about the Marlin
13 Quay application. And in particular, this was, I guess,
14 during the discussions of minor change versus major change
15 that you were having with Mr. Goggans?

16 A: It was certainly regarding discussing the project; I'm
17 not sure if it was specifically related to major or minor.

18 Q: It was around the same time you were discussing whether
19 it would be minor or a major, wasn't it?

20 A: 2016, I believe so.

21 Q: Well, here's an email from Holly to Steve Goggans,
22 copying you. If you'll turn to the next page, it looks like
23 there were three questions that Holly is telling Steve that
24 she knew were gonna go. Do you see that in the April 28th,
25 1:49 p.m. email?

1 A: Yes, sir. Yes, sir. There's three points?

2 Q: Yes, sir.

3 A: Yes, sir; I do.

4 Q: And you see Item Number 3 in that set of questions, Do
5 decks count in the total calculation for square footage
6 assuming parking can be accommodated? Do you see that?

7 A: Yes, sir.

8 Q: So, I -- I infer from that that Goggans was asking you
9 that question, and that you and Holly were trying to come up
10 with the answer. Is that safe to conclude?

11 A: I believe that would be a conclusion; yes, sir.

12 Q: The answers to those questions are contained in the first
13 page of that email from Holly Richardson to Steve Goggans
14 copying you on May 3rd, 2016, and I'm particularly interested
15 in Item Number 3. She restates the question, and she says
16 that we assume that the decks of the existing building were
17 not included in the total square footage. She then goes on to
18 say, so, any decking on the new building would similarly not
19 be included in this maximum. However, any deck area that is
20 going to be used for outdoor seating or a bar area must meet
21 the parking requirements. Do you see that?

22 A: Yes, sir.

23 Q: And she's talking about Article XI, isn't she?

24 A: I believe so. Or that's where the calculation would come
25 from, yes, sir. Although, let me clarify, since this is a PD

1 that could be -- at the Planning Commission for instance that
2 could be changed to a different number specific to the PD.

3 But yes, they were talking about parking for a deck; only,
4 however, if it was used for outdoor seating or a bar.

5 Q: And we agree that the new project includes at least three
6 or 4,000 square feet of decking that would be included for bar
7 or for outdoor seating. We just looked at the plans.

8 A: I don't agree that it would all be used for outdoor
9 seating, no. If you take a chair -- if you take five chairs
10 and you put them out on that deck, then you've got to remove
11 five chairs from inside of the building, because it's ---

12 Q: I hear you, but where does it say that in Article XI
13 about parking.

14 A: It doesn't. But it says in the PD ordinance that they
15 were limited to 110 seats.

16 Q: I understand that.

17 A: Which is the ordinance for the PD.

18 Q: I understand that. But where in Article XI does it say
19 you count seats?

20 A: It does not.

21 Q: It says you count square footage of outdoor seating area,
22 correct?

23 A: In Article XI; yes, sir.

24 Q: Yes. And we looked at the plan, it had all that square
25 footage of outdoor seating area, correct, that's what we

1 looked at in 35?

2 A: Yes, sir. Yes, sir.

3 Q: And Holly says here that the -- if there's any of this
4 deck area to be used for outdoor seating or bar area, it must
5 meet the parking requirements, period. Right?

6 A: Yes, sir.

7 Q: And there are no actual parking requirements for a new
8 restaurant set forth in the PD for Marlin Quay, are there?

9 A: I'm sorry?

10 Q: Are there any actual parking requirements set forth in
11 the PD from Marlin Quay for the new restaurant?

12 A: No, sir.

13 Q: The only place that you can look to find parking
14 requirements for this new restaurant is in Article 11 correct?

15 A: Yes, sir. The parking is on the ground as it exists or
16 what exists; yes, sir.

17 Q: But to find out what is required of the new building, you
18 have to look to Article XI.

19 A: Yes, sir. In a straight zoning application.

20 Q: Tell me where in Article XI it says -- you keep using
21 this term straight zoning. Where does it say in Article XI
22 that this only applies to a straight zoning?

23 A: It does not. But in the PD section it talks about the
24 purpose of a PD, which gives County Council and Planning
25 Commission the authority to be flexible in how they apply.

1 And basically, the PD is a stand -- it's its own little
2 ordinance. So, it would not have to have everything in it
3 exactly like Article XI.

4 Q: But it has nothing in it ---

5 A: That's ---

6 Q: --- the PD for this -- the PD ordinance, if you will call
7 it, for this planned development, Marlin Quay, has no parking
8 requirements for the new restaurant.

9 A: That's cause we inherited a 1986-87 PD that we had to
10 work with.

11 Q: And you had that to work with no parking requirements,
12 and you had Article XI to work with all the parking
13 requirements, correct?

14 A: Again, we did not believe Article XI applied.

15 Q: I understand that, but Holly must have when she wrote
16 this in Number 3 on Exhibit 76.

17 MS. GOLDING: Your Honor, I'm gonna object. This witness
18 can't testify to what another person believes.

19 MR. BLOOM: Well, he testified to what he thought she
20 meant, and he worked with her for, at this point, 11 years.

21 THE COURT: It's calls for speculation as to what Ms.
22 Richardson believed. So, I sustain the objection.

23 BY MR. BLOOM:

24 Q: Do you remember giving your deposition in this case, sir?

25 A: I remember, yes, sir, I gave a deposition.

1 Q: Well, let me ask the question again to properly impeach.
2 Did you interpret the words on this page to mean that the
3 parking requirements were set forth in Article XI? Did you
4 interpret that?
5 A: For this PD?
6 Q: Yes.
7 A: Or just in general?
8 Q: It's on this page. We're talking about this proposed
9 project.
10 A: I do not agree that parking -- Article XI complies or --
11 I mean, it's not complies -- relates to the specific PD, but
12 that is -- it would not be unusual to use it as a tool.
13 Q: A tool?
14 A: Yes, sir.
15 Q: Got it.
16 A: But it's not a -- it's not required.
17 Q: Okay. She says parking requirements, correct?
18 A: She does.
19 Q: Okay. And did you respond to this email and say, whoa,
20 whoa, whoa, this is just a tool, they're just a guide?
21 A: No, sir.
22 Q: Article XI doesn't apply; Goggans, you don't need to use
23 Article XI; did you do any of that in response to seeing this
24 email?
25 A: Did I do that? No, sir.

1 Q: And did you see Holly do that?

2 A: No, sir.

3 Q: And instead, you and Holly are telling Mr. Goggans that
4 they actually have to meet the parking requirements, correct?

5 A: Is that on Page 2; I'm sorry.

6 Q: No, this is the same page.

7 A: Page 1?

8 Q: Still looking at Item Number 3, your answer.

9 A: Yes, sir. However, any deck that is to be used for
10 outdoor seating or a bar area must meet the parking
11 requirements.

12 Q: And this email uses the word requirement, that goes
13 without saying. It doesn't say parking guidelines or tool or
14 optional or suggestions, correct?

15 A: Parking requirements actually, in this case, could be
16 whatever the Planning Commission and County Council determine
17 them to be, not necessarily Article XI.

18 Q: I understand that, but we don't know that, especially
19 when you're trying to get a minor amendment, there is no
20 Planning Commission involved, right?

21 A: For a minor amendment; that's correct.

22 Q: And that's what you were trying to do here. You had the
23 ult -- you had the ultimate authority in 2016 in the minor
24 amendment process to interpret the parking requirements and
25 tell them how many parking spaces they needed, correct? You

1 had that authority.

2 A: As far as a minor amendment, that's correct.

3 Q: And so back to what I said, this item does not identify
4 that these parking requirements are optional or suggestions or
5 tools or guides, correct?

6 A: Yeah. Too, this is information to Steven Goggans,
7 correct.

8 Q: And that was because the way you and Holly were viewing
9 the proposed new building was that if they were going to put
10 outdoor seating in addition to the 4600 foot of heated, they
11 needed to have parking that complied with Article XI, correct?

12 A: They needed to have parking -- meet the parking
13 requirements, so -- I really can't remember if we specifically
14 said related to park section -- or excuse me -- Chapter XI or
15 not.

16 Q: Okay. Well, let's try to refresh your recollection. In
17 our -- in the deposition you recall me taking your -- or I
18 didn't take your deposition, maybe Nugent did.

19 A: Yes, I remember the deposition.

20 Q: Do you mind if I come over here and show you the
21 transcript?

22 A: No, that's fine, sure.

23 Q: Would you please -- I'll read the question. The question
24 says, It doesn't say that the parking guidelines are optional
25 or that they are a good idea but not necessary to meet,

1 correct? And what was your answer?

2 A: We were getting them steps, ideas at the time of how we
3 would view it.

4 Q: How we would be viewing it?

5 A: Yes, sir.

6 Q: And then, the question was and so staff's idea at this
7 time was that the parking requirements were mandatory for the
8 new building that was proposed? And what was your answer?

9 A: As it required for seating only.

10 Q: And that meant the outdoor seating component?

11 A: Any seating, yes, sir.

12 Q: Any area that was to be used for a seating or a bar; is
13 that right?

14 A: Yes; that's what it says.

15 Q: So, you -- Question: So, in 2016, the staff's opinion was
16 that if an area on a deck was to be used for seating or a bar,
17 then it had to meet parking requirements? Answer?

18 A: That's what -- yes, sir; that's what we said at the time.

19 MR. BLOOM: Judge, that's on Page 231 of Mr. Johnson's
20 deposition taken on March 4th, 2021.

21 BY MR. BLOOM:

22 Q: Now, we make a distinction between, I guess, three
23 different types of use in this restaurant. There's heated
24 square footage, and there's unheated square footage, and when
25 you add those together you get gross floor area, correct?

1 A: Yes, sir.

2 Q: Then, there's decking.

3 A: Yes, sir.

4 Q: It's a different animal, correct?

5 A: Yes, sir.

6 Q: And you agree that 3.0, the proposed building that was
7 passed in 2019 had substantially more decking than the
8 original building?

9 A: I believe that to be the case.

10 Q: And you also agree that even if there are no seats out on
11 the deck that people will come and get drinks and use those
12 decks?

13 A: I would anticipate, yes, somebody would at some point in
14 time be standing and walking around the deck looking at the
15 marsh or whatever as you would do.

16 Q: Go to the bar, get a drink, and then walk over to the
17 railing and look at the marsh?

18 A: Yes, sir.

19 Q: And the staff report, back in Exhibit 35, says nothing
20 about how much additional deck space was going to be added
21 over the original building, does it?

22 A: I don't recall that it did.

23 Q: And you did not tell the Planning Commission nor County
24 Council that the proposed building had substantially more deck
25 space for a bar or restaurant than the original building?

1 A: I don't remember doing that, but they certainly had the
2 plans in front of them.

3 Q: It's certainly not in your report?

4 A: Yeah, but it is -- they had the plans in front of them,
5 though.

6 Q: I understand that. It's not in Exhibit 35 nor the staff
7 report that went to the County Council, correct?

8 A: I can't recall if the term decking was used in those
9 reports or not.

10 Q: Let's talk about what -- I'm gonna try and move through
11 this fast -- let's talk about the idea of what I call
12 stacking, but where multiple uses need parking. You'll very
13 easily get one trip with this, correct? So, let's go back to
14 my terrible drawing, but this box is basically your parking
15 deck, you've got Gulfstream here, you've got the marina here,
16 and you've got the snack bar there. All in the same PD and
17 they all have their own parking requirements. Gulfstream is a
18 restaurant. Do you know how many parking spaces Article XI
19 requires for it?

20 A: No, sir; I don't.

21 Q: Well, if it's 7,000 square feet it needs 70 spaces,
22 basically, right?

23 A: I think that's ---

24 Q: In Article XI?

25 A: I believe that to be the case, yes.

1 Q: And -- let's do that -- and you know about marinas, if
2 one has 60 slips and you apply Article XI, you'd need one
3 space for every three slips, correct?

4 A: I believe that's how it works.

5 Q: So, let's just call that 20 for easy numbers. And then
6 with the snack bar, we've just done the math, and that parking
7 -- if you use Article XI and you calculated total square --
8 total floor area, and the decking used for outdoor seating,
9 you might be as high as 103 spaces, correct?

10 A: You could come up with that; yes, sir.

11 Q: You could?

12 A: Yeah.

13 Q: And so, if you needed 103 spaces here, 70 spaces here,
14 and 20 spaces there, using Article XI, this would be
15 insufficient parking for that area, wouldn't it?

16 A: The total number of spaces in there would not equal what
17 we just said would be required.

18 Q: So, 100 -- that's 193 spaces compared to -- 193 required
19 spaces compared to 62 available spaces, correct?

20 A: Yes, sir. Except we don't -- again, we're not saying
21 it's required.

22 Q: I know that. The Judge has heard that. We all agree
23 that that's the issue.

24 And, when you look at Article XI, you're not allowed to
25 stack -- you're not allowed to double count spaces, correct?

1 A: That's correct; in general, correct, yes, sir.

2 Q: Right. Every separate use has to have dedicated -- let's
3 call it that -- dedicated spaces as required in Article XI,
4 correct?

5 A: Yes, sir.

6 Q: And at the time you were making recommendations to the
7 Planning Commission and to County Council, you hadn't done the
8 math that we just did, had you?

9 A: Had not done the math?

10 Q: Correct.

11 A: No; no, sir.

12 Q: You did not figure out what the parking loads were for
13 any of the other uses that were all sharing the same parking
14 lot?

15 A: No, we -- no, sir.

16 Q: You had at that very time when you were making your
17 recommendations to the Planning Commission and to the County
18 Council, you had people from the public expressing their
19 concern that adding a 13,000 square-foot building would
20 negatively impact an already insufficient parking lot,
21 correct?

22 A: Was the question did we had people saying that?

23 Q: Yes.

24 A: Yes, but also many people saying the exact opposite.

25 Q: I understand, but it -- it was not a mystery to you that

1 people were raising that concern?

2 A: No, sir. No, sir.

3 Q: Now, I understand that you did not administer the fire
4 code?

5 A: That's correct.

6 Q: But you know it exists?

7 A: Yes, sir.

8 Q: And you know what occupancy limits are?

9 A: Yes, sir.

10 Q: And at the time you were making recommendations to County
11 Council about the passage of 3.0, did you take into
12 consideration occupancy limit or occupancy capacity for 3.0?

13 A: We did not. The information did come up and a number was
14 given from -- it came up from the fire department or from the
15 building official, one.

16 Q: So, during your process ---

17 A: So ---

18 Q: I'm sorry.

19 A: So, during that process -- and I think this was in MQ3,
20 actually.

21 Q: Yeah. That's what I'm asking about.

22 A: Yeah. That's -- yes, sir; it did.

23 Q: So, before you or during the time that you were preparing
24 your report and/or presenting your report to the County
25 Council of 3.0, you knew that the occupancy limit for 3.0 was

1 350-some odd people, correct?

2 A: I'm not sure it's -- what stage that number came about.
3 I don't think it came about when we were preparing the report.
4 But, at some stage at the Planning Commission and County
5 Council level it came up; yes, sir.

6 Q: So, you knew that from the fire department standpoint,
7 they could -- the building could accommodate up to 350 people,
8 correct?

9 A: That's my recollection; yes, sir.

10 Q: Is it a bad thing from a planning standpoint to have a
11 commercial business with insufficient parking?

12 A: In a straight zoning application, yes, sir.

13 Q: And you consider the availability and demands for parking
14 when you are evaluating even a PD amendment, a non-straight
15 zoning, right?

16 A: Do we contemplate parking in the PDs?

17 Q: Yes.

18 A: Yes, sir.

19 MR. BLOOM: Those are my questions, Your Honor.

20 THE COURT: All right. Thank you, sir.

21 Ms. Golding?

22 MS. GOLDING: Thank you, Your Honor.

23 CROSS-EXAMINATION LESTER BOYD JOHNSON BY MS. GOLDING:

24 Q: Hello, Mr. Johnson.

25 A: Hello.

1 Q: I wanted to go back to -- there were some questions that
2 seemed to indicate that the process for amending a PD can be
3 minor or major; is that correct?

4 A: Yes.

5 Q: Okay. Can you explain to the Court the minor amendment
6 and then explain to the Court why this Marlin Quay Version 1
7 went from minor to major?

8 A: Well, minor plan -- minor amendments to PDs can be
9 approved at the staff level, and generally there are changes
10 that would not affect perhaps the intensity or not cut down a
11 lot of trees, or basically would have very minimal impact on
12 the project. That was an issue early on, minor or major. It
13 finally did end up going as a major PD. Primarily, the reason
14 -- I would say the reason it ended up going from a major to a
15 minor -- and actually, I think that issue, by the way, did go
16 to the Zoning Board of Appeals who ruled in favor of the
17 staff's interpretation twice, I believe. It finally ended up
18 going -- as a PD, the applicant really requested, finally in
19 MQ3 that, hey, let's -- we want this to be a major amendment
20 because the plaintiffs in this case kept saying they wanted
21 this to be a major amendment so they would have an opportunity
22 to provide input and their information regarding the plans or
23 the project. So, it was going to a major primarily so they
24 would have an opportunity to provide input.

25 Q: Was that the suggestion of the Georgetown County Planning

1 Department to go to a major?

2 A: Actually, the request came from the applicant first, and
3 then we agreed that we would do that and go through that
4 process.

5 Q: With respect to a major amendment, a major amendment
6 involves a process of going to Planning Commission and then
7 County Council?

8 A: Yeah. Planning Commission would hold a public hearing,
9 receive input, one meeting, two meetings, however many they
10 choose. And at the end of the day, they would send a
11 recommendation of either approval or denial or some
12 modification to County Council who would then hold three
13 readings. The second one at which would actually -- I'm not
14 -- I can't remember if they did a public hearing or not, but
15 there is an opportunity for the public to speak at each of
16 those three meetings.

17 Q: So, if -- the questions by Mr. Bloom that you made -- you
18 recommended to County Council, really it is planning -- the
19 commission that recommends to the County Council; is that
20 correct?

21 A: That's correct.

22 Q: Okay.

23 A: And there have been cases where the staff report -- the
24 staff recommended something to the Planning Commission,
25 Planning Commission did not agree -- they took a different

1 action, approval or denial. And then we would actually make a
2 recommendation to County Council that they follow the Planning
3 Commission's recommendation, even though that was not our
4 original recommendation. But we always take Planning
5 Commission's recommendation to County Council, not staff's
6 recommendation.

7 Q: With respect to the Version 3.0, I want you -- there was
8 a staff report which is Plaintiff's Exhibit 35; is that
9 correct?

10 A: I assume so. I don't have it in front of me.

11 Q: You don't have Plaintiff's Exhibit 35 in front of you?
12 I'm sorry.

13 A: I do now. It's on the screen; yes, ma'am.

14 Q: Okay. Good. Now, with respect to this staff report,
15 there are attachments, I believe, that are with the staff
16 report; is that correct?

17 A: Yes; that's correct.

18 Q: Okay. And if you would look at the third page of the
19 staff report. Now, the third page has attachments at the
20 bottom; do you see that?

21 A: Yes. Yes, I do.

22 Q: And it has Attachment 1, application and attachments.
23 Was that provided to the Planning Commission?

24 A: Yes, it was.

25 Q: Okay. Number 2, proposed site and building plans, was

1 that provided to the Planning Commission?

2 A: Yes, it was.

3 Q: Number 3, GIS location map, was that provided to the
4 Planning Commission?

5 A: Yes, it was.

6 Q: Number 4, GIS zoning map, was that provided?

7 A: Yes, it was.

8 Q: And Number 5, GIS aerial map, was that provided?

9 A: Yes, it was.

10 Q: And 6, adjacent property notice, was that provided?

11 A: Yes, it was.

12 Q: And all that information went to the Zoning Commission;
13 is that correct?

14 A: Yes; that's correct.

15 Q: In looking through Plaintiff's Exhibit Number 35 -- I'm
16 sorry, the pages aren't numbered, but do you go -- can you go
17 to the notice of public hearing?

18 A: Okay. I see it.

19 Q: Is that the notice that went to the newspapers and to the
20 surrounding property owners?

21 A: Yes.

22 Q: In all this information that's provided to the Planning
23 Commission, is that provided before the hearing date on
24 October the 11th?

25 A: Yes. They traditionally get their packets the Friday

1 before the Thursday meeting.

2 Q: And so, the Zoning Commission gets all this information
3 and then there's a hearing. And in this case, it was on
4 October 18, 2018.

5 A: I believe so, yes, ma'am.

6 Q: Okay. Do you recall that hearing before the Planning
7 Commission on October 18, 2018?

8 A: Yes, in general; yes.

9 Q: Okay. And were there a number of public participants or
10 members of the public that appeared?

11 A: It was a large number.

12 Q: And when you tell the Court it was a large number, what
13 do you mean by large number?

14 A: The facility, which was the old Georgetown County
15 Courtroom that we use was pretty much full.

16 Q: And do you recall if this Marlin Quay Planned Development
17 issue was the only issue before the Planning Commission or do
18 you recall if there were other matters?

19 A: I wouldn't -- normally, there would be other matters.
20 And their normal mode would be to do this -- I hate to use the
21 term get it out of the way, but do this so that the other
22 people -- there would be room in the courtroom, because
23 usually people leave after their particular subject.

24 Q: With respect to the Planning Commission hearing on
25 October 18, 2018, did partici -- were there pros and cons with

1 respect to this proposed amendment to the PD?

2 A: Yes.

3 Q: And when I say pros and cons, can -- were those -- who
4 were the -- not identify who, but identify who the -- were the
5 cons representatives of Gulfstream Café?

6 A: Yes.

7 Q: And were the pros public members?

8 A: Yes, many.

9 Q: Would it be fair to state that this proposed amendment to
10 the PD was widely publicized?

11 A: Absolutely.

12 Q: Okay. And why do you say that?

13 A: Well, this obviously was the big issue at the time, so,
14 you know, we had lots of people calling asking questions, lots
15 of people coming to our meetings, not just the Planning
16 Commission meeting but the County Council meetings. There was
17 just a lot of -- the news media, obviously, follows things.
18 So, there was a lot of examination of this project.

19 Q: And with respect to the next step after the Planning
20 Commission, what occurred next with regard to Marlin Quay 3.0?

21 A: It would go to the County Council who would have three
22 different readings.

23 Q: And what was the recommendation or what was the position
24 of the Planning Commission with respect to this proposed
25 amendment to the PD?

1 A: That it was a positive recommendation to approve the
2 application.

3 Q: And so, the next step would be County Council?

4 A: Yes.

5 Q: And the -- how many readings would go through?

6 A: Three.

7 Q: Okay. The first reading of County Council, I know the
8 dates -- would that have been around November 13, 2018?

9 A: That's correct.

10 Q: So, it would've been about a month after the planning and
11 zoning?

12 A: Yes; that would be normal.

13 Q: Did you attend the first reading?

14 A: Yes. I generally attended all County Council meetings.

15 Q: So, the three County Council readings with respect to
16 MQ3, you attended all three?

17 A: Yes.

18 Q: The first reading, I believe it was November the 13th of
19 2018, was there a public comment section?

20 A: Yes. County Council has a policy that any member of the
21 public can come to any councilmember -- any normal council
22 meeting and sign up to speak at the beginning of the meeting.
23 There is a time limitation; I can't remember what it was. I
24 think it was maybe five minutes.

25 Q: And is that also proof for the second reading that

1 occurred on December 11, 2018?

2 A: Yes; that is true.

3 Q: Okay. Can you look now to Plaintiff's Exhibit 44?

4 A: Yes, I see it.

5 Q: Okay. Plaintiff's Exhibit 44 are meeting minutes of the
6 second -- of the second reading of this application that
7 occurred on December 11, 2016 -- 2018; is that correct?

8 A: Yes.

9 Q: Okay. And the first page of Plaintiff's 44 has public
10 comments?

11 A: Yes.

12 Q: Okay. Adam Nugent, what does it state with respect to
13 Adam Nugent appearing and making a public comment?

14 A: Mr. Nugent, an attorney representing Gulfstream Café
15 voiced concerns regarding a post amendment to the Marlin Quay
16 Planned Development Ordinance Number 2018-40 currently before
17 County Council. He said there was reason to believe that
18 proper procedure under the County's zoning ordinance had not
19 been followed. He said the building being proposed was far
20 different than the building that was there before.
21 County zoning code requires that County Council -- that County
22 Council consider whether adequate parking accommodations
23 exist. He encouraged council members to observe the situation
24 firsthand to ensure that the proper procedures were followed.
25 This building would be beneficial to the entire area.

1 Q: Okay. I wanted to ask you something about the statement,
2 this building will be beneficial to the entire area. As a
3 member of the Planning Department, did you take into
4 consideration the benefit of the building, or the proposed
5 building to the area?

6 A: Yes. We believed a new building meeting all --
7 particularly the flood requirements and handicap accessibility
8 improvements would be beneficial to the area as opposed to an
9 old -- nearly delapidated, but certainly an old building that
10 was hanging over on somebody else's property line.

11 Q: I'm glad you brought that up, hanging over on somebody
12 else's property. Can you tell the Court about that?

13 A: Yeah. This whole process started really because the
14 original building was, gosh, I don't know, maybe 30, 40
15 percent of the building was hanging over their property line
16 onto the property of the condominiums.

17 Q: Is that the Marlin Quay condominiums?

18 A: Yes. And we had several meetings with them and
19 representatives of the Marlin Quay Condo Association and how
20 to rectify that issue. And all parties came to an agreement
21 that the building would be demolished and placed entirely on
22 applicant's property. We also talked about some square
23 footage, and we stressed and noted that the square footage
24 that the condo association was losing from their property
25 could not be regained by them. They couldn't come in and

1 build something else, more condos for instance, where that
2 building was just because there now was an empty spot. And
3 they agreed to that.

4 Q: With respect to the Planning Department, was that
5 significant to remedy a situation where a property owner was
6 across the line of another property?

7 A: Yeah, we would consider that significant.

8 Q: Is that a significant zoning issue?

9 A: The zoning ordinance doesn't, I mean, except when it gets
10 into setbacks, doesn't really get into that. But from just a
11 planning perspective, we don't -- certainly don't like to see
12 that.

13 Q: And certainly, by this MQ -- excuse me -- Version Number
14 3 building plan that was submitted to County Council, was that
15 solely on the footprint of the old building?

16 A: We believe it to be, yes, because I believe that was the
17 court order that the reason they were coming back for MQ3 is a
18 judge had ruled it had to be in the footprint of the other
19 building.

20 Q: And with respect to the Version 2, the Version 2 that was
21 approved, did that remedy the situation with respect to the
22 property line with the respect to the building being on the
23 Marlin Quay condominiums?

24 A: Yes, it did.

25 Q: Now, with respect to this new proposed building and MQ3,

1 Version 3, did that building have to go up?

2 A: Yes, based on the flood ordinance.

3 Q: Okay. And the old building, was that subject to the
4 flood ordinance?

5 A: It was there. It was there when that building was built
6 I am aware but it did not I'm fairly certain -- fairly certain
7 it did not meet the modern current flood regulations.

8 Q: So, when I -- do you recall the plans of making it go up
9 from the ground level to the bottom of the top floor 14 feet?

10 A: That sounds correct.

11 Q: In addition, you said handicap, with respect to handicap,
12 does that mean that the new building had to comply with the
13 Americans with Disabilities Act?

14 A: Yes.

15 Q: And with respect to restrooms or bathrooms, did that
16 require enlarged restroom facilities?

17 A: Yes, it does.

18 Q: Also, do you recall if the old building had an elevator?

19 A: I do not believe it had an elevator.

20 Q: The new building, MQ3, Version 3, is an elevator
21 required?

22 A: There was certainly one -- there was certainly one in the
23 plans and constructed. I think there would've have to have
24 been some accommodation, for instance, for the handicapped to
25 get to Floor 3 from 2. I'm not sure how else you could do

1 that without an elevator.

2 Q: Would the elevator -- installation of an elevator and use
3 of an elevator over the three floors but require more square
4 footage in the building?

5 A: Yes. The shaft, because of the shaft and all that.

6 Q: Would the use of wider stairways to comply with the ADA,
7 would that require more square footage?

8 A: Not just the ADA, but the building -- even the building
9 code gets into that so people have room to exit the building.

10 Q: Would the enlargement of the restroom facilities require
11 more square footage?

12 A: Yes.

13 Q: Okay. And would the need for having more than one male
14 and one female restroom also require more square footage?

15 A: Yes.

16 Q: Okay.

17 A: The ADA gets in things like -- I mean, excuse me -- yeah.
18 I mean, it's very detailed how many toilets in a bathroom, how
19 many feet has to be for a wheelchair for instance to get in a
20 a stall. All that is very, very precise, which all of that
21 requires larger facilities.

22 Q: These additional square footage in the plan, the Version
23 3 plan, were -- was that additional square footage needed for
24 the general welfare of the public?

25 A: Yes.

1 Q: And I understand there's a marina that exists right by --
2 it existed by the old building and exists by the new building;
3 is that correct?

4 A: Yes.

5 Q: Okay. And to your knowledge, was this retail space --
6 enhanced retail space due to ADA, was it required -- is that a
7 -- needed for the marina, the selling of fuel, the selling of
8 products for the marina?

9 A: I believe that would be the case.

10 Q: Okay. So, having a retail store with these enhanced
11 features for general welfare, that's certainly needed for the
12 marina and the marina owners; is that correct?

13 A: Yes.

14 Q: And the slip owners, I should say.

15 A: Yes.

16 Q: And the boating public as well?

17 A: Yes.

18 Q: Okay. And the service of fuel in that area, whether it
19 be gasoline or diesel, was that -- is that a benefit for the
20 public?

21 A: For the boaters, yes.

22 Q: Okay. And to your knowledge, from where the Marlin Quay
23 is -- well, in fact, if you take it from the Garden City, as
24 you turn on and drive all the way to the end of Garden City,
25 the Marlin Quay Marina Store is the only facility that

1 provides fuel for the boating; is that correct?

2 A: I believe that's correct.

3 Q: Okay. And also with respect to restaurants, do you know
4 how long the old Marlin Quay building restaurant existed?

5 A: I don't unless it was there, you know, when the PD was
6 initially constructed in the mid-80s.

7 Q: But you had knowledge that there was a restaurant that
8 existed at the facility?

9 A: Yes. Yes.

10 Q: And in fact, if you look at Plaintiff's Exhibit Number
11 80. This is an email from a David Victoria in July 2015 which
12 identifies the square footage of the store, and Number 4, the
13 square footage of the restaurant area; is that correct?

14 A: Yes.

15 Q: And David Victoria, do you know him or know of him?

16 A: I do not.

17 Q: Okay. But this information from David Victoria, and it
18 has at the bottom it looks like architect and engineer,
19 general contractor, construction management, architecture. Do
20 you see that?

21 A: Yes, I do.

22 Q: And nowhere on this email, Plaintiff's Exhibit Number 80
23 is Steve Goggans copied, is he?

24 A: No. I do not see where he is copied.

25 Q: Okay. And in fact, to your knowledge, Mr. Goggans nor

1 anyone on behalf of SGA was involved in this project when
2 these numbers came -- were provided to the Georgetown County
3 Building Department, was it?

4 A: I do believe so, not at this time.

5 Q: Okay. Now, with respect to the restaurant, do you know
6 how many years there were two restaurants on this -- in this
7 PD?

8 A: I believe all the way to the original mid-80s date.

9 Q: Okay. And by the -- so, with the existence of two
10 restaurants for many years, were those the only two
11 restaurants basically from the entrance of Garden City on
12 Waccamaw Drive all the way down to the end after the Garden
13 City area?

14 A: I believe that's correct.

15 Q: Okay. And that's a number of miles down there, isn't it?

16 A: Yes, it is.

17 Q: Okay. So, these two restaurants for many years were the
18 only restaurants available to the public for a number of miles
19 in that area; is that correct?

20 A: Yes.

21 Q: And the availability of having two restaurants, is that a
22 benefit for the public?

23 A: Sure; yes, it is.

24 Q: Okay. I'm going back, though, to the second reading that
25 occurred in -- for Version 3. I believe that was the Exhibit

1 44. I believe you only -- the first person that spoke was
2 Adam Nugent, attorney for Gulfstream?

3 A: Yes.

4 Q: And the second person, Vince Van Brunt, is he represented
5 as the CEO of CentraArchy Restaurant Group?

6 A: Yes.

7 Q: And he also spoke at that second reading of the Version 3
8 ordinance?

9 A: Yes.

10 Q: Okay. And Mr. Van Brunt, do you recall -- he's sitting
11 over here at counsel table. I don't -- you can't see him
12 through all these posters.

13 A: Oh, okay.

14 Q: But, did anybody stop Mr. Van Brunt from making any
15 comments to County Council?

16 A: I'm not aware of that.

17 Q: Okay. Then next it has -- on the next page it has Linda
18 Barnaba. Linda Barnaba, do you recall her being as being an
19 employee with CentraArchy?

20 A: No. I do not recall her.

21 Q: Okay. And with respect to Jef Kirk -- it then has Chris
22 Causey, who is an employee, then it is Jef Kirk. Do you
23 recall him appearing?

24 A: I really don't; no.

25 Q: Okay. But you recall at the second reading on November

1 11, 2018, there were a good number of people that spoke for
2 the amendment, a good number of people that spoke against the
3 amendment?

4 A: Yes.

5 Q: Okay. And all of those speakers made their positions
6 known to County Council; is that correct?

7 A: Yes.

8 Q: The parking 101 that has been discussed in your direct
9 examination, and that's in the ordinance book, I believe
10 that's in front of you and your Article XI?

11 A: Yes. I'm sorry. Let me get back to the zoning
12 ordinance.

13 Q: Plaintiff's Exhibit Number 5 is just the parking
14 ordinance. Maybe that's easier to look in.

15 A: Yes; I have it.

16 Q: Okay.

17 A: So, Article XI.

18 Q: And in that parking ordinance, Article XI, 1101, that's
19 titled general requirements. With regard to the general
20 requirements, in the first sentence, it states areas suitable
21 for parking or storing automobiles in off-street locations
22 shall hereafter be required in all districts at the time of
23 initial construction of or conversion in use. What was your
24 interpretation of initial construction?

25 A: What was done in the mid-80s when the PD was first

1 constructed.

2 Q: So, that would be the old building that was demolished?

3 A: Yes.

4 Q: That was the initial construction?

5 A: That's my understanding, yes.

6 Q: Is that your interpretation?

7 A: Yes.

8 Q: Okay. And then or conversion in use. Was there any
9 conversion in use from the old building to the new building?

10 A: No, no.

11 Q: And was there any change -- did the proposed amendment
12 permit any change in the seating capacity?

13 A: The proposed amendment established 110 limit for number
14 of seats in that building.

15 Q: Okay. And 110 was provided information as to the seating
16 capacity of the old building; was that correct?

17 A: At the Planning Commission meeting, yes.

18 Q: Okay. Now with respect to your department, the Building
19 Department, over the years, do you know how many times someone
20 applied for an amendment to a PD?

21 A: Many, many times.

22 Q: And do you know how many PDs there are in Georgetown
23 County?

24 A: No, I do not.

25 Q: Okay. If -- would you be surprised there'd be around 100

1 PDs in Georgetown County?

2 A: No. That would not surprise me.

3 Q: Okay. Now, each of those applications for amending a PD,
4 how -- is that treated as a process that is communicating back
5 and forth or is it an adversarial process with the applicate?

6 A: I would say the first that department, and I'm sure it
7 still to this day, tries to work with people, certainly tries
8 to enforce the ordinances, but there's a lot of back and forth
9 about, you know, asking for information, and saying, hey, this
10 what you submitted to me today is I look at it and I
11 understand why you're cutting these five oak trees over here.
12 I think you can slide your parking lot or slide your building
13 a little bit and you can save five nice oak trees. So, that's
14 the kind of thing that goes back and forth. Sometimes, yeah,
15 the applicant will get mad because for whatever reason they
16 may lose a unit or something, or you know, they may not be in
17 agreement, but we don't -- certainly don't foster an
18 adversarial environment, that's not the way Georgetown County,
19 that comes from the top. We want to be customer friendly, I
20 guess, you could say.

21 Q: Now, finally, there was some questions about County
22 Council approved the budget. With respect to County Council,
23 is Mr. Goggans -- when you were there, was he one of seven
24 councilmembers?

25 A: Yes.

1 Q: And at any time was there any type of insinuation,
2 threat, any communication by Mr. Goggans to you or anyone at
3 SGA that this project, this Version 3 must go through,
4 anything like that?

5 A: No. You're talking about -- I'm sorry, were you ---

6 Q: Hear me out. Did you feel in anyway or did you perceive
7 any pressure?

8 A: Oh, no, no.

9 Q: Okay. From Mr. Goggans?

10 A: No.

11 Q: Or his ---

12 A: No.

13 Q: Okay. Thank you very much.

14 THE COURT: Any redirect, Mr. Bloom?

15 MR. BLOOM: No redirect, Your Honor.

16 THE COURT: All right. I think now is an appropriate
17 time for a break. We will -- we'll be back at 11 o'clock.
18 We'll be in recess till 11:00.

19 MS. GOLDING: Your Honor, Mr. Goggans -- I'm sorry. Mr.
20 Johnson is subject to a subpoena by Plaintiff. Can he be
21 released from the subpoena?

22 MR. BLOOM: I'm not prepared to release him, but at this
23 point I don't think I need him again, but if I release him,
24 he's gone.

25 THE COURT: Well, can't we do this? Can't we allow him

1 to -- I assume, Ms. Golding, you have good contact information
2 with Mr. Johnson?

3 MS. GOLDING: I do, Your Honor.

4 THE COURT: Can we release him from the requirement of
5 being inside this building?

6 Mr. Johnson, do you understand that what I'm saying is
7 you are still under subpoena. There is a small chance that
8 you could possibly be recalled, but I'm not gonna require you
9 to stay in the courthouse. You can go about your business,
10 just don't leave the county. If you -- if Ms. Golding calls
11 you and requests that you come back to court, you are still
12 subject to that subpoena.

13 MR. JOHNSON: Yes, sir; I understand.

14 THE COURT: All right.

15 MS. GOLDING: I appreciate it, Your Honor.

16 THE COURT: Yes, ma'am.

17 All right. We'll be in recess until 11:00.

18 **RECESS - 10:43 A.M.**

19 *****OFF THE RECORD*****

20 **ON THE RECORD - 10:56 A.M.**

21 THE COURT: Mr. Bloom?

22 MR. BLOOM: Your Honor, the plaintiffs call Jim Moring.

23 JAMES MORING, HAVING BEEN DULY SWORN,

24 TESTIFIED AS FOLLOWS:

25 THE CLERK: Thank you. Please be seated. State and

1 spell your first and last name.

2 MR. MORING: My name is James Moring.

3 DIRECT EXAMINATION JAMES MORING BY MS. PEARSON:

4 Q: Good morning, Mr. Moring. Could you please tell the
5 Court who you are and what you do?

6 A: I'm a restaurant broker, and I am the president of
7 Commonwealth Company and RestaurantBrokers.info.

8 Q: And what is your educational background?

9 A: I have a degree in business administration and marketing
10 and have held a broker's license in the state of South
11 Carolina for forty years.

12 Q: And what year did you get your broker's license?

13 A: 1981.

14 Q: Okay. And where was your degree from?

15 A: The College of Charleston and Sophia University in Tokyo
16 Japan.

17 Q: Okay. And have you had to take courses to maintain your
18 real estate brokerage since 1982?

19 A: Every two years. And also, was a real estate appraiser
20 with Charleston County Assessor's Office for four years.

21 Q: Okay. So, you were certified as an appraiser, as well?

22 A: Yes.

23 Q: Okay. And you're currently a licensed real estate broker
24 in the state of South Carolina?

25 A: Yes.

1 Q: All right. Tell me a little bit about your experience as
2 a real estate broker. I know you mentioned the Commonwealth
3 Company.

4 A: We're a full-fledged commercial real estate firm selling
5 commercial properties, but a number of years back I opened up
6 a company called Restaurant Brokers, which we specifically
7 only market and sell restaurants.

8 Q: Okay. And when did you start Commonwealth Company?

9 A: I think it was 1996 or '97.

10 Q: Okay. Around when did you start RestaurantBrokers.info?

11 A: It was a couple of years after that.

12 Q: Okay. And how many -- through course of your career, how
13 many restaurants have you marketed or sold?

14 A: It's getting close to 400; I think it's 380, I believe.

15 Q: Okay. And is RestaurantBrokers.info the company that
16 primarily sells the restaurants?

17 A: Yes.

18 Q: Okay. And how many restaurants per month do you average
19 Restaurant Brokers sell?

20 A: It's usually two or three months.

21 Q: And is there a geographic area that the company primarily
22 focuses on?

23 A: It's mostly the low country area. We have sold outside,
24 in a couple of other states, but mostly Charleston.

25 Q: Okay. And what is your role at Commonwealth Company?

1 A: I'm the president and the broker in charge, so I'm in
2 charge of our agents, but I am an active broker, so I usually
3 sell as much as anybody else.

4 Q: Okay. And is your role the same for
5 RestaurantBrokers.info?

6 A: Yes.

7 Q: And do you also own restaurants or have you in the past?

8 A: I have owned four restaurants, and currently I am a
9 partner in one restaurant, Amen Street Fish & Raw Bar in
10 Charleston, South Carolina.

11 Q: Okay. And have you ever been an expert in a case before?

12 A: Yes. It was a case involving a restaurant off of Kiawah
13 Island a few years back.

14 Q: Okay. And were you qualified in that case to testify?

15 A: I was, by Judge Mendelsohn, Joe Mendelsohn.

16 Q: Okay. And do you handle other types of commercial real
17 estate other than restaurants or is your primary ---

18 A: We do occasionally. I mean, we're not gonna turn down a
19 sale of an office building or an apartment complex, but I've
20 sold a couple of hotels in the last few years. Mostly
21 restaurants, though, is 95 percent.

22 Q: All right. And how many restaurants per year do you
23 estimate your company sells?

24 A: Between 35 and 40. You know, I have four agents that
25 work with me, also.

1 Q: All right. And what type of clients does your company
2 typically have?

3 A: Usually, it's a chef or a restaurant investment group
4 that contacts us, or maybe it's a restaurant group that has a
5 recent sale that they own eight or 10 restaurants and they
6 want to expand.

7 COURT REPORTER: Sir, can I get you to slide a little bit
8 so I can see you.

9 A: Okay. All right.

10 COURT REPORTER: Thank you so much.

11 BY MS. PEARSON:

12 Q: All right. And one of your jobs as a broker is to
13 evaluate the marketability of a restaurant when you're trying
14 to sell it; is that correct?

15 A: That's correct.

16 Q: And is parking one of the top factors you evaluate when
17 looking into the marketability of a restaurant?

18 A: Absolutely. If you don't have parking, you don't have
19 customers.

20 Q: Okay.

21 MS. PEARSON: I would move to qualify Mr. Moring as an
22 expert in the field of commercial real estate brokerage.

23 MS. GOLDING: He is a commercial real estate broker;
24 there's no doubt about that. Whether or not, you know, his
25 testimony is going to be an expert because, in South Carolina

1 we don't have any licenses or certificates for the sale of
2 restaurants with marketing of restaurants. So, I don't
3 believe that his expertise or testimony with respect to that
4 as a real estate broker would be expert -- would be sufficient
5 to be an expert. He testified that he was at one time an
6 appraiser, but he is not here today in a role as appraiser.
7 So, I don't believe that his testimony would be sufficient to
8 the expert witness testimony, Your Honor.

9 MS. PEARSON: And just to clarify, we are not offering
10 him today as an appraisal expert; we're offering him as a
11 commercial real estate broker.

12 THE COURT: All right. I'm gonna qualify him based on
13 his education, training, and experience as an expert in
14 commercial real estate.

15 Ms. Golding, if you feel like any opinion he offers is
16 outside the scope of that area of expertise, just object and
17 we'll deal with it as they come.

18 MS. GOLDING: Thank you, Your Honor.

19 THE COURT: All right.

20 BY MR. PEARSON:

21 Q: Mr. Moring, can you tell us a little bit about what your
22 assignment in this case was?

23 A: To review the property and the parking and to determine
24 that there was adequate parking on the facility property now,
25 and if another restaurant or business was using that parking

1 would it be a taxing on the businesses.

2 Q: Okay. So, when you say the restaurant, you're talking
3 about Gulfstream, correct?

4 A: Gulfstream, yes.

5 Q: And you mentioned, if there was another restaurant, we
6 are talking about -- we've been calling it Version 3.0.

7 A: Yes.

8 Q: So, the new restaurant, I'm gonna refer to it as 3.0 so
9 you understand that's what I'm talking about.

10 A: Yes.

11 Q: And that's the restaurant you were referring to ---

12 A: That's the restaurant that I was looking at.

13 Q: Okay. All right. What materials did you review in
14 connection with your assignment in this case? I looked at
15 aerial photos, and then an on-site visit, plus, the plans for
16 the proposed 3.0.

17 Okay. So, you went and actually visited the Gulfstream
18 Restaurant? I did.

19 A: I did.

20 Q: And so you viewed the Gulfstream Restaurant's parking
21 lot, and the parking lot in the Marlin Quay Marina area?

22 A: I did.

23 Q: All right. And if you could tell us a little bit about
24 that parking lot and what you observed when you were there?

25 MS. GOLDING: Your Honor, I will make an objection, and

1 he -- I do not believe that is within the scope of his
2 expertise. He testified his scope was to determine if
3 adequate parking exists. That certainly is not within the
4 scope of functions of a commercial real estate broker. So, I
5 do not believe that would be appropriate. He has to have some
6 type of background. He has to be -- would've been schooled in
7 zoning and planning, and none of that he's qualified to speak
8 as to adequate parking.

9 Thank you, Your Honor.

10 THE COURT: Maybe if you could ask him some more
11 questions about how the parking factors into his
12 determinations as a broker. If that's where you're going with
13 this?

14 MS. PEARSON: Sure.

15 THE COURT: I think you'll likely be able to get there.
16 I think we'll need a little bit more foundation, maybe.

17 BY MS. PEARSON:

18 Q: Okay. So, Mr. Moring, in your experience as a commercial
19 real estate broker, selling restaurants, is parking one of the
20 top factors that you look at in evaluating the marketability
21 of a restaurant?

22 A: It is. It's one of the first.

23 Q: Okay. So, when you're looking at a property in terms of
24 listing it for sale and what you might want to list that
25 property for, parking is one of the things that you look at to

1 determine price?

2 A: Right, yes; that's correct.

3 Q: Okay.

4 MS. PEARSON: Is that sufficient, Your Honor?

5 THE COURT: I don't know what he's gonna say, but I think
6 -- I think you've laid an appropriate foundation for the fact
7 that he will factor parking in in determining marketability.
8 Whether -- I don't know that he's got the expertise to tie the
9 amount of parking in this particular parking lot to any zoning
10 ordinance or -- so, if I'm predicting where you're going, I
11 think you've gotten there, but I -- you know, I don't know
12 what he's gonna say.

13 MS. PEARSON: Sure. Okay.

14 BY MS. PEARSON:

15 Q: In terms of your assignment here included evaluating
16 Gulfstream's parking lot and the impact of the potential
17 building on that parking lot for determining the marketability
18 of Gulfstream; is that correct?

19 A: That's correct.

20 Q: So, in doing that evaluation you first -- you did go to
21 Gulfstream and view a current parking lot, correct?

22 A: That's correct.

23 Q: Okay. If you could tell us a little bit about what you
24 observed about Gulfstream's current parking lot, the current
25 parking situation.

1 A: I visited the restaurant on two occasions and once at
2 lunch and once at dinner, and the parking was pretty taxed at
3 that time, mostly full. And I also wanted to add that on my
4 business card it says restaurant broker; it doesn't say real
5 estate broker. I've had cards that say restaurant broker for
6 20 years. So, I am a real estate broker, but anybody -- if
7 you ask anybody in the area that knows me, they would call me
8 the restaurant broker, not the real estate broker. So, there
9 is a slight difference.

10 Q: Fair enough. And when you went to Gulfstream's parking
11 lot, did you actually -- I'm sorry -- let's call it the Marlin
12 Quay parking lot.

13 A: Right.

14 Q: Did you count the number of parking spaces or ---

15 A: I did. I did. And for the number of seats in the
16 restaurant, it was barely adequate.

17 Q: Okay. And did you do any investigation of other parking
18 options in the area when evaluating the parking needs?

19 A: I did. When you come out of the parking lot and take a
20 right, you can drive for about a mile before you get to the
21 gates of a, apparently, a condominium resort. It has security
22 gates. There's no parking for that mile that the restaurant
23 patrons could use. And if you were to -- that would be going
24 south. If you came out of the parking lot and went -- turned
25 left going north, it's about a mile and a half until there is

1 other restaurants and retail that, I guess, someone could
2 sneak in and park there and walk for a mile and a half back to
3 the restaurant, which I don't see how that could be done. And
4 also, all of the roadways in either direction have no parking
5 signs along the roadway, so you can't park on off-street
6 parking or on-street parking off the side of the road. And
7 so, I don't really see that there is other alternatives.

8 Q: Okay. So, there was no street parking that you observed?

9 A: No.

10 Q: All right. And in terms of what is being proposed for
11 Version 3.0, what did you do to familiarize yourself with the
12 proposed building 3.0?

13 A: I looked at the plans of what -- what the restaurant part
14 would look like when it was finished. And it appears to be
15 quite a large place that's gonna be built.

16 Q: And are you aware that the Version 3.0 has been approved
17 to go in next-door to Gulfstream?

18 A: I had heard that it was in the process of being approved;
19 I wasn't aware that it's been approved.

20 Q: Okay. And if Version 3.0 were to be built next-door, did
21 you come to any conclusions regarding the impact on the
22 marketability of Gulfstream if that happened?

23 A: I think it'd be devastating on the parking because there
24 would be two restaurants, bars, next-door to each other that
25 would be competing for the same parking spaces. So, I see

1 where you're gonna have customers that come to Gulfstream,
2 can't find a parking place, and there are other places to go
3 eat, and they're gonna leave.

4 Q: Okay. And why would that fact be important for you when
5 you're trying to sell the property?

6 A: Well, someone looking at the property to buy would see
7 that the parking was not adequate. And so, I doubt that we'd
8 be able market the property.

9 Q: So, is someone -- is a potential buyer going to recognize
10 with what's going to be going in next-door Version 3.0 that
11 there wasn't going to be adequate parking on the site?

12 A: I don't see how they would not, because what's there now
13 is just barely adequate.

14 Q: Okay. And we talked a little bit about -- we asked you
15 if parking was a factor that you evaluated when looking at the
16 marketability. How would you qualify that? Is that an
17 important factor when looking at the marketability of a
18 restaurant?

19 A: It's the most important. If you don't have parking, you
20 don't have customers, I mean.

21 Q: And is a buyer of a potential restaurant gonna care if
22 they have customers coming to the restaurant or not?

23 A: If they want to make a living, they will.

24 Q: So, if you were trying to sell Gulfstream, once Version
25 3.0 is built next-door, do you think you would have a willing

1 buyer for the restaurant?

2 A: I'm not sure I'd be able to find a buyer for that
3 restaurant.

4 Q: Due to the lack of parking in the parking lot?

5 A: Because the parking is already taxed. And with a new
6 restaurant, it would be inadequate. They're probably gonna
7 lose customers over it.

8 Q: So, in your opinion, there would be no market for the
9 Gulfstream Restaurant once Version 3.0 is constructed; is that
10 correct?

11 A: That's correct.

12 MS. PEARSON: I don't have any more questions, Your
13 Honor.

14 THE COURT: Ms. Golding?

15 MS. GOLDING: May it please the Court. Thank you, Your
16 Honor.

17 CROSS-EXAMINATION OF JAMES MORING BY MS. GOLDING:

18 Q: Mr. Moring, when did you attend the College of
19 Charleston?

20 A: In the '70s.

21 Q: When in the '70s? I attended the College of Charleston.

22 A: Did you? I graduated in '77.

23 Q: Okay. Good. We overlapped a little bit.

24 A: Okay.

25 Q: Mr. Moring, with respect to this assignment, I believe

1 you were hired in November of 2020; is that correct?

2 A: That's correct.

3 Q: And you visited the site, I think you said, in January
4 2021?

5 A: Right.

6 Q: And that was the first time you were ever at this site?

7 A: Yes.

8 Q: Okay. So previously before January 2021, you had never
9 been at this site where to be Marlin Quay store and
10 restaurant, and where Gulfstream Café; is that correct?

11 A: That's correct.

12 Q: Okay. So, you never saw the old building, the old Marlin
13 Quay building and consisting of the marina store and
14 restaurant, have you?

15 A: No.

16 Q: Okay. And you never saw the menu that existed for the
17 Marlin Quay Restaurant?

18 A: No, I -- I did not.

19 Q: And you don't know how long that Marlin Quay Restaurant
20 operated before it was demolished in November 2016, do you?

21 A: I know some people that visited that restaurant and
22 actually a boat captain kept his boat there, so I asked him
23 about it, but I did not go there myself.

24 Q: Okay. So, you wouldn't be surprised to know that that
25 Marlin Quay Restaurant existed some 30 years or maybe at least

1 20 years before November 2016?

2 A: I had heard it was something like that.

3 Q: Okay. And you can't dispute that this Marlin Quay
4 Restaurant, in fact was a full-service restaurant selling
5 alcohol, wine, and beer, and hard liquor, can you?

6 A: No.

7 Q: And with respect to those 20-30 years at Marlin Quay
8 Restaurant existed, Marlin Quay Restaurant utilized or had the
9 opportunity to utilize some of the parking space in that
10 shared parking lot; is that correct?

11 A: That's correct.

12 Q: At the same time, Gulfstream Restaurant had a non-
13 exclusive easement to use some of those parking spaces; is
14 that correct?

15 A: That's what I understand.

16 Q: And those 62 parking spaces, Gulfstream didn't have --
17 has never had an absolute right to use every parking space,
18 every hour of the day, does it?

19 A: I'm not familiar with the lease, but that may be the
20 case.

21 Q: Okay. And with respect to Gulfstream, I think you
22 earlier said you counted the spaces?

23 A: Right.

24 Q: And what was the count you came up with the spaces?

25 A: I believe it was around 65.

1 Q: Sixty-five spaces?

2 A: Yeah.

3 Q: That Gulfstream Café could use?

4 A: That -- well, that's in the parking lot.

5 Q: Okay. And how many spaces did you say were available for

6 Gulfstream Café?

7 A: I guess they could park in any of them.

8 Q: Okay. So, the 65 is what you were saying were available

9 to Gulfstream Café?

10 A: Right.

11 Q: Is that correct?

12 A: I guess so.

13 Q: Okay. And I understood you to say on direct examination

14 that was minimally adequate; is that correct?

15 A: That's correct.

16 Q: Okay. And at no time did Gulfstream Café tell you it had

17 17 additional spaces, its own 17 spaces, did they?

18 A: Where are they? I don't ---

19 Q: Have you -- in fact, Gulfstream Café has never told you

20 it had 17 parking spaces it owns?

21 A: Off of this facility, no; they didn't mention that.

22 Q: And it never told you it had six parking spaces under its

23 building that it uses?

24 A: Yeah. I saw those.

25 Q: Okay. So, if you add 17 and six, so Marlin Quay --

1 excuse me, Marlin Quay -- Gulfstream Café had at least 23
2 parking spaces in addition to the 60-some in the parking lot,
3 is that correct?
4 A: I will take you ---
5 Q: You don't know about that?
6 A: I don't know. I'm being told this, so I'm agreeing with
7 something that you are telling me.
8 Q: Well, understand that you -- you said parking and you're
9 giving an opinion as to marketability based on parking,
10 wouldn't it be important to know how much parking was
11 available to determine marketability?
12 A: You just -- you just added how many spaces?
13 Q: Twenty-three.
14 A: Twenty-three, right.
15 Q: But isn't it important to know how many spaces are
16 available to determine marketability?
17 A: Yes.
18 Q: Okay.
19 A: Now, in determining the marketability, it's important to
20 look at finances of a restaurant; is that correct?
21 A: Yes.
22 Q: And you were not provided any tax returns of Gulfstream
23 Restaurant, were you?
24 A: No.
25 Q: Okay. You were not provided any balance sheet for

1 Gulfstream Restaurant, were you?

2 A: No; I was not.

3 Q: You are not provided any profit or loss statement for
4 Gulfstream Restaurant, were you?

5 A: No.

6 Q: Okay. You were not provided yearly gross receipts for
7 the restaurant, were you?

8 A: No; I was not.

9 Q: You were not provided year-to-date grocery receipts to
10 the last of the month, were you?

11 A: That was not within my scope.

12 Q: But in your website, RestaurantBrokers.info, you have a
13 checklist of the most important things needed to determine
14 marketability.

15 A: Right.

16 Q: And I just read out those, corporate tax returns; isn't
17 that what's on your website?

18 A: Yes.

19 Q: Okay. Balance sheet, that's on -- that's Number 2.

20 A: Yeah, right.

21 Q: So, all these items that have on your website that's
22 important and needed for marketability, none of that was
23 provided to you by Gulfstream, was it?

24 A: That wasn't.

25 Q: If a restaurant year after year shows losses in its tax

1 returns, that certainly is a negative for marketability, is it
2 not?

3 A: It depends on how good of an accountant they have.

4 Q: Well, if you have losses for 10 years that you report on
5 your tax returns, that's not a positive, is it?

6 A: I would have to review the P&Ls.

7 Q: Well, it's certainly a lot better if the tax returns show
8 some income, would it not be?

9 A: Many restaurants ---

10 Q: Please answer my question. Isn't it a lot better if the
11 tax returns year after year reported income?

12 A: It depends.

13 Q: Okay. You're just not going to give on that one, are
14 you?

15 A: Well, I mean, I sell a lot of restaurants that do not
16 have positive tax returns that are profitable.

17 Q: Mr. Moring, you drove the area when you went to see the
18 parking lot, the two times that you went to the Marlin Quay
19 PD; is that correct?

20 A: Yes.

21 Q: Okay. And both those times, did you see the six or seven
22 condominium projects around Gulfstream Restaurant, around that
23 area?

24 A: I didn't observe condominiums.

25 Q: Okay. You didn't count the number of units that were

1 around the Gulfstream Restaurant, did you?

2 A: I did not.

3 Q: Okay. And Mr. Kirk testified, I believe it was
4 yesterday, that there could easily be 4 to 500 units that are
5 around Gulfstream Restaurant in which the unit owners or unit
6 occupants can easily walk to Gulfstream Restaurant; is that
7 correct?

8 A: They probably could, yes.

9 Q: And there's also a house across -- right across the
10 street from Gulfstream Restaurant that has -- that sleeps 33.
11 So, there is a significant number of facilities around
12 Gulfstream Restaurant in which there is -- can be walk-in
13 traffic; is that correct?

14 A: Probably.

15 Q: And this walk-in traffic from all these units is
16 significant as far as income of restaurant serving food, is it
17 not?

18 A: It should be.

19 Q: And Gulfstream Restaurant didn't tell you that many of
20 its patrons are walk-ins, did they?

21 A: I assume there would be, but we didn't talk about it.

22 Q: And Gulfstream didn't tell you that the walk-in patrons
23 do not use the parking lot, did they?

24 A: I think a reasonable person could assume that.

25 Q: And you also saw the marina area, did you not?

1 A: Yes.

2 Q: Okay. And the marina area has boat slips, correct?

3 A: Yes; it does.

4 Q: And there are people that also walk from the boat slips?

5 A: I would imagine they would have to drive to get to their

6 boat.

7 Q: Okay. So, if I get this clearly, Gulfstream, the only

8 thing it told you is that we can't use this parking lot.

9 We'll have 100 percent loss of the parking when this building

10 open; is that what they told you?

11 A: No.

12 Q: No?

13 A: No; they didn't tell me that.

14 Q: Well, they told you -- or you testified that this would

15 be the loss of the parking. If you don't have parking ---

16 A: Well, I should've added adequate parking.

17 Q: But you didn't go and take measurements as to -- you

18 didn't obtain information as to the percentage of parking

19 spaces that were for Gulfstream, percentage for Marlin Quay

20 Restaurant that was there 20 or 30 years before, did you?

21 A: I have not seen the lease, so I don't know if it's

22 divided up like that.

23 Q: Okay. Well, you don't have any information as to the use

24 of the parking lot by Gulfstream Café and the Marlin Quay

25 Restaurant?

1 A: I don't -- I have not seen the lease.

2 Q: Okay. Thank you. No further questions.

3 THE COURT: Any redirect?

4 MS. PEARSON: Yes, sir, Your Honor.

5 REDIRECT EXAMINATION JAMES MORING BY MS. PEARSON:

6 Q: Okay. Ms. Golding asked you some questions about tax
7 returns. Regardless of the taxable income on a tax return for
8 a restaurant, if you don't have parking will you be able to
9 sell a restaurant?

10 A: You would not.

11 Q: Okay. And you have seen the parking situation at
12 Gulfstream with your own eyes, correct?

13 A: Yes.

14 Q: Okay. And do you understand the impact of adding a
15 13,000 square-foot restaurant on that parking situation and
16 the impact on Gulfstream?

17 A: I think it would be devastating.

18 Q: As you previously testified to?

19 A: Yes.

20 Q: Would you buy the Gulfstream Restaurant?

21 A: I wouldn't.

22 MS. PEARSON: No further questions, Your Honor.

23 MS. GOLDING: Just one follow-up.

24 RECROSS-EXAMINATION OF JAMES MORING BY MS. GOLDING:

25 Q: Just one follow-up. Isn't it a fact that the Gulfstream

1 Restaurant is not for sale?

2 A: Not that I know of.

3 Q: Thank you.

4 THE COURT: All right. Thank you, sir. You can step
5 down. Thank you.

6 COURT REPORTER: Can you spell your last name, please?

7 MR. MORING: M-O-R-I-N-G.

8 COURT REPORTER: Thank you.

9 MR. BLOOM: Plaintiffs call Steve Goggans.

10 STEVE GOGGANS, HAVING BEEN DULY SWORN,

11 TESTIFIED AS FOLLOWS:

12 THE CLERK: Thank you. Please be seated. State and
13 spell your first and last name.

14 MR. GOGGANS: First name Steven, S-T-E-V-E-N, Goggans, G-
15 O-G-G-A-N-S.

16 DIRECT EXAMINATION STEVEN GOGGANS BY MR. BLOOM:

17 Q: Mr. Goggans, my name is Simon Bloom. I represent the
18 plaintiff in this case.

19 As I understand it, you were sworn in as a county
20 councilman for Georgetown County in 2014?

21 A: Correct; yes, sir.

22 Q: And as a county councilman you now have voting
23 authorities and input into the budget for the Planning
24 Department, do you not?

25 A: We approve or ratify the budget that the administrator

1 gives us.

2 Q: You mean the County Administrator?

3 A: County Administrator. She prepares the budget.

4 Q: And that budget includes the Planning Department's
5 budget, does it not?

6 A: Yes; it does.

7 Q: And before 2014, did you have any other official role
8 with Georgetown County?

9 A: I've served on various non-paying boards and commissions
10 over the years.

11 Q: For the County?

12 A: I was a county appointee for their Appearance Board, and
13 in the past the Historic Commission.

14 Q: So, those were units or subdivisions of the County;
15 they're like volunteer boards?

16 A: Volunteer boards, yes, sir.

17 Q: And then at some point after that service -- and for how
18 many years did you do things like that before you were a
19 councilman?

20 A: I've done them for the County and other community
21 entities my whole career.

22 Q: And oftentimes, when you get ready to run for councilman
23 or commissioner, it's nice to have some other -- it's nice to
24 have -- be able to show the voters that you've already
25 participated in some of those volunteer boards for that

1 county, correct?

2 A: I'm sure it doesn't hurt.

3 Q: And at some point after doing that volunteer work for the
4 County, you ran for councilman, correct?

5 A: Yes, yes.

6 Q: And you won. Did you run opposed or unopposed?

7 A: I was opposed.

8 Q: And you were installed in 2014. During the time that you
9 were both a volunteer for Georgetown County on those
10 commissions you've described, and then in your capacity as a
11 councilman starting in 2014, I take it to you would run into
12 Boyd Johnson in the hallway or being around the ---

13 A: Sure.

14 Q: And from time to time, you might talk zoning things with
15 Mr. Johnson as you were walking around the County building,
16 correct?

17 A: Yes, although that was pretty infrequent.

18 Q: For example, there was once an issue regarding a text
19 amendment dealing with penthouses on staircases; does that
20 sound familiar? Stairwells?

21 A: Yes, it does.

22 Q: There was a discussion amongst the County folks that
23 height restrictions should or shouldn't exclude penthouses
24 that sit on the top of a stairwell when you're doing the
25 height limitations. Do you remember that continue -- not

1 controversy but issue?

2 A: I do, relative to ADA and other considerations.

3 Q: And we don't -- I don't want to get too far down that
4 rabbit hole, but I use that as an example of something that
5 you might on more than one occasion have talked to Mr. Johnson
6 about just informally on a -- on those occasions where you
7 might've run into him.

8 A: If we perceive a problem in the community, yeah,
9 occasionally -- not often but occasionally mention it, sure.

10 Q: And that was one example of the things that you might've
11 mentioned to Mr. Johnson?

12 A: Yes.

13 Q: And I -- I'm not sure she picked up your answer.

14 A: Yes.

15 Q: And the distinction I'm trying to make, so that my
16 question is clear, is that you had official interactions with
17 Mr. Johnson such as when he was presenting as a planning
18 director to a council meeting, that would be what I consider
19 an official interaction with him.

20 A: Correct.

21 Q: When you're sitting up in the bench and he's sitting --
22 standing like I am, and then you just have informal
23 interactions with him because you both go to the same office,
24 right?

25 A: Yes.

1 Q: And did you have an office or a chambers or a place where
2 you could hang your hat when you came to the County building?
3 A: No.
4 Q: They didn't have a place for the councilmembers to hang
5 out while you were there?
6 A: No, not that I'm aware of anyway.
7 Q: Well, you'd know. We've got to put that in the next
8 budget. Johnson had an office though, clearly, at the County
9 building?
10 A: Yes. He had full-time staff.
11 Q: And it just so happened that when you ran into Mr.
12 Johnson to talk about this elevator shaft interaction with the
13 height restrictions and the zoning code, that you had at least
14 one client that was interested in the result of that text
15 amendment dealing with that height limitation issue, correct?
16 A: I'm uncertain.
17 Q: Well, isn't it true that at the time you were talking to
18 Mr. Johnson about whether to count penthouses on the top of
19 elevator shafts that that issue directly applied or impacted
20 Palmetto's redevelopment of Marlin Quay?
21 A: I knew Palmetto had an elevator, and I knew they had an
22 elevator shaft and penthouse, but so did several in the past
23 residential clients that I had, and other architects had
24 contacted me about the issue.
25 Q: So, the answer is yes?

1 A: Yes.

2 Q: At the same time you were talking to Mr. Johnson about
3 this one example of an elevator shaft, penthouse with the
4 height restrictions, you, at that same time, represented Mr.
5 Lawhon and Palmetto in his efforts to get his building
6 approved with respect to that building for height limitation,
7 right?

8 A: I wasn't focused on the building at the time. I had no
9 involvement in MQ2 or 3.

10 Q: I understand that your testimony. I'm just asking if
11 they happened at the same time. You were having conversations
12 with Johnson about height restrictions and its application to
13 elevator shafts, while at the same time at least your firm was
14 processing applications for Palmetto to build it's building
15 with an elevator shaft with a penthouse on the top of it.

16 A: It's possible in the context of me not being personally
17 involved in the building design.

18 Q: Let's talk about some of the things that county
19 councilmen have authority to do. How many appointees do you
20 get to the board of zoning appeals?

21 A: One.

22 Q: And how many appointees do you get to the Planning
23 Commission?

24 A: One.

25 Q: And so, during the time when you testified to the Board

1 of Zoning Appeals on this particular case, was your appointee
2 sitting on that BZA?

3 A: He was.

4 Q: You can appreciate the discomfort that that might cause,
5 or at least the appearance of impropriety?

6 A: I made a mistake.

7 Q: And furthermore, you have -- what was the name of your
8 BZA appointee?

9 A: I don't know.

10 Q: Well, how many of you appointed over the last eight
11 years?

12 A: One.

13 Q: And what was his name?

14 A: I don't know.

15 Q: How did you -- you don't remember his name or do you not
16 know him?

17 A: He was a -- I've never met the man. He was a rollover
18 candidate from my prior ---

19 Q: Predecessor?

20 A: Predecessor. And we have a hard time filling
21 appointments within the County. So, if somebody hasn't
22 misbehaved or they haven't done something errant, when they
23 come up for appointment, we're happy to roll over the
24 appointment.

25 Q: That's what you mean by rolling them over. He stayed on?

1 A: That's correct.

2 Q: I got it. And ---

3 A: And I do want to make one correction, I have appointed

4 somebody fairly recently to succeed that gentleman.

5 Q: And who was that person?

6 A: Cathy Bessie (spelled phonetically).

7 Q: So, you know Cathy?

8 A: I do know Cathy.

9 Q: And do remember the Planning Commissioner that you

10 appointed back -- that would've been in place between 2016 and

11 2018?

12 A: Yes, Johnny Weaver.

13 Q: Say it again.

14 A: Johnny Weaver.

15 Q: And so, when Mr. Weaver sat on the Planning Commission in

16 2017, when the Planning Commission reviewed 2.0, that was your

17 appointee, wasn't it?

18 A: Correct.

19 Q: And Mr. Weaver knows that you own SGA Architects, doesn't

20 he?

21 A: Correct.

22 Q: Does he work at SGA?

23 A: No. Works for the Litchfield company?

24 Q: Was that a client of SGAs?

25 A: No. They have been in the past, but not a current

1 client.

2 Q: And that's a fair distinction. So, a former client of
3 SGAs you appointed to the Planning Commission. And when 2.0
4 comes to the Planning Commission, your appointee that knows
5 you and knows SGA is reviewing the plans that are all stamped
6 with SGA on them, correct.

7 A: I presume so; yes, sir.

8 Q: There's no doubt that Johnny knew when he voted for 2.0
9 and 3.0, that those were your company's plans.

10 MS. GOLDING: Your Honor, this is improper questioning.
11 He can't ask the witness what another person knew.

12 Q: The plans that were provided to the Planning Commission
13 include on the right a stamp that ---

14 THE COURT: Rephrase your question. I think you can get
15 there.

16 MR. BLOOM: I think you understand the point.

17 THE COURT: I do.

18 MR. BLOOM: I'm not gonna belabor it.

19 THE COURT: I do.

20 BY MR. BLOOM:

21 Q: All right. So ---

22 A: Probably would've received a report actually and not the
23 plans.

24 Q: Well, 35 is -- don't go too far outside of the lines, Mr.
25 Goggans. 35, in fact, is the report and attaches the plans.

1 I can show it to you if you'd like.

2 A: Fair enough. Fair enough. I accept your point.

3 Q: The report attaches all of your floor plans, your
4 building calculations. All of that is attached to the
5 recommendation that is provided to the Planning Commission; is
6 that consistent with your understanding?

7 A: It's a little unusual for a zoning consideration, but
8 yeah, I'll accept your point.

9 Q: Okay. And in this instance, with Johnny Weaver on the
10 Planning Commission for 2.0 and 3.0, he did not recuse himself
11 from voting, did he?

12 A: I don't -- to the best of my knowledge, he didn't.
13 Although, I didn't -- I don't know how he did vote.

14 Q: Okay. I think we've already addressed this, but did I
15 guess right? Does SGA stand for Steve Goggans Associates or
16 Architects?

17 A: Associates.

18 Q: And in January of 2016, Dr. Mark Lawhon hired you to be
19 his architect for the redevelopment of Marlin Quay, correct?

20 A: Yes, sir.

21 Q: And you were intimately involved in what we've been
22 calling 1.0, correct?

23 A: Yes, sir.

24 Q: And you've been here all week?

25 A: Yes, sir. Except for the first day. Go ahead.

1 Q: You were what you have called the design architect for
2 1.0, correct?

3 A: Yes, sir.

4 Q: And you were heavily involved in the development of the
5 plans, correct?

6 A: Yes, sir.

7 Q: And heavily involved with the interfacing with the
8 County, correct?

9 A: Yes, sir.

10 Q: And you -- the Judge has heard all the testimony about
11 meetings with Boyd and with Holly and with you and your team.

12 A: Yes, sir.

13 Q: You had multiple interactions in that regard?

14 A: Yes, sir.

15 Q: In-person meetings, phone calls, email correspondence,
16 and written correspondence, correct?

17 A: Mostly email and phone calls, a couple of face-to-face
18 meetings.

19 Q: Do you remember writing a letter to Boyd and Holly
20 advocating for their treatment of the application in 1.0 to be
21 a minor amendment?

22 A: I remember discussions surrounding that. I'm not -- I'd
23 have to have my memory refreshed as to the exact letter or
24 email.

25 Q: Okay. We'll get to it. So, if we just talk about this

1 1.0 timeframe, this was the 2016 timeframe. You started in
2 January of 2016, and one of the topics that you were
3 discussing with the Planning Department was whether it would
4 be a minor or major, correct?

5 A: Yes, sir.

6 Q: And you're -- at least you were advocating on behalf of
7 the owner the preference for a minor, correct?

8 A: Yes, sir.

9 Q: During that same discussion or discussions, let's call it
10 the spring of 2016, you were negotiating, interacting with the
11 County Planning Department around parking requirements,
12 correct?

13 A: Yes, sir. That would've been part of the considerations.

14 Q: Part of the County's consideration for approval of 1.0
15 would have been parking requirements?

16 A: They would've looked at that amongst other issues.

17 Q: By the time 2.0 and 3.0 were before the County for
18 rezoning -- a minute ago you said you didn't have -- I don't
19 know if it was much or anything to do with 2.0 and 3.0
20 personally, but by the time they were before the County for
21 rezoning, a lot of the groundwork for the parameters for the
22 design had been established, so there was not likely much SGA
23 interface with the Zoning Department; is that right?

24 A: Well, again, not being very involved in 2.0 or 3.0, I
25 can't say for sure, but a lot of the parameters were

1 definitely established in 1.0.

2 Q: Do you remember when your deposition was taken in this
3 case as a 30(b)(6) representative and in your individual
4 capacity on September 29th, 2021?

5 A: Repeat the question, sir.

6 Q: Do you remember being deposed in this case?

7 A: Yes.

8 Q: Do you mind if I just slide around?

9 A: No.

10 Q: I'm gonna read to you the question, Who at SGA was tasked
11 with staffing the project with planning staff in Georgetown
12 County? Would you please read your answer?

13 A: Versions 2 and 3, a lot of the groundwork or parameters
14 for the design had been established. So, I don't know that
15 there was that much interface with the building department or
16 the Zoning Department for the ordinance -- it's an incomplete
17 sentence, but reading from the text.

18 Q: Yes. Thank you. That's all. Thank you.

19 We asked what you meant by parameters and one of the
20 things that you think when you talk about parameters are
21 parking formulas, correct?

22 A: That would be part of it presumably; yes, sir.

23 Q: So, when you say that most of the parameters have been
24 established in the negotiation of 1.0 and carried on in 2.0
25 and 3.0, one of the things that you're talking about is the

1 establishment of the parking formulas, correct?

2 A: That, square footage of the building, those kinds of
3 things, certainly.

4 Q: But the answer to my question is yes?

5 A: Yes.

6 Q: You wanted to establish early on things like parking
7 formulas, so that you didn't have to revisit them in 2 or 3,
8 right?

9 A: Well, I didn't know early on that there would be a 2 and
10 3, but at the time ---

11 Q: That's a fair point.

12 A: Okay.

13 Q: But you're -- that's a fair point.

14 The parking formulas for Georgetown County can be found
15 in Article XI of the zoning code, correct?

16 A: Correct.

17 Q: Now, when you were negotiating with Holly and Boyd, you
18 arrived at an agreement that the way the planning staff would
19 interpret the parking requirements on 1.0, would be based only
20 on heated square footage, correct?

21 A: And seating.

22 Q: Excuse me?

23 A: And seating.

24 Q: Okay. And you wouldn't count interior unheated space
25 when calculating parking with 1.0?

1 A: Correct.

2 Q: Thank you.

3 You would not count decks, or porches, or outside bars,
4 or other eating areas, correct?

5 A: Well, bar and any additional seating would've required
6 extra parking. And I remember an email exchange with Holly
7 where she stipulated that. So, if we added seating beyond the
8 110 outside of the heated square feet, we had to take that
9 into account with the added parking.

10 Q: And when you were negotiating, you were also able to
11 convince the staff, Holly and Boyd, that there was no need to
12 calculate the parking loads required by the other uses of the
13 vehicle, correct?

14 A: I think -- I don't think there was convincing. I think
15 they informed me.

16 Q: You certainly viewed that as a positive for your project?

17 A: Well, certainly.

18 Q: Because we can all agree that if you stack the parking
19 loads of the other uses in that PD, there's no way there's
20 enough parking, correct?

21 A: I'm not willing to stipulate that, actually.

22 Q: You're not going to stipulate to that?

23 A: No.

24 Q: Even if you apply Article XI?

25 A: This is a PD, and there's shared parking here. I don't

1 think you stack the parking requirements per the uses one-by-
2 one-by-one, because they are overlaps. They're different
3 uses, they're used different times of the day. Boaters come
4 and go, there's a lot of walk-up traffic potentially, et
5 cetera.

6 Q: All right. You never conducted what's called a shared
7 parking analysis pursuant to Article XI at any time during the
8 course of this project, from 2016 till today?

9 A: Not a formal calculation, no, sir.

10 Q: In April 2016, you updated Mr. Lawhon and said that you
11 had received guidance from Holly that the unseated -- unheated
12 space would not count towards parking requirements, correct?

13 A: Correct.

14 Q: And you said that Holly does say that if we count porches
15 that we need more parking, correct?

16 A: Seating on the porches, yes.

17 Q: She didn't say anything about seating. She just said if
18 you add porches.

19 A: Well, that was the implication that I interpreted anyway.

20 Q: Didn't Dr. Lawhon tell you how happy he was to hear about
21 that, because he wanted to add more porch space?

22 A: I can't recall his response, but I'm sure he was pleased.

23 Q: You knew at the time that you were working on this
24 project for him that he wanted to have really big decks for
25 this new restaurant, correct?

1 A: Well, some decks were required for circulation, egress,
2 ingress, you know, which was -- if we'd have had to have
3 incorporated that into the heated space, it would've been
4 problematic. So, some of it was necessary for the functioning
5 of the building.

6 Q: I understand, but that's not what I'm asking about. I'm
7 asking about decks where people would stand or sit with drinks
8 or food in their hands outside on the deck.

9 A: I'm sure Dr. Lawhon would like more deck rather than
10 less; yes, sir.

11 Q: And that's because you can move more people in there and
12 sell more drinks and more pieces of fish and make more money,
13 correct?

14 A: I would have to speculate, but presumably, yes, sir.

15 Q: And over the course of your interaction with him, he told
16 you that he wanted to have more deck space and was hoping that
17 that would not require additional parking spaces, correct?

18 MS. GOLDING: Your Honor, that solicitation is hearsay.
19 I believe that that would be improper.

20 MR. BLOOM: It goes towards this witness's state of mind
21 as to what his efforts were towards securing an agreement with
22 the County that they would only count heated space when they
23 were measuring for parking requirements.

24 THE COURT: Overruled. Go ahead.

25 A: I don't recall him being overly concerned about parking

1 or linking it to the parking. I do remember in Version 1
2 having some seating on one of the porches, and we were -- we
3 made an effort to find additional parking for that seating.
4 That's why we grew the parking by three or four spaces over
5 what was originally there.

6 Q: I understand that regardless of what Dr. -- or Mr. Lawhon
7 wanted or didn't want with respect to parking, you as a very
8 good architect having done this for very long time knew
9 exactly how important it was to ensure that you had sufficient
10 parking per the code in order to be able to build this new
11 building. It was front and center on your mind, correct?

12 A: Well, to the extent we were adding additional seating on
13 decks, yes.

14 Q: In fact, one -- you considered it to be somewhat of
15 victory when Holly confirmed that they would only count heated
16 square footage in the new building when calculating the
17 parking requirements.

18 A: I was pleased we were being given definition.

19 Q: All right. And if you could turn your attention to
20 Exhibit 6, please.

21 A: Okay. Is that in the white book or the black book?

22 Q: It'll come up on the screen.

23 A: Oh, okay. Got it. Got it.

24 Q: Do you see it?

25 A: Not yet.

1 Q: All right. Exhibit 6 is the bottom half of it is an
2 email from you to your clients Mark and Chris Lawhon, May 4th,
3 2016, at 4:18 p.m., it appears to be kind of an update email
4 to your clients. Would you agree with that?

5 A: Yes.

6 Q: And you write referencing some questions that you would
7 ask Boyd and Holly in a recent meeting and a prior email, and
8 you -- starting with some of your consultant asked questions
9 -- I guess Lawhon had a consultant before you. Is that what
10 you're referring to there?

11 A: Where are you -- let's see -- some of the questions are
12 the same your prior consultant asked. Yeah, that would've
13 been David Victoria.

14 Q: And then you say such as how allowable or square feet can
15 we have? Do you see that?

16 A: Yes

17 Q: You said Boyd and Holly are friends by the way, and they
18 are usually helpful in my efforts. So, in this instance, you
19 are basically touting your relationship with the Planning
20 Department to your client, are you not?

21 A: Holly and Boyd I'd, first of all, known on a long time.
22 And we've done -- I've had a lot of projects in for their
23 review. But what I am actually implying or meaning is that
24 they respond professionally, they're always helpful, and
25 they're one of the better planning boards we -- or staffs we

1 work with when compared to other communities and other
2 entities.

3 Q: So, then you said, so I think we've got a good
4 interpretation here with one exception. Holly is saying that
5 the restaurant must be the size of the original restaurant.
6 Do you see where I'm reading?

7 A: I do.

8 Q: You then say, in our latest sketch, the restaurant and
9 kitchen are about 1,000 square feet larger than the original.
10 I talked with Boyd today, and he and Holly are gonna see if
11 they can find a way to, quote/unquote, help. Do you see where
12 you wrote that?

13 A: Yes.

14 Q: In the meantime, Boyd suggested I do a parking analysis
15 based on the current sketch. Is that what Boyd did, told you
16 to do a parking analysis?

17 A: Apparently.

18 Q: And that was in May of 2016. And where would you go to
19 conduct such a parking analysis? What would guide you in
20 conducting such a parking analysis?

21 A: That's a good question, and I'm not sure I know the
22 answer. We might refer to the ordinance, but as I mentioned
23 earlier, we never did a shared parking analysis.

24 Q: I understand. I'm not asking about shared parking at
25 this point. I'm asking about parking required for just the

1 subject building, and I can provide you with the answer
2 because if you'll turn to Exhibit 7, you'll see what your guy
3 Patrick Williams did in terms of conducting a parking
4 analysis.

5 A: Okay. And Exhibit 7 would be in one of the books or on
6 the screen?

7 Q: The bottom email was a May 12th, which was just a few
8 days later. It's a week later.

9 A: Right.

10 Q: Where Patrick is sending you basically the results of
11 this parking study.

12 A: Right.

13 Q: It says Marlin Quay parking study in the subject line,
14 correct?

15 A: Right.

16 Q: And Patrick, who I guess was working for you at the time?

17 A: Yes.

18 Q: Apparently, went to Article XI to conduct his parking
19 study based upon the proposed square footage of the restaurant
20 and retail space, correct?

21 A: Correct.

22 Q: And in fact, Patrick looked at the proposed
23 kitchen/dining of 30 -- of 3,060 feet, and he says it does not
24 include the outdoor deck and bar. He calculates 1 per 100
25 square feet, which is exactly the requirement in Article

1 1102.1, correct?

2 A: Correct.

3 Q: And he calculates that that would require or result in 31
4 parking spaces. You did not say to Patrick, woah, woah, wait
5 a minute, Patrick, there's gonna be seating out on the decks.
6 You need to calculate the number of parking spaces that the
7 outdoor seating would require, did you?

8 A: No.

9 Q: He didn't include that in this parking study, did he?

10 A: No. There was -- as I recall in Version 1, there was
11 very little seating on the exterior decks.

12 Q: Be that as it may, I don't know what very little means,
13 but it was nowhere mentioned even after Holly told you that if
14 there was gonna be outdoor seating on the decks, you need to
15 accommodate it with additional parking, correct?

16 A: Which is why we did -- added the additional spaces a
17 little bit later in the process.

18 Q: But as far as this parking study is concerned ---

19 MS. GOLDING: Your Honor, he's been cutting off the
20 witness in ---

21 BY MR. BLOOM:

22 Q: Did you have anything else to say, be I don't think I cut
23 you off at all.

24 THE COURT: Hold on. Let's not talk over each other.

25 That's making her job harder than it needs to be. So, if --

1 answer the question he asked and then you can ask ---

2 A: The question one more time, please.

3 THE COURT: Yes, sir.

4 BY MR. BLOOM:

5 Q: I don't remember it. You answered it. I'm happy with
6 your answer.

7 MR. BLOOM: Judge, you have anything else for follow-up
8 on that question.

9 THE COURT: I do not.

10 MR. BLOOM: Okay. I don't either.

11 MS. GOLDING: I just -- Your Honor, I think it's
12 important that Mr. Bloom does not cut the witness off.

13 MR. BLOOM: Judge, I'm not gonna be lectured to by
14 counsel about cutting off.

15 THE COURT: Well, well ---

16 MR. BLOOM: We're having a very pleasant discourse here.
17 I haven't intended to cut off the witness.

18 THE COURT: I'm -- like I said, I'm more concerned about
19 two people talking at once and that has occurred. And that's
20 -- it happens in every case that's tried. So, we're gonna try
21 and minimize that. So, if the witness is answering, let him
22 complete his answer before you ask your next question. And
23 that's to maintain an accurate record.

24 MR. BLOOM: Yes, sir.

25 BY MR. BLOOM:

1 Q: After Patrick provided you with his Marlin Quay parking
2 study applying Article XI to restaurant and to the marina
3 store, you forwarded that to Holly and Boyd. Do you see that
4 in the top half of the email?

5 A: Yes.

6 Q: And you told them, it appears we have ample parking for
7 the restaurant as currently designed plus the store. We did
8 not include the decks in this analysis, which may require an
9 additional two or three spaces. You didn't do an analysis of
10 the outdoor seating at this point, so you don't know how many
11 additional spaces are required, correct?

12 A: Well, we were still studying the decks at that point, I
13 think, as best I can recall.

14 Q: And while you were studying it, you and Patrick, Holly
15 and Boyd all referred to Article XI in the calculations and
16 the formula set forth in Article XI, correct?

17 A: In this instance, we did.

18 Q: Yes?

19 A: Yes.

20 Q: Would you be kind enough, please, to turn to Exhibit 8?
21 Exhibit 8 is a letter from you to your client several months
22 later. And at this point, it appears that you have solved the
23 heated square footage in the parking requirement issue, and
24 you are writing to your client, it looks like, additions to
25 scope, which sometimes happens. Architects, contractors, will

1 start with the initial scope, it's gonna cost X, and the scope
2 expands, and you say, hey, wait a minute; is gonna cost Y.
3 Item Number 6, you talked a minute ago about not knowing how
4 much the outdoor space was. But Item Number 6 here, you talk
5 about an Extensive Porch, capital E and capital P, that's your
6 -- those are your words. That's more than just a little bit
7 of porch, isn't it?

8 A: Extensive is more than a little, yes.

9 Q: Okay. The next is -- the next section of this letter is
10 that you are -- well, I'm gonna just read it. Apart from the
11 design changes listed above, I personally engaged in numerous
12 negotiations with local regulatory authorities resulting in
13 favorable outcomes for a variety of issues. The regulatory
14 authority here is the Planning Department, correct?

15 A: Right, right.

16 Q: That's Holly and Boyd?

17 A: That was part of it. There were building officials and
18 others.

19 Q: The first item that you pointed out to Mr. Lawhon was
20 that you got the approval for the -- strike that. The
21 approval for the porch did not count against the 4600 square
22 feet that was previously negotiated. Do you see where it says
23 that?

24 A: Yes.

25 Q: So, above Item 6, you said it was an extensive porch that

1 was gonna be added. And on Item 1 below that you got an
2 approval of the porch did not count against the 4600 square
3 feet. And the importance of the 4600 square feet is that's
4 what was driving the parking count, correct?

5 A: Right, the heated square footage, the 4600 feet was
6 driving the parking.

7 Q: Driving the parking. Have you ever heard the term
8 parking load? Am I the only one that knows what parking load
9 is?

10 A: I've probably heard it, yes.

11 Q: Okay. I might've dreamed it up. So, then it says this
12 item had to be negotiated in consideration of local parking
13 requirements. Do you see where you wrote that?

14 A: Yes.

15 Q: And the local parking requirements that you're referring
16 to go back to the emails we just looked at, which is Article
17 XI, correct?

18 A: We used Article XI as a reference, apparently.

19 Q: Now, if you'll turn the page to Item Number 2, you see
20 where you've written to him that you also got approval for
21 confirming that the existing parking, which is substandard,
22 would comply with the zoning requirements in terms of size of
23 stalls, driveways, and green space. Again, zoning
24 requirements there, you're referring to Article XI, correct?

25 A: And other standards.

1 Q: So, the answer is yes, and other standards?

2 A: Yes.

3 Q: And when you talk about the parking lot being
4 substandard, it's -- part of the reason that it is substandard
5 is because you got a 7,000 square-foot Gulfstream Restaurant,
6 60 marina slips, and now you're getting ready to add a 13,000
7 square-foot new building. Isn't that how it makes it
8 substandard, one of the reasons?

9 A: Well, I think I'm actually referring here to the
10 geometric qualities of the parking lot, that's the stall
11 widths, depths, the driveway space, amount of green space are
12 substandard from what we would've done today.

13 Q: Let's look at Item Number 3. You're talking about, to
14 your client, that you've got the approval to do a full second
15 story unconditioned and designed for future expansion. So,
16 what I understand that to mean is you got the Planning -- you
17 got the Planning Department to agree to allow you to build a
18 whole additional floor that's unheated, that doesn't count
19 against the 4600 original building, right?

20 A: Yes.

21 Q: So, you could say like Mr. -- you heard Mr. Johnson say,
22 you heard Ms. Richardson say it, the apples-to-apples thing we
23 kept talking about. Oh, no, we're not increasing the heated
24 square footage in our new building. We may be adding an extra
25 9,000 square feet, but we're not increasing any heated square

1 footage, and that is the second story that you're talking
2 about here in 1.0, is it?

3 A: It was actually an attic. The building was long and
4 linear, and when we put an A-frame roof over it or a gabled
5 roof, we had a fairly substantial attic space. So, the
6 question became can it -- does that have to count or not?

7 Q: I think he wanted to use that for maybe as an inn or
8 something down the road. Didn't he want to have some
9 residential use up there?

10 A: We absolutely did a number of studies with -- that showed
11 observation towers, and inns, or rooms, et cetera. But all
12 those were in the context of just understanding what could've
13 been done. He understood all of the regulatory implications
14 and major changes, and more property might have to be -- he
15 was actually thinking about acquiring property across the
16 street to add to this PD. So, yeah, we did a lot of different
17 hypotheticals.

18 Q: Okay. When you get to the end of your letter, you are
19 asking basically for a few modifications in the amount of the
20 additional 72 grand.

21 A: Correct.

22 Q: Is that right?

23 A: Yes, sir.

24 Q: And that's what you felt like you had done some good
25 things that were beyond the scope, you had gone above and

1 beyond, and you wanted more money, right?

2 A: We had definitely gone way beyond the original scope that
3 was agreed to.

4 Q: But not just did you go beyond the scope, you had some
5 victories. I read this letter as 1 through 8 are going beyond
6 the scope, you know, we call for a 2,000 foot building and
7 you're asking me to design a 4,000 foot building. And Items 1
8 through 6 is kind of regulatory victories you get with that.

9 A: Every amount that we build was documented with -- by time
10 and timesheets, and it was for professional work accomplished.
11 We did innumerable studies, we had considerable foundation
12 requirements and issues. In the original agreement that I
13 prepared for Mark Lawhon was continuing David Victoria's work
14 which turned out to not be -- we trashed that after a while.
15 So, this was -- we had to start over, and we had to do a lot
16 of other stuff in addition.

17 MR. BLOOM: Tender 8, Your Honor.

18 MS. GOLDING: That is with respect to Version 1, Your
19 Honor, and that would be my soul objection.

20 THE COURT: All right. I'm gonna admit Plaintiff's 8
21 over Defendants' objection.

22 PLAINTIFF'S EXHIBIT NUMBER 8

23 ADMITTED INTO EVIDENCE

24 MR. BLOOM: Tender 6.

25 MS. GOLDING: The same objection, Your Honor.

1 THE COURT: All right. 6 is admitted.

2 PLAINTIFF'S EXHIBIT NUMBER 6

3 ADMITTED INTO EVIDENCE

4 BY MR. BLOOM:

5 Q: How many hundreds of thousands of dollars has Palmetto
6 gave to SGA over the course of this project?

7 A: I honestly don't know.

8 Q: Is it more than 200,000?

9 A: It's possibly more than 200,000.

10 Q: Is it as much as 500,000?

11 A: I doubt it's that much.

12 Q: So, maybe somewhere between 2 and 5?

13 A: I would think closer to 2, but I'm guessing. I didn't
14 check our billing.

15 Q: I'm gonna move forward a little bit in the timeline to
16 when you learned that there was a piece of litigation in this
17 courtroom regarding the easement between Palmetto and
18 Gulfstream, you came to learn about that?

19 A: Yes, sir.

20 Q: And you learned of the judge and jury decision with
21 respect to that case in 2018?

22 A: Yeah, mainly through my client, but yes, sir.

23 Q: Yeah. And that's all I'm asking. At some point you had
24 to go back to the drawing board is the point.

25 A: Correct, correct.

1 Q: And you had to come up with 3.0, correct?

2 A: Correct.

3 Q: And you had to change the building plans in order to fit
4 the footprint and other things in order to reapply for 3.0,
5 correct?

6 A: Yes, the firm did; uh-huh, (affirmative response).

7 Q: So, your team did that, and I think, in fact, you said
8 the firm did, but you redefined the parameters within which
9 you had to design the building, correct? You personally?

10 A: Well, again, some of the parameters were established in
11 Version 1, but I did nothing regarding Version 2.

12 Q: I'm asking between 2 and 3.

13 A: I don't recall being involved between 2 and 3 either.

14 Q: I want to get to that in one second, but I want to make
15 sure I understand when you say that some of the parameters
16 have been established from Version 1, that included the
17 parking formula, correct?

18 A: Parking square footage, those things.

19 Q: That was all set from your perspective, correct?

20 A: Correct.

21 Q: And from the Planning Department's perspective?

22 A: Correct.

23 Q: I'm directing your attention to Page 35, Line 11. Do you
24 see where I asked about the court order on Line 11. We asked,
25 Did you communicate with other employees at SGA regarding the

1 court order and the impact on the design of another iteration
2 of the Marlin Quay project? Answer?

3 A: I would have likely been given or was the one that gave
4 direction regarding the Court order and made the project
5 assignments and redefined the parameters within which we had
6 to design the building.

7 Q: So, does that help to refresh your recollection that, in
8 fact, after the 2.0 after the order came in from this Court
9 that you in fact did redesign the parameters for the building?

10 A: Well, there had to be some transition. And once -- but
11 the goal was to delegate it and that was probably the process
12 of delegating, but again had no subsequent involvement in
13 Versions 2 or 3.

14 Q: Now I appreciate your earlier testimony about how you
15 made a mistake and none of these next questions are intended
16 to rub your nose in it. But I do need to ask you a few
17 questions.

18 MR. BLOOM: Something funny about this?

19 THE COURT: I didn't hear anybody laugh.

20 MR. BLOOM: I thought I heard somebody ---

21 THE COURT: I think it was sigh.

22 MR. BLOOM: There's something going on behind me.

23 THE COURT: Just that Ms. Golding stood up.

24 MR. BLOOM: Is there an objection that we should be
25 dealing with?

1 MS. GOLDING: Yes, I -- yes, Your Honor. You know, we
2 have in our motion in limine, we requested that any malice
3 with regard to the grievance filed by Gulfstream, the Ethics
4 Commission, that all that be inadmissible. And if Mr. Bloom
5 is going down that road at that time -- at this time, I would
6 request -- renew our objection as to that course of
7 examination, Your Honor.

8 MR. BLOOM: The motion in limine was moved, Your Honor
9 ruled on it and did not preclude me from exploring this. I
10 just couldn't -- I think you said I couldn't take an order and
11 relitigate this issue.

12 THE COURT: Well, and I think it's certain -- that issue
13 is certainly admissible to show any bias or motive on Mr.
14 Goggans's part. So, Mr. Bloom, you know, I think it's
15 admissible for those -- on those grounds, so I would limit
16 your testimony to highlighting -- and it kind of dovetails as
17 to what you've been doing here this morning, you know, the
18 interest in him delegating. So, I think it is admissible,
19 just we don't need to get into the guts or how it happened,
20 that it did happen, and I do think it's relevant for those two
21 reasons.

22 BY MR. BLOOM:

23 Q: Over the course of your time as a councilman, starting in
24 2014, would you receive, or did you receive briefings for
25 advice regarding the code of ethics and how they dealt with

1 counsel people?

2 A: No. We -- I did go to one seminar when first elected
3 with the Association of Counties and meeting, and that was the
4 extent of it. And unfortunately, it didn't speak to conflicts
5 of interest before appearing before the boards or commissions.
6 Arguably, should've known that but I didn't.

7 Q: And before, so there was a complaint filed, we've already
8 talked about it -- there was a complaint filed was an
9 investigation and the State Code of Ethics determined that
10 there was probable cause to warrant an evidentiary hearing?

11 A: Yes.

12 Q: And that evidentiary hearing was scheduled. But before
13 that hearing took place, you and your attorney entered into an
14 agreement with the State; is that right?

15 A: I was investigated, interviewed by the Ethics Commission,
16 and then entered into consent order with them.

17 Q: And that consent order, which is Exhibit 57, the
18 Commission found you in violation of one count of Section 8-
19 13-740(a)?

20 A: Correct.

21 Q: And then you were sanctioned with a fine and you were
22 also given a written warning, correct?

23 A: \$1,000 fine and a warning for attending the BZA meeting
24 where I'd made an appointment.

25 Q: And you now understand that you don't -- you said you

1 made a mistake, but you understand the impropriety of
2 representing a particular owner, visa vie, a department, like
3 the Planning Department that you not direct but ultimate
4 control over?

5 A: I've acknowledged it's a mistake, and yes, I do
6 understand.

7 Q: And you will never do it again?

8 A: No, of course not.

9 MR. BLOOM: Those are my questions, Your Honor.

10 THE COURT: All right. Ms. Golding?

11 MS. GOLDING: Would you like to take a lunch break now?

12 THE COURT: I'm good to go until around 1:00 or shortly
13 thereafter.

14 MS. GOLDING: Okay. Thank you, Your Honor.

15 THE COURT: If you think we can finish in that allotted
16 time.

17 MS. GOLDING: Oh, I know we can. Can I go -- I left my
18 outline in the anteroom. I apologize.

19 THE COURT: Yes, ma'am. No problem.

20 CROSS-EXAMINATION STEVEN GOGGANS BY MS. GOLDING:

21 Q: Mr. Goggans, would you please provide the court with your
22 educational background?

23 A: Yes, ma'am. I have an undergraduate degree in
24 architecture from Clemson University; a Master of science
25 degree in community and regional planning from the University

1 of Alaska Anchorage.

2 Q: Are you a licensed architect?

3 A: I am.

4 Q: And how long have you been a licensed architect?

5 A: Since 1982.

6 Q: And with respect to your practice in Georgetown County,
7 how long have you been practicing in Georgetown County?

8 A: Since 1985.

9 Q: And did you do then at some point in time form an
10 architectural firm?

11 A: Yes, ma'am, at 1987.

12 Q: And what firm did you form?

13 A: Steve Goggans & Associates.

14 Q: And with respect to your firm of Steve Goggans &
15 Associates, has the company grown, your firm grown over the
16 years?

17 A: Yes, ma'am; it has, considerably.

18 Q: And currently, is there an office in Pawleys Island?

19 A: That's where the office began and that's where -- yeah,
20 that's where I work out of still.

21 Q: And with respect to your office in Pawleys Island, how
22 many architects are in there at this time?

23 A: At this time probably -- the total staff is probably
24 eight, six. We split that office recently and moved about
25 half of it to Myrtle Beach.

1 Q: Earlier you were asked, or I believe the name come up of
2 David Victoria. Can you tell the Court, is he an architect?
3 Generally, what is he?

4 A: David is a licensed architect, but he is primarily -- I
5 think his business revolves around construction. He is a
6 contractor and is known more as a contractor than as an
7 architect.

8 Q: With respect to Mr. Victoria's involvement, did you
9 participate with Mr. Victoria in that involvement?

10 A: No, ma'am.

11 Q: So, with respect to the email that Mr. Victoria had
12 provided that contained measurements of the old building and
13 all, that -- you didn't participate in those measurements that
14 were provided, that were done?

15 A: I did not.

16 Q: Okay. With respect to the old building, when you were
17 hired as an architect in 2016, was the old building still in
18 existence?

19 A: It was.

20 Q: And tell the Court the condition of that old building.

21 A: Well, I only went there once, and it was after we had
22 actually begun the design of the project. Mark Lawhon wanted
23 to show me -- and his son wanted to show me their operations
24 and their existing kitchen, but it was not a very good shape.
25 It was cement -- we call it CMU, but a cement block building,

1 a lot of cracks and very substandard construction.

2 Q: Okay. That's what I was gonna ask you. And did it sit

3 flat on the ground?

4 A: It did.

5 Q: And at that time, did that building comply with any type

6 of flood regulations?

7 A: It would not have complied at all with the FEMA regs.

8 Q: Okay. In your opinion, was that building remodeled --

9 could it be repaired and fixed to be -- comply with the flood

10 regulations?

11 A: No.

12 Q: With respect to demolition of the building, do you recall

13 when the demolition occurred?

14 A: The demolition, I'm guessing, occurred sometime in '16.

15 Q: Okay. Would November 2016 have been about right?

16 A: Correct.

17 Q: And with respect to the demolition, was a permit needed

18 for the demolition?

19 A: Yes.

20 Q: And with respect to the demolition, was the demolition

21 done in order to commence construction of a new building?

22 A: Yes.

23 Q: Okay. And with the components of the new building, did

24 that consist of a marina store and restaurant?

25 A: Yes, ma'am.

1 Q: Okay. And to your knowledge, the marina store and
2 restaurant was for the purpose of providing what services had
3 previously been provided in that area; is that correct?

4 A: Correct, correct.

5 Q: Earlier, there were some questions about friendship with
6 Holly Richardson and Boyd with respect to friendship. How
7 would you classify your relationship with Holly Richardson and
8 boy Johnson?

9 A: We are very professional. I've -- we don't socialize,
10 but we have had a lot of professional interaction over the
11 years.

12 Q: So, when you say you don't socialize, you haven't been to
13 their home and they haven't been to your home?

14 A: Correct.

15 Q: Okay. There was also some discussion with respect to
16 contacts and communication as to Version 2 and Version 3. Did
17 you at any time have any communication with any councilmembers
18 of Georgetown County Council with respect to Version 2?

19 A: I did not.

20 Q: Okay. Did any councilmembers have any discussions with
21 you with respect to Version 2?

22 A: No ma'am.

23 Q: With respect to Version 2, what was your participation in
24 the voting to the passage of Version 2?

25 A: I recused myself.

1 Q: Same questions with regard to Version 3. Did you ever
2 have any communications with any County Council members with
3 respect to Version 3?

4 A: I did not.

5 Q: Did any County Council members have any communications
6 with you with respect to Version 3?

7 A: No, ma'am.

8 Q: What was your participation in the passage of the
9 ordinance for Version 3?

10 A: Recused myself in all the readings.

11 MS. GOLDING: Okay. No more questions, Your Honor.

12 THE COURT: All right. Mr. Goggans, thank you. You can
13 step down.

14 MR. GOGGANS: Thank you.

15 THE COURT: Folks, would now be an appropriate time to
16 break for lunch?

17 MR. BLOOM: Whatever Your Honor's pleasure is. We can
18 keep cooking or we can take a break. I guess we'll need a
19 break at some point, now is as good a time as any.

20 THE COURT: Yeah. Unless the next witness is gonna be up
21 and down including cross by one o'clock, we may as well.

22 MR. BLOOM: That's fine with us.

23 THE COURT: All right. We will be in recess until 2
24 o'clock.

25 MR. BLOOM: 2 o'clock?

1 THE COURT: That's an hour and a half, right?

2 Yeah.

3 MR. BLOOM: More time that we need, but it's up to Your
4 Honor.

5 Q: Well, I don't want to -- since I've got to go out to eat,
6 I would hate to be late, so I'm gonna give myself a little bit
7 more -- I don't know how we'll be able to get -- how fast
8 we'll be able to in and out of places, so.

9 If I'm -- we'll lest just say two o'clock.

10 MR. BLOOM: That's fine.

11 THE COURT: I feel like we've picked up speed today. So,
12 we can take a little bit longer for lunch. 2 o'clock.

13 **RECESS - 12:28 P.M.**

14 *****OFF THE RECORD*****

15 **ON THE RECORD - 2:03 P.M.**

16 ROBERT CASTLES, HAVING BEEN DULY SWORN,
17 TESTIFIED AS FOLLOWS:

18 THE CLERK: Thank you. Please be seated. State and
19 spell your first and last name.

20 MR. CASTLES: Robert Castles.

21 DIRECT EXAMINATION OF ROBERT CASTLES BY MS. PEARSON:

22 Q: All right. Mr. Castles, if you would please tell the
23 Court who are and what you do.

24 A: I am a civil engineer, been practicing civil engineering
25 in Myrtle Beach since 1984. And I have Castles Consulting and

1 Forensics Engineering Company.

2 COURT REPORTER: Can you spell your last name for me,
3 please?

4 A: C-A-S-T-L-E-S.

5 COURT REPORTER: Thank you.

6 BY MS. PEARSON:

7 Q: All right. Mr. Castles, what is your educational
8 background?

9 A: I got a Bachelor of Science from Clemson University, and
10 I did one year at the University of South Carolina in
11 hydrology and hydraulics, but never finished it to get my
12 Masters.

13 Q: Okay. And your BS, what was your BS in?

14 A: Civil engineering.

15 Q: Okay. And do you hold any professional licenses?

16 A: I do. I'm a professional engineer in the state of South
17 Carolina, and I have actually passed and been certified as a
18 contractor unlimited division.

19 Q: Okay. So, how long have you been a practicing civil
20 engineer?

21 A: Since 1980.

22 Q: So, approximately 42 years?

23 A: Forty-two years.

24 Q: All right. And you mentioned Castles Engineering, will
25 you kind of just give us a general description of your

1 employment history?

2 A: Yeah. I started Castles Engineering in '84, basically
3 doing general civil engineering and land surveying, and
4 progressed up to there until about 2019, which I had decided
5 then that I wanted to kind of reduce my hours and not work as
6 hard as I was working. So, I stopped and closed Castles
7 Engineering, which I had two partners in, and they went off
8 and started their own company. So, I kind of relaxed and
9 started doing more expert witness testimony instead of the
10 actual engineering.

11 Q: Okay. But you are still -- your expert testimony relates
12 to your experience of civil engineering, correct?

13 A: Yes.

14 Q: Okay. And tell me a little bit about what Castles
15 Engineering and what -- what kind of work did that typically
16 involve and does that typically involve as a civil engineer?

17 A: We typically do everything five feet outside the building
18 and below. So, we do water, sewer, roads, and drainage, but
19 we also do the land surveying side of it, which you do a land
20 surveying and if a client comes to you and he wants to put a
21 particular product on there, will take and go to the codes and
22 see what the uses are that he is doing and see if they fit
23 with the zoning code whether we have to rezone it or not. We
24 look at any regulations, parking regulations to determine the
25 amount of parking that might be needed for his particular

1 uses.

2 Q: Okay. So, you very often review municipalities or county
3 zoning regulations in the context of your work as a civil
4 engineer?

5 A: I do.

6 Q: Okay. And what types of projects have you worked on
7 throughout your career?

8 A: Oh, gosh. The big ones would probably be the parking at
9 the International Airport in Myrtle Beach; parking and all the
10 utilities and roads at Coastal Grand Mall; Broadway at the
11 beach, the roads and parking for Broadway at the Beach. I've
12 probably done 50 or more hotels, some other shopping centers,
13 probably 60 or more restaurants, multifamily housing, single-
14 family housing developments. So, a multitude of civil
15 engineering projects.

16 Q: Okay. And in this multitude of civil engineering
17 projects, does that often include review of municipality's
18 parking regulations?

19 A: Yes, it does.

20 Q: Okay. And what kind of -- in what context do you
21 typically review parking regulations or parking requirements?

22 A: Here again, we get the use of the property. So, once we
23 get the use and most of your regulations have -- where they
24 have a calculation that you've got to do to determine the
25 amount of parking that goes with the particular use of what he

1 wants to put on the property. And from that, we get from the
2 regulations, and then we do the calculations comes up with the
3 total amount of parking to which we then land plan so as to
4 try to get that number of parking onto the site.

5 Q: Okay. And do different jurisdictions, I guess, measure
6 parking differently or set parking requirements differently,
7 depending on what their code says?

8 A: Yes, they do.

9 Q: Okay. And so do you have professional experience
10 interpreting different requirements and zoning codes related
11 to parking?

12 A: Yes.

13 Q: Okay.

14 MS. PEARSON: I'm going to move to introduce Mr. Castles
15 as an expert in the field of civil engineering.

16 MS. GOLDING: No objection.

17 THE COURT: All right. He will be admitted as an expert
18 in the field of civil engineering.

19 BY MS. PEARSON:

20 Q: All right. Can you tell me a little bit about what your
21 assignment was in this matter?

22 A: I was asked to look at the three uses that are currently
23 on the marina site, which would be the marina itself, the
24 Gulfstream Café, and the Marlin Quay new restaurant, which we
25 call Version 3, which is the one that's being built. And to

1 see if the uses matched up with the parking regulations of
2 Georgetown County.

3 Q: So, you were looking at whether or not the parking was
4 compliant with the Georgetown County zoning ordinance; is that
5 correct?

6 A: That's correct.

7 Q: And did you evaluate whether the parking lot contains
8 sufficient parking for each of those uses under Georgetown
9 County zoning code?

10 A: It does not.

11 Q: But that's what you looked at?

12 A: That's what I looked at, yes.

13 Q: And what documents did you review and preparing your
14 opinion in this matter?

15 A: I looked at the plans that were submitted to the building
16 permit department for the Version 3 of the Marlin Quay Marina
17 store or restaurant. I looked at plans of the Gulfstream
18 Restaurant. I looked at a plat of the marina dock storage. I
19 looked at the parking regulations of Georgetown County. I
20 also -- from there it took me kind of to the building code
21 which Georgetown County uses the 2018 IBC code, the
22 International Building Code, for structures such as these. I
23 looked at some aerial photographs off of Google maps. And I
24 believe that was pretty much it.

25 Q: Okay. And did you actually do a site visit? Did you go

1 visit the parking lot in the marina?

2 A: Yeah. I've been down several times.

3 Q: All right. And what's your understanding regarding
4 Gulfstream's right to use the parking lot?

5 A: What I have seen was an easement document that gives
6 Gulfstream a -- it's a perpetual easement, but it's a
7 nonexclusive perpetual easement to basically use the parking
8 lot of the Marlin Quay Restaurant.

9 Q: Okay. And did you evaluate how many parking spaces are
10 located in that parking lot?

11 A: Yes. There are 62 spaces located in that parking lot.

12 Q: And in that -- do you know that -- did you go out and
13 physically count those spaces?

14 A: Yes.

15 Q: All right. And I think you have said this already, but
16 what uses share the parking lot with Version 3.0?

17 A: I'm sorry. Would you repeat ---

18 Q: What other uses share the parking lot with Version 3.0?

19 A: The marina is actually, I think, a dockominium whether
20 actually sold the slips out there. And so, you have a parking
21 count for those particular slips. And so, people that own
22 boats out there would have the right to use the parking lot.

23 Q: Okay. And also, what's the other -- Gulfstream can also
24 use the parking lot; is that correct?

25 A: And then Gulfstream would use the parking lot.

1 Gulfstream in the easement it says that basically Marlin Quay
2 would use the parking lot during the day, and Gulfstream would
3 use the parking lot during the evening.

4 Q: Okay. And did you evaluate how many parking spaces are
5 required for Version 3.0 under Georgetown County Zoning
6 Ordinance?

7 A: Yes, I did. Under my expert opinion, it needs 76 spaces.

8 Q: Okay. And let's like break that down a little bit.
9 Turning to the code, what's the applicable section of the code
10 to review the parking requirements?

11 A: It's Chapter XI of the zoning code.

12 Q: Okay. So, if you could turn to Chapter XI, I believe it
13 should be on the screen for you. If we could turn to, of
14 course, Page 11-1.

15 A: All right.

16 Q: Okay. And just to kind of start off, is it your
17 understanding that the Article XI requires each Gulfstream,
18 the marina, and Version 3.0 to have its own dedicated parking
19 spaces in order to meet the zoning code requirements?

20 A: Yes.

21 Q: Okay. And turning to -- with respect to Version 3.0, are
22 there multiple uses for codes within that building?

23 A: Yeah. There are basically two different uses. One would
24 be a mercantile use on the first floor, that would basically
25 be a marina store to service the marina itself as well as have

1 souvenirs, T-shirts, hats, things like that. And then the
2 other part would basically be a restaurant, bar, lounge area.

3 Q: Okay. In turning to 1102.1, there's a table there. And
4 does that set forth the parking requirements for each of the
5 different uses of this property under Georgetown County Zoning
6 Code?

7 A: Yes, it does.

8 Q: Okay. And if you could, point me to where in the code
9 the requirements for the general -- or the marina store would
10 be found?

11 A: Under retail trade, you would have the restaurant, which
12 would be a standard restaurant. And so, you would have one
13 space, parking space, for 100 square foot of gross floor area
14 plus one space per 150 foot, square-foot, of outdoor seating
15 area.

16 Q: Okay. And with respect to the one space -- or 100 foot
17 of gross floor area, what is your understanding of what the
18 gross floor area means?

19 A: Do you mind if I read it out of the what the regulation
20 actually says?

21 Q: That's fine.

22 A: What I did was I went originally to the zoning code, and
23 the zoning code only has definition for total floor area and
24 not gross floor area. Now, it says for at least total floor
25 area, the area of all floors that we're building, including

1 finish the attic finished basement cover the porches. But it
2 really doesn't say gross floor area. So, I went to the
3 building code in the building code Georgetown County refers me
4 to the 2018 International Building Code, IBC, for
5 modifications for all structures, commercial, multifamily, et
6 cetera, located within the incorporated areas of Georgetown
7 County.

8 Q: Okay.

9 A: And so, when I went to the building code, and it's the
10 2018 building code, it does have floor area gross, and it
11 defines floor area with the inside perimeter of the exterior
12 walls of the building under consideration, exclusive of vent
13 shafts and cords. Without deduction for car doors, stairways
14 ramps, closets, the thickness of interior walls, columns and
15 other features, the floor area of the building or portion
16 thereof not provided with surrounding exterior walls shall be
17 the usable area under the horizontal projection of the roof or
18 floor above.

19 Q: All right. So, did that kind of in layman's terms mean
20 the square footage within the four walls of the restaurant?

21 A: Yes.

22 Q: All right. And then, looking what we talked about with
23 restaurant standards, so that's one of these is within Version
24 3. The other uses in Version 3 is the mercantile store,
25 right? And so in that the standard for parking with the

1 municipal are also set forth by Page 11-3?

2 A: For the marina itself, it's -- they base it on slip
3 numbers. So, it's one space per three slips. Plus one space
4 for an employee based on the largest shift.

5 Q: Okay. And that's actually on 11.2, correct?

6 A: So, looking at the marina, it's one space -- one space per
7 three slips. And then so their final use to consider for
8 Version 3.0 itself also has a retail store in it. So, what's
9 the applicable standard for the retail store?

10 A: I'm looking for it now. It's -- they've got one for
11 mercantile in here, and so we went back and looked at
12 mercantile.

13 Q: There's retail trade, general retail. It should be on
14 the screen.

15 A: Yeah. Under general retail use, it's less than 5,000
16 square feet, you have one space per 200 feet of gross floor
17 area.

18 Q: And so, in respect to the details of Version 3's plans,
19 how many square feet did the plans provide for the mercantile?

20 A: For the mercantile area, it was shown on the plans to be
21 1966 square feet.

22 Q: Okay. Then, with respect to the restaurant, how many
23 square feet were within the four walls of the restaurant on
24 the second and third floors?

25 A: You had three different numbers, and it was 2169 square

1 feet on the second floor, and then on the third floor you had
2 a restroom at 461 square feet, and then storage at 1791 square
3 feet.

4 Q: Okay. And then there was also some outdoor seating,
5 square footage for Version 3, correct?

6 A: That's correct.

7 Q: And what was the square footage for that outdoor seating
8 area?

9 A: The second-floor outdoor seating area was 1197 square
10 feet. And on the third floor, it was 1575 square feet.

11 Q: Okay. So, in terms of the standards that you just looked
12 at and the numbers that you just gave me, let's walk through.
13 For the mercantile, the 1966 square feet for the marina store,
14 how many parking spaces did you come up with that were
15 required for that use and how did you do that?

16 A: You divide that number by 200 square feet per space and
17 you come up with 10 spaces.

18 Q: Okay. So, the 1966 divided by 200?

19 A: Correct.

20 Q: Okay.

21 A: And you round up or round down, whichever...

22 Q: Okay. And then for the square footage within the four
23 walls of the restaurant, what was the calculation you came up
24 with for the required parking spaces, and how did you come up
25 with those numbers?

1 A: I added the three uses together, the second floor, the
2 third-floor restroom, the storage area, and came up with 4421
3 square feet, which is 44 spaces.

4 Q: Okay. And so, you got a total of 4421 of the square
5 footage inside the four walls of the restaurant, right?

6 A: Yes.

7 Q: And then you divided that by what number?

8 A: 100.

9 Q: And that's the number from the restaurant standard for
10 gross floor area, right?

11 A: That is correct.

12 Q: Okay. And you got 44 spaces?

13 A: Forty-four spaces.

14 Q: Okay. And then for the outdoor seating area for Version
15 3.0, what was your calculation for parking required for that?

16 A: I did the second floor at 1197 divided by 150, which gave
17 me eight spaces. And then I did the third floor, which was
18 1575 square feet divided by 150, it gave me 10 spaces. So,
19 that gave me 18 spaces total for the outside.

20 Q: Okay. So, if we add up the mercantile -- the parking
21 spots for the mercantile, the parking spots for the square
22 footage inside the four walls of the building, and then the
23 outdoor heated area, what was the total number of parking
24 spaces you came up that were required for Version 3.0?

25 A: Seventy-two.

1 Q: Okay. And did you also calculate how many parking spaces
2 were required by Gulfstream under Georgetown County's parking
3 requirements?

4 A: I did.

5 Q: Okay. And how did you do that?

6 A: I took the building plans, and I used them to measure the
7 areas of the building, and then I went out actually on Monday
8 and checked the building against the plans, and there were
9 some differences. So, I marked up the plans to equal what's
10 actually out there as constructed, and then went back and
11 recalculated my numbers.

12 Q: Okay. And so, with respect to Georgetown County's zoning
13 code, what provision of the parking requirements applies to
14 Gulfstream in terms of the use in the parking numbers?

15 A: They're just a restaurant/lounge only.

16 Q: So, they are at restaurant standard?

17 A: Restaurant standard, right.

18 Q: Okay. So, that same 100 square feet equals one space,
19 and then 150 square feet for the outdoor seating is -- it's
20 that same that we walked through with Version 3.0, right?

21 A: That's correct.

22 Q: Okay. All right. And how many square feet does
23 Gulfstream have for its -- that's inside the four walls of the
24 restaurant?

25 A: 5150 feet for the indoor total, first and second floor.

1 Q: Okay. And what about does Gulfstream also has some
2 outdoor seating square footage?

3 A: It does. It has 3742 square feet of outdoor usage.

4 Q: Did you calculate how many parking spaces were required
5 for Gulfstream based on those numbers? And how did you do
6 that?

7 A: Yeah. I used the 5150 indoor and 100 square feet per
8 parking space and got 51 spaces. And then I used the outside
9 usable area, which was 3742 square feet divided by 150 square
10 feet per parking space, that gave 25 spaces. So, 25 and the
11 51 is 76 spaces total.

12 Q: Okay. So, under Georgetown County parking requirements,
13 Gulfstream requires 76 parking spaces?

14 A: Correct.

15 Q: Okay. Did you evaluate how many parking spaces are
16 required by the marina under the parking requirements?

17 A: Yeah. Under the parking requirements, there's one space
18 for every three slips. And that came out for 67 slips would
19 be 22 parking spaces. And I did not count the number of
20 employees on the larger ships; I didn't know what that number
21 was but that number would probably be in the neighborhood of
22 three or four.

23 Q: So, the marina is actually required more than 22 parking
24 spaces, right?

25 A: Yeah. It actually requires a few more.

1 Q: Okay. So, adding up the numbers of spaces required for
2 Version 3.0, Gulfstream, and the marina, how many parking
3 spaces are required in the parking lot under Georgetown County
4 Zoning Ordinance?

5 A: I calculated 170.

6 Q: Okay. And then how many parking spaces are actually in
7 the parking lot?

8 A: Sixty-two.

9 Q: So, how many more parking spaces are required under the
10 zoning ordinance that are actually provided in the parking
11 lot?

12 A: A hundred and eight.

13 Q: Do you think that Version 3.0 will be open in the
14 evening?

15 A: I believe so.

16 Q: And why is that?

17 A: In looking at the plans and based on what I see there,
18 the size of the kitchen, the way it's laid out, the way the
19 tables and the numbers of spaces you've got in there, and the
20 quality of the way the building is built, it's just not
21 something that's gonna be open just for lunch. It's gonna be
22 open basically full-time.

23 Q: In reviewing Georgetown County zoning code and the
24 parking requirements specifically in Article XI, did you see
25 any exception to the parking requirement in the zoning

1 ordinance?

2 A: No, I did not.

3 Q: So, you read the parking requirements to apply to all the
4 new districts within the County, correct?

5 A: That's correct.

6 Q: And in your experience as a civil engineer, do you think
7 that parking is necessary for the public health, safety, and
8 welfare?

9 A: I believe so.

10 Q: Why is that?

11 A: Well, if you have an overcrowded parking lot, then you've
12 got a lot of cars maneuvering around, whether they're backing
13 up or jockeying trying to get the last space or get into the
14 spaces. And then here, we don't have sidewalks, so you've got
15 pedestrians having to walk behind cars to get to the
16 mercantile, or the restaurant. And that just causes a bad
17 situation for pedestrians and for cars for the public.

18 Q: Do you believe there is a substantial shortage of parking
19 in this parking lot?

20 A: I'm sorry?

21 Q: Do you believe that there is a substantial shortage of
22 parking in this parking lot?

23 A: Yes, I do.

24 Q: Is there any other available parking within a one-mile
25 radius of the Marlin Quay PD area?

1 A: The parking regulation says that you can use parking
2 within a one-mile radius if you have a valet service, and it
3 has to be on commercial property. So, I did not see anything
4 within a mile radius.

5 Q: Okay. And so, do the parking regulations actually
6 prohibit parking within residentially zoned areas or those to
7 be used for a valet lot, for example?

8 A: Yes, it does.

9 Q: Okay. Is there street parking allowed on Waccamaw Drive?

10 A: It has no-parking signs up there.

11 Q: So, no?

12 A: No.

13 Q: Regardless of the parking regulations, do you think that
14 Version 3.0 will overburden this parking lot?

15 A: I think it's gonna overburden the parking lot.

16 Q: And does the approval of Version 3.0 meet Georgetown
17 County Zoning Ordinance requirements for parking?

18 A: No, it does not.

19 MS. PEARSON: Those are my questions, Your Honor.

20 THE COURT: All right. Thank you very much.

21 Ms. Golding?

22 MS. GOLDING: Thank you, Your Honor.

23 CROSS-EXAMINATION OF ROBERT CASTLES BY MS. GOLDING:

24 Q: Mr. Castles, you just testified with respect to the
25 Gulfstream under the parking ordinance, the -- does the

1 Gulfstream Café comply with the Georgetown County parking
2 ordinance currently?

3 A: In ---

4 Q: The current existing.

5 A: The existing property itself?

6 Q: Yes.

7 A: No; it does not.

8 Q: Okay. And in fact, the parking ordinance that you
9 referred to wasn't in existence when the Gulfstream Café was
10 built; isn't that correct?

11 A: I am not sure of the dates. I have seen it around 2008.
12 I have not gone back any further to see if it was the parking
13 regulations in -- of the date of Gulfstream's construction.

14 Q: So, if Gulfstream was built back in 1980s, you wouldn't
15 be surprised to know that there was no parking ordinance as
16 you referred to in Georgetown County at that time? You
17 wouldn't be surprised to know that, would you?

18 A: It would not surprise me.

19 Q: Okay. And with respect to the Marlin Quay Store and
20 Marina, I believe that you obtained this assignment in
21 assisting Gulfstream after it was torn down; is that correct?

22 A: Yes.

23 Q: Okay. So, by the time you became involved, the initial
24 building, the old building that was there, the initial
25 building did not exist anymore; is that correct?

1 A: That's correct.

2 Q: Okay. And you also have been informed and researched
3 that since the -- since 1982, Gulfstream, the Marlin Quay, the
4 initial building and the marina, they were all in a PUD or a
5 planned unit development; is that correct?

6 A: I agree.

7 Q: Okay. And in fact, Gulfstream has been in this PD since
8 1982 in fact?

9 A: Correct.

10 Q: And you did see the PD conceptual plan, did you not?

11 A: Yes.

12 Q: Have you seen the PD ---

13 A: Yes.

14 Q: Okay. And in that PD conceptual plan, it provided for
15 parking for that PD; is that correct?

16 A: Yes, it did.

17 Q: Okay. And up to today, there's been no amendment to that
18 parking in that PD, has there?

19 A: But to my knowledge, there hasn't been a change to it
20 either, a change to the PD, so there hasn't been a change to
21 the parking.

22 Q: So, as of today, in that PD, the parking requirement is
23 the same as it has been since the PD was formed?

24 A: Yes, but you've had a change in the building, the usage.

25 Q: You're saying the initial building you're referring to

1 being torn down?

2 A: Yeah, and a new building being built that is bigger than
3 the other one.

4 Q: Now, previously, I believe when you testified -- you
5 testified in the case against -- that Gulfstream brought
6 against Palmetto Industrial, did you not?

7 A: I did.

8 Q: Okay. And you were -- your deposition was taken then as
9 well; is that correct?

10 A: It was.

11 Q: Do you recall testifying that it was your belief that
12 there were over 60 seats in this initial building, this old
13 construction?

14 A: I would probably say there were close to 60 seats, not
15 110.

16 Q: Okay. And you based that upon looking at the
17 photographs; is that correct?

18 A: That is correct.

19 Q: Okay. And those photographs didn't give you the entire
20 view of all the tables that were in the restaurant with the
21 initial building, did it?

22 A: It was pretty close. It was within one table of seeing
23 them all.

24 Q: Well, didn't you testify in your deposition that you
25 couldn't see them all in the photographs?

1 A: I said I couldn't see them all, but that doesn't mean --
2 one is not all. I mean, one I didn't see.

3 Q: Didn't you testify that you didn't know the number of
4 seats outside the photographs? You want to see your
5 deposition to remind yourself?

6 MS. PEARSON: Objection. Improper impeachment, Your
7 Honor.

8 A: I don't believe I need to.

9 Q: You don't think you need to?

10 A: I don't believe I need to.

11 THE COURT: Hold one minute. The objection, let me --
12 just for the record, the objection is overruled. Let's --
13 impeachment is proper.

14 A: The only thing I saw in the photographs was rocking
15 chairs on the front porch.

16 Q: Now, going back to this discussion about a PD. A PD,
17 planned development or a PUD, those have been in existence for
18 a good number of years, that concept, has it not?

19 A: Yes, it has.

20 Q: Okay. And -- but PDs came into existence to provide for
21 flexibility.

22 A: That's correct.

23 Q: And for instance like this PD, I mean, there are no
24 setbacks in this PD, are there?

25 A: That's correct.

1 Q: And whereas the zoning ordinance itself in Georgetown has
2 setbacks; is that correct?

3 A: That's correct.

4 Q: Okay. And sometimes these PDs are described as the
5 zoning ordinance PD is described as a zoning ordinance within
6 a zoning ordinance; is that correct?

7 A: Yeah. You basically have the underlying zoning that was
8 there previously, and now you've put zoning on top of it.

9 Q: Okay. And most of the time when you've got a planned
10 development, a PD, it's the requirements within that PD that
11 apply, not the other parts of the zoning ordinance that are
12 not in that PD; isn't that correct?

13 A: Not necessarily.

14 Q: But it can be, can it not?

15 A: Yeah, but in this particular PD it did not say that all
16 regulations would be frozen for the length of the PD. So --
17 and it doesn't talk about parking within the PD, so ---

18 Q: Okay. Mr. Castles, this 1982 PD, that sort of was one of
19 the earliest PDs; is that correct?

20 A: Yes, it was.

21 Q: Okay. And you will agree that the PDs, the new ones that
22 come up today, are a lot more sophisticated than they were in
23 1982; won't you agree with that?

24 A: I would agree with that.

25 Q: Okay. And when you get a PD, if you want to add

1 requirements to a PD, what you have to do is do a zoning
2 amendment to that PD; is that correct?

3 A: That's correct.

4 Q: Okay. You testified also that you've been involved in
5 submitting plans seeking amendments for zoning; is that
6 correct?

7 A: That's correct.

8 Q: And in seeking amendments for zoning, you have to work
9 with the Planning Department.

10 A: That's correct. Or the Zoning Department.

11 Q: I'm sorry?

12 A: Or the Zoning Department; they can be separate.

13 Q: Okay. The Planning and Zoning Department. And in
14 working with the Planning and Zoning Department, you've been
15 doing it with Horry County and other governmental entities,
16 have you not?

17 A: I have.

18 Q: Okay. And in working with the -- and making these
19 submittals to the Zoning or Planning Department, you try to
20 cooperate and communicate with the Zoning and Planning
21 Department, do you not?

22 A: Sure, I do.

23 Q: Okay. And the same is with the planning and zoning.
24 They -- the staff members, they communicate with you with
25 regard to your submittals; is that correct?

1 A: They do.

2 Q: Okay. And a lot of times or sometimes they ask you for
3 more information when you've made an application; is that
4 correct?

5 A: That's correct.

6 Q: Okay. And so, you provide more information after you
7 submitted an application, have you not?

8 A: I have.

9 Q: Okay. And you would want, as an individual that works
10 with areas involved in construction, you would want your
11 planning and building department to be cooperative with you
12 and to be friendly with you, would you not?

13 A: I would want them to but they're not always. I mean,
14 they'll flat come down and tell you if you're not meeting the
15 regulations.

16 Q: Yeah. And but ---

17 A: And they won't let you do that. And so will the Zoning
18 Appeals Board.

19 Q: And that's their role, is it not?

20 A: It is.

21 Q: Their role is to work with you within the zoning and
22 planning ordinance; is that correct?

23 A: Within what the planning and zoning ordinance states.

24 Q: Yeah. And ---

25 A: They don't have the authority to move off of that.

1 Q: Okay. And but, also, you rely on their interpretation of
2 the zoning ordinance, do you not?

3 A: Sometimes we'll have a difference of opinion of the
4 zoning ordinance to which we have to work through.

5 Q: Right. And that is if a staff member in a zoning
6 department has an interpretation of zoning ordinance, that's
7 what you basically have to go by; is that not correct?

8 A: I would agree with that.

9 Q: Now, I know you say you did not see this initial
10 building, the old building, but seeing photographs ---

11 A: I did. I've taken many a drink in there at a fishing
12 tournament, so I have seen the building.

13 Q: Oh, I'm sorry. So, over the years, you were there during
14 the Governor's Cup, during the Marlin -- all of those events?

15 A: I was there, yes.

16 Q: Okay. Thank you.

17 While you were there, this old building, this initial
18 building was flat on the ground, was it not?

19 A: The first floor was, yes; it was not raised.

20 Q: Yeah. And so now, the new building being built in 2019
21 and 2020 has to comply with FEMA, does it not, and the flood
22 regulations?

23 A: It does.

24 Q: Okay. So, that means it's got to go up at least 14 feet;
25 is that correct?

1 A: Whatever the number is there; I don't know if 14 is
2 exactly right but close.

3 Q: Since you were in the old building, that was in pretty
4 bad shape, was it not? Do you remember that?

5 A: Yeah. I mean, there wasn't much to it. I mean, there
6 wasn't much to the grill area. They could hotdogs and some
7 hamburgers.

8 Q: Yeah. And it was in pretty bad shape, was it not?

9 A: Yeah.

10 Q: Construction-wise?

11 A: Yes.

12 Q: And since it had to go up at least 14 feet, that of
13 course would mean there had to be more space involved, more
14 floorage involved in the building; is that not correct?

15 A: You wouldn't necessarily have to make more floorage
16 because we haven't counted the bottom floor under the garage
17 as any space for parking or anything else.

18 Q: Well, don't you know there are three additional spaces
19 under there?

20 A: I do know that, and it's included in the 62.

21 Q: And -- well, let's -- like the elevator, the original
22 building didn't have an elevator, did it?

23 A: No.

24 Q: Okay. There's an elevator now and that's required; is it
25 not?

1 A: It is.

2 Q: Okay. And that takes more square footage, does it not?

3 A: Sure.

4 Q: Okay. And the Americans with Disabilities Act, that
5 means complying that act, the walkways, the alleyways, the
6 hallways have to be much wider; do they not?

7 A: Yes.

8 Q: Okay. And then you've got your restrooms, and because
9 you have to go 14 feet up and two more floors you have to have
10 more restrooms, do you not?

11 A: Yeah, well, the restrooms, I think, are dependent on the
12 number of people that you're gonna be serving in there, but
13 ---

14 Q: The restrooms have to comply ADA, do they not?

15 A: They do.

16 Q: Okay. Handicapped restrooms, so they have to be larger,
17 do they not?

18 A: Sure, but so does the parking have to comply with ADA,
19 which means it has to be larger.

20 Q: But you've already told this Court that the parking --
21 that the parking in the PD at Marlin Quay has not been
22 amended, has it?

23 A: I am telling you if you build a commercial building that
24 you have to ---

25 Q: Please answer my question.

1 MS. GOLDING: Your Honor ---

2 THE COURT: You can answer her question, then you can
3 explain it if necessary.

4 BY MS. GOLDING:

5 Q: Mr. Castles, is it not a fact that there has been no
6 amendment to the parking requirement in the Marlin Quay PD?

7 A: Yes. But, Your Honor, I'd like to explain.

8 Q: You may go ahead.

9 THE COURT: You can explain your answer.

10 A: Under federal law, Department of Justice, if you change
11 any building or build it, you must comply with the ADA law
12 regardless of any other laws out there. It's under the United
13 States federal law that it complies.

14 Q: Okay. Now, with regard to the business of Gulfstream,
15 you know that there are many condominiums around the
16 Gulfstream Café, that there's five or six?

17 A: Yes.

18 Q: And lots of units around the Gulfstream Café because of
19 these condominiums, right?

20 A: Sure.

21 Q: And there's a lot of walk-in traffic because of all these
22 condominiums and the rental houses around there; is that
23 correct?

24 A: There's walk-in traffic. I don't know how much, but,
25 yes, there's walk-in traffic.

1 Q: And so, people that walk there don't need a parking
2 place, do they?

3 A: No, they don't.

4 Q: Okay. And also, there's Uber and Lyft, and that's
5 becoming quite common nowadays; is it not?

6 A: Probably more to go home than to go to it.

7 Q: Point excepted. So, but Uber and Lyft normally don't
8 need parking spaces, do they?

9 A: No, but they do need unloading zones, which we have
10 failed to have those in the parking lot.

11 Q: And Gulfstream didn't tell you about all the buses that
12 they have throughout the whole season, throughout each year?

13 A: No, they didn't.

14 Q: They didn't tell you about all the buses, the -- I forgot
15 what you call them now; I'm sorry -- the buses loaded with
16 people that come and eat?

17 A: I understand what you're saying. No, they didn't.

18 Q: Okay. And so, when the bus drops off a load of 50 or 60
19 people, the bus can go somewhere else, and usually the bus
20 driver does go somewhere else. Is that not correct?

21 A: Yeah. There's nowhere for him to park; he's got to go
22 somewhere else.

23 Q: And usually the bus driver will go somewhere else to eat,
24 maybe two or three miles down the road. Is that correct?

25 A: Yeah.

1 MS. GOLDING: One moment, please, Your Honor.

2 THE COURT: Yes, ma'am.

3 MS. GOLDING: I have no more questions. Thank you, Your
4 Honor.

5 THE COURT: Any redirect?

6 MS. PEARSON: No questions, Your Honor.

7 THE COURT: All right. Thank you, sir. You can step
8 down.

9 MR. BLOOM: The Plaintiff calls Jake Knight.

10 MS. GOLDING: May I take up a point with the Court, Your
11 Honor?

12 THE COURT: Yes, ma'am.

13 MS. GOLDING: Mr. Knight apparently was sitting in here,
14 Your Honor, during the examination of Mr. Castles, and I
15 understood that sequestration of all the witnesses.

16 MR. BLOOM: Number one, he's an expert, so sequestration
17 does not necessarily apply to an expert witness. Number two,
18 the content of his testimony is gonna have nothing to do with
19 what Mr. Castles just testified about.

20 THE COURT: Okay. What is -- what is the basis of --
21 what is the being offered as an expert in?

22 MR. BLOOM: Appraisal. He has conducted the appraisal on
23 the diminution of value as a result of the zoning and
24 construction of 3.0 for the inverse condemnation, the takings
25 claim.

1 THE COURT: All right. Ms. Golding, I understand the
2 nature of your objection. I don't think his testimony should
3 be impacted by anything he may've heard Mr. Castles say. If
4 you believe any of his testimony is impacted by what is
5 already heard, based upon the answers that he gives, just
6 object and will take that up, but ---

7 MS. GOLDING: Thank you, Your Honor.

8 THE COURT: I think we are all right in terms of the
9 nature of his testimony.

10 MS. GOLDING: Thank you, Your Honor.

11 THE COURT: All right. Come on up, sir.

12 GEORGE "JAKE" KNIGHT, HAVING BEEN DULY
13 SWORN, TESTIFIED AS FOLLOWS:

14 THE CLERK: Thank you. Please be seated. State and
15 spell your first and last name.

16 MR. KNIGHT: My name is George Knight, G-E-O-R-G-E, K-N-
17 I-G-H-T, and I do go by Jake.

18 DIRECT EXAMINATION OF GEORGE "JAKE" KNIGHT BY MR. FOERSTER:

19 Q: Thank you for being here today, Mr. Knight. Let me ask
20 you this first. Any of the testimony of Mr. Castles that you
21 just heard impact your opinions or conclusions in this case?

22 A: I don't think so.

23 Q: Thank you. Please state your occupation and who you work
24 for.

25 A: I am a real estate appraiser. My company is Real Estate

1 Appraisers & Consultants.

2 Q: Do you own that company?

3 A: I do.

4 Q: How long have you been a real estate appraiser?

5 A: For about 31 years.

6 Q: Can you please state your formal education and any
7 degrees you have?

8 A: Bachelor of Science from the University of South Carolina
9 and real estate and finance.

10 Q: Do you have any professional licenses?

11 A: I do. I've got a real estate appraisers license in South
12 Carolina and a South Carolina broker's license.

13 Q: Do you hold any professional designations?

14 A: I do. I hold the MAI designation from the Appraisal
15 Institute.

16 Q: What is an MAI designation?

17 A: It's a general designation conferred for general
18 appraisal practice.

19 Q: What are the requirements for obtaining the MAI
20 designation?

21 A: The requirements over and above the state requirements is
22 -- there's five classroom, additional 40-hour classrooms
23 offerings that you have to take. You have to write a
24 demonstration appraisal report and take a comprehensive exam.

25 Q: Do you have to take annual continuing education courses

1 for your profession?

2 A: I do.

3 Q: Have you ever given any lectures concerning real estate
4 appraisal before?

5 A: Yes, I have.

6 Q: Have you ever been a member of any professional
7 association related to appraisal?

8 A: I am.

9 Q: Which ones?

10 A: I'm a member of the Appraisal Institute, and then I'm
11 also a member of the International Right of Way Association.

12 Q: Have you ever held any positions in either of those
13 organizations?

14 A: I have.

15 Q: What kind of positions?

16 A: I worked with the presidency of the Appraisal Institute
17 of South Carolina Chapter and did work with the Internal
18 Review -- the Evaluation Committee with the International
19 Right of Way.

20 Q: And can you just recount your work history as a real
21 estate appraiser for us?

22 A: I do a lot of eminent domain work, and do commercial
23 property, some residential, primarily commercial, vacant land.

24 Q: Do you primarily do appraisal work in South Carolina?

25 A: Yes, I do.

1 Q: All right. Do you do appraisal work anywhere else
2 besides South Carolina?
3 A: Not currently.
4 Q: How many appraisals -- and you can just ballpark it --
5 how many appraisals have you done for real estate within South
6 Carolina?
7 A: I mean, it's over a thousand, thousands.
8 Q: Have you ever appraised a restaurant before?
9 A: I have.
10 Q: Roughly, how many times would you estimate?
11 A: I've probably done about 30 restaurants.
12 Q: How many appraisals would you estimate you have done for
13 purposes of valuing a condemnation?
14 A: I've probably done a thousand of those.
15 Q: Do you have experience in valuing partial takings,
16 partial condemnations?
17 A: That's -- yeah, that's the most common.
18 Q: Who would you typically provide a condemnation appraisal
19 for? The landowner or the condemning authority?
20 A: I do more work for condemning authorities. I do some
21 work for landowners.
22 Q: Have you ever been qualified by a Court of Law in South
23 Carolina as an expert in the field of real estate appraisal?
24 A: Yes, I have.
25 Q: Roughly, how many times would you estimate?

1 A: I think 30.

2 Q: And in any of those cases in which you were qualified as
3 an expert in the field of real estate appraisal did it involve
4 valuing a property for purposes of determining a loss of value
5 due to a condemnation?

6 A: Yes.

7 Q: Roughly, how many times would you estimate?

8 A: Probably 25 of those.

9 MR. FOERSTER: Your Honor, at this time I would move to
10 qualify Mr. Knight as an expert in the field of real estate
11 appraisal.

12 MS. GOLDING: No objection, Your Honor.

13 THE COURT: All right. He will be qualified as an expert
14 in the field of real estate appraisal.

15 BY MR. FOERSTER:

16 Q: Mr. Knight, did you personally appraise the Gulfstream
17 Café property with this lawsuit?

18 A: Yes, I did.

19 Q: Did you do all the research and analysis that went into
20 your appraisal by yourself or did somebody help you?

21 A: My assistant, Cathy Welch, did some -- help me do some
22 background research.

23 Q: Are you being compensated by anyone for your work today?

24 A: Yes, I am.

25 Q: Who?

1 A: Gulfstream Café, ultimately.

2 Q: Are you charging Gulfstream a special fee for this case
3 or are you charging this standard fee that you would charge
4 any customer for this type of service?

5 A: Just my standard hourly rate.

6 Q: What was the scope of your appraisal assignment in this
7 case?

8 A: Basically, what I was looking at was the impact the
9 property was gonna have from a potential impact to the
10 parking. It's located in the easement which had been
11 calculated to be 62 spaces.

12 Q: Were you tasked with valuing this property with and
13 without sufficient parking?

14 A: That's how I approached it.

15 Q: As of what date did you value the property?

16 A: I was looking at January 23rd, 2019.

17 Q: And what is the significance of January 23rd of 2019.

18 A: January 23rd, 2019 was the 15 days after the last reading
19 of the zoning ordinance change, Section 1702.4.

20 Q: Did you put your opinions and conclusions in connection
21 with your appraisal assignment into a written report?

22 A: Yes, I did.

23 Q: Okay. Mr. Knight, in that -- I believe in that black
24 book there was an Exhibit P47. Would you please look at that
25 for me. And just let me know when you're there, Mr. Knight.

1 A: Okay.

2 Q: Do you recognize that document that's that P47?

3 A: Yeah. This looks like my May 24th, 2021 appraisal.

4 MS. GOLDING: May I ask is -- there were three different
5 ones. What date is this one?

6 MR. FOERSTER: He just testified to that.

7 MS. GOLDING: No. As of the date, but when the date --
8 when it was done. There were three different appraisals.

9 A: Yeah. This is May 24th, 2021.

10 MS. GOLDING: Thank you.

11 BY MR. FOERSTER:

12 Q: And on the first page of P47, it says as of what date?

13 A: The effective date is January 23rd, 2019.

14 Q: Thank you. Just want to make sure were talking about the
15 same appraisal.

16 Does P47 appear to be a true and accurate copy of your
17 appraisal report for this assignment in this case?

18 A: Yes. It looks like this is it.

19 Q: Now, is the type of facts and data that you relied upon
20 for the opinions in this report, are those the same type of
21 facts and data that other real estate appraisers would rely on
22 for a similar assignment?

23 A: Yes.

24 Q: Now, what is your opinion in this case as to the fair
25 market value of the property with sufficient parking in place?

1 A: I've estimated that value basically in its existing
2 condition with the easement in place, with the parking that
3 they are using, to be \$1,850,000.
4 Q: \$1,850,000?
5 A: Yes.
6 Q: Now, do you have an opinion as to the fair market value
7 of this property if it did not have sufficient parking in
8 place?
9 A: Yes. I've calculated that value to be \$89,900.
10 Q: And, in your expert opinion, what is the total amount in
11 the loss of value that this property would experience if it
12 had insufficient parking?
13 A: It's \$1,760,100.
14 Q: Now, let's back up and talk about how you arrived at
15 these conclusions. Are there any rules or industry standards
16 that govern and control appraisal -- appraisers in their
17 appraisal assignments?
18 A: We have USPAP, U-S-P-A-P.
19 Q: And what is the USPAP?
20 A: It's Uniform Standards of Professional Appraisal
21 Practice.
22 Q: Did you comply with USPAP in conducting this appraisal
23 assignment?
24 A: Yes. I believe I did.
25 Q: What assumptions did you have to make in reaching your

1 conclusions in this case?

2 A: I did make an assumption, several assumptions. The
3 primary assumption I was looking at was the date of value was
4 prior to my inspection. And also, I was looking at the
5 assumption that the 62 spaces, basically, would be effectively
6 eliminated by the new building that was gonna be approved and
7 constructed. So, I made the assumption that those spaces
8 would effectively be gone.

9 Q: Did you inspect the property yourself as part of this
10 assignment?

11 A: I did.

12 Q: When did you conduct that inspection?

13 A: I was out there in November of -- 25th, 2019.

14 MR. FOERSTER: Your Honor, I would request permission to
15 freely approach Mr. Knight.

16 THE COURT: You have it.

17 BY MR. FOERSTER:

18 Q: Mr. Knight, I'm going to be showing you what's been
19 marked as Plaintiff's Exhibit Number 47(a), and let the record
20 reflect that I am handing a copy to Defendants' counsel for
21 her review.

22 MS. GOLDING: Your Honor, my understanding, these are not
23 in evidence and there's been no attempt to put this report in
24 evidence, because that was a motion in limine we addressed
25 earlier.

1 THE COURT: Right.

2 MS. GOLDING: I would, of course, object to any of these
3 documentation, the report or any portions of the report being
4 in evidence. However, I have no problem with him saying
5 47(a), 47(b), that type of thing. Does that make sense?

6 THE COURT: So, you're saying you would -- you have no
7 objection to him marking the exhibits for identification
8 purposes, so the record is clear, but would object to them
9 being offered into the record as exhibits?

10 MS. GOLDING: Yes, sir. And I have no objection to them
11 being 47(a), 47(b), instead of a complete new number. But I
12 do object to the admissibility.

13 MR. FOERSTER: Your Honor, I have not offered it yet, but
14 I do intend to offer this and several other select tables and
15 grids from this appraisal report into evidence. I believe at
16 the beginning of the week, Defendants' counsel argued that it
17 is a settled law in this state that we can -- the appraisal
18 report never comes into evidence, the appraisal report itself.
19 But then, they cited to a single court case within their
20 brief, their Memorandum of Law, that they filed on Monday.
21 That case is *Duncan v. Ford Motor Company*. Do you know what
22 that case is about, Your Honor? It's about a deceased
23 appraiser who was not available to testify at the trial. And
24 the litigants in that case were simply trying to offer a
25 report into evidence under the business records' exception of

1 hearsay. That's not this case. Further, all the Court said
2 in that case is that it was not going to admit the subjective
3 portion, the subjective opinions about the appraisal into
4 evidence if he wasn't there and they were offering it under
5 the business records' exception. That's all that says. And
6 the parties in that case did not preserve the issue for review
7 as to whether the factual portions of that report should come
8 into evidence. Further, this is an inverse condemnation case,
9 okay. The case of *Burke v. South Carolina Department of*
10 *Transportation* makes it real clear that inverse condemnation
11 cases are also governed by the *South Carolina Eminent Domain*
12 *Procedure Act* that governs direct condemnation actions.
13 Within the *South Carolina Eminent Domain Procedure Act*, Your
14 Honor, there is a special evidentiary area statute in Section
15 28-2-340. Okay? And within that statute, it says, Any
16 evidence that is relevant material and competent should be
17 admitted in a condemnation case. So, I would argue that these
18 experts -- these excerpts from the appraisal report should
19 come into evidence because this is a condemnation and we have
20 these special evidentiary rules. I have a copy of that
21 statute if I may approach.

22 THE COURT: If you would hand it up, I would appreciate
23 it. Thank you. My law clerk would absolutely appreciate it.
24 Just make sure Ms. Golding has a copy as well if she doesn't
25 already have it.

1 MR. FOERSTER: Absolutely.

2 THE COURT: All right. Let's -- just go ahead and
3 continue questioning him and we'll look at this as far as the
4 admissibility of the report after ---

5 MS. GOLDING: May also state, Your Honor ---

6 THE COURT: Yes, ma'am.

7 MS. GOLDING: --- that traditionally in the many, many
8 cases I have with experts, if you object, those reports are
9 not admissible to go to the factfinder. I just -- and most of
10 the time those issues have been in federal court, and I
11 apologize I don't know the state court. But the rationale,
12 Your Honor, is that if you let an expert's report go in to the
13 factfinder, that report doesn't contain any information of the
14 cross examination. It only sees one side you might say. And
15 so, traditionally the Courts in the cases I have tried
16 involving experts, the report doesn't come in. Now, I have
17 been in cases where the attorneys agreed that it does, but if
18 an attorney objects because of the one sidedness of the
19 report, it's only the evidence from the witness stand, Your
20 Honor, that comes in.

21 Thank you, Your Honor.

22 THE COURT: All right. Well -- and I certainly
23 understand the nature of that objection. If we had a jury
24 here, I think I would wholeheartedly agree with you subject to
25 any deviation from that general rule that 28-2-340 requires.

1 I think we're in a little bit different situation since this
2 is a case where I am sitting as the factfinder. I'm gonna
3 listen to his testimony, and we're gonna read the statute in
4 the cases that have been cited, and then I'll make a decision.
5 But I think that -- I think there's less -- a lower likelihood
6 of any sort of prejudice given the fact that I am sitting as
7 the factfinder instead of 12 jurors. So, let's continue with
8 this testimony and then I make a final decision on the
9 admissibility of the actual documents.

10 MR. FOERSTER: One more note about that statute, Your
11 Honor. It specifically admits into evidence evidence of
12 sales, comparable land sales. So, that overrides any kind of
13 hearsay, Judge, in my opinion.

14 THE COURT: All right. Thank you very much.
15 Proceed.

16 BY MR. FOERSTER:

17 Q: Mr. Knight, I am handing you what I have marked as
18 Plaintiff's Exhibit 47(a). Do you recognize that document?

19 A: Yes, sir.

20 Q: What is it?

21 A: These are photographs I took November 25th, 2019.

22 Q: Did you take these photos?

23 A: I did.

24 Q: Now, do those photos accurately depict the property as it
25 appeared to you as of the date of your site inspection?

1 A: Yes, it does.

2 MR. FOERSTER: Your Honor, at this time, I will tender
3 Exhibit 47(a) into evidence.

4 THE COURT: Okay. I'm gonna withhold ruling on that
5 until my clerk has had an opportunity to pull up these cases
6 that you cited. Just continue with your questioning and
7 before you tender the witness to Ms. Golding, we'll make the
8 final decision.

9 MR. FOERSTER: Thank you.

10 BY MR. FOERSTER:

11 Q: Are there improvements on this property, Mr. Knight?

12 A: Yes, there are.

13 Q: Can you describe them?

14 A: Yeah. It's a two-story restaurant, basically wood-sided,
15 composition shingle roof, it's built on piers on a concrete
16 foundation. I measure it to have 5161 gross square feet.
17 There is also a patio area for outside dining that's included
18 in this additional square footage.

19 Q: Mr. Knight, what is the accepted methodology when
20 determining the value of a condemnation or taking?

21 A: Typically, you look at the value of the property before
22 the taking, and you look at the value of the property after
23 the taking, and come up with the diminution or difference in
24 value from the taking.

25 Q: What are the three main approaches to appraisal?

1 A: We look at the sales comparison, the income approach, and
2 the cost approach.

3 Q: Can we briefly explain those to the Court?

4 A: In the sales comparison, you are primarily looking at
5 comparable sales, comparing those back to the subject
6 property, investigations into the market transactions.

7 The income approach, you are basically looking at the
8 income generating ability of a property. And you're looking
9 at rates, whether it be multipliers or capitalization rates to
10 convert an estimate of income into value, or you can do
11 discounted cash flow analysis in the income approach as well.

12 And the cost approach is looking at the replacement cost
13 less depreciation plus the land value of the property. It
14 could be a reproductional replacement. You typically look at
15 replacement costs and appraisal.

16 Q: Thank you. Which of those approaches to real estate
17 appraisal did you employed in this case?

18 A: I did the sales comparison and the income approach.

19 Q: Why did you select those approaches?

20 A: Those would be the two most applicable. With a building
21 this age, the cost approach is not typically considered
22 applicable. Most appraisers aren't doing the cost approach on
23 a building this old due to depreciation.

24 Q: Now, what was the very first step you took in trying to
25 determine what the fair market value of this property was with

1 sufficient parking in place?

2 A: I just did of -- I went into a date of service -- I have,
3 CoStar -- and started to look for improved restaurant sales to
4 compare to the property with a focus on trying to find
5 waterfront if possible. And, also, undertook to investigate
6 market rentals as well for the income approach. And, also,
7 undertook an estimate of the land value, which was gonna be
8 necessary in the after value.

9 Q: Did you research the zoning for this property?

10 A: I did.

11 Q: And what did your research tell you about the zoning?

12 A: Let me flip to my notes on that. Basically, that it is
13 owned PD, planned development, by Georgetown County.

14 Q: What uses were permitted in that PD?

15 A: There were multiple uses that would be allowed on the
16 property. The one use that I was looking at was to determine
17 if the restaurant was gonna be a legally allowable use, which
18 it was.

19 Q: What was the next step in your analysis of the fair
20 market value of this property if it had sufficient parking in
21 place?

22 A: I undertook to look at the comparable sales that I was
23 referencing. And I took the time to go through and look at
24 the comparables and break them down to see which ones I
25 thought were going to be applicable for the subject property.

1 Then, I did an analysis, double checked with that, of the
2 actual comparables back to the subject property, it may be a
3 little closer.

4 Q: Do real estate appraisers have to determine what the
5 highest and best use of the property is as part of their
6 assignment?

7 A: Yes.

8 Q: Did you do that in this case?

9 A: Yes. Before this analysis that I undertook for the
10 comparable sales, I did a highest and best use analysis of the
11 restaurant.

12 Q: How did you do that analysis?

13 A: Went through the test of physical possible, legally
14 permissible, financial feasibility, and maximum productivity
15 to determine if the restaurant was, in fact, was the highest
16 and best use to see if there was an alternative use. So, for
17 the land as it's vacant under the PD, I determined that it
18 could be -- it was not clear if a restaurant would be able to
19 be constructed on the site because of the size of it. I did
20 conclude restaurant use ultimately for the vacant site. And
21 then for the improved site, I concluded the highest and best
22 use to be as a restaurant as it presently exists.

23 Q: And that's as of January 23rd, 2019?

24 A: That's correct.

25 Q: How did you find the comparable land sales that you

1 relied upon for your sales comparison analysis?

2 A: I investigated those in CoStar.

3 Q: All right. Did you verify the sales?

4 A: I talked to brokers.

5 Q: That's how you verified them?

6 A: Yes.

7 Q: How does an appraiser account for differences in the
8 sales, differences from the subject property?

9 A: If necessary, we will make adjustments for the
10 differences in the sales compared to the subject.

11 Q: I'm gonna hand you what's marked as Plaintiff's Exhibit
12 47(b), and I'm handing a copy to Defendants' counsel.

13 Mr. Knight, do you recognize that document?

14 A: Yes, sir. These are my improved sales -- summary of my
15 improved sales.

16 Q: Does it appear to be a true and accurate copy of your
17 table?

18 A: It does; yes, sir.

19 Q: And you prepared this table yourself?

20 A: I did.

21 Q: And just tell us real briefly, what is this improved
22 sales summary table telling us?

23 A: Basically, gives us the address of the property, grantor,
24 grantee, price, date of sale, size of the building, and then
25 the -- in this chart I've got the price per square foot for

1 the building, and the year built and the construction.

2 Q: And does this contain all of the land sales that you
3 ultimately selected and then relied upon for your opinion on
4 value in this case?

5 A: This is the improved sales chart, yes.

6 Q: Okay.

7 MR. FOERSTER: At this time, Your Honor, I would tender
8 47(b) into evidence.

9 THE COURT: All right. Just keep going. I haven't read
10 what my law clerk is putting together for me yet, so just
11 remind me before you tender the witness. I'll make a ruling
12 on the admissibility of the documents at the close of his
13 testimony.

14 MR. FOERSTER: Thank you.

15 BY MR. FOERSTER:

16 Q: Mr. Knight, I'm gonna show you what's been marked as
17 Exhibit 47(c), and I'm handing a copy of Defendants' counsel.

18 Do you recognize this document?

19 A: Yes, sir. That's my land sales chart for the sales
20 comparison approach -- I mean my improved sales chart.

21 Q: What is this chart telling us?

22 A: This breaks down the comparables that I considered, and
23 then breaks down the factors I compared it to for location,
24 size, year built, condition, site size, land to building
25 ratio. I looked at current uses, if they're waterfront. I

1 have parking and a parking ratio analysis.

2 Q: So, this is the table of adjustments that you made to
3 account for those differences that we talked about, correct?

4 A: Yes, sir.

5 MR. FOERSTER: Your Honor, at this time I would tender
6 Plaintiff's 47(c).

7 THE COURT: All right. Again, I will make a final
8 decision at the close of his direct examination.

9 BY MR. FOERSTER:

10 Q: Mr. Knight, after you adjusted each of these comparable
11 land sales, what conclusion did you reach under the sales
12 comparison analysis as to the value of the Gulfstream Café's
13 property with sufficient parking in place?

14 A: After I adjusted the comparables and looked at the range
15 of the comps, the range was 338.06 to 403.97, the median was
16 \$371 a foot, and the average was 371.01 a square foot. And I
17 concluded a \$370 a square foot for the 5161 square foot
18 building.

19 Q: Thank you. Did you also do an income approach in this
20 case?

21 A: Yes, sir.

22 Q: And why did you also do an income approach after doing
23 the sales comparison analysis?

24 A: When I look at the -- based on the marketability for a
25 restaurant, what the market rents would be if the property was

1 rented to a tenant as opposed to an owner/user having the
2 property, which it does currently have. And so, I undertook a
3 rental study.

4 Q: And your report because it's a direct capitalization
5 method. What is that? Can you explain that?

6 A: It's just the process of converting net operating income
7 into value by dividing by a capitalization rate.

8 Q: And what variables are needed for that method?

9 A: You've got to estimate the income stream in the form of
10 potential gross income, look at vacancy. We look at expenses
11 that would be applicable to arrive at a net operating income,
12 and then we capitalize that by appropriate rate and convert
13 that into value.

14 Q: In doing this type of analysis under the income approach,
15 does an appraiser have to consider the actual financial
16 condition of an existing business that's located on that real
17 estate?

18 A: We're looking at the market -- what the market would pay,
19 market rent would pay if it was a vacant property for that
20 use, which is a restaurant use.

21 Q: Okay. You're just looking at market rent?

22 A: Correct.

23 Q: How did you decide what an appropriate market rent would
24 be for the Gulfstream Café's property in this case?

25 A: I pulled six rental comps that I could locate in the

1 area. And basically, I was looking at comparable restaurant
2 leases. If I could find something waterfront, I did. They
3 were not all on the waterfront. And I looked through the
4 charts -- well, there's a chart in my report. I don't think
5 we have that in evidence. It basically goes through the six
6 rentals. I look at the range of those rentals, the lease
7 terms, the rent per square foot in the lease type. So, the
8 first one I looked at on Kings Highway, 16 N. Kings Highway,
9 was the Royal Crab. That was a three-year lease at \$43.44 a
10 foot on that. The second lease was the Tilted Kilt that I
11 looked at, 1565 21st Avenue North. That was a ten-year lease
12 at 42.67 a foot. And then I had a lease at Little River Neck
13 Road that I looked at. It was a water view lease. It was a
14 five-year lease at \$36 a foot. Then I looked at one at Martin
15 Luther King Boulevard. That one is down in Savannah. It was
16 a riverfront restaurant. It was \$30 a square foot. And then
17 I had one on Strand Parkway in Myrtle Beach. Fifteen years,
18 36.50 a foot. And then I had one in Mt. Pleasant that was
19 waterfront, 508 Mill Street, Shem Creek Bar & Grill. And that
20 was at \$26 a square foot for a five-year lease. So, those
21 leases -- when I looked at all of those leases, I concluded a
22 rent per square foot of \$35 a foot net of expenses.

23 Q: Mr. Knight, now I'm going to show you what's been
24 premarked as Plaintiff's Exhibit 47(d), and I'm handing a copy
25 to Defendants' counsel.

1 Do you recognize this document?

2 A: Yeah. That's the rental chart we were just going
3 through.

4 Q: Did you prepare this chart?

5 A: I did.

6 Q: Does it appear to be a true and accurate copy of the
7 chart that you prepared?

8 A: It does.

9 MR. FOERSTER: Your Honor, at this time I would tender
10 47(d).

11 THE COURT: All right. I will make my final decision at
12 the conclusion of his direct exam.

13 BY MR. FOERSTER:

14 Q: Still discussing your analysis under the income approach,
15 describe the operating expenses that you decided you would use
16 for this analysis.

17 A: The operating expenses that I deducted were a three
18 percent management fee, two percent for effective gross
19 income, and two percent of effective gross for repairs.

20 Q: And that's what you deducted from the potential gross
21 proceeds of the property to arrive at the net operating
22 income?

23 A: That's correct.

24 Q: After that, what was the next step in the income approach
25 analysis?

1 A: After deducting the expenses -- let me back up a second.
2 After we got the gross income, I had to deduct vacancy, which
3 was I concluded a five percent vacancy and collection loss
4 based on a CoStar overview I had done of the restaurant
5 vacancy in the area. And that's taken after the effective
6 gross income is estimated, and then the expenses that we just
7 discussed coming out. The expenses -- after deduction of
8 expenses we get to the net operating income. In this case,
9 the net operating income was \$159,591.

10 Q: What does the capitalization rate tell us?

11 A: The capitalization rate looks at the debt and equity, but
12 primarily looking at unleveraged property. And it is taking
13 the income that we're taking that's available to be put to the
14 operation of the property, and then taking the capitalization
15 rate and dividing that by the net operating income.

16 Q: How did you determine in this case what an appropriate
17 capitalization rate was for the Gulfstream Café's property?

18 A: I went through four different analyses. I went through a
19 mortgage equity technique. I also went through a debt
20 coverage ratio analysis. And then I looked at two survey
21 rates as well.

22 Q: So, what was your conclusion as to the value of
23 Gulfstream Café's property under the income approach analysis
24 with sufficient parking in place?

25 A: So, after I went through the capitalization rate

1 estimates, I came up with the capitalization rates of nine
2 percent to apply to the NOI for the Gulfstream property and
3 came up with the value of 1,773,234. I rounded that to
4 1,773,000.

5 Q: Does your report contain all the data and facts on which
6 this analysis relied upon?

7 A: It's just a summary.

8 MR. FOERSTER: Your Honor, at this time I'm gonna
9 approach -- I'm sorry.

10 BY MR. FOERSTER:

11 Q: Mr. Knight, I'm gonna show you what's marked as 47(e),
12 and I'm handing a copy to Defendants' counsel.

13 Do you recognize this document, Mr. Knight?

14 A: Yes. That's Page 51 of my report, the operating income
15 statement.

16 Q: Is this a summary of the calculations that we just
17 discussed under the income approach?

18 A: Yes, it is.

19 Q: Does it appear to be true and accurate?

20 A: It does.

21 MR. FOERSTER: At this time, I would tender 47(e), Your
22 Honor.

23 THE COURT: All right. Again, I'm gonna withhold ruling
24 on that until he is finished with his direct examination.

25 BY MR. FOERSTER:

1 Q: Mr. Knight, after you reached your conclusions under both
2 the sales comparison analysis and the income approach analysis
3 as to the value of Gulfstream Café's property with sufficient
4 parking in place, what was the next step in your analysis?

5 A: Well, after I reached my reconciled value, which was
6 1,850,000, I looked at the impact that the 62 spaces within
7 the easement area would have. In my analysis, I've got an
8 assumption that the 62 spaces effectively would be reduced
9 from use as the way the easement is drawn up with the new
10 building that's gonna be in place.

11 Q: What information did you base that on?

12 A: What I was looking at was basically, after the
13 construction of the new building, that the 62 spaces would not
14 be available -- effectively would not be available for
15 parking.

16 Q: Can you please explain the process for how you went about
17 valuing the Gulfstream Café's property with insufficient
18 parking in place?

19 A: Yes. What I did there was looking at the effect of the
20 lost parking or the inability to use 62 spaces, one of the
21 things -- and I think I didn't say this, but when talking with
22 Jef Kirk, we were talking -- he's the operating partner of
23 Gulfstream. We were talking about the reliability of what
24 they do use for parking. And under the way the easement is
25 drawn, they're using that parking -- they're basically using

1 all 73 spaces -- I believe is what they have -- 62 easement
2 spaces and 16 dedicated spaces. So, what I did then was
3 looked at the property with insufficient parking as not being
4 able to operate as restaurant. I undertook an analysis of the
5 property as contributory value of land.

6 Q: Mr. Knight, now I'm going to show you what's been marked
7 as Plaintiff's 47(f), and I am handing a copy to Defendants'
8 counsel.

9 Do you recognize this document?

10 A: Yes, sir. That's Page 54 of my report. That's my land
11 sales summary chart for the property after the impact of the
12 parking on the building.

13 Q: And this contains all the land sales that you relied on
14 for your analysis of the value of the property with
15 insufficient parking?

16 A: Yes, it does.

17 Q: Did you find it necessary to make adjustments to any of
18 those sales?

19 A: I did. Let me get to that page in my report. Primarily,
20 was looking at size and the Gulfstream property and the usable
21 area of the site. There's 12,085 square feet, and all of my
22 sales were considerably larger. I did to make a size
23 adjustment to the sales of negative 25 percent. There was no
24 other adjustments that I made to the sales.

25 Q: Mr. Knight, I'm gonna hand you what's marked as

1 Plaintiff's 47(g), and I am handing a copy to Defendants'
2 counsel.

3 Mr. Knight, do you recognize 47(g)?

4 A: Yes. That's my land sales chart.

5 Q: Does it appear to be a true and accurate copy of the
6 adjustments you made to each of these land sales?

7 A: Yes, sir.

8 MR. FOERSTER: Your Honor, at this time I would tender
9 47(g).

10 THE COURT: All right. Again, I will make the final
11 decision after he has concluded his direct examination.

12 BY MR. FOERSTER:

13 Q: And, Mr. Knight, what was your conclusion under this
14 sales comparison analysis as to the value of the Gulfstream
15 Café's property with insufficient parking?

16 A: I concluded that it had a land value of \$10 a foot based
17 on the sales, and I looked at a demolition cost they would
18 have to remove the building. I estimated that from Marshall &
19 Swift, which is an estimating program service we use. I
20 estimated that demolition cost \$31,000 to come to a land value
21 of \$89,900.

22 Q: So, how did you then calculate the total damage to the
23 value of this property that would be directly caused by having
24 insufficient parking?

25 A: I simply took the difference between the before and

1 after, took away the \$89,900 remaining land value, and the
2 difference was \$1,760,100.

3 Q: \$1,760,100?

4 A: Yes, sir.

5 Q: Now, is the type of data that you relied upon for all of
6 your opinions that you have testified here to today and that
7 are in your report, is that the same type of data that other
8 appraisers would rely upon for this assignment?

9 A: Yes. That's the type of data they would look for.

10 MR. FOERSTER: I have no further questions, Your Honor.

11 THE COURT: All right. With regard to the issue of the
12 admission of the appraisal and the subparts, ordinarily the
13 report of an expert would be considered hearsay because it is
14 being offered for the truth of the matter asserted. However,
15 I think that Statute 28-2-340, and it admittedly is evidence
16 which may be admitted in trials of condemnation, this cause of
17 action is inverse condemnation, and it calls for allowing
18 certain types of evidence to be admitted including any other
19 evidence which is relevant, material, and competent. I
20 certainly think the appraisal is relevant, material, and
21 competent, and taken with that statutory provision, along with
22 the fact that this is not a trial before a jury but a trial
23 before the Court, Ms. Golding, I'm gonna allow this to be
24 admitted. I find that it would certainly assist me as the
25 trier of fact in evaluating the testimony that's been

1 presented here. So, I believe it was Plaintiff's 47 and all
2 of the subparts ---

3 MR. FOERSTER: Actually, it's just the subparts, just the
4 experts -- the excerpts of the report.

5 THE COURT: Oh, just the excerpts?

6 MS. GOLDING: Your Honor, may I?

7 THE COURT: Yes, ma'am.

8 MS. GOLDING: I think that, if that's the Court's
9 opinion, that 47 should come in and not the subparts.

10 THE COURT: I would like it all.

11 MS. GOLDING: Thank you, Your Honor.

12 THE COURT: Truth be told, I want -- I want the -- if I'm
13 gonna look at any of it, I'm gonna look at all of it. And,
14 you know, I will be able to mete out the subjective portions
15 versus the factual portions. So, if the subparts are going to
16 be offered, I would prefer that the entire documents be
17 submitted as one exhibit.

18 MR. FOERSTER: That's fair enough, Your Honor.

19 THE COURT: All right. So, 47 and all of its subparts
20 will be admitted.

21 MR. FOERSTER: Thank you.

22 PLAINTIFF'S EXHIBIT NUMBER 47

23 ADMITTED INTO EVIDENCE

24 THE COURT: Ms. Golding?

25 MS. GOLDING: Thank you, Your Honor.

1 CROSS-EXAMINATION OF GEORGE "JAKE" KNIGHT BY MS. GOLDING:

2 Q: Hello, Mr. Knight.

3 A: Hello.

4 Q: Mr. Knight, I think you were hired in September 2019; is
5 that correct?

6 A: I believe that's correct.

7 Q: Okay. And, if I'm not mistaken, you were referred to
8 Gulfstream by Mr. Sean Foerster, the attorney that just did
9 your direct examination; is that correct?

10 A: That's correct.

11 Q: And you have done a fairly significant amount of expert
12 appraisal work for Mr. Foerster's law firm; is that correct?

13 A: I've done a number of appraisals for him.

14 Q: And you were hired initially by CentraArchy Restaurant
15 Management Company, but then you were contacted by
16 Gulfstream's attorney who said, oh, no, that's not your
17 client. It's got to be Gulfstream. Is that correct?

18 A: Correct.

19 Q: And so, Gulfstream's attorney told you to remove the name
20 of CentraArchy from your report; is that correct?

21 A: I believe that's correct.

22 Q: Okay. Now, in testifying, Plaintiff's counsel used the
23 word sufficient parking, but your report is solely based on
24 complete loss of parking; is that correct?

25 A: My analysis makes the assumption that there is gonna be

1 an impact to 62 spaces; the easement parking area will be
2 impacted by the construction of the new building.

3 Q: Okay. And your analysis is that those 62 parking spaces
4 will never be used again by Gulfstream?

5 A: I've taken the analysis that 62 spaces will be impacted,
6 yes.

7 Q: Well, you use the word impacted but your report says
8 loss, loss of 62 parking spaces; is that not correct?

9 A: I believe that's how I phrase it in the report.

10 Q: Yes. And so, your opinion is based upon Gulfstream Café
11 never ever being able to use even one of those 62 parking
12 spaces; is that correct?

13 A: I've taken the assumption that the easement will be
14 impacted, the 62 spaces in the easement, yes.

15 Q: Okay. That was a yes at the end, right?

16 A: Right. Correct.

17 Q: I'm sorry. I'm having a hard time hearing you. I
18 apologize.

19 A: Correct.

20 Q: Did you say correct?

21 A: Correct.

22 Q: Okay. Thank you.

23 And I think in your report you classified the complete
24 loss of 62 parking spaces as a extraordinary assumption; is
25 that correct?

1 A: It is an extraordinary assumption.

2 Q: Okay. And you yourself did not do any independent

3 analysis to come up with any affirmation that Gulfstream Café

4 will lose permanently 24/7 62 parking spaces?

5 A: No, I -- I made the assumption that they're gonna lose 62

6 spaces.

7 Q: So, that's an assumption you made; is that correct?

8 A: Correct. Correct.

9 Q: And you classified that assumption as extraordinary.

10 A: I did.

11 Q: And so, the inability to use all of 62 parking spaces

12 24/7, 24 hours a day, seven days a week, throughout the rest

13 of the life of Gulfstream; is that correct?

14 A: Well, I think I've answered that, yeah. I've looked at

15 the impact of the 62 spaces and how they are allowed to use it

16 during the easement.

17 Q: And you say that Gulfstream uses those 62 spaces for its

18 patrons; is that correct?

19 A: Correct.

20 Q: Okay. And Gulfstream did not provide you any information

21 as to the patrons it receives from walk-ins, did it?

22 A: We don't have an analysis of that, no.

23 Q: And that analysis would certainly affect your opinion,

24 would it not?

25 A: As to what?

1 Q: The walk-ins that Gulfstream has.

2 A: I think the estimate I've made just considers that
3 they're gonna need those parking spaces for the operation of a
4 sit-down restaurant.

5 Q: But walk-in -- you will agree that walk-ins from that
6 community can be a significant factor or needed information to
7 arrive at a correct appraisal; is that correct?

8 A: I don't know that there's a number out there for walk-
9 ins.

10 Q: Right. But you're not gonna stand -- you're not gonna
11 sit here today, excuse me, and tell this Court that Gulfstream
12 Café does not have walk-ins, are you?

13 A: No.

14 Q: Okay. And, in fact, there are a significant number of
15 condominium regimes around Gulfstream Café; is that not
16 correct?

17 A: There are, yes.

18 Q: And there are significant number of condominium units
19 around Gulfstream Café; is that correct?

20 A: There are.

21 Q: Okay. And there are a significant number of individuals,
22 whether permanent residents or vacationers that walk to
23 Gulfstream Café and dine; is that not correct?

24 A: I'm sure there are some that walk over to the restaurant.

25 Q: And that factor was not at all considered in your

1 appraisal?

2 A: I'm looking at the ability to park on those 62 spaces for
3 vehicle traffic, not foot traffic.

4 Q: It's a yes or a no answer.

5 A: Correct.

6 Q: Okay. Thank you.

7 So, and with respect to the marina store and restaurant,
8 are you then, since the 62 spaces are completely gone for
9 Gulfstream, are you saying that the marina store and
10 restaurant are gonna use all of the 62 spaces?

11 A: I'm saying the new restaurant will need to use those.

12 Q: So, that's what you're saying?

13 A: Correct.

14 Q: Now, in fact, the history of this PD, isn't it a fact
15 that this marina store and restaurant has used this parking
16 lot for almost 30 years?

17 A: I believe that's correct.

18 Q: Okay. And its use of the 30 -- for over 30 years has
19 been not only for its marina operations, fuel sales, things of
20 that nature, but also for restaurants sales, food and
21 beverage; is that correct?

22 A: Correct.

23 Q: Okay. And so over 30 years, approximately, Marlin Quay
24 has served food, served beverages, and had a seating capacity
25 of 110 seats; is that correct?

1 A: The existing ---
2 Q: The previous initial construction in that PD ---
3 A: Okay.
4 Q: --- had seating capacity of 110 seats for 30 years?
5 A: I believe that's correct.
6 Q: Okay. And the PD that passed by Georgetown County --
7 excuse me, not PD -- the amendment, Number 3, provides for 110
8 seating capacity. Is that correct?
9 A: I think that's correct, yes.
10 Q: Okay. So, what we have is that for 30 years Gulfstream
11 Café has been operating its business and using the parking
12 lot. Marlin Quay Restaurant has operated its business and
13 used the parking lot. Is that not correct?
14 A: Up to now, yes.
15 Q: Okay. And during those 30 years, Gulfstream Café has not
16 lost the 62 parking spaces as you are trying to tell this
17 Court. That, historically, there has been no loss of 62
18 parking spaces.
19 A: That's before the new parking would come -- the new
20 building would come into play.
21 Q: The new building has the same seating capacity of 110
22 seats in the restaurants, you just said it does. Is that
23 correct?
24 A: I believe that's correct.
25 Q: Okay. So, historically, Marlin Quay Restaurant has had

1 110 seats for 30 years. Gulfstream Restaurant has operated
2 the same business for 30 years. And during those 30 years,
3 Gulfstream has not lost the parking spaces of 62. Isn't that
4 correct?

5 A: I don't -- I think they've been using them for the
6 existing use, yes.

7 Q: And so, you didn't take into consideration the appraisal
8 the fact that Gulfstream Café and Marlin Quay have operated
9 the same way for 30 years, and this new restaurant is also
10 going operate the same way that it had been for 30 years.

11 A: No, I ---

12 Q: That wasn't in consideration in your report, was it?

13 MR. FOERSTER: Objection, Your Honor. Can he finish his
14 answer?

15 THE COURT: I think she asked the same question in a
16 different way. But Mr. Knight, answer the question. I think
17 it was that you didn't take that into consideration.

18 MS. GOLDING: Yes.

19 THE COURT: Restate your question, Ms. Golding. I'm
20 sorry.

21 MS. GOLDING: I apologize, Your Honor. Yes, sir.

22 BY MS. GOLDING:

23 Q: The marina store and restaurant, for 30 years there's
24 been 62 parking spaces for the marina store and restaurant and
25 Gulfstream, the shared parking. Is that correct?

1 A: That's my understanding.

2 Q: Okay. For 30 years, the marina store and restaurant had
3 served meals at night. Is that correct?

4 A: I believe that's correct.

5 Q: For 30 years, the marina store and restaurant has had 110
6 seating capacity. Is that correct?

7 A: I believe so.

8 Q: Okay. And for -- as a result, those assumptions that you
9 have in your report are not at all based upon the historical
10 conduct -- the historical facts that have existed between the
11 two, Marlin Quay Restaurant and Gulfstream Restaurant?

12 A: Yeah, what -- and again, I think the 110, when they put
13 in the new building, we're gonna have -- the uses there are
14 going to impact.

15 Q: But the impact is not gonna be any different because
16 Number 3 has got 110 seating capacity in the previous initial
17 building for 30 years had 110 seating capacity. So, there's
18 no impact, is there?

19 A: That's not what I found.

20 Q: Okay. Now, you mentioned something about the -- you did
21 an income approach; is that correct?

22 A: Yes, ma'am.

23 Q: Okay. Now, on the income approach, you did not receive
24 any tax returns of Gulfstream Café, did you?

25 A: I did not.

1 Q: Okay. You did not receive any P&L profit and loss
2 statements of any kind from Gulfstream, did you?

3 A: I don't think so.

4 Q: Okay. You did not receive, in fact, any financial data
5 as to the operation of Gulfstream Restaurant, did you?

6 A: No.

7 Q: Okay. In your report you referenced expenses in this
8 income approach. Is that correct?

9 A: Correct.

10 Q: You referenced that you -- you used a three percent
11 management fee. Do you recall that?

12 A: I do.

13 Q: Okay. That never was corrected by Gulfstream, was it?
14 The Gulfstream attorneys never corrected you and said, oh, no,
15 Mr. Knight, don't use three percent because our management fee
16 is seven percent. That incorrect you on that, did they?

17 A: I'm not aware of that, no.

18 Q: Okay. So, you were never told that the management fee
19 that CentraArchy charges to Gulfstream Café is seven percent
20 and not three percent that you have in your report, were you?

21 A: I don't have that information.

22 Q: So, you weren't told that?

23 A: No.

24 Q: Now, you could've easily used Gulfstream's numbers to
25 produce an appraisal of property -- Gulfstream's financial

1 information could've been used by you, could it not?

2 A: I could've looked at it.

3 Q: Yeah. But Gulfstream didn't give it to you to assist in
4 your appraisal report, did it?

5 A: I did not look at it. I looked at it being primarily
6 from an owner-occupied standpoint.

7 Q: Now, you also said that the use of Gulfstream was for
8 restaurant; is that correct?

9 A: Restaurant, yes.

10 Q: Okay. And that's in the current PD, the property of
11 Gulfstream is used as the best and highest use is restaurant
12 use.

13 A: Yes.

14 Q: Okay. And that use, that PD, Gulfstream could make --
15 could apply for an amendment to use that building for other
16 activities, could it not?

17 A: I believe that's correct.

18 Q: Okay. It could've made an amendment of the PD to change
19 it from restaurant to office, could it not?

20 A: It would require a change.

21 Q: Yes. But it would require the process of applying and
22 obtaining approval from Georgetown County.

23 A: It would require a change, yes.

24 Q: Okay. And if that change was made your appraisal
25 evaluation would not be correct, would it?

1 A: If they made a change in use, you'd have to analyze that
2 use.

3 Q: Okay. Now, that's -- the Gulfstream Café property,
4 you've been on it, you've seen that view of the marsh, have
5 you not, of the inlet going out into the ocean?

6 A: Yes.

7 Q: Is a beautiful view, isn't it?

8 A: It is.

9 Q: Okay. And are you trying to tell this Court today that
10 that piece of property today is only valued \$89,000?

11 A: Yes, ma'am.

12 Q: Okay. And if the use was changed to residential,
13 wouldn't you believe that that property would probably sell
14 for close to \$2,000,000 with that view? Wouldn't that be
15 fair?

16 A: I didn't do that analysis.

17 Q: Yes, but you can argue with it that that has a real
18 value, that property, does it not?

19 A: It would require a change in use.

20 Q: Yes, sir. And if it required to change it use, that
21 would really -- that property would have a real big value,
22 would it not?

23 A: I didn't do an analysis with change in use.

24 Q: I'm not asking you that. Based on -- you've been an
25 appraiser for how many years?

1 A: Thirty-one years.

2 Q: Thirty-one years. And you've done residential
3 appraisals?

4 A: I have done some residential.

5 Q: Okay. And you're not going to tell this Court that that
6 piece of property as a residence with its view is worth
7 \$89,000?

8 A: In a residential use, no. I didn't do that analysis.

9 Q: I know you didn't do the analysis, but we're talking
10 about a diminution in value, a loss of value to this ---

11 MR. BLOOM: Objection, Your Honor. This is getting
12 argumentative.

13 THE COURT: Overruled.

14 BY MS. GOLDING:

15 Q: Are we not talking about a did a diminution in value, a
16 loss of value to the real estate?

17 A: Yes.

18 Q: Okay. And if that real estate could be utilized for
19 residents, the value of that real estate would probably be in
20 excess of a million and a half dollars; is that not correct?

21 A: Again, making an assumption that it can be put to a
22 residential use.

23 Q: If it could be put to residential use.

24 A: I don't have any basis for that, that it could be put to
25 a residential use.

1 Q: As a real estate appraiser, you know that property in the
2 inlet, with the marsh views and the ocean, that is valuable
3 property, is it not?

4 A: It is.

5 Q: Okay.

6 MS. GOLDING: Indulgence from the Court for one minute.

7 THE COURT: Yes, ma'am.

8 MS. GOLDING: No further questions, Your Honor. Thank
9 you.

10 THE COURT: Any redirect?

11 MR. BLOOM: One second if we could, Your Honor.

12 THE COURT: Yep.

13 REDIRECT EXAMINATION OF GEORGE "JAKE" KNIGHT BY MR. FOERSTER:

14 Q: Mr. Knight, what is your understanding of the building --
15 we've been calling it Version 3.0 -- that was permitted by the
16 ordinance at issue in this case?

17 A: It's gonna be a mixed-use building, and I think it's
18 gonna have nighttime use, restaurant use, and the marina will
19 still be next-door. The marina store will be downstairs.

20 Q: Is it your understanding that it's gonna be a
21 substantially larger building?

22 A: I think 13,000 square feet.

23 Q: Were you aware that it had an occupancy of 359 people
24 occupancy allowable?

25 A: I don't believe I had that number.

1 Q: Okay. But that's a significantly larger building than
2 what was there before Version 3.0, correct?

3 A: Yes.

4 Q: So, isn't it just common sense that 62 parking spaces
5 will be impacted by a substantially larger building?

6 A: That's my analysis, yes.

7 Q: Let me ask you about your income approach analysis and
8 defense counsel's criticism of that, about why you didn't ask
9 for Gulfstream's actual finances. Okay? Was your assignment
10 to value the real estate or was your assignment to value the
11 existing business on that real estate?

12 A: I was just looking at the real estate.

13 Q: Right. It doesn't matter what the -- how the performance
14 of the business as it existed, it doesn't matter for purposes
15 of the income approach analysis, does it?

16 A: No. I was looking at market rent for the restaurant.

17 Q: Right. When is it appropriate for an appraiser to simply
18 assume the property can be rezoned?

19 A: I mean, you -- you can make -- it becomes a hypothetical.
20 You're just making an assumpt -- again, it's an assumption that
21 -- something that's not true.

22 Q: Do you have to do any research of the likelihood of a
23 rezoning change?

24 A: You absolutely do.

25 Q: Do you have to determine that has to be reasonably

1 probable that a zoning change will be permitted by the local
2 authority?

3 A: You do.

4 Q: And you can't just assume it. You have to do a lot of
5 homework and know that it's reasonably likely that the
6 property will be rezoned in the near future?

7 A: Yes, in the near term.

8 Q: Thank you.

9 RECROSS-EXAMINATION OF GEORGE "JAKE" FOERSTER BY MS. GOLDING:

10 Q: You can't assume a change in use will be approved, just
11 like you can't assume this extraordinary assumption that all
12 of 62 parking spaces will be lost, can you?

13 A: I need some research to assume the use will change.

14 MS. GOLDING: Thank you, Your Honor.

15 BY THE COURT:

16 THE COURT: All right. Thank you, sir. You can step
17 down.

18 MR. BLOOM: Your Honor, subject to conferring that our
19 exhibit tracker is consistent with what the court reporter has
20 into evidence, the plaintiff has no further witnesses and
21 would rest.

22 THE COURT: All right. Do you want to take time now to
23 make sure that your -- that the exhibits you believe you have
24 offered have been admitted before you formally rest?

25 MR. BLOOM: That is correct.

1 THE COURT: All right. Well, we're gonna take -- we're
2 gonna take a brief recess. If you could have one of the
3 bailiffs let me know when y'all are ready for me to come back
4 out.

5 MR. BLOOM: Yes, sir.

6 THE COURT: All right?

7 **RECESS - 3:52 P.M.**

8 *******OFF THE RECORD*******

9 **ON THE RECORD - 4:04 P.M.**

10 THE COURT: All right. Mr. Bloom, you've conferred with
11 Madame Court Reporter with regard to the plaintiff's exhibits?

12 MR. BLOOM: Yes, sir.

13 THE COURT: Is everything squared away?

14 MR. BLOOM: Yes, it is, Judge.

15 THE COURT: All right.

16 Ms. Golding?

17 MS. GOLDING: Thank you, Your Honor.

18 **MOTIONS:**

19 MS. GOLDING: Your Honor, at this time, on behalf of
20 Defendants, I would like to move for a judgment as a matter of
21 law as to the cause of action asserted by the plaintiff.

22 Your Honor, I'd like to divide it up into the significant
23 -- to procedural due process, substantive due process, and
24 then the inverse condemnation, and then Mr. Goggans's status
25 in the lawsuit. I think that's -- because the constitutional

1 analysis under state and federal are very similar with respect
2 to the procedural and the substantive of constitutionality of
3 Version 3.0.

4 And first of all, Your Honor, I would like to make sure
5 this Court notes the complaint contests the constitutionality
6 of Version 3.0. And the first thing it says that -- well, not
7 the first thing it says, but it states that procedurally the
8 process by which the County went through to amend Version 3.0
9 was defective. The first thing they tried to say was that the
10 application, Palmetto's application for Version 3.0
11 represented the second application by Palmetto for the same
12 parcel of property during a 12-month period. That is
13 inaccurate, Your Honor. Under Article XVII of the zoning
14 ordinance, the zoning ordinance is Exhibit Number 1,
15 Plaintiff's Exhibit Number 1, but the particular portions of
16 Plaintiff's Exhibit Number 1 are under Plaintiff's Exhibit 4,
17 excerpts are there. And with respect to the 12-month period,
18 the statute reads clearly that an action shall not be
19 initiated for a zoning amendment affecting the same parcel or
20 parcels of property or any part thereof, and requesting the
21 same change in district classification by a property owner.

22 As Ms. Richardson testified, the application did not seek
23 a change in district classification by the property owner.
24 Therefore, this 12-month window that is referenced in 1702.1
25 simply doesn't apply. And the only evidence, Your Honor, is

1 that it doesn't apply is from the testimony of Ms. Richardson.
2 Furthermore, the application itself shows there is no change
3 being sought in the district classification. And I have to
4 clarify -- I said the only evidence. When I say -- I meant to
5 say there's only one expert that testified about the zoning
6 interpretation of Georgetown. Mr. Bloom called her an expert,
7 and that was Ms. Richardson. Plaintiff has no one --
8 presented no one to contradict that had any qualifications as
9 Ms. Richardson had. That's the first item that is not
10 applicable.

11 Secondly, Plaintiff says Palmetto failed to submit its
12 application in proper form 45 days prior to the application
13 being considered. Ms. Richardson testified the proper form
14 was used. That is a form that was developed by her department
15 for amending PDs. It was completed properly. A complete
16 application was submitted. There was nothing left out of that
17 application that was -- made it incomplete. And therefore,
18 that provision, that basis that they are asserting is not
19 applicable. It says completed forms under 1702.2 together
20 with an application fee to cover administrative costs shall be
21 filed with the Planning Commission within 45 days. August 27,
22 and the Planning Commission was October 18, 2018. Clearly, it
23 was filed before 45 days.

24 The next states is that Plaintiff contends that Palmetto
25 failed to provide notice to all property owners within 400

1 feet of the impacted property. Actual notice was provided to
2 everyone, Your Honor. And I'd like to -- for the Court to
3 note in -- there is a state statute as well as a provision in
4 the zoning ordinance that states that substantial compliance
5 is sufficient in that the state statute specifically states
6 that as well as the zoning ordinance. There was substantial
7 compliance, Your Honor, with respect to notification.

8 Furthermore, the law specifically states that -- the
9 plaintiff doesn't even have standing to assert that someone
10 else didn't get notice. While we do not have a case directly
11 on point in the state of South Carolina, and we do have one
12 case that states -- that was done by Justice Toal with respect
13 to standing that provides that you cannot complain about
14 something that does not affect you. Plaintiff had notes,
15 there are two Georgia cases, *Oasis Goodtime Emporium, Inc. v.*
16 *City of Doraville* which stands for the proposition that you
17 cannot complain that someone else did not get notice. That is
18 297 Ga. 513, 773 S.C.2d 728. That's a 2015 case, Your Honor.
19 A second -- excuse me -- the second case is from Ohio. That's
20 the Court of Appeals of Ohio, Third District. It's in regard
21 *Single County Ditch*. The cite is 50 Ohio App. 2nd 114, 361
22 N.E.2d 1353. The same fact that an individual was attempting
23 to complain that someone else did not receive notice. An
24 applicant landowner has no standing to complain of lack of
25 notice to other landowners of a final hearing.

1 Next, of course, Palmetto states that we failed to submit
2 letters to nearby property owners notifying them. Again,
3 there is no standing on the part of the plaintiff to say that
4 other property owners did not receive communications or the
5 letters.

6 In the zoning ordinance, under Section 1702.208, it
7 states -- excuse me, I can't read too well, I'm sorry -- it
8 refers to the mailing to be in writing to the Planning
9 Commission to be certified by County Council. Then it states,
10 Failure to strictly comply with the notification criteria
11 established above as a result of circumstances beyond the
12 control of the Planning Commission or County Council shall not
13 render the rezoning of the property invalid.

14 There is also a state statute that states that
15 substantial compliance with respect to notice is -- will be
16 sufficient.

17 I believe those are the basis for the plaintiff's
18 allegation of procedural due process.

19 As to substantive due process, Your Honor, the
20 substantive due process is premised upon a property interest.
21 And Plaintiff's property interest is this nonexclusive
22 easement of parking which it shares. The testimony of Holly
23 Richardson and Boyd Johnson states -- they testified there's a
24 legitimate interest in conducting -- in constructing a safe
25 building that actually meets FEMA, ABA, and other building

1 codes, and allowing development and revitalization to occur.
2 The passage of the ordinance was rationally related to the
3 legitimate government interest. There was testimony that
4 public health, safety, and welfare were all considered.
5 Parking was also considered in the Planning Department, as the
6 evidence will show. But what's most important, Your Honor, is
7 with respect to the parking. The parking ordinance, Article
8 XI, specifically states it is not applicable to construction
9 that is not the initial construction nor a change in use.
10 Your Honor, this was not initial construction. This was
11 building another building, and there was no change in use.
12 So, the parking criteria in Article XI is simply not
13 applicable. The testimony from our Georgetown County Planning
14 and Zoning is clear that there was parking in the initial PD,
15 no changes to that parking were made, and that they followed
16 the parking requirements. The consideration of Article XI was
17 for guidance, and it was not mandatory as the plaintiff
18 attempts to assert.

19 Your Honor, the interpretation of the planning and zoning
20 must be given weight in this case. It is their interpretation
21 that Article XI that parking does not apply. That
22 interpretation is based upon the reasonable language of
23 Article XI, as well as the existence of a PD. We heard Mr.
24 Castles testify that you rely on the interpretation of the
25 Zoning Department. That is reasonable to do.

1 They're saying -- Plaintiff is saying that the actions of
2 the Zoning Department or arbitrary and capricious, and that
3 the County's adoption was arbitrary and capricious and shocks
4 the judicial conscience. The ordinance is valid at the very
5 least by examining the fairly debatable test. Plaintiff wants
6 to apply Article XI, but we have presented the evidence that
7 Article XI is a guidance in this situation since a PD exists.
8 It is -- a PD is for flexibility. So, certainly it is fairly
9 debatable. Therefore, there is nothing arbitrary and
10 capricious with respect to the County's adoption of this
11 ordinance.

12 The caselaw, for instance, like *Dunes West Golf Club*,
13 which has been mentioned a number of times. 737 S.E.2d 601,
14 stated it is not the function of the courts to pass upon the
15 wisdom or folly of the municipal ordinance or regulation. It
16 is clear that significant time and consideration went into the
17 passage not only of Version 3 but also Version 2, and there
18 can be no basis to state that substantive due process was
19 violated. There is no basis to say the actions were arbitrary
20 and capricious for the interpretation of the Zoning Department
21 clearly establishes that Article XI does not apply. It is the
22 propriety of the Council's decision is even fairly debatable.
23 If it's fairly debatable, this Court cannot inject its
24 judgment into the review of this decision but must leave that
25 decision undisturbed. That's in *Bear Enterprises v. City of*

1 *Greenville*, 319 S.C. 137, Court of Appeals 1995.

2 The law also states that the power to declare an
3 ordinance invalid because it is so unreasonable as to impair
4 or deny constitutional rights is one which must be exercised
5 very carefully and cautiously. And that is in *Rush v. City of*
6 *Greenville*, 264 S.C. 268 [sic].

7 Finally, with regard to the presumption of the validity
8 of this ordinance, it is clear that this Court must presume
9 that the ordinance is constitutional, because it is a
10 legislative enactment, and all legislative enactments are
11 presumed to be constitutional. With respect, Your Honor, to
12 the constitutionality of this ordinance, Plaintiff must show
13 by clear and convincing evidence it is unconstitutional. They
14 cannot -- they didn't even get close to preponderance of the
15 evidence, Your Honor, because Ms. Richardson, Mr. Johnson, and
16 Mr. Goggans all testified that there exists a valid basis in
17 the ordinance for the passage of this ordinance, parking,
18 Section XI does not apply, and that this ordinance is based on
19 the general welfare.

20 Your Honor, we solicited evidence with regard to there
21 was this -- excuse me -- the marina and restaurant -- marina
22 store and restaurant had been existing there for a long time.
23 There's no evidence that it had not. This restaurant had
24 seating capacity of 110. They are saying it didn't, but it's
25 the fact that it did. That was a fairly debatable issue.

1 Over three miles, for over at least three-and-a-half miles,
2 this PD had the only two restaurants, and the marina store,
3 and fuel facility. That's all. This PD had these two
4 restaurants operating, sharing the same parking place for over
5 30 years. Now, that Gulfstream, when Marlin Quay Restaurant
6 was demolished, it became the only restaurant. So, that is
7 the premise of this case. The general welfare and the good of
8 the community is being served by the existence of the two
9 restaurants on this PD along with the marina store.

10 Your Honor, there is also the issue of the failure to
11 appeal the passage of Version 2.0. Section 6-29-70 states
12 that you must challenge the ordinance within 60 days. It
13 specifically states no challenge to the adequacy of notice or
14 challenge to the validity of a regulatory map or amendment
15 to it, whether enacted before or after the effective date of
16 this section may be made 60 days after the decision of the
17 governing party, if there has been substantial compliance with
18 the notice requirements of this section and establish
19 procedures. We have shown that Version 2, Your Honor, had the
20 heated square footage, the seating occupancy, the 62 parking
21 places, and the 110 persons. Your Honor, Version 2 contained
22 everything that was -- that became Version 3.

23 So, as of February 2018, the law in Georgetown County,
24 the law was that this PD, the new structure, heated square
25 feet would not exceed 4,598. That was a year and several

1 months before this lawsuit started. The law was that the
2 seating capacity would be 110 people. The law was that there
3 were 62 parking spaces in this PD plus three compact spaces.
4 That was law a year and two months before this lawsuit
5 started. It should've been incumbent upon the plaintiff to
6 have appealed from the passage of Version 2 since Version 2
7 contained the exact provisions that they are complaining about
8 today. So, under Section 6-29-760, the failure of Plaintiff
9 to timely bring the lawsuit is a complete bar to its claims.

10 The next basis, Your Honor, is with respect to the taking
11 provision, the taking claim. The takings clause under the
12 Fifth Amendment of the U.S. Constitution states that the
13 government shall not take private property for public use
14 without just compensation. There is nothing in this lawsuit
15 that any property of Gulfstream was taken for public use.
16 There is no evidence, not even an argument that Plaintiff has
17 made that Version 3 results in a taking for public use. The
18 property at issue is a nonexclusive right to use the parking
19 lot with others. The ordinance does not prevent Plaintiff
20 from using the parking lot.

21 In the *Lupus* decision, there will be a taking if a
22 regulation of the use does not merely diminish property value
23 but leaves no economically viable use. So, that's the second
24 element. There has to be no economically viable use. There
25 has been no evidence that all use has been deprived. In fact,

1 all of the plaintiff's experts testified that they did not
2 receive financial information in preparing their reports. The
3 property is not for sale. And they all testified that this is
4 valuable property. And it's completely unimaginable that Mr.
5 Knight's testimony that this property is worth now \$89,000
6 because of the passage of ordinance Version 3. That's
7 incomprehensible, Your Honor. And that's premised upon a
8 complete loss of all parking.

9 Now, the regulatory taking under the *Penn Central* test is
10 the economic impact of the regulation, the interference with
11 investment by expectation, and the character of the government
12 action. The economic impact of the regulation, Plaintiff is
13 telling you that they have lost all parking, but we have
14 clearly established that there are many patrons that
15 Gulfstream Café has that are walk-ons or walk-ins, that they
16 have Uber'd, that they have busses delivered. So, even if
17 assuming that this Court believes that Gulfstream has no
18 parking of any kind ever again, seven days a week 24 hours a
19 day forever and ever, even assuming that, it still has a
20 viable economic existence. It still has patrons that have all
21 walk-ins. But, Your Honor, we all know that there is no way
22 that Gulfstream is gonna lose all parking 24 hours a day,
23 seven days a week.

24 The item next under *Penn* is interference with investment-
25 backed expectation. Plaintiff has presented no evidence

1 assuming all the parking has always been this much of an
2 issue. This cuts against the investment-backed expectation.
3 We have established that Gulfstream has not presented any of
4 its financial information. Gulfstream cannot present any
5 evidence of its expected financial-backed expectation, because
6 it presented none.

7 And then the character of the government action. The
8 government action is very clear in this case. There was an
9 existing initial building existing there 20-30 years providing
10 services to the public, services such as marina store, fuel,
11 and a bar and restaurant. All the government did was permit
12 that initial construction to be there again, a new building.
13 Didn't create anything new. It's the same use and the same
14 occupancy of 110 seating. I submit to you, Your Honor, that
15 Gulfstream, if it believes that there are more people sitting
16 in the Marlin Quay Restaurant than 110 seats, it will quickly
17 notify the Building and Zoning Department. Georgetown County
18 will be quickly notified if there is any excess of 110 seating
19 capacity. Therefore, Gulfstream can take that action, can
20 enforce it, can abide by it, and require Marlin Quay to abide
21 by it.

22 With the inverse condemnation claim, that's an inverse
23 condemnation occurs when a governmental agency commits a
24 taking of private property without exercising its formal
25 powers of eminent domain. There must be an affirmative

1 positive aggressive act on the part of the governmental
2 agency. There must be a taking. There must be a taking for
3 public use. Here again, nothing to that effect.

4 Your Honor, the final item, the final issue is with
5 Defendant, Steve Goggans. The Plaintiff's case is that
6 because he appeared before the Planning Board of Appeals in
7 February 2017, that is something that permeated everything and
8 permeated the Version 2 and Version 3 votes. There's
9 absolutely no evidence, Your Honor, that because Mr. Goggans
10 was a councilmember he in anyway influenced the votes of
11 Version 2 and Version 3. The existence of his company
12 becoming and continuing to be the architects is permissible.
13 It is permissible under the ethics code, and it permits
14 elected officials, employees, staff to appear before public
15 bodies, and that is set forth -- as set forth in Section --
16 Code Section 8-13-740. There is also, Your Honor, a -- an
17 ethics commission opinion that was issued with regard to a
18 County Councilmember's staff member. And this was with regard
19 -- it looks like with regard to Horry County, Your Honor. And
20 this was an ethics decision issued in January 17, 2007. In
21 that it said Horry County planners and plan reviewers reviewed
22 and approved sketches and plats, communicate with developers
23 and their engineering firms, make recommendations to Planning
24 Commission on major developments and projects. The Planning
25 Department staff and Planning Commission administer and

1 interpret the land development regulations and zoning
2 ordinance on a daily basis. In reviewing a major development
3 plan, the Planning Department staff regularly seek additional
4 information and clarification from engineering firm as they
5 shepherd the plan from submission to final approval. The
6 conclusion is that the information gathering and the request
7 for information by the County Planning Department is a
8 ministerial act and they are permitted to have communications
9 and contacts with councilmembers' businesses with their
10 employees. That is not an unethical act in any way. And the
11 continuance -- apparently, I believe the plaintiff is trying
12 to say because the SGA continued -- the firm continued to be
13 involved then that was in permissible. It was not. That is
14 permitted by the South Carolina Ethics Commission. And in
15 order to establish any type of improper conduct on Mr.
16 Goggans's part, there needs to be some evidence, and there is
17 none. It's suppositions. As I said in the opening, it's like
18 res ipsa loquitur, because it happened -- because something
19 passed, he must've influenced it improperly. That's not the
20 law. The Plaintiff has to prove that Mr. Goggans acted
21 improperly, improperly influenced the passage of Version 2 and
22 Version 3, and the record has no evidence to that effect.

23 I believe I've covered everything, Your Honor.

24 Thank you very much.

25 THE COURT: All right. Thank you, ma'am.

1 Mr. Bloom.

2 MR. BLOOM: Yes, Your Honor.

3 Well, Judge, I thought I heard that this was a motion for
4 judgment as a matter of law, but then I heard a half hour of
5 disputed evidence being argued and debated, which as we all
6 know does not a judgment for a matter of law make. The
7 standard, which I didn't hear offered, and I don't think Your
8 Honor needs to be reminded of it, but for the record the
9 standard on ruling on a judgment as a matter of law is if
10 there was no evidence. There needs -- we need only show a
11 mere scintilla of evidence in order to establish the defeat of
12 a judgment as a matter of law. And, Judge, I will spend the
13 next hour bringing you closing argument if you'd like, or I
14 can direct my attention at anything you think there is an
15 absence of evidence supporting one of the elements of one of
16 the causes of action in our case. I will do whatever the
17 Court thinks is necessary, but without any further direction,
18 I'll just go ahead and deal with all of the arguments that Ms.
19 Golding made despite the fact that 92 percent of them do not
20 allege a legal defect, nor do they establish an absence of
21 evidence offered during the plaintiff's affirmative case in
22 chief, not a single argument.

23 I know Your Honor suggested at the beginning of the case
24 that you were gonna take this under advisement. If you're
25 still inclined to do that, I won't waste our time for the next

1 hour. But, if you're not, I will, because I don't have a
2 choice but to address all of these points.

3 THE COURT: And Mr. Bloom, I certainly think you could
4 make a very good argument to rebut the positions that Ms.
5 Golding has made, but I think you're right. Rule 50 requires
6 the existence of evidence. I'm not to weigh the evidence in
7 making the determination.

8 And, Ms. Golding, respectfully, your arguments were
9 outstanding, but I think a lot of these or all of the
10 arguments on your motions for a directed verdict blend law and
11 fact and would require findings of fact by me.

12 So, rather than go through a line-by-line rebuttal from
13 Mr. Bloom, I do think, based upon what I've heard that a
14 factual analysis would be required by me to make any of these
15 findings that have been suggested by Ms. Golding in her motion
16 for a directed verdict, certainly, I'm not in a position to
17 weigh the evidence as of yet. I haven't heard the whole case.

18 So, respectfully, Ms. Golding, I'm gonna deny your
19 motions for directed verdict as to all causes of action.

20 And, I'm still of the opinion, Mr. Bloom, based on the
21 last three days that I am, regardless of what the defense
22 presents, I am likely to take this matter under advisement.
23 And it's certainly a lot to digest. And so...

24 MR. BLOOM: Thank you, Your Honor.

25 THE COURT: Yes, sir.

1 MS. GOLDING: Thank you, Your Honor.

2 Would you like me to call my first witness, Your Honor?

3 THE COURT: Assuming that witness can -- I don't want to
4 -- I will be -- I'm certainly willing to work past 5:00,
5 probably up till about 6:00.

6 MS. GOLDING: It will be a short witness.

7 THE COURT: Good deal.

8 MS. GOLDING: Thank you, Your Honor.

9 Judy Blankenship.

10 JUDY BLANKENSHIP, HAVING BEEN DULY SWORN,
11 TESTIFIED AS FOLLOWS:

12 THE CLERK: Thank you. Please be seated. State and
13 spell your first name.

14 MS. BLANKENSHIP: My name is Judy Blankenship, J-U-D-Y,
15 B-L-A-N-K-E-N-S-H-I-P.

16 DIRECT EXAMINATION OF JUDY BLANKENSHIP BY MS. GOLDING:

17 Q: Good afternoon Ms. Blankenship. Can you tell us your
18 full name?

19 A: Judy E. Blankenship.

20 Q: And where do you reside, Ms. Blankenship?

21 A: 307 Sanctuary Court, Myrtle Beach, South Carolina 29588.

22 Q: And where are you currently employed?

23 A: Georgetown County Planning.

24 Q: And what is your educational background?

25 A: I have a Bachelor in business administration.

1 Q: And in working with Georgetown County, what is your
2 position?

3 A: I'm a senior planner.

4 Q: How long have you been a senior planner?

5 A: For about two and a half years now.

6 Q: And was the job of the senior planner?

7 A: I review plats; I reviewed applications for subdivisions
8 for planned developments, for rezonings, conference of plan
9 elements.

10 Q: And before you were senior planner, were you employed
11 with the County?

12 A: Yes, ma'am.

13 Q: And what was your job?

14 A: I was a planner II.

15 Q: Okay. And what does a planner II do?

16 A: Pretty much the same thing.

17 Q: Same thing as a senior planner?

18 A: Yes. I just have more responsibility with the senior
19 planner.

20 Q: Okay. Now, we're here today in this lawsuit about an
21 application to amend that was filed, submitted to the Planning
22 Department on August 27, 2018. And I believe that application
23 is -- let me point it out to you -- is Exhibit -- Plaintiff's
24 Exhibit 20. Do you see all those big books in front of you?

25 A: Yes, ma'am.

1 Q: Do you see Plaintiff's Exhibit 20? Maybe I can give you
2 this copy in my book.

3 A: It must be in the other book.

4 Q: Okay. Let me show you what's been introduced as
5 Plaintiff's Exhibit Number 20. Do you recognize that
6 document?

7 A: Yes, ma'am.

8 Q: Okay. In Plaintiff's Exhibit Number 20, what was your
9 involvement with respect to that application?

10 A: I made the maps for the -- location maps for the
11 property, adjacent property notices, and I sent the
12 advertisement to the papers.

13 Q: Okay. And when you say you created the advertisement,
14 what was the advertisement that you created?

15 A: It was an advertisement of notice to the ad to pretty
16 much to say what the applicant was applying for, the case
17 number, and the location.

18 Q: And is that customary standard in your department?

19 A: Yes.

20 Q: Okay. I'm gonna give you several exhibits. The first
21 exhibit will be Defendants' Exhibit Number 12. And this is an
22 email from you dated September 24, 2018. Can you identify
23 that email, please?

24 A: Yes. It's an ad to the papers with -- actually, an
25 attachment was attached to the actual ad was attached.

1 Q: And does this advertise -- this email that you sent out
2 relate to the notice of the public that was sent out for the
3 Planning Commission on October 18, 2018?

4 A: Yes, it is.

5 Q: And is this your email that you sent to Georgetown Times
6 and Coastal Observer?

7 A: Yes, it is.

8 Q: Okay.

9 MS. GOLDING: Your Honor, we would offer Defendants'
10 Exhibit 12 into evidence.

11 MR. BLOOM: No objection.

12 THE COURT: Defendants 12 is admitted without objection.

13 DEFENDANTS' EXHIBIT NUMBER 12

14 ADMITTED INTO EVIDENCE

15 BY MS. GOLDING:

16 Q: Okay. Next, I'm gonna ask you to look at Defendants'
17 Exhibit Number 13. I'm gonna give you this. Can you identify
18 Defendants' Exhibit 13, please?

19 A: Yes.

20 Q: And what is Exhibit 13?

21 A: It is actually the notice that was placed in the paper.

22 Q: Okay. And is that the advertisement that you caused to
23 be placed in the paper?

24 A: Yes, it is.

25 Q: Okay.

1 MS. GOLDING: Your Honor, we would offer Defendants'
2 Exhibit 13 into evidence.

3 MR. BLOOM: No objection.

4 THE COURT: Defendants 13 is admitted without objection.

5 DEFENDANTS' EXHIBIT NUMBER 13

6 ADMITTED INTO EVIDENCE

7 BY MS. GOLDING:

8 Q: Let me next hand you Defendants' Exhibit Number 14. Can
9 you identify Exhibit 14, please?

10 A: Yes. It's the ad; the same ad.

11 Q: Okay. And is that with another newspaper?

12 A: This is with the Coastal Observer.

13 Q: Okay. And for advertising the public hearing on October
14 18, 2018?

15 A: Yes, it is.

16 Q: Okay.

17 MS. GOLDING: Your Honor, we would offer Defendants'
18 Exhibit 14 into evidence.

19 MR. BLOOM: No objection.

20 THE COURT: 14 is admitted without objection.

21 DEFENDANTS' EXHIBIT NUMBER 14

22 ADMITTED INTO EVIDENCE

23 BY MS. GOLDING:

24 Q: I want to ask you to look at what is marked as
25 Defendants' Exhibit Number 18. And I'm gonna ask you to

1 identify Defendants' Exhibit Number 18. Please identify
2 Exhibit Number 18?

3 A: Yes. It looks like it is the packet to -- the actual
4 October Planning Commission packet to the paper.

5 Q: Okay. Is this Number 18, is this the October 12th, 2018
6 ticket from you for posting the October 18, 2018 Planning
7 Commission meeting on the County's website?

8 A: Yes, it is.

9 Q: Okay.

10 MS. GOLDING: Your Honor, we would offer Exhibit 18 into
11 evidence.

12 MR. BLOOM: No objection.

13 THE COURT: 18 is admitted without objection.

14 DEFENDANTS' EXHIBIT NUMBER 18

15 ADMITTED INTO EVIDENCE

16 BY MS. GOLDING:

17 Q: With respect to the advertisements that you had posted in
18 the two newspapers, were those advertisements published in
19 both newspapers at least 15 days before the Planning
20 Commission meeting?

21 A: Yes, it was.

22 Q: Okay. And did you attend the Planning Commission meeting
23 on October 18, 2018?

24 A: Yes, I did.

25 Q: Okay. With respect to the mailing of the notice, of

1 mailing of letters to property owners within 400 feet, what
2 involvement if any did you have that?
3 A: The only involvement I had was to make the location map
4 that went along with the notice.
5 Q: And how did you make the location map?
6 A: Using a GIS software called ArcGIS.
7 Q Okay. Is that based upon tax information?
8 A: Yes, ma'am. The data is directly from our GIS system.
9 Q: Okay. And that GIS map, is that part of -- that's
10 utilized in the notice that is sent to the property owners?
11 A: Yes, it is.
12 Q: Okay. And did you prepare spreadsheet showing the
13 property owners within 400 feet?
14 A: No. I did not.
15 Q: Okay. And who prepared spreadsheet?
16 A: That would've been Tiffany Coleman.
17 Q: Now, with respect to the envelopes that were delivered
18 with the application, did you see these envelopes?
19 A: I can't recall. I'm sure I did.
20 Q: Okay. Do you know if there was a list delivered with the
21 envelopes?
22 A: There -- yes, there should've been.
23 Q: Okay. If the applicant did not provide the appropriate
24 envelopes to the department, what would you normally do?
25 A: Tiffany would call the applicant and request additional

1 envelopes.

2 Q: Okay. I have no further questions.

3 Thank you, Your Honor.

4 THE COURT: All right. You can step down. Thank you.

5 And just for the record, Mr. Bloom shook his head and
6 declined any cross-examination of this witness.

7 MS. GOLDING: Your Honor, I told you the witness would be
8 short.

9 THE COURT: And I'm assuming by the way you said that
10 your next one might not be as short; is that correct?

11 MS. GOLDING: That's correct, Your Honor.

12 BY THE COURT:

13 THE COURT: All right. Well, it is a good time for us to
14 break for the evening. And so, we'll start back tomorrow
15 morning at 9:00.

16 MR. BLOOM: May I ask for Defendants' witnesses for
17 tomorrow?

18 MS. GOLDING: Tiffany Coleman, Travis Avant, Nancy
19 Gardner.

20 THE COURT: Okay.

21 MR. BLOOM: Judge, do you have a -- any thoughts yet -- I
22 won't hold you to them yet, but do you have any thoughts about
23 your preference with respect to providing oral closings and or
24 post-trial briefing?

25 THE COURT: I prefer post-trial briefing. It -- since it

1 takes -- since it's gonna take a while, you know, I won't have
2 next week to devote to -- I'll be in another courtroom holding
3 PCRs next week. It -- I find that it helps me in cases where
4 I am sitting as the finder of fact to give the attorneys an
5 appropriate amount of time to submit any post-trial
6 brief/closings. I think it's better for y'all. You have time
7 to gather your thoughts and make a clear and hopefully within
8 reason concise argument to the Court. That's what I prefer.

9 Mr. Bloom, do you have any -- I saw the way Ms. Golding
10 reacted. I think that would be her preference. What do you
11 -- what's your position?

12 MR. BLOOM: I'd suggest a hybrid. I definitely think
13 that post-trial briefings in a bench trial, particularly with
14 the issues at hand here and the amount of evidence and
15 testimony Your Honor will have to consider would be wise. In
16 addition, I would like the Court to consider allowing the
17 option to both counsel to provide no more than 30 minutes, no
18 more than 30 minutes, of closing, if you -- again, as long as
19 you are okay with that, if we stay under 30 minutes.

20 THE COURT: Yeah. I'm fine with that. My biggest thing
21 is it makes it -- it makes my job much easier if I have
22 submissions, but if you want the opportunity to close, I'm
23 certainly willing to listen to a summation and then, you know,
24 make an additional submission posttrial, that's certainly fine
25 with me.

1 MR. BLOOM: And then, Judge, with respect to the timing
2 -- since we have a few minutes, I'd like to try and cover some
3 of this because we all want to leave tomorrow afternoon, I
4 think. So, we might as well cover it now.

5 Most of the time an effective posttrial briefing requires
6 a transcript. So, this question now goes to the lady that's
7 been working so hard in front of us to tell us when she thinks
8 the transcript will be available, and that will help us inform
9 the Court as to when we think we can get posttrial briefing
10 back into Your Honor's hands.

11 MS. GOLDING: I disagree, Your Honor. We don't need a
12 transcript.

13 MR. BLOOM: We do.

14 MS. GOLDING: All we're doing is adding more expense.
15 This is not a case where we've got a rich County or rich
16 insurance company. You know, all we've been doing is adding
17 more and more expenses and a transcript is simply not
18 necessary.

19 THE COURT: I'll -- let me do this, I'll think about that
20 overnight and we can revisit -- I appreciate you bringing that
21 to my attention, Mr. Bloom, but I want the opportunity to
22 think about that. I don't know that I've ever had that
23 request made to me in any bench trial I have ever conducted.
24 So, I want to take a little bit of time to mull that over.
25 But we'll cover that before we adjourned, Mr. Bloom.

1 MR. BLOOM: And, Judge, while you're thinking about that,
2 I'd offer -- this has nothing to do with who is rich and who
3 is not rich. This has to do with in order to be able to point
4 out to Your Honor -- I'm sure that Your Honor and staff have
5 taken copious notes throughout the last three days. I don't
6 doubt that for a second. But in order to debate the evidence
7 and to debate the testimony, we need to be able to point to
8 the testimony, and the only way you will have competent --
9 other than your notes, which is not evidence, but the only way
10 you will have a competent submission of the evidence is if
11 there is a transcript. And so, that's why I asked for a
12 transcript in posttrial briefing in every land use bench trial
13 is for that exact reason. We don't have the benefit of being
14 able to do that with the jury, but I know Your Honor wants to
15 get it right. And the best way to get it right is to have
16 access to the transcript. Not that I expect you to read it
17 from cover to cover, but my job is to point out to you the
18 important parts of that transcript so as to support our
19 position, and I don't think that is a remarkable request.

20 THE COURT: Understood.

21 Ms. Golding, I know you listed the witnesses you expect
22 to call, what would those be the witness -- all the witnesses
23 you intend to call?

24 MS. GOLDING: I may call one more. I have not made a
25 final decision on that, Your Honor.

1 THE COURT: Okay.

2 MS. GOLDING: Sorry.

3 THE COURT: No. I'm not trying to pressure you for an
4 absolute answer, I'm just trying to figure out the plan
5 tomorrow. And again, like I said before, I would like to
6 adjourn tomorrow afternoon, but if were not finished, were not
7 finished, and we will resume Friday morning. All right?

8 MR. BLOOM: Judge, I'd like to know who this potential
9 mystery witness is. We are not holding her to having to call
10 the witness, but I'd like to know who it is.

11 MS. GOLDING: I prefer, Your Honor, at this time, I have
12 not made a decision; I don't know.

13 MR. BLOOM: Judge, either there is an existing person in
14 the world that is being considered as a witness or there
15 isn't. The disclosure of the name does not require her to
16 call the witness, but it does -- we've had an agreement since
17 Monday morning to disclose potential witnesses for the next
18 day. And what I hear is an attempt to back away from that
19 agreement.

20 MS. GOLDING: I don't back away from agreements, Your
21 Honor.

22 MR. BLOOM: Well, the record will reflect otherwise.

23 MS. GOLDING: I'll let Mr. Bloom know.

24 THE COURT: Well, just ---

25 MR. BLOOM: The long record will reflect otherwise.

1 THE COURT: Just ---

2 MS. GOLDING: I don't need -- I don't need personal
3 attacks from Mr. Bloom.

4 THE COURT: No, I'm not interested in that. But if you
5 know the name of the person that you may or may not call, I
6 think you should share it with Mr. Bloom.

7 MS. GOLDING: Certainly. I'm gonna call the CEO.
8 There's a possibility the CEO will be called as a witness.

9 THE COURT: Mr. Van Brunt; is that right?

10 MR. BLOOM: No problem.

11 THE COURT: All right.

12 Anything else before we break for the evening?

13 MS. GOLDING: That'll be it, Your Honor.

14 MR. BLOOM: The CEO.

15 THE COURT: All right. We'll be back.

16 MS. GOLDING: See, there again, Your Honor, he's again
17 mocking. I just don't understand why he's mocking ---

18 THE COURT: Let's keep it professional, folks.

19 We will be in recess until 9:00 a.m. tomorrow.

20 MS. GOLDING: Thank you, Your Honor.

21 THE COURT: All right.

22 **RECESS - 4:57 P.M. - END OF DAY THREE**

23 *****OFF THE RECORD*****

24 **SEPTEMBER 1, 2022 - DAY FOUR**

25 **ON THE RECORD - 9:07 A.M.**

1 THE COURT: Ms. Golding, you ready to call your next
2 witness?

3 MS. GOLDING: Yes, sir, Your Honor.

4 First of all, I would like to know if the Court would
5 take judicial notice of Defendants' Exhibits Number 24, which
6 is Plaintiff's motion to alter and amend the judgment that was
7 filed in Civil Action 2016-CP-22-961.

8 MR. BLOOM: I think that's the motion that succeeds the
9 jury verdict and judge injunction in the Palmetto injunction
10 case. And if Your Honor is not going to admit or take
11 judicial notice of that verdict and that following order, then
12 why would the motion to amend and/or ruling on that be at all
13 relevant. And I would submit that if you're gonna take that
14 in, then you ought to also take in the rest. But Your Honor
15 has already observed that you didn't think that that was
16 terribly probative of what happens in this case.

17 MS. GOLDING: The only reason, Your Honor, is that one
18 ground that the plaintiff had -- and this is post Judge John
19 granting the injunction, and then he amended the injunction.
20 This is the basis for the amendment of the injunction. One of
21 the grounds that they sought and sought throughout the whole
22 case was to prohibit the defendant, Palmetto Industrial
23 Development, from operating a restaurant that serves dinner in
24 the evening. That was not granted and, therefore, we have a
25 defense, not res judicata but collateral estoppel, preclusion

1 of issues, and it just goes to that ground, Your Honor.

2 THE COURT: All right. So, Mr. Bloom, your argument is
3 if I take judicial notice of that, you want me to take
4 judicial notice of the underlying jury verdict? Is that ---

5 MR. BLOOM: Yes.

6 THE COURT: It's been a while; we've covered a lot of
7 ground since then.

8 MR. BLOOM: We have. The answer is yes, and this order
9 is not relevant to this case at all. This order regarding
10 what Judge John enjoined or didn't enjoin after the jury
11 verdict with respect to the rights under easement have nothing
12 to do with zoning.

13 THE COURT: I understand, but -- I'll take them both
14 under -- or take judicial notice of both the jury verdict and
15 the document that Ms. Golding just referenced.

16 MS. GOLDING: Thank you, Your Honor.

17 THE COURT: That was Defendants' ---

18 MS. GOLDING: That's Defendants' Exhibit Number 24, Your
19 Honor.

20 THE COURT: All right. Thank you, ma'am.

21 MS. GOLDING: I'm gonna hand this to the court reporter.
22 I took it out of the packet.

23 COURT REPORTER: So, do we mark this for identification
24 or ---

25 THE COURT: That'll be in. I'm taking judicial notice of

1 it, so that is admitted.

2 DEFENDANTS' EXHIBIT NUMBER 24

3 ADMITTED INTO EVIDENCE

4 MS. GOLDING: Then, Your Honor, and that is Defendants'
5 case. We rest now.

6 THE COURT: All right. Let's talk -- we had briefly
7 discussed the fact that we all thought it would be a good idea
8 to have post-hearing briefs done. I am certainly willing to
9 entertain closing arguments today in addition to the post-
10 trial briefs, but I would assume, Mr. Bloom, that you're
11 caught at least a little by surprise by the defense resting at
12 this point. Are you ready to go forward into summation or do
13 y'all need a few minutes?

14 MR. BLOOM: No, sir. I'm ready. It seems like you don't
15 have to leave until 4:00, so I've got like six hours.

16 THE COURT: Well, I usually don't cut lawyers off in
17 closing, but if we're -- if we're still here at 4 o'clock and
18 I'm listening to closings, I'm probably gonna try to cut you
19 off at least once by then.

20 MR. BLOOM: Not a problem, Your Honor.

21 THE COURT: All right.

22 MR. BLOOM: Judge, will you allow me to close and then
23 reply?

24 THE COURT: Yes. I think I had this issue come up two
25 weeks ago in a civil case. I think there's a footnote in

1 *State v. Beatty*, which is a criminal case obviously but I
2 believe that footnote establishes the procedure in civil court
3 is still the plaintiff closes, defense, and then the plaintiff
4 has an opportunity to reply regardless of who puts -- the
5 reason it came up is I had a defense case that -- a case where
6 the defense didn't put up any evidence and we had to argue
7 about it a little while, but so I think you get to go twice.

8 MR. BLOOM: Thank you, Judge. And don't interpret that
9 as me wanting to take up more time.

10 THE COURT: No. I -- take all the time you need.

11 MR. BLOOM: Thank you, Your Honor.

12 May it please the Court?

13 THE COURT: Yes, sir.

14 CLOSING BY MR. BLOOM:

15 MR. BLOOM: My name is Simon Bloom, and I am reminded of
16 probably the most formative year of my professional career was
17 serving as a law clerk for a federal judge in Anniston,
18 Alabama. His name was Robert Propst. He was a senior judge
19 at the time. He was from a small town called Ohatchee,
20 Alabama, which was nothing more than a post office and a
21 really good catfish diner. And Judge Propst had -- if you
22 could see -- rest in peace, but if you could see Judge Propst
23 you can imagine a guy who was probably 6'5", and he kind of
24 looked like the uncle in the Munsters. He was quiet, and he
25 was probably one of the most brilliant legal minds I have ever

1 encountered. And with the brilliance that he brought to the
2 bench was not vocal. He was very quiet. He didn't say a lot.
3 He didn't ask a lot of questions. But what he -- he graduated
4 first in his class at the University of Alabama undergrad,
5 first in his class at Alabama Law, first in his class in the
6 Army, and he was on the bench for 40 years. And I -- for the
7 first -- I'm embarrassed to say, but for the first three
8 months of my clerkship, he called me Solomon. Not because he
9 thought I was Solomonic, but because he couldn't remember my
10 first name. And his secretary at the time, Linda, finally got
11 up the courage to tell him, no, Judge, his name is Simon. And
12 the Judge, of course, said, well that's what I've been calling
13 him the entire time. Well, the thing that I made -- we had
14 the kind of relationship where I could joke with him, and I
15 nicknamed him Crap Man. And that's -- doesn't sound like a
16 very flattering name, but I got him shirt with a big C on it
17 like a superman shirt. And the reason that I called him that
18 is because this guy could sit on the bench with the top
19 lawyers from around the country, flying into the Northern
20 District of Alabama, litigating antitrust cases, the most
21 complex RICO cases, the most complex business cases with
22 thousands and thousands of pages, and days and weeks of
23 testimony, and he could cut through all of the crap and get to
24 the core. Now, I would watch, I'd sit right there, I'd watch
25 all full courtroom of 20 lawyers on both sides, and all the

1 paper and technology, and he wouldn't say a word, except for
2 when he was ruling. And then, he would ask one question in
3 the course of that case that would let everybody know that he
4 had cut through everything and got the gravamen of the case
5 with one question.

6 And I submit to this Court that you're gonna be able to
7 do that if you haven't already, because when you cut through
8 all of the histrionics and the drama and the passion and the
9 volume, you will come to one core conclusion. And that is the
10 bottom line is that the people that were on the ground in 2016
11 found a way to allow Palmetto to build what they wanted to
12 build by ignoring their own code and by ignoring their own
13 rules. And I submit that it goes all the way back to the
14 initial meetings between Mr. Goggans and his team and Mr. Boyd
15 Johnson and his team, where they arrived at this critical,
16 quote/unquote, interpretation. You remember the exhibits that
17 we went through where Mr. Goggans is bragging about getting a
18 good interpretation. And that critical interpretation was
19 that they were going to count only the heated square footage
20 of the new building when comparing it to the old. My apples-
21 to-oranges and apples-to-apples subplot throughout this entire
22 case. Think about that. It's so easy if you accept that
23 premise to defend retrospectively what was done, which is what
24 they've had to do. Make no mistake, I don't think anybody got
25 paid off, I don't think there's any evidence of coercion, I

1 don't think Steve Goggans walked in there pounding his chest
2 saying you better do this or I'm not gonna give you a raise; I
3 don't think that happened. I don't think anyone did anything
4 with that kind of strident approach, but I do think that
5 implicit in the entire negotiations in 2016 between Mr.
6 Goggans and his employees at the County, because they were,
7 they resulted in a complete distortion and ignoring and in
8 disregard of their own code. That should be clear as day by
9 now in this case. That in and of itself, Your Honor, is
10 arbitrary and capricious. By definition, when you have a code
11 that says A, B, C, and you do X, Y, Z, you have acted in an
12 arbitrary and capricious way. And a piece of legislation like
13 this ordinance that gets passed on the premise of that
14 fundamental misnomer is by definition arbitrary and
15 capricious. The logic or lack of logic becomes apparent as we
16 look back at this. The reason that they had to use this
17 apples-to-oranges comparison was because if they truly
18 compared apples to apples, like their code required --
19 remember GFA, gross floor area, and outdoor seating. If they
20 compared that in the before to that in the after, everybody
21 would see, as we see now, that these are two completely
22 different buildings. One -- pull up the elevations, please --
23 one building -- I know you seen all this before. There's a
24 one-and-a-half square foot -- I'm sorry -- one and a half
25 story, 4600 square feet of total square footage building. The

1 other as you saw in the elevations of 3.0, and that should be
2 coming up on your screen now -- is it up, Judge?

3 THE COURT: It's working on it. It had a connection.

4 MR. BLOOM: You know what it looks like. The other is a
5 hulking 13,000 square-foot building, a building that contained
6 over 7,000 square feet of heated and unheated, and over 5,000
7 square feet of deck space used for outdoor seating. The only
8 way they could say with a straight face that we weren't
9 increasing the size of the building is to say we weren't
10 increasing the heated square footage of the building. And you
11 remember the testimony, we went over it over and over again.
12 There's nothing in their code that distinguishes between
13 heated and unheated when calculating parking. There are two
14 things you look at, gross floor area, which everybody agrees
15 is the space inside the walls, and outdoor seating, which
16 everybody agrees is the square footage of the outdoor seating
17 area, not the number of seats.

18 Getting that interpretation from the very beginning, that
19 Goggans got from the planning staff, is what infected the
20 entire process that led to the passage of 3.0. They never
21 revisited it, which still to this day is shocking to me,
22 because the building between 1.0 and 2.0 changed quite a bit.
23 And so, I never understood why they didn't revisit the
24 calculations when they went from 1.0 to 2.0, let alone when
25 they went from 2.0 to 3.0, but they never did. They just --

1 you saw in Exhibit 35, their staff report, they just stuck
2 with this idea -- they stuck with this idea that there was
3 4600 square feet in the before, the old building; and the new
4 building only had 45-something square feet of heated space.
5 That is the kind of cognitive dissonance akin to putting your
6 head in the sand or hands over your ears and saying I know my
7 code says I need to compare apples to apples, but I'm gonna
8 tell you I'm comparing apples to apples when I'm really not,
9 and the planning council is not gonna know any better, and the
10 County Council is not gonna know any better because they rely
11 on the professionals in the Planning Department to tell them
12 the truth.

13 And whether you believe that they believed it was the
14 truth, it's really not even important, Judge. You don't have
15 to find that Richardson and Johnson intended to deceive the
16 Council to find that the decision by the Council was arbitrary
17 and capricious. You need only find that it was wrong.

18 And let me add another thing, even if you find -- even if
19 you find for some reason that they were permitted to compare
20 apples to apples, while ignoring the obvious truth that it was
21 one-and-a-half and 4500 feet versus four stories and 13,000
22 feet. Even if you think they can technically somehow stick
23 that round peg into the square hole, or vice versa, you get to
24 apply common sense. The doctrine of arbitrary and capricious
25 review and substantive due process caselaw allows you to look

1 at a decision by a legislative body to determine whether it
2 was rational. You basically get to look at the facts on the
3 ground and assess the decision in the ordinance to determine
4 whether it was rational.

5 And I would submit to this Court -- well, I'll get to it
6 in a second. I will submit to this Court even if there is
7 some way they can say it was justified in interpreting the
8 code the way they did, you can -- you are empowered with the
9 most important tool of law is the trier of fact, and that is
10 your common sense. Is it -- you can't possibly think that
11 adding a 13,000 square-foot building with double the
12 restaurant space -- and actually, it was more like three or
13 four times the restaurant space, because if you remember,
14 Judge, there was testimony from that early 2015 email where
15 Victoria is telling Holly that the restaurant in the before
16 was only 1957 feet, and the evidence in 3.0 is that the
17 restaurant in the after is closer to 7,000 or 8,000 square
18 feet. But even if for some reason you say, ah, they got a
19 good enough reason to distort the code and come up with the
20 ordinance, you are allowed to look at it with common sense and
21 see, wait a minute, your code says that you've got to have a
22 space for every hundred square foot of restaurant whether it's
23 heated or unheated, and you've got to have the space for every
24 150 square-foot of outdoor seating area, which is necessarily
25 unheated, and that's a lot more seats than you needed in the

1 before. But they found a way to basically skirt those rules.

2 Judge, let me be really clear about something, Gulfstream
3 doesn't care if there's a restaurant on that space. Well,
4 they care because their parking stinks already; so, they care.
5 And I would not probably be here if they were truly building a
6 4600 square-foot building. We'd have a really soft case if
7 that were the case. I think it would still be a case, but it
8 wouldn't be the case that we have now. If it were a true
9 apples-to-apples comparison, we'd have problems with our case.
10 But that's not what happened here. They didn't replace, as
11 they tried to say to Your Honor, they didn't replace the old
12 building with a like building. They replaced the old building
13 with a building two to three times the size with seven to
14 eight times the capacity. They want to hide from the fire
15 marshal's capacity code. But here again, you get to use your
16 common sense. All the planning professionals know and knew at
17 the time in 2016 all the way through 2019 that the capacity
18 for this building was going to be 350-plus people. You can't
19 simply put your head in the sand and ignore that fact that
20 whether there's enough seats, whether there is 110 seats, or
21 50 seats, or no seats, if you're allowed to have 350 people in
22 the building by all code, the zoning code, and the fire code,
23 and the building code, you're allowed to have that many
24 people, some of them are gonna drive. I don't know if all of
25 them are gonna drive, or 10 of them are gonna drive, but you

1 can apply your common sense to see that it was not a good idea
2 to allow this building to be built at the size and the scope
3 and the composition that was being approved in 3.0. Plain and
4 simple, on their own ordinance that required too many parking
5 spaces they didn't have, and on their own ordinance that
6 allowed too many people to be there where they did not have
7 sufficient parking.

8 So, once you start with that premise in 2016, -- excuse
9 me -- that were not gonna count anything in the new building
10 other than heated square footage, the patient is dead. The
11 patient is dead on arrival and remains dead for the next four
12 years, and that's why we're here. There code required -- you
13 saw that mandatory language throughout the code in Article XI,
14 1100, 1101, 1102. Over and over and over again, their parking
15 code required that you do these counts. This was not a gray
16 area like Ms. Richardson testified. You might remember that,
17 that little debate. There's nothing gray about it; it's math.
18 The one thing in life that is not gray is math. And I'm no
19 math genius but I can multiply and divide, barely. But when
20 we do the math, you see, Judge, that their parking ordinance
21 required 170 spaces by her count, 140 or 50 by Castles' count.
22 It wasn't gray. It is the epitome of arbitrary and capricious
23 to ignore your own code. It is the epitome of arbitrary and
24 capricious to make up terms that don't exist in your code,
25 like heated versus unheated. And so, while it's true that the

1 4600 -- a 4600 square-foot building if it was built or
2 approved at the Marlin Quay site might've required 30 or 35
3 spaces. That's not what they built, and that's not what they
4 had approved.

5 So, once those interpretations, as Mr. Goggans called
6 them were solidified -- and there's actually an email,
7 interestingly, where Goggans says I want to get Holly to
8 reduce this into writing. We've had verbal discussions about
9 this interpretation, but I want it in writing, which makes
10 sense, so that you can go and do your plans based upon that
11 written interpretation. I would submit it also makes sense
12 because you just had a major, major victory. You just hit a
13 grand slam homerun. You got your client a 13,000 square foot
14 building when the code would only permit at best a 4600 square
15 foot building. And it was clear to everybody, including Mr.
16 Goggans, that that's what Mr. Lawhon wanted. He wanted as big
17 a building as he could put there for as much space as he could
18 put there, as much deck space, as many seats as he could get
19 for obvious reasons. He wanted to maximize -- he wanted to
20 maximize his return. There's nothing remarkable about that.
21 That major victory that Goggans got for his client, we know
22 was a major victory. Why? Because he asked for more money
23 after he got it. Exhibit 8. He has these victories in his
24 negotiations with his friends in the Planning Department. He
25 brags -- ah, that's maybe too strong a term -- he highlights

1 the fact that he secured these victories from his friends in
2 the Planning Department, and then goes back to his client and
3 says I think I'm entitled to 72 grand more money. He wasn't
4 shy about it back then. He was shy about it on the stand, but
5 he certainly wasn't shy about it back then. And again, this
6 is not making Mr. Goggans a bad man; that is not what we're
7 here to say. But it confirms what I am telling this Court
8 which is securing the interpretation of ignoring unheated
9 square footage and ignoring outdoor seating area was a major
10 victory because it got the County to ignore its own code. And
11 for some reason again, he admitted and confirmed -- Mr.
12 Goggans did, on the stand that once that -- remember he used
13 the word parameter of the project was established, it was
14 never revisited. So, that parameter or apples to oranges,
15 that they called apples to apples of 4600 feet of total space
16 for the before versus 4600 feet of heated space in 3.0, never
17 got revisited, never changed. And you see it in Exhibit 35,
18 where the planning staff report talks about it. That's -- we
19 wrangled about that information, Judge. If you remember
20 Judge, in .2 and .3 of that staff report, they say in the
21 staff report it was 4600 total feet in the before, and in the
22 after, it's gonna be actually less than 4600 total heated
23 square feet.

24 Please pay close attention to those details when you're
25 reviewing this, Judge. I know we've beat that horse over and

1 over again, but I submit it's probably the most important part
2 of this case. And understanding their explanation now drives
3 my point home, because their explanations now are just silly.
4 They are not grounded in land-use, they are not grounded in
5 their own code, and they defy common sense.

6 And listen, Judge, I sympathize, I sympathize with Holly
7 Richardson and Boyd Johnson, who is retired and hopefully
8 fishing and playing golf. I sympathize with him having to
9 deal with this. These are decisions that they were encouraged
10 to make six years ago, and they have to huddle up with lawyers
11 and now come up with a way to defend those decisions.

12 So, let's look at how they defended their distortion and
13 ignoring of the code. Number one, you will recall the
14 testimony from Ms. Richardson where she said Article XI was a
15 guide. Article XI was of -- I think Johnson said it was a
16 tool or a consideration. Judge, that is just, according to
17 this technical term, poppycock. There was nothing in the code
18 that says that Article XI is optional. There is -- and they
19 admitted that. There's nothing in the code that says Article
20 XI is a guide or tool. Article XI contains the parking
21 requirements and the design to benefit the public health,
22 safety, and welfare. That is what the code and the law of the
23 land requires. It requires 100 -- it requires one space for
24 every 100 in the restaurant, and one space for every 150 of
25 outdoor seating area. It requires it. It doesn't suggest it.

1 And for them to say now that it was a guide is belied by
2 everything that they wrote and said and did in 2016. And I
3 implore Your Honor to go back to those emails. Don't listen
4 to what we say they meant. Look at what they said, and did,
5 and meant. They said that these are parking requirements.
6 Johnson said do a parking study. Patrick Williams did a
7 parking study in Exhibit 7 where he said and used Article XI,
8 150 for one, and 100 for one, 200 for one. They all treated
9 the parking code in Article 11 as the gospel. Then is the
10 best indication of what they thought the rules were. Now the
11 lawyers can say whatever they want, and people can say
12 whatever they want. Look at what they said and did then. The
13 planning staff, remember when Holly said it can't be any
14 bigger than 4600 feet; and don't forget, if you include
15 outdoor decking or outdoor seating, you're gonna need more
16 parking. So, in 2016, she made that position known, and
17 somehow, somehow she got overruled, because after that email
18 you never saw it again, never.

19 Goggans treated the parking code in Article XI as the
20 gospel; Patrick Williams, who worked for him, he treated it as
21 the gospel; Holly and Boyd treated it as the gospel. They
22 just got around it. They just got the County to ignore it.
23 That's just the fact. You don't need to hear me argue about
24 it; that's the evidence. They said, no, no -- the second
25 thing they said retroactive -- that's retrospectively -- you

1 look to the PD for the parking requirements. And remember
2 what I asked, where in the PD are the parking requirements.
3 Ms. Richardson said, oh, they're not -- there are none. I
4 said, where are the parking requirements? You say you just
5 look to the PD as to customized zoning, flexible this,
6 flexible that. Okay. Where in the PD are the parking
7 requirements? Have you seen them, Judge? Because I haven't,
8 and I've been sitting here all week. But nobody has put in
9 front of you the actual parking requirements for the PD
10 because there are none. It was passed in 1984 or '82, before
11 Article XI probably was in effect, but we don't know. But
12 you've never seen another document that shows parking
13 requirements for this Marlin Quay PD because it doesn't exist.
14 The only place in the world on this planet where there are
15 parking requirements for this piece of property in this county
16 is in Article XI. That's it. It's not a figment of
17 imagination, it's not a unicorn, that is the only place that
18 you look for parking requirements.

19 The next thing that you heard them argue is this thing
20 about initial construction. Well, 1101 only talks about if
21 it's initial construction. Judge, just -- there's a euphemism
22 that comes to mind, but in mixed company I'm not gonna use it.
23 You know better than that. The initial construction in that
24 code section certainly means a replacement building. It is
25 designed to make sure that if you tear down the old and build

1 up a new one that the new one complies with the new and
2 existing code. Think about that. They talked a lot about it.
3 This new building had to comply with the building code. This
4 new building had to comply with FEMA. This new building had
5 to comply with the ADA. This new building had to comply with
6 all kinds of other codes, but then they say but it didn't have
7 to comply with the parking code, because that's just a guide.
8 It just defies logic and common sense, and it's just
9 retrospective lawyering to find a way to explain what you did
10 in 2016.

11 The next point that they make -- and, Judge, this is
12 maybe the most -- this is a pretty important one. Remember
13 this doctrine or motion of stacking parking. You can't double
14 count existing parking spaces to accommodate parking loads, my
15 term, from the other uses. That was a huge win -- and I
16 probably should've started with this -- but that's a huge win
17 for Goggans when he was able to convince the Planning
18 Department that you did not need to reevaluate the parking
19 loads caused by Gulfstream, the parking loads caused by the
20 marina, and add those to the parking loads required by 3.0.
21 That was an enormous victory, an enormous victory for them,
22 because remember what this tells us, once you do that analysis
23 and I drew -- for everybody's benefit a drew a nicer picture.
24 Voilà. Once you do this analysis, and two people on the stand
25 did it, remember, Gulfstream, the marina, 3.0, 62 spaces.

1 Holly Richardson, we went through the math -- do you have the
2 paper -- we went through the math. I gave her a calculator.
3 Oh, I better get that calculator are among get in trouble. I
4 could donate it to the County but I'll get in trouble. We
5 went through the math, Holly Richardson did. We did the
6 retail 3219 feet requires 16 spaces. We did the restaurant,
7 the deck, with the decks on the second and third floor, that's
8 outdoor seating, 246 -- 2468, outdoor seating square footage,
9 16 spaces. Then we went to gross floor area, 7160 -- her
10 calculations, not mine -- that requires 71 spaces. For a
11 total of 103 spaces required in 3.0. Her math; not mine.
12 Okay. Take away the stairwells. Take away the circulation
13 decks. Maybe it's 6500 square feet. And that leaves you with
14 65 spaces required, then the number comes down to 90. Okay.
15 We can quibble about that. But look at the parking load
16 created by 3.0. With the County's own math applying Article
17 XI. Judge, that's why they didn't want to apply Article XI is
18 because they knew they were building a 13,000 square foot
19 building with these uses and these parking requirements with
20 103 parking spaces required. And that's why you didn't see
21 them do that in their staff report. They didn't do it in
22 2016, 2017, 2018, and only when I required them to do it do
23 you get the truth about what happens when you apply Article XI
24 to 3.0. And when you do that, again, with basic math, you
25 know there ain't enough parking spaces for 3.0 by itself.

1 When you add the other uses, it becomes silly. But remember
2 what Robert Castles, our -- that's our -- Castles calculated
3 3.0 and he was a lot more conservative than she and I were.
4 He said, well, I did the math on 3.0 and it required 72
5 spaces. There ain't 72 spaces in that lot either. So, when
6 you do the stacking, nobody did the shared parking analysis to
7 see, you know, the marina uses it probably during the day, but
8 we know that both these restaurants are gonna use it at night,
9 that's what they're there for. So, when you do the stacking,
10 Holly had 20 spaces for the marina, 70 spaces for Gulfstream,
11 and 103 spaces for 3.0, which added up to 193 spaces. Judge,
12 that's why they didn't do the stacking analysis. And that was
13 why it was such a huge victory for Goggans to get them to
14 avoid this analysis. And they all admitted, no, no, we never
15 did that. Johnson, no, we never did it. Holly, no, we never
16 did it. Because they didn't -- because it's obvious. And so
17 sometimes I get frustrated and I apologize for that because I
18 feel like I'm just in -- like Alice in Wonderland sometimes
19 because it seemed so obvious that, if you do just the math,
20 there's no way that this parking lot can accommodate one or
21 two or all three of these uses. It just doesn't.

22 And the number one rule for a government is to act in the
23 best interest of the public health, safety, and welfare. And
24 so, forget about all the codes in the technicalities, Judge,
25 but do you think when you think about this case when you're

1 driving back home, do you think that approving 3.0, approving
2 a parking load of anywhere between 72 and 103 more parking
3 spaces is really gonna make the county healthier or safer?
4 Adding all those cars, that doesn't even talk about 350 people
5 that can be in there. Do you think that's gonna make the
6 county safer? Is that rational? No, it's not rational, and
7 is not safe. It's arbitrary, it's capricious, it's cooked,
8 it's baked, and it was cooked and baked in 2016 through
9 Goggans's efforts and his successes with his friends at the
10 County.

11 And I want to talk a minute more about that, but, Judge,
12 just to finish up these numbers, so Holly had 193, Castles had
13 170. When you do the total space calculation, that's where
14 you get that range. So, my math isn't that good, but if it's
15 two to three times the number of spaces that are available,
16 two to three times. Not just a few more spaces. If that
17 doesn't shock the conscience, if that's not clear and
18 convincing evidence that this decision was arbitrary and
19 capricious, frankly, I just don't know what is.

20 I talked about Mr. Goggans. And I have to respectfully
21 disagree with Your Honors rationale for allowing his
22 testimony. I'm glad -- the ethics stuff, I'm glad you let it
23 in, but I want to make an observation about that for the
24 record. When Your Honor initially ruled about the ethics
25 violations coming in, I think the justification -- you allowed

1 in and the justification had something to do with character --
2 not character but bias as one of the justifications for
3 letting it in. And I will submit, A, thank you. But, B, it
4 comes in as relevant, probative, non-prejudicial evidence now
5 that you've heard all the testimony. Because he told you what
6 he did, starting in January 2016, all the way through and up
7 to the BZA hearing. Now, let me be really clear about this.
8 Yes, testifying at the BZA hearing was a violation of the code
9 of ethics. Yes, it violated the code. Yes, it violated the
10 sections that we talked about. Yes, he was punished et
11 cetera, yes. But what I am asking Your Honor to take into
12 consideration is not the BZA testimony, it's all of the stuff
13 he did before. And I'm gonna walk you through that very, very
14 quickly.

15 In Exhibit 57, which is the consent order, it has the
16 code sections from the State Code of Ethics. It's the second
17 page. 8-13-740(a)(4) provides: A public official of a county
18 may not knowingly represent a person before an agency, unit,
19 or subunit of that County for which the public official has
20 official responsibility, except as required by law or before
21 the Court under the united -- unified judicial system. A
22 public official of a county may not represent a person before
23 an agency, unit, or subunit of that County for which the
24 public official has official responsibility. That is exactly
25 what Mr. Goggans did throughout his efforts in negotiating the

1 parameters of this project with an agency, unit, or subunit of
2 that County. An agency, unit, or subunit includes the
3 Planning Department. And so, just -- and he said he
4 represented the owner, and he said, and Holly said, and Boyd
5 said he was representing the owner and he was negotiating a
6 meeting with us regarding the parameters of this project and
7 the interpretations of the code, and setting those things in
8 2016 that then left on until this 3.0 was passed. And so,
9 that conduct was unethical before his testimony at the BZA.
10 It violated this section from the first minute he walked in
11 and said I'm representing Palmetto with this application.
12 That is why whether the consent order is admissible, I want to
13 highlight for Your Honor just how important it is for Your
14 Honor to look at that conduct through the lens of the code of
15 ethics. Why? Because if he was acting unethically in
16 violation of the code of ethics, it's almost like negligence
17 per se. If you're breaking the law in an effort to get a
18 project approved, you are necessarily violating my
19 constitutional rights and through 1983 you're acting under the
20 color of state law and the result is violating my
21 constitutional rights. And your illegal conduct is resulting
22 in the arbitrary and capricious passage of 3.0. Do I think
23 that he talked to councilmembers, do I think that he lobbied
24 for the approval of this project; I don't know, maybe/maybe
25 not. I don't know. It doesn't matter because his testimony

1 was unequivocal. What I accomplished in 2016 was clearly
2 establishing the parameters of this project, i.e., what the
3 rules of the road were for purposes of parking, and then I
4 didn't need to do anything else, and I didn't do anything
5 else. It -- like I said in my opening, it infected the
6 passage of 3.0. How did it do that? Because it got the
7 Planning Department to take a position about parking in the
8 parking requirements that they never revisited and never
9 changed. It was born in 2016, and it pervaded, and it
10 persisted through the consideration of 2.0, and it consisted
11 and it persisted through 3.0. That's why Goggans's conduct,
12 unethical conduct, is relevant, and it is almost dispositive
13 of the fact that he is liable under 1983 and that the decision
14 made by the County Planning Department was arbitrary and
15 capricious.

16 So, I ask Your Honor -- and Your Honor, we can get you a
17 copy of that code of ethics section or look in the code of
18 ethics -- the consent order. The analysis of how it applies
19 is pretty simple.

20 So, let me give you, again, just a -- the quick legal
21 roadmap of how to get from A to Z, and then I will sit down.
22 Number one, remember the two major inquiries. Inquiry number
23 one, is there a violation of substantive due process in the
24 passage of 3.0? Is it a violation? Was it passed in
25 violation of the procedural due process rights of Gulfstream,

1 and/or was it illegal based upon their own code? You may find
2 either through our declaratory judgment action or through our
3 substantive due process counts, or through our work procedural
4 due process counts, all of that is in the first bucket, that
5 this ordinance is invalid. It is void, and it is -- that it
6 is -- you should invalid it nunc pro tunc. From the
7 beginning, it was illegal when passed.

8 The second bucket is if you find, however, that that
9 ordinance passed in 2019 is valid, is legal, and is
10 constitutional, then you get into the inverse condemnation
11 analysis. We submit, as I just pointed out, all of the
12 reasons and all of the ways in which 3.0 violates our
13 substantive due process Ps. Rest in P, PD P (spelled
14 phonetically), their own code, and therefore should be
15 declared invalid.

16 If not, and I guess you -- if not, and you get to inverse
17 condemnation, you just need to read *Dunes*, it sets out exactly
18 how this works, but I'll give you the shorthand again. I wish
19 we had in some of these other states that we do this as clear
20 a seminal case. Appellate Courts don't always get this right;
21 it's complicated. But *Dunes* is right. If you get to inverse
22 condemnation and you determine based upon the *Boyd* (spelled
23 phonetically) test whether there was positive government
24 action. That's easy; of course, there was. And B, whether
25 there was a taking.

1 Then you have to determine whether there was a taking,
2 and there are two types of takings. One, is a *Lucas* taking,
3 which is the complete diminution of loss of value, a complete
4 and total taking of the value as a result of the regulation.
5 We submit that that happens here, and it happened here. There
6 is no evidence that this property could be sold for a house.
7 There is no evidence the property could be sold for a condo.
8 That analysis has not been done by anyone in the evidence is
9 not before Your Honor. Supposition and argument by counsel
10 does not constitute evidence, and I know you know that.

11 Your own common sense is not good enough on that one, and
12 I'll tell you why. Because in order to determine what other
13 possible uses that footprint of Gulfstream could be made, you
14 have to do a whole new zoning analysis, building code
15 analysis, fire code analysis, wetlands, floodplains study,
16 FEMA study. You would have to do a complete and new review of
17 the property to see what else it could legally be used for,
18 not just the zoning, assuming you can get it zoned, but you'd
19 have to go through all these other steps. Nobody has done it.
20 That evidence isn't in front of you. It's just pure
21 speculation and conjecture about what else it could be used
22 for, period.

23 What we have before the Court, however, is evidence that
24 the diminution of value is 1.7 million dollars. Now, if you
25 do not find that that is a complete and total diminution of

1 loss of value under *Lucas*, then you go to the *Penn Central*
2 test, which is the test for a regulatory taking. And you
3 evaluate whether, in fact, there was a governmental action
4 that causes diminution of value of the property, and that
5 should be obvious. In the before, they were making it with
6 the parking lot. It stunk, but they were making it. You
7 heard Kirk's testimony. Sometimes he's out there, you know,
8 telling people where to go and running people back and forth,
9 but they were making it. But there is no question that as a
10 result of 3.0 passage allowing 13,000 feet and 103 or 72 more
11 parking load added to that lot, that they can't make it, and
12 that they won't be able to make it. Which is why Knight
13 assumed a loss of their parking. The appraiser, when he did
14 his analysis, looked at it and said I don't know if it's gonna
15 be losing one space or 61 spaces, because how can you predict
16 that. He can't predict whether all the marina people are
17 gonna be there late and whether the employees, when they get
18 to 3.0, are gonna take up the spaces. It's impossible to
19 predict. But what he can tell you is that, if we don't have
20 insufficient parking, we will die, period. And there is no
21 dispute, you've not heard any evidence to the contrary. We're
22 making it barely now from a parking standpoint. There is no
23 more parking around this property. The evidence is
24 uncontroverted and undisputed that there is no commercial
25 parking available, nobody is letting us park in their front

1 yards, we're not allowed to park our cars on the street
2 because there no-parking signs. And if you load this space
3 with 350 more people and their cars, people will die. It does
4 not take a massive inferential leap to conclude that. That is
5 what will happen, and that's no joke. And that's what --
6 that's the dice that they roll when they passed 3.0. And so,
7 this is not just about technical interpretation of this or
8 guide or Article XI or no Article XI, this is about approving
9 a building where there's no solution for parking, none.
10 They're not building a parking deck. There's no property to
11 put commercial parking lots on. It's done. And we will be
12 back here; that I can promise you because people will be
13 injured. It does not take an expert or a rocket scientist to
14 derive at that conclusion. And I would hate to be the person
15 that approved or recommended approval of this project with
16 that potential in the future. But I'll be able to sleep at
17 night because I've done my best to show just how arbitrary and
18 capricious approving this building is given that scenario and
19 the confines and the parameters of that piece of property.

20 But if, Judge, if you don't find it to be invalid and
21 it's allowed to be built and allowed to be operated, then
22 there's no question that our property has been rendered
23 virtually worthless. We will not be able to run a restaurant
24 there. That property will not be able to be used for anything
25 else. You heard Moring say nobody is going to buy it for a

1 restaurant. You haven't heard any contrary evidence to that.
2 You haven't gotten from any other witness that that property
3 can be used as a restaurant despite this parking load
4 addition, that it can be used as a residence or anything else.
5 So, the only evidence before Your Honor is that the thing is
6 losing \$1.7 million worth of value. And if you get there,
7 Judge, that will be at a minimum what would be required to be
8 compensation, just and adequate compensation for that taking.

9 Judge, I haven't spent much time on the procedural
10 defects. I don't mean to beat the horse too much. But you're
11 gonna have to interpret the 12-month rule, the penalty box
12 rule, and see whether you think it applies here and what --
13 because it's clear that they applied for two rezonings within
14 12 months. That's for sure.

15 You heard the testimony about whether the application was
16 completed or wasn't complete and why that was important. You
17 saw the letters from one homeowner. That's the only evidence
18 that you have. There's no evidence that they followed their
19 own code with respect to notice in sending out the letters.
20 Those are kind of also-rans with respect to this case. I put
21 them out there; they're important but they're not nearly as
22 important as what I've told you with respect to the danger,
23 the danger to life and limb that is being caused by the
24 passage, the approval of this building at that location. It's
25 not just about real estate. It's not just about restaurants

1 competing. It's not just about money. It's not just about
2 code, not code, planning staff, architect, ethics. This is
3 about public safety, public health, life and limb where the
4 County has grossly, grossly erred in allowing this building to
5 be constructed. And I would ask Your Honor respectfully to
6 stop it.

7 Thank you.

8 MS. GOLDING: Thank you, Your Honor.

9 Defendants waive closing.

10 THE COURT: All right. Thank you, ma'am.

11 BY THE COURT:

12 THE COURT: I guess that brings us to the issue of
13 posttrial briefs. Okay.

14 Mr. Bloom had requested us waiting on the production of
15 the transcript. I'm gonna rely on my notes. I've got almost
16 a full legal pad of notes. It was -- so, in making the
17 findings of fact, I think I've got everything I'm gonna need
18 in front of me to make those determinations. I will certainly
19 -- I don't want to put too tight a time limit on it. I'm open
20 to suggestions for when y'all reasonably believe you can have
21 the posttrial briefs done and submitted to my office. You
22 know, it's -- I'm not -- I know this is -- and I'm not saying
23 this to make light of anything or make this case -- or make
24 anybody think I don't believe this case is important. I know
25 it needs to be decided as soon as possible, but I don't want

1 to put too tight a timeframe on the lawyers. I want you to be
2 able to be as detailed and submit everything to me that you
3 think is required. So, I'm open for timeframe suggestions
4 from either side.

5 MR. BLOOM: Fourteen days is fine with us.

6 MS. GOLDING: Your Honor, I think that's perfect since we
7 all have it in our mind now.

8 THE COURT: Yeah. It's probably a better idea to go
9 ahead get started on it, but I didn't want to say I want them,
10 you know, middle of next week or something.

11 So, 14 days is fine. Those can be -- do y'all want those
12 briefs a part of the record?

13 MS. GOLDING: Not necessarily, Your Honor.

14 MR. BLOOM: Which record?

15 THE COURT: Well, I was just thinking of filing just in
16 the Court's record. Do you want to file them or -- I mean, I
17 don't think it ---

18 MR. BLOOM: I think we probably need to do both. I mean,
19 we can email them to Your Honor and but also file them. Then
20 I wonder about if there's an appeal, how those would be
21 handled.

22 THE COURT: Well, that was my thought process, too. I,
23 you know, I hope there's not an appeal but in cases like this,
24 I would expect there likely will be. So, if you'd just file
25 those and then submit them directly to me via email. And if

1 you could submit them to me in pdf and in Microsoft Word, I
2 would certainly appreciate it.

3 MR. BLOOM: Yes, sir.

4 MS. GOLDING: Yes, sir, will do.

5 THE COURT: All right. And what I need to do is get a
6 copy of -- and I can get this from the court reporter of --
7 I've been keeping track of the exhibits as we've gone along,
8 but I want a copy of her official, just her sheet, so I can --
9 I've got everything up here so we can make -- we can pull
10 those out and have a certain -- a true copy of what actually
11 was admitted. Like I said, I'd rather rely on her notes than
12 mine. So, we can -- we will do that.

13 Is there anything else we need to take up before we
14 adjourned?

15 MR. BLOOM: Would it be helpful -- would it be helpful at
16 all for Your Honor to have the admitted exhibits
17 electronically -- I don't -- I don't care, but if you ---

18 THE COURT: If that can be -- that would certainly help.

19 MR. BLOOM: Then we'll do it.

20 THE COURT: And I will get a copy of her list as well
21 just as a backstop to make absolutely certain that I don't
22 consider anything that was not admitted, because I would
23 imagine there is a couple of thousand pieces of paper sitting
24 in front of me.

25 MS. GOLDING: Yes, sir. May I -- with respect to the

1 court reporter, I'm sure she can't answer my question now, but
2 I would like to also obtain a copy of what the court reporter
3 has shown as being admitted, Your Honor.

4 THE COURT: Yeah, I don't -- I don't see any problem with
5 that. We can make copies for me and for both sides.

6 MS. GOLDING: Thank you, Your Honor.

7 THE COURT: All right. Anything else before we adjourn?

8 MR. BLOOM: Not from the plaintiff.

9 MS. GOLDING: Nothing from Defendant.

10 And thank you, Your Honor, for your time.

11 THE COURT: All right. And along the same lines of not
12 wanting to rush y'all in your preparation of your posttrial
13 submissions, I'm gonna do my best to get a decision made as
14 soon as I can. With that being said, I'm not gonna rush it
15 either. So, I don't want to let this -- I don't want to let
16 it sit but, as you all know, I'll be in another courtroom
17 doing something else starting next week. So, I hope to have
18 this done -- well, I'm not -- I'm not gonna put a limit on
19 myself because that might be setting me up for failure. So
20 anyway, it will be done certainly in a reasonable amount of
21 time because I don't like to let things sit and gather dust.
22 So, if -- if an amount of time passes and you feel like, well,
23 gosh, the Judge should've made a decision by now, I won't take
24 offense to a gentle reminder. All right?

25 MR. BLOOM: Yes, sir.

1 THE COURT: All right. Thank y'all very much.

2 MS. GOLDING: Thank you, Judge.

3 THE COURT: I appreciate the way this case was presented,
4 and it's been a pleasure being here for this unusual case.

5 All right? Thank y'all very much.

6 MR. BLOOM: Thank you, Your Honor.

7 MS. PEARSON: Thank you.

8 **ADJOURNED - 10:06 A.M.**

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of Gulfstream Cafe v. Georgetown County, held in the Court of General Sessions for Georgetown County, et al., Georgetown County Courthouse, Georgetown, South Carolina, on August 28 to September 1, 2022.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

Kay H. Richardson
Official Court Reporter

April 6, 2023.

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of Gulfstream Cafe v. Georgetown County, held in the Court of General Sessions for Georgetown County, et al., Georgetown County Courthouse, Georgetown, South Carolina, on August 28 to September 1, 2022.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

A handwritten signature in black ink, appearing to read "Kay H. Richardson", is written over a horizontal line.

Kay H. Richardson

Official Court Reporter

April 6, 2023.

2018 ZONING ORDINANCE



ZONING ORDINANCE
TABLE OF CONTENTS

<u>SECTION</u>		<u>PAGE</u>
Table of Contents		TOC-1
I.	Authority and Enactment Clause	1-1
II.	Short Title	1-1
III.	Definitions	3-1
IV.	General Provisions	4-1
	400 Nonconforming Building or Uses	4-1
	401 Nonconforming Building or Use Discontinuance	4-1
	402 Mobile Homes	4-2
	403 Churches, Synagogues, Temples and Other Places of Worship	4-3
	404 Vision Clearance	4-3
	405 Ingress and Egress	4-3
	406 Flood Protection	4-3
	407 Parking and Storage of Certain Vehicles	4-3
	408 Water and Air Pollution	4-4
	409 Front Yard Setback on the Divided Portion of U.S. Highway 17	4-4
	410 Street Frontage	4-4
	411 Removed Ord 2001-36	4-4
	412 Corner Lot	4-4
	413 Elevation of Buildings	4-5
	414 Customary, Incidental Home Occupation	4-5
	415 Cabanas, Docks, Dune Crossovers and Boardwalks	4-5
	416 Body Piercing	4-5
	417 Incidental Vehicle Sales	4-5
	418 Traffic Impact Analysis	4-6
	419 One Principal Structure on a Lot	4-6
	420 Swimming Pools	4-6
	421 Air-supported Membrane Structures	4-6
	422 Outdoor Products Display	4-6
	423 Filming Activities	4-7
	424 Farm Animals, Poultry, Fowl and Livestock on a Residential Lot	4-7
V.	Establishment of Zoning Districts and Rules for the Interpretation of District Boundaries	5-1
	500 Establishment of Districts	5-1
	501 District Boundaries	5-1
	502 Rules for Interpretation of District Boundaries	5-2
	503 Use of Land or Structures	5-3

ZONING ORDINANCE
TABLE OF CONTENTS

VI.	Requirements by District	
600	Conservation Preservation District (CP)	6-1
601	Forest Agriculture District (FA)	6-2
602	One Acre Residential District (R-1Ac)	6-8
603	One Half Acre Residential District (R-1/2 Ac)	6-10
604	10,000 Square Feet Residential District (R-10)	6-12
605	10,000 Square Feet Residential District (MR-10)	6-14
606	Resort Residential District (RR)	6-15
607	General Residential District (GR)	6-17
608	General Resort Residential District (GRR)	6-25
609	Resort Commercial District (RC)	6-27
610	Neighborhood Commercial District (NC)	6-32
611	General Commercial District (GC)	6-36
612	Resort Service District (RS)	6-47
613	Limited Industrial District (LI)	6-51
614	Heavy Industrial District (HI)	6-57
615	Mobile Home Park District (MHP)	6-60
616	Destination Park District (DPD)	6-64
617	Medical District (MD)	6-67
618	Office Commercial District (OC)	6-69
619	Planned Development District (PD)	6-71
620	Moved to Article XVII; Section 1701 - July 27, 1999	
621	Rural General Residential District (RG)	6-77
622	Village 10,000 Square Feet Residential District (VR-10)	6-79
623	Rural Village Commercial District (RVC)	6-81
624	Five Acre Residential District (R-5 Ac)	6-85
625	Forest Agriculture/Residential District (FA/R)	6-87
626	Preservation Agriculture District (PA)	6-91
627	Three Quarter Acre Residential District (R-3/4 Ac)	6-92
628	Forest Agriculture/Commercial District (FA/C)	6-94
629	8,000 Square Feet Residential District (R-8)	6-99
630	6,000 Square Feet Residential District (R-6)	6-101
631	Flexible Design District (FDD)	6-103
VII.	Area, Yard and Height Requirements	7-1
VIII.	Exceptions and Modifications	8-1
800	Lot Reduction Prohibited	8-1
801	Use of Substandard Lots of Record	8-1
802	Adjoining Substandard Lots of Record	8-1
803	Front Yards	8-1
804	Exception to Height Limits	8-1

ZONING ORDINANCE
TABLE OF CONTENTS

	805	Group Housing Projects	8-2
	806	Exception to Height in Flood Zones	8-2
	807	Exception to Minimum Lot Sizes for Certain Uses	8-2
	808	Setback Exceptions for Certain Structures	8-2
	809	Setback from Wetlands	8-3
	810	Business ID Signs	8-3
	811	Heirs Property	8-3
	812	Conditional and Temporary Uses	8-3
	813	Bus Shelters	8-7
IX.	Beach Standards		9-1
	900	Specific Project Standards for Beaches and Dunes	9-1
X.	Sign Regulations		10-1
	1000	Purpose and Intent	10-1
	1001	General Sign Provisions	10-1
	1002	On-Premises Signs	10-5
	1003	Temporary (Special Event) Sign Restrictions	10-6
	1004	Sign Classifications	10-6
	1005	Off-Premises Signs	10-9
	1006	Fees and Bonds	10-11
	1007	Impoundment of Signs	10-11
	1008	Scenic Areas and Highways	10-12
	1009	Protection of First Amendment Rights	10-12
XI.	Off-Street Parking		11-1
	1100	Intent	11-1
	1101	General Requirements	11-1
	1102	Parking Space Requirements	11-1
	1103	Design Standards	11-6
	1104	Special Provisions	11-10
		Completion of Parking and Loading Required Prior to Issuance of	
	1105	Occupancy	11-11
	1106	Use of Off-Site Parking	11-12
XII.	Buffer Requirments		12-1
	1200	Intent	12-1
	1201	Buffer Areas	12-1
	1202	Screening	12-7
	1203	Buffering Within Parking Areas	12-8
	1204	Lighting	12-10
	1205	Buffer Plan Requirments	12-11

ZONING ORDINANCE
TABLE OF CONTENTS

XIII.	Tree Regulations	13-1
	1300 Intent	13-2
	1301 Occupied Single-Family Residential Requirements	13-2
	1302 Unoccupied Single-Family Residential Requirements	13-2
	1304 Tree Protection Requirements	13-12
XIV.	Permit Regulations	14-1
	1400 Building, Sign, and Tree Permits Required	14-1
	1401 Application for Building Permit	14-1
	1402 Certificate of Occupancy For New and Altered Structures and Uses	14-2
	1403 Change of Tenant	14-2
	1405 Expiration of Building Permit	14-2
XV.	Administration, Enforcement, Complaints and Remedies	15-1
	1500 Administration and Enforcement	15-1
	1501 Right of Entry for Purpose of Inspection	15-1
	1502 Zoning Ordinance Violations	15-1
	1503 Complaints Regarding Violations and Remedies	15-2
	1504 Remedies	15-2
	1505 Penalties for Violation	15-3
	1507 Impoundment of Signs	15-4
XVI.	Zoning Board of Appeals	16-1
	1600 Establishment of Zoning Board of Appeals	16-1
	1601 Proceeding of the Zoning Board of Appeals	16-1
	1602 Decisions of the Zoning Board of Appeals	16-1
	1603 Appeals, Hearings, and Notice	16-1
	1604 Powers and Duties of the Zoning Board of Appeals	16-2
	1606 Contempt; Penalty	16-3
XVII.	Amendments	17-1
	1700 Authority	17-1
	1701 Requirements for Change	17-1
	1703 Reversion	17-5
XVIII.	Legal Status Provisions	18-1
	1800 Conflict with Other Ordinances	18-1
	1801 Validity	18-1
	1803 Repealer and Savings Clause	18-1
XIX.	Establishment of Overlay Zones	19-1
	1901 Zone Boundaries	19-1

ZONING ORDINANCE
TABLE OF CONTENTS

XX.	Requirements by Overlay Zone	20-1
	2000 Commercial Corridor Overlay Zone (CCO)	20-1
	2001 Airport Safety Overlay Zone (ASO)	20-8
XXI.	Designated Overlay Zones	21-1
	2100 Waccamaw Neck Commercial Corridor Overlay Zone	21-1
	2102 Highway 701 Corridor Overlay Zone	21-11
XXII.	Board of Architectural Review - Deleted (Ord. 2013-56)	22-1
XXIII.	Wind Energy Facilities <i>(Amended Ord. 2011-10)</i>	23-1
	2300 Intent	23-1
	2301 Definitions	23-1
	2302 Permits	23-1
	2303 Accessory Use	23-1
	2304 Principle Use	23-1
	2305 Small Wind Energy Systems	23-1
	2306 Utility Scale Wind Energy Systems	23-3
APPENDICES		
A.	Tree Regulations Appendix	A-1
	Protected Trees	A-1
	Table 1 Caliper to Height Ratios for Deciduous Trees	A-2
	Table 2 Height to Spread Ratios for Coniferous Nursery Trees	A-2
	Figure 1 Typical Critical Root Zone	A-3
	Figure 2 Active Protective Tree Fencing Detail	A-4
	Figure 3 Alternative Protective Tree Fencing Detail	A-4
	Figure 5 Tunneling for Underground Utilities	A-5
B.	Sign Regulations Appendix	B-1
	Ilus. 1. Sight Triangles Standard Detail	B-1
	Table 1 Sign Criteria	B-2
	Table 2 Size, Area, Height	B-3
	Table 3 Sign Types	B-4

ZONING ORDINANCE
TABLE OF CONTENTS



**ZONING ORDINANCE
GEORGETOWN COUNTY, SOUTH CAROLINA**

AN ORDINANCE OF THE COUNTY OF GEORGETOWN, SOUTH CAROLINA, REGULATING THE LOCATION AND USE OF BUILDINGS, STRUCTURES, AND LAND, THE SIZE OF BUILDINGS AND OTHER STRUCTURES, THE SIZE OF YARDS, AND THE DENSITY OF DISTRIBUTION OF POPULATION: CREATING DISTRICTS FOR SAID PURPOSES AND ESTABLISHING THE BOUNDARIES THEREOF: DEFINING CERTAIN TERMS USED HEREIN: PROVIDING FOR THE METHOD OF ADMINISTRATION AND AMENDMENT: PROVIDING FOR A BOARD OF APPEALS; AND, PROVIDING FOR THE IMPOSITION OF PENALTIES FOR THE VIOLATION OF THE PROVISIONS OF THIS ORDINANCE TO BE EFFECTIVE IN THOSE UNINCORPORATED PORTIONS OF GEORGETOWN COUNTY AS DESIGNATED ON THE OFFICIAL ZONING MAPS, EXCEPT FOR CERTAIN RESTRICTIONS LISTED IN SECTIONS 620.107 AND 804 DEALING WITH PRIVATE AIRFIELDS, WHICH APPLY TO ALL THE UNINCORPORATED PORTIONS OF THE COUNTY.

ARTICLE I

AUTHORITY AND ENACTMENT CLAUSE

In pursuance of authority conferred by Title 6, Chapter 29, Article 5, Code of Laws of South Carolina, 1976, as amended and for the purpose of promoting the health, safety, morals and general welfare of the County; lessening congestion in the streets; securing safety from fire, providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewage, schools, parks, and other improvements; protecting scenic areas; and protecting areas subject to periodic flooding against development, in accordance with a comprehensive plan, the County Council of Georgetown County does ordain and enact into the law the following articles and sections:

ARTICLE II

SHORT TITLE

This Ordinance shall be known and may be cited as "The Zoning Ordinance of Georgetown County, South Carolina", and the maps herein referred to, which are identified by the title "Zoning Maps of Georgetown County, South Carolina".

ARTICLE III

DEFINITIONS

300. The word "shall" is always mandatory. The word "lot" includes the word "plot" or "parcel". The word "building" includes the word "structure". The word "person" includes a firm, association, organization, partnership, trust company or corporation as well as an individual.

The word "used" or "occupied", as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied. The word "map" or "zoning map" shall mean the Official Zoning Map of Georgetown County, South Carolina. *(Amended Ord. 2009-22)*

301. Access. The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.
302. Accessory Use. A use customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located on the same lot therewith.
303. Administrative Officer. The local official (zoning administrator) responsible for granting permits as required by this Ordinance.
304. Advertising. See Signs
305. Air-supported Membrane Structures. Air-supported membrane structures are allowed in all residential and commercial zoning classifications, unless addressed elsewhere in this ordinance, and shall be located to the rear of the principle structure. Such structures may be located within five (5) feet of the rear and side yard property lines and shall be required to meet all building and fire protection regulations. Air-supported membrane structures are not exempt from other requirements established in this ordinance. *(Amended Ord 2009-27)*
306. Airport. An area of land which is used or intended for use for the landing and takeoff or aircraft, and any appurtenant areas which are used, or intended for use, for airport building or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. This includes any airport, heliport, helistop, vertiport, gliderport, seaplane base, ultralight flightpark, manned balloon launching facility, or other aircraft landing or takeoff area. *(Amended Ord. 2016-37)*
- 306.1 Airport Elevation. The highest point of an airport's usable landing area measured in feet above mean sea elevation. The airport elevation is 38.8 feet above mean sea level at the Georgetown County Airport and 26.38 feet above mean sea level at the Andrews Municipal Airport.
- 306.2 Hazard to Air Navigation. An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- 306.3 Runway. A defined area on an airport prepared for the landing and takeoff of aircraft

along its length.

- 306.301 Larger-than-Utility Runway. A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight, and jet-powered aircraft. (Applies to all active runways at the Georgetown County Airport and the Andrews Municipal Airport.)
- 306.302 Non-Precision Instrument Runway. A runway having an existing instrument approach procedure utilizing air navigation facilities with horizontal guidance, or area-type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned. (Applies to Runway 11-29 and Runway 23 at the Georgetown County Airport and Runway 18-36 at the Andrews Municipal Airport.)
- 306.303 Precision Instrument Runway. A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document. (Applies to Runway 5 at the Georgetown County Airport.)
- 306.4 Safety Zones. Areas lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to airports. An area located in more than one of the following zones is considered to be only in the zone with the most restrictive height limitation. These zones are as follows:
- 306.401 Approach Zone. A zone that extends away from the runway ends along the extended runway centerline, and is capped by the approach surfaces.
- 306.402 Conical Zone. Z zone that circles around the periphery of and outward from the horizontal zone, and is capped by the conical surface.
- 306.403 Horizontal Zone. A zone that is centered about the runway and primary surface and is capped by the horizontal surface.
- 306.404 Transitional Zone. A zone that extends outward perpendicular from a point 250 feet from the runway centerline and 200 feet from the end of the runway at a slope of seven feet horizontally for each foot vertically to where it intersects the airport zone.
- 306.405 Specified geometric standards for these zones are defined in Article XIX Section 1901, and can be found in Part 77.25, Subchapter E (Airspace), of Title 14 of the Code of Federal Regulations, or in successor federal regulations.

306.5 Surfaces. Imaginary areas located in the airspaces above the runways and safety zones as they relate to airports. These surfaces are as follows:

306.501 Approach Surface. A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface at the same slope as the approach zone height limitation. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

306.502 Conical Surface. A surface extending at a slope of twenty (20) feet outward for every one foot upward from the periphery of the horizontal surface for a horizontal distance of 4,000 feet. In plan, the perimeter of the conical surface coincides with the perimeter of the conical zone.

306.503 Horizontal Surface. A horizontal surface 150 feet above the established airport elevation. In plan, the perimeter of the horizontal surface coincides with the perimeter of the horizontal zone.

306.504 Primary Surface. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

306.505 Transitional Surface. A surface extending outward perpendicular to the runway centerline and extending the runway centerline at a slope of seven (7) feet outward for each foot upward from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the conical surface extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at perpendicular to the extended runway centerline.

306.6 Public Use Airport. As defined by the FAA, 1. Any publicly owned airport. 2. Any privately owned reliever airport as designated by the FAA. 3. Any privately owned airport which is determined by the Secretary of the FAA to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft. *(Amended Ord. 2016-37)*

306.7 Private Use Airport. All other airports not defined as Public Use Airport. *(Amended Ord. 2016-37)*

306.8 Heliport/Helipad. An area of land, water, or structure, either at ground level or elevated on a structure, that is used for the landing and take-off of one or more helicopters, which contains all or part of such auxiliary facilities as parking, waiting rooms, administrative offices, hangars, fueling, passenger loading, cargo loading, medical services, emergency response services, law enforcement services, and maintenance areas. To promote uniform helipad/heliport standards within Georgetown County, any proposed helipad/heliport located within the jurisdiction of

this Zoning Ordinance shall comply with all heliport design guideline recommendation in FAA Advisory Circular 150/5390-2C Heliport Design, and as subsequently amended. In addition, a proposed heliport/helipad must comply with 14 CFR Part 157 – Notice of Construction, Alteration, Activation, and Deactivation of Airports, NFPA 418 Standard for Heliports, and the South Carolina Airports Act.
(Amended Ord. 2016-37)

- 306.9 Heliport. A heliport without facilities appurtenant such as, but not limited to, parking, waiting room, fueling facilities or maintenance equipment. (Amended Ord. 2016-37)
- 306.10 Commercial Helicopter Operation. An operation utilizing rotary-winged aircraft services or transportation, regardless of intent, wherein that operation receives something of value, including but not limited to financial compensation, in exchange for the rotary-wing aircraft services or transportation. (Amended Ord. 2016-37)
307. **Alley**. A minor street, twenty (20) feet or less in width, used for service access to the back or side of properties otherwise abutting on a street.
308. **Amenity, Subdivision**. A natural or created feature that enhances the aesthetic quality, visual appeal and recreational opportunities of a subdivision such as a park, tennis court or swimming pool that is owned and maintained by a homeowners association, similar entity or developer and used primarily by the residents of the subdivision in which it is located. (Amended Ord. 2007-03)
309. **Apartment**. A part of a building consisting of a room or rooms intended, designed, or used as a residence by an individual or a single family.
310. **Apartment, Garage**. A part of a garage consisting of a room or rooms intended, designed, or used as a residence by an individual or a single family.
311. **Arterial Street**. A street that provides for traffic movement between areas and across portions of the County and secondarily for direct access to abutting land.
312. **Assisted Living Facility**. A facility that provides a special combination of housing, supportive services, personalized assistance and health care designed to respond to the individual needs of those persons who need help in activities of daily living.
313. **Automobile Wrecking**. The dismantling, storage, sale, or dumping of used motor vehicles, trailers or parts thereof.
314. **Automobile Wrecking, Junk and Salvage Yards**. Any land or structure used for a salvaging operation, including but not limited to the storage and sale of waste paper, rags, scrap metal, discarded materials, consumer goods, equipment and the collection, dismantlement, storage and salvage of ten (10) or more unlicensed or inoperative vehicles; or a place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment, but not including the purchase or storage of used furniture and household equipment, used cars in operable condition or used or salvaged materials as part of

manufacturing operations.

315. **Average Ground Elevation.** The elevation of the main finished grade at the front of a structure.
316. **Bed and Breakfast Facility.** A residential-type lodging facility having no more than ten (10) guestrooms where transient guest are fed and lodged for pay.
317. **Bingo Parlor.** A building, facility or other improvement upon which space is leased, rented or utilized for a specific game of chance, commonly known as bingo, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers and symbols selected at random. Bingo parlors shall be licensed by the State of South Carolina. Nothing in this definition shall be construed to allow for video poker lottery games or any other form of illegal gambling. *(Amended Ord. 2013-24)*
318. **Boarding or Rooming House.** A building containing a single dwelling unit and not more than five (5) guest rooms with lodging provided with or without meals for compensation.
319. **Body Piercing.** Any method of piercing of the human skin of one person by another person with the intention of inserting any object including, but not limited to, jewelry or other decoration. For the purposes of this Ordinance, the term body piercing shall also include any process of marking or disfiguring the skin or other tissue of any person by branding or scarification but shall not include the piercing of the fatty lobe of the ear by an ear-piercing gun or needle designed solely for that purpose, or physician-authorized surgical procedures. This definition of body piercing includes that process commonly referred to as an implantation. *(Amended Ord. 2000-33)*
- 319.1 **Branding.** The act of intentionally mangling or disfiguring a human body burning it through the use of a hot object or by the use of any substance or process which results in such marking or disfiguring, including tattooing.
- 319.2 **Scarification.** The act of marking one or more incisions in the skin of any person with the intent of causing visible marks on the skin after the incisions heals.
320. **Buffer Strip.** A plant material acceptable to the Zoning Administrator which has growth characteristics as will provide an obscuring screen not less than six (6) feet in height.
321. **Building.** Any structure having a roof supported by columns, or walls and intended for the shelter, housing or enclosure of persons, animals or chattel.
- 321.1 **Principal Building.** A building in which is conducted the main or principal use of the lot on which said building is located. *(Amended Ord. 2001-36)*
- 321.2 **Accessory Building.** A building customarily incidental and subordinate to the principal building and located on the same lot with such building.
- 321.3 **Commercial Building.** A commercial building is a structure delineated by external sides joined together to form a building perimeter and covered by a roof. The perimeter of the building, in turn, establishes a single footprint. The building may be

segmented via internal partition walls to allow for multiple tenants, if all other requirement of the Zoning Ordinance are met. *(Amended Ord. 2013-25)*

322. **Building Height.** The vertical distance measured from the finished grade at the building line to the mid-point on the roof between the eave and the ridge.
323. **Building Official.** The officer or other designated authority, or their duly appointed representative, charged with the administration and enforcement of the Building Code (Building Inspector).
324. **Building Setback Line.** A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be ~~placed~~ except as otherwise provided.
325. **Bulk Storage.** The storage of petroleum products in structures for subsequent resale to distributors, retail dealers or outlets. For purposes of this ordinance, tanks larger than 1,000 gallons are considered bulk storage. *(Amended Ord. 2010-24)*
326. **Business Sign.** See Signs
327. **Cabana.** A small roofed structure, open deck, or patio that may have walls, which consists of a minimum of 50% open space and a maximum height of twelve (12) feet. Must be located in the rear of the principle structure but may be located within five (5) feet of rear and side property lines. Cabanas may include an outdoor kitchen, a dining area, and outdoor showers but no restroom facilities. Cabanas shall not provide any accommodations for overnight lodging. The accessory structure requirements of Section 411 of this Ordinance shall be met in addition to these regulations. Gazebos shall also be included in this classification. *(Amended Ord. 2009-27)*
328. **Campground.** An area or tract of land primarily used for recreational purposes that retains an open air or natural character. Accommodations for temporary occupancy shall be limited to tents, RV's or campers. Campsites shall have the sole purpose of providing shelter from the natural elements and establishing a temporary household for recreational activities only. Regulations shall not be imposed on non-commercial incidental campgrounds. Examples of such situations are Boy Scouts and Girl Scouts camping on land not designed for permanent camping. Periodic camping by hunters on hunting clubs is also considered incidental and is not regulated. Campgrounds exceeding ten (10) acres are considered to be "Destination Parks" in the Zoning Ordinance. *(Amended Ord 2009-26)*
329. **Carport.** A structure used for the storage of vehicles and having no enclosure other than its roof and such necessary support as will present the minimum obstruction of light, air and view.
330. **Cemetery.** Land used for the burial of the dead and dedicated for cemetery purposes.
331. **Charter Boat Rental or Hire.** A land based operation or operation conducted within a marina, primarily for the rental, leasing or hiring of boats or other recreational watercraft excluding any gaming vessel or gambling device. This definition excludes the South Carolina Education

Lottery. *(Amended Ord.2002-40)*

332. **Club.** Buildings and facilities owned or operated by an association or persons for a social or recreational purpose, but not operated primarily for profit or to render a service which is customarily carried on as a business.
333. **Condominium.** A multi-unit structure offering individual ownership to said units.
334. **Coverage.** The lot area covered by all buildings located therein, including the area covered by all overhanging roofs.
335. **Customary, Incidental Home Occupation.** Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of a dwelling for residential purposes and does not change the character thereof, and no person, not a resident on the premises is employed specifically in connection with the activity except that no more than one (1) assistant may be employed by the following home occupations: lawyer, physician, dentist family day care homes and chiropractor. Provided further that no mechanical equipment is installed and used except such as is normally used for domestic or professional purposes, and that not over twenty-five (25%) percent of the total floor space of any structure is used for home occupations.
336. **Day Care Facility.** Any agency, institution, center, home, day nursery, nursery school, playschool, or other place, however styled and whether operated under public auspices or as a private business, which provides supervision and care for more than six persons for a period of less than 24 hours per day. Adult day care facilities are also included in this classification. This definition does not include adult residential care facilities or adult group home facilities. *(Amended Ord. 2012-33)*
- 336.1 **Family Day Care Home.** A private residence where six or fewer persons receive care and supervision for a period of less than 24 hours per day.
337. **Development Coordinator.** The officer or other designated authority, or their duly appointed representative, charged with the coordination of the Building and Zoning Department.
338. **District.** Any section or sections of Georgetown County, South Carolina, for which the regulations governing the use of land and the use and density, bulk, height and coverage of buildings and other structures are uniform.
339. **Dwelling Unit.** A room or suite of two or more rooms that is designed for and not occupied by more than one family doing its own cooking therein and having only one kitchen facility located within a building.
- 339.1 **Dwelling, Single Family.** A building designed, constructed and used for on dwelling unit located on a single parcel. *(Amended Ord.2001-36)*
- 339.2 **Dwelling, Two Family or Duplex.** A building designed, constructed or reconstructed and

used for two (2) dwellings units that are connected by a common structural wall located on a single parcel. *(Amended Ord. 2001-36)*

- 339.3 **Dwelling, Multi-Family.** A building designed, constructed or reconstructed and used for more than two (2) dwelling units, but each dwelling unit having a common structural wall with any other dwelling unit.
- 339.4 **Dwelling, Group.** A building designed, constructed or reconstructed and used to accommodate ten (10) or more persons living together as a single household unit located on a single parcel. *(Amended Ord. 2001-36)*
- 339.5 **Dwelling Unit, Accessory.** A detached secondary single family dwelling that meets the International Building Codes, not to include a mobile home, located on the same parcel as a principal structure. Accessory dwelling units are to provide habitation for long-term periods which shall be deemed to exceed more than ninety (90) consecutive days. *(Amended Ord. 2018-05)*
340. **Family.** An individual and/or a household which consists of an individual and one or more other persons living in the same household who are related to the individual by birth, marriage or adoption and including individuals under legal guardianship and stepchildren and/or two (2) or not more than nine (9) persons not related, living together as a single household unit. *(Amended Ord. 2001-42)*
341. **Fence.** An artificially constructed barrier of any material or combination of materials erected (including earthen berms) to enclose, screen, or separate areas. Fences shall not exceed an overall height of six (6') and must further comply with the requirements of Vision Clearance contained in Section 404 of this Ordinance. Fences are divided into two categories: *(Amended Ord. 2001-21)*
- 341.1 **Open.** Any constructed barrier where the view of the interior enclosure is visible. Examples of open fences include: split rail, picket, and chain link. Open fences may be constructed in any area of the property. *(Amended Ord. 2001-21)*
- 341.2 **Closed.** Any constructed barrier that denies the view of the interior enclosure. Examples of closed fences include: stockade and shadow box. Closed fences are permitted in any area of the property except for the front setback area. Closed fences may be used in the front setback area only with the approval of the Planning Commission. *(Amended Ord. 2001-21)*
342. **Festival.** An outdoor event of a public, civic or non-profit nature. Such events shall include, but not be limited to carnivals, fairs, circuses, and outdoor concerts. *(Amended Ord. 2000-72)*
343. **Flood.** An overflow of water onto land not normally covered by water that results in significant adverse effects in the vicinity.
344. **Fowl.** A domesticated bird such as a chicken, guinea, duck, turkey or goose that is raised for food. *(Amended Ord. 2015-50)*
345. **Frontage.** The distance for which the boundary line of the lot and the street right-of-way line are coincident.

346. **Gambling Device.** Any so-called "slot machine" or any other machine or mechanical device, an essential part of which is a drum or reel with insignia thereon or; any other machine or device, whether mechanical, electronic or a mixture thereof (including but not limited to roulette wheels and similar devices) designed and manufactured primarily for the use in connection with gambling (This definition excludes the South Carolina Education Lottery); and, *(Amended Ord.2002-40)*
- 346.1 which when operated may deliver, as a result of the application of an element of chance, any money or property, or
- 346.2 by the operation of which a person may become entitled to receive, as a result of the application of an element of chance, any money or property, or
- 346.3 any substantial or essential part intended to be used in connection with any such machine or mechanical device as a constituent part.
347. **Gambling Facility.** Any area that provides space and functional equipment for a game which relies on an element of chance to deliver to a participant any money or property. This definition applies to, but is not limited to games such as craps, poker, and blackjack. (This definition excludes the South Carolina Education Lottery). *(Amended Ord.2002-40)*
348. **Gaming Vessel.** Any water-borne conveyance of any size, shape, or design, including shuttles, tenders, and all ancillary operations associated therewith, which contains gambling devices and provides use of such devices or gambling facilities to the public. *(Amended Ord.2004-81)*
349. **Group Housing.** A group of two or more one-family, two-family, or multiple-family dwellings occupying a lot in one ownership and having any yard in common.
350. **Heirs Property.** Property that is communally owned as a result of the landowner dying without a will. *(Amended Ord.2008-75)*
351. **Hotel.** A facility offering transient lodging accommodations to the general public that may provide additional services such as restaurants, meeting rooms and entertainment, regardless of ownership patterns. The term includes motels and condotels. *(Amended Ord # 2009-51)*
352. **Junkyards.** See Automobile Wrecking, Junk and Salvage Yards.
353. **Livestock.** Domesticated animals raised in an agricultural setting to produce commodities that may produce profit such as food, fiber and labor. This includes horses, mules, cows, goats, lambs and hogs. *(Amended Ord. 2015-50)*
354. **Loading Space.** A space within the main building or on the same lot therewith, providing for the standing, loading or unloading of a vehicle.
355. **Lot.** A parcel of land which fronts on a street and which is occupied or intended to be occupied by a building with customary accessories and open space.

- 355.1 **Lot Area.** The total surface area of land included within the lot lines.
- 355.2 **Lot Depth.** The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.
- 355.3 **Lot Lines.** The boundary dividing a given lot from the street, an alley, or adjacent lots.
- 355.4 **Lot Width.** The width of a lot at the building setback line measured at right angles to its depth.
- 355.5 **Lot of Record.** A lot, the boundaries of which are filed as a legal record. *(Amended Ord. 2008-02)*
356. **Marina.** Any commercial facility for the wet and/or dry storage and docking of seaworthy watercraft that provides water access for boats, such as ramps or hoists. The term marina may also include any docks, wharves, piers, floats, or any other similar structures erected, installed, places, or maintained along a shoreline for the purpose of providing a stationary landing for the anchoring, mooring, housing, or storing of four or more watercraft. *(Amended Ord. 2002-40)*
357. **Mixed-Use Development.** A development consisting of two or more uses such as residential, commercial, industrial, office or public. *(Amended Ord. 2011-41)*
358. **Mobile Home.** A detached single-family dwelling unit with all of the following characteristics: designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems; designed to be transported after fabrication on its own wheels, or on a flatbed or other trailers or detachable wheels and arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities and the like.
359. **Mobile Home Park.** Any plot of ground upon which two (2) or more mobile homes are located or intended to be located (does not include sites for unoccupied mobile homes which are on display for sale).
360. **Modular Unit.** A structure consisting of two (2) or more prefabricated components which is designed to be placed on a permanent foundation at the site and is not readily relocatable. The components generally arrive at the site complete except for exterior siding, furniture and plumbing and electrical fixtures. Modular units shall be considered buildings and shall conform with the regulations for site built units in the Standard Building Code.
361. **Nursing Home.** One licensed by the State of South Carolina.
362. **Off-Street Parking Space.** A yard, space or area off of the right-of-way, which space shall be accessible to a road and shall be arranged and maintained for the purpose of providing standing space for vehicles while at rest or while being utilized to load or unload merchandise or other materials incidental to the occupancy.

363. **Office Park.** A development on a tract of land that contains a number of separate office buildings; each containing four or fewer uses and no more than seven thousand five hundred (7,500) square feet of gross floor area, accessory and supporting uses, and open space designed, planned constructed and managed on an integrated and coordinated basis. *(Amended Ord. 2001-36)*
364. **Outdoor Advertising.** See Signs.
365. **Parking Lot.** An off-street facility including parking space along with adequate provisions for drives and aisles for maneuvering and gaining access and for entrance and exit, designed ~~so as to~~ be usable.
366. **Parking Requirements.** See Article X for parking requirements per use.
367. **Planned Development.** A project comprised of housing of different types and densities and of compatible commercial uses, or shopping centers, office parks and mixed-use developments. A planned development district is established by rezoning prior to development and is characterized by a unified site design for a mixed-use development. *(Amended Ord. 2011-41)*
368. **Planning Commission.** The Georgetown County Planning Commission.
369. **Plat.** A map, plan or layout indicating the location and boundaries of individual properties.
370. **Poultry.** Domesticated birds kept by humans for the eggs they produce, their meat or their feathers. *(Amended Ord. 2015-50)*
371. **Principal Use.** Specific primary purpose for which land or a building is used.
372. **Property Owner.** Any individual, POA, HOA or other group legally responsible for the land containing the subject material. *(Amended Ord. 2010-24)*
373. **Public Uses.** Public parks, schools, administrative, cultural and service buildings not including public land or buildings devoted solely to storage and maintenance of equipment and materials.
374. **Roadway.** The actual road surface including necessary road shoulders and drainage facilities including ditches and curbs, which is utilized to transport motor vehicles.
375. **Sanitary Sewer.** A sewage collection, treatment and disposal system of a type approved by the S.C. Department of Health and Environmental Control.
376. **Self-Service Storage Facility.** A structure containing separate storage spaces of varying sizes leased or rented to individual tenants for the dead storage of goods and wares.
377. **Service Complex.** A development on a tract of land not less than one acre in area that contains one or more buildings with multiple trade service uses, each building shall be limited to 12,000 square feet of gross floor area with six or fewer uses; accessory and supporting uses, and open

space; designed, planned, constructed, and managed on an integrated and coordinated basis.
(Amended Ord. 2006-14)

378. **Sexually Oriented Business** for adult entertainment includes, but is not limited to:

378.1 **Adult Arcade**. Any place in which the public is permitted or invited wherein, coin-operated or slug-operated or electronically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any time, and where the images so displayed are distinguished or characterized by depicting or describing "specified sexual activities" or "specified anatomical areas".

378.2 **Adult Bookstore Or Adult Video Store**. A commercial establishment which, as one of its principal business purposes, offers for sale one or more of the following:

378.201 Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

378.202 Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities". A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an Adult Bookstore or an Adult Video Store. Such other business purposes shall not serve to exempt such commercial establishments from being categorized as an Adult Bookstore or Adult Video Store so long as one of its principal business purposes is the offering for sale or rent for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas".

378.3 **Adult Cabaret**. A nightclub, bar, restaurant or similar commercial establishment which regularly features:

378.301 Persons who appear in a state of nudity; or

378.302 Live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities"; or

378.303 Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

378.4 **Adult Motel**. A hotel or similar commercial establishment which:

- 378.401 Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- 378.402 Offers a sleeping room for rent for a period of time that is less than ten [10] hours; or
- 378.403 Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten [10] hours.
- 378.5 Adult Motion Picture Theater. A commercial establishment where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".
- 378.6 Adult Theater. A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas".
- 378.7 Escort. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately perform a striptease for another person.
- 378.8 Escort Agency. A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, or other consideration.
- 378.9 Establishment: Includes any of the following:
- 378.901 The opening or commencement of any sexually oriented business as a new business; or
- 378.902 The conversion of an existing business, whether or not it is sexually oriented, to any sexually oriented business; or
- 378.903 The addition of any sexually oriented business to any other existing sexually oriented business; or
- 378.904 The relocation of any sexually oriented business.
- 378.10 Nude Model Studio. Any place where a person who appears in a state of nudity or displays "specified anatomical areas" may be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any

form of consideration.

378.11 Nudity or a State of Nudity. The appearance of a human bare buttock, anus, male genitals, female genitals or female breast.

378.12 Person. An individual, proprietorship, partnership, corporation, association or other legal entity.

378.13 Semi-Nude. A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body, supporting straps or devices.

378.14 Sexual Encounter Center. A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

378.141 Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

378.142 Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of semi- nudity.

378.15 Sexually Oriented Business. An adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion theater, adult theater, escort agency, nude model studio or sexual encounter center.

378.16 Specified Anatomical Areas. The male genitals in a state of sexual arousal and/or the
vulva or more intimate parts of the female genitals.

378.17 Specified Sexual Activities. Includes any of the following:

378.171 The fondling or erotic touching of human genitals, pubic region, buttocks, anus or female breasts; or

378.172 Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy; or

378.173 Masturbation, actual or simulated; or

378.174 Excretory functions as part of or in connection with any of the activities set forth above.

378.18 Massage Parlor. An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation is administered, unless such treatment is administered by a medical practitioner, chiropractor, physical therapist or similar person licensed by the State of South Carolina. This definition does not include an athletic club, health club, reducing

ARTICLE III

DEFINITIONS

salon, spa or similar establishment where massage or similar manipulation of the human body is offered by a licensed professional as an incidental or accessory service. (*Amended Ord.2002-04*)

378.19 **Bath House.** A public or private facility where individuals are nude or semi-nude and in exchange for any considerations baths are provided to individuals or groups. This definition does not include an athletic club, health club, reducing salon, spa or similar establishment where baths or soakings are offered by a licensed professional as an incidental or accessory service. (*Amended Ord.2002-04*)

379. **Shooting Range, Outdoor Commercial.** An area that is specifically designed for the commercial activity of discharging firearms. This includes ranges that charge and collect a fee in any manner for use of the range, whether it is hourly rates, club dues or other remuneration. Incidental shooting on hunting lands and private property is not considered an outdoor shooting range for zoning purposes. (*Amended Ord. 2016-15*)

379.1 **Shooting Range, Outdoor, Backstop.** A device such as a berm designed and located for the purpose of stopping bullets from travelling downrange, beyond the area immediately behind a shooters target.

379.2 **Safety Baffles.** Safety mechanisms, both on the ground and overhead that are designed to prevent a bullet, whether ricocheting or being fired from a firing station, from leaving the shooting area or at least is acceptable to protect people of property adjacent to the range. An example would be construction that prevents a shooter from seeing any sky downrange thus restricting where a shot could be placed. This definition is not intended to identify all of the types of safety baffles.

379.3 **Shooting Range, Archery.** A facility that accommodates the activity of shooting a bow and arrow, whether it is with a traditional bow or a crossbow. Archery ranges are permitted in any commercial outdoor shooting range.

380. **Shooting Range, Indoor.** A building or portion of a building that is fully enclosed and designed to safely discharge a firearm. In most cases this range will be an accessory activity to the retail aspects of a business such as sporting goods and gun sales. (*Amended Ord. 2016-15*)

380.1 **Shotgun.** A shoulder firearm with unrifled bore designed for the discharge of small shot at short distances. (*Amended Ord. 2016-15*)

380.2 **Rifle.** A gun, especially one fired from the shoulder level, having a long spirally grooved barrel intended to make a bullet spin and thereby have greater accuracy over a long distance. (*Amended Ord 2016-15*)

380.3 **Handgun.** A gun designed to be shot with one or two hands, as a revolver or pistol. (*Amended Ord 2016-15*)

381. **Shopping Center.** A commercial establishment that contains a number of separate buildings, accessory and supporting uses, and open space designed, planned, constructed and

managed on an integrated and coordinated basis; each containing four or fewer uses and no more than seven thousand five-hundred (7,500) square feet of gross floor area. *(Amended Ord.2001-36)*

382. **Sign.** A sign is any privately owned permanent, temporary or portable structure, device, ~~or~~ any item, and/or any combination thereof, which calls or draws attention of persons off of the premises to a product, service, person, business operation, use or event. A sign may consist of any and/ or a combination of the following: words, paint, billboards, figures symbols, insignias, medallions, promotional flags, banners, balloons, inflatables, posters, beacons, or other devices; erected on an open framework, or attached or otherwise applied to stakes, posts, poles, trees, buildings, or other structures or supports and which is in the nature of advertising, attracts attention, or which transmits information or an idea; commercial or noncommercial. *(Amended Ord. 2011-11)*

382.1 **Abandoned Sign.** Any sign that has been abandoned, improperly maintained, has gone beyond the designated term of a temporary permit, and /or relates to a business, event or use, which is no longer in operation or existence.

382.2 **Address and Name of Resident Sign.** Any sign that bears the name and/or address of the property owner and/or resident of the property.

382.3 **Artwork.** Works of art that contain no commercial messages or references.

382.4 **Awning Sign.** A sign placed directly on any non-rigid material such as fabric or flexible plastic that is supported by or stretched over a frame that is attached to an exterior wall, either painted directly on the surface of the material, or as separate elements attached to the surface.

382.5 **Back-To-Back Sign.** A sign constructed on a single set of supports, which may have two (2) messages visible on either side, providing the double Message surfaces, are physically contiguous.

382.6 **Banner.** A sign that is mounted on or attached to a non-rigid surface such as cloth, fabric, or paper.

382.7 **Billboard.** An off-site sign erected by, at the direction of, or for the outdoor advertising industry.

382.8 **Building Sign.** Any sign affixed to a building directly or by means of a wall, window, canopy, awning, marquee, projecting, or roof.

382.9 **Bulletin Board.** A supplemental sign which is helpful to conducting business or aiding in the free flow of traffic and is not easily legible from the street (Example: menu boards for fast foods).

382.10 **Canopy Sign.** A sign attached to an extension of the roof of a building or a freestanding structure that has a roof with support, but no walls.

382.11 **Commercial Sign.** Any sign which is in the nature of commercial advertising and which

transmits a message pertaining to a product, service use, occupancy, business, operations, event or function.

- 382.12 Copy. The characters, letters or illustrations displayed on a sign face (surface).
- 382.13 Dilapidated Sign. A sign which is unfit or otherwise structurally unsound, has defective parts, or is in need of painting or maintenance.
- 382.14 Directional Sign. A sign containing directional information about public places owned and operated by federal, state or local governments, public or privately owned natural phenomena, historical, cultural, educational and religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, considered to be in the public interest.
- 382.15 Directory Sign. A sign, which displays the names and/or address of the establishments or uses of a building or group of buildings (i.e., for an office complex or a shopping center).
- 382.16 Flags, Emblems or Insignias. A standard, ensign or colors of any governmental agency or religious, charitable, public or nonprofit organizations.
- 382.17 Ground Sign. Any sign, other than a pole sign, in which the entire bottom is in contact with or is or is within 12" from the ground and is independent of any other structure.
- 382.18 Historic Sign. A sign erected by a local, state or federal historical organization to commemorate a significant person, place, thing or event.
- 382.19 Home Occupation Sign. An on-premise sign for the identification of home occupations.
- 382.20 Illegal Sign. A sign that was constructed in violation of regulations that existed at the time it was built, or is in violation of an issued permit. Also, any sign(s) that were erected or placed, either on-premise or off-premise, without the official approval of the sanctioning body within Georgetown County.
- 382.21 Illuminated Sign. Any sign which employs artificial illumination techniques, such as direct or indirect electrical lighting, to project or enhance visibility of the message surface.
- 382.22 Main Identification Sign. The principal sign identifying a property, commodity, service, entertainment or business located on-premises.
- 382.23 Marquee Sign. A sign attached to and made part of a permanent structure other than a roof attached to, supported by, and projecting from a building and providing protection from natural elements, or any other similar projection from a building.
- 382.24 Mechanical Movement Sign. A sign having parts which physically move, rather than merely appearing to move as might be found in an animated sign. This physical movement may be activated electrically or from another power source but shall not include wind-activated movement such as occurs with flags and banners. Mechanical

signs shall not include any animated sign where the mechanical movement in the animated sign relates to a programmable display sign.

382.25 Monument Sign. A freestanding sign erected to rest on the ground or to rest on a monument base designed as an architectural unit with the sign.

382.26 Motor Vehicle/Semi Trailer Sign. Any sign on a motor vehicle or on a semi-trailer with or without tractor which can be seen from the street if circumstances, including the absence of vehicular use and/or the fact that the vehicle or semi-trailer carries no current motor vehicle registration or license plat, demonstrates that the primary use for said vehicle or semi-trailer is the advertisement of a business, product, or service of a business located on the premises where such a vehicle is parked. (Vehicles or semi-trailers parked at residences overnight for the purpose of accommodations to and from work are exempt from this definition.)

382.27 Non-commercial Sign. Any sign which is not in the nature of commercial advertising and which transmit a message, which does not relate to a product, good or service that is sold or rendered for profit. Non-Commercial signs shall be considered on-site signs. (*Amended Ord. 2008-57*)

382.28 Nonconforming Sign. A sign that was in compliance with the sign regulations and/or amendments that were in effect at the time the sign was erected or displayed but became "nonconforming" as a result of subsequent changes to the sign regulations and/or amendments thereto. In essence, it is a sign, which met all legal requirements at the time of construction. (Note: An illegal sign is not a "nonconforming" sign.)

382.29 Off-Site (Off-premise) Sign. Any sign the content of which relates to use, occupancy, or function on property other than that upon which the sign is located. It includes those referred to as billboards or outdoor advertising signs (*Amended Ord 2008 57*).

382.291 Off-Site (Off -Premise) Sign, Small. An off-site sign up to sixteen (16 square feet in area. (*Amended Ord. 2011 46*)

382.292 Off-Site (Off-Premise Sign, Electronic. An off-site sign, which includes any type of billboard, that contains text, images, or other messages that are either statically or dynamically displayed through any medium, such as but not limited to light-emitting diodes, liquid crystal display and cathode ray tubes, by use of a digital or analog signal. (*Amended Ord. 2015-11*)

382.30 On-Site Informational Signs. A sign giving on site information or directional assistance for convenience of the public, such as location of exits, entrances and parking lots, but bears no advertising matter.

382.31 On-Site (On-premise) Sign. Any sign, commercial or noncommercial, relating in subject matter to the premises on which it is located or to products, accommodations, services or activities on the premises. On-site signs do not include signs erected by the outdoor advertising business, but shall include "For Sale", "For Rent" and similar signs

provided that such signs are located on the specific property listed for sale, rent, etc.

- 382.32 Pole Sign. A freestanding sign (i.e., not attached to a building), with a base at least seven (7) feet above the ground which is supported from the ground by one or more poles or other stanchions of narrow width.
- 382.33 Portable Sign. Any sign that is not permanent, affixed to a building, structure, or the ground.
- 382.34 Posters and Handbills. Any sign affixed to trees or other natural vegetation, rocks or utility poles. This does not include authorized temporary signs.
- 382.35 Programmable Display Sign. An Animated sign made up of a field of individual electronic elements or mechanical grids that, when programmed and activated, create still or images or words. The elements may be internally illuminated or may be illuminated by reflected light. The sign may be framed by permanent, nonmoving signage. Programmable display signs shall include time and temperature signs
- 382.36 Projecting Sign. A sign which is supported by an exterior wall of a building and which is displayed perpendicular to the face of the building.
- 382.37 Real Estate Sign. Any sign pertaining to the sale, lease or rent of the premises, or portion of the premises, on which the sign is located.
- 382.38 Rotating Message Panel Board. A poster panel billboard, which has rotating panels with a maximum of three message faces and a minimum rotation of eight seconds.
- 382.39 Scenic Highway District. Land abutting a highway or section of highway which is officially determined by Georgetown County to contain exceptional scenic value such as, but not limited to, marsh and river vistas, trees, farm fields, timber stands or important architectural or historic structures.
- 382.40 Sign Reconstruction. The rebuilding or making over of the sign or supporting structure from the remaining parts
- 382.41 Sign Relocation. The movement of the sign to a new or changed location and includes without limitation any movement of the sign to a new location on the same structure, on the same parcel or elsewhere. Any movement of the sign, no matter how slight, is relocation.
- 382.42 Strings of Lights. Lights utilized in landscaping or holiday decorations having no commercial messages.
- 382.43 Subdivision Identification Sign. Any sign identifying a residential or commercial subdivision or development.
- 382.44 Temporary Sign. Those signs which are used for special events which would occur no

more than once a year such as announcing grand openings, new expansions, sales which occur once a year, special events and major construction activities.

- 382.45 Time and Temperature Sign. A programmable display sign that displays the current time and temperature.
- 382.46 V-Sign. A sign having two (2) sets of supports, sharing at least one common support and capable of having two (2) display (message) surfaces facing in different directions provided such double message surfaces are physically contiguous and further provided that the angle between the two surfaces shall not exceed 45 degrees.
- 382.47 Wall Sign. A sign painted on, inscribed on or attached to a wall of a building and ~~painted~~ to the wall.
- 382.48 Window Sign. Any sign, picture, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service that is placed visibly inside a window or upon the windowpane or glass.
383. Storm Sewer. A collection and disposal system for the control of storm drainage.
384. Story. The portion of a building included between the upper surface of any floor and the upper surface floor next above used for human occupancy. The term does not include the level of a building used for parking and storage which has no living space. Such area may include an entryway to a dwelling as allowed by any building code or floor ordinance. *(Amended Ord.2007-88)*
385. Street. Any public or private way set aside for public travel. The word "street" shall include the words "road", "highway" and "thoroughfare".
386. Structure. Anything constructed, erected, attached to, or on the ground either permanent or semi-permanent. Examples of structures include buildings, radio and television communication towers, sheds, other accessory uses, mobile homes and air-supported membranes structures, but does not include vehicles, fences, sidewalks, pavement or legally displayed goods. Building permits are required for all structures. *(Amended Ord.2009-27)*
- 386.1 Principal Structure. A structure in, by or on which the main principal business or use is conducted. *(AmendedOrd.2009-27)*
- 386.2 Accessory Structure. A structure customarily incidental and subordinate to the principal structure and located on the same lot with the structure.
387. Tattoo or tattooing shall mean to indelibly mark or color the skin by subcutaneous introduction of nontoxic dyes or pigments.
- 387.1 Tattoo Facility shall mean any room, space location, area, structure, or business, or any part of these places, where tattooing is practiced or where the business of tattooing is conducted.

- 387.2 **Tattoo Artist** shall mean a person who practices body tattooing and meets requirements set forth under state law. *(Amended Ord.2008-29)*
388. **Total Floor Area**. The area of all floors of a building including finished attic, finished basement and covered porches.
389. **Tourist Home**. A building designed as a single family detached dwelling unit with occupants utilizing one kitchen and sharing a common living area. Such unit is intended to be occupied by transient visitors for short-term stays, not exceeding in 30 days. *(Amended Ord.2006-106)*
390. **Town House**. A single-family dwelling unit attached by fire resistant common walls to another similar type unit, each having an open space for light, air and access in the front or rear.
391. **Travel Trailer**. A vehicular or portable structure designed as a temporary dwelling for travel, recreation or vacation uses.
392. **Tree**. Any self-supporting woody perennial plant normally having a single stem or trunk, whether coniferous or deciduous, of a species which normally reaches a height of ten feet or more at maturity. *(Amended Ord. 2010-24)*
- 392.1 **ANSI A300**. Generally accepted industry standards for tree care practices.
- 392.2 **Best Management Practices. (BMP)**. Forest management practices, developed pursuant to federal water quality legislation, to minimize or prevent non-point source water pollutions. Established by the SC Forestry Commission.
- 392.3 **Caliper**. The diameter of a tree trunk measured six (6) inches above the ground on trees with calipers of four (4) inches or less. For trees between four (4) and twelve (12) inch caliper, the trunk is measured twelve (12) inches above the ground.
- 392.4 **Clear Cutting**. Removal of all protected trees from an area or land.
- 392.5 **Commercial Timber Harvesting**. The felling of timber products for commercial use. The term "timber harvesting" may include both clear cutting and thinning of timber. This term does not include the clearing of land for development purposes.
- 392.6 **Diameter Breast Height (DBH)**. The total diameter in inches of a tree trunk or trunks measured in inches at a height of 4.5 feet above existing grade (base of the tree). If a tree trunk splits at ground level and does not share a common base, then each trunk shall be measured as a separate tree. If a multi-trunk tree splits below the 4.5 foot mark, all trunks shall be measured separately and count as one tree.
- 392.7 **Hazard Tree**. A tree that has defects in its roots, trunk, or branches that make it likely to fail, perhaps causing personal injury or property damage.
- 392.8 **Legacy Tree**. A memorial tree planted to honor an individual, organization, or event. Legacy trees must be of a species listed in Appendix A of this Ordinance. Such trees may be of

any size, but must be located on public property as long as the sponsoring party has received approval from the appropriate individual or agency. Such tree shall not be planted in a location that conflicts with overhead and underground utilities or violates Section 404 of this Ordinance regarding Vision Clearance.

392.9 Non Single-Family Parcel. A lot which contains any type of structure or use other than a single-family dwelling, including but not limited to commercial, multi-family, public facilities, industrial uses and churches. This term also applies to a parcel of land prior to its subdivision into single-family parcels.

392.10 Protected Tree. Any tree determined by Georgetown County to be of a high value because of its type, size, age or other professional criteria. The minimum DBH of various species of trees used to determine "protected" status may be found in the Appendix of this Ordinance.

392.11 Retained Tree. Any living, self-supporting woody perennial plant with a definitive crown which:

392.111 Has a trunk DBH of three (3") inches or larger; or

392.112 Is of a horticultural variety or is highly ornamental (dogwood, redbud, holly, etc.) and has a trunk DBH of at least two (2) inches.

392.113 Is not removed due to development.

392.12 Root Protection Zone. The land area around the base of a tree in which disturbances are prohibited to protect the roots of the tree and aid the tree's survival.

392.13 Root Pruning. The cutting of tree roots following accepted horticultural standards.

392.14 Single-Family Parcel. A lot which contains or will contain a building designed, constructed and used for one dwelling unit.

392.141. Occupied Single Family Parcel. A parcel in a residentially used or zoned area that contains a habitable structure for which a permanent certificate of occupancy has been issued.

392.142. Unoccupied Single Family Parcel. A parcel in a residentially zoned area that does not contain a habitable structure.

392.15 Tree Fund. A restricted fund established by the County for the purpose of collecting fines acquired from enforcement actions taken as a result of Article XIII Tree Regulations of this ordinance. Such funds shall be used by the County to plant trees and install landscaping in public areas.

392.16 Tree Professional. A certified arborist (certified by the International Society of Arborists) a registered consulting arborist (member of the American Society of Consulting Arborists), a board certified master arborist, a registered forester, a certified landscape architect or an

individual with a degree in urban forestry.

392.17 Tree Topping. The excessive removal of the top of a tree so as to radically alter its shape or removing the nearly vertical leader stems on protected trees.

392.18 Waterway Trees. Trees growing along or in a navigable waterway regardless of their location on public or private property.

393. Use. The purpose for which land or a building or other structure is designed, arranged or intended or for which it is or may be occupied or maintained.

394. Vendor. Any person who offers for sale goods or merchandise from a vacant lot or parking lot of an established business.

395. Wind Energy System. A facility that generates electricity from wind using various electrical and mechanical equipment. The facilities are divided into two types, Small Wind Energy Systems and Utility Scale Wind Energy Systems. *(Amended Ord. 2011-10)*

395.1 Wind System Height. The vertical distance from ground level to the tip of the wind generator blade when the blade is at its highest point.

395.2 Wind Shadow Flicker. The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structure causing a repeating pattern of light and shadow.

395.3 Wind Generator. The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

395.4 Wind Tower. The monopole, guyed monopoles or lattice structure that supports a wind generator.

395.5 Small Wind Energy System. A wind energy system designed to generate power for one building or property that consists of one tower and generator. Normally viewed as a windmill for particular property and is an accessory use.

395.6 Utility Scale Wind Energy System. A wind energy system normally owned by an electrical power company consisting of numerous towers to generate energy to provide to the power grid. Is considered a principle use and is often referred to as a wind farm.

396. Yard. An open space on the same lot with the principal building, open, unoccupied and unobstructed by buildings from the ground to the sky except as otherwise provided in this Ordinance.

396.1 Front Yard. The area extending across the entire width of the lot between the front lot line and the nearest part of the building foundation, including covered porches, elevated decks etc. *(Amended Ord. 2001-30)*

- 396.2 Side Yard. A yard extending along the side lot line from the front yard to the rear lot line and lying between the side lot line and the nearest part of the building foundation, including covered porches, elevated decks, etc. *(Amended Ord.2001-30)*
- 396.3 Rear Yard. The yard extending across the rear of the lot between inner side yard lines and lying between the rear lot line and the nearest part of the building foundation, including covered porches, elevated decks, etc. *(Amended Ord.2001-30)*

ARTICLE IV

GENERAL PROVISIONS

400. **Nonconforming Buildings or Uses.** Nonconforming buildings or land uses are declared by this Ordinance to be incompatible with permitted uses in the Districts involved. However, to avoid undue hardship, the lawful use of any building or land use at the time of enactment or amendment of this Ordinance may be continued even though such use does not conform with the provisions of this Ordinance except that the nonconforming building or land use shall not be:
- 400.1 Changed to another nonconforming use, regardless of intent; *(Amended Ord. 2012-27)*
 - 400.2 Reused or reoccupied after discontinuance of use or occupancy for a period of 180 days or more or complete season in the case of a seasonal use. A commercial establishment rendered nonconforming by the presence of an off-site sign shall not be subject to this provision. *(Amended Ord. 99-84)*
 - 400.3 Reestablished, reoccupied or replaced with the same or similar building, structure or mobile home after physical removal or relocation from its specific site location at the time of passage of this Ordinance, regardless of intent. A nonconforming mobile home shall not be replaced after it is removed or relocated. This section shall not apply to a single mobile home located within a mobile home park. *(Amended Ord. 2012-27)*
 - 400.4 Reconstructed or rebuilt if the structure is deemed vacant, dilapidated and unsafe due to decay evidenced by one or more of the following conditions; failing structural members, collapsed roof, crumbling walls, dangerous electrical system, lack of plumbing, failing foundation or other life or health threatening condition. The Building Official shall make this determination which shall include a finding that the structure is not repairable and any attempt would actually result in construction of a new structure. *(Amended Ord. 2012-27)*
 - 400.5 Repaired, rebuilt, or altered after damage exceeding seventy (70%) percent of its replacement cost at the time of destruction, regardless of intent. Reconstruction or repair, when legal, must begin within six (6) months after damage is incurred or completed before the next season in the case of seasonal structures. Any other repair, rebuilding or alteration must be completed within one (1) year of the start of construction. An extension of six (6) months may be granted if building materials or labor is not available or if bona fide insurance problems prevent commencement. This section applies to circumstances when a structure is damaged by a single, natural event such as fire or a storm and not lack of maintenance. *(Amended Ord. 2012-27)*

ARTICLE IV**GENERAL PROVISIONS**

401. **Nonconforming Building or Use Discontinuance.** Not with standing other provisions of this Ordinance, certain nonconforming buildings or land uses, after this Ordinance is enacted into law, shall be discontinued and/or shall be torn down, altered or otherwise made to conform with this Ordinance within the periods of time set forth below. Upon application to the Board of Appeals, the Board, either according to general rule or upon findings in the specific case, may permit not more than one extension as indicated below. Notice shall be sent by the Zoning Administrator to all nonconforming uses stating wherein they do not conform to said Ordinance and stating the date by which they must either comply or cease to exist. The date that a nonconforming use must either comply or cease to exist shall be measured from the date of enactment or amendment of this Ordinance and shall be observed regardless of whether notice of nonconformity is sent by the Zoning Administrator or received by the affected owner.

401.1	<u>Nonconformities</u>	<u>To Be Discontinued Within</u>	<u>Extension Permitted</u>
	Wrecking, junk, scrap, or salvage yards and other open uses of land, automotive storage and sales lots, outdoor storage yards for lumber, building materials, contractor's equipment and junk motor vehicles not possessing current license plates.	One Year	6 Months
	Fences and hedges impeding vision at intersections.	30 Days	30 Days
	Nonconforming on site signs	Change In Use	None

402. **Mobile Homes.** Mobile homes on individual lots shall be permitted in all residential districts except Resort Residential Districts, R-10 Districts, General Resort Residential Districts and Medical Districts, provided that:

- 402.1 Such use conforms to all requirements set forth for that district;
- 402.2 No more than one (1) mobile home is located on a given lot;
- 402.3 The mobile home in question constitutes the principal use of that lot and no other residence or other principal structure is located on the lot;
- 402.4 The mobile home shall be placed on a permanent foundation, properly anchored and underpinned in conformance with regulations published by the American National Standards Institute (ANSI/NFPA 501A);
- 402.5 The mobile home meets all structural standards established by the State of South

ARTICLE IV

GENERAL PROVISIONS

Carolina and is in conformance with regulations published by the American National Standards Institute (ANSI/NFPA 501B) regarding the construction of mobile homes;

402.6 Such use shall be deemed to have adequate water, sewer and other service facilities meeting standards established by the S.C. Department of Health and Environmental Control, the American National Standards Institute or the Georgetown County Building and Housing Codes, whichever may be applicable; and,

402.7 Such use shall conform to all standards intended to reduce flood hazards as would be required for on-site construction under this and other ordinances of the County.

A public or private utility department, company or corporation shall not connect utilities, begin service, turn on water, electricity or gas or in any way furnish service to a mobile home until the mobile home owner or lessee shall present a valid mobile home permit, signed by the Building Inspector.

403. **Churches, Synagogues, Temples and Other Places of Worship.** Places of religious worship shall be permitted in all zoning districts except Limited and Heavy Industry, provided that:

403.1 Such use is housed in a permanent structure;

403.2 Such use conforms to all requirements set forth for that district, including architectural requirements if commercially zoned and located in an overlay district. *(Amended Ordinance 2015-23)*

404. **Vision Clearance.** In all districts, there shall be no plants or structures placed in any yard portion of a lot that would obstruct the vision of auto or pedestrian traffic using the street.

405. **Ingress and Egress.** A plan for adequate and safe ingress and egress for all land uses shall be required by the Zoning Administrator.

406. **Flood Protection.** Any structure proposed to be located within any flood prone area shall conform to the Flood Damage Prevention Ordinance of Georgetown County.

407. **Parking and Storage of Certain Vehicles.** Automotive vehicles or travel trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in a completely enclosed building.

408. **Water and Air Pollution.** All uses must satisfactorily comply with the requirements of the S.C. Department of Health and Environmental Control, the Georgetown County Health

Department and the South Carolina Pollution Control Authority regarding the protection of waterways and atmosphere from pollution by dust, smoke or other waste material.

409. **Front Yard Setback on US Highway 17.** All buildings and structures shall be required to meet a 90 foot setback from US Highway 17 right-of-way throughout the County, regardless of whether a setback is deemed front, rear, or side. In Murrells Inlet, only US Highway 17 Bypass shall be included in the 90 foot setback provision. *(Amended Ord.2007-11)*
410. **Street Frontage.** Except as herein provided, no building shall hereafter be erected, constructed, moved or relocated on a lot which does not have at least fifty (50) feet of frontage on a publicly dedicated and accepted or publicly maintained street, except:
- 410.1 Lots fronting on cul-de-sacs may have a minimum road frontage of thirty (30) feet if the lot is at least fifty (50) feet in width at the building line;
- 410.2 Condominiums and townhouses may be excluded from this provision with the approval of the Planning Commission;
- 410.3 Lots located on a private street in minor subdivisions or planned developments, which are shown on a properly approved and recorded plat upon which said private street is so designated; and,
- 410.4 Where a lot exists prior to the adoption of the Zoning Ordinance without any frontage, the Planning Commission may determine if private access is adequate for the development of the lot; however, if the owner of the lot owns an adjoining lot with street access, he must combine said lots to comply with this section. This exception only applies to lots separately owned since the enactment of this Ordinance (January 1, 1974).
- 410.5 Lots created in a Minor Subdivision of three or fewer lots and fronting on a shared driveway, which shall be a recorded access easement, as provided for in Article 2, Section 3-10 of the Georgetown County Land Development Regulations. *(Amended Ord. 2017-16)*
411. **Accessory Structures.** An accessory structure, which requires a building permit, may be located in the rear setbacks no closer than five (5) feet from the property line provided that: *(Amended Ord.2009-27)*
1. No accessory structure in this portion of the setback shall exceed twelve (12) feet in height as defined in Section 322 of this ordinance which states that height is the vertical distance measured from the finished grade at the building line to the midpoint on the roof between the eave and the ridge.
 2. No accessory structure shall contain habitable area;

3. In addition, corner lots may apply this provision to the interior, non-street side yard setback only. The corner setback for the appropriate Zoning District would still apply.
 4. This provision shall apply to residential uses only in any zoning district. *(Amended Ord 2010-28)*
412. **Corner Lots.** In the case of any lot that adjoins two streets, yards abutting streets shall be treated as front yards. On the major of 2 streets, the first (1st) front set back requirements, shall be (100%) of front yard setback requirements for the district. On a minor street the second (2nd) front setback requirement, shall be 66% of the front yard setback requirements of the district. For corner lots abutting US Highway 17, except in Murrells Inlet on US Business 17, the setback requirement shall be 90 feet as required in Section 409 of this ordinance. *(Amended Ord. 2007-11)*
413. **Elevation of Buildings.** All buildings shall be elevated to help eliminate flooding, in that the finished floor shall be elevated at least eighteen inches above the grade of the lot or the grade of the street, whichever is less, or when this is not practical because of unusual conditions, the Building Inspector shall determine the appropriate elevation.
414. **Customary, Incidental Home Occupation.** In any residential district, a customary, incidental home occupation as defined in Article III, Section 334, is permitted.
415. **Cabanas, Docks, Dune Crossovers and Boardwalks.** Cabanas, docks, dune crossovers and boardwalks shall be permitted in all zoning districts provided that such structures meet all applicable State and Federal standards for location and design.
- 415.1 Boardwalks or crossovers shall not exceed 6 feet in width unless otherwise permitted by the State.
- 415.2 Only one cabana, dock, dune crossover and/or boardwalk shall be permitted on a lot.
416. **Body Piercing.** Body piercing shall be permitted as an accessory use only in General Commercial or Medical Districts, inside state-licensed health care establishments engaged in the science and art of preventing, curing or alleviating disease, including medical, surgical, psychiatric, chiropractic, osteopathic, and dental hospitals, clinics and offices; but excluding veterinary clinics, and health clubs, gymnasiums, and associated uses.
417. **Incidental Vehicle Sales.** Automobiles, trucks, recreational vehicles, and boats/boat trailers placed in the right-of-way or on public property, for the purpose of exposure and with the intent to sale shall be considered incidental vehicle(s). These vehicle(s) have been declared by Section 401.1 as non-conforming use(s) and shall not be permitted. *(Amended Ord. 2004-03)*

ARTICLE IV

GENERAL PROVISIONS

- 417.1 The sale of one or more incidental vehicle(s) shall conform to the requirements for the establishment of a commercial vehicle sales business and the regulations as set forth in this ordinance.
- 417.2 Further, incidental Vehicle Sales shall not be permitted as a street side vending operation.
- 417.3 This is not meant to prohibit a private property owner the private property for the purpose of sale.
- 417.4 Failure to comply with these requirements shall be subject to the Penalties for Violation as contained in Article XV, Section 1505 of this ordinance.
418. **Traffic Impact Analysis.** Any development or use shall comply with the requirements of the County Code Chapter 15, Article V, Transportation, prior to development. *(Amended Ord. 2004-26)*
419. **One Principal Structure on a Lot.** Only one principal structure and its customary accessory structures may hereafter be erected on any lot, except that condominiums, townhouses, motels, shopping centers and office parks may be excluded from this provision with the approval of the Planning Commission and County Council. Also excluded shall be a principal commercial structure with four or fewer uses when they are owned or managed as a unit. Such projects shall also comply with all other management, parking and buffering requirements. This section shall not apply in situations otherwise addressed by another section of the Zoning Ordinance. *(Amended Ord. 2011-41)*
420. **Swimming Pools.** Swimming pools may be either above-ground or in-ground and shall be allowed in all residential and commercial zoning classifications as an accessory structure. Swimming pools shall be located outside of the front-yard setback and may be located within five (5) feet of the rear and side property lines. Pools are not exempt from Section 809 of this Ordinance.
421. **Air-supported Membrane Structures.** Air-supported membrane structures are allowed in all residential and commercial zoning classifications, unless addressed elsewhere in this ordinance, and shall be located to the rear of the principle structure. Such structures may be located within five (5) feet of the rear and side yard property lines and shall be required to meet all building and fire protection regulations. Air-supported membrane structures are not exempt from other requirements established in this ordinance. *(Amended Ord. 2009-27)*
422. **Outdoor Products Display.** (Related to On-Site Business) In all zoning districts, all products or stock shall not be placed in any road right-of-way. Additionally, no product or stock may be placed in any easement owned by Georgetown County unless the County grants written permission. *(Amended Ord. 2013-01)*

- 422.1 Commercial or industrial products or stock shall not be displayed outdoors in the Office Commercial District (OC) or Medical District (MD). Products shall not be openly displayed in relation to any home occupation.
- 422.2 Commercial Products or stock may be displayed provided;
- A. The Product or stock shall not be displayed in a manner that could be considered on-site signage.
 - B. The product or stock shall not be attached to or suspended to structures, trees, utility poles, fences or existing signage.
 - C. The product or stock shall not be placed in a required perimeter landscape buffer or displace any required parking.
 - D. No product or stock shall be placed in a manner that obstructs the vision of vehicular or pedestrian traffic using any street, driveway, bike path or walkway. All outdoor display products must meet Section 404. Vision Clearance of this Ordinance in addition to the above.
- 422.3 Nothing in this Section is intended to allow open storage of bulk materials such as by way of example concrete blocks, dirt, lumber or raw materials used in manufacturing processes.
423. **Filming Activities.** Georgetown County Ordinance No. 2013-43 regulates all filming activities within Georgetown County. These activities do not fall under the purview of the Zoning Ordinance. *(Amended Ord. 2013-57)*
424. **Farm Animals, Poultry, Fowl and Livestock On A Residential Lot.** These subjects are specifically addressed in the Forest Agriculture (FA), Forest Agriculture/Residential (FA/R), Forest Agriculture/Commercial (FA/C) and Conservation Preservation (CP) districts. Farm animals, livestock, poultry and fowl are not permitted in the Resort Residential (RR), General Resort Residential (GRR), Neighborhood Commercial (NC), Resort Services (RS), Resort Commercial (RC), Medical (MD), Office Commercial (OC), Mobile Home Park (MHP), General Residential (GR), 6,000 Square Feet Residential (R-6), 8,000 Square Feet Residential (R-8), Rural Village Commercial (RVC) and General Commercial (GC) districts. In the Five Acre Residential (R-5AC), One Acre Residential (R-1) Three Quarter Acre Residential (3/4 AC), One Half Acre Residential (R 1/2 AC), 10,000 Square Feet Residential (R-10), 10,000 Square Feet Mobile Residential (MR-10) and 10,000 Square Feet Village Residential (VR-10) districts, poultry and fowl are allowed as a conditional use subject to

the following. Farm animals and livestock are not allowed. *(Amended Ord. 2015-50)*

424.1 Male birds are not allowed, only hens;

424.2 Four (4) birds are allowed for every ten thousand (10,000) square feet of land in a parcel, however a maximum of sixteen (16) birds shall be permitted on any one parcel;

424.3 No bird enclosure is allowed within fifty (50) linear feet of another dwelling not owned by the person owning the birds and within fifteen (15) feet of a property line;

424.4 All birds must be in an enclosure from which they cannot escape;

424.5 In the event a bird is slaughtered, it must be done in an enclosed structure so that the activity is not visible from another private property or a public right-of-way;

424.6 This ordinance is not intended to address traditional pets. By example, dogs, cats, parakeets, rabbits and pot-bellied pigs are not addressed by this ordinance unless the owner is operating a commercial business in a residential district.

425. Commercial Helicopter Operations. Commercial helicopter operations, as defined in Section 306.10, shall only be allowed to operate upon the premises of a Public Use Airport or the following zoning districts: Forest Agriculture, Limited Industrial and Heavy Industrial. *(Amended Ord. 2016-37)*

425.1 Helicopter operations that are incidental and subordinate to routine hospital, emergency medical, law enforcement, firefighting, and federal/state military activities are not subject to the provisions of Section 425.

425.2 Helicopter operations that are non-commercial in nature and intended for private uses, being demonstrated by the absence of the exchange of anything in value for the services of the rotary-wing aircraft, are not subject to the provisions of this Ordinance.

ARTICLE V

ESTABLISHMENT OF ZONING DISTRICTS AND RULES FOR THE INTERPRETATION OF DISTRICT BOUNDARIES

500. **Establishment of Districts.** For the purpose of this Ordinance, Georgetown County, as specified on the Official Zoning Map of Georgetown County, are hereby divided into the following zoning districts *(Amended Ord. 2009-41)*:

Conservation Preservation District	CP
Forest Agriculture District	FA
Five Acre Residential District	R-5 AC
One Acre Residential District	R-1 AC
Three Quarter Acre Residential District	R-3/4 AC
One Half Acre Residential District	R-1/2 AC
10,000 Square Feet Residential District	R-10
10,000 Square Feet Residential District	MR-10
Resort Residential District	RR
General Residential District	GR
General Resort Residential District	GRR
Resort Commercial District	RC
Neighborhood Commercial District	NC
General Commercial District	GC
Medical District	MD
Resort Service District	RS
Limited Industrial District	LI
Heavy Industrial District	HI
Mobile Home Park District	MHP
Destination Park District	DPD
Planned Development District	PD
Office Commercial	OC
Rural General Residential District	RG
Forest Agriculture/Residential District	FA/R
Forest Agriculture/Commercial District	FA/C
Preservation Agriculture District	PA
Rural Village Commercial District	RVC
Village 10,000 Square Feet Residential District	VR-10

501. **District Boundaries.** The boundaries of the above zoning districts are shown by a series of maps entitled, "Official Zoning Map, Georgetown County, South Carolina," which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

- 501.1 The Official Zoning Map shall be identified by the signature of the Chairman of the County Council of Georgetown County, attested by the Clerk of the

ARTICLE V

ESTABLISHMENT OF DISTRICTS AND RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

County Council of Georgetown County, and bearing the Seal of the County under the words: "Official Zoning Map, Georgetown County, South Carolina," together with the date of the most recent amendment to that particular map.

501.2 If, in accordance with the provisions of this Ordinance and by Title 6, Chapter 7, Article 9, Code of Laws of South Carolina, 1976, as amended, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly by the Administrative Officer or by a designee of County Council within fifteen (15) days after the amendment has been approved by the County Council. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change has been made on said map.

501.3 No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided by law.

501.4 Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be published, the Official Zoning Map which shall be located in the Office of the Administrative Officer or a designee of County Council shall be the final authority as to the current status of land and water areas, buildings and other structures in the County.

502. **Rules for Interpretation of District Boundaries.** Where uncertainty exists as to the boundaries of a district as shown on the Official Zoning Map, the following rules shall apply:

502.1 Boundaries indicated as approximately following the center lines or right-of-way lines of streets, highways, alleys, railways, or public utility easements shall be construed to follow such lines;

502.2 Boundaries indicated as approximately following plotted lot or tract lines shall be construed as following such lines, whether public or private;

502.3 Boundaries indicated as approximately following the incorporated area of city limit lines or special district lines as amended from time to time, shall be construed to follow such lines;

ARTICLE V

ESTABLISHMENT OF DISTRICTS AND RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

- 502.4 Boundaries indicated within the area known as the Atlantic Ocean shall be construed to be parallel to and five hundred (500) feet seaward from adjacent land marsh shoreline at all times;
- 502.5 Boundaries indicated as approximately following the center, mean high water mark, or shoreline of streams, rivers, canals, lakes, marsh areas or other bodies of water, low lands or tidal areas shall be construed to follow such boundaries; and,
- 502.6 Boundaries indicated as parallel to or extensions of features indicated in subsections 502.1 through 502.5 above shall be so construed. If distance is not specifically indicated on the Official Zoning Map, or in other circumstances not covered by subsections 502.1 through 502.5 above, the Board of Appeals shall interpret the district boundaries.

503. Use of Land or Structures.

- 503.1 No land or structure shall hereafter be used or occupied unless it is specifically permitted as an allowable use within that zoning district and no structure or parts thereof shall hereafter be constructed, erected, altered or moved unless in conformity with all of the regulations herein specified for the district which it is located.
- 503.2 No structure shall hereafter be erected or altered:
- 503.201 With greater height, size, bulk or other dimensions;
 - 503.202 To accommodate or house a greater number of families;
 - 503.203 To occupy a greater percentage of lot area;
 - 503.204 To have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required; or,
 - 503.205 In any other manner contrary to the provisions of this Ordinance.
- 503.3 No part of a yard or other open space or off-street parking or loading area required about or in connection with any building for the purpose of

ARTICLE V

**ESTABLISHMENT OF DISTRICTS AND RULES
FOR INTERPRETATION OF DISTRICT
BOUNDARIES**

complying with this Ordinance shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

ARTICLE VI

REQUIREMENTS BY DISTRICT

600. Conservation Preservation District (CP).

Intent. Georgetown County is unique in that within its bounds are a large portion of the State's estuarine land and water formations. These areas possess great natural beauty and are the breeding grounds and refuges of marine life, birds and land animals whose survival is economically important to sport and commercial fishing, hunting activity, and nature study by our citizens and visitors to the area. In addition, these areas provide needed open space for general outdoor recreational use so necessary for the health and general welfare of the residents of the County. The regulations which apply within this District are designed to reserve such areas for the purposes outlined herein and to discourage any encroachment by residential, commercial, industrial or other uses capable of adversely affecting the relatively undeveloped character of the District.

600.1 Permitted Uses. The following uses shall be permitted in any Conservation Preservation District:

- 600.101 Hunting, fishing, aqua farming, recreational boating, swimming and nature study;
- 600.102 Hunting preserves and wildlife refuges including the planting of grain for wildlife and the repairing of dikes for such purposes;
- 600.103 Harbors, channels essential to connect harbors, boat ramps, marine facilities, and major wharfs and docks of industrial or recreational areas to the main streams and estuaries of the area;
- 600.104 Waterways, channels, and other essential aids to navigation, shortening the intracoastal waterway, or providing for a direct connection between harbors, wharfs and boat ramps;
- 600.105 Publicly owned and/or operated park, dock, boat landing, open space, recreational facility or use, and the equipment necessary to operate such areas;
- 600.106 Directional markers or official signs of public agencies;
- 600.107 Private dock, boathouse or fishing pier; and,
- 600.108 Such other uses, including alteration of land, shall be permitted when the Zoning Administrator is presented with valid State and Federal permits required for such use; PROVIDED that the use so permitted shall be compatible with the nearest zoned district other than the Conservation Preservation District.

600.2 Conditional Uses. The following uses shall be allowed on a conditional basis in any Conservation Preservation District. *(Amended Ord. 2016-15)*

- 600.201 All ranges must be designed to the greatest degree possible in compliance with standards established by the National Rifle Association or the National Outdoor Shooting Sports Association. A written plan must be submitted to the County Planning Department describing how the range conforms to the above noted standards and the areas in which it does not;
- 600.202 Commercial outdoor shooting ranges provided that any range under the provisions of this section shall apply for and receive a Certificate of Zoning Compliance before beginning operation;
- 600.203 No commercial outdoor shooting range created after the enactment of this Ordinance, September 13, 2016, shall be located on a parcel less than ten (10) acres in size;
- 600.204 All commercial outdoor shooting ranges accommodating rifles shall be located such that any shooting station is at least two thousand (2,000) linear feet in a straight line from any habitable dwelling, church, school, park, hospital or nursing home. Ranges dedicated to shotguns shall meet a minimum separation requirement of five hundred (500) linear feet. Dwellings located on the same parcel as the shooting range and dwellings owned by an owner of the subject shooting range are not included in this separation requirement. Additionally, the separation requirement from a dwelling may be waived if the owner of the dwelling provides an affidavit agreeing to waive such requirement in perpetuity. An applicant may request County Council in writing to reduce the above separation requirements due to conditions found on a particular parcel that mitigate noise issues or demonstrate that features will be added that mitigate such noise.
- 600.205 All ranges, except those only used for shooting trap, sporting clays and skeet with shotguns, or firing shotguns in any manner, shall utilize a backstop and safety baffles. Ranges must be designed to keep all projectiles within the range;
- 600.206 Outdoor shooting shall cease each day at 8:00 PM and not begin in the morning until 8:00 AM; and
- 600.207 A indoor shooting range may be considered as an accessory to an outdoor shooting range but an outdoor shooting range may not be considered as an accessory use to an indoor range.

601. Forest Agriculture District (FA).

Intent. It is the intent of this section that the Forest Agriculture District be utilized and reserved for agriculture and forestry uses. The regulations which apply within this district are designed to encourage the formation and/or continuance of a compatible environment for livestock ranches, dairies, forest management areas, horticultural nurseries and other agricultural uses which involve the growing of crops, livestock, animals and/or trees and discourage any encroachment by premature housing development, scattered commercial and/or industrial operations, or other uses capable of adversely affecting the basic agricultural or open character of the District.

601.1 **Permitted Uses.** The following uses shall be permitted in any Forest Agriculture District:

- 601.101 Commercial and recreational fishing activity including docking and repair of vessels and minimum necessary processing for shipping of seafood, (not including cooking or canning);
- 601.102 Farms, nurseries or other establishments for the growing, care and handling of field crops, truck gardening products, fruit and/or nut trees, poultry and/or animals and livestock;
- 601.103 Tree farm and/or forest management areas;
- 601.104 Social, cultural or religious uses:
 - 601.1041 Private or semi-private club, lodge, grange, union hall or social center;
 - 601.1042 Eleemosynary, religious, semi- public or philanthropic institution or camp; and,
 - 601.1043 Cemetery.
- 601.105 Golf courses;
- 601.106 Bed and Breakfast establishments;
- 601.107 Veterinary office, animal hospital and/or boarding facility;
- 601.108 Single-family dwellings and one accessory dwelling per parcel when the single family principal dwelling is not a mobile home and the habitable space of the accessory unity does not exceed nine hundred (900) square feet; *(Amended Ord. 2018-05)*
- 601.109 Landscaping services;

- 601.110 Wildlife refuge including single-family unit for caretakers employed to maintain and protect the refuge; and,
- 601.111 Public buildings, facility or land, public utility substation or sub-installation including water towers;
- 601.112 Airfield together with subordinates uses, radio and/or television stations and transmission towers; and,
- 601.113 Accessory uses, including telephone booths associated with non-residential uses.

601.2 Conditional Uses. The following uses shall be allowed on a conditional basis in any Forest Agriculture District:

- 601.201 Stand or shelter for the selling and/or display of seasonal agricultural produce provided that:
 - 601.2011 Stand or shelter may be located within the minimum front yard area but no closer to the nearest street right-of-way than twenty (20) feet; and,
 - 601.2012 At least four (4) off-street parking spaces are provided and suitably maintained.
- 601.202 *(Removed Amended Ord. 2008-77)*
- 601.203 Convenience and commercial establishments such as grocery stores and drug stores, provided that such uses shall be limited to 3,000 square feet in total floor area.
- 601.204 Sand and coquina extraction, provided that:
 - 601.2041 A site plan be submitted and approved by the Zoning Administrator showing the following:
 - 601.20411 A survey with north arrow, scale and date;
 - 601.20412 Show the area where excavation will occur;
 - 601.20413 Show water bodies, wetlands, and areas subject to flooding;

ARTICLE VI

REQUIREMENTS BY DISTRICT

- 601.20414 Establish a buffer area of at least fifty (50) feet adjoining properties, roadways and drainage areas;
- 601.20415 Show existing and proposed contours;
- 601.20416 Proposed fencing and gates; and,
- 601.20417 Operational statement which shall include date of start up, operating hours, types of equipment to be used.
- 601.2042 A Reclamation Plan which includes a statement of planned rehabilitation, methods of accomplishment, phasing and timing.
- 601.2043 A Drainage and Erosion Control Plan.
- 601.205 Vendors provided that all conditions and requirements contained in Section 611.216 are met.
- 601.206 Wood chipping and composting facilities, provided that:
 - 601.2061 Such uses are located on a lot not less than five (5) acres in size;
 - 601.2062 A vegetation buffer is established and maintained around the perimeter of the facility;
 - 601.2063 Such uses meet all requirements contained in South Carolina code 44-96-190 and 44-96-380 and parks and regulations promulgated by SCDHEC; and,
 - 601.2064 If a wood chipping machine is utilized the machine shall not be located closer than 500' to any residential structure.
- 601.207 Amenity, subdivision provided that: *(Amended Ord. # 2007-03)*
 - 601.2071 Parking shall be provided at a rate of one half that required in Article XI of the Zoning Ordinance.
 - 601.2072 Adjacent residential properties must be buffered from any recreational amenity other than a passive park which contains no structures. Such buffer shall, at a minimum, be a Type 2 as identified in

Article XII of the Zoning Ordinance.

- 601.2073 The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by residents of the subdivision.
- 601.208 Campgrounds provided that:
- 601.2081 Parcel shall be limited to under ten acres.
- 601.2082 A minimum 100-foot landscape buffer shall be installed on all sides along with a minimum lot width of 300 feet for this site. Buffer shall contain the minimum number of plantings for a Level 3 buffer as outlined in Article XII, Section 1201.9 of this ordinance. Existing vegetation may count toward or replace this requirement.
- 601.2083 If the area is forested at the time of development, trees shall be left between all campsites. Clear cutting of the site is prohibited.
- 601.2084 The site must contain the following amenities as a minimum: restrooms or other approved waste disposal method, showers, electricity, water, and parking. Campers that provide self-contained utilities meet the provisions of this section.
- 601.2085 Individual camping site requirements:
- 628.20851 Individual site shall have a minimum distance 15 feet between sites and a minimum site width of 35 feet.
- 601.2086 Accessory use: If a camp store is proposed as part of the campground, it shall be limited to 3,000 square feet without a drive-thru. Additional parking spaces are required based on Article XI of this Ordinance. *(Amended Ord 2009-26)*
- 601.209 Utility Scale Wind Energy Systems provided that:*(Amended Ord. 2011-10)*
- 601.2091 All requirements in Article XXIII, Wind Energy Facilities, of the Zoning Ordinance are met.
- 601.210 Commercial Outdoor Shooting Ranges provided that: *(Amended Ord.*

2016-15)

- 601.2101 All ranges must be designed to the greatest degree possible in compliance with standards established by the National Rifle Association or the National Outdoor Shooting Sports Association. A written plan must be submitted to the County Planning Department describing how the range conforms to the above noted standards and the areas in which it does not;
- 601.2102 Any range under the provisions of this section shall apply for and receive a Certificate of Zoning Compliance before beginning operation;
- 601.2103 No commercial outdoor shooting range created after the enactment of this Ordinance, September 13, 2016, shall be located one parcel less than ten (10) acres in size;
- 601.2104 All commercial outdoor shooting ranges accommodating rifles shall be located such that any shooting station is at least two thousand (2,000) linear feet in a straight line from any habitable dwelling, church, school, park, hospital or nursing home. Ranges dedicated to shotguns shall meet a minimum separation requirement of five hundred (500) linear feet. Dwellings located on the same parcel as the shooting range and dwellings owned by an owner of the subject shooting range are not included in this separation requirement. Additionally, the separation requirement from a dwelling may be waived if the owner of the dwelling provides an affidavit agreeing to waive such requirement in perpetuity. An applicant may request County Council in writing to reduce the above separation requirements due to conditions found on a particular parcel that mitigates noise issues or demonstrates that features will be added that mitigate such noise;
- 601.2105 All ranges, except those only used for shooting trap, sporting clays and skeet with shotguns, or firing shotguns in any manner, shall utilize a backstop and safety baffles. Ranges must be designed to keep all projectiles within the range.

601.2106 Outdoor shooting shall cease each day at 8:00 PM and not begin in the morning until 8:00AM; and,

601.2107 An indoor shooting range may be considered as an accessory to an outdoor shooting range but an outdoor shooting range may not be considered as an accessory use to an indoor range.

601.211 Private Use Airports together with subordinate uses, commercial helicopter operations associated with forestry or agricultural uses such as timbering and crop dusting, radio and/or television stations and transmission towers. If any use in this section falls under the purview of Article XX, Section 2001 Airport Safety Overlay Zone, then such use must adhere to Section 2001, provided that: *(Amended Ord. 2016-37)*

601.2111 Such use, with the exception of communication towers, shall be located no closer than two thousand (2,000) feet measured in a straight line from any dwelling not owned by an owner of the subject airfield, church, hospital or park. Communication towers shall meet the requirements in the Georgetown County Communication Tower Ordinance.

601.3 Other Requirements.

601.301 All allowed uses shall be required to conform to the standards set forth in Article VII.

601.302 Uses allowed in this district shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.

601.303 Signs permitted in this District, including the conditions under which they may be located, are set forth in Article X.

602. **One Acre Residential District (R-1Ac).**

Intent. This district is intended to be utilized in areas where, due to its remoteness, the impermeability of soil or other soil characteristics and the absence of the necessary urban services, development of higher density is undesirable or infeasible. A primary objective of this district is to prevent undesirable urban sprawl and to exclude land uses which demand a level of urban services which are impossible or uneconomical to provide.

602.1 **Permitted Uses.** The following uses shall be permitted in any One-Acre Residential District:

- 602.101 Single-family dwellings and one accessory dwelling per parcel when the single family principal dwelling is not a mobile home and the habitable space of the accessory unit does not exceed nine hundred (900) square feet; *(Amended Ord. 2018-05)*
- 602.102 Unlighted, regulation-size or par three golf course;
- 602.103 Farms, nurseries or other establishments for the growing, care and handling of field crops; and,
- 602.104 Public buildings, facility or land, public utility substation or sub-installation including water towers; and,
- 602.105 Accessory uses, including telephone booths associated with non-residential uses .

602.2 **Conditional Uses.** The following uses shall be allowed in any One-Acre Residential District on a conditional basis, subject to the conditions set forth:

- 602.201 Cemetery, provided that *(Amended 2009-22):*
 - 602.2011 Such use consists of a site of at least one (1) acre;
 - 602.2012 Such use includes no crematorium or dwelling unit other than for a caretaker; and,
 - 602.2013 Such use has a front yard setback of at least fifteen (15) feet from the street right-of-way line.
- 602.202 Facilities for the raising, care and handling of poultry and/or animals and livestock, provided that:

ARTICLE VI

REQUIREMENTS BY DISTRICT

602.2021 Such use is located on a lot of not less than two (2) acres; and,

602.2022 No building or enclosure for animals is located closer than one hundred (100) feet from any residential property line.

602.203 Amenity, subdivision provided that: *(Amended Ord. 2007-03)*

602.2031 Parking shall be provided at a rate of one half that required in Article XI of the Zoning Ordinance.

602.2032 Adjacent residential properties must be buffered from any recreational amenity other than a passive park which contains no structures. Such buffer shall, at a minimum, be a Type 2 as identified in Article XII of the Zoning Ordinance.

602.2033 The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by the residents of the subdivision.

602.3 Other Requirements:

602.301 All permitted uses shall be required to conform to the standards set forth in Article VII.

602.302 Uses permitted in this district shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.

602.303 Signs permitted in any One-Acre Residential District, including the condition under which they may be located, are set forth in Article X.

603. **One Half Acre Residential District (R-1/2 Ac).**

Intent. It is the intent of this district to provide areas which are suitable for moderate to low density development. This district is particularly suitable for areas adjacent to or near urban areas, where an adequate public water supply or public sewage service is available. The principal use of land within this district is low density, single family residential.

603.1 **Permitted Uses.** The following uses shall be permitted in any One-Half Acre Residential District:

- 603.101 Single-family dwellings and one accessory dwelling per parcel when the single family principal dwelling is not a mobile home and the habitable space of the accessory unit does not exceed nine hundred (900) square feet; *(Amended Ord. 2018-05)*
- 603.102 Noncommercial horticulture or agriculture, but not including the keeping of poultry or livestock;
- 603.103 Public buildings, facility or land; and,
- 603.104 Accessory uses, including telephone booths associated with non-residential uses.

603.2 **Conditional Uses.** The following uses shall be allowed in any One-Half Acre Residential District on a conditional basis, subject to the conditions set forth:

- 603.201 **Utility substations or subinstallations including water towers provided that:**
 - 603.2011 Such uses shall be enclosed by a fence or wall at least six (6) feet in height above finished grade;
 - 603.2012 There is neither office nor commercial operation nor storage of vehicles or equipment on the premises; and,
 - 603.2013 A landscaped strip not less than five (5) feet in width is planted and suitably maintained around the facility.
 - 603.2014 **Amenity, subdivision provided that:** *(Amended Ord. 2007-03)*
 - 603.20141 Parking shall be provided at a rate of one half that required in Article XI of the Zoning Ordinance.

603.20142 Adjacent residential properties must be buffered from any recreational amenity other than a passive park which contains no structures. Such buffer shall, at a minimum, be a Type 2 as identified in Article XII of the Zoning Ordinance.

603.20142 The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by the residents of the subdivision.

603.3 Other Requirements.

603.301 All allowed uses shall be required to conform to the standards for area, yard and height set forth in Article VII.

603.302 Uses allowed in this district shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.

603.303 Signs permitted in this district, including the conditions under which they may be located are set forth in Article X.

604. **10,000 Square Feet Residential District (R-10).**

Intent. It is the intent of this district to provide areas for single family residential development, low to moderate density, to discourage the encroachment of commercial, industrial or other uses capable of adversely affecting the residential character and to preserve the architectural character and deed restrictions of established neighborhoods.

604.1 **Permitted Uses.** The following uses shall be permitted in a R-10 Residential District:

- 604.101 Single-family dwellings, except mobile homes; and,
- 604.102 Public buildings, facility or land; and,
- 604.103 Accessory uses including telephone booths associated with non-residential uses.

604.2 **Conditional Uses.** The following uses shall be permitted in any R-10 Residential District on a conditional basis, subject to the conditions set forth:

- 604.201 Utility substations or subinstallations, including water towers, provided that:
 - 604.2011 Such uses shall be enclosed by a fence or wall at least six (6) feet in height above finished grade;
 - 604.2012 There is neither office nor commercial operation nor storage of vehicles or equipment on the premises; and
 - 604.2013 A landscaped strip not less than five (5) feet in width is planted and suitably maintained around the facility.
- 604.202 Amenity, subdivision provided that: (*Amended Ord 2007-03*)
 - 604.2021 Parking shall be provided at a rate of one half that required in Article XI of the Zoning Ordinance.
 - 604.2022 Adjacent residential properties must be buffered from any recreational amenity other than a passive park which contains no structures. Such buffer shall, at a minimum, be a Type 2 as identified in Article XII of the Zoning Ordinance.

ARTICLE VI

REQUIREMENTS BY DISTRICT

604.2023 The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by the residents of the subdivision.

604.203 Accessory dwelling unit provided that: *(Amended Ord. 2018-05)*

604.2031 One accessory dwelling unit shall be allowed on a parcel with a principal use if the total parcel area is at least 12,000 square feet in area and the habitable space of the accessory unit does not exceed nine hundred (900) square feet;

604.3 Other Requirements.

604.301 All allowed uses shall be required to conform to the standards set forth in Article VII.

604.302 Uses allowed in this district shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.

604.303 Signs permitted in R-10 Districts, including the conditions under which they may be located, are set forth in Article X.

605. **10,000 Square Feet Residential District (MR-10).**

Intent. It is the intent of this district to provide areas for single family residential development, low to moderate density, and to discourage the encroachment of commercial, industrial or other uses capable of adversely affecting the residential character of this district.

605.1 **Permitted Uses.** The following uses shall be permitted in a MR-10 Residential District:

- 605.101 Single-family dwellings, (including mobile homes);
- 605.102 Public buildings, facility or land; and,
- 605.103 Accessory uses, including telephone booths associated with non-residential uses.

605.2 **Conditional Uses.** The following uses shall be allowed in any MR-10 Residential District on a conditional basis, subject to the conditions set forth:

605.201 Utility substations or subinstallations including water towers, **provided that:**

- 605.2011 Such uses is enclosed by a fence or wall at least six (6) feet in height above finished grade;
- 605.2012 There is neither office nor commercial operation nor storage of vehicles or equipment on the premises; and,
- 605.2013 A landscaped strip not less than five (5) feet in width is planted and suitably maintained around the facility.

- 605.202 One accessory dwelling unit shall be allowed on a parcel with a principal use if the total parcel area is at least 12,000 square feet. Additionally, an accessory dwelling unit shall not be permitted as an accessory to a mobile home and the habitable space of the accessory unit shall not exceed nine hundred (90) square feet;
(Amended Ord. 2018-05)

605.3 **Other Requirements.**

- 605.301 All allowed uses shall be required to conform to the standards set forth in Article VII.

ARTICLE VI

REQUIREMENTS BY DISTRICT

- 605.302 Uses allowed in this district shall meet all standards set forth in Article X, pertaining to off-street parking, loading and other requirements.
- 605.303 Signs permitted in MR-10 Districts, including the conditions under which they may be located, are set forth in Article IX.

606. **Resort Residential District (RR).**

Intent. It is the intent of this section that the Resort Residential District be established and appropriate land be reserved for medium density resort residential purposes. The regulations which apply within the district are designed to encourage the formation and continuance of a stable, healthy environment for one and two-family dwellings in areas having unique aesthetic, environmental and recreational characteristics conducive to resort living; and to discourage any encroachment by any multi-family residential, commercial, industrial or other use incompatible with or capable of adversely affecting the resort residential character of the District.

606.1 **Permitted Uses.** The following uses shall be permitted in any Resort Residential District:

- 606.101 Single-family dwellings, except mobile homes;
- 606.102 Two-family dwellings;
- 606.103 Public buildings facility or land; and,
- 606.104 Accessory uses, including telephone booths associated with non-residential uses.

606.2 **Conditional Uses.** The following uses shall be allowed in any Resort Residential District on a conditional basis, subject to the conditions set forth:

- 606.201 Utility substations or subinstallations including water towers, provided that *(Amended Ord. 2009-22)*:
 - 606.2011 Such use is enclosed by a fence or wall at least six (6) feet in height above finished grade;
 - 606.2012 There is neither office nor commercial operation nor storage of vehicles or equipment on the premises; and
 - 606.2013 A landscaped strip not less than five (5) feet in width is planted and suitably maintained around the facility;
- 606.202 Boarding Homes, provided that:
 - 606.2021 There shall be at least 1,000 square feet of land area for each rental room;

ARTICLE VI

REQUIREMENTS BY DISTRICT

606.2022 Food service facilities shall accommodate only boarders of the establishment and their guests. Where food is provided there shall be at least fifty (50) square feet of dining area for each rental room; and,

606.2023 There shall be a minimum of one (1) off-street parking space per rental room, plus one for each employee.

606.203 Amenity, subdivision provided that: *(Amended Ord 2007-03)*

606.2031 Parking shall be provided at a rate of one half that required in Article X of the Zoning Ordinance.

606.2032 Adjacent residential properties must be buffered from any recreational amenity other than a passive park which contains no structures. Such buffer shall, at a minimum, be Type 2 as identified in Article XX of the Zoning Ordinances.

606.2033 The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by the residents of the subdivision.

606.3 Other Requirements.

606.301 All allowed uses shall be required to conform to the standards set forth in Article VII.

606.302 Uses allowed in this district shall meet all standards set forth in Article X, pertaining to off-street parking, loading and other requirements.

606.303 Signs permitted in Resort Residential Districts, including the conditions under which they may be located, are set forth in Article IX.

607. **General Residential District (GR)**

Intent. It is the intent of this section that the General Residential District be established for medium-to-high density residential purposes. These areas need to be served with public water and sewer and have direct access to collector or arterial streets. Medium to high density projects should be designed to insure preservation of the critical areas, to be compatible with the existing development and to discourage any encroachment of commercial, industrial or other uses capable of adversely affecting the charm and residential character of this district.

607.1 **Permitted Uses.** The following uses shall be permitted in any General Residential District:

- 607.101 Single-family dwellings;
- 607.102 Two-family dwellings;
- 607.103 Multi-family dwellings (including assisted living facilities),
- 607.104 Public buildings, facility or land; and,
- 607.105 Accessory uses, including telephone booths associated with non-residential uses.

607.2 **Single Family and Two Family (including garage apartments) Dwelling Requirements.** Unless otherwise specified in this Ordinance, single family and two family dwellings shall meet the following requirements:

- 607.201 Front yard setback - twenty-five (25) feet;
- 607.202 Side yard setback - see Article VII, footnote 6;
- 607.203 Rear yard setback - twenty (20) feet;
- 607.204 Minimum lot area:
 - Single family - six thousand (6,000) sq.ft.
 - Two family - eight thousand (8,000) sq.ft.
- 607.205 Minimum lot width at building line - sixty (60) feet; and,
- 607.206 Building coverage shall not exceed thirty- five (35%) percent of the lot.

607.207 A development of more than five (5) two-family buildings with a net density of five units per acre or greater shall have a site plan reviewed by the Planning Commission, approved by County Council and comply with the following. *(Amended Ord. 2011-41)*

607.2071 The applicant shall submit to the Planning Commission, as part of the application, letters addressed to each property owner within four hundred (400) feet of the subject property containing information adequate to notify such owners of the intention to develop, and when and where a public hearing will be held by the Planning Commission. Such letters shall be placed in unsealed, stamped and addressed envelopes, ready for mailing by the Planning Commission. The Planning Commission's address shall appear as the return address on the envelopes. A list of all property owners, as reflected by the tax records, to whom letters are addressed shall accompany the application.

607.2072 The required letters of notification shall be mailed to the affected property owners by the Planning Commission at least 21 days prior to the public hearing. The Commission Staff shall certify the mailing date. Failure to strictly comply with the notification requirements contained in this section shall not render the rezoning of the property invalid.

607.2073 Conspicuous notices shall be posted on the affected property that shall be visible from each public street that borders the property. The notice shall be posted at least fifteen (15) days prior to the public hearing date.

607.2074 Before taking any action, the Planning Commission shall hold a public hearing thereon, notice of the time and place of which shall be published in a newspaper of general circulation in the County at least fifteen (15) days in advance of the scheduled public hearing date. The Commission will then forward its recommendation to County Council for final approval.

607.2075 Such project shall also comply with all other applicable ordinances including, but not limited to signage, access management, parking and buffering requirements.

607.208 Planning staff shall review any request for a development which contains more than one two-family dwelling unit *(Amended Ord. 2008-48)*.

607.3 Multi-Family Requirements. The minimum lot area for a multi-family project shall be at least one acre. The minimum lot frontage shall be at least 150 feet of frontage on an approved street. The lot depth shall be no greater than three (3)

times the lot width. Unless otherwise specified in this Ordinance, multi-family dwellings shall meet the following requirements:

- 607.301 Front yard setback - thirty (30) feet;
- 607.302 Side yard setback - see Article VII, footnote 6;
- 607.303 Rear yard setback shall be twenty (20) feet except where the property adjoins the marsh or ocean, in which case the rear yard setback shall be thirty (30) feet;
- 607.304 There shall be a minimum of twenty (20) feet separation between structures;
- 607.305 At least fifty (50) percent of the lot shall be pervious surface; and,
- 607.306 A multi-family development of more than ten (10) dwelling units with a net density of five units per acre or greater shall have a site plan reviewed by the Planning Commission, approved by County Council and comply with the following: *(Amended Ord. 2011-41)*

607.3061 The applicant shall submit to the Planning Commission, as part of the application, letters addressed to each property owner within four hundred (400) feet of the subject property containing information adequate to notify such owners of the intention to develop, and when and where a public hearing will be held by the Planning Commission. Such letters shall be placed in unsealed stamped and addressed envelopes, ready for mailing by the Planning Commission. The Planning Commission's address shall appear as the return address on the envelopes. A list of all property owners, as reflected by the tax records, to whom letters are addressed shall accompany the application.

607.3062 The required letters of notification shall be mailed to the affected property owners by the Planning Commission at least twenty-one (21) days prior to the public hearing. The Commission Staff shall certify the mailing date. Failure to strictly comply with the notification requirements contained in this section shall not render the rezoning of the property invalid.

607.3063 Conspicuous notices shall be posted on the affected property that shall be visible from each public street that borders the property. The notice shall be posted at least fifteen (15) days prior to the public hearing date.

607.3064 Before taking any action the Planning Commission shall hold a public hearing thereon, notice of the time and place of

which shall be published in a newspaper of general circulation in the County at least fifteen (15) days in advance of the public hearing date. The Commission will then forward its recommendation to County Council for final approval.

607.3065 Such projects shall also comply with all other applicable ordinances including, but not limited to signage, access management, parking and buffering requirements.

607.307 A development of ten (10) multi-family dwelling units or less will be reviewed by Planning staff *(Amended Ord. 2008-48)*.

607.4 Townhouses-Special Requirements.

607.401 The regulations, as contained in this subsection, shall be applied to townhouses where permitted in any district in addition to the multi-family requirements.

607.402 Site Plans and Design Criteria:

607.4021 The front of the buildings shall not form long, unbroken lines of row housing, but shall be staggered at the front building lines;

607.4022 No more than six (6) contiguous townhouses nor fewer than three (3) shall be built on a row;

607.4023 No portion of a townhouse or accessory structure in or related to one group of contiguous townhouses shall be closer than twenty (20) feet to any portion of a townhouse or accessory structure related to another group, or to any building outside the townhouse area; and,

607.4024 Insofar as practicable, off street parking facilities shall be grouped in bays either adjacent to streets or in the interior of blocks.

607.4025 A development of more than ten townhouses with a net density of five units per acre or greater shall have a site plan reviewed by the Planning Commission, approved by County Council and comply with the following: *(Amended Ord. 2011-41)*

607.40251 The applicant shall submit to the Planning Commission, as part of the

application, letter addressed to each property owner within four hundred (400) feet of the subject property containing information adequate to notify such owners of the intention to develop, and when and where a public hearing will be held by the Planning Commission. Such letters shall be placed unsealed, stamped and addressed envelopes, ready for mailing by the Planning Commission. The Planning Commission's address shall appear as the return address on the envelopes. A list of all property owners, as reflected by the tax records, to whom letters are addressed shall accompany the application.

607.40252 The required letters of notification shall be mailed to the affected property owners by the Planning Commission at least twenty-one (21) days prior to the public hearing. The Commission Staff shall certify the mailing date. Failure to strictly comply with the notification requirements contained in this section shall not render the rezoning of the property invalid.

607.40253 Conspicuous notices shall be posted on the affected property that shall be visible from each public street that borders the property. The notice shall be posted at least fifteen (15) days prior to the public hearing date.

607.40254 Before taking any action, the Planning Commission shall hold a public hearing thereon, notice of the time and place of which shall be published in a newspaper of general circulation in the County at least fifteen (15) days in advance of the

scheduled public hearing date. The Commission will then forward its recommendation to County Council for final approval.

607.40255 Such projects shall also comply with all other applicable ordinances including, but not limited to signage, access management, parking and buffering requirements.

607.4026 A development of ten (10) townhouses or less will be reviewed by Planning Staff *(Amended Ord. 2008-48)*.

607.5 Net Density Limits For Multi-Family Developments (Excludes Streets)

MINIMUM LOT AREA PER UNIT

<u>Dwelling Unit Type</u>	<u>1 Story Sq.ft</u>	<u># Units Per AC</u>	<u>2 Story Sq.ft</u>	<u># Units Per AC</u>	<u>3 Story Sq.ft</u>	<u># Units Per AC</u>
Efficiency	3,000	14	2,700	16	2,700	16
1 Bedroom	3,600	12	3,000	14	2,700	16
2 Bedroom	4,300	10	3,600	12	3,000	14
3 Bedroom	5,400	8	4,300	10	3,600	12
4 Bedroom	7,200	6	5,400	8	4,300	10

607.6 Conditional Uses. The following uses may be allowed in any General Residential District subject to the provisions set forth:

607.601 Boarding homes, provided that:

607.6011 There shall be a minimum of 1,000 square feet of land area for each rental room;

607.6012 Food service facilities shall accommodate only boarders of the establishment and their guests. Where food service is provided there shall be a minimum of fifty (50) square feet of dining area for each rental room; and,

ARTICLE VI

REQUIREMENTS BY DISTRICT

- 607.6013 There shall be at least one (1) off street parking space per rental room, plus one for each employee.
- 607.602 Utility substations or subinstallations including water towers, provided that:
- 607.6021 Such use is enclosed by a fence or wall at least six (6) feet in height above finished grade;
- 607.6022 There is neither office nor commercial operation nor storage of vehicles or equipment on the premises and,
- 607.6023 A landscaped strip not less than five (5) feet in width is planted and suitably maintained around the facility.
- 607.603 Amenity, subdivision provided that: *(Amended Ord. 2007-03)*
- 607.6031 Parking shall be provided at a rate of one half that required in Article XI of the Zoning Ordinance.
- 607.6032 Adjacent residential properties must be buffered from any recreational amenity other than a passive park which contains no structures. Such buffer shall, at a minimum, be a Type 2 as identified in Article XII of the Zoning Ordinance.
- 607.6033 The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by the residents of the subdivision.
- 607.7 Other Requirements.
- 607.701 All allowed uses shall be required to conform to the standards set forth in Article VII.
- 607.702 Uses allowed in this district shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.
- 607.703 Signs allowed in General Residential Districts, including the conditions under which they may be located, are set forth in Article X.

- 607.704 In all multi-family developments, the developer is responsible for providing adequate solid waste storage areas and collection service. The location for these facilities shall be shown on the site plan and approval is required as stated in Subsection 607.306.

608. **General Resort Residential District (GRR).**

Intent. It is the intent of this district that adequate areas be established and appropriate land reserved for medium to high density resort residential purposes. The regulations which apply within the district are designed to encourage a stable, healthy, and safe environment for single family dwellings in areas that have unique environmental and recreational characteristics conducive to resort living. It is the intent of this district to encourage enjoyment of the beach areas without creating negative pressures that disrupt the environment or quality of life for area residents. *(Amended Ord. 2006-106)*

608.1 **Permitted Uses.** The following uses shall be permitted in the General Resort Residential District:

- 608.101 Single family detached residential dwellings with four bedrooms or less, excluding mobile homes. *(Amended Ord. 2006-106)*
- 608.102 Public buildings, facility or land; and, *(Amended Ord 2006-106)*
- 608.103 Accessory uses, including telephone booths associated with non-residential uses. *(Amended Ord. 2006-106)*

608.2 **Conditional Uses.** The following uses shall be allowed in any General Resort Residential District on a conditional basis, subject to the conditions set forth:

- 608.201 All conditional uses listed in the General Residential District, as shown in Section 607.6 with the exception of boarding homes. *(Amended Ord. 2006-106)*
- 608.202 Single family detached residential dwellings with more than four bedrooms, subject to the following conditions: *(Amended Ord. 2006-106)*
 - 608.2021 One detached dwelling is allowed per lot.
 - 608.2022 Each dwelling shall provide one parking space per bedroom. Such space must be provided on-premise and consist of pervious material.
- 608.203 Tourist home subject to the following conditions. *(Amended Ord. 2006-106)*
 - 608.2031 One detached dwelling is allowed per lot.
 - 608.2032 Each dwelling shall provide one parking space per bedroom. Such space must be provided on-premise and consist of pervious material.
- 608.204 Amenity, subdivision provided that: *(Amended Ord. 2007-03)*

- 608.2041 Parking shall be provided at a rate of one half that required in Article X of the Zoning Ordinance.
- 608.2042 Adjacent residential properties must be buffered from any recreational amenity other than a passive park which contains no structures. Such buffer shall, at a minimum, be a Type 2 as identified in Article XX of the Zoning Ordinance.
- 608.2043 The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by the residents of the subdivision.

608.3 Other Requirements.

- 608.301 All allowed uses shall be required to conform to the standards set forth in Article VII.
- 608.302 Signs allowed in General Resort Residential Districts shall meet the requirements contained in Article IX.
- 608.303 Uses allowed in this District shall meet all standards set forth in Article X pertaining to off-street parking, loading and other requirements.

609. **Resort Commercial District (RC).** *(Amended Ord. 2009-51)*

Intent. The purposes of the Resort Commercial District are to create and protect areas wherein compatible residential, recreational, and commercial uses may be established and maintained on a sound basis. Standards are so designed as to encourage both seasonal and permanent occupancy of dwellings within the district. It is the intent of this district to permit commercial activities, such as marinas, boat service stations, restaurants, and other selected retail establishments which are compatible with resort- oriented residential and recreational development, to encourage the discontinuance of nonconforming uses and to prohibit any use that would substantially interfere with the development or continuation of resort-oriented commercial establishments or recreational and residential structures in the District.

609.1 **Permitted Uses.** The following uses shall be permitted in any Resort Commercial District:

609.101 All permitted uses listed in the General Residential District as shown in Section 607.1 (except mobile homes);

609.102 Tourist homes; and,

609.103 Restaurants, excluding drive-in eating establishments.

609.2 **Conditional Uses.** The following uses shall be allowed in any Resort Commercial District on a conditional basis, subject to the conditions set forth:

609.201 Public utility substations or sub-installations including water towers, provided that:

609.2011 Such use is enclosed by a fence or wall at least six (6) feet in height above finished grade;

609.2012 There is neither office nor commercial operation nor storage of vehicles or equipment on the premises;

609.2013 A landscaped strip not less than five (5) feet in width is planted and suitably maintained around the facility.

609.202 Commercial marinas which provide boat slips and dry storage facilities in addition to some or all of the following activities: sale of fuel, tackle, drinks and similar convenience merchandise, but does not include the selling of boats, motors and trailers as a principal activity (the intent is not to prohibit the occasional sale of used boats by individuals or their agent leasing slips). Marinas

may also provide charter boat rentals and or facilities for such operations, excluding gaming vessels. Marinas that provide a boat ramp will be required to have additional off-street parking areas. The conditions for approval are as follows: *(Amended Ord. 2008-60)*

609.2021 An application for such uses shall be accompanied by a site plan to be reviewed and approved by the Planning Commission and which shows the following:

609.20211 Proposed uses of buildings and land;

609.20212 Proposed location of buildings and their general exterior dimensions;

609.20213 Surface water drainage plan;

609.20214 Facilities for sanitary waste disposal;

609.20215 Traffic, parking and circulation plan showing proposed location and arrangement of parking spaces and ingress and egress to and from adjacent streets;

609.20216 Location of fuel storage tanks; and,

609.20217 A buffer strip shall be provided to screen the marina activities from residential uses.

609.2022 Other Requirements for Marinas:

609.20221 A minimum lot area of 15,000 sq. ft. for marinas without landing facilities shall be required. Minimum lot areas for marinas with boat ramps shall be determined by the Planning Commission upon review of the site plan;

609.20222 See Article X, Off-Street Parking Regulations, Section 1002.1, Minimum Parking Space Provisions.
(Amended Ord. 2008-60)

609.20223 Setbacks - 50 feet front yard and 15 feet side yard. *(Amended Ord. 2008-60)*

609.203 Hotel provided such use:

- 609.2031 Shall be open to the public generally;
- 609.2032 Shall provide a centralized public lobby and guest registration desk;
- 609.2033 Shall provide full-time on-site management, telephone service and maintenance to all guest rooms;
- 609.2034 Shall not have individual utility connections metered separately to individual guest rooms;
- 609.2035 Shall not have individual washer and dryer connections in each guest room;
- 609.2037 Shall meet all other relevant requirements of the Zoning Ordinance such as parking and signage;
- 609.2039 Shall provide a minimum lot area per room of one thousand (1000) square feet.
- 609.2040 Interconnectivity with adjoining commercial properties shall be developed and permitted by the developer/owner.
- 609.2041 Any free-standing restaurant, entertainment facility or other commercial uses associated with the hotel on the same property as the hotel shall require that the project be submitted as a Planned Development.
- 609.2042 Shall have a maximum building height of 35 feet or 45 feet in a flood zone as provided for in Section 806 of this Ordinance.

609.3 Other Requirements.

- 609.301 Area, yard and height requirements are the same as for GR Districts as shown in Section 607.2 and 607.3 and Article VII. For tourist homes:

ARTICLE VI

REQUIREMENTS BY DISTRICT

- 609.3011 Minimum Lot Area Per Accommodation: For one and two story structures, one thousand (1,000) square feet per room; for three-story structures, seven hundred (700) square feet per room; and,
- 609.3012 Maximum Building Height: 35 feet.
- 609.302 Uses allowed in Resort Commercial Districts shall meet all standards set forth in Article X pertaining to off-street parking, loading and other requirements.
- 609.303 Signs permitted in Resort Commercial Districts, including the conditions under which they must be located, are set forth in Article IX.

610. **Neighborhood Commercial District (NC).**

Intent. It is the intent of this section that the Neighborhood Commercial District be established and appropriate land be reserved for local or neighborhood oriented business purposes. The regulations which apply within this District are designed to encourage the formation and continuance of a stable, healthy and compatible environment for uses that are located so as to provide nearby residential areas with convenience shopping and service facilities; reduce traffic congestion; avoid the development of "strip" business districts; and to discourage industrial and other development capable of adversely affecting the localized commercial character of the District.

610.1 **Permitted Uses.** The following uses shall be permitted in the Neighborhood Commercial District:

- 610.101 Single-family dwellings (including mobile homes) and group dwellings;
- 610.102 Stores retailing antiques, art, books, newspaper, flowers, foods, including bakeries where products are sold exclusively at retail on premises, beverages, gifts, hardware, hobby and craft supplies, jewelry, leather goods, notions and supplies, paint and wallpaper, pets, seeds and feeds;
- 610.103 Barber and beauty shops;
- 610.104 Branch banks;
- 610.105 Laundromats;
- 610.106 Restaurants excluding drive-ins and drive-thrus;
- 610.107 Professional offices such as doctors, lawyers, dentists and similar uses;
- 610.108 Business offices such as real estate, insurance and similar uses excluding retail and wholesale sales;
- 610.109 Day care centers;
- 610.110 Stores retailing fish and seafood;
- 610.111 Public buildings, facility or land; and,

610.112 Accessory uses, including telephone booths.

610.2 Conditional Uses. The following uses shall be allowed on a conditional basis in any Neighborhood Commercial District, subject to the conditions set forth:

610.201 Utility substations or sub-installations, including water towers, fire towers or radio and television transmission towers, but not including communication towers, provided that *(Amended Ord 2008-31)*:

610.2011 Such use is enclosed by a fence or wall at least six (6) feet in height above finished grade;

610.2012 There is no storage of vehicles or equipment on the premises; and,

610.2013 A buffer strip at least five (5) feet in width is established and maintained around the facility.

610.202 The combination of a residential structure with any use herein permitted provided that the dwelling unit has direct access to an abutting street. The connection of two (2) buildings by means of an open porch, breezeway, carport or other such open structure, with or without a roof, shall not be deemed to constitute one building.

610.203 Vendors provided that all conditions and requirements contained in Section 611.214 are met.

610.204 Amenity, subdivision provided that: *(Amended Ord 2007-03)*

610.2041 Parking shall be provided at a rate of one half that required in Article XI of the Zoning Ordinance

610.2042 Adjacent residential properties must be buffered from any recreational amenity other than a passive park which contains no structures. Such buffer shall, at a minimum, be a Type 2 as identified in Article XII of the Zoning Ordinance.

610.2043 The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by the residents of the subdivision.

- 610.205 Office Parks provided they meet all the requirements of Section 419, a site plan is reviewed by the Planning Commission, approved by County Council and the following procedures are complied with the following:
- 610.2051 The applicant shall submit to the Planning Commission, as part of the application, letters addressed to each property owner within four hundred (400) feet of the subject property containing information adequate to notify such owners of the intention to develop, and when and where a public hearing will be held by the Planning Commission. Such letters shall be placed in unsealed, stamped and addressed envelopes, ready for mailing by the Planning Commission. The Planning Commission's address shall appear as the return address on the envelopes. A list of all property owners, as reflected by the tax records, to whom letters are addressed shall accompany the application.
- 610.2052 The required letters of notification shall be mailed to the affected property owners by the Planning Commission as least twenty-one (21) days prior to the public hearing. The Commission Staff shall certify the mailing date. Failure to strictly comply with the notification requirements contained in this section shall not render the rezoning of the property invalid.
- 610.2053 Conspicuous notices shall be posted on the affected property that shall be visible from each public street that borders the property. The notice shall be posted at least fifteen (15) days prior to the public hearing date.
- 610.2054 Before taking any action, the Planning Commission shall hold a public hearing thereon, notice of the time and place of which shall be published in a newspaper of general circulation in the County at least fifteen (15) days in advance of the scheduled public hearing date. The Commission will then forward its recommendation to County Council for final approval.

610.2055 Such projects shall also comply with all other applicable ordinances including, but not limited to signage, access management, parking and buffering requirements.

610.206 Accessory dwelling units located on a parcel when the single family principal dwelling is not a mobile home and the habitable space of the accessory unit does not exceed nine hundred (900) square feet. Detached accessory dwelling structures are not permitted when the principal use of a parcel is not residential;
(Amended 2018-05)

610.3 Other Requirements.

610.301 Uses allowed in Neighborhood Commercial Districts shall meet the area, yard and height requirements contained in Article VII.

610.302 Uses allowed in Neighborhood Commercial Districts shall meet all standards set forth in Article XI, pertaining to off- street parking, loading and other requirements.

610.303 Signs permitted in Neighborhood Commercial Districts, including the conditions under which they may be located, are set forth in Article X.

611. **General Commercial District (GC).**

Intent. It is the intent of this section that the General Commercial District be established and appropriate land reserved for general business purposes with particular consideration for the automobile-oriented commercial development existing or proposed along the County's roadways. The regulations which apply within this district are designed to encourage the formation and continuance of a compatible and economically healthy environment for business, financial, service and professional uses which benefit from being located in close proximity to each other; and to discourage any encroachment by industrial or other uses capable of adversely affecting the basic commercial character of the district.

611.1 **Permitted Uses.** The following uses shall be permitted in any General Commercial District:

611.101 Retail business involving the sale of merchandise on the premises in permanent buildings specifically including:

611.1011 Antique store, gift or curio store;

611.1012 Appliance, household furnishings, radio and/or television store;

611.1013 Art supply, book, magazine, newspaper, photographic and camera supply and service, office supply and equipment, hobby and toy store;

611.1014 Clothing, millinery or hat and shoe store;

611.1015 Hardware, paint or sporting goods store;

611.1016 5 and 10 cent general or variety store, music and/or record store;

611.1017 Drug, grocery, fruit, nut, candy and vegetable store; and,

611.1018 Florist shop and package liquor store.

611.102 Business involving the rendering of personal or professional service or the repair and servicing of small equipment specifically including: *(Amended Ord. 2009-51)*

611.10201 Appliance, radio and/or television repair shop;

ARTICLE VI**REQUIREMENTS BY DISTRICT**

- 611.10202 Bank, savings and loan association, personal loan agency and branch facility;
- 611.10203 Barber and beauty shop;
- 611.10204 Bicycle repair and sales shop;
- 611.10205 Dressmaker, seamstress or tailor;
- 611.10206 Self-service laundry facility, dry cleaning pick-up station and dry cleaning establishment that utilizes cleaning solvents that meet the class four rating by the National Fire Code, as amended;
- 611.10207 Insurance and/or real estate agency;
- 611.10208 Locksmith or gunsmith;
- 611.10209 Medical or dental clinic and/or laboratory;
- 611.10210 Office for governmental, business, professional or general purpose;
- 611.10211 Photographic studio;
- 611.10212 School offering instruction in art, music, dancing, drama, or similar cultural activity;
- 611.10213 Secretarial and/or telephone answering service;
- 611.10214 Shoe repair;
- 611.10215 Funeral home; and,
- 611.10216 Community hospital and/or clinic.
- 611.103 Theater, bowling alley and skating rink; *(Amended Ord. 2013-24)*
- 611.104 Radio and/or television station;
- 611.105 Private or semi-private club, lodge union hall or social center;
- 611.106 Off-street commercial parking lot;
- 611.107 Single-family dwelling, (including mobile homes, group dwellings and assisted living facilities);

- 611.108 Restaurant including drive-in or drive thru;
- 611.109 Day care center;
- 611.110 Public building, facility or land; and,
- 611.111 Accessory uses, including telephone booths. Where fuel tanks are determined to be an accessory use, such tanks shall meet the setback and minimum separation requirements as established in the adopted version of the International Fire Code, Table 3804.3. Additionally, if the tanks are located in the Waccamaw Neck Architectural Overlay District, such tanks shall be screened from view from any street right-of-way by use of vegetation or an architecturally acceptable fence. *(Amended Ord. 2010-36)*

611.2 Conditional Uses. The following uses shall be allowed on a conditional basis in any General Commercial District, subject to the conditions set forth:

- 611.201 Motor vehicle service station and associated bulk storage tanks provided that: *(Amended Ord. 2010-36)*
 - 611.2011 All pumps and tanks are set back at least twenty-five (25) feet from any street right-of-way; *(Amended Ord. 2010-36)*
 - 611.2012 All supporting structures for gas canopies will be set back at least twenty five (25) feet from any street right-of-way. In no event shall a canopy extend beyond the property line over the right-of-way or any other separate parcel. *(Amended Ord. 2009-43)*
 - 611.2013 Storage and/or service areas are separated from adjoining properties by a buffer strip, fence or wall at least seven (7) feet in height; and,
 - 611.2014 Any area where wrecked or disabled vehicles with current license plates are stored be limited to no more than ten (10) vehicles.
- 611.202 Enclosed mall for the sale of arts and crafts materials and handwork and similar products provided that all operations and sales are conducted within a fully enclosed building.
- 611.203 Garage for the major repair of motor vehicles provided that all operations are conducted within a fully enclosed building and that there is no open storage of junked vehicles, dismantled parts, scrap

parts or other salvage other than disabled vehicles as provided for in Section 611.201 above. Servicing shall be conducted in an area that can be cleaned.

- 611.204 Combination of a residential structure with any use allowed herein provided that the dwelling unit has direct access to the street. The connection of two buildings by means of an open porch, breezeway, carport or other such open structure, with or without a roof, shall not be considered as one building.
- 611.205 Car wash provided that off-street paved parking areas capable of adequate storage for waiting vehicles is suitably located and maintained on the premises; and provided that no safety hazard or impediment to traffic movement is created by the operation of such an establishment.
- 611.206 Animal hospital and/or boarding facility provided that all boarding arrangements are maintained within a building and all the provisions of the Georgetown County Zoning Ordinance are met. Outdoor runs may be utilized for exercise but housing and sheltering of animals shall be inside a fully enclosed building.
(Amended Ord. 2013-58)
- 611.207 Auto sales, mobile home sales, boat sales and, open yard use for the sale, rental and/or storage of materials or equipment excluding junk or other salvage provided that such uses are separated from adjoining residential properties by a suitable planting screen, fence or wall at least six (6) feet in height above finished grade.
- 611.208 Building materials storage provided that all outdoor storage is enclosed by a fence or wall.
- 611.209 Commercial marina provided that such use meets all the requirements contained in Section 609.202 of this Ordinance.
- 611.210 Self-service storage facilities, provided that:
- 611.2101 Such use is located on a tract not less than one acre in area;
- 611.2102 A site plan which shows landscaping, interior driveway, density, structure size, compatible architectural design and environmental considerations such as drainage shall be submitted for review and approval;

- 611.2103 Such a facility is used for dead storage only and the following activities are specifically prohibited: the storage of toxic or explosive substances; auctions, commercial, wholesale or retail sales or miscellaneous or garage sales; the servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or other similar equipment, the operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns or other similar equipment; the establishment of a transfer and storage business; and, any use that is noxious or offensive because of odors, dust, noise, fumes or vibrations;
- 611.2104 All storage on the property shall be kept within an enclosed building;
- 611.2105 Parking shall be provided by parking/driving lanes adjacent to the building and these lanes shall be at least twenty-six (26) feet wide when cubicles open onto one side of the lane only and at least thirty (30) feet wide when cubicles open onto both sides of the lane.
- 611.211 *(Removed Ord. # 2004-57).*
- 611.212 Cabinet-making shops provided that all operations are conducted within a fully enclosed building and that there is no open storage of lumber or scrap materials on the premises.
- 611.213 Combination of retail sales and wholesale/distribution sales of souvenirs, novelties, shells and gift items to (resort related) merchants, provided that:
- 611.2131 Retail sales area must be maintained with appropriate display of items available for sale to the general public and constitute more than fifty percent of the gross floor area of the building.
- 611.2132 All operations and sales are conducted within a fully enclosed building with no open storage of materials or refuse.
- 611.214 Vendors provided that *(Amended Ord. 2009-63)*:
- 611.2141 All vending operations shall be conducted a

- minimum of twenty (20) feet beyond any street right-of-way and space to park at least two (2) cars shall be provided.
- 611.2142 Only one vendor shall be allowed for each one hundred (100') feet that a property fronts upon a street. Corner lots are only allowed to count the frontage on the primary street. Additionally, in the Waccamaw Neck Commercial Corridor Overlay Zone, only one vendor may be located on a single parcel, except for those issued a Temporary Certificate of Zoning Compliance. Vendors may only utilize property zoned General Commercial in the Waccamaw Neck Commercial Corridor Overlay Zone.
- 611.2143 Electronic or illuminated signs shall not be used by vendors.
- 611.2144 No goods or merchandise to be offered for sale may be stored in, or sold from a tractor trailer on the vending site. All tractor trailers related to the vending operation must be removed from the site
- 611.2145 Only one sign per vendor shall be allowed, regardless or where it is placed. Advertising materials attached to or painted onto automobiles are construed to be signs. Signs shall not exceed ten (10) square feet in area and shall meet all sign standards contained in the Zoning Ordinance. No free standing sign shall be placed closer than ten (10) feet from the property line. In no case shall a sign be placed in a public right-of-way. *(Amended Ord 2003-86)*
- 611.2146 The applicant must submit a site plan showing the proposed location of the vending operation on the plan. The Zoning Administrator must find that the proposed operation complies with all applicable provisions of this Section, and that the proposed operation will not adversely affect public safety. No portion of the vending operation shall be allowed to occupy or obstruct access to any parking stall required by the Zoning Ordinance. Upon the issuance of a permit, the site plan as approved must be attached to the permit, and the operation shall not vary from the approved plan. Any variation from the approved site plan shall immediately void the subject permit.
- 611.2147 Vendors shall be required to obtain a vendor's permit prior

to the commencement of any vending operation. Proof of approval of the property owner and a Federal Tax Identification or Social Security number must be provided. If applicable, the applicant must provide a copy of the approved County hospitality tax application and a State sales tax number to the Zoning Administrator before any vending permit is issued. Both the vendor and the property owner shall provide a hold-harmless agreement releasing the County of all liability.

611.2147.1 Vendor permits shall be issued for one ninety (90) day period for \$50.00 or annually for \$100.00.

611.2147.2 Additional vendor permits may be issued during a calendar year provided no violations had been cited during the first permit issue.

611.2147.3 The Zoning Administrator or his/her designee shall have the authority to issue and administer vending permits, and the authority and responsibility to continuously oversee and monitor vending operations permitted hereunder to assure compliance with the requirements of the ordinance. The Zoning Administrator shall have the authority, upon the occurrence of a violation of the terms and requirements of this ordinance and after giving reasonable notice to the violating permittee and the violating permittee not having remedied the subject violation within a reasonable time, to cancel, void, rescind, terminate, nullify the subject vending permit and order the vending operation ceased immediately thereupon.

611.2147.4 Vendor permits shall not be required for vending operations associated with a festival that has been issued a Temporary Certificate of Zoning Compliance.

611.2148 Violations of any requirement contained in Section 611.214 shall be subject to the following remedies:

611.2148.1 The Zoning Administrator, in the event of a violation of this ordinance, shall

immediately upon becoming aware of the violation, issue a notice to the violator setting forth the particulars of the violation and ordering immediate remediation as needed to bring the violator into compliance. Immediate remediation shall be subject to a test of reasonableness with respect to the interval of time needed and the required action to be taken, related to the nature of the violation. If the violator fails to remediate the violation as described in the notice, then the Zoning Administrator shall take further action as described in 611.2147.3 of this section.

611.2148.2 Failure to comply with a written order to remedy regarding the violation or a second offense of the same nature shall result in the revocation of the permit by the Zoning Administrator or his/her designee for the calendar year.

611.2148.3 The Zoning Administrator or his/her designee shall further have the authority to take lawful action as provided for in Article XI, Section 1504 for any continuing offense. *(Amended Ord. 2003-86)*

611.215 Seafood distribution centers provided that:

611.2151 No processing of seafood is allowed.

611.2152 Such uses shall only be allowed on arterial streets as depicted in figure 8.1 in the Comprehensive Plan.

611.216 Taverns, nightclubs or billiard halls provided that the property on which such use is located is at least 300 feet from any residentially zoned property.

611.217 Amenity, subdivision provided that: *(Amended Ord. 2007-03)*

611.2171 Parking shall be provided at a rate of one half that required in Article XI of the Zoning Ordinance

611.2172 Adjacent residential properties must be buffered from any recreational amenity other than a passive

park which contains no structures. Such buffer shall, at a minimum, be a Type 2 as identified in Article XII of the Zoning Ordinance.

611.2173 The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by the residents of the subdivision.

611.218 Hotel provided such use: *(Amended Ord. 2009-51)*

611.2181 Shall be open to the public generally;

611.2182 Shall provide a centralized public lobby and guest registration desk;

611.2183 Shall provide full-time on-site management, telephone service and maintenance to all guest rooms;

611.2184 Shall not have individual utility connections metered separately to individual guest rooms;

611.2185 Shall not have individual washer and dryer connections in each guest room;

611.2186 Shall meet all other relevant Sections of the Zoning Ordinance such as parking and signage;

611.2187 Shall provide a minimum lot area per room of one thousand (1000) square feet.

611.2188 Interconnectivity with adjoining commercial properties shall be developed and permitted by the developer/owner.

611.2189 Any free-standing restaurant, entertainment facility or other commercial uses associated with the hotel on the same property shall have a site plan reviewed by the Planning Commission, approved by County Council and shall comply with Section 609.2041 of this Ordinance. *(Amended Ord. 2011-41)*

611.21810 Shall have a maximum building height of 35 feet or 45 feet in a flood zone as provided for in Section 806 of this Ordinance .

- 611.219 Office Parks provided they meet all the requirement of Section 419, a site plan is reviewed by the Planning Commission, approved by County Council and complies with Section 610.205 of this Ordinance. *(Amended Ord. 2011-41)*
- 611.220 Shopping Centers provided they meet all the requirements of Section 419, are reviewed by the Planning Commission, approved by County Council and comply with the following: *(Amended Ord. 2011-41)*
- 611.2201 The applicant shall submit to the Planning Commission, as part of the application, letters addressed to each property owner within four hundred (400) feet of the subject property containing information adequate to notify such owners of the intention to develop, and when and where a public hearing will be held by the Planning Commission. Such letters shall be placed unsealed, stamped and addressed envelopes, ready for mailing by the Planning Commission. The Planning Commission's address shall appear as the return address on the envelopes. A list of all property owners, as reflected by the tax records, to whom letters are addressed shall accompany the application.
- 611.2202 The required letters of notification shall be mailed to the affected property owners by the Planning Commission at least twenty-one (21) days prior to the public hearing. The Commission Staff shall certify the mailing date. Failure to strictly comply with the notification requirements contained in this section shall not render the rezoning of the property invalid.
- 611.2203 Conspicuous notices shall be posted on the affected property that shall be visible from each public street that borders the property. The notice shall be posted at least fifteen (15) days prior to the public hearing date.
- 611.2204 Before taking any action, the Planning Commission shall hold a public hearing thereon, notice of the time and place of which shall be published in a newspaper of general circulation in the County at least fifteen (15) days in advance of the scheduled public hearing date. The Commission will then

forward its recommendation to County Council for their final approval.

611.2205 Such projects shall comply with all other applicable ordinances including, but not limited to signage, access management, parking and buffering requirements.

611.221 Bingo Parlors provided that: *(Amended Ord. 2013-24)*

611.2211 Verification of a license from the State of South Carolina is presented to the Zoning Administrator prior to approval for a Certificate of Occupancy or change of tenant.

611.2212 One parking space shall be required for every four seats in the parlor or every 100 square feet of floor area whichever is greater. If the proposed bingo parlor is located in a shopping center with other uses, parking must be provided and calculated separately for each individual use unless such uses have differing hours of operation.

611.2213 Sign shall be allowed based on Article X of this Ordinance.

611.2214 Hours of operation shall be limited to 12:00 noon until 2:00 AM as mandated by the State of South Carolina.

611.222 Commercial Outdoor Shooting Ranges provided that: *(Amended Ord. 2016-15)*

611.2221 All ranges must be designed to the greatest degree possible in compliance with standards established by the National Rifle association or the National Outdoor Shooting Sport Association. A written plan must be submitted to the County Planning Department describing how the range conforms to the above noted standards and the areas in which it does not;

611.2222 Any range under the provisions of this section shall apply for and receive a Certificate of Zoning Compliance before beginning operation;

- 611.2223 No commercial outdoor shooting range created after the enactment of this Ordinance, September 13, 2016, shall be located on a parcel less than ten (10) acres in size;
- 611.2224 All commercial outdoor shooting ranges accommodating rifles shall be located such that any shooting station is at least two thousand (2,000) linear feet in a straight line from any habitable dwelling, church, school, park, hospital, nursing home or office. Ranges dedicated to shotguns shall meet a minimum separation requirement of five hundred (500) linear feet. Dwellings located on the same parcel as the shooting range and dwellings owned by an owner of the subject shooting range are not included in this separation requirement. Additionally, the separation requirement from a dwelling may be waived if the owner of the dwelling provides an affidavit agreeing to waive such requirement in perpetuity. An applicant may request County Council in writing to reduce the above separation requirements due to conditions found on a particular parcel that mitigate noise issues or demonstrate that features will be added that mitigate such noise;
- 611.2225 All ranges, except those only used for shooting trap, sporting clays and skeet with shotguns, or firing shotguns in any manner, shall utilize a backstop and safety baffles. Ranges must be designed to keep all projectiles within the range;
- 611.2226 A level 3 landscaped buffer shall be planted across the front of the parcel that is used as a shooting range. Natural vegetation may be counted toward meeting the buffer requirement;
- 611.2227 Outdoor shooting shall cease each day at 8:00 PM and not begin in the morning until 8:00 AM; and,
- 611.2228 An indoor shooting range may be considered as an accessory to an outdoor shooting range but an outdoor shooting range may not be considered as an accessory use to an indoor range.

611.223 Accessory dwelling units located on a parcel when the single family principal dwelling is not a mobile home and the habitable space of the accessory unit does not exceed nine hundred (900) square feet. Detached accessory dwelling structures are not permitted when the principal use of a parcel is not residential;
(Amended Ord. 2018-05)

611.3 Other Requirements.

611.301 All uses allowed in General Commercial Districts shall conform to the area, yard and height requirements as set forth in the Article VII.

611.302 Uses allowed in General Commercial Districts shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.

611.303 Signs permitted in General Commercial Districts including the conditions under which they may be located, are set forth in Article X.

611.304 All new commercial developments will be required to provide a means of interconnecting with adjoining property to allow for the movement of vehicles from one property to another without using the street system. *(Amended Ord 2003-83)*

612. **Resort Service District (RS).**

Intent. The intent of the Resort Service District is to provide areas for resort related services and industries which are not significantly objectionable in terms of noise, odor, fumes, etc., and each operation is completely confined within an enclosed building. The resort-related services should not have a negative effect on the existing lifestyle of the area. The regulations which apply within this district are designed to encourage the formation and continuance of a compatible environment for uses generally classified to be supportive of resort areas; protect and reserve undeveloped areas in Georgetown County which are suitable for such purposes, and discourage encroachment by those industrial uses or other uses capable of adversely affecting the basic resort character of this district.

612.1 **Permitted Uses:** The following uses shall be permitted in any Resort Service District:

- 612.101 Cabinet making shop;
- 612.102 Carpenter shop;
- 612.103 Ice plant;
- 612.104 Printing establishment; and,
- 612.105 Tinsmith shop;
- 612.106 Business service;
- 612.107 Repair service;
- 612.108 Public building, facility or land;
- 612.109 Agricultural farm;
- 612.110 Resort related service or industry; and,
- 612.111 Accessory uses, including telephone booths.
- 612.112 Educational facilities.

612.2 **Conditional Uses.** The following uses shall be allowed on a conditional basis in any Resort Service District, subject to the conditions set forth:

- 612.201 Manufacturing of resort-related items, provided that the storage of all supplies, material or equipment is enclosed and that no junk or

salvage is located on the site; and provided that any noise, vibration, smoke, gas, fumes, odor, dust, fire hazard or other injurious or obnoxious conditions related to the operation are not sufficient to create a nuisance or destroy the character of the area;

612.202 Warehouse or other storage facility, provided that there is no open storage of junk or salvage materials of any type in conjunction with the operation, or self- service storage facility, provided that:

612.2021 Such use is located on a tract not less than one acre in area;

612.2022 A site plan which shows landscaping, interior driveway, density, structure size, compatible architectural design and environmental considerations such as drainage shall be submitted for review and approval;

612.2023 The facility is used for dead storage only and the following activities are specifically prohibited: the storage of toxic or explosive substances; auctions, commercial, wholesale or retail sales or miscellaneous or garage sales; the servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or other similar equipment; the operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns or other similar equipment; the establishment of a transfer and storage business; and, any use that is noxious or offensive because of odors, dust, noise, fumes or vibrations;

612.2024 All storage on the property shall be kept within an enclosed building; and,

612.2025 Parking shall be provided by parking/driving lanes adjacent to the building and that these lanes shall be at least twenty-six (26) feet wide when cubicles open onto one side of the lane only and at least thirty (30) feet wide when cubicles open onto both sides of the lane.

ARTICLE VI

REQUIREMENTS BY DISTRICT

- 612.203 Wholesale business outlet, provided that there is no open storage of junk or salvage materials.
- 612.204 Animal hospital and/or boarding facility provided that all boarding arrangements are maintained within a building and no noise connected with the operation of the facility is discernible beyond the premises.
- 612.205 Trade Service Complex, provided that:
- 612.2051 Such use shall be located on a tract not less than one acre in area;
 - 612.2052 Site plan showing landscaping, interior access, compatible architectural design, and environmental considerations such as drainage shall be submitted for approval;
 - 612.2053 Uses shall be limited to those permitted in the Resort Services District;
 - 612.2054 All storage on property shall be kept within an enclosed building; and
 - 612.2055 Such development shall maintain a minimum 40/60 pervious/impervious surface ratio. *(Amended Ord. 2006-14)*

612.3 Other Requirements.

- 612.301 All uses allowed in Resort Service Districts shall conform to the area, yard, and height requirements as set forth in Article VII.
- 612.302 Uses allowed in this District shall meet all standards set forth in Article XI, pertaining to off-street parking, loading, and other requirements.
- 612.303 Signs permitted in this District, including the conditions under which they may be located, are set forth in Article X.

613. **Limited Industrial District (LI).**

Intent. It is the intent of the Limited Industrial District to provide areas for limited industrial purposes which are not significantly objectionable in terms of noise, odor, fumes, etc., to surrounding properties. The regulations which apply within this District are designed to encourage the formation and continuance of a compatible environment for uses generally classified to be light industrial in nature; protect and reserve undeveloped areas in Georgetown County which are suitable for such industries; and discourage encroachment by those residential, commercial or other uses capable of adversely affecting the basic industrial character of the District.

613.1 **Permitted Uses.** The following uses shall be permitted in any Limited Industrial District:

- 613.101 Research or experimental laboratory;
- 613.102 Transportation terminal facilities, such as deep or shallow water ports or airfields together with incidental operations, but excluding truck terminals;
- 613.103 Public utility installation;
- 613.104 Agricultural farm;
- 613.105 Horticultural nursery;
- 613.106 Radio and/or television station and/or transmission tower, except within restricted areas delineated in the Georgetown County Airport Master Plan;
- 613.107 Office building and/or office for governmental, business, professional or general purpose;
- 613.108 Commercial trade or vocational school;
- 613.109 Off-street commercial parking or storage area for customer, client or employee owned vehicles;
- 613.110 Lumber processing and sales;
- 613.111 Public buildings, facility or land; and,
- 613.112 Accessory uses, including telephone booths.

613.2 Conditional Uses. The following uses shall be allowed on a conditional basis in any Limited Industrial District, subject to the conditions set forth:

- 613.201 Any industrial use, plus operations incidental to such use which involve manufacturing, processing, assembly and storage operations, provided said manufacturing, processing, assembly, or storage in no way involves any junk or salvage materials; and provided that any noise, vibration, smoke, gas, fumes, noxious matter, odor, dust, fire hazard or dangerous radiation associated with the operation are not sufficient to create a nuisance beyond the premises.
- 613.202 Warehouse or other storage facility, and wholesale business outlet provided that there is no open storage of junk or salvage materials of any type in conjunction with the operation.
- 613.203 Automobile service station provided that all pumps are set back at least twenty-five (25) feet from the right-of-way line of any street.
- 613.204 Animal hospital and/or boarding facility provided that all boarding arrangements are maintained within a building and no noise connected with the operation of the facility is discernible beyond the premises.
- 613.205 Retail business provided such business is incidental to a permitted use; is located on the same premises as a permitted use; and involves no open storage of junk or salvage materials of any type in conjunction with the operation.
- 613.206 Truck terminal provided that paved acceleration and deceleration lanes at least ten (10) feet in width and one hundred (100) feet in length are furnished and maintained where trucks enter or leave terminal sites located adjacent to streets; and provided that no safety hazard or impediment to traffic movement is produced and that no open storage is conducted in connection with the operation.
- 613.207 Watchman or caretaker's single-family dwelling provided that such dwelling is located on the same lot as the permitted use; and provided that the head of the household is employed by the industry as a watchman or caretaker.

ARTICLE VI

REQUIREMENTS BY DISTRICT

- 613.208 Dwellings incidental to a permitted agricultural or horticultural use provided that such related dwellings are occupied only by persons employed on the premises.
- 613.209 Garage or shop for the repair and servicing of motor vehicles, equipment or machine parts provided than any open yard storage incidental to such an operation conforms to the provisions of Section 611.201 and provided that no objectionable sound, vibration, heat, glare or electrical disturbance is perceptible beyond the premises.
- 613.210 Crushing, screening, separating and storage of steel mill slag provided, a site plan be submitted to the Zoning Administrator for approval showing the location of each operation; that the site have at least five acres of land with at least 100' of buffer between the property line and the above operations; and that the Zoning Administrator review impacts on the existing street system.
- 613.211 Sexually oriented businesses provided that: The Zoning Administrator review and approve the location of all adult entertainment establishments [sexually oriented businesses] prior to issuance of Certificate of Occupancy by the Zoning Administrator, and no more than one [1] adult use as classified above shall be located on any lot. *(Amended Ord 2004-58).*
- 613.2111 Location. Sexually oriented business shall not be located closer than:
- 613.21111 1,000 feet from the following residential zoning districts; FA, R-1ac., R ½ ac., MR-10, R-10, MD, GR, GRR, RR, RC, and MHP.
- 613.21112 1,000 feet from any house of worship, day care center, public or private elementary or secondary school, public park, public library, cemetery, municipal corporate limit lines, or any motion picture establishment which shows G or PG rated movies to the general public on a regular basis.

ARTICLE VI

REQUIREMENTS BY DISTRICT

- 613.21113 2,000 feet from any other adult use, provided that this shall not apply to any establishment or cabaret that does not provide adult entertainment more than 12 times per calendar year.
- 613.21114 Measurements of distance separation shall be in a straight line from the closest points of the buildings in which the adult uses are located.
- 613.21115 The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- 611.2112 Signage provided that: Signs shall contain no photographs, silhouettes, drawings, or pictorial representations of any manner, and may contain only the name of the regulated establishment and/or one or more of the following phrases:
- "Adult Bookstore"; "Adult Movie Theatre" (may contain additional phrase, Movie Titles Posted on Premises); "Adult Cabaret"; "Adult Entertainment"
"Adult Model Studio"

Signs shall comply with all other requirements for this district. (*Amended Ord 2004-58*)

- 613.212 Cemeteries, provided:
- 613.2121 A site plan showing the cemetery and access to the site shall be reviewed and approved by the Zoning Administrator; and,
- 613.2122 No grave site be located within twenty-five (25) feet of any street right-of-way line.
- 613.213 Vendors provided that all conditions and requirements contained in Section 611.214 are met.
- 613.214 Open yard use for the sale, rental and/or storage of new or used materials or equipment excluding junk or salvage.
- 613.215 Bulk storage of petroleum and by-products thereof, with the exclusion of asphalt facilities provided that:
- 613.2151 Such use is limited to sites containing a minimum of two (2) acres of land; and,
- 613.2152 Any storage vessel for petroleum products is located so that it is at least three hundred (300') feet from any property that is not zoned for industrial uses.
- 613.216 Paint Ball Fields (*Amended Ord.2003-66*)
- 613.2161 Such use is limited to sites containing a minimum of three (3) acres of land.
- 613.217 Tattoo Facilities as defined in Article III, Definitions, Sections 388 shall be permitted provided that:
- 613.2171 Tattoo facilities shall be located no closer than one thousand (1,000) feet from the property line of all existing houses of worship, educational facilities, publicly-funded or operated recreational areas, and day-care facilities.

- 613.2172 Tattoo facilities shall not locate less than one thousand (1,000) feet from another existing tattoo facility.
- 613.2173 Tattoo parlor operators shall comply with all state and local laws and licensing regulations.
- 613.2174 A tattoo facility may only provide tattooing and may not engage in any other retail business including, but not limited to, the sale of goods or performing any form of body piercing other than tattooing. *(Amended Ord 2008-29)*

613.3 Other Requirements.

- 613.301 Uses allowed in this District shall meet the standards set forth in Article X pertaining to off-street parking, loading and other requirements.
- 613.302 Signs permitted in this District, including the conditions under which they may be located, are set forth in Article IX.
- 613.303 All uses allowed in this District shall conform to the area, yard and height requirements contained in Article VII.

614. **Heavy Industrial District (HI).**

Intent. The intent of the Heavy Industrial District is to promote the development and continued use of land for large scale basic or primary industrial purposes which involve extensive manufacturing, processing or assembly operations; and preserve sizable tracts of undeveloped land with potential for industrial use.

614.1 **Permitted Uses.** The following uses shall be permitted in any Heavy Industrial District:

- 614.101 Any permitted use in the Limited Industrial District, subject to standards set forth in this section;
- 614.102 Any industrial use, plus operations incidental to or required for such use, which involves, manufacturing, processing, assembly, transportation or storage operations aimed at the subsequent storage, reprocessing, reshipment or sale of products, heavy materials or equipment; not including junk or salvage yards as principal uses or activities which may cause noise, vibration, smoke, gas, fumes, odor, dust, fire hazards, dangerous radiation or other conditions which constitute a nuisance beyond the property lines, except under conditions as specified in Section 613.2;
- 614.103 Warehouses;
- 614.104 Bulk storage of petroleum and any byproducts thereof;
- 614.105 Transportation facilities incidental to or required for such uses including, without limitation, highways, railroads and docks, together with facilities related or incidental to the operation of same, subject however to the provisions of Section 613.206; and,
- 614.106 Accessory uses, including telephone booths.

614.2 **Conditional Uses.** The following uses shall be allowed on a conditional basis in any Heavy Industrial District, subject to the conditions set forth:

- 614.201 Retail or wholesale business or service, provided that such business or service is incidental to a permitted industrial use and is located on the same premises;
- 614.202 Truck terminal facilities, provided that paved acceleration and deceleration lanes at least ten (10) feet in width and one hundred (100) feet in length, are furnished and maintained where trucks enter or leave the sites from which such terminal facilities are located; provided that the intersection of such lanes with major

streets or highways are constructed in a manner consistent with prevailing engineering practices of those State agencies or municipal corporations affected thereby; and provided that sites for such facilities have access to major streets or highways;

- 614.203 Private recreation facility provided that such facility is incidental to a permitted use and located on the same premises;
- 614.204 Any industrial use, plus operations incidental to such use, which may produce injurious or obnoxious noise, vibration, smoke, gas, fumes, odor, dust, fire hazard, dangerous radiation or other objectionable condition that is not a nuisance to adjoining properties, provided that such use is located at least five hundred (500) feet from any abutting property line and provided that such use is located on a site at least thirty (30) acres in size;
- 614.205 Open lot used for the sale, rental and/or storage of new, used, or salvaged materials or equipment provided that no burning of materials or products is conducted on the premises, and in the case of such open storage of used or salvaged materials and/or equipment, provided that a fence or wall of at least six (6) feet in height above finished grade is established along all property lines or vegetation of such consistency as to completely conceal the use of the property from public view exists;
- 614.206 Watchman or caretaker's one or two-family dwelling provided that such dwelling is located on the premises of a permitted use; and provided that the head of the household is employed by the industry as a watchman or caretaker;
- 614.207 Dwellings incidental to a permitted agricultural or horticultural use provided that such related dwellings are occupied only by persons employed on the premises;
- 614.208 Garage or shop for the repair and servicing of motor vehicles, equipment or machine parts provided that there is no open yard storage incidental to such operation and provided that no activities are conducted which constitute a nuisance; and,
- 614.209 Sexually oriented businesses subject to the conditions and requirements listed in Section 613.211 (*Amended Ord. # 2004-59*).
- 614.210 Vendors provided that all conditions and requirements contained in Section 611.214 are met.
- 614.211 Tattoo Facilities as defined in Article III, Definitions, Sections 388

shall be permitted provided that:

614.2111 Tattoo facilities shall be located no closer than one thousand (1,000) feet from the property line of all existing houses of worship, educational facilities, publicly-funded or operated recreational areas, and day-care facilities.

614.2112 Tattoo facilities shall not locate less than one thousand (1,000) feet from another existing tattoo facility.

614.2113 Tattoo parlor operators shall comply with all state and local laws and licensing regulations.

614.2114 A tattoo facility may only provide tattooing and may not engage in any other retail business including, but not limited to, the sale of goods or performing any form of body piercing other than tattooing. *(Amended Ord 2008-29)*

614.3 Other Requirements.

614.301 All uses allowed in this District shall conform to the area, yard and height requirements contained in Article VII.

614.302 Uses allowed in this District shall meet all standards set forth in Article X pertaining to off-street parking, loading and other requirements.

614.303 Signs permitted in this District, including the conditions under which they may be located, are set forth in Article IX.

615. **Mobile Home Park District (MHP).**

Intent. The intent of the Mobile Home Park District is to provide a sound and healthy residential environment sufficient to meet the needs of inhabitants living in mobile homes, to protect mobile home parks from encroachment by incompatible uses and to encourage the consolidation of mobile homes into mobile home parks. Any mobile home park established in Georgetown County shall henceforth comply with the regulations set forth herein.

615.1 **Permitted Uses.** Unless otherwise set forth herein, mobile home parks shall be permitted only in an officially approved Mobile Home Park District for which a Certificate of Occupancy has been issued. Uses permitted in Mobile Home Park Districts shall include mobile homes as well as other uses which may be required to serve exclusively, in the opinion of the Planning Commission and County Council, the residents of that particular Mobile Home Park District.

615.2 **Definitions.** For definitions of the terms "Mobile Home", "Mobile Home Park" and "Travel Trailer", see Article III.

615.3 **Park Plan.** A site plan shall be submitted with each Mobile Home Park rezoning request indicating the general circulation pattern, layout and size of spaces, general site dimensions, etc., to assist the Planning Commission and County Council in reaching a decision. In order to qualify for a Mobile Home Park District, a proposed park must meet the following specific requirements:

615.301 The site to be utilized for the park shall contain an area of not less than five (5) acres, and be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.

615.302 The site shall have a minimum lot width measured at the building line of one hundred fifty (150) feet.

615.303 The Mobile Home Park shall not contain more than seven (7) mobile home units per acre.

615.304 Each individual mobile home space shall provide a lot consisting of not less than fifty (50) feet in width, and five thousand (5,000) square feet of area and be clearly defined.

615.305 Each Mobile Home Park shall have a minimum area of twenty-five hundred (2,500) square feet of land developed as a recreational area. The area should be suitable for recreation and located for convenience and safety.

ARTICLE VI

REQUIREMENTS BY DISTRICT

- 615.306 Other requirements for Mobile Home Parks:
- 615.3061 Minimum Front Yard: Thirty-five (35) feet from any public street, twenty (20) feet from any roadway within the Mobile Home Park;
 - 615.3062 Minimum Side Yard: Twenty (20) feet from adjoining property; ten (10) feet from any side yard within the Mobile Home Park;
 - 615.3063 Minimum Rear Yard: Twenty-five (25) feet from any property line; fifteen (15) feet from any rear yard line within the Mobile Home Park; and,
 - 615.3064 Maximum Building Height: Thirty- five (35) feet.
- 615.307 Off-street parking, loading and other requirements shall conform to the standards set forth in Article X.
- 615.308 The area proposed shall be in one ownership, or if in several ownerships the application for amendment to the Zoning Ordinance shall be filed jointly by all of the owners of the properties included in the plan.
- 615.309 A Mobile Home Park in a Mobile Home Park District must conform to the Department of Health and Environmental Control requirements and the site plan must be reviewed by the County Health Department and other appropriate agencies, which shall advise the Planning Commission of its findings in writing or by stamped approval on the plan itself prior to the Commission's making a recommendation on the proposal. The Planning Commission shall be restricted from making a favorable recommendation unless the Department of Health and Environmental Control determines that all local and State codes pertaining to health and environmental sanitation in mobile home parks have been met by the applicants.
- 615.310 Signs permitted in Mobile Home Park Districts, including the conditions under which they may be located, are set forth in Article IX.
- 615.311 A suitable site plan shall be submitted by the developers for review and approval by the Planning Commission and County Council.

Specifically, such plan shall include the following elements when applicable:

615.3111 The site plan drawn to scale by a registered civil engineer, registered landscape architect, or registered architect showing the exact dimensions of the parcel or parcels of land under consideration. The plan shall include the following elements:

- all exterior property dimensions;
- typical mobile home space dimensions;
- street systems and dimensions;
- means of ingress and egress;
- off-street parking facilities;
- open spaces, including recreational spaces together with dimensions;
- provisions of utilities; including water, sewer and drainage facilities approved by the appropriate agencies; and,
- front, side and rear yard setback dimensions as described in Section 615.306.

615.3112 A written report shall be submitted by the developers for review by the Planning Commission and approval by the County Council. The report shall give assurances that all improvements and protective devices such as buffers, waste disposal systems, etc. will be properly maintained.

615.4 Revocation of Permit. The County Council may revoke any permit to maintain and operate a Mobile Home Park where the operator has been found guilty by a court of competent jurisdiction of violating any provisions of this Ordinance. After such conviction, the permit may be reissued if the circumstances leading to the conviction have been remedied and the Park is being maintained and operated in full compliance with the law.

615.5 Posting of Certificate of Occupancy. The developer shall submit to the Zoning Administrator an approved plan before a Certificate of Occupancy may be issued.

The Certificate of Occupancy shall be conspicuously posted in the office on the premises of the Park.

- 615.6 Administrative Procedures with Regard to Mobile Home Park District. Any request pertaining to establishment of a MHP District shall be considered an amendment to the Zoning Ordinance and shall be administered and processed in accordance with the regulations set forth in Article XIV, entitled Amendments of this Ordinance. All data set forth in Section 615.311 shall be submitted to the Planning Commission and subsequently forwarded to the County Council. All information pertaining to the proposal shall be adopted as an amendment to the Zoning Ordinance, as the standards of development for the particular Mobile Home Park District.

All further development shall conform to the standards adopted for the District, regardless of any change in ownership. Any significant changes in the District shall be treated as an amendment to the Zoning Ordinance and shall be considered in accordance with procedures set forth in Article XIV of this Ordinance. Appeals based on hardship or an alleged misinterpretation of the Ordinance by the Zoning Administrator shall be processed in accordance with procedures set forth in Article XIII entitled Zoning Board of Appeals.

In any event, where it is determined by the County Council that development in the Mobile Home Park District is not in accordance with the standards adopted for that District, the County Council shall be empowered to amend the Ordinance to place parts or all of the property in the Mobile Home Park District in another zoning classification deemed by the County Council to be more appropriate.

The violation of any provision of these requirements, as submitted under the provisions provided herein, shall constitute a violation of this Ordinance.

616. **Destination Park District (DPD).**

Intent. The intent of the Destination Park District is to provide sound and healthy recreational sites in Georgetown County in which campers are situated. Further, the Destination Park District is intended for short-term occupancy and is to be used primarily for leisure time activities at or near natural attractions in Georgetown County.

616.1 **Permitted Uses.** Unless otherwise set forth herein, occupied travel trailers, pick-up coaches, motor homes, camping trailers, other vehicular accommodations and tents suitable for temporary habitation and used for travel, vacation and recreation purposes shall be permitted. No permanent external appurtenances such as carports, cabanas, or patios may be attached to any travel trailer or other vehicular accommodation parked in a Destination Park, and the removal of wheels and placement on a foundation in such a park is prohibited.

616.2 **Accessory Uses.** Management headquarters, recreational facilities, toilets, dumping stations, showers, coin operated laundry facilities, and other uses and structures customarily incidental to the operation of a Destination Park may be allowed, subject to the following restrictions:

616.201 Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the park;

616.202 Such establishments shall be restricted in their use to occupants of the park;

616.203 Such establishments shall present no visible evidence from any street outside the park of a commercial character which could attract customers other than occupants of the park; and,

616.204 The structures housing such facilities shall not be located closer than one hundred (100) feet to any public street and shall not be directly accessible from any public street, but shall be accessible only from a street within the park.

616.3 **Park Plan.** A suitable park plan shall be submitted by the developer to the Planning Commission and County Council for review and approval. Destination Parks shall conform to the following requirements:

616.301 The park site shall not be less than 10 acres in size;

616.302 It shall be located so that no entrance or exit from the park shall discharge traffic onto any residential district nor require movement of traffic from the park through a residential district. A Destination

-
- Park shall have a minimum of one hundred fifty (150) feet of frontage on a public street;
- 616.303 Site Conditions: Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences and no portion of the park shall be subject to flooding or erosion;
- 616.304 Sites: Each trailer site or space shall be at least two thousand five hundred (2,500) square feet in area and be at least 50' wide. Such site shall contain a stabilized vehicular parking pad of stone, paving or other suitable material. No part of a travel trailer or other unit placed on a site shall be closer than fifteen (15) feet to another travel trailer or other park buildings;
- 616.305 Recreational Facilities: A minimum of eight (8) percent of the gross area of the Destination Park shall be set aside and developed as common use area for open or enclosed recreation facilities. No trailer site, buffer strip, street right-of-way, storage area, or utility site shall be utilized in computing the recreational area;
- 616.306 Design of Access to Park: Entrances and exits to Destination Parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize friction with traffic on adjacent streets. All traffic into or out of the park shall be through such entrances and exits. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended and entrances and exits shall be designed to facilitate easy turning movement for vehicles with trailers attached. No impediment to visibility shall be created or maintained which obscures the view of an approaching driver;
- 616.307 Minimum setbacks for Park - These requirements are for the external boundaries:
- 616.3071 Front Yard - where park abuts a public street shall be 30 feet.
- 616.3072 Side Yard - where park abuts adjoining property shall be 20 feet.

- 616.3073 Rear Yard - where the rear property line of the park abuts adjoining property shall be 20 feet.
- 616.308 A plat drawn to scale by a registered civil engineer or land surveyor showing the exact dimensions of the parcel of land under consideration shall be submitted. The elements to be shown are as follows:
- 616.3081 All property dimensions, lots and street systems, proposed location of buildings and sizes, plans for screening and protection of abutting properties, means of ingress and egress, access and circulation arrangements, open spaces, and other support facilities; and,
- 616.3082 A drainage plan with a minimum of two (2) foot vertical contour intervals. The number of acres for the Park, open space and campsites shall be shown and each lot shall be numbered.
- 616.309 Spaces shall be rented by the day or week only, and the term of occupancy shall not exceed thirty (30) days; and,
- 616.310 Signs: Signs shall meet the requirements as set forth in Article LX.

617. **Medical District (MD).**

Intent. It is the intent of this district to provide areas for residential, medical and support facilities and to encourage the use of land within this district for this purpose; to prohibit the use of land for general business and/or industrial activities and other land uses which would interfere with the character of the Medical District.

617.1 **Permitted Uses.** The following uses shall be permitted in any Medical District:

- 617.101 Single-family dwellings (except mobile homes) and group dwellings;
- 617.102 Two-family dwellings;
- 617.103 Hospitals, medical and dental clinics;
- 617.104 Clinical and x-ray laboratories;
- 617.105 Nursing, convalescent homes and adult residential care centers;
- 617.106 Drug stores or pharmacies;
- 617.107 Offices for the following professionals:
 - 617.1071 Physicians - (including all advanced degrees or specialties);
 - 617.1072 Dentists;
 - 617.1073 Optometrists;
 - 617.1074 Osteopaths;
 - 617.1075 Physical therapists;
 - 617.1076 Chiropractors; and,
 - 617.1077 Accountants (directly related to medical billing, etc.).
- 617.108 Related establishments complementing medical and institutional operations, including flower and gift shops;
- 617.109 Public buildings, facility or land; and,
- 617.110 Accessory uses, including telephone booths.

617.2 Conditional Uses. The following uses shall be allowed in any Medical District on a conditional basis, subject to the conditions set forth:

617.201 Utility substations sub-installations including water towers, provided that:

617.2011 Such use is enclosed by a fence or wall at least six (6) feet in height above finished grade;

617.2012 There is neither office nor commercial operation nor storage of vehicles or equipment on the premises;

617.2013 A landscaped strip not less than five (5) feet in width is planted and suitably maintained around the facility; and,

617.202 Assisted living facilities provided that the requirements and conditions listed in Section 607.3 are met.

617.3 Other Requirements.

617.301 All allowed uses shall conform to the standards set forth in Article VII.

617.302 Uses allowed in this district shall meet all standards set forth in Article X, pertaining to off-street parking, loading and other requirements.

617.303 Signs permitted in Medical Districts, including the conditions under which they may be located, are set forth in Article IX.

618. **Office Commercial District (OC).**

Intent. The purposes of the Office Commercial District are to create and protect areas for general office uses and similar establishments. The regulations which apply within the district are designed to provide a transition area between areas designated for general business and residential areas, to reduce traffic congestion, to avoid the development of "strip" business districts and to discourage industrial uses and other development capable of adversely affecting the office character of the District.

618.1 **Permitted Uses.** The following uses shall be permitted in the Office Commercial District:

- 618.101 Bank;
- 618.102 General business offices such as real estate, insurance and similar uses excluding retail and wholesale sales;
- 618.103 Professional offices such as doctors, lawyers, dentists and similar uses;
- 618.104 Studio for artist, photographer, sculptor or musician;
- 618.105 Church;
- 618.106 Public owned and operated building, facility or land;
- 618.107 Funeral homes;
- 618.108 Library;
- 618.109 Group dwellings;
- 618.110 Nursing home;
- 618.111 Residence above permitted commercial uses, and;
- 618.112 Accessory uses, including telephone booths.

618.2 **Conditional Uses.** The following uses shall be allowed in any office Commercial District on a conditional basis, subject to the conditions set forth:

- 618.201 Retail and service facilities within an office building, but limited to no more than twenty-five percent of the gross floor area of the building and limited to barber shops, beauty shops, day care centers, dining room, newsstand, and retail stores for the sale of books, gifts, flowers, tobacco, drugs and sundries. Such facilities

shall not have any customer entrances directly from the street or visible from any sidewalk.

618.202 Utility substations or sub-installations provided that:

618.2021 Such use is enclosed by a fence or wall at least six (6) feet in height above finished grade.

618.2022 There is no storage of vehicles or equipment on the premises.

618.2023 A buffer strip at least five (5) feet in width is established and maintained around the facility.

618.3 Other Requirements.

618.301 Uses allowed in Office Commercial Districts shall meet the area, yard and height requirements contained in Article VII.

618.302 Uses allowed in Office Commercial Districts shall meet all standards set forth in Article X pertaining to off-street parking, loading and other requirements.

618.303 Signs permitted in Office Commercial Districts, including the conditions under which they may be located, are set forth in Article IX.

618.304 At least thirty (30) percent of the lot shall be pervious surface.

619. **Planned Development District (PD)**

Intent. The purpose of the Planned Development District (sometimes hereinafter referred to as PD) is to provide opportunities to create more desirable environments through the application of flexible and diversified land development standards under a comprehensive plan and program that is professionally prepared. The Planned Development District is intended to be used to encourage the application of new techniques and technology to community development which will result in superior living or development arrangements with lasting values. It is further intended to achieve economics in land development, maintenance of street systems and utility networks while providing building groupings for privacy, usable attractive open space, buffer zones, safe circulation and the general well-being of the inhabitants.

619.1 **Minimum Acreage Requirements, Setbacks and Density.** The site utilized for a Planned Development District shall contain the following minimum acreage:

- 619.101 Industrial PD's shall have ten (10) acres. *(Amended Ord. 2006-21).*
- 619.102 Medical Centers, shopping centers, commercial developments, residential developments, and mixed use developments shall have (2) acres. *(Amended Ord. 2006-21).*
- 619.103 The Planning Commission and County Council shall determine appropriate setbacks from property lines and needed buffers except that the 90 foot setback from US Highway 17 as established in Article IV, General Provisions, Section 409, Setback from US Highway 17, shall not be reduced. *(Amended Ord 2007-11)*
- 619.104 To determine the density, only land which can be developed can be used to calculate the units per acre. Wetlands and water bodies shall not be included in calculating density. The Georgetown County Comprehensive plan shall be used to determine overall density limits.

619.2 **Administrative Procedures with Regard to Planned Development Zoning Districts.** Any request pertaining to the establishment of a Planned Development District shall be considered an amendment to the Zoning Ordinance and shall be administered and processed in accordance with the regulations set forth in Article XIV, entitled Amendments. All data set forth in Section 619.6 pertaining to conceptual approval shall be submitted to Staff of the Planning Commission and subsequently forwarded to County Council, with recommendations from the Planning Commission. If approved by County Council, all information pertaining to the proposal shall be adopted as an amendment to the Zoning Ordinance, as the standards of development for that particular Planned Development District. Revised Conceptual Plans shall be submitted to the Zoning Administrator for review and approval provided the proposed change does not constitute a major

change under section 619.302. Final plans for each phase shall be submitted to Staff for their review and approval. The Zoning Administrator may grant final approval provided that the final plans are in accordance with the approved Conceptual Plan; however, minor changes may be made as described in Subsection 619.301 (Minor Changes). If the owner or developer is not in agreement with the Zoning Administrator's findings, they may request approval from the Planning Commission and County Council.

619.201 A building permit shall not be issued until a final plan, as required in Subsection 619.8, for each phase of development is submitted and approved by the Zoning Administrator.

619.202 The initial conceptual plan review, which will change the zoning classification, shall be treated like any other amendment; however, after approval of the Conceptual Plan, the Zoning Administrator may approve revised conceptual and final plans if in accordance with the approved Conceptual Plan.

619.203 In any event where it is determined by the Planning Commission and the County Council that development in the Planned Development District is not in accordance with the standards adopted for the development, County Council shall be empowered to amend the Ordinance to place parts or all of the property in the Planned Development District in another zoning classification deemed by the Planning Commission and County Council to be appropriate.

619.204 If final approval is given prior to all necessary improvements being constructed and accepted, a performance bond or irrevocable letter of credit shall be posted for all improvements not in place or accepted.

619.205 For Planned Developments that contain more than ten (10) acres, the applicant may elect to develop the site in successive phases in a manner indicated on the Conceptual Plan; however, each stage shall be substantially completed before the commencement of development of the next phase. The Planning Commission may require that the development be done in phases if public facilities are not adequate to service the entire development initially.

619.3 Changes and Modifications.

619.301 Minor Changes. Minor changes in the PD may be approved by the Zoning Administrator provided that such changes:

619.3011 Do not increase the densities;

- 619.3012 Do not change the outside exterior boundaries or height limitations, except as provided in 619.4;
- 619.3013 Do not increase the intensity of land use;
- 619.3014 Do not materially change the location or amount of land devoted to specific land uses;
- 619.3015 Do not significantly change the exterior appearance from those shown on any plans which may be submitted or presented by the developer; and,
- 619.3016 May include, but not be limited to minor shifting of buildings, proposed streets, public or private ways, utility easements, parks or other public open spaces, or other features of the plan. Minor shifting of buildings does not include encroaching into any required setback. *(Amended Ord. 2007-95)*
- 619.3017 Temporary signs within a PD which exceed the limit for temporary signs under the sign provisions may be approved by Staff provided such approval does not exceed a one year period.
- 619.302 Major Changes. Major changes in a PD shall require another public hearing and shall be treated as an amendment to the Ordinance. Major changes may include, but are not limited to the following:
- 619.3021 Increase in density;
- 619.3022 Changes in exterior boundary lines and/or height limit;
- 619.3023 Changes in intensity of land use;
- Intensity is defined as: The "intensity" of land use is the degree of the negative impacts on the environment and neighboring land uses. Impacts of intensity include, but are not limited to, greater impervious surface coverage, reduced open space, increased bulk and height of buildings, increased traffic with associated noise and congestion, signs and exterior lighting visible from neighboring property.

619.3024 Changes in the location or amount of land devoted to specific land uses; and,

619.3025 Changes that significantly change the exterior appearance.

619.4 Height. The height requirements of thirty-five (35) feet shall apply except in A, AE, VE, or V flood zones (as shown on the FIRM Maps). The height requirements in A, AE, VE or V zones may be varied as a minor change but shall not exceed forty-five (45) feet and provided that the fire classification rating of the district is not increased (fire insurance rates higher), and the roof is accessible for fire fighting. Any proposed building shall comply with the current version of the International Building Code as adopted by the State of South Carolina and approved by the Georgetown County Council for one and two family dwellings *(Amended 2009-22)*.

619.5 Specific Requirements. In order to qualify for a Planned Development, the following must be submitted:

619.501 The area proposed shall be in one ownership or if in several ownerships, the application for amendment to the Zoning Ordinance shall be filed jointly by all of the owners of the properties in the plan; and,

619.502 A suitable conceptual plan shall be submitted by the developer for review by the Planning Commission and approval by the County Council. A Final Plan shall be submitted and approved by the Zoning Administrator prior to the issuance of any permit.

619.6 Conceptual Plan Requirements. The conceptual plan shall contain the following items when applicable:

619.601 Site Plan - Sheet 1
Location map; Ownership patterns; Property dimensions; Location of structures; Types of uses; Phases and timetables; Number of units per phase; Acreages (total and per phase); Ingress and egress; Yard requirements; Lot sizes; Street layout; Parking; Screening, buffers and borders; Off-street loading facilities; Building heights; Public access and recreation; Open space (active or passive); Density; Number of units per building; General layout of sidewalks or pathways; and Graphics (north arrow, scale-written and graphic, engineers signature and date of field survey).

619.602 Environmental Plan - Sheet 2
Contours; Drainage plan; Flood prone areas; Marsh areas or wetlands; and Other principal geographic features.

- 619.603 Water and Sewer Plan - Sheet 3
Shall meet the requirements of the Georgetown County Water and Sewer District extension policy.
- 619.604 Utilities Plan - Sheet 4
Layout and easements for other utilities (electric, telephone, gas, cable, etc.).
- 619.7 Approval of Conceptual Plan. Upon approval of the conceptual plan by the County Council, the Zoning Map will be changed to indicate the PD classification.
- 619.8 Final Plan Requirements. Before any permits may be issued, the developer shall submit final plans for review and approval to the Zoning Administrator. The final plan shall contain the following information:
- 619.801 Site Plan - Sheet 1
Location map; Location of structures; Phases of development and timetables; Acreage (total acres and acreage per phase); Property dimensions of phase development; Ingress and egress (dimensions, acceleration, deceleration lanes and numbers of ingress and egress points); Yard requirements (distance between buildings, distance of buildings from street, distance from easements and distance from off-street parking); Lot sizes; Street layout (street names, proximity of dwelling units, relationship to street patterns, right-of-way widths, paving widths, type of streets, directional arrows, type of pavement, street jogs, location of intersections and statement on traffic speed); Size of structures (exact dimensions, height and number of units\ building); Screening buffers, etc.; Off-street loading (relationship to commercial and public facilities); Public access and recreation-open space (dimensions and locations, proximity to streets and buildings, relationship to streets and buildings and type of recreation area); Density (number of units per phase, number of units per acre and overall density); Final layout of sidewalks\ pathways (width, type of material and relationship to public street); Graphics (north arrow, name of developer, name of development, scale, adjoining property owners and uses, engineers signature, date of field survey and dimensions, bearings, angles and reference points).
- 619.802 Environmental Plan - Sheet 2
Drainage plan; Contours; Flood prone areas; Marsh areas or wetlands; Other principal geographic features; Dumpster locations; and Erosion control methods.

ARTICLE VI**REQUIREMENTS BY DISTRICT**

619.803	Water and Sewer Plan - Sheet 3 Shall meet the requirements of Georgetown County Water and Sewer District extension policy with a sign-off on the plans.
619.804	Utilities Plan - Sheet 4 Layout and casements of other utilities (electric, telephone, gas, cable, etc.).
619.805	Exterior Appearance - Sheet 5
619.806	Soil, Trees, and Other Information Required by Staff - Sheet 6

621. **Rural General Residential District (RG)** *(Amended Ord. 2004-74)*

Intent. It is the intent of this section that the Rural General Residential District be established for low to medium density residential purposes. These areas are established to preserve extended family living and promote community cohesion.

621.1 **Permitted Uses:** The following uses shall be permitted in any Rural General Residential District:

- 621.101 Single-family dwellings including mobile homes;
- 621.102 Two-family dwellings;
- 621.103 Clustered Housing (including assisted living facilities),
- 621.104 Public buildings, facility or land; and,
- 621.105 Accessory uses, including telephone booths associated with non-residential uses.

621.2 **Structure Requirements.** Unless otherwise specified in this Ordinance, structures for this district shall meet the following requirements:

- 621.201 Front yard setback - twenty-five (25) feet;
- 621.202 Side yard setback - ten (10) feet;
- 621.203 Rear yard setback - twenty (20) feet;
- 621.204 Minimum Separation of Principal Structures - twenty (20) feet;
- 621.205 Minimum lot area:

Single family – fifteen thousand (15,000) sq.ft.

Two family - twenty thousand (20,000) sq.ft.

Clustered Housing – four (4) units per acre

- 621.206 Minimum lot width at building line - seventy (70) feet; and,

621.3 **Conditional Uses.** The following uses may be allowed in any Rural General Residential District subject to the provisions set forth.

- 621.301 Boarding homes, provided that:

- 621.3011 There shall be a minimum of 1,000 square feet of land area for each rental room;
- 621.3012 Food service facilities shall accommodate only boarders of the establishment and their guests. Where food service is provided there shall be a minimum of fifty (50) square feet of dining area for each rental room; and,
- 621.3013 There shall be at least one (1) off street parking space per rental room, plus one for each employee.
- 621.302 Utility substations or subinstallations including water towers, provided that:
- 621.3021 Such use is enclosed by a fence or wall at least six (6) feet in height above finished grade;
- 621.3022 There is neither office nor commercial operation nor storage of vehicles or equipment on the premises and,
- 621.3023 A landscaped strip not less than five (5) feet in width is planted and suitably maintained around the facility.
- 621.4 Other Requirements:
- 621.401 All allowed uses shall be required to conform to the standards set forth in Article VII.
- 621.402 Uses allowed in this district shall meet all standards set forth in Article X, pertaining to off-street parking, loading and other requirements.
- 621.403 Signs allowed in Rural General Residential Districts, including the conditions under which they may be located, are set forth in Article IX.

622. **Village 10,000 Square Feet Residential District (VR-10).** *(Amended Ord 2008-38)*

Intent. It is the intent of this district to provide areas for single family residential development, low to moderate density, and to encourage local or neighborhood businesses so as to provide nearby residential areas with convenient service and small retail facilities. The regulations which apply within this District are designed to reduce traffic congestion, avoid the development of "strip" business districts and to discourage industrial and other development capable of adversely affecting the localized residential character of the Village.

622.1 **Permitted Uses.** The following uses shall be permitted in a VR-10 Residential District:

- 622.101 Single-family dwellings, (including mobile homes);
- 622.102 Stores retailing antiques, art, books, newspaper, flowers, gifts, hardware, hobby and craft supplies, jewelry, leather goods, notions and supplies, paint and wallpaper, seeds and feeds,
- 622.103 Barber and beauty shops;
- 622.104 Laundromats;
- 622.105 Day care centers;
- 622.106 Dressmaker, seamstress or tailor;
- 622.107 Public buildings, facility or land;
- 622.108 Accessory uses, including telephone booths associated with non-residential uses;
- 622.109 Bus stops and shelters; and,
- 622.110 Commercial production and harvesting of timber and any activities normally associated with such operation.

622.2 **Conditional Uses.** The following uses shall be allowed in any VR-10 Residential District on a conditional basis, subject to the conditions set forth:

- 622.201 Restaurants excluding drive-ins and drive-thrus, provided that:
 - 622.2012 The size of the building does not exceed 3,000 square feet.
 - 622.2013 No outdoor entertainment is permitted.

- 622.202 The combination of one residential structure with a commercial use herein permitted provided that the dwelling unit has direct access to an abutting street. The connection of two (2) buildings by means of an open porch, breezeway, carport or other such open structure, with or without a roof, shall not be deemed to constitute one building.
- 622.203 Utility substations or subinstallations including water towers, provided that:
- 605.2031 Such uses is enclosed by a fence or wall at least six (6) feet in height above finished grade;
- 605.2032 There is neither office nor commercial operation nor storage of vehicles or equipment on the premises; and,
- 605.2034 A landscaped strip not less than five (5) feet in width is planted and suitably maintained around the facility.
- 622.204 Clustered housing, including assisted living facilities, provided That: *(Amended Ord 2010-06)*
- 622.2041 Only single family houses are allowed;
- 622.2042 Only four (4) houses are allowed per acre; and,
- 622.2043 All setbacks must be met and a minimum of twenty (20) feet must be maintained between all principal structures.
- 622.205 Bed and breakfast provided that: *(Amended Ord 2016-21)*
- 622.2051 Any bed and breakfast must be located on a lot not less than 32,670 square feet in area; and,
- 622.2052 One sign is permitted, either a wall sign or a monument sign. A wall sign shall not exceed twenty (20) square feet in area. A monument sign shall not exceed twelve (12) feet in height and forty (40) square feet in area.
- 622.206 One accessory dwelling unit shall be allowed on a parcel with a principal use if the total parcel area is at least 12,000 square feet and the habitable space of the accessory unit does not exceed nine

hundred (900) square feet. Additionally, an accessory dwelling unit shall not be permitted as an accessory to a mobile home;
(Amended Ord. 2018-05)

622.3 Other Requirements.

- 622.301 All allowed uses shall be required to conform to the standards set forth in Article VII.
- 622.302 Uses allowed in this district shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.
- 622.303 Signs permitted in VR-10 Districts, including the conditions under which they may be located, are set forth in Article X.

623. **Rural Village Commercial District (RVC).** *(Amended Ord 2008-38)*

Intent. It is the intent of this district to sustain existing rural-community values and environments, and to facilitate future development which will strengthen the economies of these areas, making them less dependent on outside services and resources, while ensuring land use compatibility.

623.1 **Permitted Uses.** The following uses shall be permitted in any Rural Village Commercial District:

- 623.101 Single-family dwellings (including mobile homes)
- 623.102 Stores retailing antiques, art, books, newspaper, flowers, foods including bakeries where products are sold exclusively at retail on premises, gifts, hardware, hobby and craft supplies, jewelry, leather goods, notions and supplies, paint and wallpaper, pets, seeds and feeds;
- 623.103 Barber and beauty shops;
- 623.104 Branch banks;
- 623.105 Laundromats;
- 623.106 Restaurants that provide no outdoor entertainment, excluding drive-ins and drive-thrus
- 623.107 Day care centers;
- 623.108 Farms, nurseries or other establishments for the growing, care and handling of field crops, truck gardening products, fruit and/or nut trees, poultry and/or animals and livestock.
- 623.109 Tree farm and/or forest management areas;
- 623.110 Landscaping services;
- 623.111 Nature parks, boat landings and public parks
- 623.112 Business involving the rendering of personal or professional service or the repair and servicing of small equipment in an enclosed facility, specifically including:
 - 623.11201 Appliance, radio and/or television repair shop;
 - 623.11202 Bicycle repair and sales shop;

- 623.11203 Dressmaker, seamstress or tailor;
- 623.11204 Self-service laundry facility, dry cleaning pick-up station and dry cleaning establishment that utilizes cleaning solvents that meet the class four rating by the National Fire Code, as amended;
- 623.11205 Insurance and/or real estate agency;
- 623.11206 Locksmith or gunsmith;
- 623.11207 Medical or dental clinic and/or laboratory;
- 623.11208 Office for governmental, business, professional or general purpose;
- 623.11209 Photographic studio;
- 623.11210 School offering instruction in art, music, dancing, drama, or similar cultural activity;
- 623.11211 Secretarial and/or telephone answering service;
- 623.11212 Shoe repair;
- 623.113 Public building, facility or land;
- 623.114 Accessory uses, including telephone booths;
- 623.115 Bus stops and bus shelters; and,
- 623.116 Commercial tree harvesting.

623.2 Conditional Uses. The following uses shall be allowed on a conditional basis in any Rural Village Commercial District, subject to the conditions set forth:

- 623.201 Combination of a residential structure with any use allowed herein provided that the dwelling unit has direct access to the street. The connection of two buildings by means of an open porch, breezeway, carport or other such open structure, with or without a roof, shall not be considered as one building.
- 623.202 Car wash provided that off-street paved parking areas capable of adequate storage for waiting vehicles is suitably located and maintained on the premises; and provided that no safety hazard or

impediment to traffic movement is created by the operation of such an establishment.

623.203 Auto sales and boat sales provided that such uses are separated from adjoining residential properties by a suitable planting screen, fence or wall at least six (6) feet in height above finished grade.

623.204 Self-service storage facilities provided that:

623.2041 Such use is located on a tract not less than one acre in area;

623.2042 A site plan which shows landscaping, interior driveway, density, structure size, compatible architectural design and environmental considerations such as drainage shall be submitted for review and approval;

623.2043 Such a facility is used for dead storage only and the following activities are specifically prohibited: the storage of toxic or explosive substances; auctions, commercial, wholesale or retail sales or miscellaneous or garage sales; the servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or other similar equipment, the operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns or other similar equipment; the establishment of a transfer and storage business; and, any use that is noxious or offensive because of odors, dust, noise, fumes or vibrations;

623.2044 All storage on the property shall be kept within an enclosed building with the exception boats in operable condition;

623.2045 Parking shall be provided by parking/driving lanes adjacent to the building and these lanes shall be at least twenty-six (26) feet wide when cubicles open onto one side of the lane only and at least thirty (30) feet wide when cubicles open onto both sides of the lane.

623.205 One accessory dwelling unit shall be allowed on a parcel with a single family principal dwelling when the single family principal dwelling is not a mobile home and the habitable space of the

accessory unit does not exceed nine hundred (900) square feet. Additionally, an accessory dwelling unit shall not be permitted as an accessory to a mobile home; *(Amended Ord. 2018-05)*

623.3 Other Requirements.

- 623.301 All uses allowed in Rural Village Commercial Districts shall conform to the area, yard and height requirements as set forth in the Article VII.
- 623.302 Uses allowed in Rural Village Commercial Districts shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.
- 622.303 Signs permitted in Rural Village Commercial Districts including the conditions under which they may be located, are set forth in Article X.

624. **Five Acre Residential District (R-5Ac).** *(Amended Ord 2008-38)*

Intent. This district is intended to be utilized in areas where, due to its remoteness, the impermeability of soil or other soil characteristics and the absence of the necessary urban services, development of higher density is undesirable or infeasible. A primary objective of this district is to prevent undesirable urban sprawl and to exclude land uses which demand a level of urban services which are impossible or uneconomical to provide. This district is utilized in rural areas that seek to preserve the existing lifestyle and reduce negative environmental and developmental impacts.

624.1 **Permitted Uses.** The following uses shall be permitted in any Five-Acre Residential District:

- 624.101 Single-family dwellings, each parcel may have one accessory dwelling unit such as a guest house;
- 624.102 Farms, nurseries or other establishments for the growing, care and handling of field crops; and,
- 624.103 Public buildings, facility or land and public utilities including substation and water towers;
- 624.104 Accessory uses, including telephone booths associated with non-residential uses; and,
- 624.105 Commercial production and harvesting of timber and any activities normally associated with such operation.

624.2 **Conditional Uses.** The following uses shall be allowed in any Five-Acre Residential District on a conditional basis, subject to the conditions set forth:

- 624.201 Cemetery provided that:
 - 624.2011 Such use consists of a site of at least five (5) acres;
 - 624.2012 Such use includes no crematorium or dwelling unit other than for a caretaker, and,
 - 624.2013 Such use has a front yard setback of at least fifteen (15) feet from the street right-of-way line and 50 feet from adjoining properties; and,
- 624.202 Facilities for the raising, care and handling of poultry and/or animals and livestock, provided that:

624.2021 Such use is located on a lot of not less than five acres; and,

624.2022 No building or enclosure for poultry or livestock is located closer than one hundred (100) feet from any residential property line.

624.203 Schools provided a site plan is reviewed and approved by the Planning Commission.

624.3 Other Requirements.

624.301 All permitted uses shall be required to conform to the standards set forth in Article VII.

624.302 Uses permitted in this district shall meet all standards set forth in Article X, pertaining to off-street parking, loading and other requirements.

624.303 Signs permitted in any Five-Acre Residential District, including the condition under which they may be located, are set forth in Article IX.

625. **Forest Agriculture/Residential District (FA/R).** *(Amended Ord 2008-38)*

Intent. It is the intent of this section that the Forest Agriculture/Residential District be utilized for agriculture and forestry uses in a manner compatible with nearby residential uses. The regulations which apply within this district are designed to encourage the formation and/or continuance of a compatible environment for livestock ranches, dairies, forest management areas, horticultural nurseries and other agricultural uses which involve the growing of crops, livestock, animals and/or trees and discourage any encroachment by medium or high density housing development, scattered commercial and/or industrial operations, or other uses capable of adversely affecting the basic agricultural or open character of the District.

625.1 **Permitted Uses.** The following uses shall be permitted in any Forest Agriculture/Residential District:

- 625.101 Farms, nurseries or other establishments for the growing, care and handling of field crops, truck gardening products, fruit and/or nut trees, poultry and/or animals and livestock;
- 625.102 Tree farm and/or forest management areas, including commercial production and harvesting of timber and any activities normally associated with such operation.
- 625.103 Social, cultural or religious uses:
 - 625.1031 Private or semi-private club, lodge, union hall or social center, excluding nightclubs;
 - 625.1032 Eleemosynary, religious, semi-public or philanthropic institution or camp; and,
 - 625.1033 Cemetery.
- 625.104 Golf courses;
- 625.105 Bed and Breakfast establishments;
- 625.106 Single-family dwellings and one accessory dwelling per parcel when the single family dwelling is not a mobile home and the habitable space of the accessory dwelling unit does not exceed nine hundred (900 square feet; *(Amended Ord. 2018-05)*
- 625.108 Landscaping services;

625.109 Wildlife refuge including single-family unit for caretakers employed to maintain and protect the refuge; and

625.110 Veterinary office, animal hospital and/or boarding facility.

625.111 Public buildings, facility or land, public utility substation or sub-installation including water towers,

625.112 Accessory uses, including telephone booths associated with non-residential uses.

625.2 Conditional Uses. The following uses shall be allowed on a conditional basis in any Forest Agriculture/Residential District:

625.201 Stand or shelter for the selling and/or display of seasonal agricultural produce provided that:

625.2011 Stand or shelter may be located within the minimum front yard area but no closer to the nearest street right-of-way than twenty (20) feet; and,

625.2012 At least four (4) off-street parking spaces are provided and suitably maintained.

625.202 Facilities for the raising, care and handling of animals and livestock, provided that:

625.2021 Such use is located on a lot of not less than two (2) acres; and,

625.2022 No building or enclosure for poultry or livestock is located closer than one hundred (100) feet from any residential property line.

625.203 Sand, dirt and coquina extraction, provided that:

625.2031 A site plan be submitted and approved by the Planning Commission showing the following:

625.20311 A survey with north arrow, scale and date;

625.20312 Show the area where excavation will occur;

625.20313 Show water bodies, wetlands, and areas subject to flooding;

- 625.20314 Establish a buffer area of at least fifty (50) feet adjoining properties, roadways and drainage areas;
- 625.20315 Show existing and proposed contours;
- 625.20316 Proposed fencing and gates; and,
- 625.20317 Operational statement which shall include date of start up, operating hours, types of equipment to be used. A truck route indicating how residential areas will be avoided must be included in the plans.
- 625.2032 A Reclamation Plan which includes a statement of planned rehabilitation, methods of accomplishment, phasing and timing.
- 625.2033 A Drainage and Erosion Control Plan.
- 625.204 Vendors provided that all conditions and requirements contained in Section 611.214 are met.
- 625.205 Wood chipping and composting facilities, provided that:
 - 625.2051 Such uses are located on a lot not less than five (5) acres in size;
 - 625.2052 A vegetation buffer is established and maintained around the perimeter of the facility;
 - 625.2053 Such uses meet all requirements contained in South Carolina code 44-96-190 and 44-96-380 and parks and regulations promulgated by SCDHEC; and,
 - 625.2054 If a wood chipping machine is utilized the machine shall not be located closer than 500' to any residential structure.
- 625.206 Utility Scale Wind Energy Systems provided that:*(Amended Ord. 2011-10)*
 - 625.2061 All requirements in Article XXIII, Wind Energy Facilities, of the Zoning Ordinance are met.

- 625.207 Commercial Outdoor Shooting Ranges provided that: *(Amended Ord. 2016-15)*
- 625.2071 All ranges must be designed to the greatest degree possible in compliance with standards established by the National Rifle Association or the National Outdoor Shooting Sports Association. A written plan must be submitted to the County Planning Department describing how the range conforms to the above noted standards and the areas in which it does not;
- 625.2072 Any range under the provisions of this section shall apply for and receive a Certificate of Zoning Compliance before beginning operation;
- 625.2073 No commercial outdoor shooting range crated after the enactment of this Ordinance, September 13, 2016, shall be located on a parcel less than ten (10) acres in size;
- 625.2074 All commercial outdoor shooting ranges accommodating rifles shall be located such that any shooting station is at least two thousand (2,000) linear feet in a straight line from any habitable dwelling, church, school, park, hospital or nursing home. Ranges dedicated to shotguns shall meet a minimum separation requirement of five hundred (500) linear feet. Dwelling located on the same parcel as the shooting range and dwellings owned by an owner of the subject shooting range are not included in this separation requirement. Additionally, the separation requirement from a dwelling may be waived if the owner of the dwelling provides an affidavit agreeing to waive such requirement in perpetuity. An applicant may request County Council in writing to reduce the above separation requirements due to conditions found on a particular parcel that mitigate noise issues or demonstrates that features will be added that mitigate such noise;
- 625.2075 All ranges, except those only used for shooting trap, sporting clays and skeet with shotguns, or firing shotguns in any manner, shall utilize a backstop and

safety baffles. Ranges must be designed to keep all projectiles within the range;

625.2076 Outdoor shooting shall cease each day at 8:00 PM and not begin in the morning until 8:00 AM; and,

625.2077 An indoor shooting range may be considered as an accessory to an outdoor shooting range but an outdoor shooting range may not be considered as an accessory use to an indoor range.

625.3 Other Requirements.

625.301 All allowed uses shall be required to conform to the standards set forth in Article VII.

625.302 Uses allowed in this district shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.

625.303 Signs permitted in this District, including the conditions under which they may be located, are set forth in Article X.

626. **Preservation Agriculture District (PA).** *(Amended Ord 2008-38)*

Intent. Georgetown County is unique in that within its bounds are a large portion of the State's estuarine land and water formations. Adjacent to these important areas are highlands that have been used as plantations and farms for generations. These areas possess great natural beauty and could be negatively impacted by intense development. In addition, these areas provide needed open space. The regulations which apply within this District are designed to reserve such areas for the purposes stated in these regulations which are intended to discourage residential, commercial and other uses capable of adversely affecting the relatively undeveloped character of the District.

626.1 **Permitted Uses.** The following uses shall be permitted in any Preservation Agriculture District:

- 626.101 Hunting, fishing, farming activities, aqua farming, recreational boating, swimming and nature study;
- 626.102 Hunting preserves and wildlife refuges including the planting of grain for wildlife and the repairing of dikes for such purposes;
- 626.103 Publicly owned and/or operated park, dock, boat landing, open space, recreational facility or use, and the equipment necessary to operate such areas;
- 626.104 Directional markers or official signs of public agencies;
- 626.105 Private dock, boathouse, ramp or fishing pier; and,
- 626.106 Single family dwellings, limited to no more than one unit per 25 acres. In the event a parcel exceeds 25 acres, dwelling units may be clustered on lots not exceeding one acre as long as the density limit is maintained;
- 626.107 Commercial production and harvesting of timber and any activities normally associated with such operation.

626.2 **Other Uses.**

- 626.201 One on-site identification sign is allowed per Article IX of this ordinance.

627. **Three-Quarter Acre Residential District (R-3/4 Ac).** *(Amended Ord. 2008-78)*

Intent. This district is intended to be utilized in areas where, due to its remoteness, the impermeability of soil or other soil characteristics and the absence of the necessary urban services, development of higher density is undesirable or infeasible. A primary objective of this district is to prevent undesirable urban sprawl and to exclude land uses which demand a level of urban services which are impossible or uneconomical to provide.

627.1 **Permitted Uses.** The following uses shall be permitted in any One-Acre Residential District:

- 627.101 Single-family dwellings and one accessory dwelling per parcel when the single family principal dwelling is not a mobile home and the habitable space of the accessory unit does not exceed nine hundred (900) square feet; *(Amended Ord. 2018-05)*
- 627.102 Farms, nurseries or other establishments for the growing, care and handling of field crops; and
- 627.103 Public buildings, facility or land, public utility substation or sub-installation including water towers; and,
- 627.104 Accessory uses, including telephone booths associated with non-residential uses.

627.2 **Conditional Uses.** The following uses shall be allowed in any Three-Quarter Residential District on a conditional basis, subject to the conditions set forth:

627.201 Cemetery, provided that:

- 627.2011 Such use consists of a site of at least one (1) acre;
- 627.2012 Such use includes no crematorium or dwelling unit other than for a caretaker, and,
- 627.2013 Such use has a front yard setback of at least fifteen (15) feet from the street right-of-way line.

627.202 Amenity, subdivision provided that: *(Amended Ord. # 2007-03)*

- 627.2021 Parking shall be provided at a rate of one half that required in Article XI of the Zoning Ordinance.
- 627.2022 Adjacent residential properties must be buffered from any recreational amenity other than a passive park which contains no structures. Such buffer

- shall, at a minimum, be a Type 2 as identified in Article XII of the Zoning Ordinance.
- 627.2023 The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by the residents of the subdivision.

627.3 Other Requirements.

- 627.301 All permitted uses shall be required to conform to the standards set forth in Article VII.
- 627.302 Uses permitted in this district shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.
- 627.303 Signs permitted in any One-Acre Residential District, including the condition under which they may be located, are set forth in Article X.

627. **Three-Quarter Acre Residential District (R-3/4 Ac).** *(Amended Ord. 2008-78)*

Intent. This district is intended to be utilized in areas where, due to its remoteness, the impermeability of soil or other soil characteristics and the absence of the necessary urban services, development of higher density is undesirable or infeasible. A primary objective of this district is to prevent undesirable urban sprawl and to exclude land uses which demand a level of urban services which are impossible or uneconomical to provide.

627.1 **Permitted Uses.** The following uses shall be permitted in any One-Acre Residential District:

627.101 Single-family dwellings and one accessory dwelling per parcel when the single family principal dwelling is not a mobile home and the habitable space of the accessory unit does not exceed nine hundred (900) square feet; *(Amended Ord. 2018-05)*

627.102 Farms, nurseries or other establishments for the growing, care and handling of field crops; and

627.103 Public buildings, facility or land, public utility substation or sub-installation including water towers; and,

627.104 Accessory uses, including telephone booths associated with non-residential uses.

627.2 **Conditional Uses.** The following uses shall be allowed in any Three-Quarter Residential District on a conditional basis, subject to the conditions set forth:

627.201 Cemetery, provided that:

627.2011 Such use consists of a site of at least one (1) acre;

627.2012 Such use includes no crematorium or dwelling unit other than for a caretaker, and,

627.2013 Such use has a front yard setback of at least fifteen (15) feet from the street right-of-way line.

627.202 Amenity, subdivision provided that: *(Amended Ord. # 2007-03)*

627.2021 Parking shall be provided at a rate of one half that required in Article XI of the Zoning Ordinance.

627.2022 Adjacent residential properties must be buffered from any recreational amenity other than a passive park which contains no structures. Such buffer

- 627.2023 shall, at a minimum, be a Type 2 as identified in Article XII of the Zoning Ordinance.
The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by the residents of the subdivision.

627.3 Other Requirements.

- 627.301 All permitted uses shall be required to conform to the standards set forth in Article VII.
- 627.302 Uses permitted in this district shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.
- 627.303 Signs permitted in any One-Acre Residential District, including the condition under which they may be located, are set forth in Article X.

628. **Forest Agriculture/Commercial District (FA/C).** *(Amended Ord 2008-77)*

Intent. It is the intent of this section that the Forest Agriculture District be utilized and reserved for agriculture, forestry and identified commercial uses. The regulations which apply within this district are designed to encourage the formation and/or continuance of a compatible environment for livestock ranches, dairies, forest management areas, horticultural nurseries and other agricultural uses which involve the growing of crops, livestock, animals and/or trees. Commercial uses common in rural areas are also accommodated.

628.1 **Permitted Uses.** The following uses shall be permitted in any Forest/Commercial/Agriculture District:

- 628.101 Commercial and recreational fishing activity including docking and repair of vessels and minimum necessary processing for shipping of seafood, (not including cooking or canning);
- 628.102 Farms, nurseries or other establishments for the growing, care and handling of field crops, truck gardening products, fruit and/or nut trees, poultry and/or animals and livestock;
- 628.103 Tree farm and/or forest management areas;
- 628.104 Social, cultural or religious uses:
 - 628.1041 Private or semi-private club, lodge, grange, union hall or social center;
 - 628.1042 Eleemosynary, religious, semi-public or philanthropic institution or camp; and,
 - 628.1043 Cemetery.
- 628.105 Golf courses;
- 628.106 Bed and Breakfast establishments;
- 628.107 Veterinary office, animal hospital and/or boarding facility;
- 628.108 Single-family dwellings and one accessory dwelling per parcel when the single family principal dwelling is not a mobile home and the habitable space of the accessory unit does not exceed nine hundred (900) square feet; *(Amended Ord. 2018-05)*
- 628.109 Landscaping services;

- 628.110 Wildlife refuge including single-family unit for caretakers employed to maintain and protect the refuge; and,
 - 628.111 Public buildings, facility or land, public utility substation or sub installation including water towers;
 - 628.112 Airfield together with subordinates uses, radio and/or television stations and transmission towers; and,
 - 628.113 Accessory uses, including telephone booths associated with non-residential uses.
 - 628.114 Office buildings;
- 628.2 Conditional Uses. The following uses shall be allowed on a conditional basis in any Forest Agriculture District:
- 628.201 Stand or shelter for the selling and/or display of seasonal agricultural produce provided that:
 - 628.2011 Stand or shelter may be located within the minimum front yard area but no closer to the nearest street right-of-way than twenty (20) feet; and,
 - 628.2012 At least four (4) off-street parking spaces are provided and suitably maintained.
 - 628.202 Convenience and commercial establishments such as grocery stores and drug stores, provided that such uses shall be limited to 3,000 square feet in total floor area.
 - 628.203 Sand and coquina extraction, provided that:
 - 628.2031 A site plan be submitted and approved by the Zoning Administrator showing the following:
 - 628.20311 A survey with north arrow, scale and date;
 - 628.20312 Show the area where excavation will occur;
 - 628.20313 Show water bodies, wetlands, and areas subject to flooding;

- 628.20314 Establish a buffer area of at least fifty (50) feet adjoining properties, roadways and drainage areas;
- 628.20315 Show existing and proposed contours;
- 628.20316 Proposed fencing and gates; and,
- 628.20317 Operational statement which shall include date of start up, operating hours, types of equipment to be used.
- 628.2032 A Reclamation Plan which includes a statement of planned rehabilitation, methods of accomplishment, phasing and timing.
- 628.2033 A Drainage and Erosion Control Plan and Georgetown County Stormwater permit.
- 628.204 Vendors provided that all conditions and requirements contained in Section 611.216 are met.
- 628.205 Wood chipping and composting facilities, provided that:
 - 628.2051 Such uses are located on a lot not less than five (5) acres in size;
 - 628.2052 A vegetation buffer is established and maintained around the perimeter of the facility;
 - 628.2053 Such uses meet all requirements contained in South Carolina code 44-96-190 and 44-96-380 and parks and regulations promulgated by SCDHEC; and,
 - 628.2054 If a wood chipping machine is utilized, the machine shall not be located closer than 500' to any residential structure.
- 628.206 Amenity, subdivision provided that: *(Amended Ord 2007-03)*
 - 628.2061 Parking shall be provided at a rate of one half that required in Article XI of the Zoning Ordinance.
 - 628.2062 Adjacent residential properties must be buffered from any recreational amenity other than a passive park which contains no structures. Such

- buffer shall, at a minimum, be a Type 2 as identified in Article XII of the Zoning Ordinance.
- 628.2063 The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by residents of the subdivision.
- 628.207 Welding, provided that;
- 628.2071 Any such operation shall be limited to a building not exceeding 4,000 square feet;
- 628.2072 Such operation shall not include any outdoor storage;
- 628.2073 Such operation shall be located at least 100 feet from any dwelling located on an adjacent property;
- 628.2074 A six foot tall opaque fence or hedge shall be erected as a buffer to any adjacent residential property, as allowed in section 336 of this ordinance.
- 628.208 Self-storage facilities provided that;
- 628.2081 Lighting must be shielded so as not to intrude on any adjacent residential property;
- 628.2082 A six foot tall opaque fence or hedge shall be erected as a buffer to any adjacent residential property, as allowed in section 336 of this ordinance.
- 628.209 Campgrounds provided that:
- 628.2091 All conditions established in section 601.208 are met. *(Amended Ord. 2009-26)*
- 628.210 Utility Scale Wind Energy Systems provided that:*(Amended Ord. 2011 10)*
- 628.2101 All requirements in Article XXIII, Wind Energy Facilities, of the Zoning Ordinance are met.
- 628.211 Commercial Outdoor Shooting Ranges provided that: *(Amended Ord. 2016-15)*

- 628.2111 All ranges must be designed to the greatest degree possible in compliance with standards established by the National Rifle Association or the National Outdoor Shooting Sports Association. A written plan must be submitted to the County Planning Department describing how the range conforms to the above noted standards and the areas in which it does not;
- 628.2112 Any range under the provisions of this section shall apply for and receive a Certificate of Zoning Compliance before beginning operation;
- 628.2113 No commercial outdoor shooting range created after the enactment of this Ordinance, September 13, 2016, shall be located on a parcel less than ten (10) acres in size;
- 628.2114 All commercial outdoor shooting ranges accommodating rifles shall be located such that any shooting station is at least two thousand (2,000) linear feet in a straight line from any habitable dwelling, church, school, park, hospital or nursing home. Ranges dedicated to shotguns shall meet a minimum separation requirement of five hundred (500) linear feet. Dwelling located on the same parcel as the shooting range and dwelling owned by an owner of the subject shooting range are not included in this separation requirement. Additionally, the separation requirement from a dwelling may be waived if the owner of the dwelling provides an affidavit agreeing to waive such requirement in perpetuity. An applicant may request County Council in writing to reduce the above separation requirements due to conditions found on a particular parcel that mitigate noise issues or demonstrates that features will be added that mitigate such noise;
- 628.2115 All ranges, except those only used for shooting trap, sporting clays and skeet with shotguns, or firing shotguns in any manner, shall utilize a backstop and safety baffles. Ranges must be designed to keep all projectiles within the range.

- 628.2116 Outdoor shooting shall cease each day at 8:00 PM and not begin in the morning until 8:00AM; and,
- 628.2117 An indoor shooting range may be considered as an accessory to an outdoor shooting range but an outdoor shooting range may not be considered as an accessory use to an indoor range.
- 628.213 Vehicle maintenance and parking areas, excluding junkyards, provided that: *(Amended Ord. 2017-07)*
- 628.2131 A 20 foot wide vegetative buffer to be maintained around the developed parking area. If there is no existing vegetation, a Level 3 buffer will be required around the parking area perimeter;
- 628.2132 All maintenance for vehicles and other equipment will take place in an enclosed structure. Such structure shall not exceed 8,000 square feet;
- 628.2133 The parcel to be utilized contains a minimum of three acres;
- 628.2134 The designated vehicle parking area and any enclosure will be located a minimum of 100 feet from any dwelling, church, school or public park.

628.3 Other Requirements:

- 628.301 All allowed uses shall be required to conform to the standards set forth in Article VII.
- 628.302 Uses allowed in this district shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.
- 628.303 Signs permitted in this District, including the conditions under which they may be located, are set forth in Article X.

629. **8,000 Square Feet Residential District (R-8).** *(Amended Ord. 2011-16)*

Intent. It is the intent of this district to provide areas for single family residential development, moderate density, to discourage the encroachment of commercial, industrial, multi-family or other uses capable of adversely affecting the residential character and to preserve the architectural character and deed restrictions of established neighborhoods.

629.1 **Permitted Uses.** The following uses shall be permitted in a R-8 Residential District:

- 604.101 Single-family dwellings, except mobile homes; and,
- 604.102 Public buildings, facility or land; and,
- 604.103 Accessory uses including telephone booths associated with non-residential uses.

629.2 **Conditional Uses.** The following uses shall be permitted in any R-8 Residential District on a conditional basis, subject to the conditions set forth:

- 629.201 Utility substations or subinstallations, including water towers, **provided** that:
 - 629.2011 Such uses shall be enclosed by a fence or wall at least six (6) feet in height above finished grade;
 - 629.2012 There is neither office nor commercial operation nor storage of vehicles or equipment on the premises; and
 - 629.2013 A landscaped strip not less than five (5) feet in width is planted and suitably maintained around the facility.
- 629.202 Amenity, subdivision **provided** that: *(Amended Ord 2007-03)*
 - 629.2021 Parking shall be provided at a rate of one half that required in Article XI of the Zoning Ordinance.
 - 629.2022 Adjacent residential properties must be buffered from any recreational amenity other than a passive park which contains no structures. Such buffer shall, at a minimum, be a Type 2 as identified in Article XII of the Zoning Ordinance.

629.2023 The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by the residents of the subdivision.

629.203 Accessory dwelling unit provided that: *(Amended Ord. 2018-05)*

629.2031 One accessory dwelling unit shall be allowed on a parcel with a principal use if the total parcel area is at least 10,000 square feet in area when the single family principal dwelling is not a mobile home and the habitable space of the accessory unit does not exceed nine hundred (900) square feet;

629.3 Other Requirements.

629.301 All allowed uses shall be required to conform to the standards set forth in Article VII.

629.302 Uses allowed in this district shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.

629.303 Signs permitted in R-8 Districts, including the conditions under which they may be located, are set forth in Article X.

630. **6,000 Square Feet Residential District (R-6).** *(Amended Ord. 2011-16)*

Intent. It is the intent of this district to provide areas for single family residential development of moderate to high density. The regulations which apply within this district are designed for areas having distinct aesthetic, environmental and recreational characteristics where multi-family development is discouraged. The encroachment of commercial, industrial, or other uses capable of adversely affecting the residential character of the area is similarly prohibited.

630.1 **Permitted Uses.** The following uses shall be permitted in a R-6 Residential District:

630.101 Single-family dwellings, except mobile homes; and,

630.102 Public buildings, facility or land; and,

630.103 Accessory uses including telephone booths associated with non-residential uses.

630.2 **Conditional Uses.** The following uses shall be permitted in any R-6 Residential District on a conditional basis, subject to the conditions set forth:

630.201 Utility substations or subinstallations, including water towers, provided that:

630.2011 Such uses shall be enclosed by a fence or wall at least six (6) feet in height above finished grade;

630.2012 There is neither office nor commercial operation nor storage of vehicles or equipment on the premises; and

630.2013 A landscaped strip not less than five (5) feet in width is planted and suitably maintained around the facility.

630.202 Amenity, subdivision provided that: *(Amended Ord 2007-03)*

630.2021 Parking shall be provided at a rate of one half that required in Article XI of the Zoning Ordinance.

630.2022 Adjacent residential properties must be buffered from any recreational amenity other than a passive park which contains no structures. Such buffer shall, at a minimum, be a Type 2 as identified in Article XII of the Zoning Ordinance.

630.2023 The amenity must be owned and maintained by a homeowners association, similar entity or developer and be primarily used by the residents of the subdivision.

630.203 Accessory dwelling unit provided that: *(Amended Ord. 2018-05)*

630.2031 One accessory dwelling unit shall be allowed on a parcel with a principal single family dwelling that is not a mobile home if the total parcel area is at least 8,000 square feet in area and the habitable space of the accessory unit does not exceed nine hundred (900) square feet;

630.3 Other Requirements.

630.301 All allowed uses shall be required to conform to the standards set forth in Article VII.

630.302 Uses allowed in this district shall meet all standards set forth in Article XI, pertaining to off-street parking, loading and other requirements.

630.303 Signs permitted in R-6 Districts, including the conditions under which they may be located, are set forth in Article X.

631. **Flexible Design District** *(Amended Ord. 2014 15)*

Intent. The purpose of the Flexible Design District (also referred to as FDD) is to provide opportunities to create more desirable environments for single or mixed use developments through the application of flexible and diversified land development standards under a comprehensive review process. Use of this district will protect the natural and human environment and facilitate an improved use of land.

631.1 **Uses.** Flexible Design Districts may accommodate public, residential, office, commercial and industrial users whether single use or mixed.

631.2 **Minimum Acreage Requirements, Setbacks and Density.** The site utilized for a Flexible Design Development District shall include a minimum of two (2) acres of land.

631.3 **Minimum Setbacks.** County Council, after review of the Planning Commission's recommendation, shall determine appropriate setbacks from property lines and needed buffers except that the 90 foot setback from US Highway 17 as established in Article IV, General Provisions, Section 409, Setback from US Highway 17, shall not be reduced.

631.4 **Density.** To determine the density, only uplands can be used to calculate the units per acre. Wetlands and water bodies shall not be included in calculating density. In residential proposals, the Georgetown County Comprehensive plan shall be used to determine overall density limits. Higher densities shall only be allowed when strong evidence is presented that affordable housing will be promoted, useable open space will be increased or the natural environment will be enhanced.

631.5 **Height.** The height limits established elsewhere in this Ordinance shall not be exceeded.

631.6 **Parking.** Shared parking shall be encouraged. Landscaping in parking lots will be established at a rate of one and a half times that is otherwise required in the Zoning Ordinance. Where practical, parking shall be provided behind or along the sides of a principal structure. To encourage parking in the rear of a principal structure, the front setback may be reduced up to fifty (50) percent, except in the Waccamaw Commercial Corridor Overlay District.

631.7 **Buffers.** Buffers shall be required between mixed uses. If a fence is utilized as a buffer, it shall include shrubbery on both sides at a rate as established in the Zoning Ordinance.

631.8 **One Principal Building Per Lot.** This provision does not apply in the FDD.

- 631.9 Storm Water. The project shall meet the requirements of the Georgetown County Storm Water Ordinance if applicable. Article VII of the Zoning Ordinance regarding the ratio of pervious to impervious surface area shall also apply.
- 631.10 Residential Development. All types of residential structures may be approved, with the exception of mobile homes and single family dwellings located on pads. Each single family detached structure shall be located on a parcel with no other residential uses with the exception of a flat, garage apartment or accessory dwelling, if approved in the plan.
- 631.11 Procedures for Establishment of a Flexible Design District. The process required by this Ordinance for rezoning a parcel of land shall be followed. The application shall include a fee established by County Council which shall follow the same fee schedule as the Planned Development fee. At a minimum, the applicant shall provide the following:
- 631.111 A description of the land and maps showing the site location and protected trees over eight (8) inches in diameter measured as stated in the tree protection regulations. Additionally, long leaf pines on the Waccamaw Neck over twelve (12) inches in diameter shall be shown. A map showing any unusual natural features including possible wetlands and existing drainage conveyances including ditches.
 - 631.112 A map or written statement reflecting the availability of utilities including water, wastewater, electricity, gas, storm water and broadband.
 - 631.113 A site plan showing all buildings, parking areas, recreational areas, amenities, driveways and traffic patterns. Any other development feature such as pathways also must be shown. Any existing or proposed easements also must be shown.
 - 631.114 A narrative addressing how the project better impacts the natural and human environment as a FDD than a more typical residential or commercial zoning district.
 - 631.115 A narrative and map if applicable, addressing any known historical or archeological features on the site and how any negative impact will be mitigated. If natural features such as wetlands are present, along with an identifying map, a narrative statement addressing project impacts on the features and any mitigation shall be submitted.
 - 631.116 A traffic analysis if the ADT's exceed 500 per day as required in Ordinance 2004-27. The Director of Planning and Code

Enforcement or the County Administrator must approve the selected traffic engineer or professional hired by the applicant for any such study.

- 631.117 Preliminary renderings of commercial structures are required at the submission stage. Architectural compatibility and aesthetics are important in all FDD. The preliminary rendering may be modified at a later date with Planning Commission approval. Commercial projects inside the Waccamaw Neck Commercial Corridor Architectural Overlay District shall meet those requirements and may be modified from the preliminary submission with the approval of the Zoning Administrator or Planning Director if all of the architectural standards or requirements are met. All renderings will be conceptual in nature.

631.12 Administrative Procedures with Regard to Flexible Design Development Zoning Districts. All data set forth in Section 631.6 pertaining to conceptual approval shall be submitted to the Planning Department and subsequently forwarded to County Council, with recommendations from the Planning Commission. If approved by County Council, all information pertaining to the proposal shall be adopted as an amendment to the Zoning Ordinance, as the standards of development for that particular Flexible Design District. At a later date, revised Conceptual Plans may be submitted to the Planning Department for review and approval provided the proposed change does not constitute a major change under section 631.14. Final plans for each phase shall be submitted to Staff of their review and approval. The Planning Department may grant final approval provided that the final plans are in accordance with the approved Conceptual Plan; however, minor changes may be made as described in section 619.301 (Minor Changes). If the owner or developer is not in agreement with the Planning Department's findings, they may request approval from the Planning Commission and County Council.

- 631.121 A building permit shall not be issued until a final plan, as required in section 631.18, for each phase of development is submitted and approved by the Planning Department.
- 631.122 If final approval is given prior to all necessary improvements being constructed and accepted, an irrevocable letter of credit or cash in an amount not less than one hundred and twenty five (125) percent of the estimated cost of the improvements as approved by the County shall be posted for all improvements not in place or accepted. The regulations established in the Georgetown County Development Regulations regarding financial guarantees shall be followed. The County is not obligated to approve the use of financial guarantees.

631.123 For Flexible Design Developments that contain more than five (5) acres, the applicant may elect to develop the site in successive phases in a manner indicated on the Conceptual Plan; however, each stage shall be substantially completed before the commencement of development of the next phase. The Planning Commission may require that the development be done in phases if public facilities are not adequate to service the entire development initially.

631.124 In the event a variance or major modification is applied for in a FDD, the Planning Commission shall hold a public hearing and submit a recommendation to County Council. County Council may approve a variance by approving three readings of an ordinance establishing such changes. This section, for purposes of an FDD, shall supersede all other sections of the Georgetown County Zoning Ordinance, as amended, dealing with the procedure to obtain a variance and the conditions to receive a variance.

631.13 Changes and Modifications.

631.131 Minor Changes. Minor changes in the FDD may be approved by the Planning Department provided that such changes:

631.1311 Do not increase the densities;

631.1312 Do not change the outside exterior boundaries or height limitations;

631.1313 Do not materially change the location or amount of land devoted to specific land uses;

631.1314 Do not significantly change the exterior appearance from those shown on any plans which may be submitted or presented by the developer; and

631.1315 May include, but not be limited to minor shifting of buildings, proposed streets, public or private ways, utility easements, parks or other public open spaces, or other feature of the plan. Minor shifting of buildings does not include encroaching into any required setback. No minor change shall affect any density (except to decrease), storm water requirement or decrease any open space.

631.1316 Temporary signs within a FDD which exceed the limit for temporary signs under the sign provisions

may be approved by Staff provided such approval does not exceed a one year period.

631.132 Major Changes. Major changes in a FDD shall require a public hearing and shall be treated as an amendment to the Ordinance. Major changes may include, but are not limited to the following:

631.1321 Increase in density;

631.1322 Changes in exterior boundary lines;

631.1323 Changes in intensity of land use;

Intensity is defined as: The "intensity" of land use is the degree of the negative impacts on the environment and neighboring land uses. Impacts of intensity include, but are not limited to, greater impervious surface coverage, reduced open space, increased bulk and height of buildings, increased traffic with associated noise and congestion, signs and exterior lighting visible from neighboring property.

631.1324 Changes in the location or amount of land devoted to specific land uses. Minor shifting of buildings in order to save trees and promote improved environmental impacts such as reducing impervious materials are not considered major changes;

631.1325 Changes that significantly change the approved exterior appearance.

631.15 Ownership Requirements. In order to initially apply for a FDD, the owners of all land located within the project must sign the application or designate an agent empowered to apply on their behalf. If applicable, future amendments may be submitted by a property association or similar entity.

631.16 Conceptual Plan Requirements. The conceptual plan shall contain the following items when applicable.

631.161 Site Plan – Sheet 1
Location map; Ownership patterns; Property dimensions; Location of structures; Types of uses; Phases and timetables; Number of units per phase; Acreages (total and per phase); Ingress and egress; Yard requirements; Lot sizes; Street layout; Parking; Screening, buffers and borders; Off-street loading facilities; Building heights;

Public access and recreation; Open space (active or passive); Density; Number of units per building; General layout of sidewalks or pathways; and Graphics (north arrow, scale-written and graphic, engineers signature and date of field survey).

631.162 Environmental Plan – Sheet 2
Contours; Drainage plan; Flood prone areas; Marsh areas or wetlands; and other principal geographic features.

631.163 Water and Sewer Plan – Sheet 3
Shall meet the requirements of the Georgetown County Water and Sewer District extension policy or other such policy of the applicable water and/or sewer provider.

631.164 Utilities Plan – Sheet 4
Layout and easements for other utilities (electric, telephone, gas, cable, etc.).

631.17 Approval of Conceptual Plan. Upon approval of the conceptual plan by the County Council, the Zoning Map will be changed to indicate the FDD classification.

631.18 Final Plan Requirements. Before any permits may be issued, the developer shall submit final plans for review and approval to the Zoning Administrator and Planning Department. The final plan shall contain the following information.

631.181 Site Plan – Sheet 1
Location map; Location of structures; Phases of development and timetables; Acreage (total acres and acreage per phase); Property dimensions of the phase development; Ingress and egress (dimensions, acceleration, deceleration lanes and numbers of ingress and egress points); Yard requirements (distance between buildings, distance of buildings from street, distance from easements and distance from off-street parking); Lot sizes; Street layout (street names, proximity of dwelling units, relationship to street patterns, right-of-way widths, paving widths, type of streets, directional arrows, type of pavement, street jogs, location of intersections and statement on traffic speed); Size of structure (exact dimensions, height and number of units per building); Screening buffers, etc.; Off-street loading (relationship to commercial and public facilities); Public access and recreation-open space (dimensions and location, proximity to streets and buildings, relationship to streets and buildings and type of recreation area); Density (number of units per phase, number of units per acre and overall density); Final layout of sidewalks/pathways (width, type of material and relationship to

ARTICLE VI

REQUIREMENTS BY DISTRICT

public street); Graphics (north arrow, name of developer, name of development, scale, adjoining property owners and uses, engineers signature, date of field survey and dimensions, bearings, angles and reference points).

- 631.182 Environmental Plan – Sheet 2
Drainage plan; Contours; Flood prone areas; Marsh areas or wetlands; Other principal geographic features; Dumpster locations; and Erosion control methods.
- 631.183 Water and Sewer Plan – Sheet 3
Shall meet the requirements of Georgetown County Water and Sewer District extension policy with a sign-off on the plans.
- 631.184 Utilities Plan Sheet 4
Layout and easements of other utilities (electric, telephone, gas, cable, etc.).
- 631.185 Exterior Appearance Sheet 5
- 631.186 Soil Trees, and Other Information Required by Staff Sheet 6.
- 631.187 A copy of the proposed deed restrictions or covenants.

**ARTICLE VII
AREA, YARD, AND HEIGHT REQUIREMENTS**

Zoning District	Minimum Lot Area		Minimum Lot Width at Building Line	Minimum Setback Requirement				Maximum Height of Structures	Special Requirement Ordinance Section
	Minimum Lot Area Square Feet	Acres		Front ¹⁵	Side	Rear	Side on Corner Lot		
CP		1							
DPD (Amended Ord. 2009-22)		10		30	20	20	19.8	35	616.3
FA		1	100	50	20	30	33	35	601.2
FA/C (Amended Ord 2008-77)		1	100	50	20	30	33	35	625.2
FA/R (Amended Ord 2008-38)		1	100	50	20	30	33	35	628.2
GC	10,000 ¹⁰		60	50	10 ¹⁴	15	33	35	611.2
GR									607.2, 607.6
Single-Family	6,000		60	25	10 ⁴	20	16.5	35	
Two-Family	8,000		60	25	10 ⁴	20	16.5	35	
GRR ¹⁴			60	25	10 ⁴	20	16.5		608.2
HI (Amended Ord 2009-20)		5	200	50 ³	30 ⁴	30 ⁴	33	70 ¹⁷	614.2
LI (Amended Ord 2009-20)		1 ¹⁰	100	50	30 ¹	30 ¹	33	50 ¹⁶	613.2
MD	10,000 ¹⁰		60	50	10 ¹⁴	15	33	35	617.2
MHP		5	150	20	20	25	13.2	35	615.3
MR-10	10,000		70	25	10 ⁴	15	16.5	35	605.2
NC	10,000 ¹⁰		60	25	10 ¹⁴	15	16.5	35	610.2
OC	10,000 ¹⁰		60	25	10 ¹⁴	15	16.5	35	618.2
PA (Amended Ord 2008-38)		25	100	50	20	30	33	35	
R-5 AC (Amended Ord 2008-38)		5	100	50	20	30	33	35	624.2
R-1 AC		1	100	50	20	30	33	35	602.2
R-3/4 AC (Amended Ord 2008-78)	30,000		90	40	15	25	26.4	35	627.2
R-1/2 AC	20,000		90	40	15	25	26.4	35	603.2
R-6 (Amended Ord. 2011-16)	6,000		60	25	10	15	16.5	35	630.2
R-8 (Amended Ord. 2011-16)	8,000		60	25	10	15	16.5	35	629.2
R-10	10,000		70	25	10 ⁴	15	16.5	35	604.2
RC									609.2
Single-Family	6,000		60	20	10 ⁴	15	13.2	35	
Commercial	25,000 ¹⁰		60	20	10 ⁴	15	13.2	35	
RG									621.3
Single-Family	15,000		70	25	10	20	16.5	35	606.2
Two-Family	20,000		70	25	10	20	16.5	35	
RR	5,000 ⁴		50	20	10 ⁴	15	13.2	35	
RS (Amended Ord 2002-19)		1 ¹⁰	100	50	30 ⁵	30 ⁴	33	35	612.2
RVC (Amended Ord 2008-38)	20,000		90	40	15	25	26.4	35	623.2
VR-10 (Amended Ord 2008-38)	10,000		70	25	10	15	16.5	35	622.2

ARTICLE VII
AREA, YARD, AND HEIGHT REQUIREMENTS

NOTE: For multi-family projects, mobile home parks, destination parks and planned unit developments, see district regulation in Article VI.

Footnotes:

1 Where the district abuts any residential zoning district not separated by a street right-of-way, a suitable planted screen, fence, or wall at least six (6) feet in height above finished grade shall be required.

2 Removed Ord. #2003-59

3 Removed Ord. #2003-39

4 Removed Ord. #2003-59

5 Removed Ord. #2003-59

6 Removed Ord. #2001-30

7 Removed Ord. #2003-59

8 Removed Ord. #2009-27

9 Each lot shall maintain 30% of pervious surface.

10 Removed. See Section 411 Accessory Structures (Amended Ord. 2009-27)

11 Removed Ord. #2006-88

12 Added Ord. #2004-74

13 In the GRR district, any parcel subdivided must not be less than 80% of the lot area of any adjacent parcel.

14 The front setback along Hwy. 701 beginning at Black River running North to the Georgetown County/Horry County boundary is 90 feet. (Amended 2008-38)

15 The maximum building height of thirty-five (35) feet from grade may be exempt for structures in the LI Zoning Districts. Structures within this district may be constructed fifty (50) feet from grade to the peak of the roof if they comply with all applicable building and fire codes and all setbacks are increased to match the building height. A minimum front yard setback of 50 feet is required regardless of building height. (Amended Ord. 2009-20).

16 The maximum building height of thirty-five (35) feet from grade may be exempt for structures in the HI Zoning Districts. Structures within this district may be constructed (70) feet from grade to the peak of the roof if they comply with all applicable building and fire codes and all setbacks are increased to match the building height. A minimum front yard setback of 50 feet is required regardless of building height (Amended Ord. 2009-20).

ARTICLE VIII

EXCEPTIONS AND MODIFICATIONS

800. **Lot Reduction Prohibited.** No yard or lot shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created or reestablished shall meet at least the minimum requirements established by this Ordinance. *(Amended Ord. 2008-02)*
801. **Use of Substandard Lots of Record.** Where the owner of a lot of record established before March 1, 2009 does not own sufficient land to enable him to conform to the dimensional requirements of this Ordinance, such lot may, nonetheless, be used as a building site. The Planning Director is authorized to issue a permit for the use of the property provided that the proposed use and structure meets all other ordinance requirements including setbacks, buffers, parking and pervious/impervious ratios. The Planning Director shall not approve any use for a lot of record less than 5,000 square feet in area. Lots of record smaller than 5,000 square feet may only be granted a waiver for use by the Zoning Board of Appeals.
- Any lot rendered substandard by a zoning change after March 1, 2009 may be approved as a building site by the Planning Director provided that said lot requirements are not reduced below the minimum specified in this ordinance by more than 20%. Such lots requiring waivers below the 20% of the minimum set forth in this ordinance shall be considered by the Board of Appeals. *(Amended Ord. 2008-79)*
802. **Adjoining Substandard Lots of Record.** A plot of land consisting of two or more adjacent lots in single ownership, which individually are less than the dimensional requirements contained in this Ordinance, shall be considered as a single lot or several lots of minimum permitted size.
803. **Front Yards.** The front yard requirements of this Ordinance for buildings shall not apply to any lot where the average depth of existing front yards on developed lots located within one hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots provided that said front yard is not reduced below the minimum specified in this Ordinance by more than twenty (20%) percent. Any property owner desiring a setback more than the 20% allowed by this section may petition the Board of Appeals for a variance.
804. **Exception to Height Limits.** The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments; water towers; observation towers; transmission towers; silos; chimneys; smokestacks; conveyors; flag poles; masts; aerials and roof decks/widows walks. See Section 806 for regulations regarding properties in flood zones V, A and AE. *(Amended Ord. 2012-18)* Public landfills shall not exceed two hundred (200) feet in height and other landfills existing on January 25, 2011 shall not exceed two hundred (200) feet in height. Hospitals may exceed

the height limitations of the Ordinance with the approval from the fire district having jurisdiction and provided the structure shall not exceed four floors plus all appurtenances required for HVAC and other supportive equipment. Except as otherwise provided or as necessary to airport operations, no structure or tree shall be constructed, altered, maintained or allowed to grow in any airport safety zones as created by this Ordinance so as to project above any of the imaginary airspace surfaces described. Where an area is restricted by more than one height limitation, the more restrictive limitation shall prevail. *(Amended Ord. 2010-57)*

805. **Group Housing Projects.** In the case of a group housing project of two or more buildings to be constructed on a plot of ground of at least one acre not subdivided into the customary streets and lots, and which will not be so subdivided, or where the existing or contemplated street and lot layout make it impractical to apply the requirements of this Ordinance to the individual building units in such housing projects, a special exception to the terms of this Ordinance may be made by the Planning Commission in a manner that would be in harmony with the character of occupancy and any intensity of land use no higher and a standard of open space no lower than that permitted by this Ordinance in the District in which the project is to be located. In no case, however, shall the Planning Commission authorize a use prohibited in the District in which the project is located, or a smaller lot area per family than the minimum required in such District, or a greater height, or greater lot coverage than the requirements of this Ordinance permit in such a District. *(Amended Ord. 2009-41)*

806. **Exception to Height in Flood Zones.** *(Amended Ord. 2012-18)*

Flood Zone X: In X flood zones as identified on the FEMA Flood Insurance Maps, the maximum height of a structure shall be 35 feet to the midpoint between the eaves and the ridge of the roof. In addition to the 35 foot maximum, a structure may be elevated one foot above ground to allow for proper grading.

Flood Zone A: In A and AE flood zones as identified on the FEMA Flood Insurance Maps, the maximum height of a structure shall be 35 feet measured from the Base Flood Elevation (BFE), as indicated on the Flood Elevation Certificate, to the midpoint between the eaves and the ridge of the roof.

Flood Zone V: In V flood zones as identified on the FEMA Flood Insurance Maps, the maximum height of a structure shall be 35 feet measured from the Base Flood Elevation (BFE), as indicated on the Flood Elevation Certificate, to the midpoint between the eaves and the ridge of the roof, plus an additional three feet to accommodate the floor system as required by FEMA.

In any A or V flood zone where the BFE is at least five feet above the ground level, the structure may be granted an additional four feet of height only if needed to allow for parking

underneath the structure.

General: A structure in an A or V flood zone that measure greater than 35 feet from ground level to the midpoint between eaves and the ridge of the roof shall utilize a roof pitch not less than 4/12. Roof decks and widows walks are exempt from the overall height restriction except that no such deck may exceed 150 square feet. Additionally, no such exempted roof deck or widow's walk shall have a floor that extends more than one foot above the peak of the roof. Any proposed building height must comply with the International Building Code as currently adopted by Georgetown County.

807. **Exception to Minimum Lot Sizes for Certain Uses.** Public buildings, facilities, uses, utility substations or sub-installations shall be exempt from the minimum lot sizes as required in Article VII. Such exceptions shall not exempt these uses from the requirements as contained in the conditional use sections within the district regulations. The Planning Commission may approve smaller lot sizes for these uses in individual situations as site plans are submitted for their review and approval.

808. **Setback Exceptions for Certain Structures.** On-grade patios, fences, sidewalks, pavement, business identification signs, off-site signs on unoccupied lots, pay telephones, drive-in restaurant menu boards, docks, dune crossovers and boardwalks shall be exempt from the minimum setback requirements as required in Article VII. *(Amended Ord. 2009-27)*

Accessory Structures for residential uses may be located in the rear yard setback no closer than five feet from the property line. *(Amended Ord. 2002-39)* Refer to Article IV, Section 411, Accessory Structures.

Docks, dune crossovers, and boardwalks shall be exempt from all setback requirements and the requirements as stated in Section 809. *(Amended Ord. 2003-81).*

Overhangs, stairs, steps, elevators and HVAC units may extend into any setback area a maximum distance of five (5) feet. Such exceptions shall not exempt these uses from other requirements contained elsewhere in this Ordinance. *(Amended Ord. 2001-30), (Amended Ord. 2017-03)*

Bus shelters are exempt from the setback requirements found in Article VII, Area, Yard and Height Requirements but must comply with Section 813, Bus Shelters of this Ordinance. *(Amended Ord. 2012-21)*

809. **Setback from Wetlands.** A minimum fifteen (15) foot setback shall apply from the edge of any salt water marsh wetland line as determined by DHEC/OCRM.
810. **Business ID Signs.** The maximum number of signs allowed by this Ordinance shall not

apply to shopping centers containing more than four (4) uses which are not located within PD's. These shopping centers shall be allowed one sign per storefront tenant in addition to the allowable Business ID sign.

811. **Heirs Property.** Heirs Property may be utilized without the parcel being subdivided as long as all other zoning requirements are met, such as minimum lot size, setbacks and building separation. *(Amended Ord. 2008-75)*

812. **Conditional and Temporary Uses.** Conditional uses, as set forth in Article VI of this Ordinance, and temporary uses, as set forth below, are declared to possess characteristics which require certain controls in order to insure compatibility with other uses in the District within which they are proposed for location.

812.1 **General Requirements.** Conditional uses shall be permitted subject to a determination by the Zoning Administrator that they conform to all regulations set forth herein and elsewhere in this Ordinance, with particular references to those requirements established for those districts in which they are proposed for location.

812.2 **Conditional Use Administration and Duration.** Application for permission to build, erect or locate a conditional use shall be submitted and processed in accordance with the regulations set forth in this Article prior to the issuance of any permits.

812.3 **Temporary Uses.** The Zoning Administrator is authorized to issue a Temporary Certificate of Zoning Compliance for temporary uses, as follows:

Whereas, Georgetown County recognized the economic, social and cultural benefits of special events such as festivals, fairs, concerts and similar undertakings; with all of the positive benefits, regulations must exist that assure such events are conducted in an orderly fashion to minimize vehicular and pedestrian congestion and unsafe situations. Unregulated events can gridlock transportation systems, inhibit emergency vehicle access, disturb residential neighborhoods, impede access to nearby businesses and stress existing public safety agencies. Reasonable regulations will reduce the negative aspects of large gatherings and promote the quality of permitted special events. It is further recognized that public charities that provide a benefit to the public at large are often associated with special events and should be recognized for their endeavors. *(Amended Ord. 2012-28)*

812.301 **Special Events.** A special event is defined as "an infrequent activity that is wholly or partially outdoors involving the assembly or has the expectation of attracting more than four hundred (400) people at a time for social, fraternal, cultural, ceremonial or celebratory purposes regardless of whether the event generates profit or is intended to generate profit. Such events includes but not by way of limitation, festivals, fairs, rodeos, circuses, rallies and concerts. Bona fide