

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
Appellate Case No: 2018-000332

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
J.C. Nicholson, Jr., Circuit Court Judge

Stephen G. Brock.....Appellant

v.

Town of Mount Pleasant Respondent

RECORD ON APPEAL

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January 7, 2019

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Stephen G. Brock,

Plaintiff,

vs.

Town of Mt. Pleasant,

Defendant.

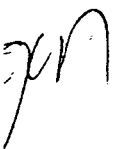
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JULIE J. ARMSTRONG
CLERK OF COURT

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-06605

**ORDER GRANTING SUMMARY
JUDGMENT TO THE DEFENDANT**

 This action challenges the adoption of amendments to municipal ordinances of the Town of Mount Pleasant. Plaintiff believes the amendments did not receive proper public hearings and/or proper public notices. The documents in this case demonstrate there is no dispute of material fact that proper public notices were made and the meetings were not defective because some were special meetings. For the reasons stated below, the Court grants the Town of Mount Pleasant's motion for summary judgment.

The single ordinance containing the amendments is Ordinance 16082, amending Chapter 155 (Land Development Regulations) and Chapter 156 (Zoning Code), of the Town of Mount Pleasant, South Carolina Code of Ordinances. State statutes¹ and local ordinances² govern the process of amendments to the Land Development Regulations and Zoning Code. The steps that must be taken to amend Land Development Regulations differ from the requirements that must be met to amend to Zoning Code ordinances.

¹ See S.C. Code Ann. Section 6-29-760; see also S.C. Code Ann. Section 6-29-1130(B).

² See Mt. Pleasant, South Carolina Code of Ordinances section 156.031; see also Mt. Pleasant, South Carolina Code of Ordinances, Section 155.087.

PL EX 1

Legal Standard

Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. See Rule 56(c), SCRPC. When plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. Ellis v. Davidson, 358 S.C. 509, 595 S.E.2d 817 (Ct. App. 2004). The party seeking summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact. McCall v. State Farm Mut. Auto Ins. Co., 359 S.C. 372, 597 S.E.2d 181 (Ct. App. 2004). Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. Regions Bank v. Schmauch, 354 S.C. 648, 582 S.E.2d 432 (Ct. App. 2003).

Law/Analysis

There is a strong presumption in favor of the validity of municipal zoning ordinances, and in favor of the validity of their application. Bob Jones Univ., Inc. v. Greenville, 243 S.C. 351, 360, (1963). A municipal ordinance is presumably valid. Id.; citing Momeier v. John McAlister, Inc., 231 S.C. 526, 99 S.E.2d 177; City of Florence v. Turbeville, 239 S.C. 126, 121 S.E.2d 437, 85 A. L. R. (2d) 1143. Hence, the burden of proof is upon the party attacking the amendment to establish the acts of the city council did not comply with the law. Furthermore, deference is to be given to the decisions of those charged with interpreting and applying local laws. Historic Charleston Found. v. Krawcheck, 313 S.C. 500, 502 (Ct. App. 1994).

Here, the Town of Mount Pleasant had to satisfy the requirements of two paths--- one relating to changes in the Zoning Code and one relating to changes in the Land Development Regulations. The following undisputed facts demonstrate how the requirements were met for each type of change, with some meetings and public hearings being held on the same date.

I. THE AMENDMENTS TO CHAPTER 155, LAND DEVELOPMENT REGULATIONS, WERE PROPER BECAUSE THE TOWN OF MOUNT PLEASANT SATISFIED THE NOTICE, PUBLIC HEARING, AND SUBMISSION TO THE PLANNING COMMISSION REQUIREMENTS BEFORE ENACTING THE AMENDMENT.

A. Notice of Public Hearing was Provided

S.C. Code Ann. Section 6-29-1130(B), provides, in pertinent part:

The governing authority of the municipality and the governing authority of the county are given the power to adopt and to amend the land development regulations after a public hearing on it, giving at least thirty days' notice of the time and place by publication in a newspaper of general circulation in the municipality or county.

On August 11, 2016, Town Council provided thirty days' notice of the public hearing in accordance with S.C. Code Ann. Section 6-29-1130(B).

The time and place of the public hearing were published in The Post and Courier and was explicitly titled, "**NOTICE OF PUBLIC HEARING, TOWN OF MOUNT PLEASANT, AMENDMENT TO LAND DEVELOPMENT REGULATIONS**" that provided, in pertinent part:

The Mount Pleasant Town Council will conduct a public hearing on September 13, 2016 at 6:00 PM, pursuant to the applicable South Carolina State Statutes and Mount Pleasant Code of Ordinances, in Council Chambers, at the Mount Pleasant Municipal Complex, 100 Ann Edwards Lane, Mount Pleasant, SC regarding a proposal to amend the Town of Mount Pleasant Code of Ordinances, Chapter 155, Land Development Regulations.

(See Affidavit of Publication dated August 11, 2016). The specific proposed amendments were further set forth in the notice.

B. Public Hearing was Held by Governing Authority

Before adopting the amendment and after review by the Planning Commission, Town Council conducted its public hearing on September 13, 2016, at 6:00 p.m. regarding the proposed amendments to the Land Development Regulations in further accordance with S.C. Code Ann. Section 6-29-1130(B).

7CM
The official minutes from the Mount Pleasant Town Council hearing, which are also public record, confirm a public hearing was held to receive input on the proposed amendments regarding Land Development Regulations. The official minutes list comments made by Plaintiff Brock at the public hearing. Brock explained his opposition to the changes. Following comments by Plaintiff, Mayor Page asked if anyone else would like to speak on the issue. Hearing none, the public hearing was closed. (MOUNT PLEASANT TOWN COUNCIL MINUTES, Tuesday, September 13, 2016 at 6:00 p.m., p. 3).

Following the public hearing, Town Council voted all in favor of the amendments for a first reading. Final reading was held at the next City Council meeting in October 2016.

C. Proposals to Amend were Submitted to the Planning Commission

Town Code also provides that amendment to the Land Development ordinances will be submitted to the Planning Commission prior to adoption. Code of Ordinances section 155.087(A). The Planning Commission reviewed the proposals at its meeting held on August 24, 2016. (Town of Mount Pleasant, South Carolina, Special Planning

Commission, August 24 2016, Minutes). After discussion of the amendments and review by the Commission, all voted in favor. (Id., p. 3). The unanimous vote in favor of the proposal as submitted was recorded in the official Minutes of the Planning Commission, which are public record. (Id., p. 5).

II. THE AMENDMENTS TO CHAPTER 156, ZONING CODE, WERE PROPER BECAUSE THE TOWN OF MOUNT PLEASANT SATISFIED THE NOTICE, PUBLIC HEARING, AND RECOMMENDATION REQUIREMENTS BEFORE ENACTING THE AMENDMENT.

A. Planning Commission Advertised Notice of Public Hearing

Pursuant to S.C. Code Ann. Section 6-29-720(A), the governing body of a municipality may adopt a zoning ordinance to help implement the comprehensive plan.

S.C. Code Section 6-29-760(A) then provides, in pertinent part:

 **Before enacting or amending any zoning regulations . . . the governing authority or the planning commission, if authorized by the governing authority, shall hold a public hearing on it, which must be advertised and conducted according to lawfully prescribed procedures. If no established procedures exist, then at least fifteen days' notice of the time and place of the public hearing must be given in a newspaper of general circulation in the municipality or county . . . No change in or departure from the text or maps as recommended by the local planning commission may be made pursuant to the hearing unless the change or departure be first submitted to the planning commission for review and recommendation.**

(emphasis added).

On August 9, 2016, the Planning Commission provided fifteen days' notice of the public hearing in accordance with S.C. Code Ann. Section 6-29-760(A) to receive public input on the proposals to amend Chapter 156, Zoning Code.

The time and place of the hearing were published in the Post and Courier, which provided:

The Planning Commission will hold a special meeting at 3pm on Wednesday, August 24, 2016, Council Chambers, Mount Pleasant Municipal Complex, 100

Ann Edwards Lane, to consider public hearing items #1 and #2:

1. Proposal to amend Zoning Code Section 156.201 (C) by adding a new division (6) providing that the quantity of bufferyard plantings on properties adjacent to areas where existing vegetation may be present and will not be removed in the future shall be determined during the Design Review Process.
2. Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319 by adding new definitions

(See Affidavit of Publication dated August 9, 2016). The notice went on to list the specific Zoning Code sections that were proposed to be amended.

B. Planning Commission Conducted its Public Hearing

JN
The Planning Commission called its meeting to order on August 24, 2016. As was previously advertised and in further accordance with S.C. Code Ann. Section 6-29-720(A), the Commission held the public hearing regarding amendments at the beginning of the meeting as recorded in the official minutes of the Special Planning Commission from August 24, 2016. (See Town of Mount Pleasant, South Carolina, Special Planning Commission, August 24, 2016, Minutes, p. 3). The public hearing was closed before any votes were cast. Id.

C. Planning Commission Recommended Approval of the Amendments to the Town Council prior to Town Council Giving First and Second Reading to the Ordinance.

Following the advertised public hearing, a majority of the Planning Commission in attendance voted in favor of approving the amendments to the Zoning Code as further documented in the minutes from the meeting, which are public record (See Town of Mount Pleasant, South Carolina, Special Planning Commission, August 24, 2016, Minutes, p. 3).

Town Council held a meeting to address the aforementioned amendments to the

Zoning Code, as well as to the Land Development Regulations. Documentation from the official minutes the meeting explicitly state that what was being considered was: "an amendment to the Land Development Regulations as well as the Zoning Code, and was reviewed extensively by the Planning Committee [a committee of City Council] three times. ***The Planning Commission reviewed it at their last meeting and both groups have recommended approval.***" (See MOUNT PLEASANT TOWN COUNCIL MINUTES, Tuesday, September 13, 2016 at 6:00 p.m. p. 3).

Following the review of the recommendation from the Planning Commission, Town Council voted to adopt the amendments to the Land Development Regulations and the Zoning Code by ordinance pursuant to its authority granted in the Town of Mount Pleasant, South Carolina, Code of Ordinances section 156.031. First reading was at the September 2016 City Council meeting and second reading was in October 2016.

907 The plaintiff raises the argument special meetings should not have been used for any of the meetings. He claims special meetings should only be used for matters that must be addressed as pressing matter before the next regularly scheduled meetings. Brock claims his prior case against the Town of Mount Pleasant stands for this proposition. *Brock v. Town of Mount Pleasant*, 415 S.C. 625, 785 S.E.2d 198 (2016). That case principally involved use of special meetings to hold executive sessions and then votes were taken on matters without the matter appearing on the agenda. Since that case originally arose, there have been amendments to the Freedom of Information Act limiting amendments to an agenda after a meeting begins. See S.C.Code § 30-4-80 and 2015 Act No. 70. However, in the present case, the agendas for the meetings

of City Council and the Planning Commission included proper notice of consideration of the proposed amendments. Brock does not argue the agendas were not posted 24 hours in advance. Instead, it is Brock's position special meetings should only be used to address business that cannot wait until the next regularly scheduled meeting. However, that proposition is not supported by the Freedom of Information Act, by statute or case law. Brock argues public participation is hampered when items are considered at a special meeting, not at the regular date and time, and potentially during normal work hours. While encouraging public participation is good and should be considered by local lawmakers when setting meeting times, the Court cannot second-guess the time meetings are scheduled. Nor is there any mechanism by which a Court can invalidate an ordinance because of arguments the meeting times were inconvenient to some.

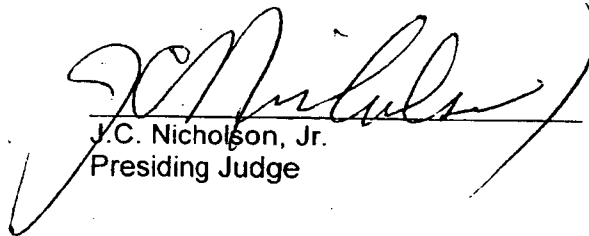
7CN Brock also contends the notices of public hearing were confusing and not sufficient. Again, Brock bases his argument on public participation and contends that it is necessary for the public to have sufficient information to be able to voice an opinion. The newspaper notice for the Planning Commission public hearing provided specific sections numbers of the code to be amended, noted that changes related to adding new definitions and requirements pertaining to Preliminary Staff Review and Planned Development Districts, and further noted that the public hearing for associated modification to the Land Development Regulations would be held by Town Council. Public notice for the Land Development Regulation amendments provided specific section numbers that would be amended, described it would add definitions to certain sections, would modify the submittal process for Sketch Plans described in certain

sections, would modify submittal process for Preliminary Plats as set forth in specific sections. The Court finds these descriptions are legally sufficient for a required public notice. It is not necessary for the public notice to contain the text of the amendments or any detailed explanation of the proposed amendments. The generic description in this case was sufficient to allow any interested person to further investigate and to allow those persons to obtain the proposed text of the amendments from the Town's physically or through its website. The Planning Commission's agenda contained a hyperlink to the text of the amendments and staff comments regarding the amendments.

For all the reasons stated above, the Plaintiff has not demonstrated any defect in the process of the Town passing Ordinance 16082 and therefore judgment is entered in favor of the Town of Mount Pleasant as to the Plaintiff's complaint.

AND IT IS SO ORDERED!

Charleston, South Carolina
11/6, 2017


J.C. Nicholson, Jr.
Presiding Judge

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2016-CP-10-6605

Stephen Brock
PLAINTIFF(S)

Town of Mount Pleasant
DEFENDANT(S)

Submitted by:	Attorney for : ☐ Plaintiff ☐ Defendant
	or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Plaintiff's Motion to Reconsider filed on December 18, 2017, is respectfully Denied without a rehearing. Additionally, to the extent the Court's November 8, 2017 Order fails to address it, this Court finds that a Writ of Mandamus would be improper in this case.

ORDER INFORMATION

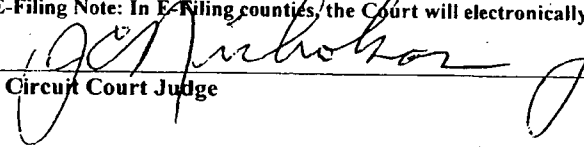
This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		
If applicable, describe the property, including tax map information and address, referenced in the order: N/A		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.


Circuit Court Judge

2117
Judge Code

2/6/18
Date

STATE of SOUTH CAROLINA)
COUNTY OF CHARLESTON)
STEPHEN G. BROCK)
Plaintiff, *pro se*)
Vs)
TOWN OF MOUNT PLEASANT)
Defendant)

IN THE COURT OF COMMON PLEAS.

CASE NO.: 2016-CP-10-6605

AMENDED COMPLAINT
(declaratory judgment, injunction
Writ of Mandamus)

JURY TRIAL DEMANDED

FILED
2016 DEC 14 PM 1:34
JULIE J. ARMSTRONG
CLERK OF COURT

PARTIES AND JURISDICTION

1. Plaintiff is a citizen and resident of the County of Charleston, State of South Carolina, residing in Mount Pleasant South Carolina.
2. Defendant Town of Mount Pleasant (hereinafter "Town" for convenience) is a municipal corporation organized and existing under the laws of South Carolina and is wholly located in Charleston County.
3. This action for Declaratory Judgment, Writ of Mandamus, Injunction, etc. is brought pursuant to, and under the authority of § 15-53-10, et. seq., Code of Laws, known as the Uniform Declaratory Judgment Act, and § 6-29-510, et. seq., Code of Laws of South Carolina, known as the South Carolina Comprehensive Planning Enabling Act of 1994, as amended, (hereinafter referred to as the "Comprehensive Planning Act" for convenience) and Chapter 155 of Title XV of the Mt. Pleasant Code of Ordinances, titled "Land Development Regulations", Chapter 156 of Title XV of the Mt. Pleasant Code of

Ordinances, titled "Zoning Code", and §30-4-10 et. Seq., Code of Laws of South Carolina, as amended, known as the "Freedom of Information Act".

4. All of the matters alleged herein occurred in Charleston County where Defendant is located and conducts its business.

BACKGROUND

5. This action arises from the Town's departure from the statutory provisions and procedures of the Comprehensive Planning Act and Mt. Pleasant Zoning Code § 156.031, to effect zoning amendments to Chapter 155 - Land Usage Regulations and Chapter 156 - Zoning Code of the Mt. Pleasant Code of Ordinances.

6. The Comprehensive Planning Act establishes a comprehensive, statewide mechanism for managing zoning and development. Together, the Comprehensive Planning Act (§6-29-760) and the Mt. Pleasant Zoning Code (§ 156.031 (A-F) comprise the statutory process for creating and amending zoning regulations and maps in the Town of Mt Pleasant.

7. Article 1 of the Comprehensive Planning Act (Creation of the Local Planning Commission) creates local planning commissions, outlining for them a broad range of duties, charging these bodies *"to maintain a planning process which will result in the systematic preparation and continual re-evaluation and updating of those elements considered critical, necessary and desirable to guide the development and redevelopment of its area of jurisdiction. (§ 6-29-510(A))*

8. Article 5 of the Comprehensive Planning Act (Local Planning - Zoning) recognizes the role for planning commissions in matters of zoning. (§ 6-29-760(A))

(b)efore enacting or amending any zoning regulations or maps, the governing authority or the planning commission, if authorized by the governing authority, shall hold a public hearing on it which must be advertised and conducted according to lawfully prescribed procedures.

9. The “*authorization*” for public hearings before the Mt. Pleasant Planning Commission and the “*lawfully prescribed procedures*” for zoning amendment is §156.031 (Amendment or Changes to Zoning Regulations or Map) of the Zoning Code which provide that upon receipt of a zoning application, the Planning Commission “*shall hold a public hearing*”. Following the public hearing, the Planning Commission prepares a report with its findings and evaluation of the proposed amendment based on criteria established in the Zoning Code (156.031(C)(1-7). Following the public hearing, the recommendation of the Planning Commission is forwarded through the Planning Commiittee to Town Council which rules on the zoning application.

10. There is no provision in the Zoning Code by which Town Council may substitute itself in the place of the Planning Commission to hold required public hearings on zoning amendments prior to receipt of the Planning Commission recommendation.

Following the recommendation of the Planning Commission, the Council shall rule on the request...If Town Council feels that circumstances warrant a public hearing, they may vote to hold one. (§ 156.031(B)(5))

FOR A FIRST CAUSE OF ACTION

Procedural Due Process

Violation of Statutory Zoning Process - Public Notice

11. Under the heading “Public Hearing Town of Mount Pleasant”, on August 9, 2016, the Town of Mount Pleasant published notice of two meetings of the Mount Pleasant Planning Commission. A special meeting was noticed for 3PM with a regular meeting at 5PM. The 3PM special meeting was to noticed to consider “**public hearing** (emphasis added) items #1 and #2 below. Other public hearing matters were designated for the 5PM meeting. Item #1 involved a single amendment to Chapter 156 (Land Use Regulations) concerning bufferyards. Item #2 noticed amendments to seven additional sections of Chapters 156 as well as “*other modifications as needed for consistency with the aforementioned amendments*”. The final sentence of the notice for Item 2 read, “*Town Council will hold the **required** (emphasis added) public hearing for the associated modifications to the Land Development Regulations*”.
12. The notice gave the impression of two public hearings, one at 3PM before the Planning Commission with another at the next meeting of Town Council with the latter open to interpretation as to whether the public hearing before Town Council would hear proposed changes to Chapter 156 or matters associated with those changes. Equally confusing is the scheduling of an apparent public meeting at 3PM that did not result in a public hearing with deferral of actual public hearing matters to the 5PM meeting.
13. The Mt. Pleasant Planning Commission convened a special meeting at 3PM on August 24, 2016. It did not convene a public hearing within that meeting. Its agenda included the amendments to Chapter 156 contained in the August 9 notice as well as the still unspecified “other modifications”. However, the Planning Commission agenda also listed 23 amendments to Chapter 155 - Land Use Regulations, referred to as

“modifications” and Appendix A and B, none of which was in the public notice. The Planning Commission approved the “proposal” which was only for changes to Chapter 155 - not Chapter 156 as noticed. That approval came absent any findings that would have been required of the Planning Commission following a public hearing. §156.031(C)

14. Section 6-29-760 of the Comprehensive Planning Act uses “substantial compliance” as a measurement for challenge to zoning decisions. The confusing, contradictory, inaccurate nature of the notices of public hearing at the Planning Commission and Town Council do not meet a reasonable compliance standard for public notice. The failure to notice amendments to Chapter 157 of the Land Use Regulations was a breach of the purpose of public hearing notice. As opposed to zoning decisions involving property on which signage is posted, public notice of a zoning text amendment is dependent on publication.

15. On September 13, 2016, Town Council convened its regular monthly meeting. Agenda included two public hearings:

... to receive input regarding a proposal to amend the Town of Mt. Pleasant code (sic) of Ordinances, Chapter 155 Land Development Regulations, as follows:

Following was a listing of the proposed changes to Chapter 155. As with the Planning Commission agenda, the Town Council agenda listed only amendments to Chapter 155 for public hearing.

16. Shown on the same agenda with matters for First Reading was Item 18:

An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 155 Land Use Regulations, and **Chapter 156, Zoning Code**, (emphasis added) and **Exhibits A and B**, (emphasis added) all

pertaining to changes to Definitions, submittal process and tree mitigation. (Ord. No. 16082)

No reference to Chapter 156 amendments appear on the agenda and the neither of the two exhibits are noticed on August 9.

17. Minutes of the Town Council meeting on October 13 include a comment by the Planning Director that the Planning Committee of Council had reviewed the amendments to the Land Use Regulations (Chapter 155) and the Zoning Code three times and that both had recommended approval. The Planning Committee routinely reviews recommendations of the Planning Commission before they are heard by Town Council.

18. The September 6, 2016, meeting of the Planning Committee, which immediately followed the Planning Commission meeting on August 24, included the agenda item - "Review of Planning Commission Recommendations" of that August 24 meeting. The matter of the action by the Planning Commission on the amendments to Chapters 155 and 156 is not shown on the Planning Committee Agenda.

19. Final Reading for the Amendments to Chapters 155 and 156 was approved on November 8, 2016.

20. The Plaintiff is entitled to a declaratory judgment that the Town of Mt. Pleasant violated notice provisions of the South Carolina Comprehensive Planning Act and the Mt. Pleasant Code of Ordinances in the processing and approval of amendments to Chapters 155 and 156 of Chapter XV - Land Usage of the Mt. Pleasant Code or Ordinances.

FOR A SECOND CAUSE OF ACTION

Violation of Zoning Regulations

21. Plaintiff alleges all the foregoing allegations of the Complaint as if set forth here verbatim.

22. Section 156.031 of the Mt. Pleasant Zoning Code states defines the role of the Planning Commission in public hearings on zoning matters:

*Upon receipt of the application (on a zoning matter), the
Commission shall hold a public hearing.*

This mandatory requirement for zoning amendment is followed by the requirement that the Commission forward a recommendation to Town Council with findings based on criteria established in the ordinance. (§156.031(C)(1-7) At its discretion, Town Council may hold a public hearing following the completion of the public hearing and recommendation to Town Council:

Following the recommendation of the Planning commission, the Council shall rule on the request and direct the Zoning Administrator accordingly. If the Town Council feels that circumstances of the case warrant a public hearing, they may vote to hold one. (156.031 (F)(1); (F)(1)(a)

23. The intent that zoning decisions “*should be made by a cross-section of unbiased officials after careful deliberation*”. (ION, LLC v. Town of Mt. Pleasant, 526 S.E.2d 716 (S.C. 2000) was subverted by Town Council as it illegally substituted itself for the Planning Commission in the conduct of a public hearing zoning ojn the zoning text amendments cited in this action. The result of the actions of Mt. Pleasant Town Council action was enactment of zoning amendments without the requisite public hearing before the Planning Commission or the findings and evaluation of the amendments required of

the Planning Commission. Without correction, a process designed to be open, with the opportunity for meaningful public participation, will be endangered.

24. Based on the foregoing Paragraphs 5-23, the Plaintiff is entitled to an order of this court vacating the amendments to Chapter 155 - Land Use Regulations and Chapter 156 - Zoning Code - approved by Mt. Pleasant Town Council on November 8, 2016, and further, an order to enjoin the Town of Mt. Pleasant from future interference with lawfully established zoning law and regulations.

FOR A THIRD CAUSE OF ACTION

Procedural Due Process

Violation of the S.C. Freedom of Information Act

25. Plaintiff alleges all the foregoing allegations of the Complaint as if set forth here verbatim.

26. On September 13, 2016, Mt. Pleasant Town Council convened its regular monthly meeting at 6PM. The agenda reflected Item V(A) *"a Public Hearing to receive input regarding a proposal to amend the Town of Mt. Pleasant Code of Ordinances Chapter 155..."*. Chapter 156, noticed by publication on August 9 for public hearing on September 6, 2016, does not appear on the Town Council agenda for public hearing. However, later the meeting agenda contains an agenda item for First Reading for Chapter 155 but also *"Chapter 156 - Zoning Code"* which was not on the agenda. Minutes of the meeting show that motion for first reading approval was made and approved unanimously.

27. As the amendments to Chapter 156 approved by Town Council were not on the meeting agenda for public hearing, the result was that Town Council voted on a matter not on its meeting agenda.
28. The South Carolina Freedom of Information Act requires an agenda for meetings of public bodies (§ 30-4-70(a)). Inaccurate agenda, in this case, was equivalent of the absence of agenda in the conduct of zoning action. Taken with the preceding issues of notice, the cumulative effect of flawed notice argues for complete agenda.
29. The Plaintiff is entitled to declaratory judgment that the Town of Mt. Pleasant failed to produce a complete agenda on September 13, 2016, failing to notice amendments to its Zoning Code, subsequently voting First Reading approval of those amendments constituting a violation of §30-4-80(a) of the South Carolina Freedom of Information Act.

FOR A FOURTH CAUSE OF ACTION

Writ of Mandamus

30. Plaintiff alleges all the foregoing allegations of the Complaint as if set forth here verbatim.
31. The Town's adopted Rules of Order (Robert's Rules of Order) (§ 30-34(A)) provide that special meetings are called to act on matters that require action prior to the next regular meeting. No urgency was expressed to explain a Planning Commission special meeting scheduled at 3PM for zoning text amendments regular meeting scheduled that same day at 5PM. Planning Commission scheduling, as with its public notices, is routinely accomplished by the Planning Department rather than the Planning Commission.

Special meetings of Mt. Pleasant Town Council were the subject of the court's notice in *Stephen G. Brock v Town of Mount Pleasant* (2008-CP10-3308) with the court finding that certain special meetings held immediately ahead of regular meetings with business conducted was not in the "in the spirit of FOIA".

32. In aforementioned lawsuit, the Town's defense of its process for amendment of special meeting agendas, contrary to its adopted rules of order, was that with publication of its process of amendment, the public was on notice.

33. The plaintiff is entitled to an Order of the Court requiring that the Town of Mt. Pleasant adhere to its own published municipal ordinances in its conduct of public business.

WHEREFORE, Plaintiff prays that the Honorable Court grant relief as follows:

- (1) That the court grant declaratory judgment that notice of public hearings on the amendments to the Mt. Pleasant Zoning Code did not comply with state law and local ordinances.
- (2) That the court grant declaratory judgment pursuant to §6-29-760 of the Comprehensive Planning Act and §156.031 of the Mt. Pleasant Code of Ordinances vacating the amendments to Chapter 155 - Land Use Regulation and Chapter 156 - Zoning that are the subject of this action.
- (3) For a Writ of Mandamus ordering that Defendant adhere to its published municipal standards in the conduct of public business.
- (4) That the court grant declaratory judgment pursuant to §30-4-80(a), South Carolina Freedom of Information Act that Defendant failed to

provide agenda for its meeting of September 13 on the matter of amendments to Chapter 156 - Zoning Code of the Mt. Pleasant Code of Ordinances;

- (5) For such costs of this action as the Court may deem appropriate;
- (6) For other such relief as the Court deems just and proper.

December 14, 2016



Stephen G. Brock
34 Hopetown Road
Mt. Pleasant, SC 29464
843-478-3021
SteveBrock7@gmail.com
Plaintiff, *pro se*

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Stephen G. Brock,

Plaintiff,

vs.

Town of Mt. Pleasant,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-06005

ANSWER

FILED
FEB 13 PM 2:42
JULIE J. ARMSTRONG
CLERK OF COURT

That the Defendant, above named, answering the Amended Complaint of the Plaintiff, above named, alleges and says as follows:

1. Upon information and belief, the Defendant admits the allegations contained in paragraph 1 of the Complaint.

2. The Defendant admits the allegations contained in paragraph 2.

3. The allegations of paragraph 3 are conclusions of law which need not be admitted or denied. If said response is required, the same is denied.

4. The Defendant admits the allegations contained in paragraph 4.

5. The Defendant denies the allegations contained in paragraph 5 and strict proof is demanded..

6. In response to paragraph 6, the Defendant admits that State law including the Comprehensive Planning Act and Mount Pleasant Code govern amendments to the zoning regulations. As to any remaining allegations in paragraph 6, they are denied and strict proof is demanded.

7. The Defendant does not specifically deny the allegations of paragraph 7, if any, but would crave reference to the entire Act in response to this conclusion of law.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Stephen G. Brock,

Plaintiff,

vs.

Town of Mt. Pleasant,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-06805

ANSWER

FILED
FEB 13 PM 2:42
JULIE J. ARISTON
CLERK OF COURT

That the Defendant, above named, answering the Amended Complaint of the Plaintiff, above named, alleges and says as follows:

1. Upon information and belief, the Defendant admits the allegations contained in paragraph 1 of the Complaint.
2. The Defendant admits the allegations contained in paragraph 2.
3. The allegations of paragraph 3 are conclusions of law which need not be admitted or denied. If said response is required, the same is denied.
4. The Defendant admits the allegations contained in paragraph 4.
5. The Defendant denies the allegations contained in paragraph 5 and strict proof is demanded..
6. In response to paragraph 6, the Defendant admits that State law including the Comprehensive Planning Act and Mount Pleasant Code govern amendments to the zoning regulations. As to any remaining allegations in paragraph 6, they are denied and strict proof is demanded.
7. The Defendant does not specifically deny the allegations of paragraph 7, if any, but would crave reference to the entire Act in response to this conclusion of law.

PLEX 3

8. That the Defendant does not specifically deny the allegations of paragraph 8, if any, , but would crave reference to the entire Act and Town ordinances in response to this conclusion of law.

9. The Town admits that under state law zoning changes must go to the Planning Commission. Any remaining allegations of paragraph 9 of the Complaint are denied.

10. That Defendant admits that as to a zoning change, the Planning Commission must hear the matter. Any remaining allegations of paragraph 10 are denied.

AS TO THE FIRST CAUSE OF ACTION

11. That the Defendant denies paragraph 11 as stated. Plaintiff has stated the chapters incorrectly and has confused the fact that both Land Use and Zoning regulation changes were under consideration, and require different paths for approval.

12. The Defendant denies the allegations contained in paragraph 12 and strict proof is demanded.

13. The Defendant denies the allegations contained in paragraph 13 as stated and strict proof is demanded.

14. The Defendant denies the allegations contained in paragraph 14 and strict proof is demanded.

15. The Defendant admits the allegations contained in paragraph 15.

16. In response to paragraph 16, Defendant admits and craves reference to the September 13th agenda, with regard to the partial quotation. Any remaining allegations of paragraph 16 are denied and strict proof is demanded.

17. The Defendant denies the allegations contained in paragraph 17 and strict proof is demanded..

18. The Defendant denies the allegations contained in paragraph 18 as stated and strict proof is demanded.

19. The Defendant admits the allegations contained in paragraph 19.

20. The Defendant denies the allegations and claims of entitlement contained in paragraph 20 and strict proof is demanded.

AS TO THE SECOND CAUSE OF ACTION

21. In response to the allegations contained in paragraph 21, the Defendant hereby realleges and incorporates by reference paragraphs 1 through 20 as fully and effectively as if set forth herein verbatim.

22. In response to the allegations contained in paragraph 22, which are simply restatements to Sections of the Municipal Code, Defendant craves reference to the entire Code, which speaks for itself. .

23. The Defendant denies the allegations contained in paragraph 23 and strict proof is demanded. .

24. The Defendant denies the allegations contained in paragraph 24 and strict proof is demanded.

AS TO THE THIRD CAUSE OF ACTION.

25. In response to the allegations contained in paragraph 25, the Defendant hereby realleges and incorporates by reference paragraphs 1 through 24 as fully and effectively as if set forth herein verbatim.

26. That the Defendant denies paragraph 26 as stated and strict proof is

demand. There was a public hearing for amendments to Chapter 155 and the agenda shows "First reading" for Chapter 156-Zoning Code.

27. The Defendant denies the allegations contained in paragraph 27 and strict proof is demanded..

28. The Defendant denies the allegations contained in paragraph 28 and strict proof is demanded..

29. The Defendant denies the allegations contained in paragraph 29 and strict proof is demanded.

AS TO THE FOURTH CAUSE OF ACTION.

30. In response to the allegations contained in paragraph 30, the Defendant hereby realleges and incorporates by reference paragraphs 1 through 29 as fully and effectively as if set forth herein verbatim.

31. In response to paragraph 31, the Defendant pursuant state law may schedule special meetings and denies any violation of FOIA has occurred as a result.

32. The Defendant denies the allegations contained in paragraph 32 as stated and strict proof is demanded.

33. The Defendant denies the allegations contained in paragraph 33 and strict proof is demanded..

34. That the Defendant denies each and every allegation not specifically admitted.

35. Defendant denies all allegation and claims of entitlement contained in Plaintiff's WHEREFORE clause, including subsections.

FOR A FIRST AFFIRMATIVE DEFENSE
(Standing)

34. That the Plaintiff lacks standing to raise one or more of the causes of action.

FOR A SECOND AFFIRMATIVE DEFENSE
(Substantial Compliance)

35. That even if some defect were found to exist, which is specifically denied, the Defendant submits that substantial compliance is sufficient.

FOR A THIRD AFFIRMATIVE DEFENSE
(Tort Claims Act)

36. That to the extent Plaintiff amends to assert any claim for damages, action would be barred or otherwise limited by the retained sovereign immunity of the Tort Claims Act.

CLAWSON and STAUBES, LLC



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Attorneys for Defendant

Charleston, South Carolina
February 13, 2017

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Stephen G. Brock,

Plaintiff,

vs.

Town of Mt. Pleasant,
Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-06605

**NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that the Defendant, by and through its undersigned attorney, shall, and hereby does, move this Honorable Court for an Order granting summary judgment in favor of the Defendant in the above-captioned matter upon the grounds that there exists no genuine issue as to any material fact and that the Defendant is entitled to judgment as a matter of law in its favor. This is a challenge to changes in zoning and development regulations. The attached affidavit demonstrates that such amendments were proper and that Plaintiff's suit is without merit.

This Motion is based upon the pleadings in the within action and the attached affidavit, upon Rule 56 of the South Carolina Rules of Civil Procedure, and upon such additional law and argument as shall be appropriate.

CLAWSON and STAUBES, LLC

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Attorney for Defendant

Charleston, South Carolina
June 05, 2017

2017 JUN -6 AM 11:31
JULIE ARMSTRONG
CLERK OF COURT

FILED

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CURCUIT
COUNTY OF CHARLESTON	)	
	)	CASE NO. 2016-CO-10-06605
	)	
STEPHEN G. BROCK	)	MOTION FOR RECONSIDERATION,
	)	TO AMEND FINDINGS OF FACT,
vs.	)	AND TO ALTER OR AMEND
	)	JUDGMENT
TOWN OF MT. PLEASANT	)	
	)	
Defendant	)	

37
 FILED
 DEC 18 AM 11:56
 CLERK OF COURT

Plaintiff respectfully requests the Circuit Court to reconsider its order dated November 6, 2017, and filed November 8, 2017, and to alter and/or amend its findings rendered in the Order Granting Summary Judgment to Defendant. Plaintiff raises the following exceptions to particular statements, findings, and conclusions and respectfully submits that the Order should be revised on the based on the record, evidence and arguments identified.

1. The nature of the case is significantly abbreviated as it is defined as being on matters of "*proper notice of public hearings and/or proper public notices*" and the absence of material fact based on the finding that "*public notices were made and the meetings were not defective because they were special meetings*". There is no dispute that public notices were made. The adequacy of that notice was questioned. Further, there was no allegation that special meetings (sic) were defective based on notice. Further, there was no Freedom of Information Act (FOIA) challenge to the August 24, 2016 Special Meeting and the included public hearing on the Zoning Code Amendments. FOIA has no provisions regarding the scheduling of special meetings

PL EX 4

Rather, the Special Meeting of the Planning Commission was challenged as a violation of Defendant's published Rules of Order.

FINDINGS PRESENTED FOR RECONSIDERATION

Amended Complaint - Third Cause of Action - Violation of Zoning Regulations

3. The Circuit Court incorrectly determined that that *"the amendments to Chapter 156, Zoning Code were proper because the Town of Mt Pleasant satisfied the notice, public hearing, and recommendation requirements before enacting the amendment"*.
4. The finding that the "recommendation" requirement for the zoning amendments was satisfied is an error of fact. In both the Order and Defendant's affidavit, the term "recommendation" is used as to describe the act of voting to approve the amendments. As used in the Mt. Pleasant Zoning Code, (Section 156.031- Pl.Ex.3), alleged Plaintiff's Complaint, substantiated in Plaintiff's Memorandum in Opposition to Summary Judgment, and presented at the hearing on Summary Judgment, a Recommendation is a distinct, detailed requirement for Zoning Code amendments. The required Recommendation is the result of the process for evaluation of proposed amendments intended to support the Planning Commission's eventual decision briefly summarized as follow:
 5. Following notice and publication (not in dispute) requirement, a proposed amendment goes to the local planning commission with the mandate that:
"the (Planning) commission (sic) shall prepare its report and recommendations of the proposed change stating its findings and its evaluation of the request".

The evaluation comes from application of specific criteria, among them, whether the proposed amendment is necessary, is consistent with existing regulations, and a its relationship to the Town's Comprehensive Plan. Where appropriate, the Commission may also report to Council on comments from the public hearing.

6. The final step in the process defines the Recommendation. Before any vote is taken by Town Council, there is the mandatory Recommendation.

"Following the recommendation of the Planning Commission, the (Town) Council shall rule on the request... ."

7. The existence of a thoughtful, mandatory process for amendment to the Mt. Pleasant Zoning Code cannot be disputed. It is further beyond argument that a recommendation as defined by Zoning Code Section 156.031 was not made by the Planning Commission. There was simply a vote. The minutes of the Commission and the Town Council bear this out. The Zoning Code does not distinguish between a request for amendment by the governing body from a request from an ordinary citizen. Both are subject to the lawful process of amendment avoided by the Planning Commission and Town Council for the Zoning Code amendments.

5. In this matter, the vote to approve the amendments was required to be accompanied by findings, an evaluation of the amendments forming a recommendation. In the context of the Zoning Code, there was no recommendation. Council's claim to have satisfied the requirements for amendment of the Zoning Code

is challenged by the record. Defendant's failure to employ the lawful, public process for Zoning Code amendments while claiming to have done so, is evidence of a genuine issue of material fact for a jury.

III. Amended Complaint - Fourth Cause of Action - Writ of Mandamus

9. The Circuit Court failed to rule on the Fourth Cause of Action from Plaintiff's Amended Complaint - Writ of Mandamus - alleging that the Mt. Pleasant Planning Commission acted in violation of its Rules or Order, specifically, that it scheduled a special meeting to for a public hearing on amendments to its Zoning Code and Land Use Regulations contrary to its published Rules of Order. s
10. The Circuit Court accurately described Plaintiff's Complaint as claiming that special meetings should only be used for matters that must be addressed before the next regular meeting. However, The Court incorrectly reasoned that this complaint stemmed from the Freedom of Information Act (FOIA). FOIA does not specify any process for scheduling public meetings. Plaintiff's complaint is based on the adopted rules of order of both the Planning Commission and Town Council - Robert's Rules of Order (RRO). Each body supplements its local rules of order with RRO as do many public bodies. With exceptions from conflicts for state and federal law, public bodies may overwrite RRO with its own rules on any subject. There are no exceptions in. Town Council or Planning Commission rules of order with regard to special meetings. The rules adopted by a public body are no less applicable than locally produced rules.

11. The special meeting for a public hearing on amendments to the Zoning Code and Land Use Regulations was scheduled for 3PM on a weekday, inarguably inconvenient for much of the the public. Furthermore, it was unnecessary given a regular meeting of the Commission scheduled for 5PM the same day. The Order finds that *"public participation is good and should be considered by local lawmakers when setting meeting times but the Court cannot second-guess the times meetings are scheduled"*.

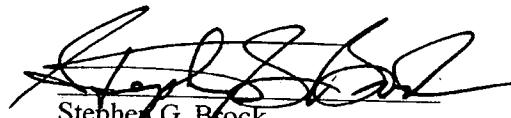
It is not suggested that any Court "second guess" meeting times. The question is only whether the scheduling of public meetings should comport to adopted rules for that scheduling. Had the rule for special meetings been followed, the special meeting and public hearing would have occurred at the scheduled regular meeting at 5PM that same day. Public participation is effectively diminished when the public's right under law to attend pubic hearings is arbitrarily diminished.

Plaintiff respectfully requests this Circuit Court to undertake the following actions:

1. Modify the Order to deny Summary Judgment in a finding that a question of material facts exists in the matter of the satisfaction of the requirement for amendments to the Mt. Pleasant Zoning Code.
2. Enjoin Mt. Pleasant Town Council from administering and enforcing the amendments to its Zoning Code until such time that a noticed public hearing on the amendments is scheduled in accordance with all published rules and that the recommendation, as defined and required by the Mt. Pleasant Zoning

Code is produced by the Mt. Pleasant Planning Commission and
presented to Town Council.

3. A ruling on the Complaint's Fourth Cause of Action - Writ of Mandamus -
requiring that the Town of Mt. Pleasant abide by its published rules of order
for the scheduling of special meetings as presently defined.



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1 (September 20, 2017.)

2 THE COURT: Brock versus town of Mount
3 Pleasant. Anybody here on that?

4 MR. DOMIN: Yes, Your Honor. I'm present.

5 THE COURT: All right. Who is here
6 representing who?

7 MR. BROCK: I am Stephen Brock. I'm
8 representing myself in this action.

9 THE COURT: You're pro se, right?

10 MR. DOMIN: Timothy Domin. I'm here on
11 behalf of the Town of Mount Pleasant.

12 THE COURT: You have a summary judgment
13 motion, Mr. Domin?

14 MR. DOMIN: I have, Your Honor. We have
15 briefly e-mailed to you a memorandum as well as some
16 supporting materials. I'll give you another copy for
17 your convenience, Your Honor.

18 In brief, Your Honor, this is a declaratory
19 judgment type lawsuit where Mr. Brock seeks to invalidate
20 an ordinance of the town of Mount Pleasant that was
21 amending both provisions of its zoning code as well as
22 its land development code. Land development, of course,
23 relates to subdivisions, plats, plat approval, zoning.
24 think we're all familiar with that.

25 Your Honor, those are governed by two

1 separate state law provisions such that amendments to
2 those municipal codes have to follow certain public
3 notices and certain processes, and they're not exactly
4 the same. They are slightly different, and so --

5 THE COURT: Give me a little background.
6 Give me a little background. What were they changing?
7 Just a little background.

8 MR. DOMIN: Well, Your Honor, the ordinance
9 itself is, at tab one, and it's quite a few pages. So
10 they were going through and making a number of changes
11 where there would be some preliminary approvals and staff
12 approvals of things.

13 THE COURT: What were they changing? Height
14 of the buildings, density, or what were they changing?

15 MR. DOMIN: Really more so about the
16 procedural requirements of what had to be submitted and
17 who would then sign off on those things.

18 THE COURT: So the process to get whatever
19 being built approved.

20 MR. DOMIN: Right, and if you think about it
21 this way, if you own a big tract of land, the first thing
22 you're going to need to do is subdivision and platting.
23 That's under the development code, and then the question
24 of how much your setbacks have to be and how high your
25 building are, that's part of the zoning code. Most of

1 the changes that are found in this ordinance relate to
2 the mechanisms of what has to be submitted, who it has to
3 be submitted to, and who will then approve it. I mean,
4 that's the majority of what the changes relate to.

5 THE COURT: Okay. All right.

6 MR. DOMIN: Now, Your Honor, as I indicated,
7 these are two different sections of state code that
8 govern amendments, and Mr. Brock's position, as I
9 understand it, is that somehow appropriate public notices
10 were not had so as to make this ordinance invalid.

11 He also has a complaint that the planning
12 commission meeting was a special meeting, as opposed to a
13 regularly scheduled meeting, and I'm going to address
14 that.

15 So, Your Honor --

16 THE COURT: What kind of a notice does the --
17 does the state require the notice or ordinance notice?
18 What kind of notice does the state statute require?

19 MR. DOMIN: Well, they're different for each
20 one, so if you look at -- starting with the land
21 development code, South Carolina code section
22 6-29-1130(b) provides for the land development code, and
23 then under the zoning code, that is under 6-29-720(a).

24 There are also some municipal provisions that
25 govern those. That's all set forth in our memo, but to

1 give you just the basic --

2 THE COURT: I haven't read your memo. I read
3 the one about the food, but I haven't read this one,
4 okay?

5 MR. DOMIN: This one is far less exciting and
6 interesting, I'm sure, than the food one, but to kind of
7 hit the bases real quickly, Mount Pleasant appreciated
8 that there were these two different paths and there was
9 one ordinance, and we had to be able to touch the bases
10 that were required for amendments for the different types
11 of code.

12 So as far as zoning, state law provides that
13 has to be a 15-day notice published in the newspaper, so
14 if you look at tab two, there's the notice in the
15 newspaper. It was published on August the 9th. Tab
16 three, I've actually blown it up so people who wear
17 glasses like me and you can actually read it.

18 It sets forth what it is that is going to
19 need to be done as far as zoning code. It provides
20 public notice. It says that the planning commission will
21 hold a special meeting on August 24th at 3 p.m. Tab four
22 is the agenda for that planning commission meeting. Page
23 five of tab four is the explanation of what is being done
24 on the agenda at the planning commission, tab five are
25 the minutes of the actual planning commission meeting,

1 and on pages eight to ten, it shows that there was a
2 public meeting hearing as required. Various folks
3 addressed the commission, and then on page 11 they
4 actually voted to approve the proposal.

5 The next thing, of course, that happens to a
6 zoning law, that has to go to city council. It's on the
7 agenda. Tab nine, you'll see where it got first reading
8 on pages 26 and 27 of tab nine. Then it goes on for a
9 second reading. That is tab ten. The agenda for the
10 October meeting is at tab ten.

11 Tab 11, you can see the actual minutes; page
12 51, item 11, it was given the second reading, so it
13 touched all the bases, if you will, for amendment of the
14 zoning code. The land development piece of the
15 ordinance, state law requires that city council can
16 modify those. There has to be a public hearing, and it
17 has to have 30-days' notice.

18 Now, state law itself doesn't say anything
19 about the land development regulations having to go to
20 the planning commission, so when state law says a public
21 hearing, it must mean city council because state law
22 doesn't require them to go to the planning commission,
23 but our ordinances do. The Mount Pleasant ordinances do
24 require them to go to the planning commission to be
25 reviewed by the planning commission.

1 So let me go touch the bases as far as --

2 THE COURT: Is there any notice in the
3 ordinance to the planning commission hearings?

4 MR. DOMIN: Well, it's on the agenda. It
5 doesn't say that it has to be put in the newspaper.
6 State law --

7 THE COURT: There is no notice requirement,
8 newspaper or anything else?

9 MR. DOMIN: There is under state law for land
10 development --

11 THE COURT: Thirty days.

12 MR. DOMIN: Thirty days.

13 THE COURT: But as far as the planning
14 commission, going to the planning commission, which is
15 added on by the ordinance, there's no time limit for
16 notice there, or notice just of the regular meeting
17 published in the agenda?

18 MR. DOMIN: Yeah, just the normal FOIA,
19 24-hour agenda, so there's no specific requirement in the
20 newspaper. So let me go touch the bases as far as land
21 development regulations.

22 Tab six is the 30-day newspaper notice. It's
23 on August the 11th that was put into the newspaper. Tab
24 seven, again, I've blown it up large so we can read it.
25 It says meeting will be on September 13th. That's more

1 than 30 days from the day of publication. It references
2 what is going to be heard at that public meeting of the
3 land development rules. Tab eight for city council
4 meeting, tab eight is the city council meeting for
5 September 13th, showing on the agenda the public hearing
6 on the land development regulations.

7 Tab nine is the actual meetings of the city
8 council. Page two, the public hearing starts. Mr. Brock
9 is actually there. He speaks, says, I don't think y'all
10 are doing this right.

11 They said, Thank you very much, and they
12 closed the public meeting section and then --

13 THE COURT: Give me a chance to see what
14 Mr. Brock says at the meeting, if you would give me a
15 second.

16 MR. DOMIN: So Mr. Brock spoke. They closed
17 the public meeting. They gave it first reading. Now, as
18 I note, the state law doesn't require the development
19 regulations to go to the planning commission. The town
20 ordinance does. For that, you go back to tab four, which
21 is a meeting that we've already touched on, and there,
22 tab four, page 5, item III, it was on the planning
23 commission agenda for August 24th. Tab five is the
24 actual minutes. They voted in favor of it on pages ten
25 and eleven, so, ultimately, we touched all the bases as

1 far as both land development regulations as well as
2 zoning amendments.

3 There is this issue Mr. Brock brings up
4 saying this was done in a planning commission special
5 meeting. He has previously had some litigation regarding
6 special meetings, but it's a very different situation.
7 There's nothing about a special meeting that prohibits
8 the public body from doing their ordinary business at a
9 special meeting, and so if there is something that's
10 going to take extra time, if there is a lot of things on
11 the agenda, it's to do that. As far as special meeting,
12 there is absolutely nothing in state law that prohibits
13 it.

14 Mr. Brock himself was involved in the case
15 which involved something very different, which was an
16 allegation of special meetings immediately before city
17 council meeting --

18 THE COURT: I'm very familiar with that. So
19 is Mr. Brock.

20 MR. DOMIN: So is Mr. Brock.

21 THE COURT: He probably knows more about FOIA
22 law than anybody in the state.

23 MR. DOMIN: So as it relates to this, it's
24 very different than that. It's on the agenda. It's a
25 special meeting, but, again, there's not a single

1 provision in FOIA that would suggest you're not allowed
2 to do things on a special meeting with 24-hours' notice.

3 THE COURT: You're talking about with the
4 city. I don't even think they put out an agenda for
5 those meetings. It was sort of an executive meeting --

6 MR. DOMIN: Executive session.

7 THE COURT: When they decide what they were
8 going to do in a formal meeting, but that wasn't proven.
9 I'm speculating on that, Mr. Brock, okay? But go ahead.

10 MR. DOMIN: Executive session, and then they
11 were potentially taking action on that without any notice
12 on the part of the meeting.

13 THE COURT: Right.

14 MR. DOMIN: This is completely different.
15 It's on the agenda for the special meeting, and, you
16 know, he is there. They're allowed to have those
17 meetings, and any governmental body can have their
18 meetings at whatever time of the day they want to so long
19 as they put out an appropriate public notice 24 hours
20 prior to -- with an agenda.

21 So we think that -- we've touched on the
22 bases, and we've done it following the proper rules under
23 FOIA. For that reason, we believe we're entitled to
24 summary judgment, and, candidly, there is no disputed
25 material fact here. Either the town did it right or it

1 didn't. I didn't see where it did anything wrong, but
2 it's not the kind of case that needs to go to a jury to
3 decide.

4 Thank you.

5 THE COURT: Mr. Brock, be glad to hear you.

6 MR. BROCK: Thank you, sir.

7 To back up on the case in question, it was
8 the issue and the Court took judicial notice of it at the
9 time was that having a special meeting to conduct
10 business -- is what it came down to, although they had a
11 better way of doing it -- a special way to conduct
12 business when a regular meeting followed it on the same
13 day, was not something I agree. There is no statute that
14 says you can't do that, but the appearance in this case
15 is a lot different. This wasn't --

16 THE COURT: What do you think is wrong with
17 this situation, Mr. Brock? What's your problem with what
18 transpired?

19 MR. BROCK: Process, and I don't know if the
20 devil inhabits them, but there are details that are
21 missing from the presentation of what went on and what
22 happened.

23 THE COURT: Okay.

24 MR. BROCK: And they're significant because
25 we're dealing with zoning, and I would argue that taking

1 land regulation and sort of diminishing them because --

2 THE COURT: Let me ask you one question
3 because I don't know the answer. Once the planning
4 commission decides on the zoning changes or the city
5 planning changes or the land development changes, that
6 goes to city council for final approval. It's based on
7 the recommendations of city council.

8 MR. BROCK: Yes.

9 THE COURT: You think the problem is with the
10 planning commission or when the city council approved it?

11 MR. BROCK: All five steps in the process had
12 something wrong --

13 THE COURT: Including the city council?

14 MR. BROCK: Yes.

15 THE COURT: What do you think they did wrong?

16 MR. BROCK: First of all, the notice
17 provisions. The way they're written, to a point, is
18 fine, chapter 156 and 155. They add the line in there
19 "and other modifications as necessary". I think they put
20 it to comport to other regulations or something to that
21 effect. I could look it up. That's also in the
22 ordinance they effected by town council. Other
23 modifications as necessary is not notice of anything.
24 There is case law that I was surprised to find, and it
25 talked about what notice actually consisted of. This is

1 missing it.

2 THE COURT: So you think the notice is
3 defective.

4 MR. BROCK: The notice is defective.

5 THE COURT: You say at the council meeting,
6 that if you had them at 3:00 in the afternoon, people
7 couldn't attend. You think that was improper.

8 You still think that it was improper? It
9 might be a bad policy, but, legally, do you still think
10 it's improper? What is bad policy and what is illegal is
11 two different things. You know that.

12 MR. BROCK: I take the meaning of the word,
13 sir. I think it's bad faith. You don't hold zoning
14 meetings when people who are affected by zoning can't
15 attend. You, sir, in your order, you took it as a
16 judicial note, and I see it the same way, but it's a part
17 of a whole.

18 It sits out by itself in one way, but it's
19 part of a process. It started with notice, worked its
20 way through all of the steps of the zoning code, all the
21 way down, through the planning committee, by the way, to
22 town council, and in every single step something was
23 missing.

24 In the answer to my complaint, there was a
25 quick argument on substantial compliance. I don't know

1 if there is any -- I think that's probably pretty
2 subjective and Courts have to decide that. I think when
3 you get around to things like zoning, substantial
4 compliance has to have a high bar.

5 THE COURT: So you think the notice was
6 insufficient to the public so they could attend the
7 meeting?

8 MR. BROCK: Limited attendance by virtue of
9 the fact people could not get off work.

10 THE COURT: I know that, but I don't think
11 that's illegal. I'll agree it might be bad policy, but
12 they could set it at 10 o'clock in the morning, 8:00 in
13 the morning, if they so chose.

14 MR. BROCK: Standing alone, absolutely.

15 THE COURT: I don't think that's valid, but
16 the notice itself, what do you specifically think is
17 wrong with the notice to give the public notice of what
18 is going to transpire at the commission meeting?

19 MR. BROCK: The notice in the newspaper,
20 published notice, reads -- the chapter headings or,
21 whatever they're going to be, and it goes on to say --
22 and let me get the right reference here: And other
23 modifications necessary for consistency with the
24 above-referenced amendment.

25 That has absolutely no meaning. The

1 process -- and I've undertaken it as far as I can at this
2 point of going through and finding out what those other
3 modifications were as opposed to what they specifically
4 noticed is pretty time-consuming. It means reading the
5 zoning code against the changes to it, but I argue that
6 is not notice, and it certainly shouldn't be in an
7 ordinance, but that's another matter by itself.

8 THE COURT: I'm sorry?

9 MR. BROCK: It's included in the ordinance
10 itself. The ordinance swallows the public notice of the
11 chapters and includes and other modification. I'm not
12 challenging the order.

13 THE COURT: But, Mr. Brock, there may be some
14 amendments to the ordinance, so you got to add that
15 modification, so if another member makes a motion to
16 amend and it's carried by the majority, then what you
17 would put in the paper would be amended. You got to have
18 that in there, and that's the purpose of that.

19 MR. BROCK: The notice, sir, in my view, it
20 has to be specific. You're telling the public: Here's
21 what we're going to change that changes your life,
22 potentially changes your life.

23 THE COURT: What they're going to do is have
24 a meeting to determine that, okay? And it's a planning
25 commission motion that has passed.

1 MR. BROCK: No, sir, that's not the way it
2 works.

3 THE COURT: How does it work?

4 MR. BROCK: I'm going to skip to the planning
5 commission.

6 THE COURT: You don't think the planning
7 commission could vote it down?

8 MR. BROCK: They could vote it down. It
9 doesn't have any effect on the outcome.

10 THE COURT: Well, I know that the city
11 council could reverse that, but the planning commission
12 can vote it down.

13 MR. BROCK: City council made a mistake as
14 well, based on what the planning commission did. If you
15 see it as a process, planning commission is required.
16 It's mandatory. It's in the ordinance itself. They are
17 to produce a recommendation. That recommendation is
18 supposed to produce findings.

19 Among specific criteria within the zoning
20 code, I think there are seven criteria, then there's
21 another step that says, basically, there aren't going to
22 be any zoning amendments unless it meets one of these
23 four criteria. We don't amend it if it's not. This one
24 was not. The planning commission did not produce any
25 recommendation whatsoever. It simply voted.

1 Recommendation is supposed to go to the
2 planning committee, which can review it and offer it up
3 to council. Council has defined -- has to review the
4 recommendation as part of its vote. It's in the statute,
5 or in the ordinance that way. There wasn't any
6 recommendation to review. Aside from what that does to a
7 simple process, there's no record of why, and, believe
8 me, there were a lot of amendments, why any of these
9 amendments were enacted, and if I can do a sidebar on
10 this, the land use regulation gets sort of diminished in
11 this because of the notice requirements. The land use
12 regulations provide the details and enforce and
13 administer the zoning laws.

14 The duties that were taken from the planning
15 commission, given to town staff, which is the same as
16 giving them to council, were in the land use regulations,
17 not the zoning code. The plat and plan approval that was
18 taken, preliminary plats no longer go to the planning
19 commission for approval. Final plats no longer go to
20 them for approval. Those were in the land use
21 regulations. They're the details. Those didn't get
22 to -- and I think it is an error, but that's, you know,
23 my opinion, that having land use regulations that enforce
24 the zoning code would work in a much more similar process
25 because they are terrifically important, and as far as --

1 THE COURT: You said there was no discussion
2 at all with the planning commission about the amendments
3 and --

4 MR. BROCK: The planning commission took very
5 little notice of them, and I think there's a reason for
6 that.

7 THE COURT: I'm not talking about notice.
8 I'm talking about the meeting. You attended the meeting,
9 right?

10 MR. BROCK: The planning commission, I did
11 not.

12 THE COURT: You didn't attend that meeting?
13 Okay. Go ahead. I didn't mean to interrupt
14 you.

15 MR. BROCK: Planning commission I don't think
16 got these amendments until very close to their meeting
17 day.

18 THE COURT: Let me make sure I understand
19 what you're telling me. You're saying the planning
20 commission did not make a recommendation to the city
21 council under the state law requirement?

22 MR. BROCK: And under town ordinance
23 requirement.

24 THE COURT: And the town ordinance
25 requirement, but as far as the notice is concerned, you

1 think the notice was proper?

2 MR. BROCK: The notice of the meeting?

3 THE COURT: Was it proper notice?

4 MR. BROCK: I think it's flawed. You can
5 make the argument --

6 THE COURT: You think the notice itself is
7 flawed, not the time?

8 MR. BROCK: I don't think the notice is
9 complete.

10 THE COURT: All right. I'm sort of looking
11 at the notice. Let me take a look at it, if you don't
12 mind. I know you were referring to it.

13 All right. It says, section 155.004:
14 Modifications to the submittal process. The sketch plans
15 described and mentioned in the ordinances, modifications
16 to the submittal process for preliminary plans,
17 modifications concerning final plat submittal, other
18 minor modifications, and it lists the ordinance, and it
19 says other modifications as needed in consistency with
20 the aforementioned amendments.

21 So you're just saying that's not sufficient
22 to notify the public of what the --

23 MR. BROCK: The particular ones you read is
24 highly deficient. What that actually means is to take
25 the planning commission responsibility for the final plat

1 and preliminary plat away. That is a major change.

2 THE COURT: So you're saying they should have
3 listed that in the notice what they were changing in
4 laymen's terms?

5 MR. BROCK: There is a submittal requirement.
6 It is not a submittal requirement. It's an approval
7 requirement. It's a big difference. A submittal comes
8 from the developer. The approval comes from inside the
9 town.

10 THE COURT: Okay. Tell me -- I understand
11 you may have to be knowledgeable to probably figure out
12 what they were talking about, have copies of those
13 municipal ordinances to really figure out what was going
14 to take place at the meetings. I will concede that to
15 you, but please tell me how that violates the state law
16 or their municipal ordinance.

17 MR. BROCK: The violation of state law, I
18 respectfully ask the Court to look at the memorandum in
19 this case because it provides a lot of connective tissue
20 that I'm trying to do off the top of my head, and it's
21 this hard to put it together.

22 The comprehensive planning act is what we're
23 really talking about. It's the source of zoning.
24 Municipality can't zone unless it has one, particularly
25 the land use development.

1 THE COURT: You will agree they need to
2 modify that in Mount Pleasant, don't you?

3 MR. BROCK: Modify?

4 THE COURT: The land plan development.

5 MR. BROCK: I don't know if modifying it so
6 much as simply following it, and that's what I'm about
7 here.

8 THE COURT: Okay.

9 MR. BROCK: Shortcuts don't work. If there
10 is one thing I can say, and I would say it and I would
11 defy anyone to argue with me, that one of the arguments
12 to these amendments was a streamlined process for
13 development approval. I don't think you could get an
14 amen in Mount Pleasant anywhere about the idea of
15 speeding up development in Mount Pleasant.

16 That wasn't mentioned, by the way, publicly,
17 and I think there would have been a lot more people
18 attending the meeting than had been in there, but that
19 was the stated purpose of these amendments. As far as
20 your question about the law, the comprehensive planning
21 act spends a whole lot of pages describing the planning
22 commission as the lead planning agency of a municipality.
23 It produces the comprehensive plan, and the comprehensive
24 plan allows for the production in the zoning code. It's
25 very tightly knit.

1 THE COURT: I read in the paper where they
2 just appointed some committee to make a study of that.
3 Did you get on that committee?

4 MR. BROCK: No, sir. I don't think my suit
5 would have made me a candidate.

6 THE COURT: They probably should have put you
7 on there because you know more about it than anybody else
8 on the committee.

9 MR. BROCK: I should mention, I spent six
10 years on the planning commission as chairman, and I'm
11 interested in this sort of thing.

12 THE COURT: I understand. I'm not
13 criticizing you at you all, okay? I appreciate your
14 involvement. More citizens need to get involved, okay?
15 I appreciate your involvement. The last case was, what,
16 seven eight years ago, however long ago it was.

17 MR. BROCK: I don't want to correct you, sir,
18 but it was nine years ago now.

19 THE COURT: Nine years ago? Okay.

20 MR. BROCK: But, again, getting back to the
21 comprehensive blueprint, just briefly, it is a blueprint
22 for doing things, and it's not just a blueprint in terms
23 of its processes. It also it explains why it was
24 important.

25 The Supreme Court, or the State, back in

1 2000, in a case, Brown v. Town of Mount Pleasant, spent
2 some time -- what happened was a petition was gathered to
3 reverse an actual land use zoning regulation, and the
4 Court said, We can't imagine anybody ever intending for
5 that to be because it would be a nightmare.

6 I really am paraphrasing that, and it's
7 right, it would have been, but they go on to talk about
8 the comprehensive planning act and how it was important,
9 and they also made the point that it served to reduce
10 undue political influence in development. Taking plat
11 approvals and giving them to the staff that's run by
12 council is not really in service to that thought, and
13 this is not the first time this has happened.

14 You had exhibits in a case that I brought
15 that was on the matter of meetings by e-mail which,
16 obviously, that was a bad call, anyway -- I mean, bad
17 cause of action for us all. There were e-mails in there
18 to prove that the e-mails were between council members.
19 They were plotting to get rid of the design --

20 THE COURT: And I hope --

21 MR. BROCK: -- and eliminate planning
22 approval.

23 THE COURT: I hope we solved the e-mail
24 problem.

25 MR. BROCK: It's certainly better, but to get

1 back to it for a second, these things happen, and when
2 they happen, there are consequences to them. These
3 processes protect the public. That's what they're there
4 for.

5 THE COURT: I understand the argument, and I
6 understand if anybody from the public read this, they
7 would have no clue what they were looking at, okay? But
8 I'm not sure there's any state statute or municipal
9 ordinance requires what the notice requires, other than
10 to notify the public of what's going to take place now.

11 Technically, this notifies the public of
12 what's going to take place. They probably should let a
13 layperson prepare these notices rather than a lawyer.

14 MR. BROCK: I think you're right, but in the
15 case I cite, Brown v. County of Charleston, there is a
16 simple definition: It said subject to principles of due
17 process that require notice which fairly and reasonably
18 deprives the public -- excuse me, provides those whose
19 rights may be affected of the nature and character of the
20 action proposed.

21 I'm not bringing action to say the notice
22 should be thrown out or that the notice or any part of
23 that. It's not great, and, by itself, it's really
24 minimum. If you tack it on to every other violation of
25 the process, all the way through and including the vote

1 of council, you have a thwarted process, and here is the
2 rub on the thing: At any point, starting with the
3 planning committee, which got the results of the vote
4 from the planning commission, they could have remanded
5 it. If your recommendation is not here, finish this when
6 it went to council. Council could have said, Send it
7 back. They've sent things back to the commission before.
8 Give us your recommendation, as you're required to by the
9 statute.

10 They have negated their duty to enforce the
11 zoning law when they just simply voted, and the
12 affidavit, it says that to the extent at that meeting
13 they considered the recommendation of the planning
14 commission, I don't know how they did that. There wasn't
15 one.

16 There was nothing, and as the history
17 standing today, as we look at that ordinance and the
18 history and the minutes or try to go back, why did they
19 do this, there is no way to find out because there's no
20 record of it. I don't think that any law should be made
21 that way, certainly not a zoning ordinance.

22 THE COURT: Anything else?

23 MR. BROCK: I think that -- I would like to
24 say a couple more things about the process.

25 The planning commission recommendation to the

1 planning committee sort of tweaked my interest, and I
2 began looking at this whole process. If you follow me,
3 the planning committee, here the planning commission,
4 they take them, vet them, send them forward. In July,
5 two months before the planning commission held its public
6 hearing on the amendment, the amendment's represented the
7 planning committee, which was odd enough. That's not the
8 way it was normally done.

9 The planning committee, actually acting
10 outside the rules of order, told the staff, Set up the
11 public hearings. That's not their role, and it's
12 certainly not -- in fact, it's not allowed under their
13 own rules of order, so here come the public hearings on
14 something that appeared out of nowhere, because here's
15 the rub, and it's the essential issue that I bring up in
16 needing more time: There is no record of the initiation
17 of these ordinances, none. There is no record that
18 council even knew about it. They suddenly appear at the
19 planning committee.

20 Now, all of this is in violation of what they
21 call their published rules of order, their standards,
22 business stands. At council, it's referred to a
23 committee. The committee can do what it chooses to do
24 with it. In this case, it didn't happen, and if you add
25 all this together, I call it a fog hangs over all this

1 process, and I think it's true.

2 The Town of Mount Pleasant started this. How
3 did they start it? Why was it kept on the down-low the
4 whole time until the summary pops up fully prepared in
5 July to go to the planning commission? That's not the
6 way you do business with zoning, and that also has a
7 precedent back in the past. It's the same one I'm
8 talking about with regard to the DRB and indicates that
9 was brought before the Court.

10 That's what happened in the background there
11 too. It was being done by private e-mail. I don't know
12 how it was done, but there is a way to find out, and this
13 zoning process matters. If you don't do it the right
14 way, you really are not following the law, and you are
15 really not following the best interest of the people of
16 the town.

17 THE COURT: Okay. Thank you very much.

18 MR. BROCK: Thank you, sir.

19 THE COURT: Mr. Domin, very brief reply? I
20 know -- he got so disjointed because of my questions.

21 MR. DOMIN: I don't think it's necessary for
22 me to address all of that. Let me just say there is a
23 lot of information that was available, even a lot more
24 than there used to be ten or twenty years ago.

25 You can go and this went on to the planning

1 commission agenda, and there were links to the document.
2 You could pop up the ordinance. You could pop up the
3 staff report of it, so there is actually a lot more
4 information available here in 2017 than there was in, you
5 know, the year 2000 or 2010.

6 It's actually probably moving in a much
7 better direction as far as government is concerned with
8 more transparency, and I hold nothing against Mr. Brock.
9 I think he makes some interesting observations, but,
10 fundamentally, Mount Pleasant touched all the bases, did
11 what it was supposed to do.

12 THE COURT: .Yeah, I understand your argument.
13 I also understand Mr. Brock's argument.

14 MR. DOMIN: If there is some error, then we
15 need to identify it and call it out and let him make a
16 motion for summary judgment on it, because there's no
17 question of a jury trial here. I think state law sets
18 forth minimum criteria. We need to do certain things,
19 and we did those things.

20 The observation that he thinks it could have
21 been done in a different way is correctly correct, and
22 there's certain policies and considerations.

23 THE COURT: It's a DJ action, right?

24 MR. DOMIN: He actually pled it as abuse of
25 process. He has actually claimed some causes of action.

1 I would probably make a motion for summary judgment as to
2 those causes of action if I didn't think what really
3 needs to be done is the Court simply to declare it was
4 done properly or it wasn't.

5 THE COURT: All right. Let me read the
6 stuff. As I said, I haven't read anything, what he
7 presented as well as what you presented, Mr. Brock, but
8 thank you for being here, and I appreciate your
9 arguments, and continue the good work, okay?

10 I know it's tough, but continue the good
11 work. As I said, I wish more citizens would get actively
12 involved in it, and you may have a little more
13 transparency.

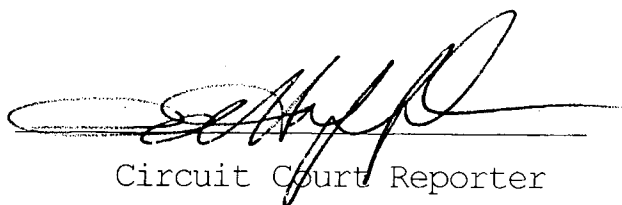
14 - - -
15 (Whereupon, the proceedings were concluded.)

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I, the undersigned, Amanda Kelly Haffenden, RPR, CRR, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the September 20, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

May 28, 2018



Circuit Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Stephen G. Brock,

Plaintiff,

vs.

Town of Mt. Pleasant,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-06605

AFFIDAVIT OF WATER KENT
PRAUSE III AICP

FILED

JUN 06 2017

JULIE J. ARMSTRONG

CLERK C.P. & G.S.

PERSONALLY appeared before me, Walter Kent Prause, III, AICP being duly sworn, states as follows:

1. My name is Walter Kent Prause, III and I am competent to make this affidavit of my own knowledge and experience.

2. I have been the Town of Mount Pleasant Zoning Administrator since February 9, 2009. Prior to that I served in various planning capacities with the Town since July 1, 1988, including my current position as Division Chief of the Planning Division of the Department of Planning and Development. I separately served as the part-time Zoning Administrator for the Town of Sullivan's Island from June 1, 1990 until mid-January 2009. I have a professional certification from the American Institute of Certified Planners (AICP), having been a member since July 1, 2001.

3. This affidavit is submitted in connection with the above legal case which is a challenge to the adoption of an ordinance which changed--in the same ordinance--both the Land Development Regulations of the Town of Mount Pleasant and also the Zoning Code of the Town of Mount Pleasant. The Zoning Code is located in Chapter 156 of the Town of Mount Pleasant, South Carolina Code of Ordinances. The Land Development Regulations are contained in Chapter 155 of the Town of Mount Pleasant, South Carolina Code of Ordinances. Per state law, the requisite public hearings and approvals necessary are different for changes in zoning regulations than for changes Land Development regulations. The Town of Mount Pleasant was well aware of the different paths that each type of change had to follow and we were careful to satisfy each path.

4. **With regard to the amendment(s) involving Land Development Regulations**, which are located in Chapter 155 of the Town Code, the following steps were taken in accordance with the applicable state statutes and local ordinances, including S.C. Code Section 6-29-1130(B) and the Mt. Pleasant, South Carolina Code of Ordinances, Section 155.087 that explicitly provides: (B) "The Town Council may adopt amendments to these regulations, as provided in the State Code."

PLEX 1

provided: "The Planning Commission will hold a special meeting at 3PM on Wednesday, August 24, 2016 to consider public hearing items #1 and #2:

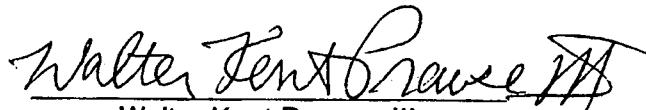
1. "Proposal to amend Zoning Code Section 156.201 (C)" and further setting forth the specific proposed amendments; and
2. "Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319" and again setting forth the specific proposed amendments.

The notice further explained that: "Town Council will hold the required public hearing for the associated modifications to the Land Development Regulations." (emphasis added). This portion of the notice simply explained a separate public hearing was to be held by Town Council to address amendments to Land Development Regulations as authorized and required by state law and in compliance with Section 155.087 of the Mt. Pleasant, South Carolina Code of Ordinances. The notice of public hearing for the Planning Commission listed the Zoning Code Sections that were proposed to be changed, as the Planning Commission was the proper place for those sections to have a public hearing per State law and Town Ordinance.

13. On August 24, 2016, the Planning Commission held its duly noticed meeting incorporating a public hearing on the zoning change. The Planning Commission then closed the public hearing and voted to recommend the change in the zoning and land development regulations and a majority voted in favor of the amendments to the Zoning Code as recorded in the Planning Commission's official minutes. (See also, Attachment B).

14. On September 13, 2016, following the Planning Commission's hearing and review, Town Council held a meeting to address the aforementioned amendments. After specifically reviewing the Planning Commission's recommendations and minutes from the Planning Commission's prior meeting, Town Council voted to adopt the amendments to the Land Development Regulations and the Zoning Code by ordinance. (See also, Attachment C).

FURTHER AFFIANT SAYETH NOT.


Walter Kent Prause, III

Sworn to before me this

17th day of May, 2017.

 (SEAL)
Notary Public for South Carolina

My Commission Expires: 1-8-2026

CHAPTER 29

South Carolina Local Government Comprehensive Planning Enabling Act of 1994

ARTICLE 1

Creation of Local Planning Commission

SECTION 6-29-310. "Local planning commission" defined.

For purposes of this chapter, "local planning commission" means a municipal planning commission, a county planning commission, a joint city-county planning commission, or a consolidated government planning commission.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-320. Bodies authorized to create local planning commissions.

The city council of each municipality may create a municipal planning commission. The county council of each county may create a county planning commission. The governing body of a consolidated government may create a planning commission. Any combination of municipal councils and a county council or any combination of municipal councils may create a joint planning commission.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-330. Areas of jurisdiction; agreement for county planning commission to act as municipal planning commission.

(A) A municipality may exercise the powers granted under the provisions of this chapter in the total area within its corporate limits. A county may exercise the powers granted under the provisions of this chapter in the total unincorporated area or specific parts of the unincorporated area. Unincorporated areas of the county or counties adjacent to incorporated municipalities may be added to and included in the area under municipal jurisdiction for the purposes of this chapter provided that the municipality and county councils involved adopt ordinances establishing the boundaries of the additional areas, the limitations of the authority to be exercised by the municipality, and representation on the boards and commissions provided under this chapter. The agreement must be formally approved and executed by the municipal council and the county councils involved.

(B) The governing body of a municipality may designate by ordinance the county planning commission as the official planning commission of the municipality. In the event of the designation, and acceptance by the county, the county planning commission may exercise the powers and duties as provided in this chapter for municipal planning commissions as are specified in the agreement reached by the governing authorities. The agreement must specify the procedures for the exercise of powers granted in the chapter and shall address the issue of equitable representation of the municipality and the county on the boards and commissions authorized by this chapter. This agreement must be formally stated in appropriate ordinances by the governing authorities involved.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-340. Functions, powers, and duties of local planning commissions.

(A) It is the function and duty of the local planning commission, when created by an ordinance passed by the municipal council or the county council, or both, to undertake a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the area within its jurisdiction. The plans and programs must be designed to promote public health, safety, morals, convenience, prosperity, or the general welfare as well as the efficiency and economy of its area of jurisdiction. Specific planning elements must be based upon careful and comprehensive surveys and studies of existing conditions and probable future development and include recommended means of implementation. The local planning commission may make, publish, and distribute maps, plans, and reports and recommendations relating to the plans and programs and the development of its area of jurisdiction to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens. All public officials shall, upon request, furnish to the planning commission, within a reasonable time, such available information as it may require for its work. The planning commission, its members and employees, in the performance of its functions, may enter upon any land with consent of the property owner or after ten days' written notification to the owner of record, make examinations and surveys, and place and maintain necessary monuments and marks on them, provided, however, that the planning commission shall be liable for any injury or damage to property resulting therefrom. In general, the planning commission has the powers as may be necessary to enable it to perform its functions and promote the planning of its political jurisdiction.

(B) In the discharge of its responsibilities, the local planning commission has the power and duty to:

- (1) prepare and revise periodically plans and programs for the development and redevelopment of its area as provided in this chapter;
- and

PLEX

2

(2) prepare and recommend for adoption to the appropriate governing authority or authorities as a means for implementing the plans and programs in its area:

- (a) zoning ordinances to include zoning district maps and appropriate revisions thereof, as provided in this chapter;
- (b) regulations for the subdivision or development of land and appropriate revisions thereof, and to oversee the administration of the regulations that may be adopted as provided in this chapter;
- (c) an official map and appropriate revision on it showing the exact location of existing or proposed public street, highway, and utility rights-of-way, and public building sites, together with regulations to control the erection of buildings or other structures or changes in land use within the rights-of-way, building sites, or open spaces within its political jurisdiction or a specified portion of it, as set forth in this chapter;
- (d) a landscaping ordinance setting forth required planting, tree preservation, and other aesthetic considerations for land and structures;
- (e) a capital improvements program setting forth projects required to implement plans which have been prepared and adopted, including an annual listing of priority projects for consideration by the governmental bodies responsible for implementation prior to preparation of their capital budget; and
- (f) policies or procedures to facilitate implementation of planning elements.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-350. Membership; terms of office; compensation; qualifications.

(A) A local planning commission serving not more than two political jurisdictions may not have less than five nor more than twelve members. A local planning commission serving three or more political jurisdictions shall have a membership not greater than four times the number of jurisdictions it serves. In the case of a joint city-county planning commission the membership must be proportional to the population inside and outside the corporate limits of municipalities.

(B) No member of a planning commission may hold an elected public office in the municipality or county from which appointed. Members of the commission first to serve must be appointed for staggered terms as described in the agreement of organization and shall serve until their successors are appointed and qualified. The compensation of the members, if any, must be determined by the governing authority or authorities creating the commission. A vacancy in the membership of a planning commission must be filled for the unexpired term in the same manner as the original appointment. The governing authority or authorities creating the commission may remove any member of the commission for cause.

(C) In the appointment of planning commission members the appointing authority shall consider their professional expertise, knowledge of the community, and concern for the future welfare of the total community and its citizens. Members shall represent a broad cross section of the interests and concerns within the jurisdiction.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-360. Organization of commission; meetings; procedural rules; records; purchases.

(A) A local planning commission shall organize itself electing one of its members as chairman and one as vice-chairman whose terms must be for one year. It shall appoint a secretary who may be an officer or an employee of the governing authority or of the planning commission. The planning commission shall meet at the call of the chairman and at such times as the chairman or commission may determine.

(B) The commission shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The planning commission may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-370. Referral of matters to commission; reports.

The governing authority may provide for the reference of any matters or class of matters to the local planning commission, with the provision that final action on it may not be taken until the planning commission has submitted a report on it or has had a reasonable period of time, as determined by the governing authority to submit a report.

HISTORY: 1994 Act No. 355, Section 1.

<https://www.scstatehouse.gov/code/t06c029.php>

SECTION 6-29-380. Funding of commissions; expenditures; contracts.

A local planning commission may cooperate with, contract with, or accept funds from federal government agencies, state government agencies, local general purpose governments, school districts, special purpose districts, including those of other states, public or eleemosynary agencies, or private individuals or corporations; it may expend the funds; and it may carry out such cooperative undertakings and contracts as it considers necessary.

HISTORY: 1994 Act No. 355, Section 1.

ARTICLE 3**Local Planning - The Comprehensive Planning Process****Editor's Note**

2007 Act No. 31, Section 6, provides as follows:

"All local governments that have adopted a local comprehensive plan in compliance with the provisions of Article 3, Chapter 29, Title 6 of the 1976 Code shall revise their local comprehensive plans to comply with the provisions of this act at the local government's next review of its local comprehensive plan as provided in Section 6-29-510(E) following the effective date of this act."

SECTION 6-29-510. Planning process; elements; comprehensive plan.

(A) The local planning commission shall develop and maintain a planning process which will result in the systematic preparation and continual re-evaluation and updating of those elements considered critical, necessary, and desirable to guide the development and redevelopment of its area of jurisdiction.

(B) Surveys and studies on which planning elements are based must include consideration of potential conflicts with adjacent jurisdictions and regional plans or issues.

(C) The basic planning process for all planning elements must include, but not be limited to:

- (1) inventory of existing conditions;
- (2) a statement of needs and goals; and
- (3) implementation strategies with time frames.

(D) A local comprehensive plan must include, but not be limited to, the following planning elements:

- (1) a population element which considers historic trends and projections, household numbers and sizes, educational levels, and income characteristics;
- (2) an economic development element which considers labor force and labor force characteristics, employment by place of work and residence, and analysis of the economic base;
- (3) a natural resources element which considers coastal resources, slope characteristics, prime agricultural and forest land, plant and animal habitats, parks and recreation areas, scenic views and sites, wetlands, and soil types. Where a separate board exists pursuant to this chapter, this element is the responsibility of the existing board;
- (4) a cultural resources element which considers historic buildings and structures, commercial districts, residential districts, unique, natural, or scenic resources, archaeological, and other cultural resources. Where a separate board exists pursuant to this chapter, this element is the responsibility of the existing board;
- (5) a community facilities element which considers water supply, treatment, and distribution; sewage system and wastewater treatment; solid waste collection and disposal, fire protection, emergency medical services, and general government facilities; education facilities; and libraries and other cultural facilities;
- (6) a housing element which considers location, types, age, and condition of housing, owner and renter occupancy, and affordability of housing. This element includes an analysis to ascertain nonessential housing regulatory requirements, as defined in this chapter, that add to the cost of developing affordable housing but are not necessary to protect the public health, safety, or welfare and an analysis of market-based incentives that may be made available to encourage development of affordable housing, which incentives may include

density bonuses, design flexibility, and streamlined permitting processes;

(7) a land use element which considers existing and future land use by categories, including residential, commercial, industrial, agricultural, forestry, mining, public and quasi-public, recreation, parks, open space, and vacant or undeveloped;

(8) a transportation element that considers transportation facilities, including major road improvements, new road construction, transit projects, pedestrian and bicycle projects, and other elements of a transportation network. This element must be developed in coordination with the land use element, to ensure transportation efficiency for existing and planned development;

(9) a priority investment element that analyzes the likely federal, state, and local funds available for public infrastructure and facilities during the next ten years, and recommends the projects for expenditure of those funds during the next ten years for needed public infrastructure and facilities such as water, sewer, roads, and schools. The recommendation of those projects for public expenditure must be done through coordination with adjacent and relevant jurisdictions and agencies. For the purposes of this item, "adjacent and relevant jurisdictions and agencies" means those counties, municipalities, public service districts, school districts, public and private utilities, transportation agencies, and other public entities that are affected by or have planning authority over the public project. For the purposes of this item, "coordination" means written notification by the local planning commission or its staff to adjacent and relevant jurisdictions and agencies of the proposed projects and the opportunity for adjacent and relevant jurisdictions and agencies to provide comment to the planning commission or its staff concerning the proposed projects. Failure of the planning commission or its staff to identify or notify an adjacent or relevant jurisdiction or agency does not invalidate the local comprehensive plan and does not give rise to a civil cause of action.

(E) All planning elements must be an expression of the planning commission recommendations to the appropriate governing bodies with regard to the wise and efficient use of public funds, the future growth, development, and redevelopment of its area of jurisdiction, and consideration of the fiscal impact on property owners. The planning elements whether done as a package or in separate increments together comprise the comprehensive plan for the jurisdiction at any one point in time. The local planning commission shall review the comprehensive plan or elements of it as often as necessary, but not less than once every five years, to determine whether changes in the amount, kind, or direction of development of the area or other reasons make it desirable to make additions or amendments to the plan. The comprehensive plan, including all elements of it, must be updated at least every ten years.

HISTORY: 1994 Act No. 355, Section 1; 2007 Act No. 31, Section 2, eff May 23, 2007.

Effect of Amendment

The 2007 amendment, in subsection (D), in paragraph (5) deleted "transportation network;" following "considers", in paragraph (6) added the second sentence, added paragraph (8) pertaining to transportation elements, and added paragraph (9) pertaining to priority investment elements analyzing likely federal, state, and local funds available.

SECTION 6-29-520. Advisory committees; notice of meetings; recommendations by resolution; transmittal of recommended plan.

(A) In the preparation or periodic updating of any or all planning elements for the jurisdiction, the planning commission may use advisory committees with membership from both the planning commission or other public involvement mechanisms and other resource people not members of the planning commission. If the local government maintains a list of groups that have registered an interest in being informed of proceedings related to planning, notice of meetings must be mailed to these groups.

(B) Recommendation of the plan or any element, amendment, extension, or addition must be by resolution of the planning commission, carried by the affirmative votes of at least a majority of the entire membership. The resolution must refer expressly to maps and other descriptive matter intended by the planning commission to form the whole or element of the recommended plan and the action taken must be recorded in its official minutes of the planning commission. A copy of the recommended plan or element of it must be transmitted to the appropriate governing authorities and to all other legislative and administrative agencies affected by the plan.

(C) In satisfying the preparation and periodic updating of the required planning elements, the planning commission shall review and consider, and may recommend by reference, plans prepared by other agencies which the planning commission considers to meet the requirements of this article.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-530. Adoption of plan or elements; public hearing.

The local planning commission may recommend to the appropriate governing body and the body may adopt the plan as a whole by a single ordinance or elements of the plan by successive ordinances. The elements shall correspond with the major geographical sections or divisions of the planning area or with functional subdivisions of the subject matter of the comprehensive plan, or both. Before adoption of an element or a plan as a whole, the governing authority shall hold a public hearing on it after not less than thirty days' notice of the time and place of the hearings has been given in a newspaper having general circulation in the jurisdiction.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-540. Review of proposals following adoption of plan; projects in conflict with plan; exemption for utilities.

When the local planning commission has recommended and local governing authority or authorities have adopted the related comprehensive plan element set forth in this chapter, no new street, structure, utility, square, park, or other public way, grounds, or open space or public buildings for any use, whether publicly or privately owned, may be constructed or authorized in the political jurisdiction of the governing authority or authorities establishing the planning commission until the location, character, and extent of it have been submitted to the planning commission for review and comment as to the compatibility of the proposal with the comprehensive plan of the community. In the event the planning commission finds the proposal to be in conflict with the comprehensive plan, the commission shall transmit its findings and the particulars of the nonconformity to the entity proposing the facility. If the entity proposing the facility determines to go forward with the project which conflicts with the comprehensive plan, the governing or policy making body of the entity shall publicly state its intention to proceed and the reasons for the action. A copy of this finding must be sent to the local governing body, the local planning commission, and published as a public notice in a newspaper of general circulation in the community at least thirty days prior to awarding a contract or beginning construction. Telephone, sewer and gas utilities, or electric suppliers, utilities and providers, whether publicly or privately owned, whose plans have been approved by the local governing body or a state or federal regulatory agency, or electric suppliers, utilities and providers who are acting in accordance with a legislatively delegated right pursuant to Chapter 27 or 31 of Title 58 or Chapter 49 of Title 33 are exempt from this provision. These utilities must submit construction information to the appropriate local planning commission.

HISTORY: 1994 Act No. 355, Section 1.

ARTICLE 5**Local Planning - Zoning****SECTION 6-29-710.** Zoning ordinances; purposes.

(A) Zoning ordinances must be for the general purposes of guiding development in accordance with existing and future needs and promoting the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare. To these ends, zoning ordinances must be made with reasonable consideration of the following purposes, where applicable:

- (1) to provide for adequate light, air, and open space;
- (2) to prevent the overcrowding of land, to avoid undue concentration of population, and to lessen congestion in the streets;
- (3) to facilitate the creation of a convenient, attractive, and harmonious community;
- (4) to protect and preserve scenic, historic, or ecologically sensitive areas;
- (5) to regulate the density and distribution of populations and the uses of buildings, structures and land for trade, industry, residence, recreation, agriculture, forestry, conservation, airports and approaches thereto, water supply, sanitation, protection against floods, public activities, and other purposes;
- (6) to facilitate the adequate provision or availability of transportation, police and fire protection, water, sewage, schools, parks, and other recreational facilities, affordable housing, disaster evacuation, and other public services and requirements. "Other public requirements" which the local governing body intends to address by a particular ordinance or action must be specified in the preamble or some other part of the ordinance or action;
- (7) to secure safety from fire, flood, and other dangers; and
- (8) to further the public welfare in any other regard specified by a local governing body.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-715. Church-related activities; zoning ordinances for single family residences.

(A) For purposes of this section, "church-related activities" does not include regularly scheduled worship services.

(B) Notwithstanding any other provision of law, no zoning ordinance of a municipality or county may prohibit church-related activities in a single-family residence.

HISTORY: 1998 Act No. 276, Section 2.

SECTION 6-29-720. Zoning districts; matters regulated; uniformity; zoning techniques.

<https://www.scstatehouse.gov/code/t06c029.php>

(A) When the local planning commission has prepared and recommended and the governing body has adopted at least the land use element of the comprehensive plan as set forth in this chapter, the governing body of a municipality or county may adopt a zoning ordinance to help implement the comprehensive plan. The zoning ordinance shall create zoning districts of such number, shape, and size as the governing authority determines to be best suited to carry out the purposes of this chapter. Within each district the governing body may regulate:

- (1) the use of buildings, structures, and land;
- (2) the size, location, height, bulk, orientation, number of stories, erection, construction, reconstruction, alteration, demolition, or removal in whole or in part of buildings and other structures, including signage;
- (3) the density of development, use, or occupancy of buildings, structures, or land;
- (4) the areas and dimensions of land, water, and air space to be occupied by buildings and structures, and the size of yards, courts, and other open spaces;
- (5) the amount of off-street parking and loading that must be provided, and restrictions or requirements related to the entry or use of motor vehicles on the land;
- (6) other aspects of the site plan including, but not limited to, tree preservation, landscaping, buffers, lighting, and curb cuts; and
- (7) other aspects of the development and use of land or structures necessary to accomplish the purposes set forth throughout this chapter.

(B) The regulations must be made in accordance with the comprehensive plan for the jurisdiction, and be made with a view to promoting the purposes set forth throughout this chapter. Except as provided in this chapter, all of these regulations must be uniform for each class or kind of building, structure, or use throughout each district, but the regulations in one district may differ from those in other districts.

(C) The zoning ordinance may utilize the following or any other zoning and planning techniques for implementation of the goals specified above. Failure to specify a particular technique does not cause use of that technique to be viewed as beyond the power of the local government choosing to use it:

- (1) "cluster development" or the grouping of residential, commercial, or industrial uses within a subdivision or development site, permitting a reduction in the otherwise applicable lot size, while preserving substantial open space on the remainder of the parcel;
- (2) "floating zone" or a zone which is described in the text of a zoning ordinance but is unmapped. A property owner may petition for the zone to be applied to a particular parcel meeting the minimum zoning district area requirements of the zoning ordinance through legislative action;
- (3) "performance zoning" or zoning which specifies a minimum requirement or maximum limit on the effects of a land use rather than, or in addition to, specifying the use itself, simultaneously assuring compatibility with surrounding development and increasing a developer's flexibility;
- (4) "planned development district" or a development 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;
- (5) "overlay zone" or a zone which imposes a set of requirements or relaxes a set of requirements imposed by the underlying zoning district when there is a special public interest in a particular geographic area that does not coincide with the underlying zone boundaries;
- (6) "conditional uses" or zoning ordinance provisions that impose conditions, restrictions, or limitations on a permitted use that are in addition to the restrictions applicable to all land in the zoning district. The conditions, restrictions, or limitations must be set forth in the text of the zoning ordinance; and
- (7) "priority investment zone" in which the governing authority adopts market-based incentives or relaxes or eliminates nonessential housing regulatory requirements, as these terms are defined in this chapter, to encourage private development in the priority investment zone. The governing authority also may provide that traditional neighborhood design and affordable housing, as these terms are defined in this chapter, must be permitted within the priority investment zone.

HISTORY: 1994 Act No. 355, Section 1; 2007 Act No. 31, Section 3, eff May 23, 2007.

Effect of Amendment

The 2007 amendment added paragraph (C)(7) relating to "priority investment zone".

SECTION 6-29-730. Nonconformities.

The regulations may provide that land, buildings, and structures and the uses of them which are lawful at the time of the enactment or amendment of zoning regulations may be continued although not in conformity with the regulations or amendments, which is called a nonconformity. The governing authority of a municipality or county may provide in the zoning ordinance or resolution for the continuance, restoration, reconstruction, extension, or substitution of nonconformities. The governing authority also may provide for the termination of a nonconformity by specifying the period or periods in which the nonconformity is required to cease or be brought into conformance, or by providing a formula where the compulsory termination of nonconformities may be so fixed as to allow for the recovery or amortization of the investment in the nonconformity.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-740. Planned development districts.

In order to achieve the objectives of the comprehensive plan of the locality and to allow flexibility in development that will result in improved design, character, and quality of new mixed use developments and preserve natural and scenic features of open spaces, the local governing authority may provide for the establishment of planned development districts as amendments to a locally adopted zoning ordinance and official zoning map. The adopted planned development map is the zoning district map for the property. The planned development provisions must encourage innovative site planning for residential, commercial, institutional, and industrial developments within planned development districts. Planned development districts may provide for variations from other ordinances and the regulations of other established zoning districts concerning use, setbacks, lot size, density, bulk, and other requirements to accommodate flexibility in the arrangement of uses for the general purpose of promoting and protecting the public health, safety, and general welfare. Amendments to a planned development district may be authorized by ordinance of the governing authority after recommendation from the planning commission. These amendments constitute zoning ordinance amendments and must follow prescribed procedures for the amendments. The adopted plan may include a method for minor modifications to the site plan or development provisions.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-750. Special development district parking facility plan; dedication.

In accordance with a special development district parking facility plan and program, which includes guidelines for preferred parking locations and indicates prohibited parking areas, the planning commission may recommend and the local governing body may adopt regulations which permit the reduction or waiver of parking requirements within the district in return for cash contributions or dedications of land earmarked for provision of public parking or public transit which may not be used for any other purpose. The cash contributions or the value of the land may not exceed the approximate cost to build the required spaces or provide the public transit that would have incurred had not the reduction or waiver been granted.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-760. Procedure for enactment or amendment of zoning regulation or map; notice and rights of landowners; time limit on challenges.

(A) Before enacting or amending any zoning regulations or maps, the governing authority or the planning commission, if authorized by the governing authority, shall hold a public hearing on it, which must be advertised and conducted according to lawfully prescribed procedures. If no established procedures exist, then at least fifteen days' notice of the time and place of the public hearing must be given in a newspaper of general circulation in the municipality or county. In cases involving rezoning, conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. If the local government maintains a list of groups that have expressed an interest in being informed of zoning proceedings, notice of such meetings must be mailed to these groups. No change in or departure from the text or maps as recommended by the local planning commission may be made pursuant to the hearing unless the change or departure be first submitted to the planning commission for review and recommendation. The planning commission shall have a time prescribed in the ordinance which may not be more than thirty days within which to submit its report and recommendation on the change to the governing authority. If the planning commission fails to submit a report within the prescribed time period, it is deemed to have approved the change or departure. When the required public hearing is held by the planning commission, no public hearing by the governing authority is required before amending the zoning ordinance text or maps.

(B) If a landowner whose land is the subject of a proposed amendment will be allowed to present oral or written comments to the planning commission, at least ten days' notice and an opportunity to comment in the same manner must be given to other interested members of the public, including owners of adjoining property.

(C) An owner of adjoining land or his representative has standing to bring an action contesting the ordinance or amendment; however, this subsection does not create any new substantive right in any party.

under authority of this chapter govern. When the provisions of another statute require more restrictive standards than are required by the regulations made under authority of this chapter, the provisions of that statute govern.

HISTORY: 1994 Act No. 355, Section 1.

ARTICLE 7

Local Planning - Land Development Regulation

SECTION 6-29-1110. Definitions.

As used in this chapter:

(1) "Affordable housing" means in the case of dwelling units for sale, housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than twenty-eight percent of the annual household income for a household earning no more than eighty percent of the area median income, by household size, for the metropolitan statistical area as published from time to time by the U.S. Department of Housing and Community Development (HUD) and, in the case of dwelling units for rent, housing for which the rent and utilities constitute no more than thirty percent of the annual household income for a household earning no more than eighty percent of the area median income, by household size for the metropolitan statistical area as published from time to time by HUD.

(2) "Land development" means the changing of land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, and similar developments for sale, lease, or any combination of owner and rental characteristics.

(3) "Market-based incentives" mean incentives that encourage private developers to meet the governing authority's goals as developed in this chapter. Incentives may include, but are not limited to:

(a) density bonuses, allowing developers to build at a density higher than residential zones typically permit, and greater density bonuses, allowing developers to build at a density higher than residential affordable units in development, or allowing developers to purchase density by paying into a local housing trust fund;

(b) relaxed zoning regulations including, but not limited to, minimum lot area requirements, limitations of multifamily dwellings, minimum setbacks, yard requirements, variances, reduced parking requirements, and modified street standards;

(c) reduced or waived fees including those fees levied on new development projects where affordable housing is addressed, reimburse permit fees to builder upon certification that dwelling unit is affordable and waive up to one hundred percent of sewer/water tap-in fees for affordable housing units;

(d) fast-track permitting including, but not limited to, streamlining the permitting process for new development projects and expediting affordable housing developments to help reduce cost and time delays;

(e) design flexibility allowing for greater design flexibility, creating preapproved design standards to allow for quick and easy approval, and promoting infill development, mixed use and accessory dwellings.

(4) "Subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, and includes all division of land involving a new street or change in existing streets, and includes re-subdivision which would involve the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or, the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, and includes combinations of lots of record; however, the following exceptions are included within this definition only for the purpose of requiring that the local planning agency be informed and have a record of the subdivisions:

(a) the combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the governing authority;

(b) the division of land into parcels of five acres or more where no new street is involved and plats of these exceptions must be received as information by the planning agency which shall indicate that fact on the plats; and

(c) the combination or recombination of entire lots of record where no new street or change in existing streets is involved.

(5) "Traditional neighborhood design" means development designs intended to enhance the appearance and functionality of the new development so that it functions like a traditional neighborhood or town. These designs make possible reasonably high residential densities, a mixture of residential and commercial land uses, a range of single and multifamily housing types, and street connectivity

both within the new development and to surrounding roadways, pedestrian, and bicycle features.

(6) "Nonessential housing regulatory requirements" mean those development standards and procedures that are determined by the local governing body to be not essential within a specific priority investment zone to protect the public health, safety, or welfare and that may otherwise make a proposed housing development economically infeasible. Nonessential housing regulatory requirements may include, but are not limited to:

(a) standards or requirements for minimum lot size, building size, building setbacks, spacing between buildings, impervious surfaces, open space, landscaping, buffering, reforestation, road width, pavements, parking, sidewalks, paved paths, culverts and storm water drainage, and sizing of water and sewer lines that are excessive; and

(b) application and review procedures that require or result in extensive submittals and lengthy review periods.

HISTORY: 1994 Act No. 355, Section 1; 2007 Act No. 31, Section 4, eff May 23, 2007.

Effect of Amendment

The 2007 amendment added item (1) defining "Affordable housing", item (3) defining "Market-based incentives" and item (5) defining "Traditional neighborhood design" and redesignated item (1), "Land development", as item (2) and item (2), "Subdivision", as item (4).

SECTION 6-29-1120. Legislative intent; purposes.

The public health, safety, economy, good order, appearance, convenience, morals, and general welfare require the harmonious, orderly, and progressive development of land within the municipalities and counties of the State. In furtherance of this general intent, the regulation of land development by municipalities, counties, or consolidated political subdivisions is authorized for the following purposes, among others:

(1) to encourage the development of economically sound and stable municipalities and counties;

(2) to assure the timely provision of required streets, utilities, and other facilities and services to new land developments;

(3) to assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments;

(4) to assure the provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational, transportation, and other public purposes; and

(5) to assure, in general, the wise and timely development of new areas, and redevelopment of previously developed areas in harmony with the comprehensive plans of municipalities and counties.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1130. Regulations.

(A) When at least the community facilities element, the housing element, and the priority investment element of the comprehensive plan as authorized by this chapter have been adopted by the local planning commission and the local governing body or bodies, the local planning commission may prepare and recommend to the governing body or bodies for adoption regulations governing the development of land within the jurisdiction. These regulations may provide for the harmonious development of the municipality and the county; for coordination of streets within subdivision and other types of land developments with other existing or planned streets or official map streets; for the size of blocks and lots; for the dedication or reservation of land for streets, school sites, and recreation areas and of easements for utilities and other public services and facilities; and for the distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, appearance, prosperity, or the general welfare. In particular, the regulations shall prescribe that no land development plan, including subdivision plats, will be approved unless all land intended for use as building sites can be used safely for building purposes, without danger from flood or other inundation or from other menaces to health, safety, or public welfare.

(B) These regulations may include requirements as to the extent to which and the manner in which streets must be graded, surfaced, and improved, and water, sewers, septic tanks, and other utility mains, piping, connections, or other facilities must be installed as a condition precedent to the approval of the plan. The governing authority of the municipality and the governing authority of the county are given the power to adopt and to amend the land development regulations after a public hearing on it, giving at least thirty days' notice of the time and place by publication in a newspaper of general circulation in the municipality or county.

HISTORY: 1994 Act No. 355, Section 1; 2007 Act No. 31, Section 5, eff May 23, 2007.

Effect of Amendment

The 2007 amendment, in subsection (A) in the first sentence added ", the housing element, and the priority investment element" and substituted "have" for "has".

SECTION 6-29-1140. Development plan to comply with regulations; submission of unapproved plan for recording is a misdemeanor.

After the local governing authority has adopted land development regulations, no subdivision plat or other land development plan within the jurisdiction of the regulations may be filed or recorded in the office of the county where deeds are required to be recorded, and no building permit may be issued until the plat or plan bears the stamp of approval and is properly signed by the designated authority. The submission for filing or the recording of a subdivision plat or other land development plan without proper approval as required by this chapter is declared a misdemeanor and, upon conviction, is punishable as provided by law.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1145. Determining existence of restrictive covenant; effect.

(A) In an application for a permit, the local planning agency must inquire in the application or by written instructions to an applicant whether the tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity.

(B) If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity:

- (1) in the application for the permit;
- (2) from materials or information submitted by the person or persons requesting the permit; or
- (3) from any other source including, but not limited to, other property holders, the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.

(C) As used in this section:

- (1) "actual notice" is not constructive notice of documents filed in local offices concerning the property, and does not require the local planning agency to conduct searches in any records offices for filed restrictive covenants;
- (2) "permit" does not mean an authorization to build or place a structure on a tract or parcel of land; and
- (3) "restrictive covenant" does not mean a restriction concerning a type of structure that may be built or placed on a tract or parcel of land.

HISTORY: 2007 Act No. 45, Section 3, eff June 4, 2007, applicable to applications for permits filed on and after July 1, 2007; 2007 Act No. 113, Section 2, eff June 27, 2007.

Effect of Amendment

The 2007 amendment, in subsection (A), substituted "in the application or by written instructions to an applicant whether" for "if", rewrote subsection (B); and in subsection (C), added paragraph (1) defining "actual notice" and redesignated paragraphs (1) and (2) as paragraphs (2) and (3).

SECTION 6-29-1150. Submission of plan or plat to planning commission; record; appeal.

(A) The land development regulations adopted by the governing authority must include a specific procedure for the submission and approval or disapproval by the planning commission or designated staff. These procedures may include requirements for submission of sketch plans, preliminary plans, and final plans for review and approval or disapproval. Time limits, not to exceed sixty days, must be set forth for action on plans or plats, or both, submitted for approval or disapproval. Failure of the designated authority to act within sixty days of the receipt of development plans or subdivision plats with all documentation required by the land development regulations is considered to constitute approval, and the developer must be issued a letter of approval and authorization to proceed based on the plans or plats and supporting documentation presented. The sixty-day time limit may be extended by mutual agreement.

(B) A record of all actions on all land development plans and subdivision plats with the grounds for approval or disapproval and any conditions attached to the action must be maintained as a public record. In addition, the developer must be notified in writing of the actions taken.

(C) Staff action, if authorized, to approve or disapprove a land development plan may be appealed to the planning commission by any party in interest. The planning commission must act on the appeal within sixty days, and the action of the planning commission is final.

(D)(1) An appeal from the decision of the planning commission must be taken to the circuit court within thirty days after actual notice of the decision.

(2) A property owner whose land is the subject of a decision of the planning commission may appeal by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-1155.

A notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is mailed.

(3) Any filing of an appeal from a particular planning commission decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to Section 8-21-310(11)(a).

(4) When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the nonjury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the planning commission, such as, but not limited to, a determination of the amount of damages due for an unconstitutional taking.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 12, eff June 2, 2003.

Effect of Amendment

The 2003 amendment substituted "considered" for "deemed" in subsection (A), made nonsubstantive changes in subsection (C), added subsections (D)(2), (D)(3), and (D)(4), redesignated subsection (D) as (D)(1), and in newly designated (D)(1) substituted "must" for "may" and inserted "the" preceding "circuit court".

SECTION 6-29-1155. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

(A) If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted, and the mediation must be conducted in accordance with South Carolina Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the planning commission.

(B) The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (A) or his representative must be notified and have the opportunity to attend the mediation. The governmental entity must be represented by at least one person for purposes of mediation.

(C) Within five working days of a successful mediation, the mediator must provide the parties with a signed copy of the written mediation agreement.

(D) Before the terms of a mediation settlement may take effect, the mediation settlement must be approved by:

(1) the local legislative governing body in public session; and

(2) the circuit court as provided in subsection (G).

(E) Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.

(F) If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the circuit court within thirty days of:

(1) the report of an impasse as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or

(2) the failure to approve the settlement by the local governing body.

(G) The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved by the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:

CHAPTER 156: ZONING CODE

GENERAL PROVISIONS

§ 156.001 SHORT TITLE.

This chapter shall be known and may be cited as the Zoning Code of the town. The map referred to herein shall be known and may be cited as the Zoning Map of the town. Map copies are available from the office of the Zoning Administrator, at a price to be determined by the Zoning Administrator, with Town Council approval, as adequate to pay for reproduction costs.

('81 Code, § 155.11) (Ord. passed 8-13-79; Am. Ord. 02024, passed 6-11-02; Am. Ord. 14047, passed 8-12-14)

§ 156.002 AUTHORITY.

This chapter is adopted pursuant to the authority conferred by the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, as amended.

('81 Code, § 155.01) (Ord. passed 8-13-79; Am. Ord. 99012, passed 4-21-99; Am. Ord. 02024, passed 6-11-02; Am. Ord. 14047, passed 8-12-14)

§ 156.003 IMPLEMENTATION OF COMPREHENSIVE PLAN.

This chapter is based, in part, on, and designed to implement, the Comprehensive Plan of the town, as amended from time to time. The Comprehensive Plan is the result of careful consideration of existing and projected conditions in the community. It is designed to help ensure efficient, equitable, and reasoned land use decisions, and is to be used as a guide to the amendment process.

('81 Code, § 155.02) (Ord. passed 8-13-79; Am. Ord. 99012, passed 4-21-99; Am. Ord. 02024, passed 6-11-02; Am. Ord. 14047, passed 8-12-14; Am. Ord. 18016, passed 6-14-18)

§ 156.004 PURPOSE; MINIMUM REQUIREMENTS.

(A) This chapter is enacted to regulate the location, bulk, number of stories, and sizes of buildings and other structures, the percentage of lots which may be occupied, the sizes of yards, courts, and other open spaces, the density and distribution of populations, and the uses of buildings, structures, and land for trade, industry, residence, recreation, conservation, protection against floods, public activities, and other purposes; to create districts for these purposes; to provide the method of administration, amendment, and appeal; to create and define the duties of the Planning Commission with respect to these regulations; to provide for the imposition of penalties for violations of these regulations; to establish a means by which conflicting regulations can be repealed; and for other purposes.

(B) In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements adopted for the promotion of the public health, safety, and welfare. The zoning regulations in districts as herein established have been made in accordance

PL EX 3

with the Town Comprehensive Plan for the above purposes. These zoning regulations have been designed, among other things:

- (1) To encourage such distribution of population and such classification of land uses and distribution of land development and utilization as would tend to facilitate economic and adequate provisions for transportation, communications, roads, airports, water supply drainage, sanitation, education, recreation, or other public requirements;
- (2) To lessen congestion on streets;
- (3) To secure safety from fire, panic, and other dangers;
- (4) To provide adequate light and air;
- (5) To foster the state's agricultural and other industries;
- (6) To protect the food supply;
- (7) To guide the development of the town in accordance with the existing and future needs;
- (8) To prevent the overcrowding of land and the undue concentration of population;
- (9) To protect the scenic areas; and preserve historic sites;
- (10) To promote desirable living conditions and the sustained stability of neighborhoods;
- (11) To protect property against blight and depreciation;
- (12) To secure economy in government expenditures;
- (13) To conserve the value of land and buildings;
- (14) To encourage the most appropriate use of land and structures; and
- (15) To conserve natural resources.

('81 Code, §§ 155.03 and 155.12) (Ord. passed 8-13-79; Am. Ord. 02024, passed 6-11-02; Am. Ord. 14047, passed 8-12-14)

§ 156.005 JURISDICTION.

The regulations set forth herein shall apply to all land and improvements within the corporate limits of the town, including any land and improvements hereafter annexed to the town.

('81 Code, § 155.10) (Ord. passed 8-13-79; Am. Ord. 02024, passed 6-11-02; Am. Ord. 14047, passed 8-12-14)

§ 156.006 RULES OF INTERPRETATION.

Where uncertainty exists, the following rules of interpretation shall apply:

- (A) Words used in the present tense include the future tense.
- (B) The singular number includes the plural, and the plural number includes the singular.

(C) The word **PERSON** includes a corporation, firm, company, partnership, association, organization, or public or private authority, as well as an individual.

(D) The term **SHALL** is always mandatory, and the word **MAY** is permissive.

§ 156.008 INTERPRETATION; GREATER RESTRICTIONS.

(A) In interpreting and applying the provisions of this chapter, the provisions shall be held to be minimum requirements necessary to uphold the purpose of this chapter.

(B) It is not intended by this chapter to interfere with, or abrogate or annul, any easements, covenants, or other agreements between parties; provided, however, where this chapter imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires more open space than required by other resolutions, ordinances, rules, or regulations, or by easements, covenants, or agreements, the provisions of this chapter shall govern.

(C) When the provisions of any other statute require more restrictive standards than are required by the regulations of this chapter, the provisions of such statute shall govern.

('81 Code, § 155.140) (Ord. passed 8-13-79; Am. Ord. 02024, passed 6-11-02; Am. Ord. 14047, passed 8-12-14)

§ 156.031 AMENDMENTS OR CHANGES TO THE ZONING REGULATIONS OR MAP.

(A) *Authority.* Town Council, from time to time, may amend, supplement, or change by ordinance the boundaries of the zoning districts or the use district classifications of individual properties on the Official Zoning Map, or the text of the regulations herein established.

(B) *General procedures.*

(1) Any request to amend, change, or supplement the Zoning Regulations shall first be submitted to the Office of the Zoning Administrator not less than 28 days prior to the meeting at which it is to be considered by the Planning Commission; provided, however, that if such amendment, change or supplementation involves the text or map of a development agreement proposed or adopted pursuant to the provisions of Chapter 157, the submittal deadline shall be 56 days prior to the Planning Commission meeting at which it will be considered.

(2) The Zoning Administrator shall check the application and submit it to the Planning Commission following public hearing notice and posting of the property in the case of a zoning or rezoning request, for consideration at the first regularly scheduled meeting at which the matter may be heard.

(3) Only one application for an amendment, supplement or change pertaining to the same subject matter of the text of the regulations or for the same property in the case of a map amendment may be considered at a time.

(4) An impact assessment shall be required with any application to change or amend the Zoning Regulations, if the proposed development plan is not in compliance with the future land use recommendation of the Comprehensive Plan and meets the conditions of large scale projects as stated in § 156.054; provided however, that:

(a) Requests for zoning of property proposed for annexation or rezoning requests for property located within the municipal limits that are in compliance with the future land use recommendation of the Comprehensive Plan, and for which no specific development plan is contemplated, do not require submittal for impact assessment approval in conjunction with the zoning/rezoning request; or

(b) If a specific development plan is contemplated that will require impact assessment approval, the impact assessment may be submitted in conjunction with the zoning/rezoning request and will be considered in conjunction with such request.

(5) Upon receipt of the application, the Commission shall hold a public hearing, and from the closing date of the public hearing shall have 30 days in which to submit a report and recommendation on the matter to Town Council. Additionally, no public hearings by the Commission shall be extended for more than a period of 30 days: once public hearings begin, they must be closed no later than 30 days from the commencement date.

(6) If the Commission fails to submit the referenced report and recommendation to Town Council within the required 30 days, it shall be deemed to have approved the request.

(C) *Commission report.* The Commission shall prepare its report and recommendations on the proposed change, stating its findings and its evaluation of the request. In making its report, the Commission shall consider the following factors:

- (1) The relationship of the request to the Comprehensive Plan;
- (2) Whether the request violates or supports the Comprehensive Plan;
- (3) Whether the uses permitted by the proposed change would be appropriate in the area concerned;
- (4) Whether adequate public school facilities, roads, and other public services exist or can be provided to serve the needs of the development likely to take place as a result of such change, and the consequences of such change;
- (5) Whether the proposed change is in accordance with any existing or proposed plans for providing public water supply and sanitary sewers to the area;
- (6) The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the town, and any special circumstances that may make a substantial part of such vacant land unavailable for development;
- (7) Whether the proposed change is consistent with the land development regulations of town.

(D) *Declaration of policy.* As a matter of policy no request to change the text of the Zoning Regulations or the map shall be acted upon favorably, except:

- (1) Where necessary to implement the Comprehensive Plan; or
- (2) To correct an original mistake, a manifest error in the regulations or map; or
- (3) To recognize substantial change or changing conditions or circumstances in a particular locality; or
- (4) To recognize changes in technology, the style of living, or manner of doing business.

(E) *Procedures regarding public hearing and notice.*

- (1) Withdrawal of an amendment application by the applicant or owner prior to the advertisement for its public hearing or posting of the property shall be considered as a termination of the application.
- (2) Resubmission of applications shall be processed as a new application with prescribed fees and all other requirements met.
- (3) Postponement requests and/or withdrawals of amendment applications that occur between the time of published advertisement of the public hearing or posting of the property and the public hearing proceedings shall be treated as a request denial.
- (4) Reapplication shall be subject to a one- year waiting period, unless granted a waiver by Council, as prescribed elsewhere in this section.

(5) In either case amendment processing shall terminate upon receipt of written notice from the applicant or owner.

(F) *Action by Council.*

(1) Following the recommendation of the Planning Commission, the Council shall rule on the request, and direct the Zoning Administrator and applicant accordingly.

(a) If the Town Council feels that the circumstances of the case warrant a public hearing, then they may vote to hold one.

(b) Council may defer the matter for further consideration or remand the matter back to its Planning Committee or Planning Commission for further study and recommendation.

(2) If the ruling is negative, the same request may not be initiated on the same parcel or any part thereof for a period of 12 months, irrespective of change(s) in ownership;

(a) Provided, however, after receipt of written petition by the property owner stating how conditions have changed substantially in the community since prior consideration of the petitioner's proposal so as to justify another review, Council may, on a case- by-case basis, waive the waiting period requirements by a vote of a majority of members present and voting in favor, and direct the staff in writing to process the application.

(b) Denial of the petition shall be final, and the one-year waiting period shall be met before further consideration of a change in land classification.

(c) Resubmission of amendment applications shall be processed as a new application with prescribed fees.

(3) After a period of six months, if readings of the zoning request are not finalized, the request becomes null and void, rescinding any Town Council action on the request.

(4) Any further Council action on the same request that has been denied or expires requires a public hearing by the Planning Commission before Town Council acts upon subsequent readings of the amending ordinance.

('81 Code, § 155.25) (Ord. passed 8-13-79; Am. Ord. passed 11-17-92; Am. Ord. 96022, passed 5-14-96; Am. Ord. 99012, passed 4-21-99; Am. Ord. 02024, passed 6-11-02; Am. Ord. 07062, passed 11-13-07; Am. Ord. 09055, passed 8-12-09; Am. Ord. 10071, passed 12-14-10; Am. Ord. 14047, passed 8-12-14; Am. Ord. 15042, passed 6-9-15)

CHAPTER 155: LAND DEVELOPMENT REGULATIONS

§ 155.087 AMENDMENTS TO LAND USE REGULATIONS.

(A) Amendments to these regulations shall be proposed by the Planning Commission or shall be submitted for approval, disapproval, or suggestion of the Commission before being enacted.

(B) The Town Council may adopt amendments to these regulations, as provided in State Code.

(C) No amendment, failing of passage at its final proposal, shall be resubmitted within one calendar year.

('81 Code, § 154.72) (Ord. passed 6-9-92; Am. Ord. 00063, passed 1-9-01; Am. Ord. 02045, passed 7-9-02)

**PUBLIC HEARING
TOWN OF MOUNT PLEASANT
PLANNING COMMISSION**



NOTICE OF AUGUST 24, 2016,

SPECIAL MEETING AND PUBLIC HEARING

PUBLISHED AUGUST 9, 2016

CHARLESTON POST and COURIER

The Planning Commission will hold a special meeting at 3pm on Wednesday, August 24, 2016, Council Chambers, Mount Pleasant Municipal Complex, 100 Ann Edwards Lane, to consider public hearing items #1 and #2 listed below. The remaining public hearing items will be considered at the regularly scheduled August meeting of the Planning Commission, which will be held at 3pm on Wednesday, August 24, 2016, Council Chambers, Mount Pleasant Municipal Complex, 100 Ann Edwards Lane. Documents relating to the items are available for public inspection at the office of the Department of Planning & Development (temporarily located at 1355 Seawynne Street Parkway) during normal business hours from 8:00 AM to 4:30 PM.

1. Proposal to amend Zoning Code Section 156.201 (3) by adding a new division, (g) providing that the quantity of landscape plantings on properties adjacent to areas where existing vegetation may be present and will not be removed in the future shall be determined during the Design Review Process.
2. Proposal to amend Zoning Code Sections 156.067, 156.049, 156.254, 156.224, 156.305, 156.318, and 156.378 by adding new definitions: adding requirements pertaining to a new Preliminary Staff Review requirement for Sketch Plans, Preliminary Plans, Impact Assessments, and Planned Development Districts; and other modifications as needed for consistency with the aforementioned amendments. Town Council will hold the required public hearing for the associated modifications to the Land Development Regulations.
3. Request to rezone from R-1, Low Density Residential District, to R-2, Low Density Residential District, an approximately 1.06 acre parcel of land located on Rifle Range Road near its intersection with Weeping Host, identified by TMS No. 559-00-00-017, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book 7, Page 136.
4. Request to amend the Dunes West PD, Planned Development District Ordinance by rezoning from DWM-ME, Dunes West Multi-Family District, and DWM-OP, Dunes West Office Professional District, to DWM-C, Dunes West Commercial District, an approximately 1.02 acre parcel located at 3601 Satterbeck Street, identified by TMS No. 568-00-00-0571, known as Park West Parcel 3A-3, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book 461, Page 8057.
5. Request to rezone from R-1, Low Density Residential District, to P-1, Public Institutional-1 District, an approximately 0.16 acre parcel of land located on Whipple Road near its intersection with Martin Perry Road, identified by TMS No. 558-00-00-005, known as the Town of Mount Pleasant Baseball Field, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book 112, Page 0094.
6. Request to amend and zone P-1, Public Institutional-1 District, an approximately 2.55 acre parcel of land located at 1536 Martin Perry Road, identified by TMS No. 555-00-00-083, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book 112, Page 0064. Also, request to rezone from R-1, Low Density Residential District, to P-1, Public Institutional-1 District, an approximately 45.62 acre tract of land comprised of three parcels described as follows: (i) an approximately 35.32 acre parcel located at 1569 Martin Perry Road, identified by TMS No. 559-00-00-081, known as the former Mondo High School, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book 1, Page 0153; (ii) an approximately 5.0 acre parcel located at 946 Whipple Road, identified by TMS No. 558-00-00-176, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book 40, Page 0271; and (iii) an approximately 5.3 acre parcel located at 950 Whipple Road, identified by TMS No. 558-00-00-182, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book 40, Page 0280. Also, request to amend the Building Height Plan Map to allow up to 55 feet in building height for TMS Nos. 559-00-00-081, 559-00-00-176, and 558-00-00-182, as described above.
7. Request to rezone from First Baptist Church North PD-MU-SR, Planned Development—Mixed Use Suburban—Retail, to P-1, Public Institutional-1 District, and AB, Ardenwide Business District, an approximately 18.75 acre parcel of land located at the intersection of George Browder Boulevard and U.S. Highway 17N, identified by TMS No. 538-00-00-007, known as The Church at Lighthouse, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book 115, Page 0286. The portion of the parcel closest to U.S. Highway 17N is proposed to be zoned AB, while the portion of the parcel where the church is located is proposed to be zoned P-1.
8. Request to amend and zone CL, Cultural Landscape District, an approximately 209.651 acre tract of land comprised of two parcels of land described as follows: (i) an approximately 207.66 acre parcel located on North Palmetto Fort Drive and North Lakeshore Drive, identified by TMS No. 577-00-00-007, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book 0, Page 155; and (ii) an approximately 1.991 acre parcel of land located on Rifle Range Road near its intersection with Tarrington Lane, identified by TMS No. 577-00-00-315, and depicted as Lot A on a plat recorded by the Charleston County RMC Office in Plat Book 116, Page 0201. Also, request for approval of Impact Assessment & Conceptual Plan.
9. Request to rezone from R-1, Low Density Residential District, to R-2, Low Density Residential District, an approximately 0.27 acre parcel of land located at 804 Royal Avenue, identified by TMS No. 532-00-00-181, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book AR, Page 022. Subject property proposed to remain in the SR2-OD, Special R-7 Overlay District.
10. Proposal to amend the First Baptist Church North Campus PD, Planned Development District Ordinance Nos. 07047 and 12067, providing for the installation of a force main sewer line in the natural roadside bufferlands and mitigation for the same.
11. Proposal to amend the Backland Plantation PD, Planned Development District Ordinance Nos. 04514 and 30033, providing for the installation of a force main sewer line in the natural roadside bufferlands and mitigation for the same.

PL EX 4

PUBLIC HEARING **TOWN OF MOUNT PLEASANT** **PLANNING COMMISSION**



The Planning Commission will hold a special meeting at 3pm on Wednesday, August 24, 2016, Council Chambers, Mount Pleasant Municipal Complex, 100 Ann Edwards Lane, to consider public hearing items #1 and #2 listed below. The remaining public hearing items will be considered at the regularly scheduled August meeting of the Planning Commission, which will be held at 5pm on Wednesday, August 24, 2016, Council Chambers, Mount Pleasant Municipal Complex, 100 Ann Edwards Lane. Documents relating to the same are available for public inspection at the office of the Department of Planning & Development (temporarily located at 1355 Sweetgrass Basket Parkway) during normal business hours from 8:00 AM to 4:30 PM.

1. Proposal to amend Zoning Code Section 156.201 (2) by adding a new divisor, (6) providing that the quantity of butterfly plantings on properties adjacent to areas where existing vegetation may be present and will not be removed in the future shall be determined during the Design Review Process.
2. Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319 by adding new definitions: adding requirements pertaining to a new Preliminary Staff Review requirement for Sketch Plans, Preliminary Plans, Impact Assessments, and Planned Development Districts; and other modifications as needed for consistency with the aforementioned amendments. Town Council will hold the required public hearing for the associated modifications to the Land Development Regulations.
3. Request to rezone from R-1, Low Density Residential District, to R-2, Low Density Residential District, an approximately 1.06 acre parcel of land located on Rifle Range Road near its intersection with Vernalis Road, identified by TMS No. 559-00-00-017, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book T, Page 132.
4. Request to amend the Dunes West PD, Planned Development District Ordinance by rezoning from DW-MF, Dunes West Multi-Family District, and DW-OP, Dunes West Office Professional District, to DW-C, Dunes West Commercial District, an approximately 1.02 acre parcel located at 3501 Satterbeck Street, identified by TMS No. 588-00-00-0971, known as Park West Parcel 3A-J, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book MBT, Page 8067.
5. Request to rezone from R-1, Low Density Residential District, to P-1, Public Institutional-1 District, an approximately 6.16 acre parcel of land located on Whipple Road near its intersection with Mathis Ferry Road, identified by TMS No. 559-00-00-095, known as the Town of Mount Pleasant baseball field, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L12, Page 0084.
6. Request to annex and zone P-1, Public Institutional-1 District, an approximately 2.66 acre parcel of land located at 1536 Mathis Ferry Road, identified by TMS No. 559-00-00-083, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L12, Page 0064. Also, request to rezone from R-1, Low Density Residential District, to P-1, Public Institutional-1 District, an approximately 45.62 acre tract of land comprised of three parcels described as follows: (i) an approximately 35.32 acre parcel located at 1560 Mathis Ferry Road, identified by TMS No. 559-00-00-081, known as the former Wando High School, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L, Page 0153; (ii) an approximately 5.0 acre parcel located at 946 Whipple Road, identified by TMS No. 558-00-00-176, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book AD, Page 077; and (iii) an approximately 5.3 acre parcel located at 950 Whipple Road, identified by TMS No. 558-00-00-168, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book W, Page 038. Also, request to amend the Building Height Plan Map to allow up to 55 feet in building height for TMS Nos. 559-00-00-081, 558-00-00-176, and 558-00-00-168, all described above.
7. Request to rezone from First Baptist Church North PD-MU-SR, Planned Development—Mixed Use Suburban—Rural, to P-1, Public Institutional-1 District, and AB, Area-wide Business District, an approximately 9.75 acre parcel of land located at the intersection of George Browder Boulevard and U.S. Highway 17N, identified by TMS No. 538-00-00-067, known as The Church at LifePark, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L15, Page 0096. The portion of the parcel closest to U.S. Highway 17N is proposed to be zoned AB, while the portion of the parcel where the church is located is proposed to be zoned P-1.
8. Request to annex and zone CL, Cultural Landscape District, an approximately 209.651 acre tract of land comprised of two parcels of land described as follows: (i) an approximately 207.66 acre parcel located on North Palmetto Fort Drive and North Lakeshore Drive, identified by TMS No. 577-00-00-001, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book Q, Page 155; and (ii) an approximately 1.991 acre parcel of land located on Rifle Range Road near its intersection with Tarrington Lane, identified by TMS No. 577-00-00-315, and depicted as Lot A on a plat recorded by the Charleston County RMC Office in Plat Book L16, Page 0201. Also, request for approval of Impact Assessment & Conceptual Plan.
9. Request to rezone from R-1, Low Density Residential District, to R-2, Low Density Residential District, an approximately 0.27 acre parcel of land located at 804 Royal Avenue, identified by TMS No. 532-09-00-101, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book AX, Page 022. Subject property proposed to remain in the SR2-00, Special R-2 Overlay District.
10. Proposal to amend the First Baptist Church North Campus PD, Planned Development District (Ordinance Nos. 07047 and 12027), providing for the installation of a force main sewer line in the natural roadside bufferyards and mitigation for the same.
11. Proposal to amend the Oakland Plantation PD, Planned Development District (Ordinance Nos. 04514 and 90833), providing for the installation of a force main sewer line in the natural roadside bufferyards and mitigation for the same.



SPECIAL PLANNING COMMISSION MEETING NOTICE
COUNCIL CHAMBERS
MOUNT PLEASANT MUNICIPAL COMPLEX
WEDNESDAY, AUGUST 24, 2016 - 3:00 P.M.

AGENDA

1. Roll call
2. Correspondence and Public Comments
3. Requests

TOOLBOX

[Comprehensive Plan](#)
[Future Land Use Map](#)
[Land Development Regulations](#)
[Online Document Library](#)
[Projects and Applications Map](#)
[Use Table](#)
[Zoning Code \(PDF\)](#)
[Zoning Map \(interactive\)](#)



Agenda Item:	3. a.
Request:	Request approval of Sketch Plan for Shell Landing, 16 detached single-family residential lots zoned R-2, Low Density Residential District.
Location:	1480 & 1492 Rifle Range Road
Parcel ID (TMS No.):	560-06-00-001, 560-06-00-025
Type of Request:	Sketch Plan
Public Hearing:	Not required.
Total Acreage:	6.55 acres
Plat Recording Info:	Book-AD Page-090 and Book-DA Page-154
Application Link:	http://www.tompsc.com/DocumentCenter/View/19195
Staff Report Link:	http://www.tompsc.com/DocumentCenter/View/19311
Action to be Taken:	Planning Commission approves, approves with conditions, or denies the request.

Agenda Item:	3. b.
Request:	Request approval of Waiver from Land Development Regulations Section 155.047(C)(9). Also request approval of Sketch Plan for Annie Laura Subdivision, 12 detached single-family residential lots zoned R-3, Medium Density Residential District.
Location:	Annie Laura Lane and Gulf Drive PL EX 5
Parcel ID (TMS No.):	558-00-00-113, 558-00-00-287, 558-00-00-288, 558-00-00-453

Agenda Item:	3. i.
Request:	Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319 by adding new definitions; adding requirements pertaining to a new Preliminary Staff Review requirement for Sketch Plans, Preliminary Plats, Impact Assessments, and Planned Development Districts; and other modifications as needed for consistency with the aforementioned amendments. Also, proposal to amend Chapter 155, Land Development Regulations, in the following manner: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§ 155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§ 155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§ 155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.999, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.
Type of Request:	Zoning Code text amendment; Land Development Regulations text amendment
Public Hearing:	<i>Zoning Code text amendment:</i> Required; held by Planning Commission. <i>Land Development Regulations text amendment:</i> Required; held by Town Council (scheduled for September 13, 2016).
Link to Draft Text:	http://www.tompsc.com/DocumentCenter/View/19326
Staff Report Link:	http://www.tompsc.com/DocumentCenter/View/19327
Action to be Taken:	Planning Commission recommends approval, approval with modifications, or denial of the proposal. This recommendation is forwarded to the Planning & Development Committee of Council and Town Council.

4. Adjourn

**TOWN OF MOUNT PLEASANT, SOUTH CAROLINA
SPECIAL PLANNING COMMISSION
AUGUST 24, 2016
MINUTES**

Present: Howard Chapman, Chair; Alys Campaigne, Vice-chair; John McNeill; Rodly Millet; Kathy Smith; Tripp Cuttino (entered at 4:21 pm); Joseph Wren (entered at 4:40 pm).
Absent: DeAudre Gregg, Josh Malone (both excused).
Staff: Christiane Farrell, David Pagliarini, Lee Cave, Kent Prause, Kelly Cousino, Kevin Mitchell, Eddie Bernard, Shaina Salomon, Lynnette Lynes.

Mr. Chapman called the meeting to order at 3:03 pm.

1. Correspondence and Comments

Ms. Cousino stated that no correspondence was received.

There being no comments, Mr. Chapman continued with the agenda.

2. Requests

A. Request approval of Sketch Plan for Shell Landing, 16 detached single-family residential lots zoned R-2, Low Density Residential District, located at 1480 & 1492 Rifle Range Road. TMS No.: 560-06-00-001, 560-06-00-025

Ms. Salomon reviewed the request with the Commission (Attachments 1 and 2).

Ms. Smith asked whether the pond is adequate for the drainage needs. Mr. Mitchell answered that it would be used only for the new development and not for any existing drainage.

Mr. Chapman asked about preservation of trees. Mr. Bernard answered that the lots have proposed building areas identified in order to ensure each lot is buildable with preservation of the trees. He stated that the number of lots was slightly reduced as well.

Mr. Craig Conant, applicant, reviewed the request with the Commission. Mr. Chapman commended the applicant for the tree preservation. He asked whether brick driveways are proposed. Mr. Conant answered in the negative.

Ms. Campaigne asked if this would also apply for residential. Ms. Cousino answered that the proposal only applies to commercial uses. She stated that often there is not a buffer required for residential uses.

There being no comments, Mr. Chapman closed the public hearing.

Ms. Campaigne moved for approval of the proposal. Ms. Smith seconded the motion.

Mr. Chapman expressed concern that state roadways could be expanded in the future as well as wetlands being filled in.

Mr. Chapman called for a vote on the motion. Motion carried on a 4 to 1 vote with Ms. Campaigne, Mr. McNeill, Ms. Smith, and Mr. Millet in favor; Mr. Chapman opposed.

- I. Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319 by adding new definitions; adding requirements pertaining to a new Preliminary Staff Review requirement for Sketch Plans, Preliminary Plats, Impact Assessments, and Planned Development Districts; and other modifications as needed for consistency with the aforementioned amendments. Also, proposal to amend Chapter 155, Land Development Regulations, in the following manner: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§ 155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§ 155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§ 155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.999, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.**

Ms. Farrell reviewed the amendments with the Commission (Attachments 1 and 2).

Mr. Cuttino entered at this time (4:21 pm).

Ms. Smith thanked staff for its work and stated that many of the items addressed were items of concern.

Mr. Millet thanked staff for its work and suggested that the Commission will need to be more diligent in its review of Sketch Plans.

Ms. Campaigne asked how this compares to other municipalities. Ms. Farrell stated that the City of Charleston Technical Review Committee is similar, but includes several departments in addition to Planning. She stated that there has been some discussion about including other departments in order to have a more coordinated review, but for now this will be Planning Department staff only. She stated that staff currently conducts coordination meetings with other departments on items coming before the Commission. Ms. Campaigne asked if any part of the Preliminary Staff Review would be considered a vested right. Mr. Pagliarini answered that this was discussed and the Preliminary Staff Review would not provide any vested rights. Ms. Campaigne asked if tree mitigation must be accomplished within the project area. Ms. Farrell answered that the mitigation would either be planted within the project area or the funds from cash bonds could be transferred to the Tree Bank Fund to be utilized for town-wide projects.

Mr. Millet asked whether staff would review and approve Preliminary Plats and ensure interdepartmental coordination. Ms. Farrell answered that staff would review Preliminary Plats, and would ensure all Planning Commission Sketch Plan approval conditions are addressed.

Mr. Chapman asked whether the amendments would give staff more leverage in determining whether a project has completed the checklist items and should be included on the agenda. Ms. Farrell answered that part of the changes to the process is to have a complete submittal that contains all checklist items. Mr. Chapman suggested that more staff is needed in order to accomplish the number of projects coming forward.

Mr. McNeill asked how disagreements between the developer and staff will be handled. Ms. Farrell answered that if the developer chooses not to address certain staff comments, staff will indicate those items in the staff report for the Commission.

Agenda Item:	3. i.
Request:	Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319 by adding new definitions; adding requirements pertaining to a new Preliminary Staff Review requirement for Sketch Plans, Preliminary Plats, Impact Assessments, and Planned Development Districts; and other modifications as needed for consistency with the aforementioned amendments. Also, proposal to amend Chapter 155, Land Development Regulations, in the following manner: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§ 155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§ 155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§ 155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.999, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.
Type of Request:	Zoning Code text amendment; Land Development Regulations text amendment
Public Hearing:	<i>Zoning Code text amendment:</i> Required; held by Planning Commission. <i>Land Development Regulations text amendment:</i> Required; held by Town Council (scheduled for September 13, 2016).
Link to Draft Text:	http://www.tompsc.com/DocumentCenter/View/19326
Staff Report Link:	http://www.tompsc.com/DocumentCenter/View/19327
Action to be Taken:	Planning Commission recommends approval, approval with modifications, or denial of the proposal. This recommendation is forwarded to the Planning & Development Committee of Council and Town Council.

4. Adjourn

Mr. Chris Wallace, 2105 Tall Grass Circle, commended staff on its work on these changes. He asked if the cash bond could be reduced in the event a portion of the mitigation is completed.

Ms. Jenny Germuth, Seamon Whiteside and Associates, expressed concern with cash tree bonds and asked for consideration of allowing a letter of credit as well. She also expressed concern that there would be only four to five days between the staff meeting and the next Planning Commission application deadline. She suggested more time should be provided for the applicant to address staff comments prior to the application deadline.

Mr. Chapman relinquished his position as Chair and went into the audience. Ms. Campaigne served as acting Chair.

Mr. Howard Chapman, 824 Natchez Circle, commended staff for its work on these changes. He stated that there have been occasions where there have been a large number of staff comments for projects that still went before the Commission. He suggested more Planning staff members are needed, and there should be additional staff in order to accomplish the volume of tasks to ensure good development.

Ms. Campaigne relinquished her position as Chair upon Mr. Chapman's return.

Ms. Farrell stated that staff would need to consult with the Town's CFO as to whether or not cash bonds could be reduced and also added that staff recommends cash bonds only. She stated that in regard to staff comments, the developer would receive them at the same time the Commission would receive staff comments for the upcoming Commission meeting. She stated this was discussed with many of the engineering firms that work on the majority of the projects submitted to the Commission, and they were comfortable with the timeframe.

There being no further comments, Mr. Chapman closed the public hearing.

Mr. Millet moved for approval of the proposal as submitted. Ms. Campaigne seconded the motion.

TOOL BOX

[Code of Ordinances](#)
[Comprehensive Plan](#)
[Project and Application Map](#)
[Use Table](#)
[Zoning Map](#)



MOUNT PLEASANT TOWN COUNCIL **TOWN COUNCIL AGENDA**

Tuesday, September 13, 2016 at 6:00 p.m.
Municipal Complex, Council Chambers
100 Ann Edwards Lane
Mount Pleasant, SC 29464

[CLICK HERE TO SIGN IN TO SPEAK!](#)

- I. PRAYER**
- II. PLEDGE**
- III. COMPLIANCE WITH FREEDOM OF INFORMATION ACT**
- IV. APPROVAL OF AGENDA**
- V. PUBLIC HEARINGS, AWARDS & PRESENTATIONS**

A. A Public Hearing: A Public Hearing to receive input regarding a proposal to amend the Town of Mount Pleasant code of Ordinances, Chapter 155 Land Development Regulations, as follows: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.999, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.

PLEX 6

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Stephen Brock, 34 Hopetown Road said these pending amendments of the Mount Pleasant Zoning Code were not processed by the lawful requirements of the Mount Pleasant Zoning Code, specifically section 16.031 which requires that all amendments require a public hearing before the Planning Commission. Council may hold a public hearing, but in addition to, not in lieu of the hearing for the Planning Commission. Mr. Brock said these amendments went to the Planning Commission at a special meeting at 3:00 p.m. on a week day when few can attend, two hours before the regular Commission meeting. He said in his recent Freedom of Information Act (FOIA) case, the trial court found this practice not in the spirit of FOIA and so does he. Mr. Brock said he also wonders who made the decisions and when to make this change. He said in his experience, public comment at a Commission public hearing often effected the recommendations of the Commission, providing information unknown to the Commission and new viewpoints. The statutory Commission recommendation that followed, allowed time for study and review. The recommendation Council now has was not the product of public participation and public input, and devaluation of public participation is one result. Mr. Brock said these amendments also weaken the Planning Commission standards. Just a few notes –

the preliminary plat approval was taken from the Commission, placed under the Planning Department, which if he reads it correctly, makes it a vested right without a public process. Mr. Brock said decisions of the Planning Director may now be made in many instances by a "designated representative." Mr. Brock asked who is that, and why is that. Mr. Brock said certainly the Ordinance could specify an alternate if one is necessary in emergency situations. Mr. Brock said there is also the generality of "staff" found in the amendments. Recall the so-called statements by the Town on the Shem Creek garage referred to decisions by "staff." Mr. Brock said specific accountability is necessary in all public business in his view, and particularly in development because it touches all of our lives. He said we need more, not less. Mr. Brock said we also need more disclosure and public process, not less. Mr. Brock said we surely need adherence to the laws of the Town. He only asked that Council send this non-critical amendment back to the Planning Commission for a public hearing and an informed recommendation by that body in keeping with its importance and statutory position.

Mayor Page thanked Mr. Brock and asked if there is anyone else that would like to speak on this issue tonight.

Hearing none, Mayor Page declared the public hearing closed.

- B. A Public Hearing:** A Public Hearing to receive input regarding a proposal to adopt a new Development Agreement for a proposed development to be known as Palmetto Fort. The development is proposed to consist of detached single-family residential uses, attached single-family residential uses, open space areas, a trail system, and a community farm and other neighborhood amenity uses. The property comprising the proposed development is an approximately 209.651 acre tract of land consisting of two parcels of land described as follows: (i) an approximately 207.66 acre parcel located on North Palmetto Fort Drive and North Lakeshore Drive,

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MOUNT PLEASANT TOWN COUNCIL
Tuesday, September 13, 2016 at 6:00 p.m.
Municipal Complex, Council Chambers
100 Ann Edwards Lane
Mount Pleasant, SC 29464

MINUTES

Mayor Page called the meeting to order at 6:00 p.m. Mr. Gawrych, Mr. Brimmer, Mr. Carrier, Mr. Santos, Mr. Bustos, Mr. Haynie, Mr. Smith and Mr. Owens were all present.

I. PRAYER

Chaplain Dewey started the meeting with a prayer.

II. PLEDGE

Mr. Santos led Council in the Pledge of Allegiance

III. COMPLIANCE WITH FREEDOM OF INFORMATION ACT

Mr. Pagliarini certified compliance with the Freedom of Information Act.

IV. APPROVAL OF AGENDA GS1/JO2 – AIF

Mr. Santos moved to approve the agenda, seconded by Mr. Owens. All present voted in favor.

V. PUBLIC HEARINGS, AWARDS & PRESENTATIONS

PL EX 6

A. A Public Hearing: A Public Hearing to receive input regarding a proposal to amend the Town of Mount Pleasant code of Ordinances, Chapter 155 Land Development Regulations, as follows: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.999, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.

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Mayor Page thanked Mr. Brock and asked if there is anyone else that would like to speak on this issue tonight.

Hearing none, Mayor Page declared the public hearing closed.

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[Approved with items fifteen and sixteen above.]

Mr. DeMoura read *FIRST READING BY TITLE ONLY*.

- 18. First Reading:** An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 155 Land Development Regulations, and Chapter 156, Zoning Code, as described herein and in Exhibits A and B, all pertaining to changes to the Definitions, submittal process and tree mitigation requirements. (Ord. No. 16082)

Ms. Farrell said this is an amendment to the Land Development Regulations as well as the Zoning Code, and was reviewed extensively by the Planning Committee three times. The Planning Commission reviewed it at their last meeting and both groups have recommended approval.

Mr. Gawrych moved for first reading, seconded by Mr. Santos.

Mayor Page stated she would like Ms. Farrell to clarify that this means that the increase in the proposed tree mitigation goes from one-hundred and fifty to two hundred percent. Ms. Farrell responded in the affirmative and said one of the things they are trying to clarify with this process is how tree mitigation is accomplished. Ms. Farrell said they would like it to be accomplished earlier so that the Planning Department is not trying to track down tree mitigation as one home after another receives a Certificate of Occupancy. She said Staff had proposed a couple of different options that the developer could pursue for tree mitigation. She said they heard back from the development community who also requested that there be an option for a bond. Ms. Farrell said after some discussion among Staff, it was determined that the only way that they would be comfortable is with a cash bond, and they had proposed one hundred and fifty percent that would need to be paid and the bond would be good for a period of two years. Ms. Farrell said

Discussion regarding the Old Village Historic District Commission (OVHDC)

The Committee directed staff to begin reviewing the ordinance and guidelines with the Chair and Vice-Chair of the OVHDC, and bring recommendations back to the Committee.

Discussion regarding bufferyard requirements.

The Committee directed staff to draft language allowing the Design Review Board to approve adjustments to bufferyards in special situations.

Consideration of final draft of proposed modifications and associated text amendments to the submittal and review process for sketch plans, preliminary plats, impact assessments, and planned developments, as well as tree assessments and mitigation; and consideration of final draft of third party commercial building plan review policy.

The Committee directed staff to proceed with the text amendments and associated public hearings for the changes to the submittal and review process.

J. Police, Legal & Judicial Committee

1. Consideration of amendment to Chapter 92 of the Fire Prevention Ordinance (See Council New Business Item XI.A.2)
2. Report

K. Public Services Committee

The Committee approved the minutes from the May 2, 2016 meeting.

There were four topics discussed during the committee meeting. The first topic presented was an update on the Pitt Street Business Districts undergrounding of electric infrastructure, presented by Ms. Hendricks. There will be a public meeting on 21 July at Alhambra Hall in order to discuss this topic with citizens and seek

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

STEPHEN GEORGE BROCK)

Plaintiff,)

vs.)

TOWN OF MOUNT PLEASANT,)

Defendant.)

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

CIVIL ACTION NO. 2008-CP-10-3308

RECEIVED

MAR 01 2012

SC Court of Appeals

BY
JULIE J. HARRIS
CLERK OF COURT
AUG 22 PM 4:26

ORDER

gjm
The Plaintiff, Stephen George Brock, brought this action against the Defendant, Town of Mount Pleasant, a municipality organized and existing under the laws of the State of South Carolina, seeking declaratory and injunctive relief. Mr. Brock's various claims set forth in his Amended Complaint are based on his allegations the Town violated various sections of the South Carolina Freedom of Information Act ("FOIA").¹ Mr. Brock contended the Town's governance procedures, in several respects, violated a number of FOIA's requirements. The Town is a public body as defined by FOIA,² and is subject to the requirements set forth in FOIA as it prescribes the lawful procedures for the governance of public bodies.

The Town is organized and governed by a Mayor and Town Council via the council form of government.³ The evidence shows the Town Council is composed of nine members, one of whom is the Mayor. There is a Town Administrator who acts under the authority of the Mayor and Town Council and performs administrative and executive duties. The Mayor and the members of Town Council are publically elected

¹ See S. C. Code Ann. §§ 30-4-10, *et seq.* (Thomson Reuters West 2009).

² See S. C. Code Ann. §§ 30-4-20(a) (Thomson Reuters West 2009).

³ See S. C. Code Ann. §§ 5-11-10 through 5-11-40 (Thomson West 2004).

PL EX 7

"chat-room" among a quorum of council, the passive exchange of e-mail does not give rise to a FOIA violation. See *Beck v. Shelton*, 267 Va. 482, 593 S.E.2d 195 (2004).

5. **Special Meetings of Town Council and Executive Sessions During Such Meetings – Count VII of the Amended Complaint** The evidence demonstrated Town Council regularly noticed Special Meetings of Town Council which coincidentally occurred immediately prior to a regularly scheduled and noticed public Town Council meeting. The evidence further showed the overriding purpose of these "Special Meeting" was for the Town Council to conduct an executive session prior to the opening the public session of the regular Town Council meeting.

gm
Mr. Brock's Amended Complaint does not contain allegations which specifically claimed the Town violated FOIA and/or any other procedural statute regarding these pre-regular Town Council meeting "special meetings" and, therefore, this Court does not have an evidentiary basis to restrain such conduct in the future. Nevertheless, this Court believes this type of conduct fails to comply with the spirit of FOIA and takes this opportunity to encourage the Town to abandon this procedure in the future.

6. **Mr. Brock's Claim for Statutory Attorney's Fees and Litigation Costs – Counts I-IV (mis-designated as VI), VI-VII of the Amended Complaint** Mr. Brock requested an award of reasonable attorneys' fees, pursuant to S.C. Code Ann. § 30-4-100(a) (Thomson West 2008), as a result of bringing this action against the Town. Under S.C. Code Ann. § 30-4-100(b) (Thomson West 2008), a party who prevails in an action for declaratory judgment and/or injunctive relief seeking to enforce the provisions of FOIA may be awarded reasonable attorneys' fees and other litigation costs.²⁶

²⁶ See *Campbell v. Marion County Hospital District*, 354 S.C. 274, 580 S.E.2d 163

of Information Act, and that any such participation by non-committee councilmembers be, and hereby is, enjoined;

4. Ordered that as of the entry of this Order, any and all e-mails generated or received by councilmembers that pertain to Town business whether on private and/or Town computers be retained and stored in accordance with the Town's record retention policies;
5. The Court concludes the Town is required to preserve public records as defined and required by FOIA and South Carolina Public Records Act. While this Court does not hold the Town responsible for past conduct for the reasons set forth herein, this Court hereby permanently enjoins and restrains the Town from deleting, destroying, or otherwise eliminating any Town electronic communications concerning public business except to the extent such destruction is accomplished in accordance with a lawfully established records retention policy;
6. This Court, after considering the evidence of the amount and value of the costs and attorneys' fees Mr. Brock incurred in initiating and prosecuting this action, concludes Mr. Brock, as a prevailing party in this action, is entitled to an award of reasonable costs and attorneys' fees in the amount of

JCR *OC2*
\$42000.00. A supplemental shall
be prepared incorporating the court's
own findings. The court retains
jurisdiction to sign the
supplemental order.
Thomas Tisdale Attorney at Law
also made a part of this order.
And it is so ORDERED.

J.C. Nicholson
The Honorable J.C. Nicholson
Presiding Judge
Ninth Judicial Circuit

Charleston, South Carolina

E/22 2011

**TOWN OF MOUNT PLEASANT, SOUTH CAROLINA
PLANNING & DEVELOPMENT COMMITTEE
JULY 5, 2016
MINUTES**

Municipal Complex, Council Chambers

Present: Bob Brimmer, Chair, Joe Bustos, Mark Smith
Absent: Paul Gawrych
Staff: Eric DeMoura, Christiane Farrell, David Pagliarini

Mr. Brimmer called the meeting to order at 12:30 pm.

Mr. Bustos moved to amend the agenda to move item #7 to item #3. Mr. Smith seconded the motion. All in favor.

1. Approval of Minutes from the June 6, 2016 meeting

Mr. Smith moved to approve the minutes. Mr. Bustos seconded the motion. All in favor.

2. Public Comments

Mr. Brimmer stated that public comment would be taken during discussion of the particular item.

3. Discussion regarding The Old Village Historic District Commission

Mr. Brimmer stated that a Town Council member requested discussion of this item.

Mayor Linda Page, 1458 Short Street, stated that there have been several calls concerning projects before the Old Village Historic District Commission (OVHDC). She suggested that there appear to have been decisions made based on subjectivity and not objectivity. She suggested that the guidelines should be revisited and amended if necessary.

Mr. Charlie Montgomery, 139 Toomer Lane, reviewed the purpose of the OVHDC for the Committee. He expressed concern that personal preference has been used in approving or disapproving applications. He suggested that this should be reviewed so that the Historic District is preserved.

PL EX 8

- 9. Consideration of final draft of proposed modifications and associated text amendments to the submittal and review process for sketch plans, preliminary plats, impact assessments, and planned developments as well as tree assessments and mitigation and consideration of final draft of third party commercial building plan review policy.**

Ms. Farrell reviewed the request with the Committee (Attachment 1).

Mr. Brimmer commended Planning staff for its work on these issues.

Mr. Bustos moved to direct staff to proceed with the public hearings for text amendments regarding modifications to the submittal and review process as presented. Mr. Smith seconded the motion. All in favor.

10. Adjourn

There being no further business, the meeting adjourned at 2:38 pm.

Submitted by,
L. Lynes
PlanComm07052016

[Print](#)

Mt. Pleasant, South Carolina Code of Ordinances

CHAPTER 30: TOWN COUNCIL

Section

General Provisions

- 30.01 Form of government
- 30.02 Composition; election of Council
- 30.03 Eligibility for office
- 30.04 Term
- 30.05 Oath
- 30.06 Inauguration of members; Mayor Pro Tempore
- 30.07 Powers

Meetings and Procedures

- 30.21 Meetings of Council
- 30.22 Special and adjourned meetings
- 30.23 Notice of meetings
- 30.24 Attendance at meetings
- 30.25 Presiding officer; quorum
- 30.26 Preservation of order
- 30.27 Sergeant at arms
- 30.28 Council minutes
- 30.29 Order of business
- 30.30 Personal interest of members
- 30.31 Voting by Mayor; tie votes
- 30.32 Appeals from decision of chair
- 30.33 Executive session
- 30.34 Rules of order
- 30.35 Right of citizens to speak at all public meetings

Ordinances and Resolutions

- 30.45 Ordinances

PL EX 9



Article II Meetings

Section 1. Time and Place.

An annual schedule of regular meetings shall be adopted at or before the November regular meeting, which shall be published and posted at the designated town office in December of each year. The meeting schedule is based on regular meetings held on the next to last Wednesday of each month. Amendments to the regular schedule may be made in consideration of conflicts. Consideration of the amendment should be made at the earliest regular meeting as is feasible, with a majority vote of members in attendance required to pass the amended meeting date. Special meetings may be called by the chairman upon 24 hours notice, posted and delivered to all members and the press. Meetings shall be held at the place stated in the notices, and shall be open to the public.

Section 2. Agenda.

A written agenda shall be furnished by the secretary to each member of the Commission, and the press and shall be posted at least five (5) days prior to each regular meeting, and at least twenty four (24) hours prior to a special meeting.

Section 3. Quorum.

A majority of the members of the Commission shall constitute a quorum. A quorum shall be present before any business is conducted, other than rescheduling the meeting.

Section 4. Rules of Order.

Robert's Rules of Order shall govern the conduct of meetings except as otherwise provided in these bylaws.

Section 5. Voting.

A member must be present to vote. A member can not be compelled to vote. An abstention counts as a "zero" when counting votes. A majority will be determined on the basis of the number of eligible votes cast.

Section 6. Conflict of Interest

No member may make or participate in making, or in any way attempt to use his office to influence a decision of the Planning Commission in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest.

In the event of a conflict or potential conflict of interest, the member shall provide the Chairman a statement describing the conflict which shall be made part of the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the conflict of interest exists.

other adversary situations involving the assertion against the town of a claim.

(3) Discussion regarding the development of security personnel or devices.

(4) Investigative proceedings regarding allegations or criminal misconduct.

(5) Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the municipality.

(B) An executive session (or closed meeting) of the Town Council may be called by the Mayor or a majority of the Council members; provided, however, prior to going into executive session the Council shall vote in public on the questions and when such vote is favorable the Chair shall announce the specific purposes of the executive session. No formal action (a recorded vote committing the Council to a specific course of action) may be taken in executive session. No vote may be taken in executive session.

('81 Code, § 30.39) (Ord. passed 10-11-88)

§ 30.34 RULES OF ORDER.

(A) *Parliamentary authority.* *Robert's Rules of Order* (newly revised) shall govern all proceedings except as provided by law or this section. The Town Attorney shall act as parliamentarian. Decisions of the Chair may be appealed in accordance with § 30.32.

(B) *Agenda.* All matters will be placed in the Town Council agenda for regular monthly meetings if submitted by any Councilmember in writing to the Town Administrator by 4:30 p.m. on the Thursday prior to the scheduled Council meeting. All matters will be placed on special Town Council agendas if submitted by any Councilmember in writing to the Town Administrator at least 48 hours before the same. Additional items may be added to a Council agenda after the stated times, only through a motion approved by a majority of Council to amend the agenda at the time of the meeting.

(C) *Public comments to Council.*

(1) *Non-agenda items.* Any citizen of the town wishing to address Council on a matter not on the agenda may sign-in prior to the Council meeting. Up to 30 minutes will be allocated for citizens to address Council, and the Chairperson shall allow from one minute to three minutes per speaker as deemed appropriate; provided, however, this period may be extended by a majority vote of Town Council.

(2) *Council agenda items.* Any person wishing to speak on a matter on the Council agenda may sign-in prior to the Council meeting. Any such person may elect to speak prior to agenda issues being discussed or delay his/her comments until the matter is discussed pursuant to the set agenda. Normally, up to three minutes will be allowed for each speaker.

(3) *Follow-up/questions/comments.* Councilmembers may respond to those persons speaking to Council by addressing questions to speakers through the Chair.

(D) *Recognition of speakers.* In order to speak, a Councilmember or staff member must be recognized by the Chair. A member should raise his/her hand and be recognized before speaking. If more than one hand is raised, the Chair shall decide the order of speakers. Provided, however, that the member introducing the matter shall have the first opportunity to speak following a "second" if one is required.

(E) *Councilmembers speaking.*

(1) A Councilmember, upon recognition by the Chair, shall have the floor until he/she relinquishes it.

(2) Each Councilmember who wishes to speak will be afforded the utmost opportunity.

(3) No Councilmember shall interrupt while another is speaking, except where otherwise provided in the rules.

(F) *Manner of voting.* All votes taken by Council shall be by voice vote or roll call, at the direction of the Chair or upon request by any Councilmember. Votes for election to a position on Council shall be by secret ballot. The reasons for a member's vote may be stated once the vote is called, or a member may state the reasons for his/her decision on the question during the discussion of the motion. Town Council will allow absent members to listen by telephone but will not allow participation and voting by telephone. The latter rules shall also apply to committee meetings.

(G) *Public attendance.* In accordance with state law, the public is entitled to attend all public meetings, including those of Council, and no person may be removed from public meetings for any reason except willful disruption of the meeting.

(Ord. 06001, passed 2-15-06; Am. Ord. 14095, passed 1-13-15; Am. Ord. 16011, passed 2-10-16)

§ 30.35 RIGHT OF CITIZENS TO SPEAK AT ALL PUBLIC MEETINGS.

In all public meetings in the Town of Mount Pleasant citizens shall be afforded the opportunity to speak on any agenda item. Up to 30 minutes will be allocated for citizens to address the Council, Committee or Board, and the Chairperson shall allow from one minute to three minutes per speaker as deemed appropriate; provided, however, this period may be extended by a majority vote of the Council, Committee or Board.

(Ord. 16012, passed 2-10-16)

ORDINANCES AND RESOLUTIONS

§ 30.45 ORDINANCES.

(A) It shall be the duty of the Council to pass, from time to time, such ordinances as in its judgment shall best promote the interest of the citizens and property holders of the municipality.

(B) All ordinances shall read: "Be it ordained by the Mayor and Councilmembers of the Municipality of Mount Pleasant, in Council assembled."

('81 Code, § 30.34)

§ 30.46 PROCEDURE FOR ENACTMENT OF TOWN ORDINANCES.

(A) *Form and procedures.* Every proposed town ordinance shall be introduced in writing and in the form required for final adoption. (See §§ 30.50 and 30.51). All ordinances shall be read two times on two separate days with at least six days between each reading.

(B) *First reading.* The first reading of a town ordinance shall be for information and no amendments shall then be in order. Ordinances shall be read by title only.

(C) *Second reading.* The second reading of an ordinance shall be by title only and shall be for the purpose of passing the same to have the full force of law. Amendments and privileged motions are appropriate at this time and shall be made prior to second reading.

(D) *Signing, sealing, and delivering.* After an ordinance shall have received its second reading, it shall be signed by the Mayor and Clerk of Council, affixed with the seal of the municipality of the town and placed in the Town's Book of Ordinances by the Clerk of Council.

('81 Code, § 30.35) (Am. Ord. passed 5-9-89; Am. Ord. 94003, passed 2-8-94; Am. Ord. 01002, passed 1-31-01)

§ 30.47 EMERGENCY ORDINANCES.

Notwithstanding the provisions of § 30.46, an ordinance may be introduced, read two times, and engrossed and ratified as an ordinance at one meeting of the Council by affirmative vote of seven members of the Council on a finding that conditions of emergency exist which require immediate enactment of such ordinance, and the facts which constitute such conditions of emergency shall be stated clearly in the ordinance as it is enacted. Emergency ordinances shall expire automatically as of the sixty-first day following the enactment.

('81 Code, § 30.36)

Statutory reference:

Emergency ordinances, see S.C. Code § 5-7-250

§ 30.48 ORDINANCE BOOK; AMENDING AND REPEALING ORDINANCES.

(A) The book in which the ordinances are engrossed shall be known as the *Ordinances of the Town of Mount Pleasant, S.C.*

(B) The Clerk of Council shall write on the first page of every ordinance that has been amended or repealed the words "amended" or "repealed," as the case may be. The amended or repealed sections of the amended ordinance shall be redlined and a cross-reference made to the amending ordinance, giving the ordinance number and the page thereof in the ordinance book.

('81 Code, § 30.37)

§ 30.49 ADDITIONAL RULES.

The Council may, from time to time, by resolution, adopt such additional rules, not inconsistent with this subchapter, as may be necessary or expedient for the transaction of its business, and in all matters not covered by this subchapter or by resolution of the Council the current rules of the House of Representatives of the state, when applicable, shall govern the Council.

('81 Code, § 30.38)

§ 30.50 FORM OF ORDINANCES.

(A) Every proposed ordinance in the town shall be introduced in writing and in the form required for final adoption which shall include:

- (1) A title briefly describing the content;
- (2) Findings, reasons or basis for the ordinance if desired and appropriate;
- (3) An enacting clause;
- (4) Citation of any ordinance repealed;

(5) The provisions of the ordinance including section numbers if the ordinance is to be codified or amends an existing codified ordinance;

(6) The effective date of the ordinance;

(7) The approval of the Town Attorney as to form and the assignment of an ordinance number;

(8) Space for the signature of the Mayor or presiding member of Council and the attesting signature of the Clerk of Council and the date of adoption.

(B) Written resolutions shall be in such similar form as deemed appropriate by the Town Attorney.

('81 Code, § 30.39) (Ord. 93021, passed 5-11-93)

§ 30.51 INITIATION OF ORDINANCES.

(A) An ordinance may be proposed by any member of Town Council, the Town Administrator, or the head of any department of the town with the approval of the Town Administrator. A proposed ordinance shall be referred to the Town Attorney for the assignment of an ordinance number and approval as to form. The Town Attorney shall render assistance in the preparation of notices and ordinances. After an ordinance is in proper form and required notices have been given, the Town Attorney shall send the ordinance to the Clerk of Council to be held for public inspection with a copy to the Town Administrator who shall place it on a regular agenda or special agenda as appropriate. An ordinance shall be deemed to be introduced when it appears on an agenda for a public meeting of Council and its title is read.

(B) Notwithstanding the stated, Town Council by majority vote may initiate any ordinance at a Town Council meeting and conduct first reading thereof at that time, upon a finding of the same being in the best interests of the town.

('81 Code, § 30.41) (Ord. 93021, passed 5-11-93; Am. Ord. 03035, passed 7-8-03)

§ 30.52 INTRODUCTION OF RESOLUTIONS.

A voice motion of a member of Town Council shall be considered to be the introduction of an oral resolution which shall require no written record other than a notation of the Clerk of Council in the minutes. A resolution proposed in writing shall be introduced in the same manner as an ordinance.

('81 Code, § 30.42) (Ord. 93021, passed 5-11-93)

§ 30.53 ADOPTION OF RESOLUTIONS.

Written or oral resolutions may be adopted on one reading unless a public hearing is set by a majority of the members of Council present.

('81 Code, § 30.43) (Ord. 93021, passed 5-11-93)

COMMITTEES

§ 30.65 STANDING COMMITTEES.

(A) Except as may be provided otherwise in this subchapter, the standing committees shall be appointed by the Mayor at the first meeting of Council after each regular municipal election, to serve for a two-year term.

(B) In the event of a vacancy, the vacant seat shall remain vacant until a special election is held to fill the unexpired term of the Council position. Upon election, the newly-elected member shall automatically fill the vacant seat.

('81 Code, § 30.50) (Am. Ord. passed 8-11-86)

Cross-reference:

Specific committees, see §§ 32.01 through 32.14

§ 30.66 SPECIAL COMMITTEES.

All special committees shall be appointed by the Mayor unless a ballot be called for.

('81 Code, § 30.51)

§ 30.67 DUTY OF COUNCILMEMBERS.

(A) It shall be the duty of the Councilmembers to serve on the various committees to which they are appointed.

(B) It shall be the duty of each member of a committee to attend all meetings of the committee of which he or she is a member.

('81 Code, § 30.52)

§ 30.68 REFERENCE TO STANDING COMMITTEES.

Matters to be referred to the several standing committees are such as appertain or relate to the subjects designated in the names of the committees. Whenever matters are brought before the Council by petition or otherwise, connected with or relating to such subjects exclusively, the matters shall be referred as a matter of course to the standing committees having charge of such subjects.

('81 Code, § 30.53)

§ 30.69 REFERENCE WHEN MORE THAN ONE STANDING COMMITTEE.

Whenever any matter shall come before the Council by petition or otherwise, which shall be connected with or related to two or more of the subjects with which the standing committees are especially charged, the Council shall determine whether such matter shall be referred to a special committee or to a joint committee to be composed of two or more of the standing committees concerned therewith or to one of the standing committees and, in the later case, to which one the reference is to be made.

('81 Code, § 30.54)

§ 30.70 INVESTIGATIONS AND REPORTS.



TOWN OF MOUNT PLEASANT PLANNING COMMISSION BYLAWS 2018

Article I Organization

Section 1. Rules.

These bylaws are adopted pursuant to SC Code section 6-29-360 for the Town of Mount Pleasant Planning Commission, which consists of members appointed by Mount Pleasant Town Council.

Section 2. Officers.

The officers of the Commission shall be a Chairman and Vice-Chairman elected for one-year terms at the first meeting of the Commission in each calendar year. The Commission shall appoint a member of the Town staff to act as secretary of the Commission.

Section 3. Chairman.

The Chairman shall be a voting member of the Commission and shall:

- a) Call meetings of the Commission;
- b) Preside over and maintain order at meetings and hearings;
- c) Act as spokesperson for the Commission;
- d) Sign documents for the Commission;
- e) Transmit reports and documents to Council; and
- f) Perform other duties approved by the Commission.

Section 4. Vice-Chairman.

The Vice-Chairman shall exercise the duties of the Chairman in the absence, disability, or disqualification of the Chairman. In the absence of the Chairman and Vice-Chairman, an acting chairman shall be elected by the members present.

Section 5. Secretary.

The Secretary shall:

- a) Provide notice of meetings;
- b) Assist the Chairman in the preparation of the agenda;
- c) Keep minutes of meetings and hearings;
- d) Maintain Commission records as public records;
- e) Attend to Commission correspondence; and
- f) Perform other duties normally carried out by a secretary.

PL EX 10

Any business that falls within the objects of the society as defined in its bylaws (or, in the case of a board, any business within the authority of the board) can be transacted at any regular meeting (provided that the parliamentary rules relating to action already taken, or to matters not finally disposed of and remaining within the control of the assembly, are complied with in cases where they apply; compare pp. 106-108; see also 35 and 38).

Special Meeting

A *special meeting* (or *called meeting*) is a separate session of a society held at a time different from that of any regular meeting, and convened only to consider one or more items of business specified in the call of the meeting. Notice of the time, place, and exact purpose of the meeting must be mailed to all members a reasonable number of days in advance. The reason for special meetings is to deal with important matters that may arise between regular meetings and that urgently require action by the society before the next regular meeting. As in the case of a regular meeting, the session of a special meeting in an ordinary society is normally concluded in a single meeting, unless the assembly at the special meeting schedules an adjourned meeting (see below).

The section of the bylaws that authorizes the calling of special meetings (without which special meetings cannot properly be called; see p. 558) should prescribe:

- 1) by whom such a meeting is to be called—which provision is usually in the form of a statement that the presi-

meetings from September through May, for example, but does not meet during the summer, a question can be postponed until the next meeting at any of the meetings from September through April, but such a question cannot be postponed at the May meeting until the September meeting.

- 1 dent (or, in large organizations, the president with the approval of the board) can call a special meeting, and that he shall call a special meeting at the written request of a specific number of members; and
- 5 2) the number of days' notice required. Unless otherwise provided in the bylaws, the number of days is computed by counting all calendar days (including holidays and weekends), excluding the day of the meeting but including the day of the mailing.

- 10 The presiding officer directs the secretary to mail the notice of the special meeting to all members at the society's expense in compliance with the bylaws no later than the required number of days in advance, making sure that it contains all the necessary information.

- 15 With the exception of motions that relate to procedure without direct reference to a particular substantive item of business,* only business mentioned in the call of a special meeting can be transacted at such a meeting. If, at a special
- 20 meeting, it becomes urgent in an emergency to take action for which no notice was given, that action, to become legal, must be ratified (see pp. 118-20) by the organization at a regular meeting (or, if ratification also cannot wait, at another special meeting properly called for that purpose).

25

Adjourned Meeting

- An *adjourned meeting* is a meeting in continuation of the session of the immediately preceding regular or special
- 30 meeting. The name *adjourned meeting* means that the meeting is scheduled for a particular time (and place, if it is not otherwise established) by the assembly's "adjourning to" or "adjourning until" that time and place. If a reg-

*Motions covering such cases are *incidental main motions* relating to procedure. See p. 96, I. 27-28.

STATE OF SOUTH CAROLINA	)	AN ORDINANCE TO AMEND THE TOWN OF
	)	MOUNT PLEASANT CODE OF ORDINANCES,
	)	CHAPTER 155, LAND DEVELOPMENT
COUNTY OF CHARLESTON	)	REGULATIONS, AND CHAPTER 156, ZONING
	)	CODE, AS DESCRIBED HEREIN AND IN
	)	EXHIBITS A AND B, ALL PERTAINING TO
	)	CHANGES TO THE DEFINITIONS,
TOWN OF MOUNT PLEASANT	)	SUBMITTAL PROCESS AND TREE
	)	MITIGATION REQUIREMENTS

WHEREAS, Mount Pleasant Ordinances for Land Development Regulations and Zoning Code sections referenced herein were adopted in 1981, establishing provisions for certain definitions, submittal processes and tree mitigation requirements pursuant to the following Town of Mount Pleasant Code of Ordinances:

- i.) Chapter 155, Land Development Regulations, as follows: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§ 155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§ 155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.999, Appendix A, and Appendix B;
- ii.) Chapter 156, Zoning Code, as follows: 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319 by adding new definitions; adding requirements pertaining to a new Preliminary Staff Review requirement for Sketch Plans, Preliminary Plats, Impact Assessments, and Planned Development Districts; and other modifications as needed for consistency with the aforementioned

amendments, all pertaining to changes to the submittal process and tree mitigation requirements, Appendix A and Appendix B;

and the same has been amended since then on more than one occasion; and

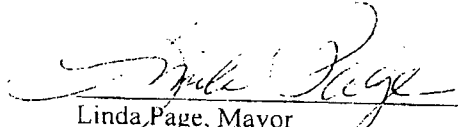
WHEREAS, Mount Pleasant Town Council now desires to amend the Mount Pleasant Code of Ordinances pertaining to certain definitions, submittal processes and tree mitigation requirements as described herein; and

WHEREAS, the Mount Pleasant Town Council held a public hearing on September 13, 2016, to consider the amendments herein to the Mount Pleasant Code of Ordinances; and

WHEREAS, Mount Pleasant Town Council is empowered with the authority to make amendments to the Mount Pleasant Code of Ordinances, and now believes that it is in the best interests of the Town to so act with respect to the matter described herein.

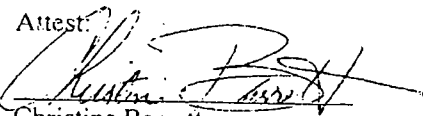
NOW, THEREFORE, BE IT ORDAINED by the Mayor and Councilmembers of the Municipality of Mount Pleasant, in Council assembled, that various portions of Chapter 155, Land Development Regulations, and Chapter 156, Zoning Code Sections, as described herein and in Exhibits A and B, all pertaining to changes to the definitions, submittal process and tree mitigation requirements of the Town of Mount Pleasant Code of Ordinances *shall be and are hereby amended*, as specifically detailed herein and attached as Exhibits A and B.

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING.
SIGNED, SEALED AND DELIVERED THIS 12 DAY OF October, 2016.



Linda Page, Mayor
Town of Mount Pleasant

Attest:


Christine Barrett

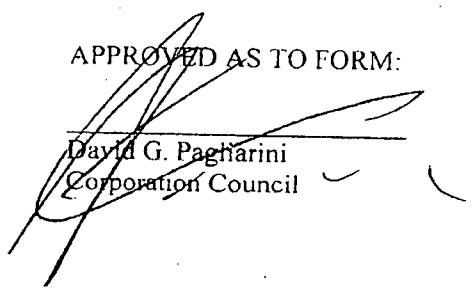
Clerk of Council

October 12, 2016
Mount Pleasant, SC

Introduced: September 13, 2016

Final Reading: October 11, 2016

APPROVED AS TO FORM:


David G. Pagnarini
Corporation Council

AFFIDAVIT
OF PUBLICATION

The Post and Courier

State of South Carolina

County of Charleston

Personally appeared before me the undersigned advertising Clerk of the above indicated newspaper published in the City of Charleston, County and State aforesaid, who, being duly sworn, says that the advertisement of

copy attached

appeared in the issues of said newspaper

on the following day(s): PD# 20160809

August 9, 2016

Subscribed and sworn to

before me this 14 day

of September

A.D. 2016

Sherry Dine
NOTARY PUBLIC, S.C.
My Commission expires

PUBLIC HEARING TOWN OF MOUNT PLEASANT PLANNING COMMISSION



The Planning Commission will hold a special meeting at 3pm on Wednesday, August 24, 2016, Council Chambers, Mount Pleasant Municipal Complex, 100 Ann Edwards Lane, to consider public hearing items #1 and #2 listed below. The remaining public hearing items will be considered at the regularly scheduled August meeting of the Planning Commission, which will be held at 5pm on Wednesday, August 24, 2016, Council Chambers, Mount Pleasant Municipal Complex, 100 Ann Edwards Lane. Documents relating to the same are available for public inspection at the office of the Department of Planning & Development (temporarily located at 1353 Sweetgum Road, Charleston Parkway) during normal business hours from 8:00 AM to 4:30 PM.

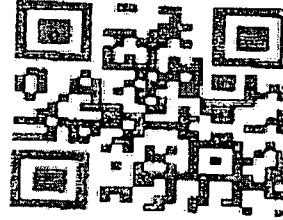
1. Proposal to amend Zoning Code Section 156.201 (C) by adding a new division (B) providing that the quantity of butterfly plantings on properties adjacent to areas where existing vegetation may be present and will not be removed in the future shall be determined during the Design Review Process.
2. Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319 by adding new definitions: adding requirements pertaining to a new Preliminary Staff Review requirement for Sketch Plans, Preliminary Plans, Impact Assessments, and Planned Development Districts; and other modifications as needed for consistency with the aforementioned amendments. Town Council will hold the required public hearing for the associated modifications to the Land Development Regulations.
3. Request to rezone from R-1, Low Density Residential District, to R-2, Low Density Residential District, an approximately 1.06 acre parcel of land located on Rife Range Road near its intersection with Venting Head, identified by TMS No. 559-00-00-017, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book 7, Page 130.
4. Request to amend the Dunes West PD, Planned Development District Ordinance by rezoning from DW-MF, Dunes West Multi-Family District, and DW-OP, Dunes West Office Professional District, to DW-C, Dunes West Commercial District, an approximately 1.02 acre parcel located at 3501 Satterbeck Street, identified by TMS No. 508-00-00-0971, known as Park West Parcel 3A-3, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book M61, Page 8067.
5. Request to rezone from R-1, Low Density Residential District, to P-1, Public Institutional-1 District, an approximately 6.16 acre parcel of land located on Whipple Road near its intersection with Matthea Ferry Road, identified by TMS No. 559-00-00-095, known as the Town of Mount Pleasant Desha field, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L12, Page 0064.
6. Request to annex and zone P-1, Public Institutional-1 District, an approximately 2.86 acre parcel of land located at 1536 Matthea Ferry Road, identified by TMS No. 559-00-00-083, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L12, Page 0064. Also, request to rezone from R-1, Low Density Residential District, to P-1, Public Institutional-1 District, an approximately 45.82 acre tract of land comprised of three parcels described as follows: (i) an approximately 35.32 acre parcel located at 1560 Matthea Ferry Road, identified by TMS No. 559-00-00-081, known as the former Wando High School, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L, Page 0153; (ii) an approximately 5.0 acre parcel located at 1440 Whipple Road, identified by TMS No. 558-00-00-176, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book 20, Page 077; and (iii) an approximately 5.3 acre parcel located at 550 Whipple Road, identified by TMS No. 558-00-00-185, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book W, Page 098. Also, request to amend the Building Height Plan Map to allow up to 55 feet in building height for TMS Nos. 559-00-00-081, 559-00-00-176, and 558-00-00-185, all described above.
7. Request to rezone from First Baptist Church North PU-MU-SR, Planned Development—Mixed Use Suburban—Rural, to P-1, Public Institutional-1 District, and AB, Area-wide Business District, an approximately .975 acre parcel of land located at the intersection of George Browder Boulevard and U.S. Highway 17N, identified by TMS No. 598-00-00-067, known as The Church at LifePark, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L15, Page 0096. The portion of the parcel closest to U.S. Highway 17N is proposed to be zoned AB, while the portion of the parcel where the church is located is proposed to be zoned P-1.
8. Request to annex and zone CL, Cultural Landscape District, an approximately 209.691 acre tract of land comprised of two parcels of land described as follows: (i) an approximately 207.66 acre parcel located on North Palmetto Fort Drive and North Lakeshore Drive, identified by TMS No. 577-00-00-001, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book O, Page 155; and (ii) an approximately 1.991 acre parcel of land located on Rife Range Road near its intersection with Torrington Lane, identified by TMS No. 577-00-00-315, and depicted as Lot A on a plat recorded by the Charleston County RMC Office in Plat Book L16, Page 0201. Also request for approval of Impact Assessment & Conceptual Plan.
9. Request to rezone from R-1, Low Density Residential District, to R-2, Low Density Residential District, an approximately 0.27 acre parcel of land located at 804 Royal Avenue, identified by TMS No. 532-09-00-101, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book AK, Page 022. Subject property proposed to remain in the S42-00, Special P-2 Overlay District.
10. Proposal to amend the First Baptist Church North Campus PD, Planned Development District Ordinance Nos. 07047 and 12087, providing for the installation of a force main sewer line in the natural roadside butterfly and mitigation for the same.
11. Proposal to amend the Oakland Plantation PD, Planned Development District Ordinance Nos. 04014 and 90033, providing for the installation of a force main sewer line in the natural roadside butterfly and mitigation for the same.

CPD-1-000003-1

EXHIBIT

2

**PUBLIC HEARING
TOWN OF MOUNT PLEASANT
PLANNING COMMISSION**



The Planning Commission will hold a special meeting at 3pm on Wednesday, August 24, 2016, Council Chambers, Mount Pleasant Municipal Complex, 100 Ann Edwards Lane, to consider public hearing items #1 and #2 listed below. The remaining public hearing items will be considered at the regularly scheduled August meeting of the Planning Commission, which will be held at 5pm on Wednesday, August 24, 2016, Council Chambers, Mount Pleasant Municipal Complex, 100 Ann Edwards Lane. Documents relating to the same are available for public inspection at the office of the Department of Planning & Development (temporarily located at 1355 Sweetgrass Basket Parkway) during normal business hours from 8:00 AM to 4:30 PM.

1. Proposal to amend Zoning Code Section 156.201 (C) by adding a new division (6) providing that the quantity of bufferyard plantings on properties adjacent to areas where existing vegetation may be present and will not be removed in the future shall be determined during the Design Review Process.
2. Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319 by adding new definitions; adding requirements pertaining to a new Preliminary Staff Review requirement for Sketch Plans, Preliminary Plats, Impact Assessments, and Planned Development Districts; and other modifications as needed for consistency with the aforementioned amendments. Town Council will hold the required public hearing for the associated modifications to the Land Development Regulations.
3. Request to rezone from R-1, Low Density Residential District, to R-2, Low Density Residential District, an approximately 1.06 acre parcel of land located on Rifle Range Road near its intersection with Vennino Road.

EX-100-001-0000

EXHIBIT

3



SPECIAL PLANNING COMMISSION MEETING NOTICE
COUNCIL CHAMBERS
MOUNT PLEASANT MUNICIPAL COMPLEX
WEDNESDAY, AUGUST 24, 2016 - 3:00 P.M.

TOOLBOX

[Comprehensive Plan](#)
[Future Land Use Map](#)
[Land Development Regulations](#)
[Online Document Library](#)
[Projects and Applications Map](#)
[Use Table](#)
[Zoning Code \(PDF\)](#)
[Zoning Map \(interactive\)](#)

AGENDA

1. Roll call
2. Correspondence and Public Comments
3. Requests



Agenda Item:	3. a.
Request:	Request approval of Sketch Plan for Shell Landing, 16 detached single-family residential lots zoned R-2, Low Density Residential District.
Location:	1480 & 1492 Rifle Range Road
Parcel ID (TMS No.):	560-06-00-001, 560-06-00-025
Type of Request:	Sketch Plan
Public Hearing:	Not required.
Total Acreage:	6.55 acres
Plat Recording Info:	<u>Book-AD Page-090</u> and <u>Book-DA Page-154</u>
Application Link:	http://www.tompsc.com/DocumentCenter/View/19195
Staff Report Link:	http://www.tompsc.com/DocumentCenter/View/19311
Action to be Taken:	Planning Commission approves, approves with conditions, or denies the request.

Agenda Item:	3. b.
Request:	Request approval of Waiver from Land Development Regulations Section 155.047(C)(9). Also request approval of Sketch Plan for Annie Laura Subdivision, 12 detached single-family residential lots zoned R-3, Medium Density Residential District.
Location:	Annie Laura Lane and Gulf Drive
Parcel ID (TMS No.):	558-00-00-113, 558-00-00-287, 558-00-00-288, 558-

EXHIBIT

4

Type of Request:	Preliminary Plat
Public Hearing:	Not required.
Total Acreage:	16.48 acres
Plat Recording Info:	<u>Book L15, Pages 0053 and 0054</u>
Application Link:	http://www.tompsc.com/DocumentCenter/View/19200
Staff Report Link:	http://www.tompsc.com/DocumentCenter/View/19314
Action to be Taken:	Planning Commission approves, approves with conditions, or denies the request.

Agenda Item:	3. e.
Request:	Request approval of Preliminary Plat for Dunes West Fishing Village Phase 4, 41 detached single-family residential lots and 23 attached single-family residential lots, zoned PD, Planned Development District.
Location:	Harpers Ferry Way and Highway 41
Parcel ID (TMS No.):	594-05-00-231 (portion)
Type of Request:	Preliminary Plat
Public Hearing:	Not required.
Total Acreage:	17.16 acre portion of 41.02 acres
Plat Recording Info:	<u>Book EF Page 790</u>
Application Link:	http://www.tompsc.com/DocumentCenter/View/19201
Staff Report Link:	http://www.tompsc.com/DocumentCenter/View/19315
Action to be Taken:	Planning Commission approves, approves with conditions, or denies the request.

Agenda Item:	3. f.
Request:	Request approval of revised Preliminary Plat for Carolina Park Phases 10A & 10B, 53 detached single-family residential lots zoned PD, Planned Development District.
Location:	Banning Street and Maidstone Drive
Parcel ID (TMS No.):	540-00-00-035
Type of Request:	Preliminary Plat
Public Hearing:	Not required.

Total Acreage:	26.01 acre portion of 285.99 acre parcel
Plat Recording Info:	Book L15, Page 0558
Application Link:	http://www.tompsc.com/DocumentCenter/View/19202
Staff Report Link:	http://www.tompsc.com/DocumentCenter/View/19316
Action to be Taken:	Planning Commission approves, approves with conditions, or denies the request.

Agenda Item:	3. g.
Request:	Request approval of street name (NanTuk Lane) for a private street located off of Rifle Range Road.
Location:	off of Rifle Range Road, north of Venning Road
Type of Request:	Street name approval
Public Hearing:	Not required.
Application Link:	http://www.tompsc.com/DocumentCenter/View/19204
Action to be Taken:	Planning Commission approves or denies the request.

Agenda Item:	3. h.
Request:	Proposal to amend Zoning Code Section 156.201 (C) by adding a new division (6) providing that the quantity of bufferyard plantings on properties adjacent to areas where existing vegetation may be present and will not be removed in the future shall be determined during the Design Review Process.
Type of Request:	Zoning Code text amendment
Public Hearing:	Required; held by Planning Commission.
Link to Draft Text:	http://www.tompsc.com/DocumentCenter/View/19320
Staff Report Link:	http://www.tompsc.com/DocumentCenter/View/19321
Action to be Taken:	Planning Commission recommends approval, approval with modifications, or denial of the proposal. This recommendation is forwarded to the Planning & Development Committee of Council and Town Council.

Agenda Item:	3. i.
Request:	Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319 by adding new definitions; adding requirements pertaining to a new Preliminary Staff Review requirement for Sketch Plans, Preliminary Plats, Impact Assessments, and Planned Development Districts; and other modifications as needed for consistency with the aforementioned amendments. Also, proposal to amend Chapter 155, Land Development Regulations, in the following manner: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§ 155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§ 155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§ 155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.999, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.
Type of Request:	Zoning Code text amendment; Land Development Regulations text amendment
Public Hearing:	<i>Zoning Code text amendment:</i> Required; held by Planning Commission. <i>Land Development Regulations text amendment:</i> Required; held by Town Council (scheduled for September 13, 2016).
Link to Draft Text:	http://www.tompsc.com/DocumentCenter/View/19326
Staff Report Link:	http://www.tompsc.com/DocumentCenter/View/19327
Action to be Taken:	Planning Commission recommends approval, approval with modifications, or denial of the proposal. This recommendation is forwarded to the Planning & Development Committee of Council and Town Council.

4. Adjourn

**TOWN OF MOUNT PLEASANT, SOUTH CAROLINA
SPECIAL PLANNING COMMISSION
AUGUST 24, 2016
MINUTES**

Present: Howard Chapman, Chair; Alys Campaigne, Vice-chair; John McNeill; Rodly Millet; Kathy Smith; Tripp Cuttino (entered at 4:21 pm); Joseph Wren (entered at 4:40 pm).
Absent: DeAudre Gregg, Josh Malone (both excused).
Staff: Christiane Farrell, David Pagliarini, Lee Cave, Kent Prause, Kelly Cousino, Kevin Mitchell, Eddie Bernard, Shaina Salomon, Lynnette Lynes.

Mr. Chapman called the meeting to order at 3:03 pm.

1. Correspondence and Comments

Ms. Cousino stated that no correspondence was received.

There being no comments, Mr. Chapman continued with the agenda.

2. Requests

A. Request approval of Sketch Plan for Shell Landing, 16 detached single-family residential lots zoned R-2, Low Density Residential District, located at 1480 & 1492 Rifle Range Road. TMS No.: 560-06-00-001, 560-06-00-025

Ms. Salomon reviewed the request with the Commission (Attachments 1 and 2).

Ms. Smith asked whether the pond is adequate for the drainage needs. Mr. Mitchell answered that it would be used only for the new development and not for any existing drainage.

Mr. Chapman asked about preservation of trees. Mr. Bernard answered that the lots have proposed building areas identified in order to ensure each lot is buildable with preservation of the trees. He stated that the number of lots was slightly reduced as well.

Mr. Craig Conant, applicant, reviewed the request with the Commission. Mr. Chapman commended the applicant for the tree preservation. He asked whether brick driveways are proposed. Mr. Conant answered in the negative.



Ms. Campaigne asked if this would also apply for residential. Ms. Cousino answered that the proposal only applies to commercial uses. She stated that often there is not a buffer required for residential uses.

There being no comments, Mr. Chapman closed the public hearing.

Ms. Campaigne moved for approval of the proposal. Ms. Smith seconded the motion.

Mr. Chapman expressed concern that state roadways could be expanded in the future as well as wetlands being filled in.

Mr. Chapman called for a vote on the motion. Motion carried on a 4 to 1 vote with Ms. Campaigne, Mr. McNeill, Ms. Smith, and Mr. Millet in favor; Mr. Chapman opposed.

- I. Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319 by adding new definitions; adding requirements pertaining to a new Preliminary Staff Review requirement for Sketch Plans, Preliminary Plats, Impact Assessments, and Planned Development Districts; and other modifications as needed for consistency with the aforementioned amendments. Also, proposal to amend Chapter 155, Land Development Regulations, in the following manner: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§ 155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§ 155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§ 155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.999, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.**

Ms. Farrell reviewed the amendments with the Commission (Attachments 1 and 2).

Mr. Cuttino entered at this time (4:21 pm).

Ms. Smith thanked staff for its work and stated that many of the items addressed were items of concern.

Mr. Millet thanked staff for its work and suggested that the Commission will need to be more diligent in its review of Sketch Plans.

Ms. Campaigne asked how this compares to other municipalities. Ms. Farrell stated that the City of Charleston Technical Review Committee is similar, but includes several departments in addition to Planning. She stated that there has been some discussion about including other departments in order to have a more coordinated review, but for now this will be Planning Department staff only. She stated that staff currently conducts coordination meetings with other departments on items coming before the Commission. Ms. Campaigne asked if any part of the Preliminary Staff Review would be considered a vested right. Mr. Pagliarini answered that this was discussed and the Preliminary Staff Review would not provide any vested rights. Ms. Campaigne asked if tree mitigation must be accomplished within the project area. Ms. Farrell answered that the mitigation would either be planted within the project area or the funds from cash bonds could be transferred to the Tree Bank Fund to be utilized for town-wide projects.

Mr. Millet asked whether staff would review and approve Preliminary Plats and ensure interdepartmental coordination. Ms. Farrell answered that staff would review Preliminary Plats, and would ensure all Planning Commission Sketch Plan approval conditions are addressed.

Mr. Chapman asked whether the amendments would give staff more leverage in determining whether a project has completed the checklist items and should be included on the agenda. Ms. Farrell answered that part of the changes to the process is to have a complete submittal that contains all checklist items. Mr. Chapman suggested that more staff is needed in order to accomplish the number of projects coming forward.

Mr. McNeill asked how disagreements between the developer and staff will be handled. Ms. Farrell answered that if the developer chooses not to address certain staff comments, staff will indicate those items in the staff report for the Commission.

Mr. Chris Wallace, 2105 Tall Grass Circle, commended staff on its work on these changes. He asked if the cash bond could be reduced in the event a portion of the mitigation is completed.

Ms. Jenny Germuth, Seamon Whiteside and Associates, expressed concern with cash tree bonds and asked for consideration of allowing a letter of credit as well. She also expressed concern that there would be only four to five days between the staff meeting and the next Planning Commission application deadline. She suggested more time should be provided for the applicant to address staff comments prior to the application deadline.

Mr. Chapman relinquished his position as Chair and went into the audience. Ms. Campaigne served as acting Chair.

Mr. Howard Chapman, 824 Natchez Circle, commended staff for its work on these changes. He stated that there have been occasions where there have been a large number of staff comments for projects that still went before the Commission. He suggested more Planning staff members are needed, and there should be additional staff in order to accomplish the volume of tasks to ensure good development.

Ms. Campaigne relinquished her position as Chair upon Mr. Chapman's return.

Ms. Farrell stated that staff would need to consult with the Town's CFO as to whether or not cash bonds could be reduced and also added that staff recommends cash bonds only. She stated that in regard to staff comments, the developer would receive them at the same time the Commission would receive staff comments for the upcoming Commission meeting. She stated this was discussed with many of the engineering firms that work on the majority of the projects submitted to the Commission, and they were comfortable with the timeframe.

There being no further comments, Mr. Chapman closed the public hearing.

Mr. Millet moved for approval of the proposal as submitted. Ms. Campaigne seconded the motion.

Ms. Smith suggested that these changes should mean that the applicant will be more diligent in having a better and complete project submittal.

Mr. McNeill suggested that if a bond reduction is allowed, there might be less of an incentive to complete the mitigation.

Mr. Wren entered at this time (4:40 pm).

Mr. Chapman called for a vote on the motion. All in favor.

There being no further business, the meeting adjourned at 4:46 pm.

Submitted by,

L. Lynes

SpPlanComsn08242016



RELEVANT CODE SECTIONS	
Chapter 155	Land Development Regulations
Chapter 156	Zoning Code

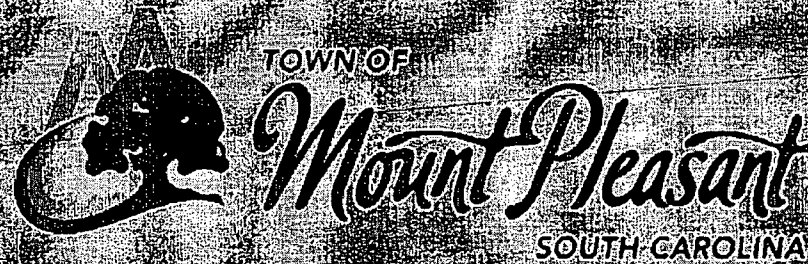
STAFF COMMENTS

1. The purpose of the proposed amendments is to: streamline the submittal process; ensure applications are complete and correct; ensure staff has reviewed and weighed in on a proposed development plan prior to its submittal; provide a technical review in advance of a submittal to the Planning Commission; reduce the amount of time Planning Commission and Planning Committee spend reviewing technical staff comments so that their focus can be on the larger development plan and its merits; and require the developer to provide more information initially which will result in earlier feedback on their plans.
2. The proposed changes will apply to Planning Commission submittals, including Sketch Plans, Preliminary Plats, Impact Assessments, and Planned Development Districts. Impact Assessments and Planned Development Districts are also reviewed and approved by Town Council.
3. A staff submittal ("Preliminary Staff Review") will be required for Sketch Plans, Planned Development Districts, and Impact Assessments prior to a submittal to the Planning Commission. Preliminary Plats will become a staff-level review and approval unless staff determines Planning Commission review should be required.
4. Staff submittals (Preliminary Staff Reviews and Preliminary Plats) will follow the same submittal and staff comment deadlines as official Planning Commission submittals.
5. Staff submittals are required, but do not require fee payment except for Preliminary Plat.
6. Staff submittals carry no approvals except for Preliminary Plat.
7. One day per month will be dedicated to staff review meetings.
8. *Sketch Plan Process:*
 - a. Sketch Plan submittal requirements will be increased and more specific so as to incorporate some items currently required at Preliminary Plat to instead be provided at Sketch Plan. The new requirements will mean the Sketch Plan submittal will be much more specific and advanced than currently required. Tree grading and drainage will be new requirements at this stage in planning.
 - b. Staff submittal Sketch Plans will be submitted on the regular Planning Commission deadline. Staff will provide comments to the applicant on the same day that staff comments are completed for the Planning Commission. Staff will review these comments with the applicant during a staff review meeting. The applicant then should correct or modify the submittal in accordance with staff comments prior to submitting to the Planning Commission.
9. *Planned Development District Process:*
 - a. Planned Development Districts submitted for Preliminary Staff Review will be due on the regular Planning Commission deadline. Staff will provide comments to the applicant on the same day that staff comments are completed for the Planning Commission. Staff will review these comments with the applicant during a staff review meeting. The applicant then should correct or modify the submittal in accordance with staff comments prior to submitting to the Planning Commission.



- b. Staff is devising a new Planned Development District checklist and a Planned Development District template for developers to follow.
10. *Impact Assessment Process:*
- a. Impact Assessments submitted for Preliminary Staff Review will be due on the regular Planning Commission deadline. Staff will provide comments to the applicant on the same day that staff comments are completed for the Planning Commission. Staff will review these comments with the applicant during a staff review meeting. The applicant then should correct or modify the submittal in accordance with staff comments prior to submitting to the Planning Commission. Staff submittals for Impact Assessments do not need to include a completed traffic study but traffic summaries and anticipated mitigation should be provided for review.
 - b. A pre-application meeting will still be required for Impact Assessments. The deadline for this pre-application meeting will not change from its current deadline date – 8 weeks prior to the Planning Commission meeting. During this meeting, Planning staff will advise the applicant as to any necessary letters of coordination with other departments.
11. *Preliminary Plat Process:*
- a. Preliminary Plats are currently reviewed and approved by the Planning Commission. The development plan presented on a Preliminary Plat is the same as the development plan shown on a Sketch Plan that was reviewed and approved by the Planning Commission. When a developer submits a Preliminary Plat for review, they also submit construction drawings. These are approved separately by staff. Currently, the submittal requirements for a Preliminary Plat are more specific than those required for a Sketch Plan. This proposal includes shifting some of those specific requirements to the Sketch Plan submittal phase.
 - b. Moving the more specific requirements to the Sketch Plan accomplishes two things. First, since the Sketch Plan does not require specific tree information or drainage information, the developer often feels that a Sketch Plan approval does not carry with it the assurances needed before beginning the extensive engineering work involved in producing a Preliminary Plat. If the developer instead knows earlier which trees may be approved for removal and what specific implications grading and drainage may have on the plan, they will have greater assurances going in to the hard design and production of construction drawings. Second, if the Preliminary Plat is to be a staff-level approval, it is important all details are covered up front through the Sketch Plan process with the Planning Commission.
 - c. Preliminary Plats would be submitted on the regular Planning Commission deadline. All fees would be paid. Staff comments would be due the applicant three weeks later. Staff comments would be reviewed during the staff review meetings. Final approval of construction drawings may come later, same as the current process.
12. An exception is still included in the LDRs that allows for staff-level approval of simple subdivisions. Staff retains the discretion to require Planning Commission review/approval of any subdivision request.

ATTACHMENT 2 to 08-24-16 Special
Planning Commission meeting minutes
(33 pages)



PLANNING COMMISSION

SPECIAL MEETING (3pm)
24 August 2016



3.a. SHELL LANDING

Request:	Request approval of Sketch Plan for Shell Landing, 16 detached single-family residential lots zoned R-2, Low Density Residential District.
Location:	1480 & 1492 Rifle Range Road
Parcel ID (TMS No.):	560-06-00-001, 560-06-00-025
Type of Request:	Sketch Plan
Public Hearing:	Not required.
Total Acreage:	6.55 acres
Plat Recording Info:	<u>Book-AD Page-090 and Book-DA Page-154</u>
Application Link:	http://www.tompsc.com/DocumentCenter/View/19195
Staff Report Link:	http://www.tompsc.com/DocumentCenter/View/19311
Action to be Taken:	Planning Commission approves, approves with conditions, or denies the request.

AFFIDAVIT
OF PUBLICATION

The Post and Courier

State of South Carolina

County of Charleston

Personally appeared before me
the undersigned advertising Clerk of the
above indicated newspaper published
in the City of Charleston, County and
State aforesaid, who, being duly sworn,
says that the advertisement of

copy attached

appeared in the issues of said newspaper

on the following day(s): PO# 20160809

August 11, 2016

Subscribed and sworn to

before me this 14 day

of September

A.D. 20 16

Stephanie Kruger
Advertising Clerk

Sherry DeLo
NOTARY PUBLIC, SC
My Commission expires

**NOTICE OF PUBLIC HEARING
TOWN OF MOUNT PLEASANT
AMENDMENT TO LAND
DEVELOPMENT REGULATIONS**

The Mount Pleasant Town Council will conduct a public hearing on September 13, 2016 at 6:00 PM, pursuant to the applicable South Carolina State Statutes and Mount Pleasant Code of Ordinances, in Council Chambers, at the Mount Pleasant Municipal Complex, 100 Ann Edwards Lane, Mount Pleasant, SC regarding a proposal to amend the Town of Mount Pleasant Code of Ordinances, Chapter 155, Land Development Regulations, as follows: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§ 155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§ 155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§ 155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.099, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.

C23-1-00010-1

EXHIBIT

6

**NOTICE OF PUBLIC HEARING
TOWN OF MOUNT PLEASANT
AMENDMENT TO LAND
DEVELOPMENT REGULATIONS**

The Mount Pleasant Town Council will conduct a public hearing on September 13, 2016 at 6:00 PM, pursuant to the applicable South Carolina State Statutes and Mount Pleasant Code of Ordinances, in Council Chambers, at the Mount Pleasant Municipal Complex, 100 Ann Edwards Lane, Mount Pleasant, SC regarding a proposal to amend the Town of Mount Pleasant Code of Ordinances, Chapter 155, Land Development Regulations, as follows: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§ 155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§ 155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§ 155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.999, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.

C72-1445816-1

EXHIBIT

7

TOOL BOX

[Code of Ordinances](#)
[Comprehensive Plan](#)
[Project and Application Map](#)
[Use Table](#)
[Zoning Map](#)



MOUNT PLEASANT TOWN COUNCIL

TOWN COUNCIL AGENDA

Tuesday, September 13, 2016 at 6:00 p.m.

Municipal Complex, Council Chambers

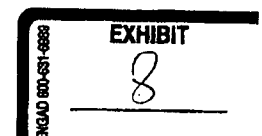
100 Ann Edwards Lane

Mount Pleasant, SC 29464

[CLICK HERE TO SIGN IN TO SPEAK!](#)

- I. PRAYER
- II. PLEDGE
- III. COMPLIANCE WITH FREEDOM OF INFORMATION ACT
- IV. APPROVAL OF AGENDA
- V. PUBLIC HEARINGS, AWARDS & PRESENTATIONS

A. A Public Hearing: A Public Hearing to receive input regarding a proposal to amend the Town of Mount Pleasant code of Ordinances, Chapter 155 Land Development Regulations, as follows: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.999, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.



B. A Public Hearing: A Public Hearing to receive input regarding a proposal to adopt a new Development Agreement for a proposed development to be known as Palmetto Fort. The development is proposed to consist of detached single-family residential uses, attached single-family residential uses, open space areas, a trail system, and a community farm and other neighborhood amenity uses. The property comprising the proposed development is an approximately 209.651 acre tract of land consisting of two parcels of land described as follows: (i) an approximately 207.66 acre parcel located on North Palmetto Fort Drive and North Lakeshore Drive, identified by TMS No. 577-00-00-001, and depicted on a plat recorded by the Charleston County RMC Office in plat Book Q, Page 155; and (ii) an approximately 1.991 acre parcel of land located on Rifle Range Road near its intersection with Tarrington Lane, identified by TMS No. 577-00-00-315, and depicted as Lot A on a plat recorded by the Charleston County RMC Office in Plat Book L16, Page 0201.

C. Municipal Association Achievement Award Presentation

D. Domestic Violence Awareness Month Proclamation

E. Childhood Cancer Awareness Month Proclamation

F. Business Appreciation Month Proclamation

G. Announcement of Town Anchor Award Winners

H. Longevity Awards

VI. APPROVAL OF MINUTES FROM THE AUGUST 9, 2016 TOWN COUNCIL MEETING AND THE AUGUST 2016 FINANCIAL STATEMENT.

VII. CORRESPONDENCE AND PUBLIC STATEMENTS

VIII. PLANNING – Ms. Farrell

Planning Committee Minutes

Planning Commission Minutes

A. NEW BUSINESS

1. **First Reading:** An Ordinance to rezone from R-2, Low Density Residential District to NC, Neighborhood Commercial District, an approximately 0.12 acre tract of land located at 529 Mill Street, identified by TMS No. 517-16-00-099, and depicted on a plat recorded by the Charleston County RMC Office in Book BE, Page 099. (Ord. No. 16058)
2. **First Reading:** An Ordinance providing for the annexation of an approximately 209.651 acre tract of land comprised of two parcels, located at North Palmetto Fort Drive and North Lakeshore Drive known as Palmetto Fort Development, identified by TMS Nos. 577-00-00-001 and 577-00-00-315, and depicted on a plat recorded by the Charleston County RMC Office in Book Q, Page 155 and Book L16, Page 0201. (Ord. No. 16068)
3. **First Reading:** An Ordinance to zone CL, Cultural Landscape District, an approximately 209.651 acre tract of land comprised of two parcels, located at North Palmetto Fort Drive and North Lakeshore Drive, known as Palmetto Fort Development, identified by TMS Nos. 577-00-00-001 and 577-00-00-315, and depicted on a plat recorded by the Charleston County RMC Office in Book Q, Page 155 and Book L16, Page 0201. (Ord. No. 16069)
4. Approval of Impact Assessment and Conceptual Plan for the proposed development identified as Palmetto Fort

5. **First Reading:** An Ordinance providing for the adoption of a Development Agreement pertaining to the new development known as Palmetto Fort, located between Rifle Range Road and North Lakeshore Drive in the Six Mile Community, and entitled to *Development Agreement Palmetto Fort*, by and between PC Palmetto Investments, LLC and the Town of Mount Pleasant. (Ord. No.16070)
6. **First Reading:** An Ordinance to rezone from R-1, Low Density Residential District, to R-2, Low Density Residential District, an approximately 1.0 acre tract of land located on Rifle Range Road near Venning Road, identified by TMS No. 558-00-00-017, and depicted on a plat recorded by the Charleston County RMC Office in Book T, Page 138. (Ord. No. 16071)
7. **First Reading:** An Ordinance providing for the annexation of an approximately 2.65 acre tract of land, located at 1536 Mathis Ferry Road, identified by TMS No. 559-00-00-083, and depicted on a plat recorded by the Charleston County RMC Office in Book L12, Page 0064. (Ord. No. 16072)
8. **First Reading:** An Ordinance to rezone from R-1, Low Density Residential District, to PI-1, Public Institutional-1 District, an approximately 45.62 acre tract of land comprised of three parcels, located at 1560 Mathis Ferry Road, 946 Mathis Ferry Road and 950 Mathis Ferry Road, identified by TMS Nos. 559-00-00-081, 558-00-00-176 and 558-00-00-188, respectively, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L, Page 0153, Book AD, Page 071 and Book W, Page 096. (Ord. No. 16073)
9. **First Reading:** An Ordinance to amend the Town of Mount Pleasant Building Height Plan Map pertaining to an approximately 45.62 acre tract of land comprised of three parcels, located at 1560 Mathis Ferry Road, 946 Mathis Ferry Road and 950 Mathis Ferry Road, identified by TMS Nos. 559-00-00-081, 558-00-00-176, and 558-00-00-188, respectively, and depicted on a plat recorded by the Charleston County RMC

Office in Plat Book L, Page 0153, Book AD, Page 071 and Book W, Page 096, by increasing the maximum building height from 35 feet to 55 feet. (Ord. No. 16074)

- 10. Adoption:** A Resolution providing for the annexation of an approximately 1.07 acre parcel of land owned by the Town of Mount Pleasant located on Whipple Road. (R.16091)
- 11. First Reading:** An Ordinance to rezone from R-1, Low Density Residential District, to PI-1, Public Institutional-1 District, an approximately 6.16 acre tract of land, located on Whipple Road near its intersection with Mathis Ferry Road, identified by TMS No. 559-00-00-095, known as the Town of Mount Pleasant Baseball Field, and depicted on a plat recorded by the Charleston County RMC Office in Book L12, Page 0064. (Ord. No. 16075)
- 12. First Reading:** An Ordinance to rezone from R-1, Low Density Residential District, to R-2, Low Density Residential District, and property to remain in the SR2-OD, Special R-2 Overlay District, an approximately 0.27 acre tract of land located at 804 Royall Avenue, Identified by TMS No. 532-09-00-101, and depicted on a plat recorded by the Charleston County RMC Office in Book AX, Page 022. (Ord. No. 16076)
- 13. First Reading:** An Ordinance to rezone from First Baptist Church North PD-MU-SR, Planned Development-Mixed Use Suburban-Rural District, to PI-1, Public Institutional-1 District, and AB, Areawide Business District, an approximately 19.75 acre tract of land, located at 1151 George Browder Boulevard, identified by TMS No. 598-00-00-007, and depicted on a plat recorded by the Charleston County RMC Office in Book L15, Page 0096. (Ord. No. 16077)

14. **First Reading:** An Ordinance providing for the annexation of an approximately 1.0 acre tract of land, located at 446, Commonwealth Road in Darrell Creek Plantation, identified by TMS No. 596-08-00-010, and depicted as Lot 10, Block A, FNA River Station, and shown on a plat recorded by the Charleston County RMC Office in Book EA, Page 086. (Ord. No. 16078)
15. **First Reading:** An Ordinance providing for the annexation of an approximately 1.47 acre tract of land, located on Bulls Bay Boulevard in Rice Fields at Bulls Bay, identified by TMS No. 632-00-00-140, and depicted as Lot 60 in Phase III on a plat recorded by the Charleston County RMC Office in Book EH, Page 045. (Ord. No. 16079)
16. **First Reading:** An Ordinance providing for the annexation of an approximately 1.92 acre tract of land, located at 855 Bulls Bay Boulevard in Rice Fields at Bulls Bay, identified by TMS No. 632-00-00-137, and depicted as Lot 57 in Phase III on a plat recorded by the Charleston County RMC Office in Book EH, Page 045. (Ord. No. 16080)
17. **First Reading:** An Ordinance providing for the annexation of an approximately 1.02 acre tract of land, located on True Blue Court in Rice Fields at Bulls Bay, identified by TMS No. 632-00-00-114, and depicted as Lot 34 on a plat recorded by the Charleston County RMC Office in Book EG, Page 111. (Ord. No. 16081)
18. **First Reading:** An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 155 Land Development Regulations, and Chapter 156, Zoning Code, as described herein and in Exhibits A and B, all pertaining to changes to the Definitions, submittal process and tree mitigation requirements. (Ord. No. 16082)

19. **First Reading:** An Ordinance to amend Sub-Paragraph (11) of Paragraph (A) of Section 150.002 of Chapter 150 of the Mount Pleasant Code of Ordinances providing for third party plan review of building plans and fees therewith. (Ord. No. 16083)
20. **First Reading:** An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 156, Zoning Code, as described herein and in Exhibit A, pertaining to changes in the Design Review Board approval of bufferyard plantings. (Ord. No. 16084)
21. **First Reading:** An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 156, related to tree protection. (Ord. No. 16085)

B. OLD BUSINESS

1. **Final Reading:** An Ordinance to amend Section 156.318, Chapter 156, of the Town of Mount Pleasant Code of Ordinances pertaining to Building Height in the UC-CBS and UC-CDB. (Ord. No. 16050)
2. **Final Reading:** An Ordinance providing for the annexation of an approximately 3.41 acre parcel of vacant land known as Lot 18, located at 1395 Old Rosebud Trail, identified by TMS No. 615-00-00-149, and depicted on a plat recorded by the Charleston County RMC Office in Book EG, Page 978. (Ord. No. 16059)
3. **Final Reading:** An Ordinance to zone PD-CD, Planned Development – Conservation Design District, an approximately 3.41 acre tract of vacant land known as Lot 18, located at 1395 Old Rosebud Trail, identified by TMS No. 615-00-00-149, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book EG, Page 978. (Ord. No. 16060)

4. **Final Reading:** An Ordinance providing for the annexation of an approximately 1.42 acre tract of vacant land comprised of two parcels, located at 1117 Highway 41 and Gregorie Ferry Road, identified by TMS Nos. 580-00-00-028 and 580-00-00-060, and depicted on a plat recorded by the Charleston County RMC Office in Book DF, Page 280. (Ord. No. 16061)
5. **Final Reading:** An Ordinance to zone AB, Areawide Business District, an approximately 1.42 acre tract of vacant land comprised of two parcels, located at 1117 Highway 41 and Gregorie Ferry Road, identified by TMS Nos. 580-00-00-028 and 580-00-00-060, and depicted on a plat recorded by the Charleston County RMC Office in Book DF, Page 280. (Ord. No. 16062)
6. **Final Reading:** An Ordinance providing for the annexation of an approximately 1.07 acre tract of land located at 4317 Caledonia Lane in Rice Fields at Bulls Bay, identified by TMS No. 632-00-00-105, and depicted as Lot 42 on a plat recorded by the Charleston County RMC Office in Plat Book EG, Page 111. (Ord. No. 16065)
7. **Final Reading:** An Ordinance to amend PD, Planned Development District Zoning Ordinance Nos. 07047 and 12087, pertaining to Life Park Church property, providing for the installation of a force main sewer line in the natural roadside bufferyard and mitigation for the same. (Ord. No. 16066)
8. **Final Reading:** An Ordinance to amend PD, Planned Development District Zoning Ordinance Nos. 04014 and 09033, pertaining to property known as the Market at Oakland, providing for the installation of a force main sewer line in the natural roadside bufferyard and mitigation for the same. (Ord. No. 16067)

IX. COMMITTEE REPORTS

A. Accommodations Tax Advisory Committee

1. Funding Recommendations
2. Report

B. Bids & Purchases Committee

Report

C. Economic Development Committee

Report

D. Education Committee (No Meeting)

Report

E. Finance Committee

Report

F. Fire Committee (No Meeting)

Report

G. Human Resources

Report

H. Patriots Point Development Authority

Report

I. Planning Committee

1. Approval to draft zoning and land use development amendments and to restrict residential subdivision of property and the construction of accessory dwelling units in the area bound by Coleman and Ben Sawyer Boulevards and the Charleston Harbor until a comprehensive drainage study is completed.

2. Approval to proceed with the drafting of ordinance amendments to remove freshwater wetlands in the calculation of open space requirements.

3. Report

J. Police, Legal & Judicial Committee

1. Recommendation to approve reappointment of Municipal Judges Staubes, Michel and Hesse to another two year term
2. Report

**K. Public Services Committee
Report**

**L. Recreation Committee
Report**

**M. Transportation
Report**

**N. Waterworks Commission
Report**

**O. Water Supply Committee (No Meeting)
Report**

X. ADMINISTRATOR'S REPORT

Vacancies

Accommodations Tax Advisory Committee

Planning Commission

XI. COUNCIL BUSINESS

A. New Business

First Reading: An Ordinance *authorizing the transfer of title to surplus right-of-way to the South Carolina Department of Transportation related to the U.S. Highway 17/Mark Clark Expressway Project.* (Ord. 16086)

B. Old Business

There is no Council Old Business to address

C. Executive Session

Legal and Contractual

1. Town Council will review proprietary information on a company relative to an Economic Development Grant
2. Receive legal advice on Phipps v. Town of Mount Pleasant lawsuit

Personnel

Consideration of appointments to the Historical Commission and the Commercial Design Review Board.

D. Post Executive Session

Council may take action upon reconvening from Executive Session

XII. ADJOURN

MOUNT PLEASANT TOWN COUNCIL
Tuesday, September 13, 2016 at 6:00 p.m.
Municipal Complex, Council Chambers
100 Ann Edwards Lane
Mount Pleasant, SC 29464

MINUTES

Listen to the Podcast

View the Video

Mayor Page called the meeting to order at 6:00 p.m. Mr. Gawrych, Mr. Brimmer, Mr. Carrier, Mr. Santos, Mr. Bustos, Mr. Haynie, Mr. Smith and Mr. Owens were all present.

I. PRAYER

Chaplain Dewey started the meeting with a prayer.

II. PLEDGE

Mr. Santos led Council in the Pledge of Allegiance

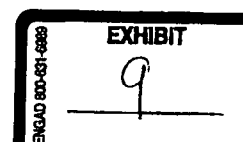
III. COMPLIANCE WITH FREEDOM OF INFORMATION ACT

Mr. Pagliarini certified compliance with the Freedom of Information Act.

IV. APPROVAL OF AGENDA GS1/JO2 – AIF

Mr. Santos moved to approve the agenda, seconded by Mr. Owens. All present voted in favor.

V. PUBLIC HEARINGS, AWARDS & PRESENTATIONS



A. A Public Hearing: A Public Hearing to receive input regarding a proposal to amend the Town of Mount Pleasant code of Ordinances, Chapter 155 Land Development Regulations, as follows: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.999, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.

Stephen Brock, 34 Hopetown Road said these pending amendments of the Mount Pleasant Zoning Code were not processed by the lawful requirements of the Mount Pleasant Zoning Code, specifically section 16.031 which requires that all amendments require a public hearing before the Planning Commission. Council may hold a public hearing, but in addition to, not in lieu of the hearing for the Planning Commission. Mr. Brock said these amendments went to the Planning Commission at a special meeting at 3:00 p.m. on a week day when few can attend, two hours before the regular Commission meeting. He said in his recent Freedom of Information Act (FOIA) case, the trial court found this practice not in the spirit of FOIA and so does he. Mr. Brock said he also wonders who made the decisions and when to make this change. He said in his experience, public comment at a Commission public hearing often effected the recommendations of the Commission, providing information unknown to the Commission and new viewpoints. The statutory Commission recommendation that followed, allowed time for study and review. The recommendation Council now has was not the product of public participation and public input, and devaluation of public participation is one result. Mr. Brock said these amendments also weaken the Planning Commission standards. Just a few notes –

the preliminary plat approval was taken from the Commission, placed under the Planning Department, which if he reads it correctly, makes it a vested right without a public process. Mr. Brock said decisions of the Planning Director may now be made in many instances by a "designated representative." Mr. Brock asked who is that, and why is that. Mr. Brock said certainly the Ordinance could specify an alternate if one is necessary in emergency situations. Mr. Brock said there is also the generality of "staff" found in the amendments. Recall the so-called statements by the Town on the Shem Creek garage referred to decisions by "staff." Mr. Brock said specific accountability is necessary in all public business in his view, and particularly in development because it touches all of our lives. He said we need more, not less. Mr. Brock said we also need more disclosure and public process, not less. Mr. Brock said we surely need adherence to the laws of the Town. He only asked that Council send this non-critical amendment back to the Planning Commission for a public hearing and an informed recommendation by that body in keeping with its importance and statutory position.

Mayor Page thanked Mr. Brock and asked if there is anyone else that would like to speak on this issue tonight.

Hearing none, Mayor Page declared the public hearing closed.

- B. A Public Hearing:** A Public Hearing to receive input regarding a proposal to adopt a new Development Agreement for a proposed development to be known as Palmetto Fort. The development is proposed to consist of detached single-family residential uses, attached single-family residential uses, open space areas, a trail system, and a community farm and other neighborhood amenity uses. The property comprising the proposed development is an approximately 209.651 acre tract of land consisting of two parcels of land described as follows: (i) an approximately 207.66 acre parcel located on North Palmetto Fort Drive and North Lakeshore Drive,

[Approved with items fifteen and sixteen above.]

Mr. DeMoura read *FIRST READING BY TITLE ONLY*.

- 18. First Reading:** An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 155 Land Development Regulations, and Chapter 156, Zoning Code, as described herein and in Exhibits A and B, all pertaining to changes to the Definitions, submittal process and tree mitigation requirements. (Ord. No. 16082)

Ms. Farrell said this is an amendment to the Land Development Regulations as well as the Zoning Code, and was reviewed extensively by the Planning Committee three times. The Planning Commission reviewed it at their last meeting and both groups have recommended approval.

Mr. Gawrych moved for first reading, seconded by Mr. Santos.

Mayor Page stated she would like Ms. Farrell to clarify that this means that the increase in the proposed tree mitigation goes from one-hundred and fifty to two hundred percent. Ms. Farrell responded in the affirmative and said one of the things they are trying to clarify with this process is how tree mitigation is accomplished. Ms. Farrell said they would like it to be accomplished earlier so that the Planning Department is not trying to track down tree mitigation as one home after another receives a Certificate of Occupancy. She said Staff had proposed a couple of different options that the developer could pursue for tree mitigation. She said they heard back from the development community who also requested that there be an option for a bond. Ms. Farrell said after some discussion among Staff, it was determined that the only way that they would be comfortable is with a cash bond, and they had proposed one hundred and fifty percent that would need to be paid and the bond would be good for a period of two years. Ms. Farrell said

when this went to the Planning Committee, they thought that amount should be higher and recommended it be raised to two hundred percent of the mitigation cost. Ms. Farrell said once the mitigation was accomplished, the money would be returned.

Mayor Page thanked Ms. Farrell and the Planning Committee stating that the Town is a Tree City, and trees are very important to our citizens and she appreciates everyone's work on this issue.

Mayor Page called for the vote and all present voted in favor.

Mr. DeMoura read *FIRST READING BY TITLE ONLY.*

- 19. First Reading:** An Ordinance to amend Sub-Paragraph (11) of Paragraph (A) of Section 150.002 of Chapter 150 of the Mount Pleasant Code of Ordinances providing for third party plan review of building plans and fees therewith. (Ord. No. 16083)

Ms. Farrell said this is an amendment to the Building Code section of the Code of Ordinances related to the process changes and will allow the Building Division to be able to have a third party do a plan review, and establishes the fees charged if they decide to pursue a third party plan review.

Mr. Smith moved for first reading, seconded by Mr. Santos.

Mr. Carrier who would be requesting the third party review. Ms. Farrell said the applicant would request a third party plan review, and the applicant would pay for it and also pay the additional fees back to the Town. The Town will still be coordinating and facilitating the plan review. She said this would be for the larger projects so that Staff can concentrate more on the smaller projects and commercial upgrades.

TOOL BOX

Code of Ordinances
Comprehensive Plan
Project and Application Map
Use Table
Zoning Map



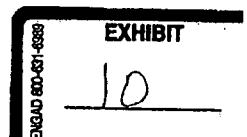
MOUNT PLEASANT TOWN COUNCIL
TOWN COUNCIL AGENDA - AMENDED
Tuesday, October 11, 2016 at 6:00 p.m.
Municipal Complex, Council Chambers
100 Ann Edwards Lane
Mount Pleasant, SC 29464

SIGN IN TO SPEAK HERE

<http://bit.ly/2dPi2Gn>

- I. PRAYER
- II. PLEDGE
- III. COMPLIANCE WITH FREEDOM OF INFORMATION ACT
- IV. APPROVAL OF AGENDA
- V. PUBLIC HEARINGS, AWARDS & PRESENTATIONS

A. A Public Hearing: A Public Hearing to receive input regarding a proposal to adopt a new Development Agreement for a proposed development to be known as Palmetto Fort. The development is proposed to consist of detached single-family residential uses, attached single-family residential uses, open space areas, a trail system, and a community farm and other neighborhood amenity uses. The property comprising the proposed development is an approximately 209.651 acre tract of land consisting of two parcels of land described as follows: (i) an approximately 207.66 acre parcel located on North Palmetto Fort Drive and North Lakeshore Drive, identified by TMS No. 577-00-00-001, and depicted on a plat



recorded by the Charleston County RMC Office in plat Book Q, Page 155; and (ii) an approximately 1.991 acre parcel of land located on Rifle Range Road near its intersection with Tarrington Lane, identified by TMS No. 577-00-00-315, and depicted as Lot A on a plat recorded by the Charleston County RMC Office in Plat Book L16, Page 0201.

B. Administration of Oath to Municipal Judges

C. Recognition of the Department of Planning and Development for receiving the South Carolina American Planning Association Award for Outstanding Planning Project – Public Outreach and Engagement

D. Prescription Drug Awareness Proclamation

E. Employee of the Month

VI. APPROVAL OF MINUTES FROM THE SEPTEMBER 13, 2016 TOWN COUNCIL MEETING AND THE SEPTEMBER 2016 FINANCIAL STATEMENT.

VII. CORRESPONDENCE AND PUBLIC STATEMENTS

VIII. PLANNING – Ms. Farrell

Planning Committee Minutes

Planning Commission Minutes

A. NEW BUSINESS

- 1. First Reading:** An Ordinance to provide for a moratorium on certain multi-family structures. (Ord. No. 16101)

2. **First Reading:** An Ordinance to rezone from PD, Planned Development District, to R-4, Medium Density Residential District, an approximately 0.09 acre parcel of land located at 1425 North Point Court, in North Point subdivision, identified by TMS No. 532-11-00-241 and depicted on a plat recorded by the Charleston County RMC Office in Plat Book DD, Page 099. (Ord. No. 16087)
3. **First Reading:** An Ordinance providing for the annexation of an approximately 0.25 acre tract of land located at 1718 Lacannon Lane, identified by TMS No. 558-00-00-914, and depicted as Lot B2-A on a plat recorded by the Charleston County RMC office in Book DF, Page 877. (Ord. No. 16088)
4. **First Reading:** An Ordinance to zone AB, Areawide Business District, and HNB-VR-OD, Hungryneck Boulevard – Venning Road Overlay District, an approximately 0.25 acre tract of land, located at 1718 Lacannon Lane, identified by TMS No. 558-00-00-914, and depicted as Lot B2-A on a plat recorded by the Charleston County RMC Office in Book DF, Page 877. (Ord. No. 16089)
5. **First Reading:** An Ordinance providing for the annexation of an approximately 12.44 acre tract of land comprised of three parcels, located on Old Georgetown Road, Identified by TMS Nos. 578-00-00-007, 578-00-00-011 and 578-00-00-014, and depicted on a plat recorded by the Charleston County RMC Office in Book CB, Page 061 and Book S15, Page 0006, and Deed Book V378, Page 001. (Ord. No. 16090)
6. **First Reading:** An Ordinance to zone PD-CD, Planned Development – Conservation Design District, an approximately 12.44 acre tract of land comprised of three parcels, located on Old Georgetown Road, identified by TMS Nos. 578-00-00-007, 578-00-00-011 and 578-00-00-014 and depicted on a plat recorded by

the Charleston County RMC Office in Book CB, Page 061 and Book S15, Page 0006, and Deed Book V378, Page 001. (Ord. No. 16091)

7. **First Reading:** An Ordinance providing for the annexation of an approximately 209.651 acre tract of land comprised of two parcels, located at North Palmetto Fort Drive and North Lakeshore Drive known as Palmetto Fort Development, identified by TMS Nos. 577-00-00-001 and 577-00-00-315, and depicted on a plat recorded by the Charleston County RMC Office in Book Q, Page 155 and Book L16, Page 0201. (Ord. No. 16068)
8. **First Reading:** An Ordinance to zone CL, Cultural Landscape District, an approximately 209.651 acre tract of land comprised of two parcels, located at North Palmetto Fort Drive and North Lakeshore Drive, known as Palmetto Fort Development, identified by TMS Nos. 577-00-00-001 and 577-00-00-315, and depicted on a plat recorded by the Charleston County RMC Office in Book Q, Page 155 and Book L16, Page 0201. (Ord. No. 16069)
9. Approval of Impact Assessment and Conceptual Plan for the proposed development identified as Palmetto Fort
10. **First Reading:** An Ordinance providing for the adoption of a Development Agreement pertaining to the new development known as Palmetto Fort, located between Rifle Range Road and North Lakeshore Drive in the Six Mile Community, and entitled to *Development Agreement Palmetto Fort*, by and between PC Palmetto Investments, LLC and the Town of Mount Pleasant. (Ord. No. 16070)
11. **First Reading:** An Ordinance amend Chapter 155 of the Mount Pleasant Code of Ordinances, providing for a temporary suspension of approval for the subdivision of property in the area commonly known as the Old Village and Old Mount Pleasant. (Ord. No. 16092)

- 12. First Reading:** An Ordinance to amend Chapter 156 of the Mount Pleasant Code of Ordinances, providing for a temporary suspension of approval for Accessory Dwelling Units in the area commonly known as the Old Village and Old Mount Pleasant. (Ord. No. 16093)
- 13. First Reading:** An Ordinance amend various sections of Chapters 155 and 156 of the Mount Pleasant Code of Ordinances, pertaining to wetland property as it relates to the calculation of required open space. (Ord. No. 16094)
- 14. First Reading:** An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 150, Building Regulations, as described herein and in Exhibit A, pertaining to the adoption date of the latest edition of the International Property Maintenance Code and the International Existing Building Codes referenced in Code Section 150.001 (J) and (K). (Ord. No. 16095)
- 15. First Reading:** An Ordinance providing for the annexation of an approximately 1.12 acre tract of land, located at 4267 True Blue Court in Rice Fields at Bulls Bay, identified by TMS No. 632-00-00-110, and depicted as Lot 30 in Phase II on a plat recorded by the Charleston County RMC Office in Book EG Page 763. (Ord. No. 16096)
- 16. First Reading:** An Ordinance providing for the annexation of an approximately 0.60 acre tract of land located at 3713 Station Point Court in Darrell Creek Plantation (formerly known as River Station), identified by TMS No. 596-08-00-035, and depicted as Lot 33 Block A, on a plat recorded by the Charleston County RMC Office in Plat Book EA Page 086. (Ord. No. 16097)

- 17. First Reading:** An Ordinance providing for *an amendment to the Dunes West A Planned Development District Ordinance*. (Ord. No. 16098)

B. OLD BUSINESS

- 1. Final Reading:** An Ordinance providing for the annexation of an approximately 2.65 acre tract of land, located at 1536 Mathis Ferry Road, identified by TMS No. 559-00-00-083, and depicted on a plat recorded by the Charleston County RMC Office in Book L12, Page 0064. (Ord. No. 16072)
- 2. Final Reading:** An Ordinance to rezone from R-1, Low Density Residential District, to PI-1, Public Institutional-1 District, an approximately 45.62 acre tract of land comprised of three parcels, located at 1560 Mathis Ferry Road, 946 Whipple Road and 950 Whipple Road, identified by TMS Nos. 559-00-00-081, 558-00-00-176 and 558-00-00-188, respectively, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L, Page 0153, Book AD, Page 071 and Book W, Page 096. (Ord. No. 16073)
- 3. Final Reading:** An Ordinance to amend the Town of Mount Pleasant Building Height Plan Map pertaining to an approximately 45.62 acre tract of land comprised of three parcels, located at 1560 Mathis Ferry Road, 946 Whipple Road and 950 Whipple Road, identified by TMS Nos. 559-00-00-081, 558-00-00-176, and 558-00-00-188, respectively, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L, Page 0153, Book AD, Page 071 and Book W, Page 096, by increasing the maximum building height from 35 feet to 55 feet. (Ord. No. 16074)

4. **Final Reading:** An Ordinance to rezone from R-1, Low Density Residential District, to PI-1, Public Institutional-1 District, an approximately 6.16 acre tract of land, located on Whipple Road near its intersection with Mathis Ferry Road, identified by TMS No. 559-00-00-095, known as the Town of Mount Pleasant Baseball Field, and depicted on a plat recorded by the Charleston County RMC Office in Book L12, Page 0064. (Ord. No. 16075)
5. **Final Reading:** An Ordinance to rezone from R-1, Low Density Residential District, to R-2, Low Density Residential District, and property to remain in the SR2-OD, Special R-2 Overlay District, an approximately 0.27 acre tract of land located at 804 Royall Avenue, Identified by TMS No. 532-09-00-101, and depicted on a plat recorded by the Charleston County RMC Office in Book AX, Page 022. (Ord. No. 16076)
6. **Final Reading:** An Ordinance to rezone from First Baptist Church North PD-MU-SR, Planned Development-Mixed Use Suburban-Rural District, to PI-1, Public Institutional-1 District, and AB, Areawide Business District, an approximately 19.75 acre tract of land, located at 1151 George Browder Boulevard, identified by TMS No. 598-00-00-007, and depicted on a plat recorded by the Charleston County RMC Office in Book L15, Page 0096. (Ord. No. 16077)
7. **Final Reading:** An Ordinance providing for the annexation of an approximately 1.0 acre tract of land, located at 446, Commonwealth Road in Darrell Creek Plantation, identified by TMS No. 596-08-00-010, and depicted as Lot 10, Block A, FNA River Station, and shown on a plat recorded by the Charleston County RMC Office in Book EA, Page 086. (Ord. No. 16078)

8. **Final Reading:** An Ordinance providing for the annexation of an approximately 1.47 acre tract of land, located on Bulls Bay Boulevard in Rice Fields at Bulls Bay, identified by TMS No. 632-00-00-140, and depicted as Lot 60 in Phase III on a plat recorded by the Charleston County RMC Office in Book EH, Page 045. (Ord. No. 16079)
9. **Final Reading:** An Ordinance providing for the annexation of an approximately 1.92 acre tract of land, located at 855 Bulls Bay Boulevard in Rice Fields at Bulls Bay, identified by TMS No. 632-00-00-137, and depicted as Lot 57 in Phase III on a plat recorded by the Charleston County RMC Office in Book EH, Page 045. (Ord. No. 16080)
10. **Final Reading:** An Ordinance providing for the annexation of an approximately 1.02 acre tract of land, located on True Blue Court in Rice Fields at Bulls Bay, identified by TMS No. 632-00-00-114, and depicted as Lot 34 on a plat recorded by the Charleston County RMC Office in Book EG, Page 111. (Ord. No. 16081)
11. **Final Reading:** An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 155 Land Development Regulations, and Chapter 156, Zoning Code, as described herein and in Exhibits A and B, all pertaining to changes to the Definitions, submittal process and tree mitigation requirements. (Ord. No. 16082)
12. **Final Reading:** An Ordinance to amend Sub-Paragraph (11) of Paragraph (A) of Section 150.002 of Chapter 150 of the Mount Pleasant Code of Ordinances providing for third party plan review of building plans and fees therewith. (Ord. No. 16083)

13. Final Reading: An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 156, Zoning Code, as described herein and in Exhibit A, pertaining to changes in the Design Review Board approval of bufferyard plantings. (Ord. No. 16084)

14. Final Reading: An Ordinance to amend Sections 156.220 through 156.230 of Chapter 156 of the Mount Pleasant Code of Ordinances *Pertaining to Tree Protection*. (Ord. No. 16085)

IX. COMMITTEE REPORTS

A. Accommodations Tax Advisory Committee (No Meeting)
Report

B. Bids & Purchases Committee
Report

C. Economic Development Committee
Report

D. Education Committee (No Meeting)
Report

E. Finance Committee (No Meeting)
Report

F. Fire Committee (No Meeting)
Report

G. Human Resources (No Meeting)
Report

H. Patriots Point Development Authority
Report

I. Planning Committee
Report

J. Police, Legal & Judicial Committee
Report

K. Public Services Committee (No meeting)
Report

L. Recreation Committee (No Meeting)
Report

M. Transportation
Report

N. Waterworks Commission
Report

O. Water Supply Committee

1. An amendment to Section 51.115(A)(2), Water and Sewer, regarding the discharge of condensate (See Council New Business Item XI.A.1)
2. Maguro Enterprises SCDHEC Water Withdrawal Request (See Council New Business Item XI.A.2)
3. Report

X. ADMINISTRATOR'S REPORT

XI. COUNCIL BUSINESS

A. New Business

- 1. First Reading:** An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 51, Water and Sewers, as described herein and in Exhibit A, pertaining to the Restricted Discharges in Code Section 50.115 (A). (Ord. No. 16099)
- 2. Adoption:** A Resolution in support of request for the South Carolina Department of Health & Environmental Control to require alternatives for a groundwater withdrawal permit submitted by Maguro Enterprises, LLC. (R.16101)
- 3. First Reading:** An Ordinance authorizing a sublease of property known as the Trident Academy Gymnasium to the Town of Mount Pleasant. (Ord. No. 16100)

B. Old Business

Final Reading: An Ordinance *authorizing the transfer of title* to surplus right-of-way to the South Carolina Department of Transportation related to the U.S. Highway 17/Mark Clark Expressway Project. (Ord. 16086)

C. Executive Session

Legal and Contractual

Discussion of Park West vs. Town of Mount Pleasant litigation

Personnel

Consideration of appointments to the Planning Commission

MOUNT PLEASANT TOWN COUNCIL
Tuesday, October 11, 2016 at 6:00 p.m.
Municipal Complex, Council Chambers
100 Ann Edwards Lane
Mount Pleasant, SC 29464

MINUTES

Mayor Page called the Town Council Meeting to order at 6:00 p.m.

Council Members Gary Santos, Bob Brimmer, Joe Bustos, Elton Carrier, Paul Gawrych, Jim Owens, Mark Smith, and Will Haynie were present.

I. PRAYER

Chaplain Chappy McKay led Council in prayer.

II. PLEDGE

Mayor Pro Tem Gary Santos led Council in the Pledge of Allegiance.

III. COMPLIANCE WITH FREEDOM OF INFORMATION ACT

Mr. Pagliarini certified compliance with the Freedom of Information Act.

IV. APPROVAL OF AGENDA

Mr. Bustos made a motion to amend the agenda and move Executive Session for Legal and Contractual discussion of Park West litigation (XI.C), to the first item under VIII which would be VIII.A under Planning; seconded by Mr. Santos. All present voted in favor.

Mr. Gawrych moved to approve the amended agenda; seconded by Mr. Bustos. All present voted in favor.

V. PUBLIC HEARINGS, AWARDS & PRESENTATIONS

A. A Public Hearing: A Public Hearing to receive input regarding a proposal to adopt a new Development Agreement for a proposed development to be known as Palmetto Fort. The development is proposed to consist of detached single-family residential uses,



9. **Final Reading:** An Ordinance providing for the annexation of an approximately 1.92 acre tract of land, located at 855 Bulls Bay Boulevard in Rice Fields at Bulls Bay, identified by TMS No. 632-00-00-137, and depicted as Lot 57 in Phase III on a plat recorded by the Charleston County RMC Office in Book EH, Page 045. (Ord. No. 16080)

[Approved with item #7]

Mr. DeMoura read *FINAL READING BY TITLE ONLY*. This Ordinance *SIGNED, SEALED and DELIVERED* this date.

10. **Final Reading:** An Ordinance providing for the annexation of an approximately 1.02 acre tract of land, located on True Blue Court in Rice Fields at Bulls Bay, identified by TMS No. 632-00-00-114, and depicted as Lot 34 on a plat recorded by the Charleston County RMC Office in Book EG, Page 111. (Ord. No. 16081)

[Approved with item #7]

Mr. DeMoura read *FINAL READING BY TITLE ONLY*. This Ordinance *SIGNED, SEALED and DELIVERED* this date.

11. **Final Reading:** An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 155 Land Development Regulations, and Chapter 156, Zoning Code, as described herein and in Exhibits A and B, all pertaining to changes to the Definitions, submittal process and tree mitigation requirements. (Ord. No. 16082)

Mr. Santos moved for approval; seconded by Mr. Brimmer. All present voted in favor.

Mr. DeMoura read *FINAL READING BY TITLE ONLY*. This Ordinance *SIGNED, SEALED and DELIVERED* this date.

12. **Final Reading:** An Ordinance to amend Sub-Paragraph (11) of Paragraph (A) of Section 150.002 of Chapter 150 of the Mount Pleasant Code of Ordinances providing for third party plan review of building plans and fees therewith. (Ord. No. 16083)

D. Post Executive Session

• Council may take action upon reconvening from Executive Session

XII. ADJOURN

AFFIDAVIT
OF PUBLICATION

The Post and Courier

State of South Carolina

County of Charleston

Personally appeared before me
the undersigned advertising Clerk of the
above indicated newspaper published
in the City of Charleston, County and
State aforesaid, who, being duly sworn,
says that the advertisement of

copy attached

appeared in the issues of said newspaper

on the following day(s): PO# 20160809

August 11, 2016

Subscribed and sworn to

before me this 14 day

of September

A.D. 20 16

Stephanie Kruger
Advertising Clerk

Sherry D. D.
NOTARY PUBLIC, SC
My Commission expires

**NOTICE OF PUBLIC HEARING
TOWN OF MOUNT PLEASANT
AMENDMENT TO LAND
DEVELOPMENT REGULATIONS**

The Mount Pleasant Town Council will conduct a public hearing on September 13, 2016 at 6:00 PM, pursuant to the applicable South Carolina State Statutes and Mount Pleasant Code of Ordinances, in Council Chambers, at the Mount Pleasant Municipal Complex, 100 Ann Edwards Lane, Mount Pleasant, SC regarding a proposal to amend the Town of Mount Pleasant Code of Ordinances, Chapter 155, Land Development Regulations, as follows: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§ 155.021 and 155.022; modifications to the submittal process for Preliminary Plans described in §§ 155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§ 155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.909, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.

DEFENDANT'S
EXHIBIT

A

**TOWN OF MOUNT PLEASANT, SOUTH CAROLINA
SPECIAL PLANNING COMMISSION
AUGUST 24, 2016
MINUTES**

Present: Howard Chapman, Chair; Alys Campaigne, Vice-chair; John McNeill; Rodly Millet; Kathy Smith; Tripp Cuttino (entered at 4:21 pm); Joseph Wren (entered at 4:40 pm).
Absent: DeAudre Gregg, Josh Malone (both excused).
Staff: Christiane Farrell, David Pagliarini, Lee Cave, Kent Prause, Kelly Cousino, Kevin Mitchell, Eddie Bernard, Shaina Salomon, Lynnette Lynes.

Mr. Chapman called the meeting to order at 3:03 pm.

1. Correspondence and Comments

Ms. Cousino stated that no correspondence was received.

There being no comments, Mr. Chapman continued with the agenda.

2. Requests

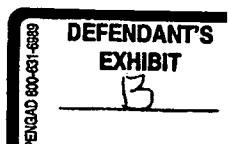
A. Request approval of Sketch Plan for Shell Landing, 16 detached single-family residential lots zoned R-2, Low Density Residential District, located at 1480 & 1492 Rifle Range Road. TMS No.: 560-06-00-001, 560-06-00-025

Ms. Salomon reviewed the request with the Commission (Attachments 1 and 2).

Ms. Smith asked whether the pond is adequate for the drainage needs. Mr. Mitchell answered that it would be used only for the new development and not for any existing drainage.

Mr. Chapman asked about preservation of trees. Mr. Bernard answered that the lots have proposed building areas identified in order to ensure each lot is buildable with preservation of the trees. He stated that the number of lots was slightly reduced as well.

Mr. Craig Conant, applicant, reviewed the request with the Commission. Mr. Chapman commended the applicant for the tree preservation. He asked whether brick driveways are proposed. Mr. Conant answered in the negative.



Ms. Frances Timmons, Seamon Whiteside and Associates, stated that Maidstone Drive would be completed with Phases 8 and 9 and is currently scheduled for October 2016.

Mr. Millet moved for approval of the request including all staff comments. Ms. Smith seconded the motion. All in favor.

G. Request approval of street name (NanTuk Lane) for a private street located off of Rifle Range Road. Location: off of Rifle Range Road, north of Venning Road

Ms. Cousino reviewed staff comments with the Commission (Attachment 2).

Ms. Campaigne moved for approval of the request. Ms. Smith seconded the motion. All in favor.

H. Proposal to amend Zoning Code Section 156.201 (C) by adding a new division (6) providing that the quantity of bufferyard plantings on properties adjacent to areas where existing vegetation may be present and will not be removed in the future shall be determined during the Design Review Process.

Ms. Cousino reviewed staff comments with the Commission (Attachments 1 and 2).

Mr. Millet asked if it could be determined that the buffer was not needed. Ms. Cousino answered in the negative and stated that the Design Review Board (DRB) would have purview only over the number of plantings required within the buffer.

Mr. Chapman asked how it would be determined that vegetated areas near highways or right-of-ways would not be removed in the future. Ms. Cousino answered that this would not necessarily be known, but it would be up to the DRB to determine whether it is appropriate to allow a reduction in the density of buffer plantings.

Ms. Campaigne asked if this would also apply for residential. Ms. Cousino answered that the proposal only applies to commercial uses. She stated that often there is not a buffer required for residential uses.

There being no comments, Mr. Chapman closed the public hearing.

Ms. Campaigne moved for approval of the proposal. Ms. Smith seconded the motion.

Mr. Chapman expressed concern that state roadways could be expanded in the future as well as wetlands being filled in.

Mr. Chapman called for a vote on the motion. Motion carried on a 4 to 1 vote with Ms. Campaigne, Mr. McNeill, Ms. Smith, and Mr. Millet in favor; Mr. Chapman opposed.

I. Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319 by adding new definitions; adding requirements pertaining to a new Preliminary Staff Review requirement for Sketch Plans, Preliminary Plats, Impact Assessments, and Planned Development Districts; and other modifications as needed for consistency with the aforementioned amendments. Also, proposal to amend Chapter 155, Land Development Regulations, in the following manner: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§ 155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§ 155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§ 155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.999, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.

Ms. Farrell reviewed the amendments with the Commission (Attachments 1 and 2).

Mr. Cuttino entered at this time (4:21 pm).

Ms. Smith thanked staff for its work and stated that many of the items addressed were items of concern.

Mr. Millet thanked staff for its work and suggested that the Commission will need to be more diligent in its review of Sketch Plans.

Ms. Campaigne asked how this compares to other municipalities. Ms. Farrell stated that the City of Charleston Technical Review Committee is similar, but includes several departments in addition to Planning. She stated that there has been some discussion about including other departments in order to have a more coordinated review, but for now this will be Planning Department staff only. She stated that staff currently conducts coordination meetings with other departments on items coming before the Commission. Ms. Campaigne asked if any part of the Preliminary Staff Review would be considered a vested right. Mr. Pagliarini answered that this was discussed and the Preliminary Staff Review would not provide any vested rights. Ms. Campaigne asked if tree mitigation must be accomplished within the project area. Ms. Farrell answered that the mitigation would either be planted within the project area or the funds from cash bonds could be transferred to the Tree Bank Fund to be utilized for town-wide projects.

Mr. Millet asked whether staff would review and approve Preliminary Plats and ensure interdepartmental coordination. Ms. Farrell answered that staff would review Preliminary Plats, and would ensure all Planning Commission Sketch Plan approval conditions are addressed.

Mr. Chapman asked whether the amendments would give staff more leverage in determining whether a project has completed the checklist items and should be included on the agenda. Ms. Farrell answered that part of the changes to the process is to have a complete submittal that contains all checklist items. Mr. Chapman suggested that more staff is needed in order to accomplish the number of projects coming forward.

Mr. McNeill asked how disagreements between the developer and staff will be handled. Ms. Farrell answered that if the developer chooses not to address certain staff comments, staff will indicate those items in the staff report for the Commission.

Mr. Chris Wallace, 2105 Tall Grass Circle, commended staff on its work on these changes. He asked if the cash bond could be reduced in the event a portion of the mitigation is completed.

Ms. Jenny Germuth, Seamon Whiteside and Associates, expressed concern with cash tree bonds and asked for consideration of allowing a letter of credit as well. She also expressed concern that there would be only four to five days between the staff meeting and the next Planning Commission application deadline. She suggested more time should be provided for the applicant to address staff comments prior to the application deadline.

Mr. Chapman relinquished his position as Chair and went into the audience. Ms. Campaigne served as acting Chair.

Mr. Howard Chapman, 824 Natchez Circle, commended staff for its work on these changes. He stated that there have been occasions where there have been a large number of staff comments for projects that still went before the Commission. He suggested more Planning staff members are needed, and there should be additional staff in order to accomplish the volume of tasks to ensure good development.

Ms. Campaigne relinquished her position as Chair upon Mr. Chapman's return.

Ms. Farrell stated that staff would need to consult with the Town's CFO as to whether or not cash bonds could be reduced and also added that staff recommends cash bonds only. She stated that in regard to staff comments, the developer would receive them at the same time the Commission would receive staff comments for the upcoming Commission meeting. She stated this was discussed with many of the engineering firms that work on the majority of the projects submitted to the Commission, and they were comfortable with the timeframe.

There being no further comments, Mr. Chapman closed the public hearing.

Mr. Millet moved for approval of the proposal as submitted. Ms. Campaigne seconded the motion.

Ms. Smith suggested that these changes should mean that the applicant will be more diligent in having a better and complete project submittal.

Mr. McNeill suggested that if a bond reduction is allowed, there might be less of an incentive to complete the mitigation.

Mr. Wren entered at this time (4:40 pm).

Mr. Chapman called for a vote on the motion. All in favor.

There being no further business, the meeting adjourned at 4:46 pm.

Submitted by,

L. Lynes

SpPlanComsn08242016

MOUNT PLEASANT TOWN COUNCIL
Tuesday, September 13, 2016 at 6:00 p.m.
Municipal Complex, Council Chambers
100 Ann Edwards Lane
Mount Pleasant, SC 29464

MINUTES
[Listen to the Podcast](#)
[View the Video](#)

Mayor Page called the meeting to order at 6:00 p.m. Mr. Gawrych, Mr. Brimmer, Mr. Carrier, Mr. Santos, Mr. Bustos, Mr. Haynie, Mr. Smith and Mr. Owens were all present.

I. PRAYER

Chaplain Dewey started the meeting with a prayer.

II. PLEDGE

Mr. Santos led Council in the Pledge of Allegiance

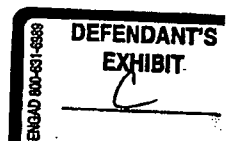
III. COMPLIANCE WITH FREEDOM OF INFORMATION ACT

Mr. Pagliarini certified compliance with the Freedom of Information Act.

IV. APPROVAL OF AGENDA GS1/JO2 – AIF

Mr. Santos moved to approve the agenda, seconded by Mr. Owens. All present voted in favor.

V. PUBLIC HEARINGS, AWARDS & PRESENTATIONS



A. A Public Hearing: A Public Hearing to receive input regarding a proposal to amend the Town of Mount Pleasant code of Ordinances, Chapter 155 Land Development Regulations, as follows: addition of definitions to Section 155.004; modifications to the submittal process for Sketch Plans described in §§155.021 and 155.022; modifications to the submittal process for Preliminary Plats described in §§155.023; modifications to §§ 155.024, 155.025, 155.026, and 155.027 concerning Final Plat submittals; other minor modifications to §§155.005, 155.020, 155.028, 155.029, 155.044, 155.048, 155.049, 155.050, 155.051, 155.052, 155.053, 155.072, 155.073, 155.086, 155.999, Appendix A, and Appendix B; and other modifications as needed for consistency with the aforementioned amendments.

Stephen Brock, 34 Hopetown Road said these pending amendments of the Mount Pleasant Zoning Code were not processed by the lawful requirements of the Mount Pleasant Zoning Code, specifically section 16.031 which requires that all amendments require a public hearing before the Planning Commission. Council may hold a public hearing, but in addition to, not in lieu of the hearing for the Planning Commission. Mr. Brock said these amendments went to the Planning Commission at a special meeting at 3:00 p.m. on a week day when few can attend, two hours before the regular Commission meeting. He said in his recent Freedom of Information Act (FOIA) case, the trial court found this practice not in the spirit of FOIA and so does he. Mr. Brock said he also wonders who made the decisions and when to make this change. He said in his experience, public comment at a Commission public hearing often effected the recommendations of the Commission, providing information unknown to the Commission and new viewpoints. The statutory Commission recommendation that followed, allowed time for study and review. The recommendation Council now has was not the product of public participation and public input, and devaluation of public participation is one result. Mr. Brock said these amendments also weaken the Planning Commission standards. Just a few notes –

the preliminary plat approval was taken from the Commission, placed under the Planning Department, which if he reads it correctly, makes it a vested right without a public process. Mr. Brock said decisions of the Planning Director may now be made in many instances by a "designated representative." Mr. Brock asked who is that, and why is that. Mr. Brock said certainly the Ordinance could specify an alternate if one is necessary in emergency situations. Mr. Brock said there is also the generality of "staff" found in the amendments. Recall the so-called statements by the Town on the Shem Creek garage referred to decisions by "staff." Mr. Brock said specific accountability is necessary in all public business in his view, and particularly in development because it touches all of our lives. He said we need more, not less. Mr. Brock said we also need more disclosure and public process, not less. Mr. Brock said we surely need adherence to the laws of the Town. He only asked that Council send this non-critical amendment back to the Planning Commission for a public hearing and an informed recommendation by that body in keeping with its importance and statutory position.

Mayor Page thanked Mr. Brock and asked if there is anyone else that would like to speak on this issue tonight.

Hearing none, Mayor Page declared the public hearing closed.

- B. A Public Hearing:** A Public Hearing to receive input regarding a proposal to adopt a new Development Agreement for a proposed development to be known as Palmetto Fort. The development is proposed to consist of detached single-family residential uses, attached single-family residential uses, open space areas, a trail system, and a community farm and other neighborhood amenity uses. The property comprising the proposed development is an approximately 209.651 acre tract of land consisting of two parcels of land described as follows: (i) an approximately 207.66 acre parcel located on North Palmetto Fort Drive and North Lakeshore Drive,

[Approved with items fifteen and sixteen above.]

Mr. DeMoura read *FIRST READING BY TITLE ONLY*.

- 18. First Reading:** An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 155 Land Development Regulations, and Chapter 156 Zoning Code, as described herein and in Exhibits A and B, all pertaining to changes to the Definitions, submittal process and tree mitigation requirements. (Ord. No. 16082)

Ms. Farrell said this is an amendment to the Land Development Regulations as well as the Zoning Code, and was reviewed extensively by the Planning Committee three times. The Planning Commission reviewed it at their last meeting and both groups have recommended approval.

Mr. Gawrych moved for first reading, seconded by Mr. Santos.

Mayor Page stated she would like Ms. Farrell to clarify that this means that the increase in the proposed tree mitigation goes from one-hundred and fifty to two hundred percent. Ms. Farrell responded in the affirmative and said one of the things they are trying to clarify with this process is how tree mitigation is accomplished. Ms. Farrell said they would like it to be accomplished earlier so that the Planning Department is not trying to track down tree mitigation as one home after another receives a Certificate of Occupancy. She said Staff had proposed a couple of different options that the developer could pursue for tree mitigation. She said they heard back from the development community who also requested that there be an option for a bond. Ms. Farrell said after some discussion among Staff, it was determined that the only way that they would be comfortable is with a cash bond, and they had proposed one hundred and fifty percent that would need to be paid and the bond would be good for a period of two years. Ms. Farrell said

when this went to the Planning Committee, they thought that amount should be higher and recommended it be raised to two hundred percent of the mitigation cost. Ms. Farrell said once the mitigation was accomplished, the money would be returned.

Mayor Page thanked Ms. Farrell and the Planning Committee stating that the Town is a Tree City, and trees are very important to our citizens and she appreciates everyone's work on this issue.

Mayor Page called for the vote and all present voted in favor.

Mr. DeMoura read *FIRST READING BY TITLE ONLY.*

- 19. First Reading:** An Ordinance to amend Sub-Paragraph (11) of Paragraph (A) of Section 150.002 of Chapter 150 of the Mount Pleasant Code of Ordinances providing for third party plan review of building plans and fees therewith. (Ord. No. 16083)

Ms. Farrell said this is an amendment to the Building Code section of the Code of Ordinances related to the process changes and will allow the Building Division to be able to have a third party do a plan review, and establishes the fees charged if they decide to pursue a third party plan review.

Mr. Smith moved for first reading, seconded by Mr. Santos.

Mr. Carrier who would be requesting the third party review. Ms. Farrell said the applicant would request a third party plan review, and the applicant would pay for it and also pay the additional fees back to the Town. The Town will still be coordinating and facilitating the plan review. She said this would be for the larger projects so that Staff can concentrate more on the smaller projects and commercial upgrades.

Mr. Carrier asked if the Town has a review in that process, after the third party review. Ms. Farrell said it will be stamped and sealed by the third party reviewer.

Mayor Page called for the vote. Mr. Santos voted no with all others present voting in favor. The motion carries with a vote of 8-1.

Mr. DeMoura read *FIRST READING BY TITLE ONLY.*

- 20. First Reading:** An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 156, Zoning Code, as described herein and in Exhibit A, pertaining to changes in the Design Review Board approval of bufferyard plantings. (Ord. No. 16084)

Ms. Farrell said this item is before Council and comes with a recommendation from the Planning Commission and the Planning Committee and will allow the Design Review Board to reduce the quantity of plantings if the buffer is located against a wetland. She said for example the buffer width cannot be reduced, but there would be some consideration as to the quantity of the plantings.

Mr. Gawrych moved for first reading seconded by Mr. Santos. All present voted in favor.

Mr. DeMoura read *FIRST READING BY TITLE ONLY.*

- 21. First Reading:** An Ordinance to amend the Town of Mount Pleasant Code of Ordinances, Chapter 156, related to tree protection. (Ord. No. 16085) **PLANNING COMMITTEE RECOMMENDED APPROVAL. THIS ITEM MUST GO BACK TO THE PLANNING COMMISSION FOR A PUBLIC HEARING.**

Ms. Farrell said this item has been drafted specific to the maintenance and installation of infrastructure and would apply

to instances with Mount Pleasant Waterworks or the Town Public Services Department with respect to the ability to remove trees for the purposes of installation or maintenance of Town infrastructure.

Mr. Smith moved for first reading, seconded by Mr. Gawrych.

Mayor Page asked if this would go back to the Planning Commission for public hearing and Ms. Farrell responded in the affirmative.

Mayor Page called for the vote and all present voted in favor.

Mr. DeMoura read *FIRST READING BY TITLE ONLY.*

B. OLD BUSINESS

- 1. Final Reading:** An Ordinance to amend Section 156.318, Chapter 156, of the Town of Mount Pleasant Code of Ordinances pertaining to Building Height in the UC-CBS and UC-CDB. (Ord. No. 16050)

Mr. Santos moved to approve the heights of forty-five feet to the ridge on Coleman and Ben Sawyer Boulevards with no more than three floors and to extend the heights fifty-five feet to the ridge for interior parcels known as Moultrie Plaza and Sea Island Shopping Center respectively with no more than four floors with setbacks being determined by the Design Review Board. This motion also includes Chuck Dawley Boulevard remaining at forty feet to the Ridge. Mr. Haynie seconded the motion.

Mayor Page asked if this is the recommendation that came out of the Planning Commission and Mr. Santos said he believed so.

Ms. Farrell said the chart (below) provides what currently adopted regulations are, pending ordinance which is based on first reading of this ordinance, the Planning Commission's recommendations and the Planning Committee recommendations.

	Current Regulation	Pending Ordinance	Planning Com. Recommendation
UC-CBS: Coleman-Ben Sawyer Boulevard Urban Corridor Overlay District			
Building Height:	55 feet/4 stories	45 feet/3 stories	45 feet/3 stories
Measured to:	building eave	roof ridge	roof ridge
UC-CBS: Area C/1			
Building Height:	55 feet/4 stories	45 feet/3 stories	55 feet/4 stories
Measured to:	building eave	roof ridge	building eave
UC-CBS: Mauldin Plaza & Sea Island Shopping Center			
Building Height (along street):	75 feet/6 stories	45 feet/3 stories	45 feet/3 stories
Measured to:	building eave	roof ridge	roof ridge
Building Height (interior of site):	75 feet/6 stories	55 feet/4 stories	55 feet/4 stories
Measured to:	building eave	roof ridge	building eave
UC-COB: Chuck Dawley Boulevard Urban Corridor Overlay District			
Building Height:	40 feet/3 stories	45 feet/3 stories	45 feet/3 stories
Measured to:	building eave	roof ridge	building eave
On this date, the UC-CBS is currently limited to 45 feet/3 stories measured to the roof ridge. UC-CBS C/1 and C/2. The Planning Commission recommended the Design Review Board determine the building footprint of a building exceeding 45 feet in height. A building footprint of a building exceeding 45 feet in height located within the UC-CBS building height limited to 45 feet/3 stories measured to the roof ridge is not permitted.			

Mayor Page asked Mr. Santos if his motion reflected any of those. Mr. Santos said the Planning Committee.

Mayor Page asked, after reading through the Planning Committee and Planning Commission minutes she heard many comments in the difference between measuring to the eave and the ridge. Mayor Page asked Ms. Farrell to explain what that means.

Ms. Farrell said the measurement to the building eave is to the bottom of the pitched roof, and the roof would not be included in the height. If the measurement is to the ridge, the measurement is to the highest point on the structure, whether it is a flat or pitched roof building. The roof ridge is the highest point. Ms. Farrell said the difference with the building eave is there still could be a roof structure above that is not included in the height measurement.

Mayor Page said if we are talking about lowcountry vernacular and design there is a little more flexibility if the measurement is to the

eave than to the ridge. Ms. Farrell said yes, in order to accommodate a roof structure.

Mayor Page said there is another piece of property in this corridor that is very important to the overall aesthetics and design of property and that is the G-2 property. She asked Mr. Santos if he would consider including G-2 in the same consideration that is being given to Moultrie Plaza and Sea Islands Shopping Center due to the size of them. Mayor Page said they would still have forty-feet where they front residential property, then forty-five feet, and the Design Review Board would determine what interior width would be at fifty-five feet. Mayor Page said the reason she asked this is the size of the property is very similar and forty foot limit in the front would assure that vista that everyone is concerned about with the marsh and that is regulated by our current ordinance.

Mr. Santos said he understood that, and that area is what is considered a decompression zone as well, and from what he has heard from all the citizens, they want that to reflect the lower heights, so based on that he would like to keep it at forty-five feet.

Mr. Brimmer asked Mr. Santos if his motion reflected the Planning Committee recommendations. Mr. Santos said most of it is Planning Committee, but it looks like there is a little bit of a mixture but most of it is the Planning Committee.

Mr. Brimmer asked what would be different in his motion versus what the Planning Committee recommended.

Mr. Santos said it is the Planning Committee recommendation.

Mr. Brimmer said the recommendation from the Planning Committee was what was done at first reading, plus the Design Review Board review on the step back, and the forty-feet on Chuck Dawley. Mr. Brimmer said if that is what Mr. Santos is saying then it is the recommendation from the Planning Committee.

Mr. Santos said it is a little bit of both of them and he has had discussions with different people and this is what they want, so he would say it is not any particular one. He said this is just discussions he has had with folks that have made these recommendations and it seems to be more recommendations for this than it is for any one particular one of those.

Mr. Brimmer asked if it is what is under the Planning Committee recommendations.

Mr. Santos said he could not see what was on the table. Mr. Gawrych said he heard the motion and everything he said was under the Planning Committee recommendations.

Mr. Santos said yes, then it is the Planning Committee recommendations.

Mr. Carrier asked if there is any way to dissect the motion by these areas.

Mayor Page said Mr. Santos is not willing to amend his motion. Mr. Carrier said he understands, but asked if the motion is defeated we could look at each of these areas individually. Mayor Page said she would hope that could be accomplished, and said her concern is there is an ordinance that is in place that reduces height on any building to forty feet where it faces residential, so Simmons Point is protected by forty-foot heights in the front, and the underlying zoning on the property which is called G-2 is commercial. She said she did not know why we are separating it out from the other two commercial properties if there is a decompression zone built in at forty feet. Mayor Page said she understands Mr. Santos' concerns about vistas and the views, but she thinks we are protected there and it is commercial property, and she does not understand why one property would be separated out, perhaps to the disadvantage of someone who has not asked for any changes or variances.

property owner a benefit that we are not giving to any of the other property owners in the area. He said that to him is what is arbitrary and capricious, is to pick one, when it was never discussed before, and now at second reading to throw that in there because a property owner has it under contract. He said the previous Council did that and gave one building ten feet that the other buildings do not have and the results were disastrous. Mr. Haynie said we should learn from our mistakes and do not give one property a height and scale that is out of context with the rest of the neighborhood. He said when this Council lowered the heights on nine other properties in the Live Oak Drive/Shem Creek area, there was never talk that it was a taking, so if there is no vested right in this and no plan that has been submitted, he would like to know how that constitutes a taking in this one case, when it did not in the other nine cases. Mr. Haynie said lastly, in the Bi-Lo shopping center, there are fifty-two units per acre being built at a fifty foot height. The current density maximum is sixteen units per acre, and surely that could be accomplished at forty-five feet. Mr. Haynie asked Council to please vote for the motion as presented.

Mayor Page said she did not recall anyone mentioning that this was a taking, she is just trying to mirror the neighborhoods as Simmons Point is the next forty-five and fifty-five feet with a forty-foot setback.

Mayor Page called for the vote. Mr. Brimmer, Mr. Bustos, Mr. Haynie, Mr. Owens and Mr. Santos all voted in favor with Mr. Carrier, Mr. Gawrych, Mr. Smith and Mayor Page opposed. The motion carried 5-4.

Mr. DeMoura read *FINAL READING BY TITLE ONLY*. This Ordinance *SIGNED, SEALED* and *DELIVERED* this date.

2. **Final Reading:** An Ordinance providing for the annexation of an approximately 3.41 acre parcel of vacant land known as Lot 18, located at 1395 Old Rosebud Trail, identified by TMS No. 615-00-

AFFIDAVIT
OF PUBLICATION

The Post and Courier

State of South Carolina

County of Charleston

Personally appeared before me
the undersigned advertising Clerk of the
above indicated newspaper published
in the City of Charleston, County and
State aforesaid, who, being duly sworn,
says that the advertisement of

copy attached

appeared in the issues of said newspaper

on the following day(s): PD# 20160809

August 9, 2016

Subscribed and sworn to

before me this 14 day

of September

A.D. 2016

NOTARY PUBLIC, S.C.
My Commission expires

PUBLIC HEARINGS TOWN OF MOUNT PLEASANT PLANNING COMMISSION

The Planning Commission will hold a special meeting at 3pm on Wednesday, August 24, 2016, Council Chambers, Mount Pleasant Municipal Complex, 100 Ann Edwards Lane, to consider public hearing items #1 and #2 listed below. The remaining public hearing items will be considered at the regularly scheduled August meeting of the Planning Commission, which will be held at 3pm on Wednesday, August 24, 2016, Council Chambers, Mount Pleasant Municipal Complex, 100 Ann Edwards Lane. Documents relating to the items are available for public inspection at the office of the Department of Planning & Development (temporarily located at 1355 Sweetgrass Basket Parkway) during normal business hours from 8:00 AM to 4:30 PM.

1. Proposal to amend Zoning Code Section 156.001 (3) by adding a new division (6) providing that the quantity of butterfly plantings on properties adjacent to areas where existing vegetation may be present and will not be removed in the future shall be determined during the Design Review Process.
2. Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319 by adding new definitions; adding requirements pertaining to; a new Preliminary Staff Review requirement for Sketch Plans, Preliminary Plats, Impact Assessments, and Planned Development Districts; and other modifications as needed for consistency with the aforementioned amendments. Town Council will hold the required public hearing for the associated modifications to the Land Development Regulations.
3. Request to rezone from R-1, Low Density Residential District, to R-2, Low Density Residential District, an approximately 1.06 acre parcel of land located on Rutledge Road near its intersection with Vining Road, identified by TMS No. 558-00-00-017, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book T, Page 138.
4. Request to amend the Dunes West PD, Planned Development District Ordinance by rezoning from DW-MF, Dunes West Multi-Family District, and DW-OF, Dunes West Office Professional District, to DW-C, Dunes West Commercial District, an approximately 1.02 acre parcel located at 3501 Satterbeck Street, identified by TMS No. 558-00-00-071, known as Park West Parcel 3A, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book M81, Page 8067.
5. Request to rezone from R-1, Low Density Residential District, to P-1, Public Institutional-1 District, an approximately 0.19 acre parcel of land located on Whipple Road near its intersection with Mathis Ferry Road, identified by TMS No. 558-00-00-068, known as the Town of Mount Pleasant baseball field, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L12, Page 6094.
6. Request to amend and zone P-1, Public Institutional-1 District, an approximately 2.65 acre parcel of land located at 1538 Mathis Ferry Road, identified by TMS No. 558-00-00-083, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L12, Page 6094. Also, request to rezone from R-1, Low Density Residential District, to P-1, Public Institutional-1 District, an approximately 45.62 acre tract of land comprised of three parcels described as follows: (i) an approximately 35.32 acre parcel located at 1560 Mathis Ferry Road, identified by TMS No. 558-00-00-081, known as the former Wando High School, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L, Page 0153; (ii) an approximately 5.0 acre parcel located at 949 Whipple Road, identified by TMS No. 558-00-00-176, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book AD, Page 071; and (iii) an approximately 5.3 acre parcel located at 950 Whipple Road, identified by TMS No. 558-00-00-168, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book W, Page 036. Also, request to amend the Building Height Plan Map to allow up to 55 feet in building height for TMS Nos. 558-00-00-081, 558-00-00-176, and 558-00-00-168, all described above.
7. Request to rezone from First Baptist Church North PO-MU-GR, Planned Development—Mixed Use Suburban—Rural, to P-1, Public Institutional-1 District, and AB, Avenue Business District, an approximately 19.75 acre parcel of land located at the intersection of Georgia Boulevard and U.S. Highway 17N, identified by TMS No. 598-00-00-007, known as The Church at 11th Park, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book L15, Page 0096. The portion of the parcel closest to U.S. Highway 17N is proposed to be zoned AB, while the portion of the parcel where the church is located is proposed to be zoned P-1.
8. Request to amend and zone CL, Cultural Landscape District, an approximately 209.651 acre tract of land comprised of two parcels of land described as follows: (i) an approximately 207.86 acre parcel located on North Palmetto Park Drive and North Lakeshore Drive, identified by TMS No. 577-00-00-001, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book Q, Page 155; and (ii) an approximately 1.891 acre parcel of land located on Rutledge Road near its intersection with Larrington Lane, identified by TMS No. 577-00-00-315, and depicted as Lot A on a plat recorded by the Charleston County RMC Office in Plat Book L14, Page 0201. Also, request for approval of Impact Assessment & Conceptual Plan.
9. Request to rezone from R-1, Low Density Residential District, to R-2, Low Density Residential District, an approximately 0.27 acre parcel of land located at 804 Royal Avenue, identified by TMS No. 532-09-00-101, and depicted on a plat recorded by the Charleston County RMC Office in Plat Book AK, Page 022. Subject property proposed to remain in the SR2-00, Special R-2 Overlay District.
10. Proposal to amend the First Baptist Church North Campus PD, Planned Development District (Ordinance Nos. 07047 and 12087), providing for the installation of a force main sewer line in the natural roadside bufferlands and mitigation for the same.
11. Proposal to amend the Deklane Park PD, Planned Development District (Ordinance Nos. 04014 and 90033), providing for the installation of a force main sewer line in the natural roadside bufferlands and mitigation for the same.

C27-1484642-1

DEFENDANT'S
EXHIBIT
D

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Stephen G. Brock,

Plaintiff,

vs.

Town of Mt. Pleasant,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-06605

AFFIDAVIT OF WATER KENT

PRause III AICP

FILED

JUN 06 2017

JULIE J. ARMSTRONG

CLERK, C.P. & G.S.

PERSONALLY appeared before me, Walter Kent Prause, III, AICP being duly sworn, states as follows:

1. My name is Walter Kent Prause, III and I am competent to make this affidavit of my own knowledge and experience.

2. I have been the Town of Mount Pleasant Zoning Administrator since February 9, 2009. Prior to that I served in various planning capacities with the Town since July 1, 1988, including my current position as Division Chief of the Planning Division of the Department of Planning and Development. I separately served as the part-time Zoning Administrator for the Town of Sullivan's Island from June 1, 1990 until mid-January 2009. I have a professional certification from the American Institute of Certified Planners (AICP), having been a member since July 1, 2001.

3. This affidavit is submitted in connection with the above legal case which is a challenge to the adoption of an ordinance which changed--in the same ordinance--both the Land Development Regulations of the Town of Mount Pleasant and also the Zoning Code of the Town of Mount Pleasant. The Zoning Code is located in Chapter 156 of the Town of Mount Pleasant, South Carolina Code of Ordinances. The Land Development Regulations are contained in Chapter 155 of the Town of Mount Pleasant, South Carolina Code of Ordinances. Per state law, the requisite public hearings and approvals necessary are different for changes in zoning regulations than for changes Land Development regulations. The Town of Mount Pleasant was well aware of the different paths that each type of change had to follow and we were careful to satisfy each path.

4. **With regard to the amendment(s) involving Land Development Regulations**, which are located in Chapter 155 of the Town Code, the following steps were taken in accordance with the applicable state statutes and local ordinances, including S.C. Code Section 6-29-1130(B) and the Mt. Pleasant, South Carolina Code of Ordinances, Section 155.087 that explicitly provides: (B) "The Town Council may adopt amendments to these regulations, as provided in the State Code."

5. South Carolina Code section 6-29-1130(B) requires thirty days public notice prior to amending land development regulations and authorizes Town Council to act: "The governing authority of the municipality and the governing authority of the county are given the power to adopt and to amend the land development regulations after public hearing on it, giving at least thirty days notice of the time and place by publication in a newspaper of general circulation in the municipality or county." Town Code 155.087(B) provides "The Town Council may adopt amendments to these regulations, as provided in State Code."

6. Accordingly, on August 11, 2016, Town Council advertised by the following publication in the Post and Courier at least thirty days' notice of the time and place of the public hearing it was to hold: "The Mount Pleasant Town Council will conduct a public hearing on September 13, 2016 at 6 PM regarding a proposal to amend the Town of Mt. Pleasant Code of Ordinances, Chapter 155, Land Development Regulations, as follows..." and set forth the specific proposed amendments. (See Attachment A).

7. Town Code 155.087(A) provides that the changes shall be proposed to the Planning Commission before being enacted.

8. Accordingly, on August 24, 2016, prior to the public hearing held by Town Council, the Planning Commission received and reviewed the proposals to amend Chapter 155 at its special meeting and all voted in favor as was recorded in the Planning Commission's official minutes. (See Attachment B).

9. On September 13, 2016, the Town Council conducted its public hearing for the proposed Land Development Regulation amendments as previously advertised. Following public comments, including by Plaintiff Brock, Town Council voted all in favor of the amendments. (See Attachment C).

10. **With regard to the amendments involving Zoning Code Sections**, which are located in Chapter 156 of the Town Code of Ordinances, the following steps were taken in accordance with South Carolina Code section 6-29-760 and the Mt. Pleasant, South Carolina Code of Ordinances section 156.031:

11. South Carolina Code section 6-29-760(A) provides that, "before enacting or amending any zoning regulations or maps, the governing authority or the planning commission, if authorized by the governing authority, shall hold a public hearing on it, which must be advertised and conducted according to lawfully prescribed procedures. If no established procedures exist, then at least fifteen days' notice of the time and place of the public hearing must be given in a newspaper of general circulation in the municipality."

12. Accordingly, on August 9, 2016, the Planning Commission advertised by publication in the Post and Courier (Attachment D) notice of the time and place of its public hearing to review proposals to amend the Zoning Code. The notice was titled "PUBLIC HEARING TOWN OF MOUNT PLEASANT PLANNING COMMISSION" and

provided: "The Planning Commission will hold a special meeting at 3PM on Wednesday, August 24, 2016 to consider public hearing items #1 and #2:

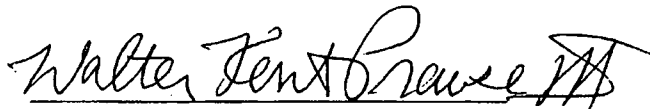
1. "Proposal to amend Zoning Code Section 156.201 (C)" and further setting forth the specific proposed amendments; and
2. "Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319" and again setting forth the specific proposed amendments.

The notice further explained that: "Town Council will hold the required public hearing for the associated modifications to the Land Development Regulations." (emphasis added). This portion of the notice simply explained a separate public hearing was to be held by Town Council to address amendments to Land Development Regulations as authorized and required by state law and in compliance with Section 155.087 of the Mt. Pleasant, South Carolina Code of Ordinances. The notice of public hearing for the Planning Commission listed the Zoning Code Sections that were proposed to be changed, as the Planning Commission was the proper place for those sections to have a public hearing per State law and Town Ordinance.

13. On August 24, 2016, the Planning Commission held its duly noticed meeting incorporating a public hearing on the zoning change. The Planning Commission then closed the public hearing and voted to recommend the change in the zoning and land development regulations and a majority voted in favor of the amendments to the Zoning Code as recorded in the Planning Commission's official minutes. (See also, Attachment B).

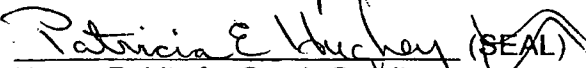
14. On September 13, 2016, following the Planning Commission's hearing and review, Town Council held a meeting to address the aforementioned amendments. After specifically reviewing the Planning Commission's recommendations and minutes from the Planning Commission's prior meeting, Town Council voted to adopt the amendments to the Land Development Regulations and the Zoning Code by ordinance. (See also, Attachment C).

FURTHER AFFIANT SAYETH NOT.


Walter Kent Prause, III

Sworn to before me this

17th day of May, 2017.


Notary Public for South Carolina

My Commission Expires: 1-8-2026

CHAPTER 155: LAND DEVELOPMENT REGULATIONS

~~Text to be deleted~~

New text

Text to remain

Sections 155.001, 155.002, and 155.003 to remain unchanged.

§ 155.004 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATIVE OFFICER. The Director of Planning and Development.

ANNUAL MEETING SCHEDULE. A schedule of all regular meetings of appointed and elected officials of the Town of Mount Pleasant, published no later than December of each year and which may be amended from time to time.

APPLICANT. The individual specified on an application form for any Sketch Plan, Plat, or other formal submittal to the Town as being the point of contact for such application.

CRITICAL AREA. Pursuant to Title 48 of the South Carolina Code of Laws, CRITICAL AREA includes coastal waters, tidelands, beaches, and the beach/dune system.

EASEMENT. A grant by the property owner of the use of a strip of land for a specific purpose. Ownership is retained by the property owner, who is responsible for the general upkeep and maintenance of the easement.

ENGINEER. A registered professional engineer in the state.

FINAL PLAT. A plat of all or part of a subdivision of property, including supporting data, showing all features and improvements required by these regulations, which substantially conforms to the approved Preliminary Plat. A FINAL PLAT is prepared after all required improvements, such as installation of infrastructure, are complete.

LAND DEVELOPMENT. A change in land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, or similar developments for sale, lease, or any combination of owner and rental characteristics.

LOT. A single parcel or tract of land as a part of a subdivision, or a tract of land of less than five acres.

METES AND BOUNDS. A system of describing and identifying land by measure and direction, ~~bearing~~ **bearing** and distances, from an identifiable point of reference, such as a monument or other marker, to another marker.

PLAT. A drawing showing an actual subdivision of property into two or more lots, tracts, or parcels.

PRELIMINARY PLAT. A plat of all or part of a subdivision of property showing all features and improvements required by these regulations, which substantially conforms to the approved Sketch Plan. A PRELIMINARY PLAT is prepared prior to the installation of required improvements, such as infrastructure.

PRELIMINARY STAFF REVIEW. A non-binding review of a Sketch Plan by Department of Planning and Development staff required prior to formal submittal of the Sketch Plan to the Planning Commission.

REGULATIONS. The whole body of regulations, text, charts, diagrams, notations, and references contained, or referred to, in this chapter.

SKETCH PLAN. A map of property indicating a proposed subdivision design, and which includes all information listed in the Sketch Plan Approval Checklist provided by the Department of Planning and Development, as may be amended from time to time.

STREET. For the purpose of this chapter, a street falls into one of the following categories that most accurately describes it:

(1) **Public street.** Vehicular way deeded to and accepted by the governing authority for perpetual maintenance, and includes:

(a) • **Highways and thoroughfares.** Streets designed primarily to move large volumes of traffic and that provide for the movement of traffic;

(b) • **Collector street.** A street used to collect and distribute medium traffic volumes between origin and destination points. Principal entrance and circulation streets of subdivisions also are classified as collectors; and

(c) • **Minor street.** A street primarily used for abutting properties.

(2) **Private street.** Vehicular way held in private or corporate ownership, and one which is ineligible for public expenditures and/or public maintenance, and includes:

(a) • **Alley.** An improved private right-of-way used primarily as a secondary means of access to the side or rear of properties whose principal frontage is on another street.

STREET, DEAD-END. Any street having one outlet for vehicular traffic and having no intersections aside from this single vehicular outlet. A Dead-end Street may be designed in such a manner as to permit its extension at a later date.

STREET, STUB. A street intended to be extended in conjunction with the subdivision and/or development of the adjacent parcel(s).

SUBDIVIDER. Shall carry the same meaning as the term **DEVELOPER** as used in this chapter.

Proposed Amendments to Chapter 155, Land Development Regulations – Public Hearing Draft
Changes to Submittal Process for Sketch Plans & Preliminary Plats

SUBDIVISION. A division of a tract or parcel of land into two or more lots, building sites, or other divisions. The land is divided for sale, lease, or building development, whether immediately or in the future. The definition includes all land divisions involving a new street or change in existing streets. It includes re-subdivisions involving the further division or relocation of lot lines of any lot or lots within any previously approved or recorded subdivision, as well as combination of lots of record. The following exceptions are included within this definition only for the purpose of requiring that the local planning agency be informed and have a record of the subdivisions.

(1) Combining or recombining portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the ordinance standards.

(2) Dividing land into parcels of five acres or more where a new street is involved. The Planning Commission must receive plats of these exceptions as information and indicate that fact on the plats.

(3) Combining or recording entire lots of record where no new street or change in existing streets is involved.

SUBDIVISION PLAN. Maps or drawings upon which the subdivision is presented for approval, including both the plat showing the division of the site and the plans and specifications for the improvements that are required in conjunction with the division of the property.

WAIVER. A grant of relief from certain requirements of the Land Development Regulations by the Planning Commission. Such relief may only be granted where expressly permitted by this Chapter.

('81 Code, § 154.04) (Ord. passed 6-9-92; Am. Ord. 99012, passed 4-21-99; Am. Ord. 02045, passed 7-9-02; Am. Ord. 14047, passed 8-12-14; Am. Ord. 16038, passed 6-14-16)

§ 155.005 COMPLIANCE.

(A) *Compliance with state law.* All land subdivisions in the town shall be in accord within (Class A) Urban Land Surveys as promulgated by S.C. Code, 1976, Title 40, Chapter 21, as amended July 1, 1991, and described by the *Minimum Standards Manual for the Practice of Land Surveying in South Carolina*.

(B) *Conformance to plans.*

(1) Finished surfaces in all cases shall conform to cross sections, dimensions, and grades shown on the approved plans.

(2) Deviations from the plans.

(a) Any major deviations from the plans during construction or otherwise shall, in all cases, be approved by the Director of Planning and Development or his or her designee, and authorized, in writing, prior to the construction of all deviations.

(b) Minor variations may be made and shown on the as-built plans.

(3) Drainage systems in all cases shall conform to cross sections, dimensions, erosion control, and grades as shown on the approved plans.

Proposed Amendments to Chapter 155, Land Development Regulations – Public Hearing Draft
Changes to Submittal Process for Sketch Plans & Preliminary Plats

(4) The developer shall furnish the services of a licensed professional to prepare the necessary plats, analyses and plans for ascertaining whether or not the work performed and materials used in conjunction with the public streets are in accordance with the requirements and intent of these specifications.

(a) Any work done or materials used without supervision or inspection of the licensed professional or his or her representatives may be ordered removed and replaced at the developer's expense.

(b) Failure to reject any defective work or material shall not in any way prevent later rejection, when such defect is discovered.

(c) Final inspection and acceptance of streets will be made by the Director of Planning and Development, or his or her designee, prior to approval.

Section 155.005 (C) and (D) to remain unchanged.

§ 155.020 SUBMISSION AND REVIEW PROCEDURES.

(A) The following steps describe the procedure for obtaining approval of land subdivision within the town, except as otherwise permitted in § 155.028.

(B) The procedure includes:

(1) Submission and review of a Sketch Plan ~~(in conjunction with an impact assessment where applicable);~~

(2) Submission, review, and approval of a Preliminary Plat;

(3) Submission, review, and approval of a Final Plat; and

(4) Recording of a Final Plat.

(C) Step 2 shall be completed prior to clearing, grading or making any other street or other improvements, or installing any utilities.

(D) Step 3 shall be completed prior to building construction and/or sale or transfer of any lots within the subdivision, unless otherwise authorized by the Town.

('81 Code, Art. II intro) (Ord. passed 6-9-92; Am. Ord. 00063, passed 1-9-01; Am. Ord. 02045, passed 7-9-02)

§ 155.021 SKETCH PLAN SUBMISSION AND REVIEW.

(A) A Sketch Plan submittal shall be required prior to the filing of a Preliminary Plat ~~with the Planning Commission.~~

(B) The purpose of the Sketch Plan is to assist the Subdivider prior to extensive ~~site planning and~~ engineering work necessary for the preparation of a Preliminary Plat and Final Plat as required herein.

(C) Preliminary Staff Review.

(1) An Applicant shall prepare and submit a Sketch Plan for Preliminary Staff Review on or before the deadline date specified on the Annual Meeting Schedule.

(2) Incomplete submittals shall be returned to the Applicant without acceptance by the Town for review.

(3) Department of Planning and Development staff shall review the Sketch Plan and provide written comments to the Applicant prior to the next Planning Commission application deadline. Staff shall also schedule a meeting with the Applicant to review these written comments, with such meeting to occur prior to the next Planning Commission application deadline.

(D) Planning Commission review.

(1) Following the staff review, the Applicant shall submit the Sketch Plan to the Planning Commission, via the Department of Planning and Development, on or before the deadline date specified on the Annual Meeting Schedule.

(2) The Sketch Plan shall be accompanied by an application fee, as determined by Town Council and set forth on the Department of Planning and Development Fee Schedule.

(3) Incomplete submittals shall be returned to the Applicant without acceptance by the Town for review.

(4) The Planning Commission shall review and act upon the Sketch Plan within 60 days of the date on which it is scheduled or eligible to be considered.

(a) If no action is taken by the Commission within this time, the Sketch Plan shall be deemed to have been approved.

(b) The 60-day time limit may be extended by mutual agreement of the affected parties.

(5) The Planning Commission shall either approve, conditionally approve, or disapprove the Sketch Plan.

(a) If the Sketch Plan is conditionally approved or disapproved, the reasons for such action shall be stated in the Planning Commission's motion for the record.

(b) With a conditional approval, the Planning Commission may require the Applicant to resubmit the Sketch Plan to the Commission with all recommended changes before approval is effective.

(c) Planning Commission approval or conditional approval of a Sketch Plans shall be vested for a period of two years, subject to the rights and restrictions contained within § 156.049 (Vested Rights).

('81 Code, § 154.10) (Ord. passed 6-9-92; Am. Ord. 99012, passed 4-21-99; Am. Ord. 02045, passed 7-9-02; Am. Ord. 02068, passed 1-14-03; Am. Ord. 05035, passed 6-14-05)

§ 155.022 SKETCH PLAN REQUIREMENTS.

(A) The Sketch Plan shall be legibly drawn to scale, ~~but not necessarily showing precise dimensions.~~

(B) Said Sketch Plan shall include, at a minimum, the information listed in the Sketch Plan Approval Checklist provided by the Department of Planning and Development, as may be amended from time to time.

('81 Code, § 154.20) (Ord. passed 6-9-92; Am. Ord. 99012, passed 4-21-99; Am. Ord. 00052, passed 9-12-00; Am. Ord. 02045, passed 7-9-02; Am. Ord. 13027, passed 6-11-13)

§ 155.023 PRELIMINARY PLAT SUBMISSION AND REVIEW.

(A) The Subdivider shall prepare and submit ~~ten copies of a Preliminary Plat, along with two copies of construction plans drawings, and a copy of the drainage report, to the Planning Commission via the Department of Planning and Development Department,~~ for the purpose of determining the adherence of the subdivision to the approved Sketch Plan, relevant design standards, and improvement requirements.

~~(1) An application consisting of the required submittal material, as defined above, shall be submitted to the Planning Commission not less than 28 days prior to the meeting at which it is to be considered by the Planning Commission.~~ An Applicant shall prepare and submit a Preliminary Plat on or before the deadline date specified on the Annual Meeting Schedule.

(2) Incomplete submittals shall be returned to the Applicant without acceptance by the Town for review.

~~(2 3)~~ The following are required to be included with the application and Preliminary Plat materials:

- (a) Application fee; and
- (b) Inspecting services fee.

~~(B) Incomplete submittals shall be returned to the applicant without acceptance by the town for review or consideration.~~

(B) Sixty-day time limit for review and response.

(1) Staff shall review and act upon the Preliminary Plat within 60 days of the date of receipt of the complete submittal. If no action is taken by staff within this time, the Preliminary Plat shall be deemed to have been approved.

(2) The 60-day time limit may be extended by mutual agreement of the affected parties.

~~(C) (1) The Planning Commission shall review and act upon the preliminary plat within 60 days of the date on which it is scheduled or eligible to be considered.~~

~~(2) If no action is taken by the Commission within this time, the preliminary plat shall be deemed to have been approved unless deferred for reasons of meeting town requirements.~~

~~(D) (C) The Planning Commission Staff shall either give preliminary approval, approve conditionally, or disapprove approve, conditionally approve, or disapprove the plat.~~

~~(1) If the Preliminary Plat is conditionally approved or disapproved or approved conditionally, the reasons for such actions shall be stated provided, in writing, and signed by the Chairman of the Planning Commission Director of Planning and Development, or his or her designee.~~

~~(2) One copy of the reasons shall be retained in the records of the Commission, and one copy shall be given to the applicant.~~

~~(3) (2) On approval with conditions, the Commission staff may require the Subdivider to resubmit the Preliminary Plat with all recommended required changes before approval is given effective.~~

~~(E) (D) Approval of the Preliminary Plat does not constitute final approval.~~

~~(1) Preliminary Plat approval shall be authorization for the Subdivider to proceed with:~~

~~(a) The installation of the site improvements;~~

~~(b) The marking of lots and easements; and~~

~~(c) The preparation of the Final Plat.~~

~~(2) However, Preliminary Plat approval shall not authorize the sale or transfer of lots.~~

~~(3) Preliminary Plats shall be vested for a period of two years, subject to the rights and restrictions contained within § 156.049 (Vested Rights).~~

~~(4) However, the Planning Commission may waive this requirement and consent to an extension of the time period; provided it is requested, in writing, prior to the expiration date.~~

(E) Appeals. Approval or disapproval of the Preliminary Plat by the Director of Planning and Development or his or her designee may be appealed by any party of interest to the Planning Commission for review.

(1) Submittal of the appeal shall be made no later than 15 days after the decision for approval has been rendered, and shall be accompanied by a written explanation of the basis of the appeal.

(2) Failure to meet the filing deadline shall be considered a waiver of the right to appeal.

(3) The Commission shall act upon the appeal request within 60 days of the meeting at which the request is scheduled to be considered, which shall be the next meeting for which the normal 28-day application deadline can be met.

(4) The decision of the Commission shall be final.

(5) An appeal from the decision of the Commission may be taken to Circuit Court within 30 days after actual notice of the decision.

('81 Code, § 154.11) (Ord. passed 6-9-92; Am. Ord. 99020, passed 7-13-99; Am. Ord. 00063, passed 1-9-01; Am. Ord. 02045, passed 7-9-02; Am. Ord. 05035, passed 6-14-05; Am. Ord. 10071, passed 12-14-10)

§ 155.024 PRELIMINARY PLAT REQUIREMENTS.

(A) The Preliminary Plat shall be legibly drawn to prescribed scale.

(B) Said Preliminary Plat shall include, at a minimum, the information listed in the Preliminary Plat Application Checklist provided by the Department of Planning and Development, as may be amended from time to time.

('81 Code, § 154.21) (Ord. passed 6-9-92; Am. Ord. 02045, passed 7-9-02; Am. Ord. 13027, passed 6-11-13)

§ 155.025 FINAL PLAT SUBMISSION AND REVIEW.

(A) Submittal package. The Subdivider shall prepare and submit a Final Plat to the Department of Planning and Development staff for approval.

(1) The Final Plat shall be accompanied by an application and supplemental material of the form given for subdivision final plat provided by the Department of Planning and Development, as may be amended from time to time include, at a minimum, the information listed in the Final Plat Application Checklist provided by the Department of Planning and Development, as may be amended from time to time.

(2) ~~The~~ Final Plat approval shall not be considered until all required on-site improvements have been completed, inspected, and approved by the proper officials, all fees paid, and a complete submittal package containing all documentation required by this chapter has been received by the Town.

(3) Partial submittals shall not be accepted.

(B) *Conformance with the Preliminary Plat.* The Final Plat shall substantially conform to the Preliminary Plat as previously approved by ~~the Planning Commission~~ Department of Planning and Development staff.

(1) The Final Plat shall incorporate all modifications required by the ~~Commission staff~~ in its review of the Preliminary Plat.

(2) However, the Final Plat may be submitted in sections, each covering a reasonable portion of the entire proposed subdivision as shown on the approved Preliminary Plat.

(C) *Sixty-day time limit for review and response.*

(1) ~~The department Staff~~ shall review and act upon the Final Plat within 60 days of the date of receipt of from which the complete submittal ~~has been received~~.

(2) The 60-day time limit may be extended by mutual agreement of the affected parties.

(D) *Approval.* If the Final Plat and all supplementary data comply with all applicable requirements of this chapter, the plat shall be approved, in writing, by the Director of Planning and Development or his or her designee, on a reproducible copy of the Final Plat.

(E) *Disapproval.*

(1) If the Final Plat is disapproved, the reasons for such action shall be ~~stated~~ provided in writing, ~~and signed~~ by the Director of Planning and Development or his or her designee.

(2) If applicable, any modification required by ~~the Planning Commission staff~~ after Preliminary Plat review, as a prerequisite to approval of the Final Plat, shall be noted on the Final Plat.

(F) *Appeals.* Approval or disapproval of the Final Plat by the Director of Planning and Development or his or her designee may be appealed by any party of interest to the Planning Commission for review.

(1) Submittal of the appeal shall be made no later than 15 days after the decision for approval has been rendered, and shall be accompanied by a written explanation of the basis of the appeal.

(2) Failure to meet the filing deadline shall be considered a waiver of the right to appeal.

(3) The Commission shall act upon the appeal request within 60 days of the meeting at which the request is scheduled to be considered, which shall be the next meeting for which the normal ~~21-day~~ 28-day application deadline can be met.

(4) The decision of the Commission shall be final.

(5) An appeal from the decision of the Commission may be taken to Circuit Court within 30 days after ~~the~~ actual notice of the decision.

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(G) *Materials and workmanship certification/as-built certification.* Materials and workmanship certification/as-built certification, as set forth in Appendix B, § 8, of this chapter, is required before final plat approval or issuance, and shall accompany the permit in non-subdivision areas where improvements are made.

(H) *Two-year warranty.*

(1) The developer shall execute an agreement guaranteeing the required public street improvements against defect in workmanship and materials for two years after acceptance of such improvements by the town, as documented by the date of recording the initial plat with the RMC office.

(2) The agreement shall be submitted to the Director of Planning and Development or his or her designee.

(3) Along with the Director's recommendation, the Town may require a cash bond or other acceptable surety in an amount to be determined by the Director in addition to the agreement.

('81 Code, §§ 154.12, 156.013 and 156.016) (Ord. passed 6-9-92; Am. Ord. 97001, passed 2-11-97; Am. Ord. 02045, passed 7-9-02; Am. Ord. 13027, passed 6-11-13)

§ 155.026 FINAL PLAT REQUIREMENTS.

(A) Application for Final Plat approval shall be made in the Department of Planning and Development, and shall include such information as set forth in the Final Plat Application Checklist provided by the Department of Planning and Development, as may be amended from time to time.

(1) For large subdivisions, the Final Plat may be submitted for approval progressively in sections conforming to the approved Preliminary Plat.

(2) As-built plans shall be submitted at the time of application for plat approval or upon completion of the work.

(3) However, record drawings may be substituted with prior approval of the Town ~~Plans~~ Engineer, if the work substantially conforms to approved construction plans.

(4) The Final Plat, accompanying data, and approval from the Town Field Engineer(s) and Site Planner or his or her designee(s) that all work has been satisfactorily completed, shall be submitted as a package.

(5) Incomplete submittals shall be returned without review.

(B) The Final Plat shall meet the requirements of the Charleston County RMC Office for recording and shall be submitted at a scale of one inch equals 100 feet or larger.

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- (1) Minimum plat size shall be 8½ × 11 inches.
- (2) Where necessary, the plat may be on several sheets, accompanied by an index sheet or key map insert showing the entire subdivision.
- (3) ~~Ten~~ Five copies of the plat shall be submitted.

('81 Code, § 154.22) (Ord. passed 6-9-92; Am. Ord. 02045, 7-11-02; Am. Ord. 13027, passed 6-11-13)

§ 155.027 RECORDING OF FINAL PLAT.

(A) (1) After the Final Plat has been approved by the ~~Planning Commission~~ staff, copies meeting all requirements shall be filed for recording by the Charleston County Register of Mesne Conveyance ~~of the county~~ within 30 days of the date of final approval.

(2) If the Subdivider fails to arrange for the recording of the plat within such period, the actions of the ~~Planning Commission~~ staff shall be null and void, unless an extension of time is granted, in writing, by the ~~Commission~~ staff upon written request by the Subdivider.

(B) (1) Recording of the Final Plat shall constitute an irrevocable offer to deed all streets and other public ways shown thereon to the Town (unless a notation stating that there is no offer of dedication of certain designated streets is placed on the plat by the Subdivider and approved by the Planning Director of Planning and Development) and to dedicate, deed, or reserve, as specified by the Director, all park reservations, school sites, and other such areas to the public use.

(2) Recording of the plat, however, shall not impose any duty upon the Town, County, or State concerning improvement, maintenance, or acceptance of such streets or reserved areas, until the proper authorities have made formal acceptance of same by legal action.

('81 Code, § 154.13) (Ord. passed 6-9-92; Am. Ord. 2045, passed 7-9-02)

§ 155.028 EXCEPTIONS.

In the case of any proposed subdivision that involves minimal or no street construction or dedication of street rights-of-way, the following procedures may be followed to obtain review and approval of the plan. At the discretion of the Director of Planning and Development or his or her designee, this exception may not apply when there are extenuating circumstances warranting review of the proposed subdivision by the Planning Commission. In such case, the procedure specified in 155.020 shall apply.

(A) ~~The subdivider shall prepare a sketch plan of the proposed subdivision, in accordance with the provisions of this chapter, for review by the Director of Planning and Development.~~

(B) ~~If lots in the proposed subdivision will utilize on-site sanitary disposal systems, the subdivider shall obtain approval of the County Health Department, and such approval shall be noted upon the plat.~~

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(~~E A~~) The Subdivider shall submit ~~three copies~~ one paper copy of a Preliminary Plat along with the other reports, documents, plans, and fees, as stated in §§ 155.023 and 155.025 of this ~~regulation~~ chapter, to the Director of Planning and Development or his or her designee, who within 15 business days thereafter shall notify the Subdivider of any additions or modifications to the plat that may be necessary to comply with the standards of this chapter.

(~~D B~~) Following notification from the Director of Planning and Development or his or her designee, the Subdivider shall then proceed with site development, marking of lots, easements and buffers, and ~~preparing~~ preparation of a Final Plat.

(~~E C~~) Upon completion of site development, a Final Plat shall be submitted.

('81 Code, § 154.14) (Ord. passed 6-9-92; Am. Ord. 02045, passed 7-9-02)

§ 155.029 IMPACT ASSESSMENTS.

(A) If an Impact Assessment for a residential subdivision is required pursuant to § 156.054 of the Zoning Code, the request is sent to Town Council, following ~~sketch plan or~~ Conceptual Plan ~~(as applicable)~~ and Impact Assessment review and recommendation by the Planning Commission.

(1) Town Council shall approve, or stipulate approval with conditions, or disapprove the request, pursuant to the provisions of § 156.054.

(2) Any stipulations, revisions, or conditions placed on the development by Town Council must be made prior to ~~submitting~~ submittal of a Final Plat, or as specified by Town Council.

(B) Plans for review and coordination and other submittals are subject to the following:

(1) Plans for review and coordination that are submitted for Impact Assessments shall include the information required for Conceptual Plan submittal ~~or sketch plan approval, as applicable~~. In addition, they shall include a master drainage plan, a master sanitary sewer plan, and a master potable water distribution plan.

(2) All other submittal requirements are as stated in § 156.054 of the Zoning Code, and contained in the Impact Assessment Application Checklist, the requirements of which shall be compiled by Department of Planning and Development staff, and may be subject to alteration from time to time, as deemed necessary.

('81 Code, § 154.16) (Ord. passed 6-9-92; Am. Ord. 2045, passed 7-9-02; Am. Ord. 11050, passed 7-12-11; Am. Ord. 14047, passed 8-12-14)

Section 155.030 to remain unchanged.

§ 155.044 IMPROVEMENT PROCEDURES IN GENERAL.

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(A) Approval by the Director of Planning and Development, or his or her designee, of the Final Plat for recording shall be withheld unless and until the Subdivider has installed the required improvements as specified.

(B) Any authorized agent of the Planning Commission, the Town, or other affected public authority shall be granted the right of free access to the subdivision at all times, for the purpose of inspecting the construction and installation or improvements in accordance with approved plans and specifications and requirements of this chapter.

(C) (1) If exigencies of construction necessitate major changes in the approved plans and specifications, the Subdivider shall request approval of such changes by the Planning Commission or Department of Planning and Development staff, as applicable, prior to undertaking such changes.

(2) Minor changes may be made by the design professional and noted on the final plans as submitted to the Town.

('81 Code, § 154.40) (Ord. passed 6-9-92; Am. Ord. 02045, passed 7-9-02)

Sections 155.045, 155.046, and 155.047 to remain unchanged.

Section 155.048 (A) to remain unchanged.

Section 155.048 (B) (1), (2), (3), and (4) to remain unchanged.

§ 155.048 STREETS.

(5) An inspecting professional shall observe construction for compliance with plans and specifications approved by the town.

(a) If construction is found to be in compliance with the plans and specifications, the inspecting professional shall make the required certification as to the observation of construction.

(b) Should the inspecting professional find that construction is not in compliance with the plans and specifications, he or she should notify all concerned, including the Director of Planning and Development or his or her designee, that he or she will not make the required certification.

(c) The inspecting professional shall be a registered professional in the state and, therefore, is responsible for seeing that the observations of construction satisfy this requirement, including the intent, of the state laws, and that the public is protected.

(d) The inspecting professional is not an employee of the town, but rather a professional whose services are obtained by those undertaking the work.

(e) The inspecting professional shall be identified on the plans by name, firm name, address, and telephone number.

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(f) In the event the inspecting professional is changed:

1. The named inspecting professional shall certify to the work completed;
2. The developer shall notify the Director of Planning and Development, or his or her designee, of the change in writing; and
3. A new named professional shall certify the remaining work done.

(6) All observations by the professional shall be logged, and a copy of the log shall be provided at the time of request for acceptance of the work by the town.

(7) As-built plans, as referenced in § 155.026(A)(2), shall be furnished to the Director of Planning and Development, or his or her designee, upon completion of the work prior to final acceptance.

(8) For the development or construction on all individual lots, the certificate of compliance, as set forth in Appendix B, § 13, at the end of this chapter, shall be signed by the property owner prior to the issuance of a building permit.

(C) *Licensed professional to do work.*

(1) Plans and specifications covering road, street, parking areas, drainage, and grading work will be accepted only from registered professionals qualified under state law.

(2) When submitting plans and analyses for road, street, drainage, and grading work, the professional shall place his or her seal on all documents.

(3) All work shall be based on surveys prepared by a professional licensed in the state and shall conform to Class "A" surveys, as defined by the State Board of Registration for Land Surveys.

(D) *Construction authorization.* Where no new construction of public streets are involved, the Preliminary Plat or site plan shall contain dated approval blocks for signatures of the water and sewer utility serving the proposed construction; the Town Fire Department; and the Director of Planning and Development.

(E) *Specifications.*

(1) All streets public and private, shown on the final plat shall be graded, constructed, and surfaced in accordance with standards and specifications contained in this section.

(a) The developer shall be responsible for correcting any and all deficiencies in streets, resulting from faulty design or construction, for a period of two years from the time the streets are accepted by the town, as evidenced by the recording of the final plat into the town's system.

(b) The developer, engineer and prime contractor must sign a notarized affidavit certifying that the streets have been built to all requirements of the town.

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(2) All public street and public drainage construction shall be done in accordance with the latest edition of the *State Highway Department Standard Specifications for Highway Construction*, and this subchapter.

(a) Field and laboratory testing shall be provided by others.

(b) Field and laboratory test results shall be furnished to the town in accordance with the requirements provided by the Director of Planning and Development or his or her ~~representative~~ designee.

(3) Where private development facilities tie into public facilities, the work shall meet the requirements of this section.

(F) *Design standards.* All streets shall be designed and constructed in accordance with the following standards:

(1) French drains shall be installed along both sides of the roadway for all streets, except where the Director of Planning and Development, or his or her designee, approves in writing its omission based on data presented with a written request from the design professional.

Section 155.048 (F) (2) through (20) to remain unchanged.

§ 155.049 SIDEWALKS.

Section 155.049 (A) and (B) to remain unchanged.

(C) *Sidewalk specifications.*

(1) Sidewalks proposed for ownership and maintenance by the town shall be a minimum of four feet wide and four inches thick, constructed of Class "C" concrete having a 28-day compressive strength of 2,500 psi and meeting all applicable ADA standards.

(2) Hiking and bicycle paths.

(a) Dimensions, construction specifications, and surface materials of hiking and bicycle paths shall be determined, based upon the number and type of users, and the location and purpose of the path, subject to approval ~~of~~ by the Planning Commission during the Sketch Plan review process.

(b) Graded areas shall be planted with grass or treated with other suitable ground cover.

(D) *Plan drawings.*

(1) The location of all pedestrian access systems shall be drawn to scale and clearly shown on the applicable drawings (either Sketch Plan, construction plans, or site plans) submitted for approval.

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(2) Dimensions and specifications shall be shown on a typical detail section of the construction plans.

(E) *Responsibility and maintenance.*

(1) Concrete-paved sidewalks constructed within the right-of-ways of public streets shall become owned and maintained by the Town, subject to the standard two-year warranty provision.

(2) Pedestrian access systems other than concrete paved sidewalks, either constructed inside or outside of the right-of-way on a public street, shall be maintained by the subdivision's local homeowners' association.

(3) The construction of the pedestrian access system shall be the responsibility of the developer.

(4) Construction verification or guarantees, as described above in division (B), shall be submitted with the final plat.

(F) *Modification.* After review of the applicable Sketch Plan or Preliminary Plat, the ~~Town~~ Planning Commission may modify any of these requirements:

(1) In order to preserve topographical or natural features of the project area;

(2) To provide visual interest; or

(3) If the applicant requests such modification and can demonstrate that an alternative pedestrian system provides safe and convenient circulation in the spirit of these provisions.

('81 Code, § 155.94) (Ord. passed 8-13-79; Am. Ord. passed 6-9-92; Am. Ord. 95012, passed 4-11-95; Am. Ord. 99012, passed 4-21-99; Am. Ord. 00064, passed 1-9-01; Am. Ord. 02045, passed 7-9-02; Am. Ord. 07015, passed 6-12-07; Am. Ord. 13027, passed 6-11-13) Penalty, see § 155.999

§ 155.050 EASEMENTS.

Section 155.050 (A), (B), and (C) to remain unchanged.

(D) *Lot owner's obligations.*

(1) Drainage easements shall not be altered after final plat approval unless approved by the Director of Planning and Development or his or her designee.

(a) A site plan and such engineering calculations as are deemed necessary shall be submitted for approval prior to undertaking such work.

(b) Reshaping the topographical features or installation of fences or hard surfaces shall not be permitted within drainage easements containing swales.

- (c) Installation of landscaping items, except for the planting and maintenance of low growing grass, shall not be allowed within drainage easements.
- (d) Trees, shrubs, and other features remaining within drainage easements after construction by the subdivision developer are the maintenance responsibility of the lot owner.
- (e) Facilities within sanitary sewer, water, utility, and other easements are subject to the requirements set forth in granting such easements.
- (2) The Director of ~~the Planning and Development Department~~, or his or her designee, is authorized to assess alterations made to drainage easements.
 - (a) If remedial work is deemed necessary, the lot owner shall be notified by letter.
 - (b) The lot owner shall have 30 days in which to correct the conditions stated in the letter.
 - (c) A certificate of occupancy shall not be approved if unauthorized work is undertaken that alters the draining system during building construction.

Section 155.050 (E) to remain unchanged.

§ 155.051 STORM DRAINAGE AND FLOOD AREAS.

- (A) *Storm drainage.* A drainage system shall be designed and constructed by the Subdivider to provide for the proper drainage of the surface water of the subdivision, and the drainage area of which it is a part, to permit the unimpeded flow of natural watercourses.
 - (1) Design and construction standards.
 - (a) Drainage systems shall be designed and constructed by the Subdivider/developer consistent with the design principals and standards contained herein and established by SCDHEC-OCRM.
 - (b) Drainage systems in all cases shall conform to cross sections, dimensions, erosion control measures and grades as shown on the approved construction plans.
 - (2) The off-street drainage system shall include the watershed affecting the subdivision, and shall be extended to a natural watercourse or publicly maintained drainage facility that is adequate to receive the storm drainage.
 - (3) Where adequate existing public storm sewers are reasonably accessible as determined by the Director of Planning and Development or his or her designee, require that the system proposed for the land being subdivided be connected thereto.
 - (4) Detention/retention ponds, lakes, and the like.

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(a) Where detention/retention ponds, lakes, and the like are incorporated as part of the drainage system, the designing engineer shall designate a minimum floor elevation.

(b) The minimum elevation shall be such that flooding shall not result from a 100-year flood and in accordance with the town's Flood Damage Prevention Chapter.

(5) Ditches.

(a) Open drainage ditches (a ditch is a waterway with side slopes 3:1 or steeper) shall not be permitted in the town.

(b) Existing ditches above the OCRM critical line shall be piped, filled, and regraded, when required by the Planning Commission based upon staff's recommendation.

(6) The Subdivider/developer shall be responsible for providing positive drainage for each lot individually as a part of the project development.

(a) Individual lot drainage shall be detailed on the construction plans and shall include, but not be limited to, yard drains for lawn areas, side and rear yard features to include swales and a piped system of inlets and other items necessary for the removal of water from the lot.

(b) It is not necessary to provide pad- ready lots during subdivision development.

(c) However, positive drainage is required for each lot prior to plat approval.

(d) Rear yard pipe systems are required and shall be designed to accommodate ten- year storm events.

(e) Inlets shall be designed to minimize debris clogging.

(7) Upon application for Preliminary subdivision Plat, the applicant shall submit such inspection fee for drainage systems based upon a per linear foot of roadway centerline as may be established by Town Council.

(8) Filling, grading, permanent erosion control features, and installation of drainage systems for lots and streets shall be provided prior to Final Plat approval.

(9) Prior to the termination of the two-year warranty period, an inspection of the piped drainage systems may be performed by a Town inspection official.

(a) This inspection will be to ensure that all piped drainage systems are free and clear of silt, sediment, and trash associated with construction activities prior to acceptance by the Town.

(b) Under the Two-Year Warranty included in § 7 of Appendix B, the developer is noted as responsible for maintaining free and clear drainage systems during the warranty period.

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(c) Therefore the developer shall be responsible for:

1. Maintaining clean drainage systems during the two-year warranty period; and
2. All costs associated with cleaning the piped drainage systems.

(10) Failure to respond to cleaning requests shall result in the cessation of future phase work until such a time as the drainage system is cleared and accepted by the inspection official.

Section 155.051 (B) (C) (D) to remain unchanged.

(E) *Drainage design guidelines.*

(1) Piped drainage systems and culverts.

(a) Piped collection systems for public streets (catch basins, inlets, cross drains, and longitudinal piping) shall be designed for the ten-year frequency storm event.

1. Catch basins and inlets shall be spaced so that the spread in the street for the design flow shall not exceed eight feet.

2. A check should be made at all low points to determine and minimize the impacts from less frequent storms.

3. All inlets shall be of the curb opening type and low point basins shall have double wings to provide for drainage flow in both directions entering the inlet.

(b) Road elevations in A and V zones shall allow passage during a five-year event as a minimum.

(c) Design of road culverts.

1. Road culverts, for example, pipes carrying storm water under a street or road from one side of the right-of-way to the other, shall be designed for a 100-year frequency flood event.

2. The area inundated under these conditions shall be contained within a defined drainage easement.

(d) The design flow, acres drained, and the hydraulic grade line for the design flow shall be shown on the plans.

(e) Design of pipes and culverts.

1. Pipes and culverts should be designed using the methods given in the hydraulic engineering circulars published by the Federal Highway Administration.

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2. The Burkli-Ziegler and Talbot formulas shall not be used since they have questionable applicability to conditions in the town area.

3. All pipe joints shall be wrapped with filter fabric in 18-inch wide sections utilizing, at a minimum, fabric with a mass per unit area of: (English measure) 5.0 ounces per square yard and a thickness of 60 mils or (metric measure) 170.0 grams per square meter and a thickness of 1.5 millimeters.

(f) Energy dissipaters shall be provided, as needed, where excessive velocities occur.

(g) Use of reinforced concrete pipes.

1. Reinforced concrete pipes shall be used at public street locations and easements designated for maintenance by the town.

2. Exceptions may be made by the Director of Planning and Development, or his or her designee, for those not at street locations, provided complete data is submitted.

(h) Non-corrosive pipes shall be used at all other locations, subject to a request with complete data as approved/disapproved by the Director of Planning and Development or his or her designee.

Section 155.051 (E) (2) to remain unchanged.

Section 155.051 (F) to remain unchanged.

§ 155.052 INSPECTIONS.

(A) *Schedule.*

(1) For both public streets and development projects, inspections of completed site work shall be conducted by a representative of the Director of Planning and Development or his or her designee.

(2) Each phase of the work shall be approved before starting the next phase.

(3) Prior to an inspection request, the inspecting professional shall verify the proper execution of the work.

(4) The following minimum number of inspections shall be conducted at the times indicated:

(a) Upon installation of initial erosion control devices;

(b) Upon completion of clearing and grubbing;

(c) Upon completion of pipe installation to include underdrains, drainage pipes, culverts, inlets and sediment control - pipe joints to be inspected shall have filter fabric wrap installed but the joint

left exposed until the inspection is complete and approved, at that time the fabric wrap may be closed and the area backfilled according to design plans and specification;

- (d) Upon obtaining the subgrade elevation;
 - (e) Upon completion of curbs and gutters;
 - (f) Upon completion of base placement and compaction;
 - (g) Upon completion of pavement;
 - (h) Upon final cleaning of the streets and drainage system and completion of grassing;
 - (i) Prior to termination of final plat warranty period and the town's acceptance of piped drainage systems.
- (5) A minimum of one block length of street shall be prepared for each inspection segment.
 - (6) A minimum of 48 hours shall be given prior to the time of inspection by the town.
 - (7) The inspecting professional's log shall be submitted with the request for initial approval.

(B) *Inspection fee schedule.*

(1) Upon application for a ~~Preliminary subdivision~~ Plat, the Applicant shall submit such inspection fees for street construction and drainage systems, based upon a per linear foot of roadway centerline as may be established by the Town Council.

(2) Reinspection fees.

(a) Reinspection of previously inspected portions of the work shall be made at the rate of \$50 per reinspection.

(b) Reinspection and fees shall be due and payable prior to approval of a Final Plat.

(c) Failure to pay such fees as required shall cause the work not to be accepted by the Town.

(3) If more than one inspection is made per phase, the fee for each phase inspection for the subminimal work shall be \$50.

(C) *Video inspection by Subdivider/developer.* A video inspection of all storm drainage systems shall be performed by the Subdivider/developer prior to issuance of final plat and again before the end of the warranty period. The inspection shall be recorded and a copy of the inspection video to include inspection reports shall be delivered to the Director of Public ~~Works~~ Services for review and comment. The video shall be provided on CD/DVD or other electronic delivery system as technology allows. The inspection video and report shall be clearly labeled with the name of the

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Subdivider/developer, name of the construction project, phase of development, date of inspection(s), and name of inspecting company. The report shall include the sequence of inspection through the drainage system corresponding to the drainage summary on the development's construction plans.

('81 Code, §§ 156.014 and 156.015) (Ord. passed 6-9-92; Am. Ord. 00035, passed 7-11-00; Am. Ord. 02045, passed 7-9-02; Am. Ord. 06016, passed 4-12-06)

§ 155.053 SEWER AND WATER SUPPLY.

(A) *Sanitary sewage disposal.*

(1) The developer shall install public sanitary sewer lines where public sanitary sewer service is available within 500 feet of the property in accordance with the policy of ~~the Town Mount Pleasant Waterworks and the Sewer Use Ordinance~~ Chapter 51, Water and Sewers, of the Mount Pleasant Code of Ordinances and the Sewer Commission.

(2) Sanitary waste disposal systems shall be designed according to criteria approved by ~~the Town Mount Pleasant~~ Waterworks.

(3) Septic tanks and fields shall be approved by ~~County~~ the South Carolina Department of Health and Environmental ~~Engineering~~ Control.

(B) *Water supply.*

(1) The developer shall install water lines when public water service is available within 500 feet of the property.

(2) Installation shall include fire hydrants, valves, house connections, and other appurtenances.

(3) All work shall be in accord with the policy of ~~the Town Mount Pleasant~~ Waterworks.

(4) Water supply systems shall be designed according to criteria approved by ~~the Town Mount Pleasant~~ Waterworks.

(a) All fire hydrants shall be of a type accepted by the ~~Town Waterworks and Sewer Commission~~ Mount Pleasant Waterworks and the Mount Pleasant Fire Department:

1. Three-way with one 4 1/2-inch discharge and two 2 1/2-inch discharges;
2. With at least a 5 1/2-inch foot valve; and
3. On a minimum 8-inch water main.

(b) Fire hydrant spacing shall not exceed 300 feet to structures.

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(5) New residential subdivisions shall be designed to ensure that all fire hydrants have the capability to flow at a minimum of 1,000 gallons of water per minute, at 20 pounds per square inch residual pressure.

Section 155.053 (C) to remain unchanged.

Section 155.071 to remain unchanged.

§ 155.072 ADDRESSING SYSTEM.

(A) *Uniform numbering system adopted.*

(1) A uniform system of numbering properties and principal buildings, as shown on the maps identified by the title, "Uniform Numbering System Map, County of Charleston, S.C.," dated September 30, 1983, (hereinafter referred to as "property number map"), which is filed in the Town ~~Treasurer's~~ Department of Planning and Development office, is adopted for use in the town.

(2) This map and all explanatory matter thereon is adopted and made a part of this chapter.

(B) *Assignment of numbers.*

(1) All properties or parcels of land within the incorporated limits of the town shall hereafter be identified by reference to the uniform numbering system adopted herein; provided, further that all existing numbers of property and buildings not now in conformity with provisions of this chapter shall be changed to conform to the system herein adopted.

(2) All numbers shall be assigned by the ~~Treasurer's office~~ Department of Planning and Development on the basis of one number for each 40 feet of frontage along the street.

(a) Grid lines, as shown on the property numbering map, indicate the point at which numbers will change to the next higher multiple of 100, and the range of numbers between grid lines thereon shall be consistent with the range of numbers as indicated on the map.

(b) All buildings north of east-west streets and east of north-south streets shall bear even numbers, and likewise, all buildings on the south side of east-west streets and west of north-south streets shall bear odd numbers.

(c) All streets running more nearly north-south shall be numbered as north-south streets, and all streets running more nearly east-west shall be numbered as east-west streets.

(3) No building shall be assigned more than one number.

(4) Notwithstanding any other provisions of this chapter, when multiple buildings have frontage within one or more assigned 40-foot frontage areas and, under the remaining provisions of this chapter, each such building would be assigned a separate number designation; but, if due to a limited amount of frontage, sufficient numbers are not available, then all such buildings at that location will be

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assigned the same number and each such building will carry a letter designation such as A, B, C, in addition to the assigned number.

(C) *Location of numbers.*

(1) When each house or building has been assigned its respective number or numbers, the owner, occupant, or agent shall place, or cause to be placed, upon each house or building controlled by him or her the number or numbers assigned under the uniform system as provided in this chapter.

(2) Such numbers shall be placed on existing buildings on or before the effective date of this chapter, and within 20 days after the assigning of the proper number in the case of numbers assigned after the effective date of this chapter.

(a) The cost of numbers shall be paid for by the property owner.

(b) Residential numbers used shall not be less than three inches in height.

(c) Business numbers shall not be less than four inches in height.

(d) These numbers shall be made of a durable and clearly visible material, and shall be in a contrasting color from the building.

(3) *Placement of numbers.*

(a) The numbers shall be conspicuously placed immediately above, on, or at the side of the proper door of each building so that the number can be seen plainly from the street line.

(b) Whenever any building is situated more than 50 feet from the street line, the number must be placed near the walk, driveway, or common entrance to such building and upon a mail box, gate post, fence, post, or other appropriate place so as to be easily discernible from the street line.

(D) *Administration.*

(1) For the purpose of facilitating correct numbering, grid maps of all streets, avenues, and public ways within the town showing the proper numbers of all houses or other buildings fronting upon all streets, avenues, or public ways shall be kept on file in the Department of Planning and Development. These grid maps shall be open to inspection of all persons during normal office hours.

(2) *Assignment of numbers.*

(a) It shall be the duty of the ~~Planning~~ Department of Planning and Development to inform any party applying therefor of the number or numbers belonging to or embraced within the limits of any lot or property as provided in this subchapter.

(b) In case of conflict as to the proper number to be assigned to any building, the ~~Planning~~ Department of Planning and Development shall determine the number of such building.

(3) Whenever any house, building or structure shall be erected or located in the town after the establishment of the uniform system of numbering provided for herein has been completed, in order to preserve the continuity and uniformity of numbers of the houses, buildings, and structures, it shall be the duty of the owner to procure the correct number or numbers as designated by the Planning Department of Planning and Development for the number or numbers so assigned upon the building as provided by this chapter.

(a) No building permit shall be issued for any house, building, or structure until the owner has procured from the Planning Department of Planning and Development the official number of the premises.

(b) Final approval of any structure erected, repaired, altered, or modified after the effective date of this chapter shall be withheld by the Town Building Official, until permanent and proper numbers have been affixed to the structure.

(E) *Application to portions of the town.* The provisions of this chapter shall be applicable only in those portions of the town that are not located within the confines of any unincorporated area within the county.)

('81 Code, §§ 99.01 - 99.05) (Ord. passed 11-7-83; Am. Ord. 02045, passed 7-9-02)

§ 155.073 PARK AND RECREATIONAL AREAS.

Section 155.073 (A) and (B) to remain unchanged.

(C) The Planning Commission shall approve the appropriate location of the undeveloped park and recreational land during the ~~subdivision~~ Sketch Plan review process.

(1) The Planning Commission shall make its determination based upon topography, geology, access, and location, with particular attention to significant physical features of the project area, such as the location of grand trees, scenic vistas, wildlife habitat, and water access.

(2) Wetland areas are generally not to be included in area calculations.

(D) The private ownership, use and maintenance of the undeveloped park and recreational land shall be provided for by recorded written agreement, conveyance or restrictions.

(E) The provisions of this section shall not apply to nonresidential subdivisions or land zoned MF, Multifamily Residential District, or ~~RTH, Townhouse for Sale Residential District~~ TH, Townhouse District.

('81 Code, § 154.45) (Ord. passed 6-9-92; Am. Ord. 99012, passed 4-21-99; Am. Ord. 02045, passed 7-9-02)

Sections 155.084 and 155.085 to remain unchanged.

Proposed Amendments to Chapter 155, Land Development Regulations – Public Hearing Draft
Changes to Submittal Process for Sketch Plans & Preliminary Plats

§ 155.086 FEES.

(A) Upon submission of a Sketch Plan or Preliminary Plat, as required in these regulations, the applicant shall submit such required fees as may be established from time to time.

(B) The fees shall be submitted with the plan or plat and, upon acceptance of the plat for review and consideration, shall be deposited into the Treasury of the Town.

(C) Failure to pay such fees as required shall cause the plat to be returned to the applicant without acceptance for review or consideration by the Town.

('81 Code, § 154.70) (Ord. passed 6-9-92; Am. Ord. 02045, passed 7-9-02)

Sections 155.087 and 155.088 to remain unchanged.

§ 155.999 PENALTY.

(A) Any violation of these regulations or amendments thereof, including the transfer or sale of property by reference to, or exhibition of, or by other use of plat of land without the required approval of the Planning Commission or Department of Planning and Development staff, as applicable, as required for recording, shall be a misdemeanor under the laws of the state, punishable as other misdemeanors as provided by law; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties.

(B) The Town, through its attorney, may enjoin such transfer or sale or agreement by action of injunction.

('81 Code, § 154.71) (Ord. passed 6-9-92; Am. Ord. 02045, passed 7-9-02)

APPENDIX A: PLAT CERTIFICATES

§ 1 PLAT CERTIFICATES.

(A) Each Preliminary Plat drawing submitted for approval pursuant to these regulations shall carry the following certificates printed or stamped thereon as follows:

(1) Preliminary Engineering Certificate.

I hereby certify that this proposed Preliminary Plat correctly represents data compiled or verified through a survey completed by me on _____, 20____ of property shown and described hereon.

Registered Surveyor, _____
No. _____

(2) Certificate of Design.

I hereby certify that the design and layout of the drainage facilities for the proposed lots, blocks streets, and other planned features included in this proposed Preliminary Plat have been prepared by me or under my direct supervision.

Registered Professional, No. _____

(3) Application for Plat Improvements.

I hereby certify that no grading or clearing shall commence on the land included in this plat until a land clearing and grading permit has been issued, and that no installation of improvements shall be undertaken until a construction authorization letter from the Town Engineer has been issued.

Subdivider: _____ Owner: _____

Date: _____ Date: _____

(4) Certificate of Purpose.

This is a Preliminary Plat. The use of this plat for the sale or transfer of property is forbidden.

Subdivider: _____ Owner: _____

Date: _____ Date: _____

Proposed Amendments to Chapter 155, Land Development Regulations – Public Hearing Draft
Changes to Submittal Process for Sketch Plans & Preliminary Plats

(B) Each application for Final Plat shall carry the following certificate printed or stamped thereon as follows:

(1) Surveyor's Certificate.

It is hereby certified that this plat is true and correct, and was prepared from an actual survey of the property made by me or under my supervision; that all monuments shown hereon actually exist and their location, size, type, and material are correctly shown and is accordance with a class "A" survey.

_____ Registered Surveyor, _____
No.

(2) Owner's Acknowledgment.

State of South Carolina
County of Charleston

The owner of record of the land shown on this plat and whose name is subscribed thereto, and in person or through a duly authorized agent, acknowledges that this plat was made from an actual survey and dedicates to the use of the public forever the following. (Provide only those applicable.)

Public Streets:

Public Easements:

Public Parks/Open Space:

Type name, address, and telephone
number of owner or subdivider:

Signature of Subdivider

Date

Type name, address, and telephone
number of owner of record:

Signature of Owner

Date

(3) Pond and Drainage Certification.

The owner of record of the land shown on this plat and whose name is subscribed thereto, and any subsequent owner, heir, successor or assign, acknowledges and agrees to the perpetual maintenance of the pond(s) located in this subdivision; and does release and hold harmless the town from any and all liabilities, claims, demands, attorney's fees and costs or judgments arising from said pond(s); and specifically releases the town from any and all liability and responsibility for flooding or erosion from storm drains or from flooding from high water or natural creeks, river, or drainage features. A drainage easement is established for the sole purpose of providing for the emergency protection of the free flow of surface waters along all watercourses, as established by these regulations and the Director of Planning and Development or his or her designee. The Town may conduct emergency maintenance operations within this easement where emergency conditions exist. Emergency maintenance shall be the removal of trees and other debris, excavation, filling, and the like necessary to remedy a condition, which, in the judgment of the Director or his or her designee, is potentially injurious to life, property or the public road or utility system. Such emergency maintenance, conducted for the common good, shall not be construed as constituting a continual maintenance obligation on the part of the Town.

Signature of Owner

Date

(4) Place for Final Plat approval by the Director of Planning and Development or his or her designee.

(5) Place for approval of Department of Health and Environment Control, if applicable for septic tank lots.

(6) Place for certificate of recording.

('81 Code, § 154.23) (Ord. passed 6-9-92; Am. Ord. 99055, passed 11-9-99; Am. Ord. 02045, passed 7-9-02)

APPENDIX B: FORMS

The following forms to remain unchanged:

- 1 Final inspection checklist
- 2 Inspection fee computations
- 3 Ownership certification
- 4 Ownership and inspecting engineer certificate
- 5 Right-of-way deeds
- 7 Two-year warranty
- 8 Materials and workmanship certification
- 9 [Reserved]
- 10 Homeowners' association articles of incorporation
- 11 Homeowners' association declaration of covenants
- 12 Inspection professional log
- 14 Drainage certifications
- 15 Stormwater facility maintenance agreement

§ 6 DRAINAGE EASEMENT.

State on document: Drainage Easement, County of Charleston, Town of Mount Pleasant

Whereas, the Town of Mount Pleasant by and through the Town Council, is desirous of providing drainage in the section of Charleston County, known as, _____, and to accomplish this must obtain an easement permitting the maintenance of a drainage system through the portion of said section, as listed below; and

Whereas, the undersigned owners of the property are desirous of cooperating with said Town and are minded to grant unto it an easement in and to the property necessary therefor.

Now, therefore, in consideration of the foregoing and the benefits to be derived by the improvements to the drainage conditions, the undersigned have granted, bargained and sold, released and conveyed by these presents do grant, bargain, sell, release and convey unto the Town of Mount Pleasant:

All those certain drainage easements as shown on a plat entitled: "Final plat, _____, Town of Mount Pleasant, Charleston County, South Carolina," dated _____, and duly recorded in the RMC Office for Charleston County, South Carolina, in Plat Book _____ at page _____.

Said drainage easements having such size, shape, location, buttings, and boundings, as shown on said plat reference, to which is hereby made for a more complete description.

Provided however, the Town of Mount Pleasant shall not be responsible for aquatic-growth control, normal cleaning or general maintenance, all of which shall be the responsibility of the grantor herein, its successors and assigns.

And to the end that the same may be properly maintained for drainage, the said Town of Mount Pleasant shall at all times have the right of ingress and egress to the land affected by said easement.

The Town has no obligation to repair, replace or to compensate the owner for trees, plants, grass, shrubs and other elements damaged or destroyed within the easements during the course of its activities. As a matter of course, no structures should be placed within drainage easements.

('81 Code, § 154.55) (Ord. passed 6-9-92; Am. Ord. 99055, passed 11-9-99; Am. Ord. 02045, passed 7-9-02; Am. Ord. 13027, passed 6-11-13)

§ 13 CERTIFICATE OF COMPLIANCE.

AGREEMENT AND CERTIFICATE OF COMPLIANCE FOR CONSTRUCTION ON AN INDIVIDUAL LOT IN A SUBDIVISION OR A LOT LOCATED IN THE TOWN, EITHER RESIDENTIAL OR COMMERCIAL, EQUALING LESS THAN ONE ACRE IN SIZE.

Property Location: _____

The undersigned owner agrees that the activities undertaken at the above described location shall be carried out in compliance with the approved stormwater management and sediment control plan, and the following:

- (1) Prior to any other activity on the lot, silt fencing shall be properly installed, in accordance with the details shown on the following page, along the curbing in front of the lot (except at the access entrance), along the ~~Coastal Council~~ **OCRM** Critical Line, and along wetlands and any other locations needed to maintain erosion control at the site;
- (2) Silt fencing shall be maintained in good working condition until such time as permanent erosion control features are in place and functioning;
- (3) Access to the site will be limited to one location with a maximum width of 20 feet. The access shall preferably be at the proposed driveway location, and will be consistent with the attached details;
- (4) The construction entrance shall be maintained in good working condition until such time as permanent access areas are in place and functioning;
- (5) Construction debris and waste materials, concrete truck washout, sanitary facilities and waste, and chemicals such as paint or other construction substances will be collected and secured on site. These materials will be removed to a proper disposal facility as needed to maintain a neat and orderly site.
- (6) At no time will any of the above materials be deposited into the street or storm drainage system. Any spills must be immediately contained and cleaned according to manufacturers' specifications. Discharges of petroleum products to the storm drainage system must be reported to the Town Engineer immediately.

Proposed Amendments to Chapter 155, Land Development Regulations – Public Hearing Draft
Changes to Submittal Process for Sketch Plans & Preliminary Plats

(7) All design contours, swales, positive drainage, and any other drainage features that are a part of the current drainage system or planned drainage system will be installed or maintained in good working order.

(8) The streets and public facilities near the work shall be kept clean and free of deposited materials. Failure to maintain facilities will result in possible fines, stopping of the work until cleaned, and increasing environmental controls as directed by the Town Field Engineer;

(9) The cost of repairs to the public street and damage to the public drainage system caused by activities at the location shall be paid prior to the issuance of a certificate of occupancy; and

(10) In the event that no existing sediment and erosion control plan can be identified for reference, as a condition of the building permit, the applicant must prepare a site plan that accounts for local drainage from and onto adjoining properties, and that protects the building from local drainage flows.

Owner: _____

Address: _____

('81 Code, § 156.001) (Ord. passed 6-9-92; Am. Ord. passed 2-9-93; Am. Ord. 02045, passed 7-9-02; Am. Ord. 07045, passed 8-14-07; Am. Ord. 13027, passed 6-11-13)

~~Text to be deleted~~

New text

Text to remain

§ 156.007 DEFINITIONS.

Add the following definitions in alphabetical order. All other portions of 156.007 to remain unchanged.

ANNUAL MEETING SCHEDULE. A schedule of all regular meetings of appointed and elected officials of the Town of Mount Pleasant, published no later than December of each year and which may be amended from time to time.

PRELIMINARY STAFF REVIEW. A non-binding review of an Impact Assessment or proposed new/amended Planned Development District by Department of Planning and Development staff required prior to formal submittal of the proposal to the Planning Commission and Town Council.

§ 156.049 VESTED RIGHTS.

Sections 156.049 (A) through (D) to remain unchanged.

(E) Conditions and limitations.

(1) Site specific development plan provisions apply to projects that require the investment in grading; installation of utilities, streets and other infrastructure; and other significant expenditures necessary to apply for a building permit. For purposes of this section, the following are considered site specific development plans:

- (a) Town Council-approved Planned Developments Districts;
- (b) Town Council-approved Impact Assessments;
- (c) Planning Commission-approved Sketch Plans or Preliminary Plats;
- (d) Board of Zoning Appeals-approved Variances and Special Exceptions Uses;
- (e) Final Planning staff approvals and Design Review Board final approvals regarding Commercial Design Review Overlay District applications;
- (f) Old Village Historic District Commission-approved Certificates of Appropriateness; and
- (g) Conditional Uses and sign permits approved by the Zoning Administrator or his or her

designee; and

(h) Staff-approved Preliminary Plats.

(2) A site specific development plan for which a variance, regulation, or special exception is necessary does not confer a vested right until the variance, regulation, or special exception is obtained.

(3) A vested site specific development plan is subject to later local governmental overlay zoning that imposes site plan-related requirements but does not affect allowable types, height as it affects density or intensity of uses, or density or intensity of uses.

(4) Upon expiration of a vested right, a building permit may be issued for development only in accordance with applicable land development ordinances or regulations.

(5) A vested right to a site specific development plan may be revoked by the local governing body upon its determination, after notice and a public hearing, that there was a material misrepresentation by the landowner or substantial noncompliance with the terms and conditions of the original or amended approval.

§ 156.054 IMPACT ASSESSMENT.

Sections 156.054 (A) through (D) to remain unchanged.

(E) *Data submission requirements.* The assessment shall be prepared by qualified professionals pursuant to checklist forms devised and provided by the Department of Planning and Development, and shall include, but is not limited to, the following information:

(1) *Conceptual plan.* The impact assessment shall be submitted with a conceptual plan, the requirements of which shall be compiled in a checklist by the Department of Planning and Development, and may be subject to alteration from time to time, as deemed necessary.

~~(a) Projects consisting solely of a residential subdivision may utilize the sketch plan, as provided in the Land Development Regulations, as the required conceptual plan. In this regard, sketch plans approved in conjunction with impact assessment approval will not require additional approval prior to preliminary plat submittal, unless significantly altered.~~

~~(b) All other projects will utilize the conceptual plan as provided herein above.~~

(2) *General description of proposed major development project.* Provide a general written description of the proposed major development project. Include in this description the proposed phases of development or operation and facility utilization, target dates for each of these, and date of

completion. In addition, indicate the site size, development staging, and appropriate descriptive measures of the proposed project.

(a) Describe the relationship of the proposed development to the Town Comprehensive Plan's objectives and policies.

(b) Also indicate the relationship to existing or proposed plans for public facilities, such as parks and recreation, schools, transportation, wastewater treatment, and the like.

(c) Describe the relationship of the proposed project to any of the town's special area management plans.

(3) *Specific impacts.*

(a) *Public facilities; water supply and wastewater management.* Identify projected average daily potable water demands at the end of each development phase, and specify any consumption rates that have been assumed for the project, and provide a description of the volume and characteristics of effluents.

(b) *Public facilities; drainage.* When the proposed project equals or exceeds ten acres of land as described herein above, provide the following minimum requirements to adequately determine the impacts from changes to the stormwater characteristics of the land:

1. Current drainage pattern of the property, which shall include topographic information represented with one-foot contours;

2. Sub-watershed map identifying significant drainage features within the nearest receiving waterbody drainage basin;

3. When repetitive flood losses have been documented on FEMA reporting forms within the sub-watershed basin, provide a hydrology analysis that demonstrates no change in conditions upstream or downstream from the proposed development;

4. Water quality plan describing how the impairment will be addressed during and after construction, when the receiving waterbody contains a total maximum daily loading (TMDL) restriction, or when an impaired monitoring station that is identified on the SCDHEC 303d list.

(c) *Public facilities; transportation.* The following procedures shall be used to identify traffic impacts and mitigation strategies associated with the proposed development project and may be referred to as the "Traffic Impact Assessment Process."

1. *Purpose.* The purpose of this section is to establish a process allowing town staff and officials to better understand the relationship between new development and the existing and proposed transportation infrastructure. It will provide a highly detailed analytical tool for the

identification of transportation deficiencies and corresponding mitigation strategies addressing the impacts related to new development. The described analysis and resulting mitigation strategies are predicated upon an accepted operational Level of Service D for suburban population areas, as recommended in the town's adopted Transportation Plan as included in the current Comprehensive Plan of the town. It is not intended to provide justification for the denial of individual development projects, per se, based solely upon the inability to provide an operational Level of Service D to all roadway segments identified as the transportation influence area described herein.

2. *Project initiation.* To engage in the formal traffic impact assessment review process, the developer must obtain a Traffic Impact Assessment Application package from the Town Transportation Engineer, schedule a pre-application meeting, and ultimately complete the application. The package will contain a description of the review process, a checklist of required information, and a Transportation Impact Assessment Data Form.

3. *Pre-application meeting and Preliminary Staff Review.*

a. Prior to the submission of a development application, a developer shall meet with staff. It is not necessary for the developer to complete the Transportation Impact Assessment Data Form prior to the pre-application meeting, but having the requested information readily available will make the meeting more productive.

i. During the pre-application meeting, the developer must identify the type of development and size; access requirements; land use types and densities; project phasing; and the anticipated build-out year for the proposed development. The developer shall also present any available construction plans, concept drawings or figures of the proposed development.

ii. Developers shall also request any needed clarifications of the remaining process. Town staff shall provide guidance concerning the transportation impact assessment process and assist in identifying any additional information that is required.

b. In addition to the pre-application meeting, submittal of an Impact Assessment for Preliminary Staff Review is required on or before the deadline date specified on the Annual Meeting Schedule.

i. Incomplete submittals shall be returned to the Applicant without acceptance by the Town for review. Impact Assessments submitted for Preliminary Staff Review are not required to include a complete traffic study, but traffic summaries and anticipated mitigation should be provided for review.

ii. Department of Planning and Development staff shall review the Impact Assessment and provide written comments to the Applicant prior to the next Planning Commission application deadline. Staff shall also schedule a meeting with the Applicant to review these written comments, with such meeting to occur prior to the next Planning Commission application deadline.

All other provisions of Section 156.054 (E) (3) to remain unchanged.

Sections 156.054 (F) through (I) to remain unchanged.

§ 156.224 PROVISIONS FOR TREE REMOVAL.

(A) *Tree Replacement Table.* Canopy trees are greatly varied between species and variety. Therefore, it is important to consider both the species and its relative health when reviewing a tree for removal and replacement. The following Tree Replacement Table will be used for this purpose.

(1) *Quality rating.* Many local canopy trees have been grouped by their average quality rating found in July 2005's *Southeastern U.S. Tree Species Rating Guide*. For species not listed, find the average quality rating for Zone 8 in this guide available through the Southern Chapter of ISA, and compare to the quality rating point range in the table below.

(2) *Health rating.* Trees are great complex systems with many unique characteristics and health concerns, and therefore, health is categorized broadly.

(a) *Good.* 100% to 75% live crown ratio. Minimal structural defects.

(b) *Fair.* 75% to 50% live crown ratio. Minor or tolerable structural defects that can be overcome through arborist intervention.

(c) *Poor.* Less than 50% live crown ratio. Severe structural defects that would classify it as a hazard tree, including insufficient holding wood or included bark.

TREE REPLACEMENT TABLE								
	Class/ Points	Species Included	Percent Replacement					
Species Quality Rating	I 80-100	Live Oak, Bald Cypress, American Beech, Ginkgo, American Holly, Southern Magnolia, Sweetbay Magnolia, Tupelo, Chinese Pistache, White Oak, Willow Oak ¹ , Overcup Oak, Chestnut Oak, Eastern Red Cedar ¹	50	50	25	100	75	50
	II 60-79	Persimmon, Ash species, Hickory species, Tulip Poplar, Sycamore, Swamp White Oak, Scarlet Oak, Southern Red Oak, Shumard Oak, Post Oak, Laurel Oak ¹	50	50	25	75	50	25

Proposed Amendments to Chapter 156, Zoning Code – First Reading Draft

Changes to Submittal Process for Sketch Plans, Prelim. Plats, IAs, & PDs

	III <60	Sugarberry ¹ , Hackberry ¹ , Willow species, Water Oak ¹ , Black Cherry, American Elm, Red Maple ¹	50	25	0	50	25	0
	IV ²	Pine species, Sweet Gum, Callary Pear varieties, River Birch, Mimosa, Chinaberry, Chinese Tallow, Camphor tree, White Poplar	0	0	0	0	0	0
Health Rating			Good	Fair	Poor	Good	Fair	Poor
Land Use			Residential ³			Commercial/Other ³		
¹ Species with adjusted quality ratings that differ from the guide based on local experience and expertise.								
² Species in this category shall be exempt from the requirements of this section, except that Pine species and Sweet Gum shall be maintained in buffer areas requiring protection of all vegetation or vegetation of a certain size, and may be approved for plantings in such buffers.								
³ Approval of a historic tree removal request (>24" DBH) may require review by the Board of Zoning Appeals or Design Review Board, and have other replacement requirements as further provided within the provisions of this section.								

(B) On ~~preliminary-plats~~ **Sketch Plans** for residential subdivisions ~~that requiring~~ approval by the Planning Commission, trees 16 inches and greater are protected. **In general,** lots and infrastructure should not be sited so as to require the removal of protected trees 16 inches or greater, **whenever possible.** ~~However, When the loss of such a tree for installation of infrastructure is unavoidable, or will enable the permanent protection of other trees deemed to be a more valuable resource,~~ the Planning Commission may authorize the removal of these protected trees for that purpose at the time of ~~preliminary-plat~~ **Sketch Plan** approval **when their retention becomes inordinately burdensome in developing the property in a reasonable fashion. The approval for removal shall be judiciously exercised in consideration of the stated intent of this subchapter and with due consideration of the size and Quality and Health Rating of individual trees as provided herein.** In such cases when the Planning Commission approves removal, the following standards shall apply:

(1) In the development of a residential subdivision, ~~the~~ replacement trees ~~can~~ **may** be located **as follows:**

(a) On homeowners' association property, if reviewed and approved by the Zoning Administrator or his or her designee. Trees between four and 16 inches DBH retained on the homeowners' association property can count toward required replacement inches, if surveyed **and protected by a recorded covenant agreement;**

(b) Within the public street right-of-way in accordance with an approved design plan utilizing techniques such as increased right-of-way width with root barriers to minimize future damage to roadways and sidewalks; and/or

(c) On private lots.

(2) No replacement trees can conflict with any drainage or utility features, or be located within drainage or utility easements.

(3) Replacement trees shall be selected from the canopy tree list provided in § 156.201(G)(1).

(4) Mitigation must be accomplished as described herein above or by providing a cash bond for 200% of tree replacement cost in accordance with an approved mitigation plan prior to Final Plat approval. The cash bond will have a maximum lifespan of two years from the date of issue; afterwards the Town may plant the trees or transfer the cash bond money into the tree bank.

Sections 156.224 (C), (D), (E), (F), and (G) to remain unchanged.

§ 156.305 PLANNED DEVELOPMENT DISTRICTS.

Sections 156.305 (A), (B), and (C) to remain unchanged.

(D) Administrative procedures with regard to PD Zoning Districts.

(1) Zoning Chapter amendment required.

(a) Any request pertaining to the establishment of a PD Zoning District or changes to an existing PD ordinance shall be considered an amendment to the Zoning Chapter, and shall be administered and processed in accordance with § 156.031 of this chapter.

(b) The request shall first be submitted for Preliminary Staff Review on or before the deadline date specified on the Annual Meeting Schedule.

1. Incomplete submittals shall be returned to the Applicant without acceptance by the Town for review.

2. Department of Planning and Development staff shall review the proposed Planned Development District and provide written comments to the Applicant prior to the next Planning Commission application deadline. Staff shall also schedule a meeting with the Applicant to review these written comments, with such meeting to occur prior to the next Planning Commission application deadline.

(~~b c~~) The request shall ~~first~~ **then** be submitted to the Planning Commission for review, public hearing, and recommendation, then forwarded to Town Council for final action.

(~~e d~~) If approved by the Town Council, all information pertaining to the proposal shall be adopted.

(~~d e~~) Any proposed changes in the district shall be treated as amendments to the Zoning Chapter, and must be considered accordingly.

Sections 156.305 (E) through (L) to remain unchanged.

§ 156.318 UC-OD, URBAN CORRIDOR OVERLAY DISTRICT.

Sections 156.318 (A) through (M) to remain unchanged.

Section 156.318 (N) (1) through (4) to remain unchanged.

(N) *Other considerations.*

(5) *Residential uses, including detached single-family dwellings, duplex dwellings, and townhouse dwellings.*

Section 156.318 (N) (5) (a) through (c) to remain unchanged.

(d) *Approval Process.*

1. Subdivision approval.

a. All single-family residential use developments in the UC-OD shall require Sketch Plan and ~~preliminary plot~~ approval by the Planning Commission.

b. The Planning Commission shall be responsible for approval of tree removal for the installation of infrastructure and the configuration of lots, to include consideration of tree locations and buildable area of lots, and the appropriateness of open space where it has been provided.

2. Design Review.

a. Prior to application for a building permit, the applicant shall submit to design review staff or the Design Review Board, as applicable, for approval.

b. In all cases, design review staff will ensure compliance with any conditions of approval placed on the development by the Planning Commission, site requirements specific to the UC-OD, and other relevant ordinance sections.

c. Architectural design review approval shall only be required for duplex and townhouse dwellings and is required prior to issuance of building permits. Detached single-family dwellings are not subject to architectural design review. *Design Review Board approval of architecture is required for all duplex and townhouse dwellings that front on the boulevard streets or frontage roads; for duplex and townhouse dwellings that do not front on the boulevard streets or frontage roads, staff-level approval of architecture is required.*

3. *Checklist.* The required Sketch Plan and Preliminary Plat shall include, at a minimum, the information listed in the UC-OD Sketch Plan Checklist and UC-OD Preliminary Plat Checklist, as applicable, provided by the Department of Planning and Development, as may be amended from time to time.

Section 156.318 (N) (6) and (7) to remain unchanged.

Section 156.318 (O) through (R) to remain unchanged.

§ 156.319 CULTURAL LANDSCAPE DISTRICT.

Section 156.319 (A) through (F) to remain unchanged.

(G) *Pedestrian facilities.* All developments containing six or more dwelling units shall incorporate a pedestrian and bicycle trail system that connects residential areas with open space areas, neighborhood amenities, transportation routes and, where feasible, adjacent properties. Subject to Planning Commission approval through the Sketch Plan and preliminary plat process, such trail system may consist of a roadside sidewalk or a path outside of the right-of-way, or a combination of both. Nonresidential developments are required to incorporate new pedestrian facilities and connect to existing pedestrian facilities.

- (1) Where appropriate, the trail system may be constructed of pervious materials or asphalt or similar material;
- (2) Pedestrian amenities, such as benches and trash cans, shall be provided where feasible;
- (3) The trail system shall be improved and maintained by the property owner.

Section 156.319 (H) to remain unchanged.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Stephen G. Brock,

Plaintiff,

vs.

Town of Mt. Pleasant,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-06605

**MEMORANDUM IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT
OF DEFENDANT**

FILED
2011 SEP 18 AM 10:34
CLERK OF COURT
JAMES C. HARRIS
WY 25

Defendant Town of Mt. Pleasant submits this Memorandum in Support of its
Motion for Summary Judgment.

Introduction

This action arises out of the adoption of an ordinance that is being challenged by the Plaintiff. Plaintiff believes that the ordinance did not receive proper public hearings and/or proper public notices. The documents demonstrate that there is no dispute of material fact that proper public meetings occurred and prior public notices were made.

The single ordinance at issue is Ordinance 16082, amending Chapter 155, Land Development Regulations, and Chapter 156, Zoning Code, of the Town of Mount Pleasant, South Carolina Code of Ordinances. State statutes¹ and local ordinances² govern the process of amendments to the Land Development Regulations and Zoning Code. The steps that must be taken to amend Land Development Regulations differ from the requirements that must be met to amend to Zoning Code Sections.

¹ See S.C. Code Ann. Section 6-29-760; *see also* S.C. Code Ann. Section 6-29-1130(B).

² See Mt. Pleasant, South Carolina Code of Ordinances section 156.031; *see also* Mt. Pleasant, South Carolina Code of Ordinances, Section 155.087.

Legal Standard

Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. See Rule 56(c), SCRPC. When plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. Ellis v. Davidson, 358 S.C. 509, 595 S.E.2d 817 (Ct. App. 2004). The party seeking summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact. McCall v. State Farm Mut. Auto Ins. Co., 359 S.C. 372, 597 S.E.2d 181 (Ct. App. 2004). Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. Regions Bank v. Schmauch, 354 S.C. 648, 582 S.E.2d 432 (Ct. App. 2003). The nonmoving party must come forward with specific facts showing there is a genuine issue for trial. Rife, 363 S.C. at 214, 609 S.E.2d at 568.

Law/Analysis

There is a strong presumption in favor of the validity of municipal zoning ordinances, and in favor of the validity of their application. Bob Jones Univ., Inc. v. Greenville, 243 S.C. 351, 360, (1963). A municipal ordinance is presumably valid. Id.; citing Momeier v. John McAlister, Inc., 231 S.C. 526, 99 S.E.2d 177; City of Florence v. Turbeville, 239 S.C. 126, 121 S.E.2d 437, 85 A. L. R. (2d) 1143. Hence, the burden of proof is upon the party attacking the amendment to establish that the acts of the city council did not comply with the law. Furthermore, deference is to be given to

the decisions of those charged with interpreting and applying local laws. Historic Charleston Found. v. Krawcheck, 313 S.C. 500, 502 (Ct. App. 1994).

Here, the Town of Mount Pleasant had to satisfy the requirements of two paths--- one relating to changes in the Zoning Code and one relating to changes in the Land Development Code. As Plaintiff seems to concede on page 4 of his Memorandum, there is no statutory bar to a common, contemporaneous process for amendments to both. The following demonstrates how the requirements were met for each, with some meetings and public hearings being held on the same date.

I. THE AMENDMENTS TO CHAPTER 155, LAND DEVELOPMENT REGULATIONS, WERE PROPER BECAUSE THE TOWN OF MOUNT PLEASANT SATISFIED THE NOTICE, PUBLIC HEARING, AND SUBMISSION TO THE PLANNING COMMISSION REQUIREMENTS BEFORE ENACTING THE AMENDMENT.

A. Notice of Public Hearing was Provided

S.C. Code Ann. Section 6-29-1130(B), provides, in pertinent part:

The governing authority of the municipality and the governing authority of the county are given the power to adopt and to amend the land development regulations after a public hearing on it, giving at least thirty days' notice of the time and place by publication in a newspaper of general circulation in the municipality or county.

On August 11, 2016, Town Council provided thirty days' notice of the public hearing in accordance with S.C. Code Ann. Section 6-29-1130(B).

The time and place of the public hearing were published in The Post and Courier and was explicitly titled, "**NOTICE OF PUBLIC HEARING, TOWN OF MOUNT PLEASANT, AMENDMENT TO LAND DEVELOPMENT REGULATIONS**" that provided, in pertinent part:

The Mount Pleasant Town Council will conduct a public hearing on September 13, 2016 at 6:00 PM, pursuant to the applicable South Carolina State Statutes and Mount Pleasant Code of Ordinances, in Council Chambers, at the Mount Pleasant Municipal Complex, 100 Ann Edwards Lane, Mount Pleasant, SC regarding a proposal to amend the Town of Mount Pleasant Code of Ordinances, Chapter 155, Land Development Regulations.

(See Exhibit A: Affidavit of Publication dated August 11, 2016). The specific proposed amendments were further set forth in the notice.

B. Public Hearing was Held by Governing Authority

Before adopting the amendment and after review by the Planning Commission, Town Council conducted its public hearing on September 13, 2016, at 6:00 p.m. regarding the proposed amendments to the Land Development Regulations in further accordance with S.C. Code Ann. Section 6-29-1130(B).

The official minutes from the Mount Pleasant Town Council hearing, which are also public record, confirm that the public hearing was held to receive input on the proposed amendments regarding Land Development Regulations. The official minutes list comments made by Plaintiff Brock at the public hearing. Brock explained his opposition to the changes as well as the same arguments he makes now about public notices and public hearings. Following comments by Plaintiff, Mayor Page asked if anyone else would like to speak on the issue. Hearing none, the public hearing was closed. (See See Exhibit C: MOUNT PLEASANT TOWN COUNCIL, Tuesday,

September 13, 2016 at 6:00 p.m., MINUTES, p. 3).

Following the public hearing, Town Council voted all in favor of the amendments for a first reading. Final reading was held at the next City Council meeting in October 2016.

C. Proposals to Amend were Submitted to the Planning Commission

Town Code also provides that amendment to the Land Development ordinances will be submitted to the Planning Commission prior to adoption. Code of Ordinances section 155.087(A). The Planning Commission reviewed the proposals at its meeting held on August 24, 2016. (See Exhibit B: Town of Mount Pleasant, South Carolina, Special Planning Commission, August 24 2016, Minutes). After discussion of the amendments and review by the Commission, all voted in favor. (See Exhibit B, p. 3). The unanimous vote in favor of the proposal as submitted was recorded in the official Minutes of the Planning Commission, which are public record. (See Exhibit B, p. 5).

II. THE AMENDMENTS TO CHAPTER 156, ZONING CODE, WERE PROPER BECAUSE THE TOWN OF MOUNT PLEASANT SATISFIED THE NOTICE, PUBLIC HEARING, AND RECOMMENDATION REQUIREMENTS BEFORE ENACTING THE AMENDMENT.

A. Planning Commission Advertised Notice of Public Hearing

Pursuant to S.C. Code Ann. Section 6-29-720(A), the governing body of a municipality may adopt a zoning ordinance to help implement the comprehensive plan.

S.C. Code Section 6-29-760(A) then provides, in pertinent part:

Before enacting or amending any zoning regulations . . . the governing authority or the planning commission, if authorized by the governing authority, shall hold a public hearing on it, which must be advertised and conducted according to lawfully prescribed procedures. If no established procedures exist, then at least fifteen days' notice of the time and place of the public hearing

must be given in a newspaper of general circulation in the municipality or county No change in or departure from the text or maps as recommended by the local planning commission may be made pursuant to the hearing unless the change or departure be **first submitted to the planning commission for review and recommendation.**

(emphasis added).

On August 9, 2016, the Planning Commission provided fifteen days' notice of the public hearing in accordance with S.C. Code Ann. Section 6-29-760(A) to receive public input on the proposals to amend Chapter 156, Zoning Code.

The time and place of the hearing were published in the Post and Courier, which provided:

The Planning Commission will hold a special meeting at 3pm on Wednesday, August 24, 2016, Council Chambers, Mount Pleasant Municipal Complex, 100 Ann Edwards Lane, to consider public hearing items #1 and #2:

1. Proposal to amend Zoning Code Section 156.201 (C) by adding a new division (6) providing that the quantity of bufferyard plantings on properties adjacent to areas where existing vegetation may be present and will not be removed in the future shall be determined during the Design Review Process.
2. Proposal to amend Zoning Code Sections 156.007, 156.049, 156.054, 156.224, 156.305, 156.318, and 156.319 by adding new definitions

(See Exhibit D: Affidavit of Publication dated August 9, 2016). The notice went on to list the specific Zoning Code sections that were proposed to be amended.

B. Planning Commission Conducted its Public Hearing

The Planning Commission called its meeting to order on August 24, 2016. As was previously advertised and in further accordance with S.C. Code Ann. Section 6-29-720(A), the Commission held the public hearing regarding amendments at the beginning of the meeting as recorded in the official minutes of the Special Planning Commission from August 24, 2016. (See Exhibit B: Town of Mount Pleasant, South

Carolina, Special Planning Commission, August 24, 2016, Minutes, p. 3). The public hearing was closed before any votes were cast. Id.

C. Planning Commission Recommended Approval of the Amendments to the Town Council prior to Town Council Giving First and Second Reading to the Ordinance.

Following the advertised public hearing, a majority of the Planning Commission in attendance voted in favor of approving the amendments to the Zoning Code as further documented in the minutes from the meeting, which are public record (See Exhibit B: Town of Mount Pleasant, South Carolina, Special Planning Commission, August 24, 2016, Minutes, p. 3).

Town Council held a meeting to address the aforementioned amendments to the Zoning Code, as well as to the Land Development Regulations. Documentation from the official minutes the meeting explicitly state that what was being considered was: "an amendment to the Land Development Regulations as well as the Zoning Code, and was reviewed extensively by the Planning Committee [a subcommittee of City Council] three times. ***The Planning Commission reviewed it at their last meeting and both groups have recommended approval.***" (See Exhibit C: MOUNT PLEASANT TOWN COUNCIL, Tuesday, September 13, 2016 at 6:00 p.m., MINUTES, p. 3).

Following the review of the recommendation from the Planning Commission, Town Council voted to adopt the amendments to the Land Development Regulations and the Zoning Code by ordinance pursuant to its authority granted in the Town of Mount Pleasant, South Carolina, Code of Ordinances section 156.031. First reading

was at the September 2016 City Council meeting and second reading was in October 2016.

Conclusion

For the foregoing reasons, Defendant respectfully requests that this Court grant Defendants' Motion for Summary Judgment.

Respectfully submitted,

CLAWSON and STAUBES, LLC



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Attorney for Defendant

Charleston, South Carolina

September 16th, 2017

CERTIFICATE OF SERVICE 2016-Q-10-06605

The undersigned hereby certifies that a true copy of the foregoing Defendant's Memorandum in Support of Motion for Summary Judgment was served upon the following parties on the 18th day of September, 2017, via:

☐	United States Postal Service
☐	Facsimile
☒	Electronic Email
☐	Via Hand Delivery

Stephen G. Brock
34 Hopetown Road
Mt. Pleasant, SC 29464-6661


Patricia Anne Aldous

FILED
2017 SEP 18 AM 10:34
JULIE A. FORTSON
CLERK OF COURT
BY _____

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

STEPHEN G. BROCK)

Plaintiff, *pro se*)

vs)

TOWN OF MT. PLEASANT)

Defendant)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2016-CP-10-6605

PLAINTIFFS MEMORANDUM IN
IN OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT

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JULIE J. ARMSTRONG
CLERK OF COURT

FILED

1. The court must deny Defendant's Motion for Summary Judgment in light of genuine disputes of material facts which exist regarding Defendant's amendments to Chapters 155 - Land Development Regulations ("the Regulations") and 156 - Zoning Code ("the Zoning Code") of the Mt. Pleasant Code of Ordinances. Additionally, Plaintiff requires further discovery, including recordings of meetings, in order to assess the accuracy of the minutes of those meetings and to ascertain the process which lead to the creation of the amendments challenged in this action.
2. Defendant's Affidavit of the Zoning Administrator, Mr. Walter Kent Prause, III, ("the Affidavit") (Exhibit 1) offers generalities, misstatements, and omits relevant details. The Affidavit's overall claim is that *"the Town of Mount Pleasant was well aware of the different paths that each type of change had to follow and we were careful to satisfy each path."* (Paragraph 3) In light of the Defendants admission of awareness of the complete, lawful process of amendment, claims by Defendant disproved by Plaintiff are material facts in dispute that are potentially willful violations. Those

inaccurate statements made by Defendant proved so by minutes, statutes, and ordinances, produced herein, represent further disputes of material facts.

3. Throughout the Affidavit, the words "changes" and "modifications" and "minor modifications" are used in reference to the amendments to the texts of the Zoning Code or Land Use Regulations. No amendment to the text of either, by whatever alternative description, may be made without notice and public hearing.

4. In those instances in which Plaintiff disputes Defendant's Affidavit (the Affidavit), the relevant paragraphs are noted. References beginning "6-29" are taken from the South Carolina Comprehensive Planning Enabling Act of 1994 (Title 6, Chapter 29, South Carolina Code of Laws) hereinafter, ("the Act"). Sections of the Act referenced in this memorandum are collected in Exhibit 2. Referenced Town of Mt. Pleasant Code of Ordinances sections begin 155 or 156 and are collected in Exhibit 3.

5. The process for amendments to the Land Development Regulations is found in Section 155.087 of the Regulations (Exhibit 3) The corresponding process for amendments to the Zoning Code is Section 156.031 (Exhibit 3). Background of the origin of zoning, land planning, and development is provided for context.

SECTION I - BACKGROUND

6. According to the Affidavit, the Zoning Code and Land Development Regulations appear to have different amendment processes; however, it is Defendant's

interpretation of the ordinances and the Act based on preferred outcomes that produce that impression. Further, Defendant views land use regulations are of lesser standing than zoning regulations. The basis of zoning and land development regulations share common purpose - the police power to protect public health, safety, appearance, order, and general welfare of citizens (Sections 6-29-1120 and 6-29-710).

...”we have referred to "police power" as the State's power to enact laws and regulations that affect a person's use of his property (as in zoning)...”. (Carolina Convenience Stores v. City of Spartanburg Opinion 27663 (2016)

...”Section 47-61 of the Code of Laws, confers upon municipalities the exercise of police power”...city and town councils...shall... have the power and authority to make, ordain and establish all such rules, by-laws, regulations and ordinances...respecting roads, streets, markets, police, health and order...as shall appear...necessary and proper for security, welfare and convenience...for preserving health, peace, order and good government...”. (City of Charleston v. Jenkins 243S.C. 205, 133 S.E.2d 242 (1963)

7. The 2014 Comprehensive Planning Guide of the Municipal Association of South Carolina advises its members:

“Land development regulations, including the traditional subdivision regulations, are police power regulations. The general intent of land development regulations is to provide for the harmonious, orderly and progressive development of land as required by considerations of public

health, safety, economy, good order, appearance, convenience and general welfare". (S.C. Code 6-29-1120)"

8. Notice and referral to the Planning Commission, and public hearings are common processes for amendments to the Regulations and Zoning Code. There is no statutory bar to a common, contemporaneous process for amendments to both. The more structured process for zoning amendments requires a report from the Commission. While amendments to the Regulations do not specify a report from the Commission reports are required for all activities of the Planning Commission.

(planning commissions)"shall keep a record of its resolutions, findings, and determinations, which record must be a public record". (Section 6-29-370)

9. Planning Commissions are established by Article I of the Act with an extensive portfolio of duties and authorities:

...undertake a continuing planning program for the...physical, social, and economic growth, development, and redevelopment of the area within its jurisdiction..... All public officials shall...furnish to the planning commission...such available information as it may require for its work...the planning commission has the powers as may be necessary to enable it to perform its functions...(Section 6-29-340(A))

10. A jurisdiction's comprehensive plan is the source authority for governing bodies to zone land and to establish land use regulations. The Act provides an unambiguous

connections among zoning and land development regulations, governing bodies, and planning commissions.

When the local planning commission has prepared and recommended and the governing body has adopted at least the land use element of the comprehensive plan...the governing body of a municipality or county may adopt a zoning ordinance to help implement the comprehensive plan. (emphasis added)
(Section 6-29-720A)

When at least the community facilities element, the housing element, and the priority investment element of the comprehensive plan...has been adopted by the local planning commission and the local governing body, the local planning commission may prepare and recommend to the governing body or bodies for adoption of regulations governing the development of land within the jurisdiction. (emphasis added) (Section 6-29-1130(A))

11. By its own words, Defendant refers to the Land Development Regulations as “associated” with the Zoning Code. The Regulations administer and enforce the Zoning Code and inseparable from it. Nevertheless, Town Council blocked the Planning Commission from participation in the creation of the amendments and from holding the public hearing on the amendments to the Regulations.

SECTION II - PLANNING COMMISSION SPECIAL MEETING AND PUBLIC HEARING; NOTICES OF MEETING AND PUBLIC HEARING.

12. On August 9, 2016, notice of a Planning Commission Special Meeting and Public Hearing (Exhibit 4A) was published. The first paragraph of the notice specified the amendment of Section 156.201 of the Zoning Code. The second paragraph noticed amendments to seven other sections of the Zoning Code as well as “*other modifications as needed for consistency with the aforementioned amendments*” which were not detailed. The final sentence of the August 9 notice (second paragraph) reads:

*“Town Council will hold the required public hearing for the **associated modifications** (emphasis added) to the Land Development Regulations”.*

13. Despite the failure to notice the proposed amendments to the Regulations, the August 24, 2016, public hearing agenda (Exhibit 5) finds the proposed amendments to the Regulations shown for the public hearing. (Agenda Item 3i) The minutes of the Special Meeting and Public Hearing record that the amendments to the Zoning Code and Regulations were considered contemporaneously. The single motion for approval includes approval of all the amendments without a required distinction between the two. Without notice, any suggestion of a public hearing on the amendments to the Regulations is unfounded and remains an error in public record.

14. Defendant scheduled the August 24, 2016 Planning Commission Special Meeting and Public Hearing at 3PM. A regular meeting of the Commission was at 5PM that same afternoon. The practice of holding special meetings immediately prior to regular meetings was commonplace with Town Council prior to a Freedom of Information suit filed by Plaintiff in 2008. The Court took judicial notice of that practice:

Mr. Brock's Amended Complaint does not contain allegations which specifically claimed the Town violated FOIA and/or any other procedural statute regarding these pre-regular Town Council "special meetings" and, therefore, this Court does not have an evidentiary basis to restrain such conduct in the future. Nevertheless, this Court believes this type of conduct fails to comply with the spirit of FOIA and takes this opportunity to encourage the town to abandon this procedure in the future. (Exhibit 8)

(Brock v Town of Mt. Pleasant, Case No. 2015-000406. Decided: April 13, 2016) (EXHIBIT 7)

15. The special meeting was a violation of the Planning Commission's adopted Rules of Order (Robert Rules of Order) which provide that special meetings are called for matters requiring attention prior to the bodies next regular meeting. FOIA is silent on the purpose of a special meeting, leaving the Commission bound by its own adopted Rules of Order. (§ Particular Types of Business Meetings - Special Meetings, Robert's Rules of Order, Newly Revised, 10th Edition)

16. Despite the court's opinion, the practice was renewed at the August 24, 2016, Special Meeting of the Planning Commission. Zoning "often is one of the most controversial activities undertaken by local government". (Exhibit 9 - I'On v Town of Mt. Pleasant) Public hearings are a prominent component of zoning actions by governing bodies. Those hearings were devalued with the 3PM scheduling of the hearing and the separation of public hearings across two meetings before two bodies on the same subjects.

17. The public hearing at the September 13, 2016 meeting of Town Council (Exhibit 6) further demonstrates Town Council's opinion of public hearings. On the agenda of the meeting was the public hearing for the amendments to the Land Development Regulations. On that same agenda, later in the meeting was the agenda item of First Reading approval of the Regulations. The public hearing became a tongue-in-cheek bow to statutory process rather than a recognition of and commitment to the value of public participation embedded in the Act. There was no requirement in the Act or the Town's Land Development Regulations that the public hearing be held by Town Council. Both require referral to the Commission and public hearings, although the amendment section of the Regulations (Section 155.087) does not acknowledge the requirement. A single hearing on both matters at a regular meeting time was easily possible. But for the unnoticed hearing on the Regulations, that August 24 public hearing before the Commission would have satisfied the public hearing requirement of the Zoning Code and Regulations.

Section III - Amendments to Mt. Pleasant Zoning Code - Chapter 156

18. The standards for interpretation of the Zoning Code overall are found in Section 156.004(B):

*In their interpretation and application, the provisions of these regulations shall be held to be the **minimum requirements** (emphasis added) adopted for the promotion of the public health, safety, and welfare.*

19. Defendant failed to follow any of the requirements for amendment of the Zoning Code other than notice and public hearing. The Act sets a requirement for a

report and "recommendation" from a jurisdiction's planning commission prior to adoption.

No change in or departure from the text or maps as recommended by the local planning commission may be made pursuant to the hearing unless the change or departure be first submitted to the planning commission for review and recommendation. (Section 6-29-760(A))

20. Paragraph B(5) of Section 156.031 establishes the mandatory public hearing for amendments by the Planning Commission. The next paragraph, 156.031(C) "Commission Report", requires ... *"the commission shall prepare its report and recommendations on the proposed change stating its findings and its evaluation of the request"*. Listed are 7 criteria that the Commission... *"shall consider for its report"*, one of which ties together the Zoning Code and Regulations:

"Whether the proposed change (to the Zoning Code) is consistent with the land development regulations of the town"

21. Paragraph D (Declaration of policy) provides that ... *"no request to change the text of the zoning regulations or the map shall be acted favorably upon except"* ... followed by four (4) criteria to authorize amendments with failure to meet at least one grounds for denial.

1. Where necessary to implement the Comprehensive Plan; or
2. To correct an original mistake, a manifest error in the regulations or map; or
3. To recognize substantial change or changing conditions in a particular locality; or

4. To recognize changes in technology, the style of living, or manner of doing business.

22. Town Council voted to amend the Zoning Code but failed to see the above criteria met. The Zoning Administrator failed to address these criteria in the Affidavit. With no report, findings, or recommendation from the Commission, the record is void of any rationale for approval of the Zoning Code amendments. The Commission's vote in favor of the "proposal" is not the recommendation as defined required by the ordinance. While the ordinance notes the specific authority of Council to "*remand the matter back to...its Planning Commission for further study and recommendations*". Town Council chose instead to vote to amend the Zoning Code.

23. The final action in the process of Zoning Code amendment comes in Paragraph F(1) - Action by Council:

*Following the **recommendation** (emphasis added) of the Planning Commission, the Council shall rule on the request, and direct the Zoning Administrator and applicant accordingly.*

SECTION IV - DEFENDANT'S AFFIDAVIT

24. Paragraphs 12, 13 and 14 of Defendant's Affidavit, presented as a narrative of events and outcomes from notice through enactment, provide a various disputed facts.

25. Paragraph 12 begins with a summary of notice for the April 9, 2016, Planning Commission Special Meeting and Public Hearing on the proposed Zoning Code amendments. The final sentence of the noticed amendments reads:

"Town Council will hold the required hearing for the associated modifications to the Land Development Regulations".

Defendant explains:

"This portion of the notice explained that a separate public hearing was to be held by Town Council to address amendments to the Land Development Regulations as authorized and required by state law and in compliance with Section 155.087 of the Mt. Pleasant South Carolina Code of Ordinances."

Defendant's arrangement of language distorts the Act's requirement for a public hearing on land development regulations and makes it appear that Town Council is, by state law and ordinance, the statutory venue for the public hearing. The statute has no such requirement. It provides only for a "a" public hearing. The Commission is the reasonable venue to hold the public hearing given the relationship of zoning and land use regulations. The claim of such a requirement in Land Development Regulations Section 155.087 (Exhibit 3) does not mention a public hearing at all. It does, however, reflect the Act with its requirement that amendments are submitted to the the Planning Commission for "*approval, disapproval or suggestion*" before enactment. This requirement was not publicly disclosed but supports the position that the Planning Commission is the intended venue for the public hearing.

26. In Paragraph 13 of the Affidavit, Defendant offers a summary of the August 4 "*duly noticed meeting*" of the Planning Commission "*incorporating a public hearing*". The language that follows offers that upon "*closing of the public hearing*", the Commission "*voted to recommend the change in the zoning and land development regulations...*". Curiously, the Affidavit adds ... "*a majority voted in favor of the*

amendments to the Zoning Code". Both statements are superficially accurate, but the connection of a Regulation's amendments to the "public hearing" is not. As noted previously, there was no public hearing for the amendments to the Land Development Regulations because there was no notice of public hearing. While the posted agenda held a public hearing for the amendments, agenda and notice are entirely separate requirements; agenda is not notice.

(notice) is subject to general principles of due process that require notice which fairly and reasonably apprises those whose rights may be affected of the nature and character of the action proposed. (Brown v County of Charleston 303 S.C.245, 299 S.C.2d 784(Ct. App.1990)

27. In the narrative for the Town Council meeting of September 13, 2016, what was formerly following a Planning Commission's "hearing" (see Paragraph 26) becomes a "meeting" as Defendant claims:

After specifically reviewing the the Planning Commission's recommendations and the minutes from the Planning Commission's prior meeting, Town Council voted to adopt the amendments to the Zoning Code and Land Use Regulations.

There was no review of Planning Commission's recommendations, because there were none. Further, there was no review of the minutes of the Commission. (Exhibit 5). The only discussion recorded tree mitigation without reference to the Commission.

28. While Defendant may argue a more generous interpretation, there appears a consistent fog over the process of the amendments, lessening if not obscuring the processes for the amendments cited in this action. The April 9 notice of a public

hearings on the Zoning Code finds the remark, *“Town Council will hold the required public hearing on the associated land development regulations.* Despite the absence of notice of amendment to the Regulations, the agenda of the August 24 Special Meeting of the Commission listed with the Zoning Code amendments for a public hearing. The public hearing is scheduled in a 3PM “special meeting” with the regular meeting of the Commission set for 5PM the same day. The actions of the Planning and Development Committee of Town Council detailed in Section IV of this Memorandum present other examples of departures from the statutory open, public process intended for actions on zoning and land development regulations.

29. The Zoning Administrator fails to acknowledge the Planning Commission’s wide range of responsibilities in zoning and development are specifically defined regarding land development regulation, as planning commission’s are authorized to:

“prepare and recommend to the governing body or bodies for adoption regulations governing the development of land within the jurisdiction.
(Section 6-29-1130A) and to prepare “regulations for the subdivision and development of land and appropriate revisions thereof and to oversee the administration of the regulations as they may be adopted in this chapter.
(emphasis added) (Section 6-29-340(B)(2)(b))

SECTION IV - AMENDMENTS

30. The Affidavit fails to explain the origin of the amendments to the Zoning Code and Regulations which do not appear to have been initiated by Town Council. They appear before the Planning and Development Committee (the Committee) at its July 5, 2016, meeting (Exhibit 10) for review.

31. One of the stated purposes of the dozens of amendments, as presented to the Committee on July 5 was *"to streamline the submittal process"* (Exhibit 7) - restatement of a stated need to *"speed up the process"* of development as previously expressed by a Council member. Another was to *"reduce the time the Planning Commission spend(s) reviewing technical staff comments so that their focus can be on the larger development plan"*. As will be seen in a subsequent paragraph, Town Council shifted authority for approval of preliminary and final plats from the Commission to staff (which is not an element of the "submittal" process. Time is saved at the loss of non-political participation in planning and development.

32. Three amendments to the Land Development Regulations are of special concern, each creating risks of to the future of the Town and inserting political influence.

Sketch Plan - A sketch plan is the "site specific plan" that, upon approval, confers vested rights on a development plan (Section 6-29-1150)(Exhibit 8) Prior to the amendments, the Commission reviewed and approved with the Sketch Plan with the impact assessment in hand. An impact assessment details the effects of a proposed development plan on public services, police, fire, recreation, etc. Vesting a development plan absent all possible information the impact assessment jeopardizes the *"public safety, convenience and general welfare"* - all of which the Act charged to planning commissions for oversight. (Section 6-29-340)

Preliminary Plat - The preliminary plat is the detailed plan for development that follows the Sketch Plan. Council's amendments removed authority for preliminary

plat review and approval from the Planning Commission, assigning it to the Planning Director or "his/her designee". Previous to the amendment, the Planning Commission could compare the preliminary plat to the Sketch Plan for consistency. Additionally final plat approval, formerly by the Commission, was assigned to "staff".

33. Under the heading "*Submission of plat or plan to planning commission; record; appeal*", Section 6-29-1150 of the Act (Exhibit 13) specifically provides:

The land development regulations...must include a specific procedure for the submission and approval or disapproval by the Planning Commission or designated staff (emphasis added). 6-29-1150(A) (Exhibit 13) .

Town Council interpreted the Act to give it blanket authority to take statutory authority from the Commission, transferring it to staff. Town Council cannot seize the authority embedded in the statute, handing it off to its staff. As the Act charges planning commissions for plan and plat reviews and approval, it follows that only the Planning Commission may designate that authority to staff. Paragraph C of Section 6-29-1150 (Exhibit 13) makes this obvious. It provides a process for appeal to the Planning Commission of staff decisions on plans or plats. The Commission's decision on the appeal is "final." If staff were to disapprove a plan or plat, the Commission could not overrule the decision of staff designated by Town Council - the legislative body. With the Commission as the grantor, that reversal would be of a decision of staff it designated. The only reasonable interpretation of the statute is that only the Planning Commission may delegate its authority to staff. The amendments reassigning authority over plans and plats to staff are voidable.

34. Aside from the authority taken from the Commission, more than twenty times among amendments to the Regulations, duties previously invested in the Planning Director are now designated to the Planning Director or "his/her designee." These designees, identified by neither name nor position, express a fundamental ignorance or careless disregard for zoning and land use law and regulation. The plain meaning of "delegation" eliminates awarding authority to nameless functionaries.

SECTION VI - PLANNING AND DEVELOPMENT COMMITTEE

35. The July 5, 2016 meeting agenda and minutes of the Planning and Development Committee (Exhibit 10) refers to "*Consideration of final draft of proposed modifications and associated text amendments...*" (Exhibit 10) followed by broad descriptions without reference to chapters to be amended. The minutes report a discussion on the amendments, but there is no summary of that discussion. A motion was approved to "*direct staff to proceed with public hearings for the text amendments regarding modifications to the submittal and review process as presented...*".

36. The minutes of the July 12, 2016 meeting of Town Council contain the Committee report of the July 5 Committee meeting consisting of the agenda language of the July 5 meeting and the motion for staff " *to proceed with the text amendments and associated public hearings...*". There is no recommendation from the Committee.

37. At the September 6, 2016 meeting of the Planning and Development Committee, the agenda lists "*Review of the Planning Commission recommendations from the August 4, 2016 and August 24, 2016 meetings*". Absent from the minutes is

any discussion of the amendments from the August 24 meeting and public hearing of the Planning Commission. There is no recommendation to Town Council, however, the four members of the Committee made a *de facto* decision on the amendments at its July 5 meeting - ahead of public hearings - with its unanimous vote to initiate public hearings.

38. Speaking to Council at First Reading, the Planning Director stated that the amendments to the Land Use Regulations and Zoning Code had been "*reviewed extensively by the Planning Committee (of Council) three times*" with "recommendations" from the Committee and the Planning Commission. Neither made a recommendation. There is no record from June forward of any public discussion of the amendments other than July 5.

39. Whether there is agreement that land development regulations are a police power, zoning regulations are:

Authority to zone is a local government police power. Exercising that authority is a legislative function of the governing body. (Bob Jones University, Inc., v. City of Greenville, 243 S.C. S.E. 2d 843 (1963))

40. By its Rules of Order (Exhibit 12), the Planning and Development Committee had no authority to act on the proposed amendments by establishing public hearings on them. A committee may not act on behalf of the governing body on any matter especially zoning. Its vote - prior to the public hearing - further illustrates the institutional mindset on public hearings that marginalizes the citizens of the Town of Mt. Pleasant and makes the open process in the Act a false promise.

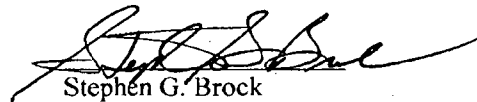
CONCLUSION

41. In 2000, our Supreme Court described the Act as ...*"an orderly structure for public participation"* and *"land use development"*. It found that the process *"contemplates the rational development of land use, free from undue political influence"* and...*that zoning decisions be should be made by a cross-section of unbiased officials after careful deliberation....*and *"haphazard or thoughtless decisions are the antithesis of meaningful zoning."* (I'On v. Town of Mt. Pleasant 526 S.E.2d, 716 (S.C. 2000) (Exhibit 7)

42. The actions of Mt. Pleasant Town Council in the matter of the amendments to the Zoning Code and Land Use Regulations is opposite the Court's opinion as well as the intent, purposes and standards of the Act. Defendant's Affidavit, providing that it ...*"was well aware of the different paths that each change had to follow and we were careful to satisfy each path"* seen in the context of specific violations of lawful process are disputed facts for a jury. Plaintiff has met the standard of evidentiary support for the existence of genuine issues of material facts and triable issues for a jury, and the Court must deny Defendant's Motion for Summary Judgment.

Charleston, SC

July 27, 2016



Stephen G. Brock
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STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

STEPHEN G. BROCK)

Plaintiff, *pro se*)

vs)

TOWN OF MOUNT PLEASANT)

Defendant)

IN THE COURT OF COMMON PLEAS.

CASE NO.: 2016-CP-10-06605

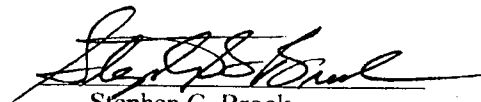
CERTIFICATE OF SERVICE

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JULIE A. BRISTOL
CLERK OF COURT

✓ The undersigned certifies that on the 27th day of July, 2017, a true and correct copy of Plaintiff's Memorandum in Opposition To Defendant's Motion for Summary Judgment in the above-captioned case was mailed first class to counsel for Defendant as shown below.

Attorney for Defendant

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Charleston, South Carolina, 29492-8144



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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Honorable J.C. Nicholson, Jr., Circuit Court Judge

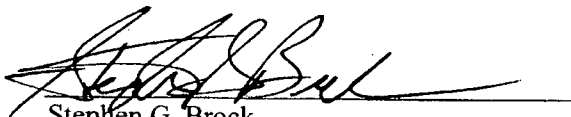
Stephen G. Brock, ...Appellant

v.

Town of Mt. Pleasant Respondent

CERTIFICATE OF APPELLANT

I certify that the Record on Appeal contains all matter designated by the parties and no irrelevant material.



Stephen G. Brock
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Appellant

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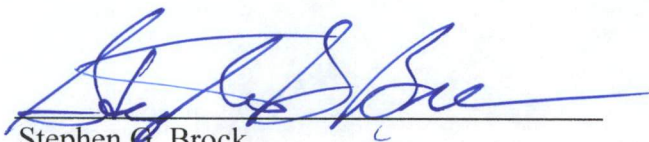
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Appellant

January 25, 2019