



JOHN J. TECKLENBURG
MAYOR

City of Charleston
South Carolina
Clerk of Council Department

JENNIFER B. COOK
CLERK OF COUNCIL

COMMUNITY DEVELOPMENT COMMITTEE AGENDA

A meeting of the Community Development Committee will be held at **3:00 p.m., Thursday, January 20, 2022** via Conference Call at 1-929-205-6099, Access Code: 759694505. The agenda will be as follows:

- Invocation
- a. **Public Participation**
- b. **Approval of Minutes**
November 18, 2021
- c. **New Business:**
 1. Consider a resolution certifying property located at 94 Sheppard Street (Charleston County TMS No. 460-04-04-086) as an abandoned building site under section 12-67-160 of the South Carolina Code. (Memorandum and Draft Resolution attached).
- d. **Old Business**
 1. Accessory Dwelling Unit Ordinance Amendment, Section 54-214, Governing Accessory Dwelling Units

Miscellaneous Business
Adjourn

If you have a conflict with this meeting, and will not be present, please call the Clerk's Office at 724-3726. Thank you for your cooperation in this matter.

JENNIFER B. COOK
CLERK OF COUNCIL

In accordance with the Americans with Disabilities Act, people who need alternative formats, ASL (American Sign Language) Interpretation or other accommodation please contact Janet Schumacher at (843) 577-1389 or email to schumacherj@charleston-sc.gov three business days prior to the meeting.

MEMORANDUM

DATE: April 1, 2021

TO: Mayor Tecklenburg and Members of City Council

FROM: Chip McQueeney, Assistant Corporation Counsel

RE: Certification of Abandoned Building Site at 94 Sheppard Street

On February 3, 2021, SSR Investors, LLC (the “Taxpayer”) filed a notice of intent to rehabilitate the existing abandoned building located at 94 Sheppard Street, designated as Charleston County TMS No. 460-04-04-086 (the “Property”), under the South Carolina Abandoned Buildings Revitalization Act (the “Act”). The Taxpayer owns the Property, the location of which is shown on Exhibit A. A copy of the Taxpayer’s application for the credit is attached hereto as Exhibit B. The Property lies within Council District 4.

In 2013, the General Assembly passed the Act to create an incentive for the rehabilitation, renovation, and redevelopment of abandoned buildings located in South Carolina. Subject to the terms and conditions of the Act, a taxpayer who rehabilitates an abandoned building is eligible *either* for (1) a credit against income taxes, corporate license fees, taxes on associations, or insurance premium taxes; *or* (2) a credit against real property taxes. In this case, the Taxpayer seeks a credit against income taxes, not property taxes. The amount of the credit is based on the amount of rehabilitation expenses incurred for the project.

In seeking the credit against income and other taxes, the Act permits a taxpayer to apply for certification of the abandoned building site made by ordinance or binding resolution of City Council. The certification must include findings that (1) the building is an “abandoned building” under the Act; and (2) the geographic area of the abandoned building site is consistent with the definition of an “abandoned building site” in the Act. If City Council passes such a resolution, then the taxpayer may conclusively rely upon the certification in determining the credit allowed.

To qualify as an “abandoned building,” at least 66% of the space within the building must have been “closed continuously to business or otherwise nonoperational for income producing purposes” for a period of at least 5 years prior to the taxpayer filing a notice of intent to rehabilitate.

In the present case, the Taxpayer submitted documentation from the local power utility confirming power has been completely disconnected from the home at 94 Sheppard since June 10, 2022, which is attached hereto as Exhibit C, affirms that the Property has been vacant and nonoperational for income producing purposes since at least June 10, 2022.

A “building site” includes the abandoned building, the parcel of land upon which the abandoned building is located, and other improvements located on the parcel. To show the building site, the Taxpayer submitted site plans for the development of the Property, attached hereto as Exhibit D. The site plans show that the Taxpayer will renovate the existing structure, remove an existing one story exterior addition and construct a new two story addition to the house. The

rehabilitation will include two (2) dwelling units—one unit on the ground floor and one unit on the second floor.

Although a property owner may also seek a credit against real property taxes under the Act, such an application would require additional findings by City Council. For instance, City Council would need evidence as to whether the application meets the purposes of the Act and whether the rehabilitation expenses are eligible for a credit under the Act.

Here, the Taxpayer seeks a credit against income and other taxes. Under these circumstances, the South Carolina Department of Revenue will be required to address these issues. As a result, section 2 of the resolution submitted to City Council emphasizes that it “provides no tax relief whatsoever, and the City expresses no opinion regarding the availability of tax relief to the Taxpayer beyond the certification contained herein.”

To the extent the Taxpayer later seeks a property tax credit, the Taxpayer would need to submit additional evidence addressing these issues before City Council would consider whether to grant the application.

Thank you for your consideration. Please let me know if you have any questions or concerns.

s/Daniel S. McQueeney, Jr.
Daniel S. (“Chip”) McQueeney, Jr.

RESOLUTION NO. _____

A RESOLUTION CERTIFYING PROPERTY LOCATED AT 94 SHEPPARD STREET (CHARLESTON COUNTY TMS NO. 460-04-04-086) AS AN ABANDONED BUILDING SITE UNDER SECTION 12-67-160 OF THE SOUTH CAROLINA CODE

WHEREAS, the South Carolina Abandoned Buildings Revitalization Act, codified at sections 12-67-100 to -160 of the South Carolina Code, (the “Act”) creates an incentive for the rehabilitation, renovation, and redevelopment of abandoned buildings located in South Carolina;

WHEREAS, section 12-67-140(A)(1) of the South Carolina Code sets forth certain conditions under which a taxpayer who rehabilitates an abandoned building is eligible for a credit against certain income taxes, corporate license fees, and insurance premium taxes, or a combination thereof;

WHEREAS, section 12-67-160(A) of the South Carolina Code provides that a taxpayer may apply to the municipality in which an abandoned building is located for a certification of the abandoned building site made by ordinance or binding resolution of the governing body of the municipality;

WHEREAS, SSR Investors, LLC (the “Taxpayer”) owns certain real property located at 94 Sheppard Street, being designated as Charleston County TMS No. 460-04-04-086, containing one (1) building, and more particularly described in Exhibit A, attached hereto and incorporated herein by reference (the “Building Site”);

WHEREAS, Taxpayer desires to rehabilitate the Building Site, which is located within the municipal limits of the City of Charleston (the “City”);

WHEREAS, pursuant to section 12-67-140(A)(1) of the South Carolina Code, on February 3, 2021, Taxpayer filed a Notice of Intent to Rehabilitate with the South Carolina Department of Revenue in order to claim certain income tax credits for Taxpayer’s rehabilitation of the Building Site; and

WHEREAS, pursuant to section 12-67-160(A) of the South Carolina Code, Taxpayer now requests that the City certify the Building Site as an abandoned building site as defined by the Act.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CHARLESTON, SOUTH CAROLINA:

Section 1. Based on information supplied by Taxpayer, the City hereby certifies that (i) the Building Site constitutes an abandoned building as defined by section 12-67-120(1) of the South Carolina Code; and (ii) the geographic area of the Building Site is consistent with section 12-67-120(2) of the South Carolina Code.

Section 2. This Resolution provides no tax relief whatsoever, and the City expresses no opinion regarding the availability of tax relief to the Taxpayer beyond the certification contained herein.

Section 3. This Resolution does not provide any approvals or permits for the project. The Taxpayer is required to obtain all necessary approvals and permits for the project from the City pursuant to the City’s ordinances.

Section 4. This Resolution shall become effective upon the date of enactment.

PASSED AND APPROVED, this _____ day of _____, 2022.

John J. Tecklenburg, Mayor
City of Charleston

ATTEST:

Jennifer Cook
Interim Clerk of Council

Exhibit A

LEGAL DESCRIPTION

All that certain piece, parcel or lot of land, with the buildings and improvements thereon, situate, lying and being on the north side of Mary Street, in the City of Charleston, Charleston County, South Carolina, and more particularly shown and designated as "NEW AREA 8,319.500 sq. ft. 0.191 acres," on that certain plat entitled, "PLAT TO ADJUST THE PROPERTY LINE BETWEEN TMS# 459-09-03-091 & -078, PREPARED FOR ROBERT GRAVES, CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by James T. Reid (SCPLS No. 17228), dated July 14, 2014, last revised July 21, 2014, and recorded August 7, 2014, in Plat Book S14 at Page 0148 in the ROD Office for Charleston County, South Carolina, said piece, parcel or lot of land having such size, shape, dimensions, butts and bounds as are shown on said plat.

MEMORANDUM

DATE: January 4, 2022
TO: Mayor Tecklenburg and Members of City Council
FROM: Daniel S. (“Chip”) McQueeney, Jr., Assistant Corporation Counsel
RE: Draft Ordinance Amending Sec. 54-214, Governing Accessory Dwelling Units

Attached, please find a draft ordinance addressing the procedures and conditions for accessory dwelling units (ADUs) within the City. Sec. 54-214, as currently written, permits ADUs only when restricted perpetually to affordable housing, except when leased for no remuneration. The draft ordinance attached hereto would amend Sec. 54-214 by reducing the affordability period to thirty (30) years.

All remaining changes to the ordinance clarify the existing procedures and substantive requirements, which I have outlined below. The remaining changes are not intended to substantively change the process or requirements for ADUs.

In the opening paragraph, I have emphasized that the Zoning Administrator will review and approve the application. Sec. 54-214.a explains that the Planning Department will continue to prepare the application and site plan checklist for use by applicants. A separate provision stating that the applicant must certify that there are no prohibitions on ADUs on the subject lot has been incorporated into Sec. 54-214.a. A draft of the affordable housing restrictive covenants must also be submitted with the application for review and approval by the Department of Housing and Community Development and the Legal Department. A certificate of occupancy will not be issued for the ADU until an approved, recorded version of these restrictive covenants has been submitted. Pursuant to Sec. 54-214.g, the restrictive covenants must include provisions ensuring affordability for thirty (30) years after a certificate of occupancy is issued for the ADU.

As with the prior version of Sec. 54-214, only one ADU will be permitted per lot, and the total number of dwelling units on the lot may not exceed two. The maximum conditioned floor area for the ADU will be 850 square feet, but this provision does not supersede the requirement in Sec. 54-506.f that accessory buildings utilizing exceptions to the minimum setback requirements are limited to a 600 square foot maximum building footprint. An additional off-street parking space must be situated on the lot for the ADU, but such parking space may be situated in tandem with the other required spaces thereon.

The ordinance is drafted to be effective immediately; however, the reduced affordability period would be applied retroactively to existing ADUs. Thank you for your consideration.

s/Daniel S. McQueeney, Jr.
Daniel S. (“Chip”) McQueeney, Jr.
Assistant Corporation Counsel

AN ORDINANCE

TO AMEND PART 4 (ACCESSORY USES) OF ARTICLE 2 (LAND USE REGULATIONS) OF THE ZONING ORDINANCE OF THE CITY OF CHARLESTON, BY MODIFYING SEC. 54-214 (ACCESSORY DWELLING UNIT) THEREOF TO ADD A THIRTY (30) YEAR AFFORDABILITY PERIOD FOR ACCESSORY DWELLING UNITS AND TO CLARIFY THE EXISTING PROCEDURES AND REQUIREMENTS FOR APPROVAL OF ACCESSORY DWELLING UNITS.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That section 54-214 (Accessory Dwelling Unit) of the Code of the City of Charleston, South Carolina, is hereby amended to read as follows:

Sec. 54-214. – Accessory Dwelling Unit.

In all base zoning districts, an accessory dwelling unit (ADU) may be approved by the Zoning Administrator as an accessory use to a principal single-family dwelling unit, if the Zoning Administrator finds the following conditions have been met:

- a. The Department of Planning, Preservation, and Sustainability (“Planning”) shall prepare a site plan checklist and application for use by applicants. The application shall include, without limitation, a statement, signed by the applicant, certifying that no covenants exist prohibiting the construction or use of an ADU on the lot. In addition to other items required by the application, the applicant shall submit the following to Planning with the signed application:
 1. A scaled site plan showing all information required in the site plan checklist; and
 2. A draft Declaration of Covenants and Restrictions (“DCR”), which must be approved by the Department of Housing and Community Development (“Housing”) and the Office of Corporation Counsel (“Legal”), including the terms, conditions, and provisions set forth in Sec. 54-214.g. The DCR must be executed by the owner(s) of the lot, in a form sufficient for recording with the applicable Register of Deeds Office. A certificate of occupancy/completion shall not be issued for the ADU until the applicant provides a recorded copy of the DCR, as approved by Housing and Legal, to Planning.
- c. There shall be a limit of one (1) ADU per lot.
- d. The total number of dwelling units, including the ADU, shall not exceed two (2) dwelling units per lot. The ADU may be separately metered for electricity, gas, and water.

- e. The ADU may include no more than 850 square feet of conditioned floor area; provided, however, for ADU's within an accessory building approved utilizing the setback exceptions in Sec. 54-506.f, the maximum building footprint shall be 600 square feet.
- f. One (1) off street parking space shall be provided for the ADU on the lot, in addition to providing, on the lot, required off street parking for existing uses thereon. The off street parking space provided for the ADU may be situated in tandem with the required spaces for other uses on the lot.
- g. The DCR shall include the following terms, conditions, and provisions:
 - 1. Either the principal dwelling unit or the ADU must be owner-occupied and serve as the primary dwelling unit for the owner of the lot. If neither dwelling unit is owner-occupied, the ADU may not be rented separately from the principal dwelling unit.
 - 2. No subleases of the ADU shall be permitted.
 - 3. If rented for remuneration, the ADU must meet affordable housing income and rental thresholds, as defined in Sec. 54-120, where the occupants have, in the aggregate, a household income of less than or equal to eighty percent (80%) of AMI, and the owner shall provide proof of affordability to the City of Charleston Department of Housing and Community Development, or its successor, on an annual basis during the affordability period.
 - 4. The affordability period shall be at least thirty (30) years, beginning upon receipt of a certificate of occupancy/completion for the ADU.
 - 5. Occupancy of an ADU shall be limited to no more than two (2) adults, with "adult" defined as any person eighteen years of age or older.
 - 6. Under no circumstances shall the property be converted to a horizontal property regime.
 - 7. Neither the principal dwelling unit nor the ADU shall be utilized for a short term rental.
 - 8. The covenants shall accord the City, or its assignee, rights to enforcement by any legal and/or equitable means, including the revocation of a certificate of occupancy.

Section 2. That this Ordinance shall become effective immediately upon ratification; provided, however, the affordability period for an existing ADU may be reduced by thirty (30) years from the original certificate of occupancy for the ADU.

Ratified in City Council this ____ day of
 _____ in the Year of Our Lord, 2022,
 and in the ____ Year of the Independence of

the United States of America

John J. Tecklenburg, Mayor

ATTEST:

Jennifer Cook
Clerk of Council