



CITY OF CHARLESTON

Planning Commission Agenda Package

FOR THE MEETING OF :

November 26, 2018 2 George St, Charleston, SC
5:00PM - Regular Meeting

CITY OF CHARLESTON



DEPARTMENT OF PLANNING, PRESERVATION AND SUSTAINABILITY

www.charleston-sc.gov/pc

CITY OF CHARLESTON PLANNING COMMISSION

MEETING OF NOVEMBER 26, 2018

A meeting of the City of Charleston Planning Commission will be held at **5:00 p.m., on Monday, November 26, 2018** in the Public Meeting Room, 1st Floor, 2 George St. The following applications will be considered:

DEVELOPMENT AGREEMENT

1. **Properties on River Rd & Maybank Hwy (Johns Island) TMS# 3460000004, 076 & portions of 3460000258 & 259** – approx. 44.891 acres. Request approval of a Development Agreement between the City of Charleston and the owners, 1776, LLC.

REZONINGS

1. **34 Cooper St (Peninsula) – TMS# 4590601007** – 0.153 ac. Request rezoning from Diverse Residential (DR-2F) to Residential Office (RO).
Owner: Jarrett Hodson & Michael Jewell
Applicant: Becky Fenno
2. **52 Line St (Peninsula) – TMS# 4590503139** – approx. 0.90 ac. Request rezoning from General Business (GB) to Mixed-Use/Workforce Housing (MU-2/WH).
Owner: Norfolk Southern Railway
Applicant: LS3P
3. **F St (Peninsula) – TMS# 4600404118** – 0.71 ac. Request rezoning of previously unzoned right-of-way to Mixed-Use/Workforce Housing (MU-1/WH).
Owner/Applicant: City of Charleston
4. **89 Romney St (Peninsula) – TMS# 4631602005** – 0.10 ac. Request rezoning from Diverse Residential (DR-1F) to Residential Office (RO).
Owner: Mary A. Boags Life Estate Rem et al.
Applicant: Courtney C. Brown
5. **2026 Clements Ferry Rd (Cainhoy) – TMS# 2710001035** – 30.50 ac. Request rezoning from Light Industrial (LI) to General Business (GB).
Owner: Clements Ferry Properties LLC
Applicant: SeamonWhiteside + Associates

SUBDIVISION

1. **Main St (Ashleyville Subdivision – West Ashley) – TMS# 4181100034** – 0.676 ac. Requesting subdivision into 6 lots. Zoned SR-4.
Owner: Bubsy, LLC
Applicant: Forsberg Engineering and Surveying, Inc.

ZONINGS

1. **Clements Ferry Rd (Cainhoy) TMS# 2750000005** – approx. 16.40 ac. Request zoning of Rural Residential (RR-1). Zoned Multisection Manufactured Residential (R1-MM) in Berkeley County.
Owner: IVO SANDS LLC
2. **1389 River Rd (Johns Island) TMS# 3110000025** – 10.94 ac. Request zoning of Single-Family Residential (SR-1). Zoned Single-Family Residential (R-4) in Charleston County.
Owner: Knapp A Partnership
3. **1381 River Rd (Johns Island) TMS# 3110000097** – 1.28 ac. Request zoning of Single-Family Residential (SR-1). Zoned Single-Family Residential (R-4) in Charleston County.
Owner: Knapp A Partnership
4. **1310 N Edgewater Dr (West Ashley) TMS# 3491400009** – 0.62 ac. Request zoning of Single-Family Residential (SR-1). Zoned Single-Family Residential (R-4) in Charleston County.
Owner: Grant & Jennifer Zinkon

ORDINANCE AMENDMENTS

1. **River Rd & Maybank Hwy (The Village at Fenwick PUD – Johns Island) TMS# 3460000004, 076 & portions of 3460000258 & 259** – approx. 44.891 ac. Request an amendment to Ordinance No. 2016-005 by substituting the Amended and Restated Planned Unit Development Master Plan and Development Guidelines for this property.
Owner: 1776 LLC
Applicant: City of Charleston
2. **Bees Ferry Rd (Verdier Pointe PUD – West Ashley) TMS# 3010000028, 673, 674 & 677** – approx. 102.65 ac. Request an amendment to the Planned Unit Development Master Plan and Development Guidelines for this property.
Owner: Henry Kuznik, BFK Holdings LLC & City of Charleston
Applicant: HLA Inc
3. Request approval to amend Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) **to incorporate provisions to allow subdivision and development of Single Family Detached Affordable Housing as a conditional use within multiple base zoning districts.**
4. Request approval to amend provisions of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) **by amending Part 17 – Upper Peninsula District pertaining to strengthening workforce housing.**
5. Request approval to amend Section 54-943(c) of the Code of the City of Charleston (Zoning Ordinance) **to provide that, in case a proposed amendment, supplement, or change to the Zoning Ordinance or Zoning Map be disapproved by the Planning Commission, or in case of a valid protest by certain adjacent property owners to such proposed amendment, supplement, or change, that such amendment, supplement, or change shall not become effective except by the favorable vote of at least eight (8) of the members of City Council present and voting.**

Individuals with questions concerning the above items should contact the Department of Planning, Preservation and Sustainability at (843) 724-3765. Files containing information pertinent to the above applications are available for public review at the City of Charleston Zoning Office, 2 George St, Third Floor, during regular working hours, 8:30 a.m. to 5:00 p.m., daily except Saturdays, Sundays, and holidays. Additional information on these cases may also be obtained by visiting www.charleston-sc.gov/pc.

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.

**CITY OF CHARLESTON
PLANNING COMMISSION**

November 26, 2018

Development Agreement 1:

**Properties on River Rd & Maybank Hwy
(Johns Island)**

BACKGROUND

Note: The City of Charleston is the applicant for this request. City Council gave this item, and the associated PUD amendment, first reading approval at its meeting on November 13.

The City is requesting approval of a Development Agreement between the City of Charleston and the owners, 1776, LLC to facilitate the Northern Pitchfork road plans and development along its length.

The Development Agreement will be presented in detail during the Planning Commission meeting.

STAFF RECOMMENDATION

APPROVAL

AN ORDINANCE

AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY OF CHARLESTON, A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND 1776, LLC GOVERNING THE DEVELOPMENT OF PROPERTIES OWNED BY 1776, LLC, LOCATED ON JOHNS ISLAND, IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA, CONSISTING OF THE FOLLOWING TRACTS: (1) APPROXIMATELY 12.645 ACRES ON RIVER ROAD, DESIGNATED AS TMS NO. 346-00-00-004; (2) APPROXIMATELY 22.91 ACRES ON RIVER ROAD AND MAYBANK HIGHWAY, DESIGNATED AS TMS NO. 346-00-00-076; (3) APPROXIMATELY 4.947 ACRES, BEING A PORTION OF TMS NO. 346-00-00-258; AND (4) APPROXIMATELY 4.389 ACRES, BEING A PORTION OF TMS NO. 346-00-00-259.

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

Section 1. The Mayor is hereby authorized to execute on behalf of the City of Charleston (the “City”), and without further action by City Council, the Development Agreement attached hereto and incorporated herein by reference as Exhibit 1, between the City and 1776, LLC, governing the development of properties owned by 1776, LLC, located on Johns Island, in the City of Charleston, Charleston County, South Carolina, consisting of the following tracts: (1) approximately 12.645 acres on River Road, designated as TMS No. 346-00-00-004; (2) approximately 22.91 acres on River Road and Maybank Highway, designated as TMS No. 346-00-00-076; (3) approximately 4.947 acres, being a portion of TMS No. 346-00-00-258; and approximately 4.389 acres, being a portion of TMS No. 346-00-00-259.

Section 2. Pursuant to section 6-31-60(A)(7) and section 6-31-70 of the South Carolina Code, City Council finds that the development permitted or proposed in the Development Agreement is consistent with the City’s comprehensive plan and land development regulations.

Section 3. This Ordinance shall become effective upon ratification.

Ratified in City Council this ____ day of
_____, in the Year of Our Lord, 2018,
and in the ____ Year of the Independence of
the United States of America

John J. Tecklenburg, Mayor

ATTEST:

Vanessa Turner Maybank,
Clerk of Council

LEGAL DESCRIPTION

EXHIBIT D

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "Tract 'B-2' 42.7 Acres," on a plat entitled, "SUBDIVISION OF PROPERTY IN THE NAME OF F-H-P REALTY LOCATED ON JOHNS ISLAND, CHARLESTON COUNTY, S.C.," by Forrest G. Calvert, RLS, dated September 17, 1979, and recorded in the RMC Office for Charleston County, South Carolina (hereinafter the "RMC Office") in Plat Book AO at Page 74, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "FHP Realty Tract 'A' 5.503 Acres" on a plat entitled, "PLAT SHOWING THE ABANDONMENT OF PROPERTY LINES FOR TMS NO. 346-00-00-12 AND TMS NO. 346-00-00-011, AND THE SUBSEQUENT SUBDIVISION OF TMS NO. 346-00-00-007 INTO TRACT 'A' CONTAINING 5.503 ACRES AND TRACT 'B' CONTAINING 7.497 ACRES OWNED BY FHP REALTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," by Hoffman Lester Associates, Inc., dated September 24, 1997, and recorded January 20, 1998, in the aforesaid RMC Office in Plat Book EC at Page 263.

The aforesaid Tract B-2 and Tract A are also more particularly shown on that certain plat entitled, "PLAT SHOWING PROPERTY LINE BETWEEN TMS NO. 346-00-00-004, TRACT B-2 (CONTAINING 42.49 ACRES) AND TMS NO. 346-00-00-007, RESIDUAL TRACT B (CONTAINING 5.50 ACRES) TO FORM TRACT B-2 (CONTAINING 47.99 ACRES), OWNED BY FHP REALTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by Hoffman Lester and Associates, Inc., dated April 7, 2000, and recorded as Exhibit "___" [sic: "C"] to that certain deed of conveyance from FHP Realty Company, a Partnership, to Penny Creek Associates, L.L.C., dated August 7, 2000, and recorded in the RMC Office for Charleston County on August 8, 2000, in Book O-352 at Page 691.

LESS AND EXCEPTING: ALL that certain streets, roads, drives and cul-de-sacs situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina and being shown and designated as "FENWICK HALL ALLEÉ R/W VARIES" on a plat entitled, "PLAT DEDICATING FENWICK HALL ALLEÉ, VARIABLE RIGHT-OF-WAY (TMS NO 346-00-00-078 TRACT C) TO THE USE OF THE PUBLIC CONTAINING 0.71 ACRES LOCATED IN

THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by Hoffman Lester Associates, Inc., dated August 27, 2001, and recorded November 1, 2001, in the RMC Office for Charleston County, South Carolina in Plat Book EF at Page 157. Said streets, roads, drives and cul-de-sacs butting and bounding, measuring and containing, and having such courses and distances as shown are shown on said plat, it being the intent of this legal description to convey the entire right-of-way. Reference being had to the aforesaid plat for a more full and complete description, being all of the said dimensions, a little more or a little less. Together with an exclusive easement for drainage and maintenance purposes over all drainage easement shown on the said plat.

LESS AND EXCEPTING: ALL that certain streets, roads, drives and cul-de-sacs situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina and being shown and designated as "EXTENSION OF FENWICK HALL ALLEÉ" on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT C-1 (TMS NO. 346-00-00-077), TRACT B-2-1 (TMS NO. 346-00-00-004), AND TRACT B-2-2 (TMS NO. 346-00-00-076) TO CREATE AN EXTENSION OF FENWICK HALL ALLEÉ (CONTAINING 0.272 ACRES) AND CREATING RESIDUAL TRACT C-1 (TMS NO. 346-00-00-077) CONTAINING 15.454 ACRES, RESIDUAL TRACT B-2-1 (TMS NO. 346-00-00-004) CONTAINING 24.895 ACRES, AND RESIDUAL TRACT B-2-2 (TMS NO. 346-00-00-076) CONTAINING 22.856 ACRES PREPARED FOR PENNY CREEK ASSOCIATES, LLC AND FENWICK TARRAGON APARTMENTS, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by HLA, Inc., dated December 6, 2004, and recorded March 25, 2005, in the RMC Office for Charleston County, South Carolina in Plat Book EH at Page 817. Said streets, roads, drives and cul-de-sacs butting and bounding, measuring and containing, and having such courses and distances as shown are shown on said plat, it being the intent of this legal description to convey the entire right-of-way. Reference being had to the aforesaid plat for a more full and complete description, being all of the said dimensions, a little more or a little less. Together with an exclusive easement for drainage and maintenance purposes over all drainage easement shown on the said plat.

LESS AND EXCEPTING: ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, measuring and containing 12.250 acres as more fully shown and designated as "PROPOSED TRACT B-2-3" on that plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the RMC

Office for Charleston County, South Carolina, said parcel having such location, buttings, boundings, courses and distances as by references to said plat more fully appear.

THE ABOVE REFERENCED PROPERTY IS ALSO KNOWN AS

ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as **Tract B-2-1**, said to contain 11.645 total acres, as shown on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the R.M.C. Office for Charleston County (herein after "R.M.C. Office"); said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

AND

ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as **Tract B-2-2**, said to contain 22.91 acres total, more or less, as shown on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the R.M.C. Office for Charleston County (herein after "R.M.C. Office"); said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

TMS Nos.: 346-00-00-004 and 346-00-00-076

AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "LOT 2A The Preserve Fenwick Plantation Owner: 1776, LLC, 215,476 SF, 4.947 AC", on a plat entitled, "A SUBDIVISION PLAT OF TMS #346-00-00-258 INTO LOT 2 (4.101 AC) AND LOT 2A (4.947 AC) OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" by Seamon Whiteside and Associates Surveying, LLC, dated September 6, 2018, and recorded in the ROD Office for Charleston County, South Carolina in Plat Book

____ at Page __, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

TMS #346-00-00-258

AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "LOT 3 The Preserve Fenwick Plantation TMS 346-00-00-259 Owner: 1776, LLC, 191,188.51 SF, 4.389 AC", on a plat entitled, "A SUBDIVISION PLAT OF TMS #346-00-00-259 INTO LOT 3 (4.389 AC) AND LOT 3A (4.347 AC) OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" by Seamon Whiteside and Associates Surveying, LLC, dated September 8, 2018, and recorded in the ROD Office for Charleston County, South Carolina in Plat Book ____ at Page __, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

TMS #346-00-00-259

**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF CHARLESTON, SOUTH CAROLINA,
AND 1776, LLC**

This DEVELOPMENT AGREEMENT (together with the recitals and exhibits attached hereto, the “Agreement”) is entered into effective as of the _____ day of _____, 2018 (the “Effective Date”), by and between the City of Charleston, a political subdivision of the State of South Carolina (the “City”) and 1776, LLC, a South Carolina limited liability company (“Owner”). The City and Owner are sometimes separately referred to in this Agreement as a “Party” or jointly referred to as the “Parties.”

RECITALS

This Agreement is predicated upon the following:

A. The South Carolina Local Government Development Agreement Act, codified at sections 6-31-10 through -160 of the South Carolina Code, as it exists on the Effective Date of this Agreement (the “Act”), enables municipalities to enter into development agreements with persons and entities intending to use or develop real property under certain conditions set forth in the Act.

B. Pursuant to section 6-31-30 of the South Carolina Code the City Council of Charleston, South Carolina (the “City Council”) enacted section 23-20 of the City Code (the “Ordinance”), which establishes the procedures and requirements for considering and entering into development agreements.

C. The Owner is the owner of legal title to the Real Property (as hereinafter defined) on the Effective Date.

D. The Owner has generously agreed to donate substantially all of the real property required to construct the Northern Pitchfork Road, which will assist the City in providing much needed traffic relief on Johns Island

E. On _____, 20_____, City Council adopted Ordinance Number _____-_____, zoning the Real Property to Planned Unit Development (“PUD”) and adopting the Planned Unit Development Guidelines for the Village at Fenwick (the “Guidelines”) as the development plan for the Real Property. A copy of this ordinance is attached hereto and incorporated herein by reference as Exhibit A.

F. On December 4, 2018, the City Council adopted Ordinance Number 2018-_____, amending the PUD zoning applicable to the Real Property by adopting the Amended and Restated Planned Development Guidelines for the Village at Fenwick (the “Amended Guidelines”) as the amended development plan for the Real Property, with the effectiveness of the Amended Guidelines to begin on January 1, 2019. A copy of this ordinance is attached hereto and incorporated herein by reference as Exhibit B.

G. Pursuant to the Act and Ordinance, the City's Planning Commission conducted a public hearing regarding its consideration of this Agreement on November 26, 2018, and the City Council conducted a public hearing regarding its consideration of this Agreement on December 4, 2018.

H. Pursuant to section 6-31-60(A)(7) of the South Carolina Code, on December 4, 2018, City Council adopted Ordinance Number 2018-____, determining that this Agreement is consistent with the Comprehensive Plan, the Act, the City Code, and the Land Development Regulations, and approving of this Agreement. A copy of Ordinance Number 2018-____ is attached hereto and incorporated herein by reference as Exhibit C.

NOW THEREFORE, in consideration of the premises of this Agreement and the mutual benefits to the parties, the Parties agree as follows:

1. The Real Property. The Real Property subject to this Agreement (the "Real Property") is identified in Exhibit D, attached hereto and incorporated by herein reference. The Real Property contains at least twenty-five (25) acres of highland.

2. Definitions. In this Agreement, unless the word or phrase is non-capitalized:

(a) "Act" means the South Carolina Local Government Development Agreement Act, codified at sections 6-31-10 through -160 of the South Carolina Code, as it exists on the Effective Date of this Agreement.

(b) "Agreement" means this Development Agreement, including the recitals and exhibits attached hereto.

(c) "City" means the City of Charleston, South Carolina.

(d) "City Code" means the Code of the City of Charleston, South Carolina.

(e) "City Council" means the City Council of Charleston, South Carolina (the "City Council")

(f) "Comprehensive Plan" means the Charleston Century V Plan, Ordinance No. 2000-179, as amended through the Effective Date, adopted pursuant to section 6-29-510 through 540 of the South Carolina Code, and the official map adopted pursuant to section 6-7-1210 through 1280 of the South Carolina Code, a copy of which is on file in the Planning Department.

(g) "Current Regulations" means the Comprehensive Plan and Land Development Regulations, as amended through December 4, 2018, all of which are on file in the Planning Department, except that the Guidelines shall apply through December 31, 2018, and the Amended Guidelines shall apply thereafter.

(h) “Development” means the planning for or carrying out of a building activity or mining operation, the making of a material change in the use or appearance of any structure or property, or the dividing of land into three or more parcels, and is intended by the Parties to include all uses of, activities upon or changes to the Real Property as are authorized by the Current Regulations and this Agreement. “Development,” as designated in a law or development permit, includes the planning for and all other activity customarily associated with Development unless otherwise specified. When appropriate to the context, “Development” refers to the planning for or the act of developing or to the result of Development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not Development. Reference to particular operations is not intended to limit the generality of this item.

(i) “Development Parcel” means any tract of land, whether platted or not, on which Development may occur, including but not limited to Lots, but excluding street rights-of-way.

(j) “Land Development Regulations” means ordinances and regulations enacted by the City for the regulation of any aspect of Development and includes zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the Development or use of property, including storm water and drainage, but specifically excluding road construction specifications.

(k) “Lot” means a Development Parcel identified in an approved subdivision plat recorded in the ROD.

(l) “Ordinance” means section 23-20 of the City Code, which establishes the procedures and requirements for considering and entering into development agreements.

(m) “Parties” means the Owner and City.

(n) “Planning Department” means the City’s Department of Planning, Preservation and Sustainability, established under sections 23-16 through 23-19 of the City Code.

(o) “Property Owner” or “Owner” means 1776, LLC, which is the sole legal and equitable owner of the Real Property on the Effective Date.

(p) “Real Property” is the real property referred to in Paragraph 1 of this Agreement and includes any improvements or structures customarily regarded as part of real property.

(q) “ROD” means the Office of the Register of Deeds for Charleston County, South Carolina.

3. Parties. The Parties are the Owner and the City

4. Relationship of the Parties. This Agreement creates a contractual relationship between the Parties. This Agreement is not intended to create, and does not create, the relationship of master/servant, principal/agent, independent contractor/employer, partnership, joint venture, or any other relationship where one Party may be held responsible for acts of the other Party. Further, this Agreement is not intended to create, nor does it create, a relationship whereby the conduct of the Owner constitutes “state action” for any purposes.

5. Intent of the Parties. The Parties agree that the burdens of this Agreement bind, and the benefits of this Agreement shall inure to, each of them and to their successors and/or assigns in title. The City and the Owner are entering into this Agreement in order to secure benefits and burdens referenced in the Act.

6. Consistency Determination. This Agreement is consistent with the City’s Comprehensive Plan and Land Development Regulations. Whenever express or implied substantive provisions of this Agreement are inconsistent with the provisions of the Guidelines (or Amended Guidelines, when applicable), the standards set forth in the Guidelines (or Amended Guidelines, when applicable) and the standards set forth in this Agreement shall, to the extent possible, be considered *in pari materia* to give effect to both the provisions of the Guidelines (or Amended Guidelines, when applicable) and this Agreement; provided, however, that in the event of a conflict, and subject to the provisions of section 6-31-80 of the South Carolina Code, the standards set forth in this Agreement shall govern.

7. Legislative Act. Any change in the standards established by this Agreement require the approval of City Council, subject to compliance with applicable statutory procedures and consistent with Paragraph 8 of this Agreement. This Agreement constitutes a legislative act of City Council. This Agreement shall not be construed to create a debt of the City as referenced in section 6-31-145 of the South Carolina Code, or otherwise.

8. Applicable Land Development Regulations.

(a) Applicable Laws and Land Development Regulations. Except as otherwise provided by this Agreement or by the Act, the laws applicable to the Development of the Real Property are the Current Regulations. Notwithstanding the foregoing, between the Effective Date and December 31, 2018, the Guidelines, as set forth in Exhibit A, shall constitute the development plan applicable to the Real Property. Beginning on January 1, 2019, the Amended Guidelines, as set forth in Exhibit B, shall constitute the development plan applicable to the Real Property. The uses permitted on the Real Property, including population densities and building intensities and heights, are those consistent with the Guidelines, and, beginning on January 1, 2019, the Amended Guidelines.

(b) Subsequent Regulations. The City may enact subsequent Land Development Regulations (“Subsequent Regulations”) and apply them to the Real Property pursuant to the provisions of the Act. Notwithstanding the above, the City shall not apply Subsequent Regulations to the Real Property for the term of the Agreement unless, in accordance with the provisions of section 6-31-80(B) of the South Carolina Code, the City

has held a public hearing and has determined: (1) the Subsequent Regulations are not in conflict with the Agreement and do not prevent the Development set forth in the Agreement; or (2) the Subsequent Regulations are essential to the public health, safety, or welfare and the Subsequent Regulations expressly state that they apply to property that is subject to a development agreement; or (3) the Subsequent Regulations are specifically anticipated and provided for in this Agreement; or (4) the City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement, which changes, if not addressed by the City, would pose a serious threat to the public health, safety, or welfare; or (5) this Agreement is based on substantially and materially inaccurate information supplied by the Owner. In addition, the Owner has the sole discretionary right from time to time to consent in writing to Land Development Regulations adopted by the City after the Effective Date not otherwise enforceable under this Agreement on the Real Property, which written approval shall not constitute or require an amendment to this Agreement. The Owner's consent shall be memorialized in a written acknowledgment filed with the Planning Department in a form which is recordable in the ROD. The Planning Department may record such written acknowledgment with the ROD.

(c) Vested Rights. Subject to the provisions of Paragraphs 8(a) and 8(b) of this Agreement, all rights and prerogatives accorded the Owner by this Agreement shall immediately constitute vested rights for the use and Development of the Real Property.

(d) No Abrogation. This Paragraph 8 shall not be interpreted to abrogate any rights protected under section 6-31-140 of the South Carolina Code or any rights that may have vested pursuant to common law or otherwise in the absence of this Agreement.

9. Applicability of Other Laws.

(a) Standard Codes. Pursuant to section 6-31-160 of the South Carolina Code, notwithstanding any provision of this Agreement which may be construed to the contrary, the Owner shall comply with any building, housing, electrical, mechanical, plumbing, gas and other standard codes subsequently adopted by the City or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code, in effect at the time of applying for a permit. This Agreement shall not be construed to supersede or contravene the requirements of any building, housing, electrical, mechanical, plumbing, gas or other standard code subsequently adopted by the City or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code.

(b) Stormwater/Street Regulations. Notwithstanding any provision of this Agreement which may be construed to the contrary, the Owner shall comply with any stormwater, drainage or related regulations and any City road or street regulations in effect at the time of applying for a permit. Notwithstanding the foregoing, to facilitate the visions and objectives of the Amended Guidelines, to preserve the natural characteristics of historic Fenwick Hall and its surrounds, and to protect healthy grand live oaks, consideration should be given to preserving the existing topography of the Real Property and Development Parcels within the PUD to the extent practicable by utilizing engineered drainage systems where possible to minimize the use of fill for drainage purposes.

(c) Governmental Powers. Notwithstanding any provision of this Agreement which may be construed to the contrary, the provisions of this Agreement are not intended, nor should they be construed in any way, to alter or amend in any way the rights, duties and privileges of the City to exercise governmental powers and pass laws not applicable to Development of the Real Property including, but not limited to, the power of eminent domain and the power to levy and collect taxes.

(d) Suppliers. Pursuant to section 6-31-140(A) of the South Carolina Code, notwithstanding any provision of this Agreement which may be construed to the contrary, this Agreement is not intended nor may this Agreement be construed in any way to alter or amend in any way the rights, duties, and privileges of suppliers of electricity or natural gas or of municipalities with reference to the provision of electricity or gas service, including, but not limited to, the generation, transmission, distribution, or provision of electricity at wholesale, retail or in any other capacity.

10. Local development permits and other permits needed. The Parties anticipate that the following local development permits and other regulatory permits will be needed to undertake development of the Real Property

Zoning permits, plat approvals (preliminary, conditional or final), road and drainage construction plan approvals, building permits, certificates of occupancy, water and/or sewer development contracts, and utility construction and operating permits, as well as permits from the South Carolina Department of Health and Environmental Control, South Carolina Department of Transportation, and the US Environmental Protection Agency.

The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Owner of the necessity of complying with all laws governing permit requirements, conditions, terms, or restrictions.

11. Facilities, Services and Public Uses.

(a) Generally. At this time, required facilities and services for the current uses of the Real Property are in place. The City does *not* provide water and sewer services. Subject to compliance with applicable Land Development Regulations, the provisions of this Agreement, and prior approval of construction plans by the City or other applicable governmental entity, the Owner may undertake Development of the Real Property as authorized by the Current Regulations and the Guidelines (or the Amended Guidelines, when applicable), but shall be responsible for providing adequate infrastructure facilities and services necessary to support its Development at the time the Development is undertaken, to include without limitation roads, water and sewer, electricity, and drainage. Ownership and maintenance of road and drainage facilities may, at the option of the Owner, be tendered to the City and will be accepted by the City if at the time of tender the roads and drainage facilities are constructed in accordance with then applicable City ordinances, rules, regulations or specifications, are in good condition, and are not subject to any

monetary or other lien. Nothing herein shall be construed to excuse compliance with standards as may be imposed by federal, state or county laws, rules or regulations.

(b) Northern Pitchfork Road. Pursuant to section 6-29-60(A)(5) of the South Carolina Code, the Parties recognize that, in consideration of this Agreement, Owner agrees to deed, or has deeded, fee simple title to the portion of the “Northern Pitchfork Road” and supporting facilities, including but not limited to drainage facilities, lying on the Owner’s real property to the City, according to the plans for such road and related facilities approved by the City of Charleston and/or Charleston County as of the Effective Date. The Owner’s contribution of this land shall be recognized by the City in considering any necessary requirements under the Land Development Regulations for addressing future traffic impacts caused by the Development of the Real Property.

12. Schedule for Development.

(a) Commencement Date: The Development of the Real Property will be deemed to commence on the Effective Date.

(b) Schedule of Completion Dates: The Owner estimates, in good faith, that during the years after the Effective Date, the following Development, including total number of dwelling units and population, may be complete:

<u>YEAR</u>	<u>UNITS</u>	<u>POPULATION</u>
1	0	0
2	0 – 125	0 – 275
3	125 – 250	275 – 550
4	250 – 375	550 – 825
5	375 – 500	825 – 1,100

(c) Completion Date: The Owner estimates that the Development should be substantially completed, i.e. essentially all structures necessarily erected and/or necessary infrastructure in place to serve the intended uses, within ten (10) years of the Effective Date.

(d) Modification of Commencement or Completion Date: The City recognized that the Development on the Real Property will include a variety of uses and that demand, cost, environmental factors, and other pertinent financial and feasibility considerations fluctuate. Accordingly, the commencement date, interim completion dates, and completion date set forth in this Agreement are good faith estimates only. The timing of the actual Development of the Real Property will likely differ because of the multiple variables influencing it. The Parties agree that the commencement date, interim completion dates, and completion date are therefore subject to modification and that the Owner may provide to the City updated schedules which shall not constitute an amendment of this Agreement triggering the process for approval of amendments set forth in this Agreement.

(e) Failure to Meet Commencement of Completion Dates: The Owner's failure to meet the commencement date, an interim completion date, or the completion date shall not, in and of itself, constitute a material breach of this Agreement pursuant to section 6-31-90 of the South Carolina Code, but must be judged based on the totality of the circumstances and the flexibility anticipated under the Act and this Agreement.

13. Term of the Agreement. The term of this Agreement shall be five (5) years, commencing on the Effective Date. However, the Parties are not precluded from extending the term of this Agreement by mutual consent. The Parties agree to negotiate in good faith and utilize best efforts to extend this Agreement.

14. Amending or Canceling the Agreement. Subject to the provisions of section 6-31-100 of the South Carolina Code, this Agreement and the Amended Guidelines may be amended or canceled in whole or in part only by mutual written consent of the Parties or their successors in interest and, in the case of the Owner, its successors in legal title. Any amendment to this Agreement shall comply with the provisions of section 6-31-100. If an amendment to this Agreement or the Amended Guidelines affects less than all the persons and entities comprising the Owner, then only the City and those affected persons or entities who are Owners need to sign such written amendment for it to be effective. Pursuant to section 6-31-60(B) of the South Carolina Code, a major modification of this Agreement shall occur only after public notice and a public hearing by the City.

15. Modifying or Suspending the Agreement. Pursuant to section 6-31-130 of the South Carolina Code, in the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, the pertinent provisions of this Agreement shall be modified or suspended as may be necessary to comply with the state or federal laws or regulations.

16. Periodic Review.

(a) Timing. Pursuant to sections 6-31-40 and 6-31-90(a) of the South Carolina Code, the City's zoning administrator or the zoning administrator's designee shall review the Development of the Real Property and this Agreement at least once every twelve (12) months, at which time the Owner or its successors in title and/or assigns shall demonstrate good faith compliance with the terms of this Agreement.

(b) Notice of Material Breach. If, as a result of a periodic review or at any other time, the City finds and determines that the Owner or its successors in title and/or assigns has committed a material breach of the terms or conditions of this Agreement, the City shall serve notice in writing upon the Owner or its successors in title and/or assigns setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Owner or its successors in title and/or assigns a reasonable time in which to cure the material breach.

(c) Failure to Cure. If the Owner or its successors in title and/or assigns fails to cure any material breach within the time given, then the City unilaterally may terminate or

modify this Agreement; provided that the City has first given the Owner or its successors in title and/or assigns the opportunity: (1) to rebut the City's finding and determination; or (2) to consent to amend this Agreement to meet the concerns of the City with respect to the finding and determination.

17. Severability. Subject to section 6-31-150 of the South Carolina Code, if any word, phrase, sentence, paragraph or provision of this Agreement shall be finally adjudicated to be invalid, void, or illegal, it shall be deleted and in no way affect, impair, or invalidate any other provision hereof.

18. Merger. This Agreement, coupled with its exhibits which are incorporated herein by reference, constitutes the final and complete expression of the Parties' intentions. In return for the respective rights, benefits, and burdens undertaken by the Parties, the Owner or its successors in title and/or assigns shall be, and is hereby, relieved of obligations imposed by future Land Development Regulations, except those which may be specifically provided for herein.

19. Cooperation. The Parties hereto agree to cooperate with each other to effectuate the provisions of this Agreement and to act reasonably and expeditiously in all performances required under the Agreement. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending such action.

20. Conflicts of Law. This Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina.

21. Remedies. Each Party recognizes that the other Party would suffer inseparable harm from a material breach of this Agreement and that no adequate remedy at law exists to enforce this Agreement. Consequently, the Parties agree that any non-breaching Party who seeks enforcement of the Agreement is entitled to the remedies of injunction and specific performance but not to any other legal or equitable remedies including, but not limited to, damages; provided, however, the Owner shall not forfeit its right to just compensation for any violation by the City of Owner's rights. The City will look solely to the Owner as to any rights it may have against the Owner under this Agreement, and hereby waives any right to assert claims against limited partners or members of the Owner, and further agrees that no limited partner, member or agent of the Owner has any personal liability under this Agreement. Likewise, the Owner agrees to look solely to the City's assets as to any rights it may have against the City under this Agreement, and hereby waives any right to assert claims for personal liability against individuals acting on behalf of the City, its City Council members, agencies, boards, or commissions. Nothing in this Agreement shall be construed as requiring or authorizing the creation or incurrence of general obligation debt on the part of the City.

22. Recording. The Owner shall record this Agreement with the ROD within fourteen (14) days of the Effective Date; provided, however, the Owner's failure to record this Agreement within such time shall not affect the validity of this Agreement.

23. Third Parties. Notwithstanding any provision of this Agreement to the contrary, this Agreement shall not be binding and shall have no force or effect as to persons or entities who are not Parties or successors-in-title to Parties to this Agreement.

24. Successors and Assigns.

(a) Binding Effect. This Agreement shall be binding on the successors and assigns of the Owner in the ownership or Development of any portion of the Real Property. This Agreement shall also be binding on the City and all future City Councils for the term of this Agreement. A purchaser, lessee or other successor in interest of any portion of the Real Property shall be solely responsible for performance of the Owner's obligations hereunder as to the portion or portions of the Real Property so transferred. Assignees of some or all of the Real Properly shall be required to execute a written acknowledgement accepting and agreeing to the Owner's obligations in this Agreement, said document to be in recordable form and provided to the City at the time of the recording of any deed transferring some or all of the Real Property. Following delivery of such documents, the Owner shall be released of any further liability or obligation with respect to such part of the Real Property conveyed. For purposes hereof, a lease with a term, including extensions, that exceeds a term of twenty (20) years, shall be subject to the provisions of this Paragraph.

(b) Indemnification. This Paragraph shall not be construed to prevent Owner from obtaining indemnification of liability to the City from third parties. Further, the Owner or its successors-in-title shall not be required to notify the City or obtain the City's consent with regard to the sale of Lots in single family residential subdivisions or Lots in commercial areas which have been platted and approved in accordance with the terms of this Agreement. Owner shall be released from obligations as to individual Lots in single-family subdivisions and individual building pad sites in commercial areas.

(c) Transfer of Real Property. Owner shall be entitled to transfer any portion or all of the Real Property to a purchaser or purchasers, subject to the following exceptions:

1) Notice of Property Transfer. If the Owner intends to transfer all or a portion of the Real Property to a purchaser who, by virtue of a contractual or other restriction is precluded of availing himself of any use of the Real Property allowed by the Current Regulations, Owner shall provide the City with thirty (30) days prior, written notice, with such notice to include a copy of the contractual or other restrictions.

2) Mortgage Lenders. Notwithstanding anything to the contrary contained in this Agreement, the exceptions to transfer contained in Paragraph 23(c)(1) shall not apply: (i) to any mortgage lender either as the result of foreclosure of any mortgage secured by any portion of the Real Property or any other transfer in lieu of foreclosure; (ii) to any third party purchaser at such a foreclosure; or (iii) to any third party purchaser of such mortgage lender's interest subsequent to the mortgage lender's acquiring ownership of any portion of the Real Property,

Furthermore, nothing contained herein shall prevent, hinder or delay any transfer or any portion of the Real Property to any such mortgage lender or subsequent purchaser. Except as set forth herein, any such mortgage lender or subsequent purchaser shall be bound by and shall receive the benefits from this Agreement as the successor in title to the Owner.

(d) Release of Owner. In the event of conveyance of all or a portion of the Real Property and compliance with the conditions set forth therein, the Owner shall be released from any further obligations with respect to this Agreement as to the portion of Real Property so transferred, and the transferee shall be substituted as the Owner under this Agreement as to the portion of the Real Property so transferred and the transferee shall be subject to this Agreement and its benefits and burdens.

(e) Estoppel Certificate.

i. Request. Upon request in writing from an assignee or the Owner to the City sent by certified or registered mail or publicly licensed message carrier, return receipt requested, the City will provide a certificate in recordable form that, solely with regard to the portion of the Real Property described in the request, there are no violations or breaches of this Agreement, except as otherwise described in the certificate.

ii. Response. The City will respond to such a request within thirty (30) days of the receipt of the request, and may employ such professional consultants, municipal, City and state agencies and staff as may be necessary to assure the truth and completeness of the statements in the certificate. The reasonable costs and disbursements of private consultants will be paid by the person making the request.

iii. Effect. The certificate issued by the City will be binding on the City in accordance with the facts and statements contained therein as of its date and may be relied upon by all persons having notice thereof. No claim or action to enforce compliance with this Agreement may be brought against the Owner or its assignees properly holding rights hereunder, alleging any violation of the terms and covenants affecting such portion of the Real Property except as otherwise described in the Certificate.

iv. Failure to Respond. If the City does not respond to such request within thirty (30) days of its receipt, the portion of the Real Property described in the request will be deemed in compliance with all of the covenants and terms of this Agreement, a certificate of such conclusion may be recorded by the Owner, including a copy of the request and the notice of receipt and it shall be binding on the City as of its date. Such notice shall have the same effect as a Certificate issued by the City under this Section.

25. General Terms and Conditions.

(a) Construction of Agreement. This Agreement should be construed so as to effectuate the public purpose in the settlement of disputes, while protecting the public health, safety and welfare, including but not limited to ensuring the adequacy of facilities and compatibility between the Real Property developed under this Agreement and other properties which are not.

(b) Mutual Releases. At the time of, and subject to (i) the expiration of any applicable appeal period with respect to the approval of this Agreement without any appeal having been filed, or (ii) the final determination of any court upholding this Agreement, whichever occurs later, and the Parties' respective rights and obligations under this Agreement, Owner, on behalf of itself and Owner's partners, officers, directors, employees, agents, attorneys, consultants, hereby releases the City and the City's council members, officials, employees, agents, attorneys and consultants, and the City, on behalf of itself and the City's council members, officials, employees, agents, attorneys and consultants, hereby releases Owner and Owner's partners, officers, directors, employees, agents, attorneys and consultants, from and against any and all claims, demands, liabilities, costs, expenses of whatever nature, whether known or unknown, and whether liquidated or contingent, arising on or before the date of this Agreement in connection with the Real Property or the application, processing or approval of the Agreement; provided, however, that each Party shall not be released from its continuing obligation to comply with this Agreement, including the Current Regulations.

(c) No Waiver. Failure of a Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of the City Council taken with the same formality as the vote approving this Agreement, no officer, official or agent of the City has the power to amend, modify or alter this Agreement or waive any of its conditions as to bind the City by making any promise or representation contained herein. Any amendments are subject to Paragraph 14 of this Agreement.

(d) Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except as otherwise set forth in this Agreement.

(e) Attorneys' Fees. Should any Party hereto employ an attorney for the purpose of enforcing this Agreement, or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief, or other litigation, including appeal or rehearings, the prevailing Party shall be entitled to receive from the other Party thereto reimbursement for all reasonable attorneys' fees and all costs and expenses. Should any judgment or final order be issued in that proceeding, said reimbursement shall be specified herein.

(f) Property Taxes and Fees. Nothing contained herein shall preclude the City from levying and collecting ad valorem property taxes or any fees that are imposed in like

manner upon other similarly situated properties within the City; provided, however, the City agrees that Owner shall not be subject to any impact fees in effect as of the date of this Agreement, and the City further agrees that any new impact fees adopted by the City during the term of this Agreement shall not apply to the Property.

(g) Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

City of Charleston
Attention: Mayor
Post Office Box 304
Charleston, South Carolina 29402

With copies to:

City of Charleston
Attention: Zoning Administrator
2 George Street
Charleston, South Carolina 29401

City of Charleston
Attention: Legal Department
50 Broad Street
Charleston, South Carolina 29402

Owner:

1776, LLC
36 Prioleau Street, Unit N
Charleston, South Carolina 29401

With copy to:

Hellman Yates & Tisdale, PA
Attention: Brian A. Hellman, Esq.
105 Broad Street, Third Floor
Charleston, SC 29401

(h) Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other Party within seven (7) days of receipt of said facsimile copy.

[Remainder of page left blank, intentionally. Signature pages to follow.]

IN WITNESS WHEREOF, this development agreement between the City of Charleston and 1776, LLC, has been executed by the City on the day and year first above written.

Witnesseth:

CITY OF CHARLESTON

By: _____
John J. Tecklenburg, Mayor

Attest: _____
Clerk of Council

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) ACKNOWLEDGEMENT

I, _____, Notary of the Public of the State of South Carolina, do hereby certify that Charleston, South Carolina, by John J. Tecklenburg, its Mayor and Vanessa Turner Maybank, its Clerk of Council, personally appeared before me this _____ day of _____, 2018, and acknowledged the execution of the foregoing instrument.

Notary Public for South Carolina
My Commission Expires:

IN WITNESS WHEREOF, this development agreement between the City of Charleston and 1776, LLC, has been executed by 1776, LLC, a South Carolina limited liability company, on the day and year first above written.

Witnesseth:

1776, LLC a South Carolina limited
liability company

By: The Eugene J. Zurlo Living
Trust dated December 11,
1997

Its: Sole Member

By: _____
Eugene J. Zurlo, Trustee

By: _____
Charlotte R. Zurlo, Trustee

[Remainder of 1776, LLC signature page left blank, intentionally.
Acknowledgments to follow].

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

)
)
)

ACKNOWLEDGEMENT

I, _____, Notary of the Public of the State of South Carolina, do hereby certify that Eugene J. Zurlo, Trustee of The Eugene J. Zurlo Living Trust dated December 11, 1997, Sole Member of 1776, LLC, a South Carolina limited liability company, personally appeared before me this _____ day of _____, 2018, and acknowledged the execution of the foregoing instrument on behalf of said limited liability company.

Notary Public for South Carolina
My Commission Expires: _____

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

)
)
)

ACKNOWLEDGEMENT

I, _____, Notary of the Public of the State of South Carolina, do hereby certify that Charlotte R. Zurlo, Trustee of The Eugene J. Zurlo Living Trust dated December 11, 1997, Sole Member of 1776, LLC, a South Carolina limited liability company, personally appeared before me this _____ day of _____, 2018, and acknowledged the execution of the foregoing instrument on behalf of said limited liability company.

Notary Public for South Carolina
My Commission Expires:

**CITY OF CHARLESTON
PLANNING COMMISSION**

November 26, 2018

Rezoning 1 :

34 Cooper St (Peninsula)

BACKGROUND

The applicant is requesting a rezoning from Diverse Residential (DR-2F) to Residential Office (RO). The property is located on the block of Cooper Street between America Street and Morrison Drive. The subject property is completely surrounded by DR-2F zonings with some General Business (GB) zoning nearby. The neighborhood in which the subject parcel resides consists of mostly residential (single and multi-family) uses but, as is typical in older urban neighborhoods, there are a few commercial, institutional and civic uses scattered throughout.

Uses surrounding the subject property include a single family home to the west, a vacant residential lot across the street, a fraternal organization lodge across the street, a former fraternal organization building to the west, and a City parking lot to the north. Most uses on Cooper Street and surrounding blocks are single-family homes, duplexes or triplexes. While the City supports a mix of compatible uses in urban neighborhoods, commercial uses such as retail, offices or restaurants are typically, historically and traditionally located on block corners. The subject property is occupied by an existing two-story, single-family home on an L-shaped lot.

The RO zoning in the City's Zoning Ordinance was intended to allow limited office uses in existing residential structures along major corridors. The zoning allows a residential unit, office units or both types of uses on the same property. Particular consideration should be given to the surrounding neighbors in this rezoning request. Most new commercial uses within this residential block will not meet existing zoning and building requirements for things such as parking, buffers and setbacks. Future commercial zonings on this block would not be appropriate.

Zoning Code - Part 1 - Section 54-201(i)

The RO District is intended to allow limited office uses within converted residential structures along major roadways. This district shall provide for the daily convenience and personal service needs of the surrounding community and shall be designed to mix compatibly and aid in the preservation and stabilization of the local neighborhood. The RO zoning district is not intended to permit the loss of viable housing stock.

CENTURY V CITY PLAN RECOMMENDATIONS

The **Century V Plan** recommends maintaining the character of established areas in the City when considering the zoning or rezoning of property. The plan also encourages a mixture of compatible uses in appropriate locations. The Century V Plan map indicates the subject property is in an area designated as **Urban** which is mixed-use but primarily residential. Given the existing zoning and surrounding pattern of development on the block, and potential impact to residential properties the proposed RO zoning is not appropriate for this site.

STAFF RECOMMENDATION

DISAPPROVAL

Rezoning 1

34 Cooper St (Peninsula)

TMS# 4590601007

0.153 ac.

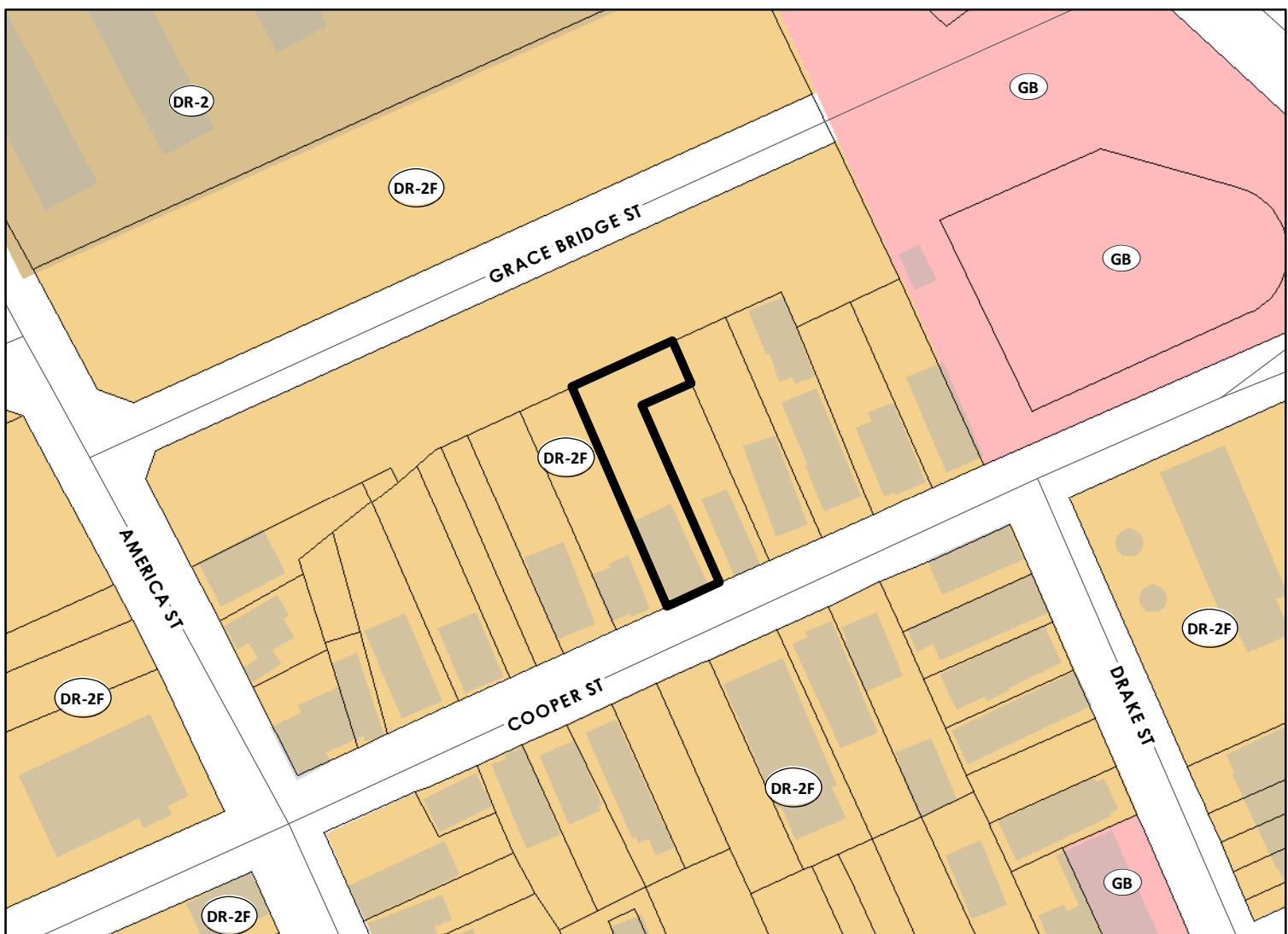
**Request rezoning from Diverse Residential (DR-2F)
to Residential Office (RO).**

Owner: Jarrett Hodson & Michael Jewell
Applicant: Becky Fenno

Area



Location



**CITY OF CHARLESTON
PLANNING COMMISSION**

November 26, 2018

Rezoning 2 :

52 Line St (Peninsula)

BACKGROUND

The applicant is requesting rezoning of the property from General Business (GB) to Mixed-Use/Workforce Housing (MU-2/WH). The property, owned by Norfolk Southern Rail Co., was, until recently, rail right-of-way but was platted and recorded as real property to be developed in the future. The subject property is located on the north side of Line Street between King Street and Meeting Street and adjacent to the ramp from the Septima Clark Parkway onto Interstate 26. The property is a potential urban infill development site surrounded by Light Industrial (LI) zoning, Mixed-Use/Workforce Housing (MU-2/WH) zoning and General Business (GB) zoning. Much of this urban block has already been rezoned to MU-2/WH.

Surrounding uses vary widely as there are a blend of historic and modern uses and buildings in the immediate area. Existing surrounding uses include the adjacent semi-abandoned railroad, mini-storage, the Post and Courier offices and presses, restaurants, single and multi-family homes, surface parking lots and large and small vacant lots. The new mixed-use Post and Courier building across the street is nearly complete. The subject property is mostly vacant but has a "stealth" communications tower on it. The proposed Lowcountry Lowline is immediately adjacent to the east.

The Mixed-Use/Workforce Housing (MU-2/WH) zoning district allows for a mix of uses that incorporates housing opportunities for persons of varying means and incomes, along with complementary nonresidential uses. The permitted uses in MU-2/WH are the same as those allowed in GB.

CENTURY V CITY PLAN RECOMMENDATIONS

The **Century V Plan** encourages appropriate infill development within already urbanized areas. The Century V Plan map indicates the subject property is within an area designated as **Urban Core**. The Urban Core is the densest, most mixed-use portion of the City generally comprised of the central business district. The area of the peninsula surrounding the subject property consists of a wide variety of appropriate urban uses and building types thus the MU-2/WH zone district is appropriate for this property.

STAFF RECOMMENDATION

APPROVAL

Rezoning 2

52 Line St (Peninsula)

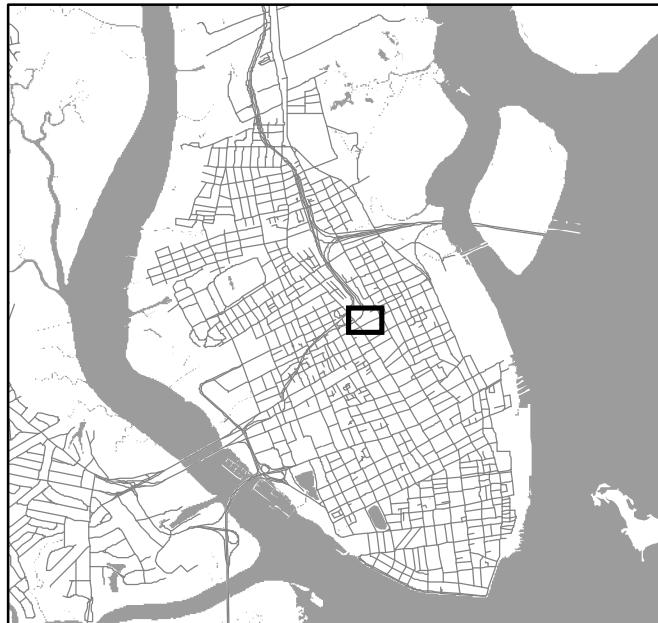
TMS# 4590503139

approx. 0.90 ac.

Request rezoning from General Business (GB) to Mixed-Use/Workforce Housing (MU-2/WH).

Owner: Norfolk Southern Railway
Applicant: LS3P

Area



Location



**CITY OF CHARLESTON
PLANNING COMMISSION**

November 26, 2018

Rezoning 3 :

F St (Peninsula)

BACKGROUND

The City of Charleston is requesting rezoning of previously unplatte right-of-way to Mixed-Use/Workforce Housing (MU-1/WH). The property is located off F Street near King Street and immediately adjacent to the raised US Highway 17 ramp connection from Interstate I-26. The City of Charleston currently owns the property and plans to develop the property as workforce housing. Surrounding and nearby zonings include General Business (GB), Diverse Residential (DR-2F) and Mixed-Use/Workforce Housing (MU-1/WH and MU-2/WH) and Light Industrial (LI).

Surrounding uses include and single and multi-family homes, the future Lowcountry Lowline (former rail line), and a raised highway ramp. The City of Charleston Housing Authority owns and operates the workforce housing situated between the subject property and King Street.

CENTURY V CITY PLAN RECOMMENDATIONS

The **Century V Plan** encourages appropriate infill development within already urbanized areas. The Century V Plan map indicates the subject property as currently undesignated right-of-way but is surrounded by areas designated as **Urban** and **Urban Core**. The Urban Core district is the densest, most mixed-use area of the City and occurs only on the peninsula. The area of the peninsula surrounding the subject properties consists of a wide variety of urban uses and building types. The requested MU-1/WH is appropriate for this site.

STAFF RECOMMENDATION

APPROVAL

City of Charleston

Planning Commission
November 26, 2018

Rezoning 1

F St (Peninsula)

TMS# 4600404118

0.71 ac.

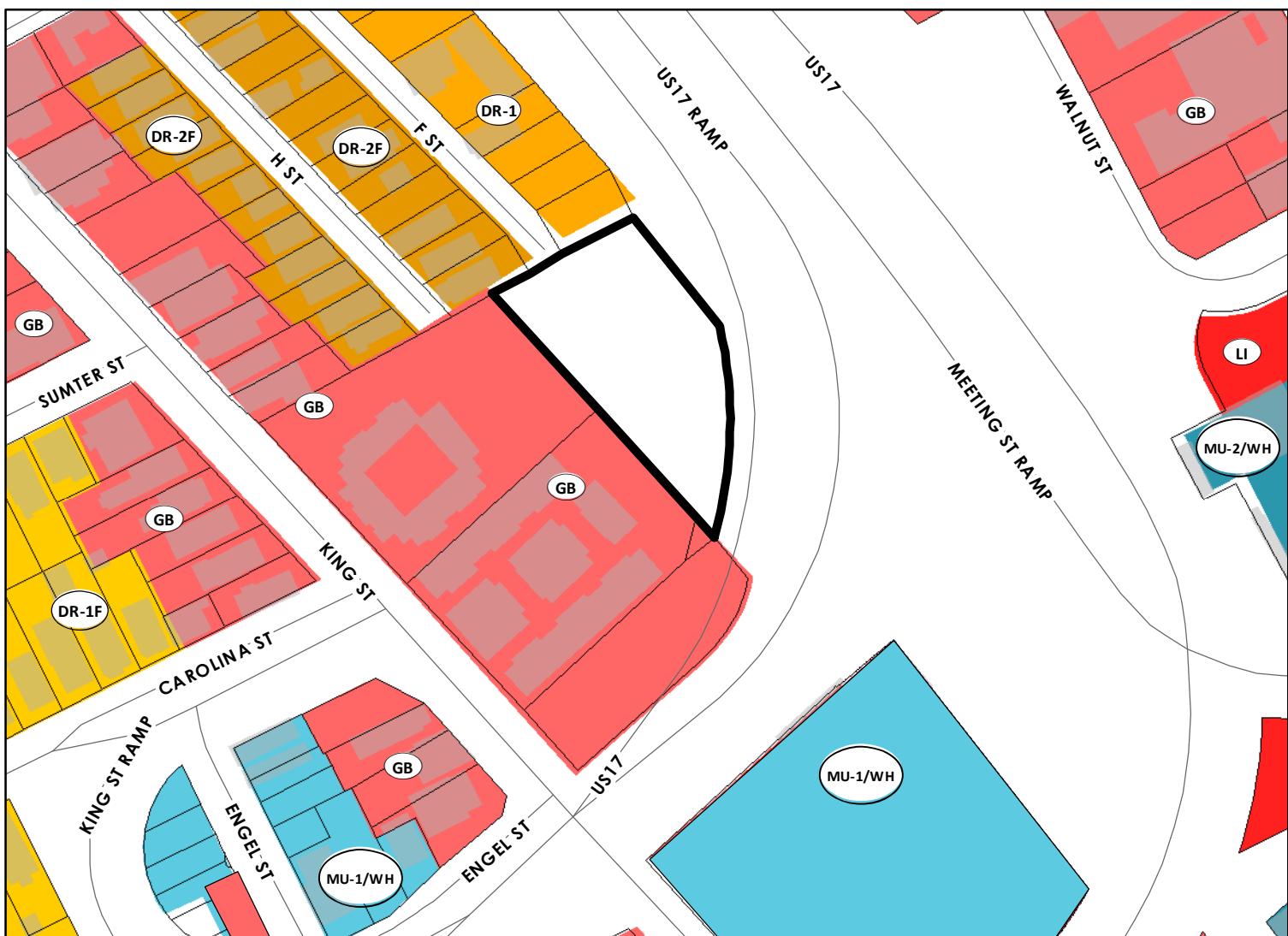
**Request rezoning of previously unzoned right-of-way
to Mixed-Use/Workforce Housing (MU-1/WH).**

Owner/Applicant: City of Charleston

Area



Location



**CITY OF CHARLESTON
PLANNING COMMISSION**

November 26, 2018

Rezoning 4 :

89 Romney St (Peninsula)

BACKGROUND

The applicant is requesting a rezoning from Diverse Residential (DR-1F) to Residential Office (RO). The property is located on the block of Romney Street between Meeting Street and the Romney Street off-ramp for Interstate 26. The subject property is completely surrounded by DR-1F zonings with some General Business (GB), Limited Business (LB) and Mixed Use (MU-1/WH) zoning nearby. The neighborhood in which the subject parcel resides consists of a wide variety of residential and commercial and several blocks are wedged between the Major corridor of Meeting Street (with mostly commercial zoning) and the raised portion of I-26. Romney Street carries a significant amount of local traffic and through traffic with about 5,000 automobiles per day.

Uses surrounding the subject property include single family homes and small apartments. Most uses on Cooper Street and surrounding blocks are single-family homes, duplexes or triplexes. Approximately 45% of the block is made up of commercial zoning/use. The subject property is occupied by an existing one-story, single-family home.

The RO zoning in the City's Zoning Ordinance was intended to allow limited office uses in existing residential structures along major roadways. The zoning allows a residential unit, office units or both types of uses on the same property. Particular consideration should be given to the surrounding neighbors in this rezoning request. New commercial uses within this residential block may not meet existing zoning and building requirements for things such as parking, buffers, setbacks standards. Future commercial zonings on this block may be appropriate.

Zoning Code - Part 1 - Section 54-201(i)

The RO District is intended to allow limited office uses within converted residential structures along major roadways. This district shall provide for the daily convenience and personal service needs of the surrounding community and shall be designed to mix compatibly and aid in the preservation and stabilization of the local neighborhood. The RO zoning district is not intended to permit the loss of viable housing stock.

CENTURY V CITY PLAN RECOMMENDATIONS

The **Century V Plan** recommends maintaining the character of established areas in the City when considering the zoning or rezoning of property. The plan also encourages a mixture of compatible uses in appropriate locations. The Century V Plan map indicates the subject property is in an area designated as **Urban** which is mixed-use but primarily residential. Given the surrounding pattern of development on the block and design and width of the adjacent roadway, the proposed zoning is appropriate for this location.

STAFF RECOMMENDATION

APPROVAL

Rezoning 4

89 Romney St (Peninsula)

TMS# 4631602005

0.10 ac.

**Request rezoning from Diverse Residential (DR-1F)
to Residential Office (RO).**

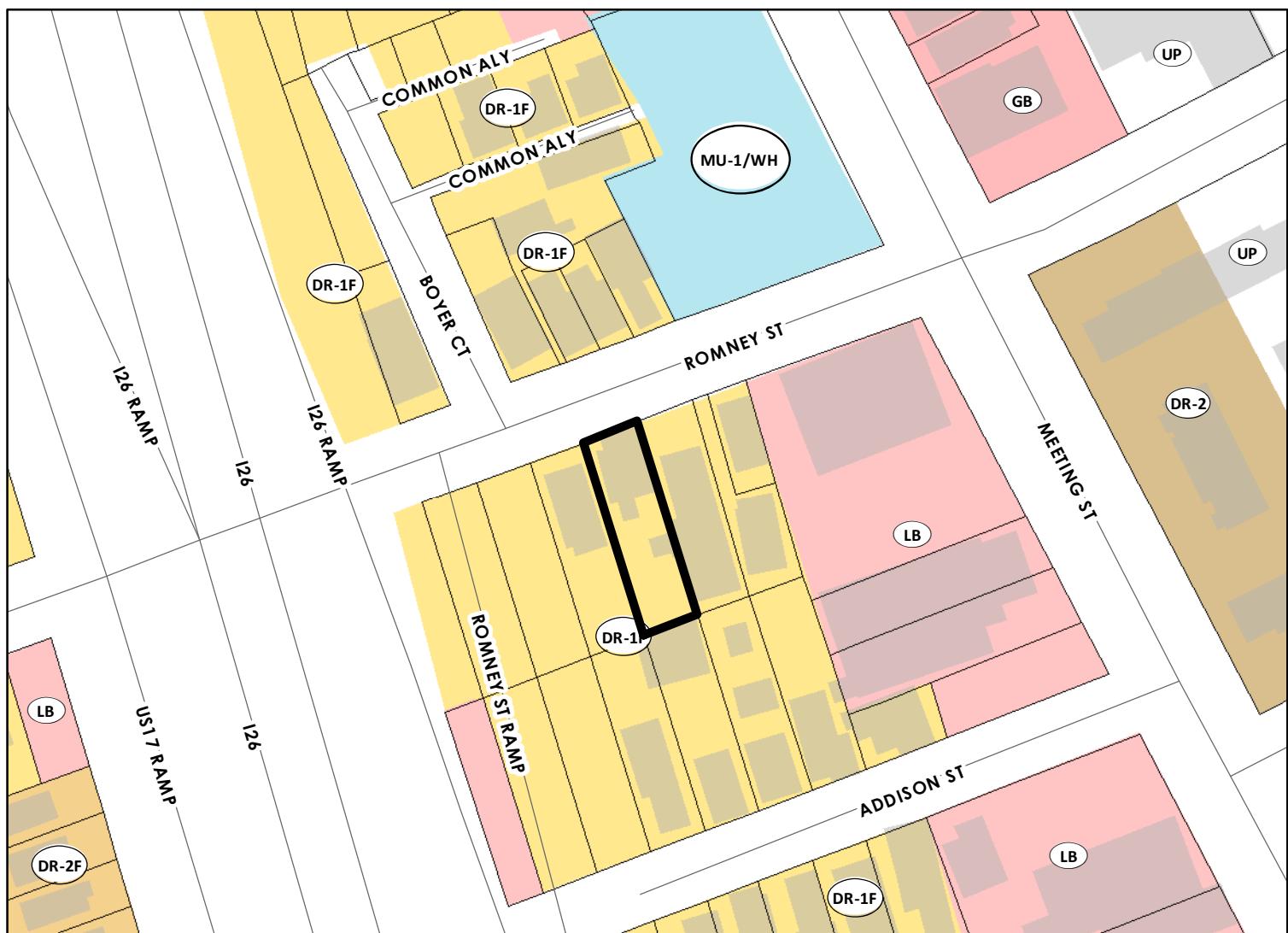
Owner: Mary A. Boags Life Estate Rem et al.

Applicant: Courtney C. Brown

Area



Location



**CITY OF CHARLESTON
PLANNING COMMISSION**

November 26, 2018

Rezoning 5 :

2026 Clements Ferry Rd (Cainhoys)

BACKGROUND

Located off Clements Ferry Road not far from Interstate 526, the subject property is mostly wooded but contains an entry road (Enterprise Boulevard) for access to a recently built multi-family housing development on an adjacent property. The requested zoning is from Light Industrial (LI) zoning to General Business (GB).

The property is surrounded by General Commercial (GC), Light Industrial (LI), Heavy Industrial (HI) and Manufactured Residential (R2) zonings in Berkeley County and Diverse Residential (DR-1F) zoning in the City. The subject property is across from the Beresford Creek subdivision entrance road which is in the City and zoned Single Family Residential (SR-1).

Except for the new multi-family housing, most of the existing uses surrounding the property are light industrial (manufacturing, warehousing, trucking, etc.) and heavy commercial (flexible office space, storage, contracting, and marina with boat storage).

CENTURY V CITY PLAN RECOMMENDATIONS

The **Century V Plan** recommends maintaining the character of established areas in the City when considering the rezoning of property. The subject property area is designated in the Century V Plan as **Job Center** which predominantly includes a concentration of variety of businesses but can also include a mix of uses such as civic and residential. The requested General Business zoning district is considered a reduction in intensity of allowed commercial and industrial uses and, therefore, appropriate for this area.

STAFF RECOMMENDATION

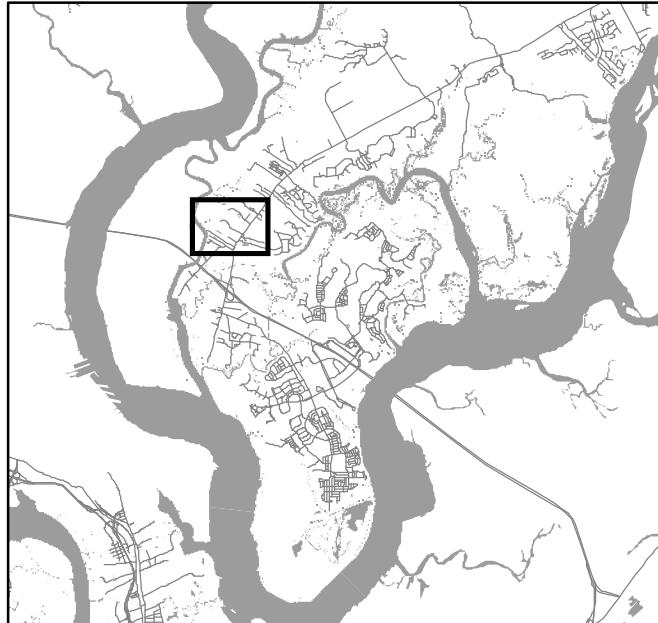
APPROVAL

Rezoning 5
2026 Clements Ferry Rd (Cainhoy)
TMS# 2710001035
30.50 ac.

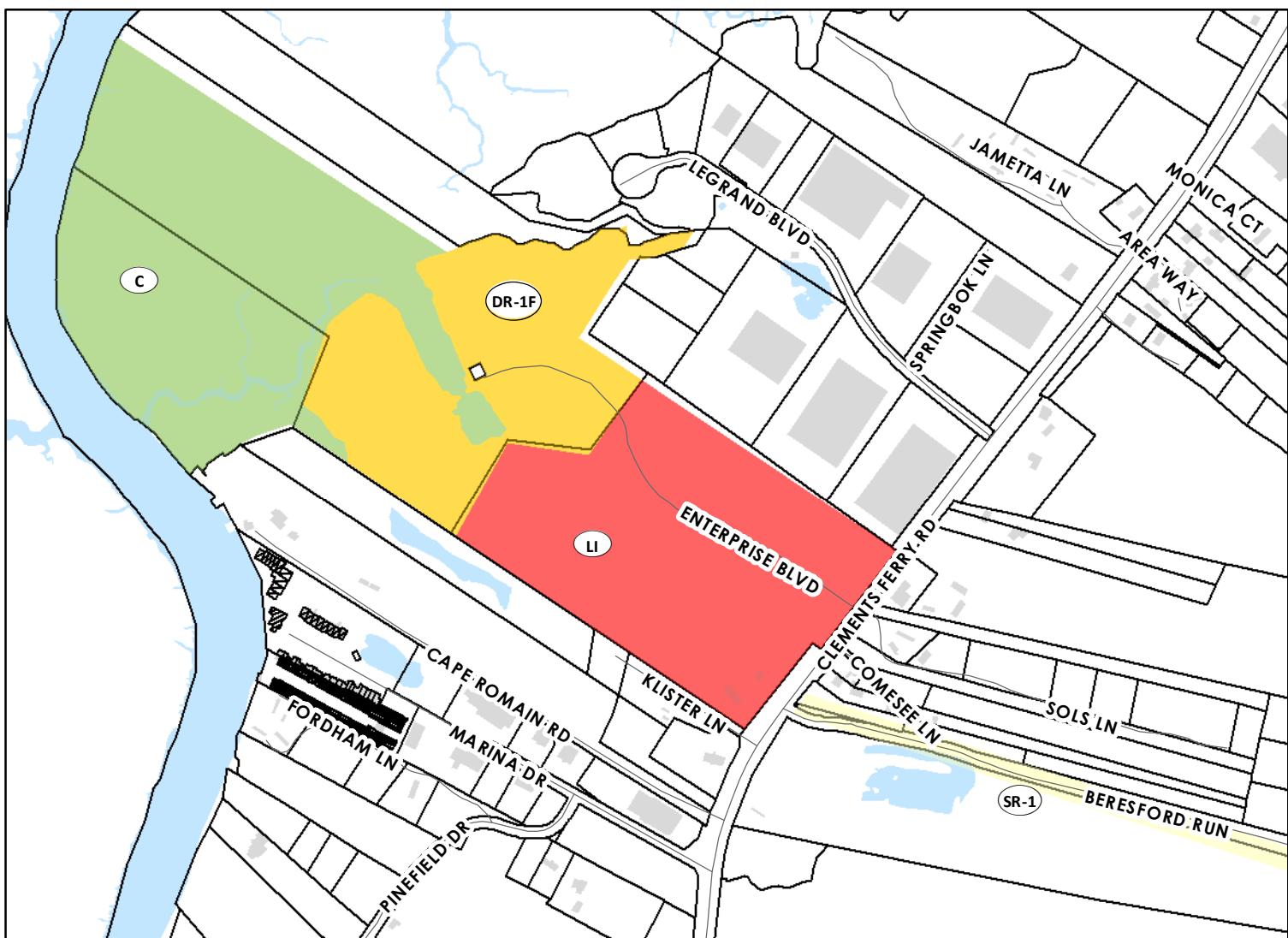
Request rezoning from Light Industrial (LI)
to General Business (GB).

Owner: Clements Ferry Properties LLC
Applicant: SeamonWhiteside + Associates

Area



Location



**CITY OF CHARLESTON
PLANNING COMMISSION**

November 26, 2018

Zoning 1:

Clements Ferry Rd (Cainhoy)

BACKGROUND

The subject property is pending annexation and the applicant is requesting zoning of Rural Residential (RR-1). The property is located near the southern end of Clements Ferry Road and on Clouter Creek (near Daniel Island). The property has approximately 250 feet of frontage on Clements Ferry Road (which is unpaved in this area). It is currently zoned Multisection Manufactured Residential (R1-MM) in Berkeley County. The subject property is surrounded by RR-1 zoning and Conservation zoning (mostly marsh parcels) in the City and Multisection Manufactured Residential (R1-MM) zoning in Berkeley County. The R1-MM zoning in the County requires minimum lot sizes of 14,000 sq. ft. which compares similarly to the 12,000 sq. ft. minimum in the RR-1 zoning. The property is surrounded by large, mostly wooded lots and very few are occupied by homes.

The subject property is almost entirely wooded with some marsh area on the western edge.

CENTURY V CITY PLAN RECOMMENDATIONS

The **Century V Plan** recommends keeping the character of established areas in the City when considering the zoning of property. The Century V Plan map indicates the subject property is within an area designated as **Suburban Edge**. Areas designated as such typically have primarily residential uses and varying, but lower residential densities. This end of Clements Ferry Road is made up mostly of single-family homes or large undeveloped lots and nearby newer subdivisions. Given the plan map designation, the existing residential character of the area and the potential for development of the larger lots in either the County or the City, the RR-1 zoning is appropriate for this area.

STAFF RECOMMENDATION

APPROVAL

Zoning 1

Clements Ferry Road (Cainhoy)

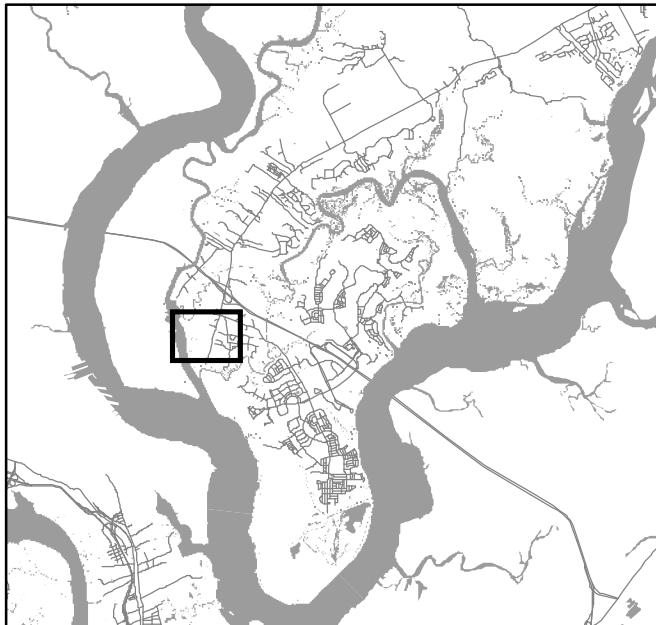
TMS# 2750000005

Approximately 16.40 ac.

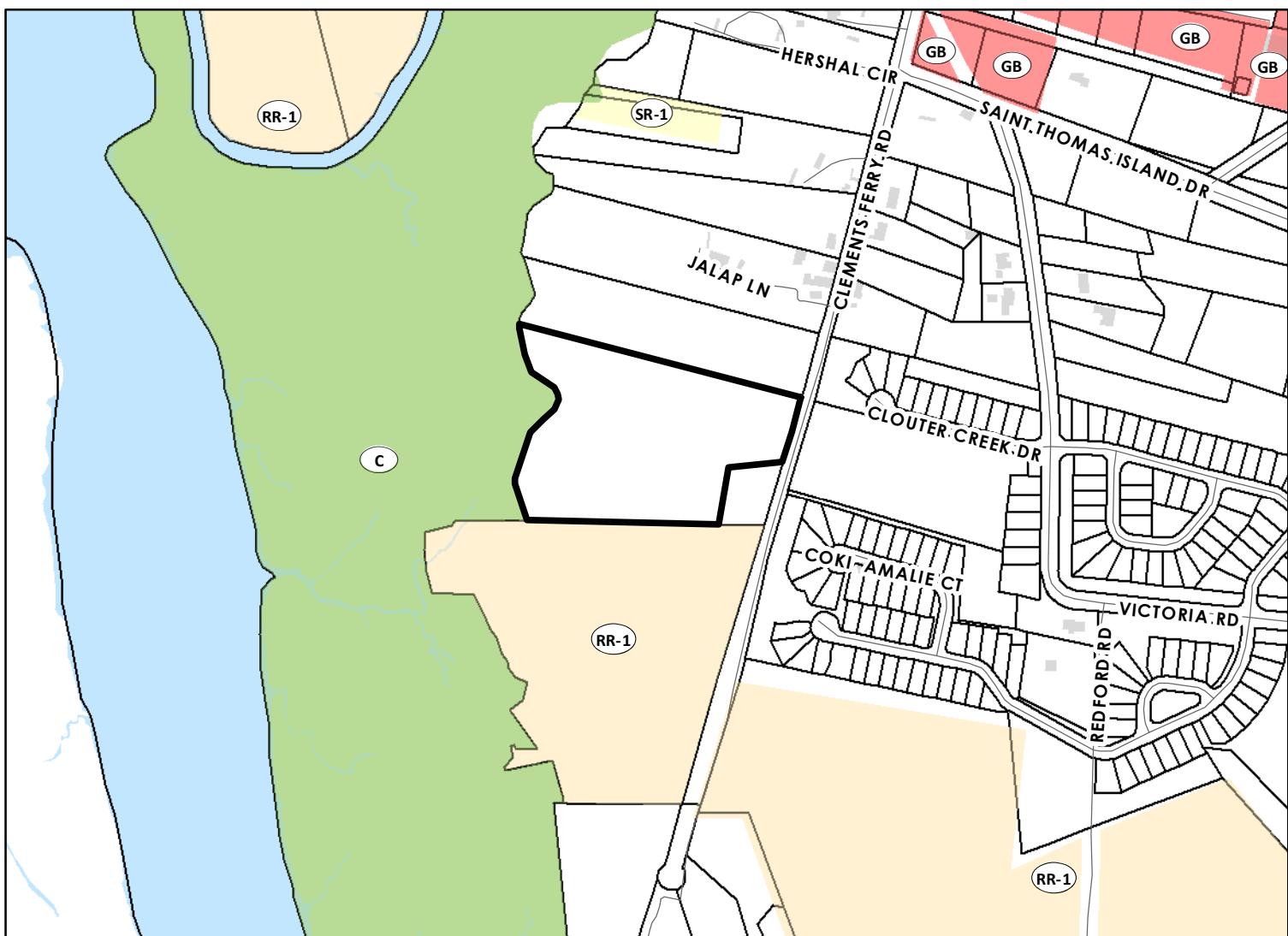
Request zoning of Rural Residential (RR-1).
Zoned Multisection Manufactured Residential (R1-MM)
in Berkeley County.

Owner: IVO SANDS LLC

Area



Location



**CITY OF CHARLESTON
PLANNING COMMISSION**

November 26, 2018

Zonings 2 & 3:

1381 & 1389 River Rd (Johns Island)

BACKGROUND

The subject properties consist of two properties comprising about 12 acres on the marsh off River Road in the northern part of Johns Island. The properties are pending annexation and the applicant is requesting zoning of Single-Family Residential (SR-1). The properties are located on the north side of River Road just west of Rushland Landing Road. Together, the properties have approximately 600 feet of frontage on River Road. They are currently zoned Single Family Residential (R-4) in Charleston County. The subject properties are surrounded by RR-1, SR-1 and PUD zonings in the City and Single Family Residential (R-4) in Charleston County. The properties are surrounded by large, wooded lots and cleared lots and either vacant or occupied by single-family homes.

The subject properties are mostly cleared, and one lot contains a pond. Each lot extends north into marsh area and right up to a creek. Typically the marsh portions of lots on Johns Island are zoned Conservation (C) and should be the case with these lots.

CENTURY V CITY PLAN RECOMMENDATIONS

The **Century V Plan** recommends keeping the character of established areas in the City when considering the zoning of property. The Century V Plan map indicates the subject property is within an area designated as **Suburban Edge**. Areas designated as such typically have primarily residential uses and varying, but lower residential densities. This portion of River Road is made up mostly of single-family homes or large undeveloped lots and nearby newer subdivisions. Given the plan map designation, the existing residential character of the area and the potential for development of the larger lots in either the County or the City, the RR-1 zoning (and Conservation (C) for marsh areas), rather than the requested SR-1 zoning, is appropriate for this area.

STAFF RECOMMENDATION

APPROVAL FOR RURAL RESIDENTIAL (RR-1) AND CONSERVATION (C)

Zoning 2

1389 River Rd (Johns Island)

TMS# 3110000025

10.94 ac.

Request zoning of Single-Family Residential (SR-1).

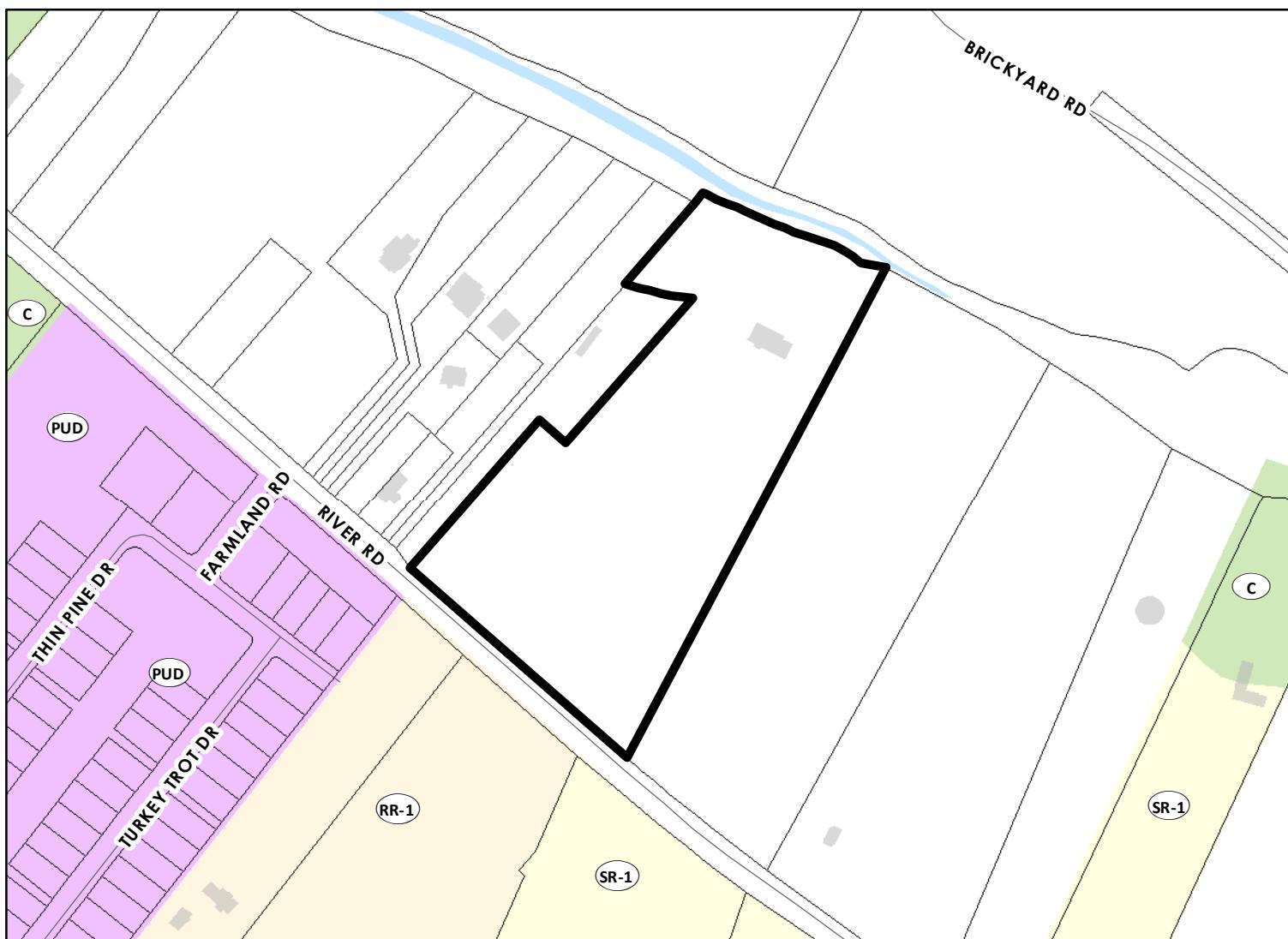
Zoned Single-Family Residential (R-4)
in Charleston County.

Owner: Knapp A Partnership

Area



Location



City of Charleston

Planning Commission
November 26, 2018

Zoning 3

1381 River Rd (Johns Island)

TMS# 3110000097

1.28 ac.

Request zoning of Single-Family Residential (SR-1).

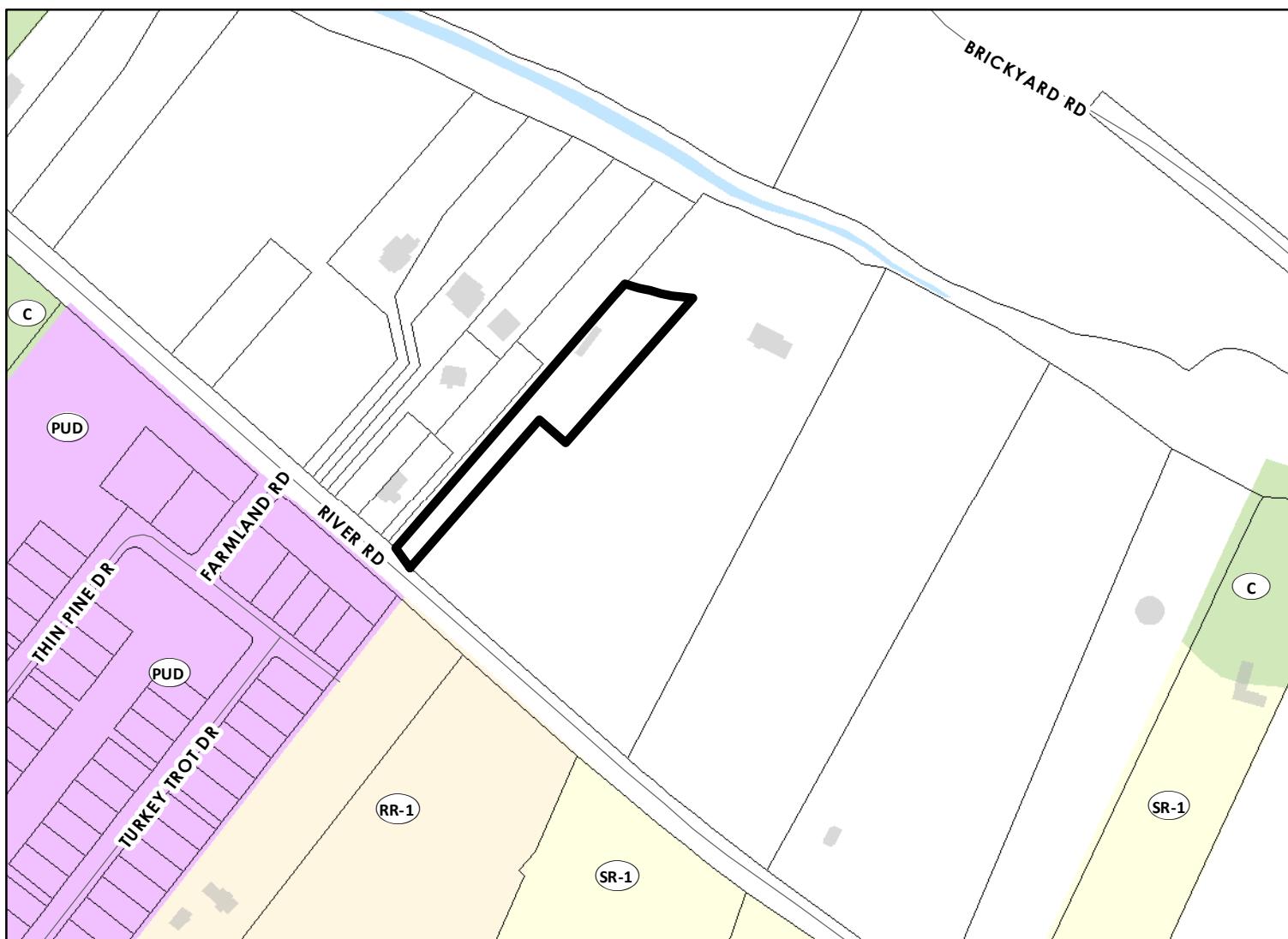
Zoned Single-Family Residential (R-4)
in Charleston County.

Owner: Knapp A Partnership

Area



Location



**CITY OF CHARLESTON
PLANNING COMMISSION**

November 26, 2018

Zoning 4:

Recently Annexed Property in West Ashley

BACKGROUND

The following zoning item is located in the **West Ashley** area of the City and was recently annexed or the annexation is pending. The zoning district recommended in the City closely matches the zoning assigned to the property in Charleston County or it is compatible with the context of the existing development or lot sizes in the surrounding neighborhood.

<u>Zoning Item</u>	<u>Property Address</u>	<u>Acres</u>	<u>Land Use</u>	<u>Previous Zoning</u>	<u>Recommended Zoning</u>
4.	<u>West Ashley</u> 1310 N Edgewater Dr	0.62	Vacant Single-Family Res.	R-4	SR-I

CENTURY V CITY PLAN RECOMMENDATIONS

The **Century V Plan** recommends maintaining the character of established areas in the City when considering the zoning of property. The subject properties are designated in the Century V Plan as **Suburban Edge** which are predominately residential with varying, but lower densities. Given the existing zonings and existing pattern of development in the surrounding area the proposed zoning is appropriate for this site.

STAFF RECOMMENDATION

APPROVAL

Rezoning 4

1310 N Edgewater Dr (West Ashley)

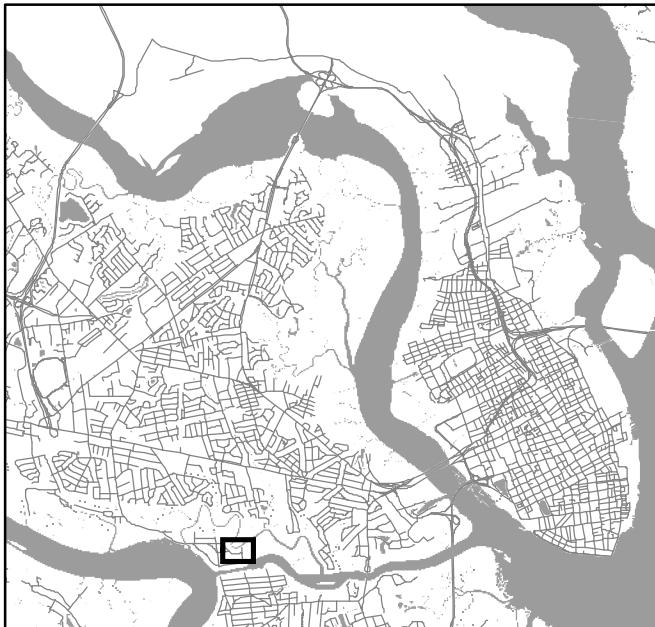
TMS# 3491400009

0.62 ac.

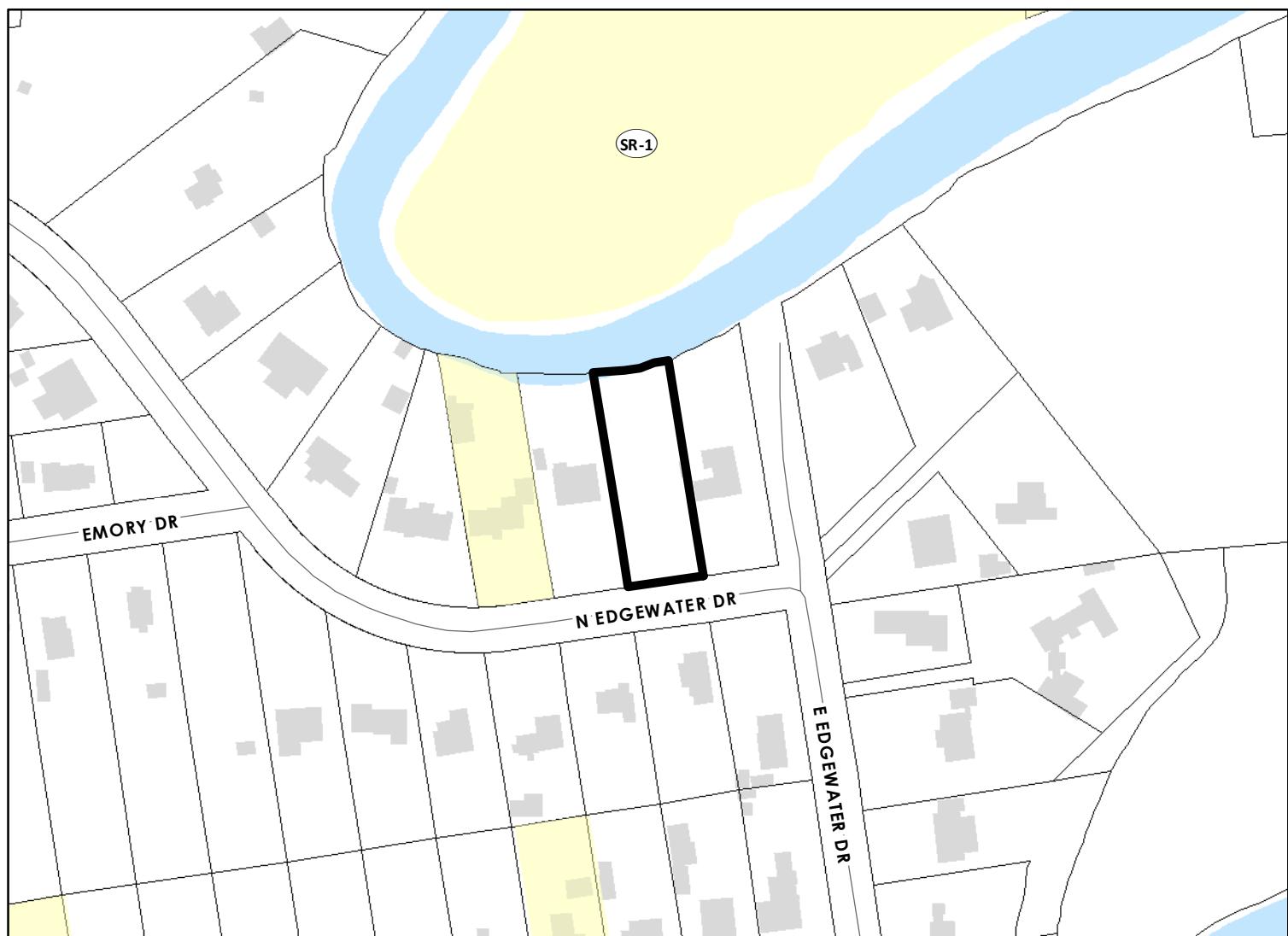
**Request zoning of Single-Family Residential (SR-1).
Zoned Single-Family Residential (R-4)
in Charleston County.**

Owner: Grant & Jennifer Zinkon

Area



Location



**CITY OF CHARLESTON
PLANNING COMMISSION**

November 26, 2018

Ordinance Amendment 1:

**River Rd & Maybank Hwy
(The Village at Fenwick PUD – Johns Island)**

BACKGROUND

Note: The City of Charleston is the applicant for this request. City Council gave this item, and the associated Development Agreement, first reading approval at its meeting on November 13.

The City is requesting changes to The Village at Fenwick PUD guidelines and master plan to facilitate the Northern Pitchfork road plan and development along its length.

The PUD document is under separate cover and will be presented in detail during the Planning Commission meeting.

STAFF RECOMMENDATION

APPROVAL

City of Charleston

Planning Commission
November 26, 2018

Ordinance Amendment 1

River Rd & Maybank Hwy
(The Village at Fenwick PUD – Johns Island)

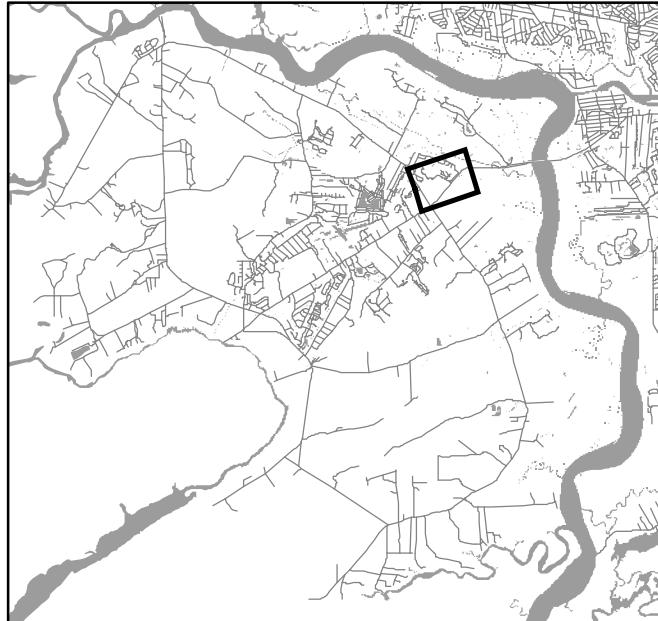
TMS# 3460000004, 076 & portions of 3460000258 & 259

approx. 44.891 ac.

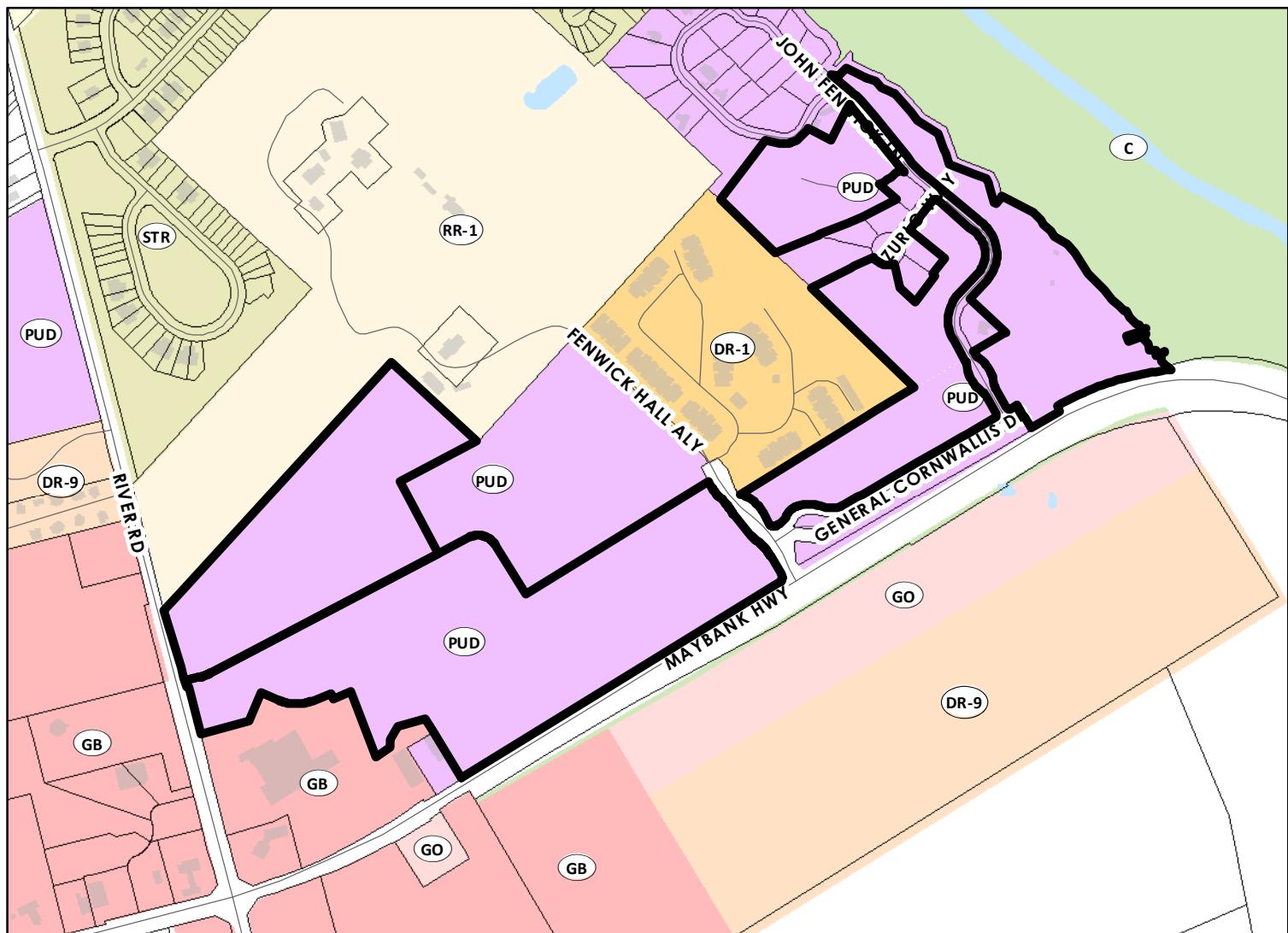
Request an amendment to Ordinance No. 2016-005
by substituting the Amended and Restated Planned
Unit Development Master Plan and Development
Guidelines for this property.

Owner: 1776 LLC
Applicant: City of Charleston

Area



Location



AN ORDINANCE

TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON, BY AMENDING ORDINANCE NO. 2016-005, ESTABLISHING THE VILLAGE AT FENWICK PLANNED UNIT DEVELOPMENT GUIDELINES, SO THAT PROPERTY OWNED BY 1776, LLC, LOCATED ON JOHNS ISLAND, IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA, CONSISTING OF (1) APPROXIMATELY 12.645 ACRES ON RIVER ROAD (TMS NO. 346-00-00-004); (2) APPROXIMATELY 22.91 ACRES ON RIVER ROAD AND MAYBANK HIGHWAY (TMS NO. 346-00-00-076); (3) APPROXIMATELY 4.947 ACRES (A PORTION OF TMS NO. 346-00-00-258); AND (4) APPROXIMATELY 4.389 ACRES (A PORTION OF TMS NO. 346-00-00-259) (COUNCIL DISTRICT 5) BE SUBJECT TO THE AMENDED AND RESTATED PLANNED UNIT DEVELOPMENT GUIDELINES FOR THE VILLAGE AT FENWICK.

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

WHEREAS, on January 12, 2016, City Council adopted Ordinance No. 2016-005, rezoning the above-referenced properties (collectively, the “Property”) and others to Planned Unit Development (PUD) classification and adopting The Village at Fenwick Planned Unit Development Guidelines (the “Guidelines”) as the development plan for the Property;

WHEREAS, the planned “Northern Pitchfork Road,” expected to significantly relieve traffic congestion on Johns Island, will lie within the boundaries of the properties subject to the Guidelines, with a majority of the North Pitchfork Road and its supporting facilities, including but not limited to drainage facilities, lying within the boundaries of the Property;

WHEREAS, 1776, LLC, the owner of the Property (“Owner”), has agreed to donate fee simple title to the portions of the Property necessary to construct the North Pitchfork Road and supporting facilities to the City; and

WHEREAS, the Owner’s donation has resulted in changed conditions with respect to the planned development of the Property under the Guidelines, and City Council finds it necessary to amend the Guidelines to take into account these changed conditions.

Section 1. City Council hereby amends Ordinance No. 2016-005 by substituting the Amended and Restated Planned Development Guidelines for the Village at Fenwick (the “Amended Guidelines”), a copy of which is attached hereto and incorporated herein by reference as Exhibit 1, for the Guidelines as the development plan for the Property only.

Section 2. The Property is more particularly described on Exhibit 2, attached hereto and incorporated herein by reference.

Section 3. This Ordinance shall become effective upon ratification, such that the Amended Guidelines shall be vested upon ratification; provided, however, the Guidelines shall govern the

development of the Property through January 12, 2019, after which the Amended Guidelines shall govern the development of the Property.

Ratified in City Council this ____ day of
_____, in the Year of Our Lord, 2018,
and in the ____ Year of the Independence of
the United States of America

John J. Tecklenburg, Mayor

ATTEST:

Vanessa Turner Maybank,
Clerk of Council

**CITY OF CHARLESTON
PLANNING COMMISSION**

November 26, 2018

Ordinance Amendment 3 :

Request approval to amend Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) to incorporate provisions to allow subdivision and development of Single Family Detached Affordable Housing as a conditional use within multiple base zoning districts.

BACKGROUND

Note: this item was proposed by members of City Council and given first reading approval by City Council on August 21, 2018. Planning Commission deferred the item at the September meeting and again at the October meeting. At the request of the Planning Commission, the ordinance has undergone some revisions and is back before the commission for further discussion and recommendation.

This ordinance amendment will be presented in detail during the Planning Commission meeting.

STAFF RECOMMENDATION

APPROVAL

DRAFT 5
11.7.2018

AN ORDINANCE

TO AMEND CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) TO INCORPORATE PROVISIONS TO ALLOW SUBDIVISION AND DEVELOPMENT OF SINGLE FAMILY DETACHED AFFORDABLE HOUSING AS A CONDITIONAL USE WITHIN MULTIPLE BASE ZONING DISTRICTS.

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

Section 1. Article 2, Part 2, Sec. 54-207, Conditional Uses, of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended by inserting the following new subsection in alphabetical order:

“y. Affordable Housing Subdivision and Lot Development Standards for Single One-Family Detached UnitsDwellings

1. Intent: To promote ownership or occupancy of quality Affordable Housing, property within the SR-1, SR-2, SR-6, STR, DR-1, DR-1F, DR-2, or DR-2F zoning district may be approved for subdivision and development for single one-family detached units dwellings for residential use only, in accordance with the following standards in this section. The entity developing use of the subject parcel must construct new shall be restricted to single one-family detached residential housing for the provision of Affordable Housing as certified by the City of Charleston Department of Housing and Community Development, or its successor.
2. Affordable Housing Criteria:
 - (a.) The entity developing the subject parcel must construct new shall restrict the use of the lot or lots to a single single, one-family detached residential housing dwelling on each lot for the provision of Affordable Housing as certified by the City of Charleston Department of Housing and Community Development, or its successor.
 - (b.) Ownership: As to owner occupied units, these units shall be sold to households earning no more than one hundred twenty (120) percent of the area median income. Each owner, prior to initial occupancy, shall be required to submit to the City of Charleston Department of Housing and Community Development, or its successor, a verified income report of household income of all members of the household. These

units shall be subject to resale restrictions for no fewer than ninety (90) years from date of initial sale of the property. Such restrictions will be recorded as deed restrictions.

(c.) Rental: As to rental units, these units shall be rented to households earning no more than eighty (80) percent of the area median income, and the rents charged by the owner shall be in accordance with the Fair Market Rents published annually by the U.S. Department of Housing and Urban Development or such entity that may be subsequently designated. In the absence of such information, the rents charged by the owner shall not exceed 30 percent of the household annual income. The owner shall be required to submit to the City of Charleston Department of Housing and Community Development, or its successor, the rental rate to be charged and verified income reports of household income of all rental occupants at the inception of each tenancy and on no less than a yearly basis thereafter, as determined by the City of Charleston Department of Housing and Community Development, or its successor. These units shall be subject to these restrictions for no fewer than forty-nine (4090) years from the initial occupancy as Affordable Housing.

(d.) The entity developing the subject parcel shall execute a Memorandum of Use with the City as a party acknowledging the use of the property for Affordable Housing in accordance with the provisions of this Section, which Memorandum shall be in a form acceptable for recording in the record office of the applicable county and which shall be recorded in the record office of the applicable county. If a proposal meets the requirements of this section and the owner is willing to enter into the terms of a Memorandum of Use contained in this paragraph, the Mayor shall be authorized so sign the Memorandum of Use on behalf of the City.

3. Lot Dimensional Standards: See Section 54-301, Table 3.1 Height, Area and Setback Regulations for standards not addressed in the table below.

ZONING DISTRICT	MINIMUM LOT FRONTAGE ¹	MINIMUM LOT AREA IN SQ FT	MINIMUM SETBACKS	MAXIMUM LOT OCCUPANCY
SR-1	45'	<u>87,000</u>	Front 25', Rear 20', Sides <u>8' SW 7' SW</u> , <u>8' NE 7' NE</u>	35%
SR-2	40'	<u>4,800-4,400</u>	Front 25', Rear 15', Sides 6'SW, 6'NE	50%
SR-3	<u>35'-40'</u>	<u>4,800-4,400</u>	Front NR', Rear 3', Sides <u>12' SW 89' SW</u> , <u>6' NE 3' NE</u>	50%
SR-4	<u>35'-40'</u>	<u>3,000-3,200</u>	Front NR', Rear 3', Sides 9'SW, 3'NE (<u>12'</u> total)	50%

SR-5	35'	2,500	Front-NR', Rear-3', Sides-7'SW, 3'NE	50%
SR-6	35'	4,000	Front 18', Rear 10', Sides 4'SW, 4'NE	50%
STR²	40' or no frontage required	4,800	Front 25', Rear 15', Sides 5'SW, 5'NE	50%
DR-1²	32' or no frontage required	2,800	Front NR', Rear 3', Sides <u>9'SW7'SW</u> , 3'NE (<u>12'</u> total)	50%
DR-1F²	32' or no frontage required	2,800	Front 25', Rear 3', Sides <u>9'SW7'SW</u> , 3'NE (<u>12'</u> total)	65%
DR-2²	32' or no frontage required	<u>2,500-2,200</u>	Front NR', Rear 3', Sides 7'SW, 3'NE	50%
DR-2F²	32' or no frontage required	<u>2,5002,200</u>	Front 25', Rear 3', Sides 7'SW, 3'NE	65%

Footnotes

¹. Requirement for averaging surrounding lot frontages per Section 54-824(c)(1) shall not apply.

². Lots in STR, DR-1, DR-1F, DR-2, or DR-2F zoning districts that front on a street may be subdivided to create a one lot with no lot frontage provided that both lots meet all requirements in this subsection, both lots are used for Affordable Housing in accordance with the requirements of Sec. 54-207.y, and a platted and recorded shared ingress/egress easement utilizing an approved driveway is furnished to the newly created lot without frontage.

4. Off-Street Parking Requirements: See Section 54-317, Table 3.3: Off-Street Parking Requirements for Affordable Housing. Each lot used for Affordable Housing in accordance with the requirements of Sec. 54-207.y. shall provide two off-street parking spaces.

Section 2. Article 2, Part 3, Table of Permitted Uses, of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended by adding “or 54-207, y.” to principal use category 888. Affordable Housing 54-207, p. and by inserting the conditional use symbol “‡” in the columns for zoning districts, SR-1, SR-2, SR-3, SR-4, SR-5, SR-6, and STR, which denotes this principal use is allowed as a conditional use in said zoning districts.

Section 3. Article 3, Part 1, Section 54-301, Table 3.1: Height, Area and Setback Regulations, of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended by inserting the number “21” as a superscript after the zone district designation listings for SR-1, SR-2, SR-3, SR-4, SR-5, SR-6, and STR.

Section 4. Article 3, Part 1, Section 54-301, Table 3.1: Height, Area and Setback Regulations, of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended to revise footnote 21 to read as follows with new text shown in double underline:

“21. Minimum lot area, setbacks, frontage and maximum lot occupancy for Affordable Housing are set forth in Sec. 54-207, p. or 54-207, y.”

Section 5. Article 8, Part 3, Sec. 54-824, Design Standards for New Lots, subsection c. paragraph 1, of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended to read as follows with new text shown in double underline:

“Lot frontage for single-family and two-family residential. The following lot frontage requirements in Table 8.2.3 shall apply to all new single and two-family residential lots, except that residential lots within existing residential subdivisions may not be subdivided with lot frontages less than the average lot frontage of all abutting residential lots, residential lots across the street(s), and residential lots within five (5) lots on either side of the frontage of the subject lot, or the minimum lot frontage for that zoning district, whichever is greater. Lots subdivided and developed for singleone-family detached Affordable Housing per section 54-207, y. shall be subject to the frontage requirements of that section.

Lot frontage for multi-family. Multi-family residential lots shall have a minimum lot frontage of fifty (50) feet on a street and parking shall be prohibited within the required setback within the district. Multi-family zoned lots subdivided and developed for singleone-family detached Affordable Housing per section 54-207, y. shall be subject to the frontage requirements of that section.”

Section 6. Article 2, Part 2, Sec. 54-207, Conditional Uses, subsection p. Affordable Housing, of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended by inserting new text “on existing lots of record platted prior to August 21, 2018” after “Affordable Housing shall be permitted” to read as follows with new text shown in double underline:

“p. Affordable Housing shall be permitted on existing lots of record platted prior to August 21, 2018 within the DR-1, DR-1F, DR-2, DR-2F, LB, GB, LI, MU-1, MU-1/WH, MU-2 and MU-2/WH districts if the proposal satisfies the following conditions, except that there are no density limits in the MU-1, MU-1/WH, MU-2 and MU-2/WH districts:”

Section 7. Article 2, Part 2, Sec. 54-207, Conditional Uses, subsection p. Affordable Housing, paragraph (d.) of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended by deleting “forty-seven percent” and replacing in its place and stead “fifty (50) percent.

Section 8. Article 1, Part 3, Sec. 54-120, Definitions, is hereby amended by inserting the words “used exclusively for residential uses” after the words “dwelling units” in the first sentence and correcting a scrivener’s error so that the definition shall read as follows:

Affordable Housing. Single-family, two-family or multi-family dwelling units, used exclusively for residential uses, where occupants have, in the aggregate, household income of less than or equal to one hundred twenty (120) percent of median area income for owner occupied units, or eighty (80) percent of median area income for rental units. Median area income shall be determined annually by the U.S. Department of Housing and Urban Development as adjusted by the City of Charleston Department of Housing and Community Development, or its successor. Household income shall include all sources of financial support, both cash and in kind, of adult members of the household, to include wages, salaries, tips, commissions, all forms of self-employment income, interest, dividends, net rental income, income from estates or trusts, Social Security benefits, railroad retirement benefits, Supplemental Security income, Aid to Families with Dependant Dependent Children or other public assistance or public welfare programs, other sources of income regularly received, including Veterans' (VA) payments, unemployment compensation and alimony, awards, prizes, government or institutional or eleemosynary loans, grants or subsidies and contributions made by the members' families for medical, personal or educational needs.

Section 89. This Ordinance shall become effective upon ratification.

Ratified in City Council this ____ day of
_____, in the Year of Our Lord 2018,
in the ___ Year of Independence of the United States of
America.

By: _____
John Tecklenburg
Mayor, City of Charleston

Attest: _____
Vanessa Turner-Maybank
Clerk of Council

COMPARISON TABLE: NEW/REVISED STANDARDS & (EXISTING STANDARDS)

ZONING DISTRICT	MINIMUM LOT FRONTAGE ^{1, 2}	MINIMUM LOT AREA IN SQ FT	MINIMUM SETBACKS	MAXIMUM LOT OCCUPANCY
SR-1	45' (50')	7,000 (9,000)	Front 25', Rear 20', Sides 7'SW, 7'NE (F-25', R-25', Sides-9'SW, 9'NE)	35% (35%) no change
SR-2	40' (50')	4,400 (6,000)	Front 25', Rear 15', Sides 6'SW, 6'NE (F-25', R-25', Sides-9'SW, 9'NE)	50% (50%) no change
SR-3	40' (50')	4,400 (6,000)	Front NR', Rear 3', Sides 9'SW, 3'NE (F-NR', R-3', Sides-12'SW, 6'NE)	50% (35%)
SR-4	40' (50')	3,200 (4,000)	Front NR', Rear 3', Sides 9'SW, 3'NE (F-NR', R-3', Sides-9'SW, 6'NE (15'total))	50% (35%)
SR-5	35' (50')	2,500 (2,500)	Front-NR', Rear-3', Sides-7'SW, 3'NE (F-NR', R-3', Sides-7'SW, 3'NE) no change	50% (35%)
SR-6	35' (50')	4,000 (5,000)	Front 18', Rear 10', Sides 4'SW, 4'NE (F-18', R-10', Sides-5'SW, 5'NE)	50% (50%) no change
STR	40' or no frontage required (50')	4,800 (6,000)	Front 25', Rear 15', Sides 5', 5' (F-25', R-25', Sides- 12'SW, 6'NE)	50% (50%) no change
DR-1	32' or no frontage required (40')	2,800 (4,000)	Front NR', Rear 3', Sides 7'SW, 3'NE (F-NR', R-3', Sides-9'SW, 3'NE (15'Total))	50% (35%)
DR-1F	32' or no frontage required (40')	2,800 (4,000)	Front 25', Rear 3', Sides 7'SW, 3'NE (F-25', R-3', Sides-9'SW, 3'NE (15'Total))	65% (50%)
DR-2	32' or no frontage required (40')	2,200 (2,500)	Front NR', Rear 3', Sides 7'SW, 3'NE (F-NR', R-7', Sides-7' SW, 3'NE)	50% (35%)
DR-2F	32' or no frontage required (40')	2,200 (2,500)	Front 25', Rear 3', Sides 7'SW, 3'NE (F-25', R-3', Sides-7'SW, 3'NE) no change	65% (50%)

**CITY OF CHARLESTON
PLANNING COMMISSION**

November 26, 2018

Ordinance Amendment 4 :

Request approval to amend provisions of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) by amending Part 17 – Upper Peninsula District pertaining to strengthening workforce housing.

BACKGROUND

Note: this item was given first reading approval by City Council and referred to Planning Commission for a recommendation.

This ordinance amendment will be presented in detail during the Planning Commission meeting.

STAFF RECOMMENDATION

APPROVAL

AN ORDINANCE

TO AMEND PROVISIONS OF CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) BY AMENDING PART 17 – UPPER PENINSULA DISTRICT PERTAINING TO STRENGTHENING WORKFORCE HOUSING.

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

Section 1. Article 2, Part 17 – Upper Peninsula District, Sec. 54-299.32 Incentive options, of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended by adding thereto a new subsection i. under General requirements for incentive options, which shall read as follows:

- i. Each building that utilizes height bonuses to exceed four (4) stories or density bonuses and includes residential uses shall provide owner occupied workforce housing units for qualified households whose household income does not exceed one hundred twenty (120%) percent of AMI and/or rental workforce housing units for qualified households whose household income does not exceed eighty (80%) percent of AMI that total at minimum ten (10%) percent of the number of residential units in the building, rounded up to the next whole number, and subject to all applicable requirements and definitions in Part 17- Upper Peninsula District, particularly Sec.54-299.32, 7) Workforce Housing. The aforementioned workforce housing units are eligible to earn incentive option points should all requirements to earn points be met.

Section 2. This Ordinance shall become effective upon ratification.

Ratified in City Council this _____ day of _____ in the Year of Our Lord, 2018, and in the _____th Year of the Independence of the United States of America

John J. Tecklenburg
Mayor, City of Charleston

ATTEST: _____
Vanessa Turner Maybank
Clerk of Council

**CITY OF CHARLESTON
PLANNING COMMISSION**

November 26, 2018

Ordinance Amendment 5 :

Request approval to amend Section 54-943(c) of the Code of the City of Charleston (Zoning Ordinance) to provide that, in case a proposed amendment, supplement, or change to the Zoning Ordinance or Zoning Map be disapproved by the Planning Commission, or in case of a valid protest by certain adjacent property owners to such proposed amendment, supplement, or change, that such amendment, supplement, or change shall not become effective except by the favorable vote of at least eight (8) of the members of City Council present and voting.

BACKGROUND

Currently, any recommendation to City Council by Planning Commission changing the official zoning code or zoning map requires a $\frac{3}{4}$ majority vote by City Council to "override." The issue of a "super majority" vote by City Council to overturn recommendations coming from Planning Commission was first brought to Planning Commission in February 2016 in the form of a proposed ordinance amendment to change the "override" requirement to a "60% majority". Planning Commission recommended disapproval and City Council failed to gain the required $\frac{3}{4}$ vote to overturn it. In September 2016, Council sent the proposal back to Planning Commission with no substantial change. After a lengthy debate, Planning Commission recommended a "65% majority" and sent it to Council for action. City Council ultimately did not pass an ordinance at that time.

The issue came back to Planning Commission in November 2017 in the form of an ordinance requesting a change to allow a "simple majority" to "override" any recommendation from Planning Commission. By a vote of 5-2, Planning Commission recommended disapproval of the proposed ordinance. City Council took up the ordinance (requiring a $\frac{3}{4}$ vote to overturn Planning Commission's recommendation) in December 2017 and amended it to request a "60% majority." The item is now before Planning Commission again for a recommendation on an amendment for an eight (8) member minimum favorable vote.

City of Charleston Corporation Counsel staff will attend the meeting to answer any questions.

AN ORDINANCE

TO AMEND SECTION 54-943(C) OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) TO PROVIDE THAT, IN CASE A PROPOSED AMENDMENT, SUPPLEMENT, OR CHANGE TO THE ZONING ORDINANCE OR ZONING MAP BE DISAPPROVED BY THE PLANNING COMMISSION, OR IN CASE OF A VALID PROTEST BY CERTAIN ADJACENT PROPERTY OWNERS TO SUCH PROPOSED AMENDMENT, SUPPLEMENT, OR CHANGE, THAT SUCH AMENDMENT, SUPPLEMENT, OR CHANGE SHALL NOT BECOME EFFECTIVE EXCEPT BY THE FAVORABLE VOTE OF AT LEAST EIGHT (8) OF THE MEMBERS OF CITY COUNCIL PRESENT AND VOTING.

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

Section 1. Section 54-943(c) of the Code of the City of Charleston (Zoning Ordinance) is hereby amended to read as follows (new text in **bold and double underlined** and deleted text with ~~strikethrough~~):

In case the proposed amendment, supplement or change be disapproved by the Planning Commission, or a protest be presented duly signed and acknowledged by the owners of twenty percent or more either of the area of the lots included in such change, or of those immediately adjacent in the rear and on the side or sides thereof or of those directly opposite thereto, such amendment, supplement or change shall not become effective except by the favorable vote of at least eight (8) of the members of City Council present and voting, ~~three fourths (3/4) of all members of the City Council~~.

Section 2. This ordinance shall become effective upon ratification.

Ratified in City Council this ____ day of _____ in the year of Our Lord, 2018, in the _____ Year of the Independence of the United States of America.

By: _____
John J. Tecklenburg, Mayor
City of Charleston

ATTEST: By: _____
Vanessa Turner Maybank
Clerk of Council