



CITY OF SPARTANBURG

SOUTH CAROLINA

CITY COUNCIL AGENDA

**City Council Meeting
City Council Chambers
145 West Broad Street
Spartanburg, SC
Monday, November 14, 2016
5:30 p.m.**

- I. Moment of Silence**
- II. Pledge of Allegiance**
- III. Approval of the Minutes of the October 24, 2016, City Council Meeting**
- IV. Approval of Agenda of the November 14, 2016 City Council Meeting**
- V. Public Comment**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. Public Hearings**
 - A. Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance, by Amending Section 206, Changes to District Boundaries, Specifically Parcel #7-21-03-007.01, Located on 241 Cedar Springs Road, that is an Approximately 5.32 acre Piece of Property that has Been Unoccupied for the Past Three Years (and Was Formerly the Ellen Hines Smith Girl's Home), Which is Currently Zoned R-6, with a Land Use Designation of General Residential District to Zone B-1, with a Land Use Designation of Neighborhood Shopping District, in Order to Increase the Marketability of the Property. Chamlee Loscuito, CEO, on Behalf of Hope Center for Children, Owner (First Reading)
Presenter: Natalia Rosario, Planner III**
 - B. Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance, by Amending Section 206, Changes to District Boundaries, Specifically Parcel #7-12-14-251.00 Located on 151 Beta Club Way, Which is Currently Split-Zoned R-6/LOD, with a Land Use Designation of General Residential District and Limited Office District to Zone LOD, in Order to Have the Property All One Zone, and Be Able to Construct Additional Office Space and Storage Facilities at their Current Headquarters Location. Bobby Hart, Chief Operations Officer, National Beta Club, Owner (First Reading)
Presenter: Natalia Rosario, Planner III**

As required by the Americans with Disabilities Act, the City of Spartanburg will provide interpretive services for the City Council Meetings. Requests must be made to the Communications & Marketing Office (596-2020) 24 hours in advance of the meeting. This is a Public Meeting and notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act.

- C. **Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance, by Amending Section 206, Changes to District Boundaries, Specifically Parcel #7-12-08-109.00 Located on 589 E. Main Street, Which is Currently Split-Zones LOD/R/8, With a Land Use Designation of Limited Office District and General Residential District to Zone R-6 With a Land Use Designation of General Residential District, In Order to Allow for the Development of the Property to Historic Standard for a Multi-Unit Residential Use. Joe Lauer, President, Clerestory Projects Group, Agent, on Behalf of William T. Johnson, Vice President for Finance and Administration, Converse College, Owner (First Reading)
Presenter: Natalia Rosario, Planner III**

VII. Ordinance

- A. **Authorizing the Issuance and Sale of Not Exceeding \$5,000,000 Tax Increment Refunding Bonds (Saint John-Daniel Morgan Redevelopment Project Area), Series 2017, of the City of Spartanburg, South Carolina, for the Purpose of Refunding a Portion of the City's Outstanding Tax Increment Bond (Saint John-Daniel Morgan Redevelopment Project Area), Series 2010; Delegating the Authority to the Mayor or City Manager to Determine Certain Matters with Respect to the Bonds; Prescribing the Form and Details of the Bonds; Limiting the Payment of the Bonds from the Sources Provided Herein; Providing for the Disposition of the Proceeds Thereof; and Other Matters Relating Thereto (First Reading)
Presenter: Chris Story, Assistant City Manager**

VIII. Resolution

- A. **Certifying One (1) Unit As An Abandoned Building Site Pursuant to The South Carolina Abandoned Buildings Revitalization Act, Title 12, Chapter 67, Section 12-67-100 Et Seq., of The South Carolina Code of Laws (1976), As Amended, Regarding the Property Located at 121 Dunbar Street, Spartanburg County TMS #7-12-21-009.00
Presenter: Chris Story, Assistant City Manager**

IX. Other Business

- A. **Approval of Development Agreement at 589 East Main St.
Presenter: Chris Story, Assistant City Manager**

X. City Council Updates

XI. Parks and Recreation Workshop

XII. Executive Sessions

A. Executive Session Pursuant to Section 30-4-70 (a) (5) of the South Carolina Code to Discuss Matters Relating to Encouraging the Location of Four Businesses in the City

Executive Session Pursuant to Section 30-40-70 (a) (2) of the South Carolina Code to Receive Legal Advice Relating to Potential Acquisition of Property on the Northside for Future Development

Council may take action on matters discussed in Executive Session after exiting Executive Session.

XIII. Adjournment

** Non-Agenda Items*

City Code Sec. 2-57. Citizen Appearance. Any citizen of the City of Spartanburg may speak at a regular meeting on any matter pertaining to City Services and operations germane to items within the purview and authority of City Council, except personnel matters, by signing a Citizen's Appearance form prior to the meeting stating the subject and purpose for speaking. No item considered by Council within the past twelve (12) months may be added as an agenda item other than by decision of City Council. The forms may be obtained from the Clerk and maintained by the same. Each person who gives notice may speak at the designated time and will be limited to a two (2) minute presentation.

**Agenda Items*

City Code Sec. 2-56. Addressing Council, Comments or Remarks to Council on Agenda Items Not Requiring Public Hearing. On agenda items not requiring a Public Hearing, please provide to the City Clerk prior to the opening of the meeting, your desire to speak on an agenda item. Remarks shall be limited to five (5) minutes and total remarks on any agenda item shall not exceed twenty (20) minutes.



**City Council Meeting
City Council Chambers
145 West Broad Street
Spartanburg, SC
Monday, October 24, 2016
5:30 p.m.**

**(These minutes are subject to approval at the
November 14, 2016 City Council meeting.)**

City Council met this date with the following members present: Mayor Junie White, Mayor pro tem Sterling Anderson, Councilmembers Jerome Rice, Erica Brown, Laura Stille and Rosalyn Henderson Myers. Councilmember Jan Scalisi was absent due to illness. City Manager Ed Memmott and City Attorney Cathy McCabe were also in attendance. Notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act. All City Council meetings are recorded for a complete transcript.

I. Moment of Silence - observed

II. Pledge of Allegiance - recited

**III. Approval of the Minutes of the October 10, 2016, City Council Meeting –
*Councilmember Henderson Myers made a motion to approve the minutes as received.
Councilmember Stille seconded the motion, which carried unanimously 6 to 0.***

**IV. Approval of Agenda of the October 24, 2016 City Council Meeting –
*Councilmember Brown made a motion to approve the agenda as received.
Councilmember Henderson Myers seconded the motion, which carried unanimously 6
to 0.***

V. Public Comment - None

**Citizen Appearance forms are available at the door and should be submitted to the City Clerk*

VI. Resolution

**A. To Authorize an Agreement with Partners for Active Living for Development
of a Park on the Mary Black Foundation Rail Trail**

Presenter: Chris Story, Assistant City Manager

Mr. Story presented the item to Council as follows:

**“At your most recent meeting, Laura Ringo with Partners for Active Living
described plans for a new park located along the Mary Black Foundation Rail
Trail near the trail’s intersection with Forest Avenue. PAL has raised all the**

funds necessary for the first phase of the project and is continuing to seek additional funding for additional desired amenities.

The City is not being asked to provide capital funding for construction of the park or any of its elements. However, PAL requests that the City accept maintenance and operational responsibility for the park and assist in the management of the construction work. The attached resolution would formalize your intent to perform those functions.”

Councilmember Stille made a motion to approve the resolution as presented.

Councilmember Brown seconded the motion, which carried unanimously 6 to 0.

VII. Consent Agenda

- A. **Ordinance Providing for the Issuance and Sale of Water System Revenue Bonds of the City of Spartanburg, South Carolina, in One or More Series, in an Aggregate Principal Amount Not to Exceed One Hundred Thirty-Two Million Dollars (\$132,000,000); and Other Matters Relating Thereto (Second Reading)**

Presenter: Cathy McCabe, City Attorney

- B. **Authorizing the City Manager to Execute a Deed to Northside Development Group Conveying Property Located at 202 Raindrop Street, Block Map Number 7-12-05-283.00; 208 Raindrop Street, Block Map Number 7-12-05-284.00; and 187 Weldon Street, Block Map Number 7-12-05-154.00 (Second Reading)**

Presenter: Martin Livingston, Neighborhood Services Director

- C. **Accepting the Property Owned by O’Reilly Automotive Stores, Inc., A Missouri Corporation, and Being Located at 2282 East Main Street, and That Portion of East Main Street Abutting Said Property, and is Further Identified on Spartanburg County Tax Map as 7-09-00-012.00 as a Part and Parcel of the City of Spartanburg and Declaring Said Property Annexed to and a Part and Parcel of the City of Spartanburg, and Requested Zone is B-1, Neighborhood Shopping District. Annexation Contingent Upon Requested Zone Approval (Second Reading)**

Presenter: Natalia Rosario, Planning Staff

- D. **To Appropriate \$235,000 in the General Fund for Pay Increases for Sworn Police and Fire Personnel of the City of Spartanburg (Second Reading)**

Presenter: Ed Memmott, City Manager

Councilmember Brown made a motion to approve the consent agenda as received on second reading. Councilmember Henderson Myers seconded the motion, which carried unanimously 6 to 0.

VIII. Other Business

- A. **Award for Civil Engineering Services for Butterfly Branch Linear Park**

Presenter: Ed Memmott, City Manager

Mr. Memmott presented the item to Council as follows:

“The Butterfly Creek Linear Park is one of the major elements of the Northside Initiative. The park will be constructed adjacent to the daylighted Butterfly Creek and will extend from College Street northward to Preston Street. The park will include a paved walking trail and several public art and educational features along the trail. Over the past several months, staff has been pursuing various grant and funding opportunities to pay for the project and will continue those efforts over the next several months while the project is in the design phase.

In order to move forward with the actual construction of the project as soon as is feasible, staff requested fee proposals from four engineering firms which had been prequalified by city staff. Bids were received from:

Blackwood Associates, Inc.	Spartanburg, SC	\$48,200
Milone & MacBroom, Inc.	Greenville, SC	\$61,800
Toole Design Group	Spartanburg, SC	\$63,411
WK Dickson	Columbia, SC	\$79,570

Toole is a certified MWBE.

All of the firms, in advance of submitting the bid, were determined to be qualified for the project. When this is the case, staff will make its recommendation based on price. Staff is therefore recommending award to Blackwood Associates, Inc. Blackwood Associates is partnering with LandArt Design Group, a local landscape architectural firm, on this project.

ACTION REQUESTED: Authorization for the City Manager to enter into contract with Blackwood Associates, Inc. for civil engineering and landscape architecture services for the Butterfly Creek Park.

BUDGET: Approximately \$48,000 paid with grant and private contributions.”
After discussion, Council asked for a review and update of the procedures for soliciting MWBE contractors.

Mayor pro tem Anderson made a motion to approve the award of bid as requested to Blackwood Associates, Inc. of Spartanburg, SC in the amount of \$48,200. Councilmember Rice seconded the motion, which carried unanimously 6 to 0.

IX. City Council Updates –

Mayor pro tem Anderson shared he was excited about the Airport Park, and excited about the police response to a theft at Vic Bailey car dealership. He thanked them for their hard work.

Councilmember Brown mentioned that she had the opportunity to attend her 16 year Wofford College reunion the previous weekend. She shared that some of her classmates were excited about all the growth and good things happening in the city.

Councilmember Stille shared that she, too, had attended the Wofford events, and was excited about all the good things going on in our city.

Councilmember Henderson Myers shared that she attended the Spartanburg Philharmonic concert, where she saw lots of diversity among attendees. She expressed the importance of being inclusive in the art opportunities in the city. She mentioned that Jazz on The Square was still happening on Friday evenings.

Councilmember Rice shared that “Big Air Trampoline” had opened on the west side and that his sons had enjoyed their visit there.

X. Parks and Recreation Workshop –

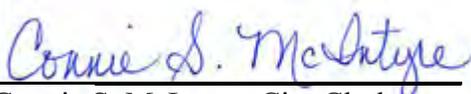
Mr. Memmott reviewed the potential park and recreation projects, and the potential programs and projects in the parks.

Kim Moultrie, Parks and Recreation Superintendent, identified for the Council the different kinds of city parks and their uses. She reviewed the categories of city parks, Phase I improvements, and usage of each of the parks. She listed the parks under the categories of “no significant expenditures expected”; “minor repairs”; “replacement and repairs”; and “will require more discussion”.

Council received the reports as information, with the understanding that there would be another Parks and Recreation Workshop at the next council meeting.

XI. Adjournment – Mayor pro tem Anderson made a motion to adjourn the meeting.

Councilmember Henderson Myers seconded the motion, which carried unanimously 6 to 0. The meeting adjourned at 7:01 p.m.



Connie S. McIntyre, City Clerk



REQUEST FOR COUNCIL ACTION

TO: Ed Memmott, City Manager

FROM: Natalia Rosario, Planning Staff

SUBJECT: Rezoning of property located at 241 Cedar Springs Road, from land use designation of R-6 to B-1. Chamlee Loscuito, Chief Executive Officer, on behalf of Hope Center for Children, Owner.

DATE: November 14th, 2016

SUMMARY: On October 20th, 2016, the Planning Commission held a public hearing and reviewed a rezoning request submitted by Chamlee Loscuito, Chief Executive Officer, on behalf of Hope Center for Children, Owner, of 241 Cedar Springs Road, to rezone parcel #7-21-03-007.01 from Zone R-6: General Residential District to B-1: Neighborhood Shopping District, in order to increase the marketability of the property, and potential use of the property as a restaurant, catering business, and/or event center. The proposed property is an approximately 5.32 acre piece of property that has been unoccupied for the past three years (and was formerly the Ellen Hines Smith Girl's Home).

The 2004 Comprehensive Plan advises this parcel and nearby parcels to be zoned medium density residential, inclusive of the zones R-12, R-8, R-8 single family, and R-6. While the proposed rezoning does not align with the 2004 Comprehensive Plan, at the time the plan was written, the property functioned as a girl's home in the R-6 category, and was an allowed use in that zone until 2012. When it ceased to function as a group home, the property lost its existing non-conforming status. In 2012 the property was proposed to be rezoned to the General Institutional District Zone (GID), which would have allowed for the use of the property as a group home by right, was denied, and has remained vacant since that time.

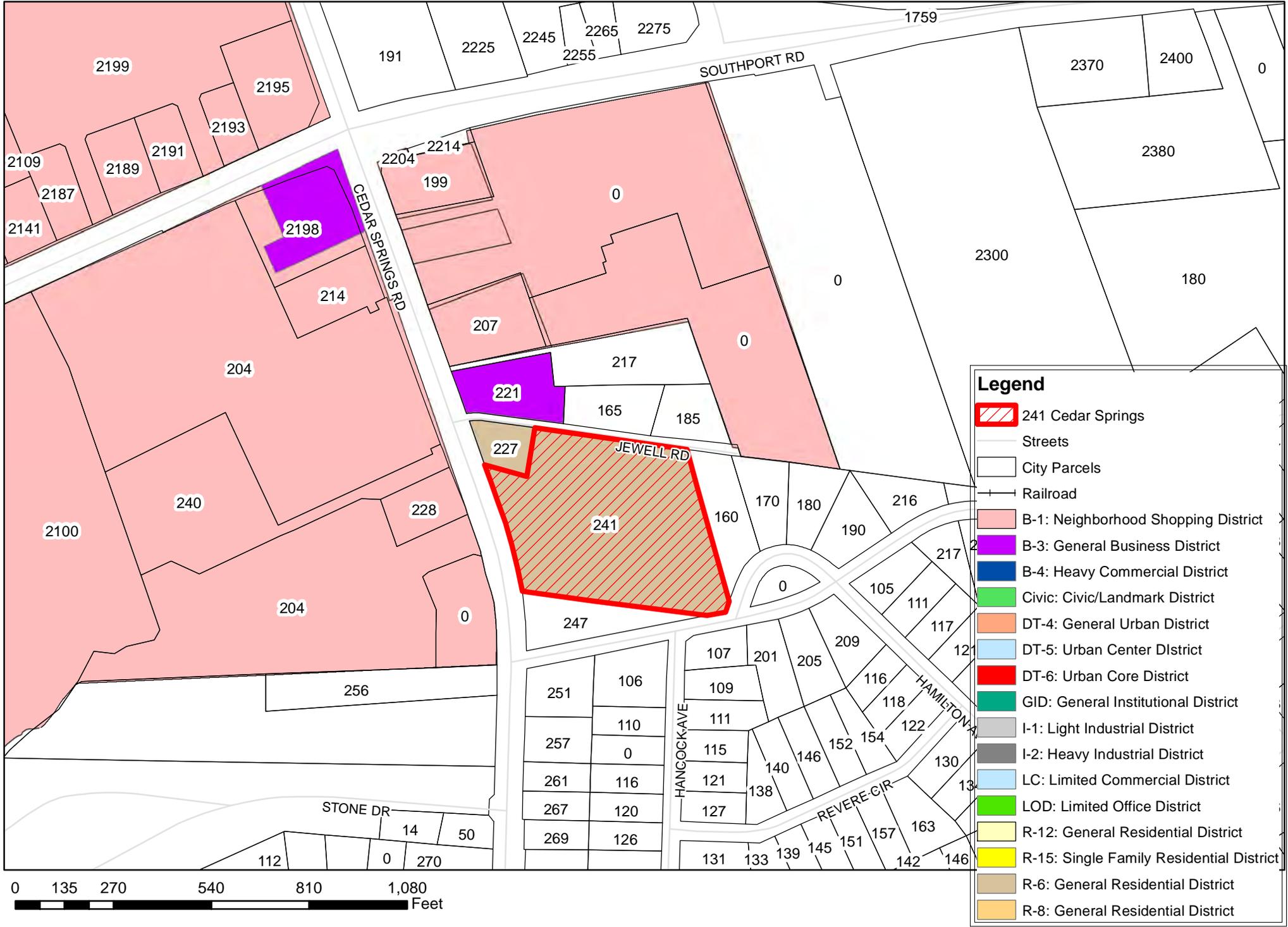
The request to rezone the property to B-1: Neighborhood Shopping District is to allow for the use of the property for a commercial use as a limited event center, eatery, and catering facility. The majority of the properties in the area are zoned B-1 as well, and the Cedar Springs area has since increased in commercial intensity, with the addition of the Neighborhood Walmart Shopping Center and other businesses. The property and home are larger than what the average single-family home occupancy would need, and has been vacant since at least 2014, with few uses allowed by right on a single-family residential parcel of this size.

The Planning Commission held a public hearing on the proposal on October 20th, 2016. After consideration of the staff report, public comments, and the criteria set forth in the City of Spartanburg Zoning Ordinance and 2004 City Comprehensive Plan, the Planning Commission voted to recommend approval to rezone the request from R-6 to B-1.

PLANNING COMMISSION RECOMMENDATION: The request was endorsed by the Planning Commission on October 20th, 2016 by a vote of 6 to 0. Staff's recommendation concerning this application is explained in detail in the attached staff report to the Planning Commission.

ADDITIONAL INFORMATION: Minutes from the October 20th, 2016 Planning Commission Meeting and Staff Report with attachments are included. In addition, enclosed is a proposed Ordinance in the event that Council approves the rezoning request.

BUDGET AND FINANCE DATA: N/A





241 Cedar Springs Road

S 686

Revere Cir

Advantage A/C
Muffler & Brakes



Legacy Christian
Day School



Majestic Nails



Oates Oil



KFC



Charlie's Fine Foods



Google



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AN ORDINANCE

ORDINANCE TO AMEND THE CITY OF SPARTANBURG, SOUTH CAROLINA ZONING ORDINANCE AND COMPREHENSIVE PLAN LAND USE ELEMENT, BY AMENDING SECTION 206, CHANGES TO DISTRICT BOUNDARIES, SPECIFICALLY PARCEL #7-21-03-007.01 LOCATED AT 241 CEDAR SPRINGS ROAD, WHICH IS CURRENTLY ZONED R-6, WITH A LAND USE DESIGNATION OF GENERAL RESIDENTIAL DISTRICT TO ZONE B-1, WITH A LAND USE DESIGNATION OF NEIGHBORHOOD SHOPPING DISTRICT; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Spartanburg now finds that, upon further review, it is in the public interest that the land use designation for the parcel identified on the Official Zoning Map of the City of Spartanburg, South Carolina, dated August 6, 1973, as amended, by changing the zone of Lot 007.01, as shown on Spartanburg County Block Map Sheet 7-21-03 from R-6, General Residential District to zone B-1, Neighborhood Shopping District; and

WHEREAS, this zoning change would be compatible with surrounding land uses and neighborhood character, would not be detrimental to the public health, safety and welfare, and, further, would be in conformance with the Comprehensive Plan; and

WHEREAS, the Planning Commission held a public hearing on October 20, 2016, at which time a presentation was made by staff and an opportunity was given for the public to comment on the rezoning request; and

WHEREAS, the Planning Commission, after consideration of the staff report, public comments, and the criteria set forth in Section 605 of the Zoning Ordinance, subsequently voted at that meeting to recommend to City Council that the rezoning request be approved as recommended by Staff.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Members of Council of the City of Spartanburg, South Carolina, in Council assembled:

Section 1. Amendment. That the official zoning map of the City of Spartanburg, as referenced by Section 206 of the Zoning Ordinance, be, and the same hereby amended as follows:

- The Lot currently identified as 007.01 on Spartanburg County Block Map Sheet 7-21-03 shall be now designated as B-1, Neighborhood Shopping District.

Section 2. Severability. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(continued)

Section 3. Effective Date. This Ordinance shall be effective upon its adoption by the City Council of the City of Spartanburg, South Carolina.

DONE AND RATIFIED THIS _____ DAY OF _____, 2016.

Junie L. White, Mayor

ATTEST:

Connie S. McIntyre, City Clerk

APPROVED AS TO FORM:

Cathy H. McCabe, City Attorney

___/___/___ 1st Reading

___/___/___ 2nd Reading

***Spartanburg City Planning Commission Meeting Minutes
Thursday, October 20, 2016***

*City Hall Council Chambers
Spartanburg, South Carolina*

The City Planning Commission met in City Hall Council Chambers on Thursday, October 20, 2016, at 5:30 P.M. The following City Planning Commissioners attended this meeting: Jared Wilson, Howard Kinard, Wendell Cantrell, Bob Pitts, Mike Epps, and Dr. Phillip Stone, II. Nancy Hogan was absent. Representing the Planning Department were Natalia Rosario, Planner III; and Julie Roland, Planning Department Administrative Assistant. Chris Story, Assistant City Manager was also present.

Roll Call

Mr. Wilson, the Chair, stated that notice of this meeting was posted and provided to the media 24 hours in advance as required by the Freedom of Information Act.

Mr. Wilson noted that six Planning Commissioners were present, constituting a quorum. Mr. Wilson went over the rules and procedures for conducting a public hearing.

Dr. Stone moved approval of the Agenda for the October 20, 2016 meeting, with second by Mr. Cantrell. The motion was unanimously approved by a vote of 6 to 0.

Disposition of the Minutes from the September 15, 2016 meeting of the Spartanburg City Planning Commission.

Mr. Cantrell moved approval of the September 15, 2016 meeting minutes as submitted, with second by Mr. Epps. The motion was unanimously approved by a vote of 6 to 0.

Old Business – None.

New Business

Rezoning Request: TMS#7-21-03, Parcel 007.01 – Located at 241 Cedar Springs Road. Zoned R-6, General Residential District to B-1, Neighborhood Shopping District in order to increase the marketability of the property. Chamlee Loscuito, CEO, on behalf of Hope Center for Children, Owner.

Ms. Natalia Rosario, Planner III came forward and was sworn, and she submitted the meeting packets the Planning Commissioners had previously received in their meeting packets for all three cases, as well as the slides and presentation into Evidence, as well as a Preliminary Landscape Plan that was not included in their meeting packets as Exhibit A. She introduced the case to the Planning Commissioners and informed them the proposed property previously went before the Planning Commission a few years ago to be used again as another group home (it had ceased to operate as the Ellen Hines Smith Girl's Home at the time) or some other institutional use, and had been approved by the Planning Commission, but failed to gather enough votes to pass when it went before City Council. Ms. Rosario showed a slide of the property and said the property had remained vacant for some years now; and at the current time there was an interested party who would like to purchase and use the property as an event center, casual eatery, and/or a location for their catering business.

Ms. Chamlee Loscuito, Chief Executive Office of the Hope Center for Children, came forward and was sworn. She explained the property had now sat vacant for several years and they wished to sell the property. She introduced their realtor to help explain their case.

Mr. Craig Jacobs of 305 Matchlock Commons came forward and was sworn; and he informed the Board Members he is the real estate agent who had been handling the property for the past several years. Slides were shown of the structure, while he explained to the Planning Commissioners regarding the size of the structure; and that it really did not make it a practical use as was outlined on page three of their report as being one of the allowable uses for the current zone. Mr. Jacobs said they had someone very interested in purchasing the property that does catering, if someone wanted to rent it for bridal lunches, etc. that type of thing. Mr. Jacobs said without the property being rezoned, he felt it was just going to sit there as the current zone allowed.

Planning Commission Questions:

- Mr. Kinard asked Mr. Jacobs what they were trying to accomplish a few years ago when the property was up for a rezoning. Mr. Jacobs said at that time they had asked for it to be classified as a GID zone to be used as a general institutional use. At that time Hope Center for Children had thought about moving back into the property but could not because the property had sat vacant and had reverted back to its R-6 use. When the request failed to get approved from City Council, the property had just had to sit for sale and had been vacant since that time.
- Mr. Kinard asked regarding the proposed new zoning use and interested party. Mr. Jacobs said they had been out to the property numerous times and were very interested in the property; however, they were not going to do anything until it went through the due process.

Ms. Rosario went over the analysis of required findings and report the Planning Commissioners had already received in their meeting packets that included the following list of criteria for the Commission to consider when reviewing a rezoning request and Staff's analysis of those criteria as follows:

1. Consistency (or lack thereof) with the Comprehensive Plan – The 2004 Comprehensive Plan calls for this parcel and nearby parcels to be zoned medium density residential, inclusive of the zones R-12, R-8, R-8 single family, and R-6. While the proposed rezoning does not align with the 2004 Comprehensive Plan, in the time since it was written the property has functioned as a girls home, and increasing commercial activity at Cedar Springs has made the surrounding area a small commercial hub.
2. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood – The use of the property for commercial purposes is consistent with the uses found in the Cedar Springs area. Conversion of the property for commercial use will include the need to install a buffer yard in between this use and that of the adjacent property, where there is not satisfactory separation already. Ms. Rosario commented that the now proposed use for the property would be less intense than that of the neighborhood Walmart next door; and she also informed the Planning Commissioners that anything proposed would need to go through the full and complete site plan review process.
3. Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment – The property is suitable for the uses allowed in the B-1, Neighborhood Shopping Zone, specifically as a restaurant and/or event location for parties, weddings, etc.
4. Marketability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment – The rezoning of the property will allow for an increase in marketability. Currently zoned R-6, General Residential Zone, and formerly the site of the Ellen Hines Smith Girls Home, the property underwent a proposed rezoning from R-6 to GID. This rezoning would have allowed the reuse of the property as another group home (it had ceased to operate as the Ellen Hines Smith Girl's Home at the time) or some other institutional use, but failed to garner enough votes to pass when it went before City Council. At this time there is an interested party who would like to purchase and use the property as an event center, casual eatery, and/or a location for their catering business. As the property is currently zoned, the only uses allowed by right were as follows:
 - Single family residence
 - Multi family residence
 - Public Parks and playgrounds
 - Non-commercial farming, truck gardening, nurseries, and non-commercial greenhouses
 - Home occupations as defined by Section I, 108 of the City of Spartanburg Zoning Ordinance
 - Preschool nursery and day care centers meeting all applicable City and State standards
 - Incidental keeping of non-transient boarders or lodgers, by a resident family; provided, not more than 25% of the total floor area, excluding the basements, in any dwelling unit shall be devoted to such purpose.

As currently structures are laid out, the property would not serve well for any of the above referenced uses (size, interior of the building would require changes to serve as a single or multifamily home) where it is almost entirely suitable for the proposed uses.

5. Availability of sewer, water and storm water facilities generally suitable and adequate for the proposed use – Both water and sanitary sewer services are available to this site.

STAFF’S ANALYSIS & RECOMMENDATION

Staff is of the opinion that the proposed zone change from R-6 to B-1 would be a beneficial and appropriate use for the area. Therefore, Staff recommends approval of the proposed zone change from R-6 to B-1.

Planning Commission Questions:

- Dr. Stone asked about the property located right next door to the proposed property. Ms. Rosario said it was addressed as 227 Cedar Springs Road and was zoned R-6; and it was the daycare center.
- Mr. Kinard asked about 247 Cedar Springs Road. Ms. Rosario said it was actually in the county and was a single family residence.
- Mr. Wilson asked Ms. Rosario for the benefit of the public attendees, could she please explain the bufferyard requirements for the proposed use.
- Ms. Rosario said she believed it was a Bufferyard 3; and for a low-intensity commercial use vs a single family residential, she thought it either required a six foot tall fence or a masonry structure, or it may just be the fence and five canopy trees per one hundred linear feet. She explained for the most part along that area there was already a lot of canopy trees and it was a very heavily wooded area.
- Mr. Kinard asked if B-1 was the lightest commercial use. Mrs. Rosario said it was.

Mr. Wilson opened the public hearing and asked anyone who wanted to speak or had any questions to come forward.

- Mr. Theodore Brewton of 160 Trenton Circle came forward and said he lived in the residence that was right behind the back of the property; and he said when the Girls Home was in operation he had a lot of problems with them regarding a lot of foliage, limbs and trees from their property falling onto his property. He said the gentleman that was over the maintenance at the time was very rude to him whenever he would complain about it. Mr. Brewton said he really did not mind the rezoning, but he was concerned if whomever purchased the property would be responsible for anything like that regarding foliage and upkeep of the property.
- Mr. Kinard explained the property had been vacant for a few years and when the property was purchased by a new owner; it should be up to the new owners to take care of those issues.
- Mr. Brewton asked what if they did not.
- Ms. Rosario explained regarding a Bufferyard 3, if the structure was more than 50’ from the rear property line, a fence was not required. For a commercial property which it would be if the property became rezoned, and they did not keep up their property and was a recurring problem; the City would get involved.
- Dr. Stone felt Mr. Brewton may be in a better position if the property was rezoned to B-1 than he had been up to this point.
- Assistant City Manager Chris Story explained the condition of the foliage and the maintenance of the property would be functions of the City Code Department, and generally they were stricter on commercial properties than on residences.
- Mr. Brewton said he would keep his eyes on whomever purchased the property.

- The lady that owned the former daycare next door that was now a school; came forward and was in favor of the rezoning, but was interested to know what the buffer would be between their children on the property and the new property owners.
- Ms. Rosario explained it would be a very strong bufferyard (bigger and thicker trees and setbacks) because it was a school.
- The lady said she just wanted to be sure of the safety of their children at her school.

Mr. Wilson asked if anyone else wished to come forward. No one else came forward. Mr. Wilson closed the public hearing.

Board Deliberation:

- Mr. Kinard said based on the surrounding area and the size of the property, he felt it would be more suitable for a commercial use.
- Mr. Wilson agreed and he felt that after hearing the public comments that the proposed use would work out better than perhaps what was currently in place.
- Dr. Stone said he would support the zone change, and that it would also come back onto the tax roles for the City.
- Mr. Kinard asked had any written opposition been received.
- Ms. Rosario said nothing had been received.
- Mr. Wilson asked Ms. Rosario about a written easement regarding the former daycare lot back from the 1981 plat.
- Ms. Rosario said she did not know.

Mr. Wilson made a motion to approve the request as presented by Staff; and he was seconded by Dr. Stone. The motion was unanimously approved by a vote of 6 to 0.

Ms. Rosario said the next step in the process would be for the request to go for another public hearing and first reading before the Mayor and City Council on November 14, 2016.

Rezoning Request: TMS#7-12-14, Parcel 251.00 – Located at 151 Beta Club Way, currently split zoned R-6/LOD, General Residential District/Limited Office District to zone LOD, Limited Office District, in order to have the property all one zone to be able to construct additional office space and storage facilities at their current headquarters location. Bobby Hart, Chief Operations Officer, National Beta Club, Owner.

Ms. Natalia Rosario came forward and said the owner had previously notified her they would be out of town at a conference; and had asked her to represent them at tonight's meeting. Ms. Rosario explained the request and she showed some slides in order to better illustrate the request.

Ms. Rosario went over the analysis of required findings and report the Planning Commissioners had already received in their meeting packets that included the following list of criteria for the Commission to consider when reviewing a rezoning request and Staff's analysis of those criteria as follows:

1. Consistency (or lack thereof) with the Comprehensive Plan –The 2004 Comprehensive Plan calls for the property to be zoned medium-density residential adjacent to institutional land uses. While this rezoning is not entirely consistent with the Comprehensive Plan, Staff would note that the National Beta Club is a local and national institution that has existed at its current location since the 1960s, and whose use of the property is not inconsistent with the overall intent of the district for a mix of residential, institutional, commercial, and recreational use.
2. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood – The portion of the property with the headquarters building is currently zoned LOD, Limited Office District, an appropriate zone for the use as an office space. The zone change on the remaining half of the lot from R-6 to LOD will act to create a coherent zone across the parcel,



REQUEST FOR COUNCIL ACTION

TO: Ed Memmott, City Manager

FROM: Natalia Rosario, Planning Staff

SUBJECT: Rezoning of property located at 151 Beta Club Way, from a split-zoned land use designation of R-6/LOD to LOD. Bobby Hart, Chief Operations Officer, on behalf of National Beta Club, Owner.

DATE: November 14th, 2016

SUMMARY: On October 20th, 2016, the Planning Commission held a public hearing and reviewed a rezoning request submitted by Bobby Hart, Chief Operations Officer, on behalf of National Beta Club, Owner, of 151 Beta Club Way, to rezone parcel #7-12-14-251.00 that is currently split-zoned from Zone R-6/LOD: General Residential District/Limited Office District to Zone LOD, Limited Office District, in order to create a coherent, single zone across the parcel to be able to construct additional office space and storage facilities at their current headquarters location.

The 2004 Comprehensive Plan advises this property to be zoned medium density residential, adjacent to institutional land uses. While this rezoning is not entirely consistent with the Comprehensive Plan, Staff would note that the National Beta Club is a local and national institution that has existed at its current location since the 1960s, and whose use of the property is not inconsistent with the overall intent of the district for a mix of residential, institutional, commercial, and recreational use.

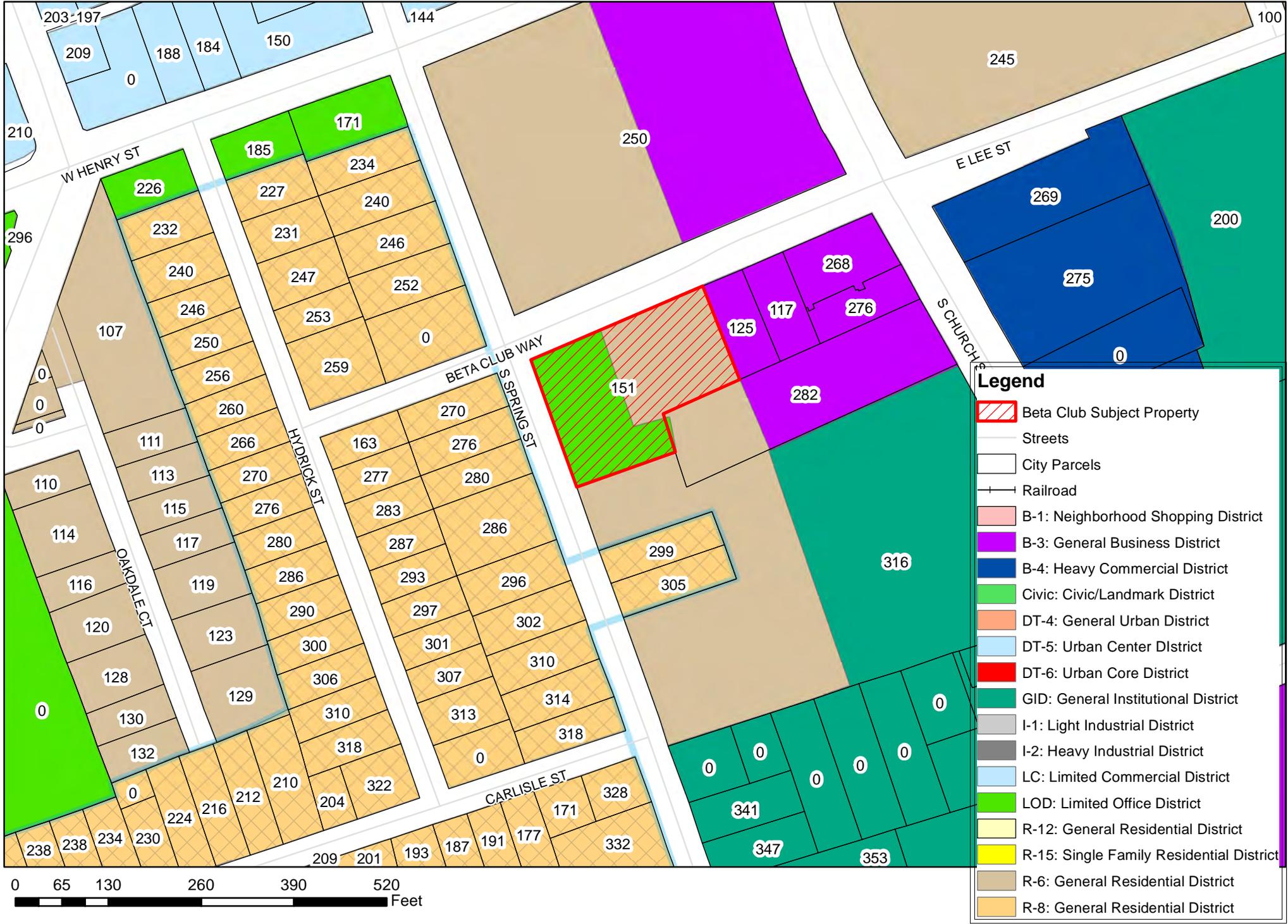
The Planning Commission held a public hearing on the proposal on October 20th, 2016. After consideration of the staff report, public comments, and the criteria set forth in the City of Spartanburg Zoning Ordinance and 2004 City Comprehensive Plan, the Planning Commission voted to recommend approval to rezone the request from split zoned R-6/LOD to LOD.

PLANNING COMMISSION RECOMMENDATION: The request was endorsed by the Planning Commission on October 20th, 2016 by a vote of 6 to 0. Staff's recommendation concerning this application is explained in detail in the attached staff report to the Planning Commission.

ADDITIONAL INFORMATION: Minutes from the October 20th, 2016 Planning Commission Meeting and Staff Report with attachments are included. In addition, enclosed is a proposed Ordinance in the event that Council approves the rezoning request.

BUDGET AND FINANCE DATA: N/A

City of Spartanburg Planning Commission Meeting
 October 20th, 2016 | City Council Chambers, 5:30 PM





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AN ORDINANCE

ORDINANCE TO AMEND THE CITY OF SPARTANBURG, SOUTH CAROLINA ZONING ORDINANCE AND COMPREHENSIVE PLAN LAND USE ELEMENT, BY AMENDING SECTION 206, CHANGES TO DISTRICT BOUNDARIES, SPECIFICALLY PARCEL #7-12-14-251.00 LOCATED AT 151 BETA CLUB WAY, WHICH IS CURRENTLY SPLIT ZONED R-6/LOD, WITH A LAND USE DESIGNATION OF GENERAL RESIDENTIAL DISTRICT AND LIMITED OFFICE DISTRICT TO ZONE LOD, WITH A LAND USE DESIGNATION OF LIMITED OFFICE DISTRICT; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Spartanburg now finds that, upon further review, it is in the public interest that the land use designation for the parcel identified on the Official Zoning Map of the City of Spartanburg, South Carolina, dated August 6, 1973, as amended, by changing the zone of Lot 251.00, as shown on Spartanburg County Block Map Sheet 7-12-14 from R-6/LOD, General Residential District and Limited Office District to zone LOD, Limited Office District; and

WHEREAS, this zoning change would be compatible with surrounding land uses and neighborhood character, would not be detrimental to the public health, safety and welfare, and, further, would be in conformance with the Comprehensive Plan; and

WHEREAS, the Planning Commission held a public hearing on October 20, 2016, at which time a presentation was made by staff and an opportunity was given for the public to comment on the rezoning request; and

WHEREAS, the Planning Commission, after consideration of the staff report, public comments, and the criteria set forth in Section 605 of the Zoning Ordinance, subsequently voted at that meeting to recommend to City Council that the rezoning request be approved as recommended by Staff.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Members of Council of the City of Spartanburg, South Carolina, in Council assembled:

Section 1. Amendment. That the official zoning map of the City of Spartanburg, as referenced by Section 206 of the Zoning Ordinance, be, and the same hereby amended as follows:

- The Lot currently identified as 251.00 on Spartanburg County Block Map Sheet 7-12-14 shall be now designated as LOD, Limited Office District.

Section 2. Severability. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(continued)

Section 3. Effective Date. This Ordinance shall be effective upon its adoption by the City Council of the City of Spartanburg, South Carolina.

DONE AND RATIFIED THIS _____ DAY OF _____, 2016.

Junie L. White, Mayor

ATTEST:

Connie S. McIntyre, City Clerk

APPROVED AS TO FORM:

Cathy H. McCabe, City Attorney

___/___/___ 1st Reading

___/___/___ 2nd Reading

***Spartanburg City Planning Commission Meeting Minutes
Thursday, October 20, 2016***

- The lady that owned the former daycare next door that was now a school; came forward and was in favor of the rezoning, but was interested to know what the buffer would be between their children on the property and the new property owners.
- Ms. Rosario explained it would be a very strong bufferyard (bigger and thicker trees and setbacks) because it was a school.
- The lady said she just wanted to be sure of the safety of their children at her school.

Mr. Wilson asked if anyone else wished to come forward. No one else came forward. Mr. Wilson closed the public hearing.

Board Deliberation:

- Mr. Kinard said based on the surrounding area and the size of the property, he felt it would be more suitable for a commercial use.
- Mr. Wilson agreed and he felt that after hearing the public comments that the proposed use would work out better than perhaps what was currently in place.
- Dr. Stone said he would support the zone change, and that it would also come back onto the tax roles for the City.
- Mr. Kinard asked had any written opposition been received.
- Ms. Rosario said nothing had been received.
- Mr. Wilson asked Ms. Rosario about a written easement regarding the former daycare lot back from the 1981 plat.
- Ms. Rosario said she did not know.

Mr. Wilson made a motion to approve the request as presented by Staff; and he was seconded by Dr. Stone. The motion was unanimously approved by a vote of 6 to 0.

Ms. Rosario said the next step in the process would be for the request to go for another public hearing and first reading before the Mayor and City Council on November 14, 2016.

Rezoning Request: TMS#7-12-14, Parcel 251.00 – Located at 151 Beta Club Way, currently split zoned R-6/LOD, General Residential District/Limited Office District to zone LOD, Limited Office District, in order to have the property all one zone to be able to construct additional office space and storage facilities at their current headquarters location. Bobby Hart, Chief Operations Officer, National Beta Club, Owner.

Ms. Natalia Rosario came forward and said the owner had previously notified her they would be out of town at a conference; and had asked her to represent them at tonight's meeting. Ms. Rosario explained the request and she showed some slides in order to better illustrate the request.

Ms. Rosario went over the analysis of required findings and report the Planning Commissioners had already received in their meeting packets that included the following list of criteria for the Commission to consider when reviewing a rezoning request and Staff's analysis of those criteria as follows:

1. Consistency (or lack thereof) with the Comprehensive Plan –The 2004 Comprehensive Plan calls for the property to be zoned medium-density residential adjacent to institutional land uses. While this rezoning is not entirely consistent with the Comprehensive Plan, Staff would note that the National Beta Club is a local and national institution that has existed at its current location since the 1960s, and whose use of the property is not inconsistent with the overall intent of the district for a mix of residential, institutional, commercial, and recreational use.
2. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood – The portion of the property with the headquarters building is currently zoned

LOD, Limited Office District, an appropriate zone for the use as an office space. The zone change on the remaining half of the lot from R-6 to LOD will act to create a coherent zone across the parcel, allowing for the use of the entire property as office and storage space for the National Honorary Beta Club

3. Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment – The property is suitable for the uses allowed in the LOD zone.
4. Marketability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment – The property is already owned by the National Honorary Beta Club – the rezoning will allow for them to move forward with additional building plans on their campus.
5. Availability of sewer, water and storm water facilities generally suitable and adequate for the proposed use – Both water and sanitary sewer services are available to this site.

STAFF’S ANALYSIS & RECOMMENDATION

Staff is of the opinion that the proposed zone change from LOD and R-6 will be a beneficial and appropriate use for the area. Therefore, Staff recommends approval of the proposed zone change from LOD to R-6 as proposed. Ms. Rosario said this plan will also need to go through the complete site plan review process.

Planning Commission Questions:

- Mr. Kinard said so the one property is zoned as two different zones. Ms. Rosario said correct.
- Dr. Stone said he lived near the property and explained how he thought the split zoning situation came about.
- Mr. Kinard asked about the zoning of the portion of the lot where the office was now.
- Ms. Rosario said it was LOD.
- Mr. Kinard said essentially it would make the lot all one uniform zone.
- Ms. Rosario said that was correct.
- Mr. Wilson asked had staff received any negative comments.
- Ms. Rosario said she had one phone call; and when she explained what was going on the caller was alright with the request.

Mr. Wilson opened the public hearing and asked if anyone wished to speak regarding the request to come forward. No one came forward. Mr. Wilson closed the public hearing.

Board Deliberation:

- Dr. Stone said from when he was on the HARB Board he had brought this prospect up at one time; and they had not problems with the request.
- Mr. Kinard asked regarding the warehouse portion. Ms. Rosario said it was not really a warehouse but rather where they might store some of their materials.
- Mr. Wilson thought anytime they had the chance to bring a split-zoned lot and turn it into one zone he thought it would be a benefit to the property owner and the area.
- Mr. Cantrell agreed.

Mr. Cantrell made a motion to approve the request as presented and he was seconded by Mr. Kinard. The motion was approved unanimously by a vote of 6 to 0.

(continued)



REQUEST FOR COUNCIL ACTION

TO: Ed Memmott, City Manager

FROM: Natalia Rosario, Planning Staff

SUBJECT: Rezoning of property located at 589 E. Main Street, from a split-zoned land use designation of R-8/LOD to R-6. Joe Lauer, President, Clerestory Projects Group & Agent for Owner, Converse College.

DATE: November 14th, 2016

SUMMARY: On October 20th, 2016, the Planning Commission held a public hearing and reviewed a rezoning request submitted by Joe Lauer, President, Clerestory Projects Group, Agent on behalf of William T. Johnson, Vice-President for Finance and Administration, Converse College, Owner, of 589 East Main Street, to rezone parcel #7-12-08-109.00 that is currently split-zoned from Zone LOD/R-8, Limited Office District and General Residential District to Zone R-6, General Residential District, in order to allow for the redevelopment of the property to Historic Standard for a multi-unit residential use.

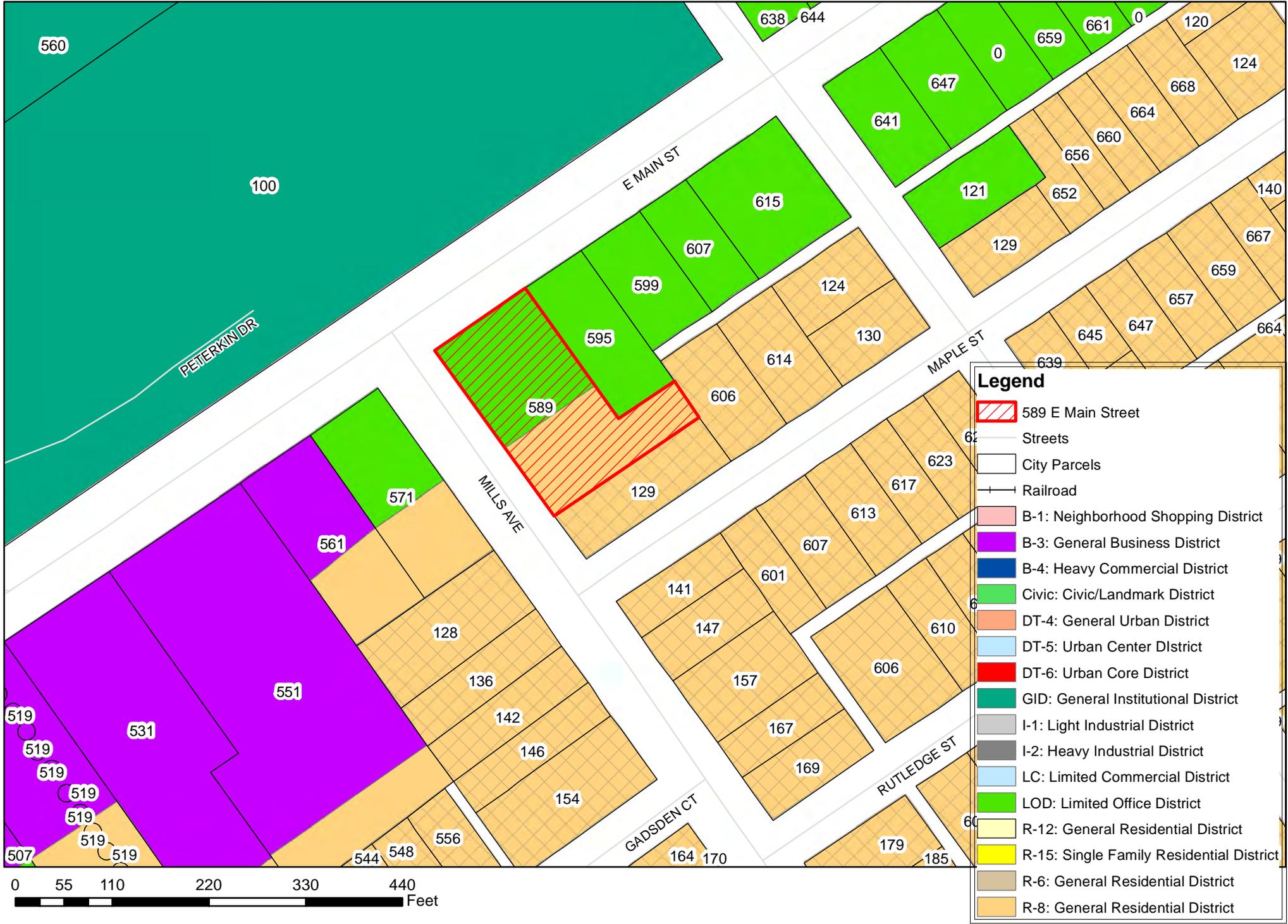
The 2004 Comprehensive Plan advises this property be zoned Limited Commercial District or Limited Office District, the latter of which it is partially zoned at this time. The property is a historic home owned by Converse College, and sees intermittent use throughout the year, but is not fully utilized as either office or residential at this time. The rezoning would allow for the proposed number of units that would fit within the existing structure (nine) and would allow the entire lot to be utilized for a residential use. The developer proposes to restore the property to Historic Standard in conjunction with the conversion to multi-family use.

The Planning Commission held a public hearing on the proposal on October 20th, 2016. After consideration of the staff report, public comments, and the criteria set forth in the City of Spartanburg Zoning Ordinance and 2004 City Comprehensive Plan, the Planning Commission voted to recommend approval to rezone the request from split zoned R-8/LOD to R-6.

PLANNING COMMISSION RECOMMENDATION: The request was endorsed by the Planning Commission on October 20th, 2016 by a vote of 5 to 1. Staff's recommendation concerning this application is explained in detail in the attached staff report to the Planning Commission.

ADDITIONAL INFORMATION: Minutes from the October 20th, 2016 Planning Commission Meeting and Staff Report with attachments are included. In addition, enclosed is a proposed Ordinance in the event that Council approves the rezoning request.

BUDGET AND FINANCE DATA: N/A



Legend

- 589 E Main Street
- Streets
- City Parcels
- Railroad
- B-1: Neighborhood Shopping District
- B-3: General Business District
- B-4: Heavy Commercial District
- Civic: Civic/Landmark District
- DT-4: General Urban District
- DT-5: Urban Center District
- DT-6: Urban Core District
- GID: General Institutional District
- I-1: Light Industrial District
- I-2: Heavy Industrial District
- LC: Limited Commercial District
- LOD: Limited Office District
- R-12: General Residential District
- R-15: Single Family Residential District
- R-6: General Residential District
- R-8: General Residential District



589 East Main Street

E Main St

Mills Ave

E Main St

Mickel Library



Ta

AN ORDINANCE

ORDINANCE TO AMEND THE CITY OF SPARTANBURG, SOUTH CAROLINA ZONING ORDINANCE AND COMPREHENSIVE PLAN LAND USE ELEMENT, BY AMENDING SECTION 206, CHANGES TO DISTRICT BOUNDARIES, SPECIFICALLY PARCEL #7-12-08-109.00 LOCATED AT 589 EAST MAIN STREET, WHICH IS CURRENTLY SPLIT ZONED LOD/R-8, WITH A LAND USE DESIGNATION OF LIMITED OFFICE DISTRICT AND GENERAL RESIDENTIAL DISTRICT TO ZONE R-6, WITH A LAND USE DESIGNATION OF GENERAL RESIDENTIAL DISTRICT; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Spartanburg now finds that, upon further review, it is in the public interest that the land use designation for the parcel identified on the Official Zoning Map of the City of Spartanburg, South Carolina, dated August 6, 1973, as amended, by changing the zone of Lot 109.00, as shown on Spartanburg County Block Map Sheet 7-12-08 from LOD/R-8, Limited Office District and General Residential District to zone R-6, General Residential District; and

WHEREAS, this zoning change would be compatible with surrounding land uses and neighborhood character, would not be detrimental to the public health, safety and welfare, and, further, would be in conformance with the Comprehensive Plan; and

WHEREAS, the Planning Commission held a public hearing on October 20, 2016, at which time a presentation was made by staff and an opportunity was given for the public to comment on the rezoning request; and

WHEREAS, the Planning Commission, after consideration of the staff report, public comments, and the criteria set forth in Section 605 of the Zoning Ordinance, subsequently voted at that meeting to recommend to City Council that the rezoning request be approved as recommended by Staff.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Members of Council of the City of Spartanburg, South Carolina, in Council assembled:

Section 1. Amendment. That the official zoning map of the City of Spartanburg, as referenced by Section 206 of the Zoning Ordinance, be, and the same hereby amended as follows:

- The Lot currently identified as 109.00 on Spartanburg County Block Map Sheet 7-12-08 shall be now designated as R-6, General Residential District.

Section 2. Severability. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(continued)

Section 3. Effective Date. This Ordinance shall be effective upon its adoption by the City Council of the City of Spartanburg, South Carolina.

DONE AND RATIFIED THIS _____ DAY OF _____, 2016.

Junie L. White, Mayor

ATTEST:

Connie S. McIntyre, City Clerk

APPROVED AS TO FORM:

Cathy H. McCabe, City Attorney

___/___/___ 1st Reading

___/___/___ 2nd Reading

Rezoning Request: TMS#7-12-08, Parcel 109.00 – Located at 589 E. Main Street, currently split-zoned LOD/R-8, Limited Office District/General Residential District to zone R-6 General Residential District, in order to allow for the redevelopment of the property to Historic Standard for a multi-unit residential use. Joe Lauer, President, Clerestory Projects Group, Agent on behalf of William T. Johnson, Vice-President for Finance & Administration, Converse College, Owner.

Ms. Rosario came forward and said this request was for 589 East Main Street, and was located right in front of Converse College; and the property was split-zoned LOD/R-8, half office and half General Residential, but it did not carry the single family overlay that the rest of Converse Heights did. A slide of the location map and property were shown. She said she was going to let the potential developer explain why they were here.

Mr. Joe Lauer, of 520 Glendalyn Avenue came forward and said he was President of Clerestory Projects Group, Agent on behalf of Converse College, as well as a partner in the development group that was looking at renovating the building. He said their intent was to historically preserve the building to the architectural integrity that it has. Their goal was to keep the outside of the building much like it was when it was originally built; reclaim the existing siding that was there, put a new roof on it and redo the stained glass windows, and repaint the building. Their intent was to use historic tax credits, so they were governed by what the State would allow. They would like to convert it to a multi-family residential use that would be upper market rate apartments. Mr. Lauer said they proposed up to nine apartment units, with two bedroom and 2 baths and 1 bedroom 1 bath studio apartments; and it would not be for student housing. He said the intent with Converse College was that the college would have the opportunity to lease the apartments to faculty members visiting the professors. Again he said this would not be for student housing. He showed a copy of the proposed landscape plan; and said the Code required eighteen parking spaces. The footprint of the building would essentially remain the same. He informed the Planning Commissioners that Tip Pitts would be the Landscape Architect and explained the buffers he was proposing on the plan regarding the neighborhood side, as well as improvements along Main Street and Mills Avenue. Mr. Lauer said from an overall timing standpoint, they would be applying for historic tax credits shortly, design would continue, and construction would begin Spring, 2017 and be completed by Spring, 2018.

Board Questions:

- Mr. Kinard asked about the minimum parking and what that was based upon. Ms. Rosario said it was per dwelling unit.
- Mr. Kinard had a question regarding the current split-zone and the proposed R-6 zoning designation.
- Ms. Rosario explained it was due to the density; and the R-6 would allow for the nine units.
- Dr. Stone asked what the property was currently used for.
- Mr. Lauer said the College owned the property, and occasionally rented it out for special events, but for the most part it just sat there.
- Dr. Stone asked was the property listed individually on the National Historic Register.
- Mr. Lauer said no; currently it was considered part of the Converse College National Designation.
- Mr. Kinard asked if the footprint would remain the same.
- Mr. Lauer said the footprint would stay the same; and since it was part of the State Archives, they could not really change the exterior look of the house or the proportions of it.
- Mr. Kinard asked would Converse College still be the owner.
- Mr. Lauer said no; the intent was that Converse College would transfer ownership to the development team.
- Dr. Stone said in that case that he would presume that would then become taxable property.
- Mr. Lauer said that was correct.

- Mr. Wilson asked Ms. Rosario just to clarify, that it was stated in the Staff Report if the request was approved, it would still need to go before the HARB Board to present the scope of work.
- Dr. Stone said he did not think it needed to go before the HARB Board because it was not part of the Local Historic District. He felt that the reviewing authority to receive historic preservation tax credits would be the State Historic Preservation Office (SHPO).
- Ms. Rosario said she was under the impression after speaking with Earl Alexander, County Assessor that it would need to go before the local HARB Board; but either way it would need to go before a historic authority to make sure everything was in line regarding the historic process.
- Dr. Stone said the HARB had not reviewed anything like that.
- Ms. Rosario said she had done some research at one time regarding it; and she said things may be different now; but that she would need take another look at that process.

Ms. Rosario came forward again and went over the Analysis of Required Findings as follows regarding the case that the Planning Commissioners had previously received in their meeting packets:

1. Consistency (or lack thereof) with the Comprehensive Plan –The 2004 Comprehensive Plan calls for the property to have a use as a Limited Activity Center, consisting of either zoned LOD, Limited Office District or LC, Limited Commercial District. The property is a historic home owned by Converse College, and has not been used for either office or commercial uses until this point. It is immediately adjacent to a residentially zoned parcel and near the Converse Heights neighborhood.
2. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood – The property is currently zoned between the R-8, General Residential Zone and LOD, Limited Office District, effectively placing it in an unusable category for the character and historic significance of the home. The requested rezoning would allow for the property to be used as residential units (multifamily) with enough density (maximum of 10) to make the project feasible. Ms. Rosario said she did not think that moving to an upscale residential use would be an incompatible use with the nearby residential district. The project intends to restore the home to historic standard, and if approved will either go before the HARB Board or SHPO to approve the scope of work.
3. Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment – The property is suitable for the uses allowed in the R-6, General Residential zone.
4. Marketability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment – The property is owned by Converse College; and she needed to make the correction that she now understood from the developer that the intent would be for the college to transfer ownership to the development team.
5. Availability of sewer, water and storm water facilities generally suitable and adequate for the proposed use – Both water and sanitary sewer services are available to this site.

STAFF'S ANALYSIS & RECOMMENDATION

Staff is of the opinion that the proposed zone change from R-8 and LOD to R-6 will be a beneficial and appropriate use for the area. Therefore, Staff recommends approval of the proposed zone change from R-8/ LOD to R-6 as proposed. Ms. Rosario said any plans would need to go through the complete site plan review process.

Planning Commission Questions:

- Mr. Wilson asked about the landscape plan and said he knew there would be a buffer on the back lot line, and it was listed R-8 would require a Bufferyard 3, fifteen foot width; and asked if the Bufferyard 3 would stay the same for R-6. Ms. Rosario explained the buffers went by the use and not the zone; and when you do a special residential like this which in this case would be a multifamily, you would still have the Bufferyard 3 because it was not the same as a duplex or single family.

Mr. Wilson opened the public hearing and asked anyone who wished to speak to come forward and state their name and address for the record.

- Mrs. Tarasa Schmidt of 129 Mills Avenue came forward and said her property was located behind the proposed property and she had some questions as follows:
 - Was the property at 595 E. Main Street owned by the College and part of the contract?
 - Mr. Lauer said it was not owned by the college and was not part of this plan.
- Mr. Wilson said the parcel she had asked about was zoned different as well, and for that to be changed it would need to come before the Planning Commission for a rezoning.
- Mrs. Schmidt asked Ms. Rosario to describe what kind of bufferyard would need to be put in for the proposed request to buffer against her property. Ms. Rosario said probably a six foot fence and five canopy trees per one hundred linear feet, and while it was a sketch right now and some of it might change, but it would probably be Oak and/or Canopy trees that would provide for any kind of noise and light to buffer her property. She said there was also some smaller ornamental shrubs, crepe myrtles, etc. that were proposed.
- Mrs. Schmidt asked Mr. Lauer if he planned to put nine apartments in that building. Mr. Lauer said that was correct.
- Mr. Mitchell Mercer of 607 Maple Street came forward and asked the developer regarding they said it was mainly intended for private residence, but asked Mr. Lauer what would preclude students from being able to rent them. Mr. Lauer said probably the prices for one thing; and he thought Converse College had a requirement that all of its students had to reside on-campus. Mr. Lauer said the intent was not for student housing; and his intent would be for young professionals or retired persons, etc.
- Mr. Mercer referenced a slide regarding parking spaces, and said if the only entrance was from Mills, that would mean he would have to drive down Main Street and turn right onto Mills and then make a U-turn at the intersection of Maple Street which was where he lived (where there would be all of this traffic); and he asked Mr. Lauer if there was no other option for access. Mr. Lauer said currently the property was not adjoining the alley behind the other properties, so there was no other access.
- Mr. Mercer said since as had been mentioned earlier tonight regarding another rezoning, once something was rezoned R-6, there was less City oversight and then everything became a civil matter, was that correct. Ms. Rosario said generally; but she explained there was residential Code Enforcement and there was a nuisance ordinance.
- Mr. Mercer said it was a beautiful property and he would like to see it developed; but he had a lot of concerns regarding the one access and he was neutral on the zoning. He wished they could study this some more and not make that approval this evening until they could get a better understanding of the traffic flow.
- Mr. Wilson said if the Board were to recommend approval of the rezoning and the developer were to proceed with plans; they would have to submit a complete site plan to the City which would go through complete site plan review process which would include Civil Engineering and traffic issues as well. Mr. Wilson explained the Board was here to look at the zoning portion.
- Mr. Kinard asked what triggered a traffic study requirement. Ms. Rosario said any site plan submittal would need to be sent to the SCDOT regarding East Main Street, as well as the City's own Traffic Engineering Department for review and they would basically have the same concerns as he did. She said she did not see the City allowing something to be built that did not work.
- Mr. Epps asked what type of activities go on at the house right now. Mr. Mercer said there were parties, weddings, etc for a few hours at a time which was fine because it was only a few hours.
- Mr. William Johnson, Vice-President for Financial & Admin., Converse College said they used it to rent for receptions from time to time; as well as a site that they use for alumni to celebrate being part of the College. He said it was an older home and it was a lot to maintain the historic integrity of the

home; and when they were presented with the proposal from Clerestory Projects they thought it would be a great option. It was very important to the college for the house and property to be maintained.

- Mr. Mercer then asked again was there any way they could do the traffic analysis first before they changed the zoning. Ms. Rosario said they could include the traffic study in the site plan review.
- Mr. Kinard explained that the rezoning did not end with the Planning Commission's recommendation; if it was approved tonight; and he said it would go for another public hearing and First Reading before the Mayor and Council, as well as a Second Reading before any rezoning would officially be approved.

Mr. Wilson asked did anyone else wish to come forward and speak. No one else came forward. Mr. Wilson closed the public hearing.

Board Deliberation:

- Mr. Kinard liked the proposed idea; and said he had not realized the traffic problems it might create until the gentleman had spoken tonight. Mr. Kinard explained to the Planning Commissioners his main concern had been of the residents that lived behind the proposed property and they had heard from her, and he hoped she had gotten some answers.
- Mr. Cantrell felt because of the location that Converse College would keep a keen eye on what went on there. At the present time it was a deteriorating piece of property, and he felt the proposed use would be a very good use for the property.
- Dr. Stone agreed that Converse would keep an eye on what was going on across the street; and he supported the zone change and applauded the group for an adaptive reuse of a historic property. Dr. Stone felt if they did not approve the request, the home would probably deteriorate.
- Mr. Kinard asked if the Planning Commission recommended approval tonight, when the request would go for another public hearing and First Reading of Council. Mrs. Roland explained it would be on November 14, 2016.
- Mr. Wilson agreed with all of the comments made so far; and he felt an active user was better than an empty structure, and to bring a property under one zone was beneficial.
- Mr. Kinard had another question regarding the traffic issue; and what options they could look at. In that regard.
- Ms. Rosario said it may be impossible to get an entrance off of E. Main Street; without a submitted site plan she it would be hard to know at the moment.

Mr. Cantrell made a motion to approve the request as presented; and he was seconded by Dr. Stone. The motion was approved by a vote of 5 to 1, with Mr. Kinard voting in opposition.

Ms. Rosario said the next step in the process would be for the case to go for another public hearing and First Reading before the Mayor and City Council on November 14, 2016; and if approved a Second, final reading would then be held on November 28, 2016.

Final Plan Approval re Camelot Townes - 18 Buildings, 72 Units. Jay Beeson, Mark III Properties, Owner.

Ms. Rosario said the Planning Commission had reviewed a rezoning request from LOD to LOD/PDD, and a Preliminary Plan for this property in June, 2016; and the rezoning had been approved on Second Reading before the Mayor and City Council to approve the request on July 11, 2016. She said the developer had gone through the full site plan review and had met all the requirements; and the final plan was now before the Planning Commission for their approval, so the developer could move forward, if so approved. She said Blake Laudermilk was present to answer any questions as well on behalf of the developer.

Planning Commission Questions:

- Mr. Kinard said he had to recuse himself when this had previously come before the Planning Commission; and so he would need to do the same tonight.



REQUEST FOR COUNCIL ACTION

TO: Spartanburg City Council

FROM: Chris Story, Assistant City Manager

SUBJECT: Refunding Saint John-Daniel Morgan Redevelopment Project Area TIF Bonds

DATE: November 10, 2016

The attached ordinance authorizes the refinancing of the outstanding debt associated with the Saint John-Daniel Morgan Redevelopment Project Tax Increment Financing District. It does not add to our debt or extend the term; it simply allows us to take advantage of a lower interest rate. The total estimated net savings of this action is approximately \$225,000.

We recommend your approval and look forward to any questions you may have.

ORDINANCE NO. _____

AUTHORIZING THE ISSUANCE AND SALE OF NOT EXCEEDING \$5,000,000 TAX INCREMENT REFUNDING BONDS (SAINT JOHN-DANIEL MORGAN REDEVELOPMENT PROJECT AREA), SERIES 2017, OF THE CITY OF SPARTANBURG, SOUTH CAROLINA, FOR THE PURPOSE OF REFUNDING A PORTION OF THE CITY'S OUTSTANDING TAX INCREMENT BOND (SAINT JOHN-DANIEL MORGAN REDEVELOPMENT PROJECT AREA), SERIES 2010; DELEGATING THE AUTHORITY TO THE MAYOR OR CITY MANAGER TO DETERMINE CERTAIN MATTERS WITH RESPECT TO THE BONDS; PRESCRIBING THE FORM AND DETAILS OF THE BONDS; LIMITING THE PAYMENT OF THE BONDS FROM THE SOURCES PROVIDED HEREIN; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO.

Enacted: November 28, 2016

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. Definitions. Unless the context shall clearly indicate some other meaning, all terms used in this Ordinance which are defined in the Bond Ordinance of 2002 (hereinafter defined) shall for all purposes of this Ordinance have the respective meanings given to them in the Bond Ordinance of 2002.

The terms defined in this Article shall have, for all purposes of this Ordinance, the meanings hereinafter specified, with the definitions to be equally applicable to both the singular and plural forms and *vice versa*. The term:

“2010 Paying Agent” shall mean The Bank of New York Mellon Trust Company, N.A.

“2017 Debt Service Reserve Fund” shall mean the fund of that name, if any, created pursuant to Section 11 hereof (a) to insure the timely payment of the principal of and interest on the Series 2017 Bonds; and (b) to provide for the redemption or purchase of any of the Series 2017 Bonds.

“2017 Reserve Fund Requirement” shall mean, subject to Section 11 hereof, the amount, if any, determined by the Mayor or City Manager.

“Bonds of 2002A” shall mean the City’s \$7,235,000 original principal amount Tax Increment Bonds, Series 2002A, dated May 1, 2002 and refunded on April 1, 2012 with a portion of the proceeds of the Bond of 2010.

“Bond of 2010” shall mean the City’s \$6,830,000 original principal amount Tax Increment Refunding Bond (Saint John-Daniel Morgan Redevelopment Project Area), Series 2010, dated November 18, 2010 and outstanding as of the date hereof in the principal amount of \$4,930,000.

“Bond Ordinance of 2002” shall mean the Ordinance of the City enacted on April 8, 2002 which authorized the issuance of the Bonds of 2002A.

“Bond Ordinance of 2010” shall mean the Ordinance of the City enacted on October 11, 2010 as a “Supplemental Ordinance”, within the meaning of such term under the Bond Ordinance of 2002, which authorized the issuance of the Bond of 2010 for the purpose of effecting the refunding of the Bonds of 2002A and payment of Costs of Issuance of the Bond of 2010.

“Bond to be Refunded” shall mean the Bond of 2010 maturing on April 1 in each of the years 2018 to and including 2025, or such maturities as the Mayor or City Manager may determine pursuant to Section 7 hereof.

“Cost of Issuance Account” shall mean the account of that name created pursuant to Section 16 hereof.

“Custodian” shall mean any bank, depository or trust company duly qualified and doing business within the State of South Carolina selected by the City as a depository of moneys or securities held in the Cost of Issuance Account.

“Escrow Agent” shall mean The Bank of New York Mellon Trust Company, N.A., in Jacksonville, Florida, as Escrow agent under the Escrow Agreement.

“Escrow Agreement” shall mean the Escrow Agreement dated the date of its execution between the City and the Escrow Agent.

“Escrow Fund” shall mean the fund of that name created pursuant to the Escrow Agreement.

“Franchise Fees” shall mean the fees received by the City pursuant to any franchise agreements, including any extensions or renewals thereto, whereby payments are made by the franchisee to the City for the right granted by the City to the franchisee for the use of the public streets or rights-of-way or any other special privilege granted to the franchisee by the City. As of the date hereof, the franchise agreements include agreements with: (1) Duke Energy; (2) Piedmont Natural Gas Company, Inc.; (3) Charter Communications; and (4) The Commissioners of Public Works of the City of Spartanburg.

“Interest Payment Date” shall mean either April 1 of each year, or April 1 and October 1 of each year, as determined by the Mayor or the City Manager pursuant to Section 7 hereof, commencing April 1, 2017, or such other date as the Mayor or the City Manager may determine pursuant to Section 7 hereof.

“Interest Account” shall mean the account of that name of the Special Tax Allocation Fund established pursuant to Section 9.2(a) of the Bond Ordinance of 2002 and continued pursuant to Section 10 of this Ordinance;

“Ordinance” shall mean this ordinance as originally enacted and, unless the context clearly indicates otherwise, as it may be from time to time hereafter supplemented, modified or amended by any Supplemental Ordinance hereto.

“Paying Agent” shall mean The Bank of New York Mellon Trust Company, N.A.

“Permitted Investments” shall mean (a) any one or more of the investments now or hereafter permitted by Section 6-5-10, Code of Laws of South Carolina 1976, as amended and in effect from time to time, or any authorization relating to the investment of funds hereunder; and (b) the South Carolina Pooled Investment Fund or similar State administered pool investment fund.

“Principal Account” shall mean the account of that name of the Special Tax Allocation Fund established pursuant to Section 9.2(b) of the Bond Ordinance of 2002 and continued pursuant to Section 10 of this Ordinance.

“Principal Payment Date” shall have the meaning given to such term in Section 4(a) hereof.

“Purchaser” shall mean the original purchaser of the Series 2017 Bonds and its successors or assignees.

“Registrar” shall mean The Bank of New York Mellon Trust Company, N.A.

“Series 2017 Bonds” shall mean the not exceeding \$5,000,000 aggregate principal amount Tax Increment Refunding Bonds, Series 2017, authorized to be issued pursuant to Section 4 hereof.

“Special Tax Allocation Fund” shall mean the fund of that name created by Section 9.1 of the Bond Ordinance of 2002 and continued pursuant to Section 10 hereof.

“Trustee” shall mean The Bank of New York Mellon Trust Company, N.A., and any successor Trustee appointed in accordance with the provisions of the Bond Ordinance of 2002.

Section 2. Findings and Determinations. The Council of the City hereby finds and determines:

(a) The City is an incorporated municipality located in Spartanburg County, and as such possesses all powers granted to municipalities by the Constitution and general laws of this State.

(b) Pursuant to Section 5-5-10, Code of Laws of South Carolina 1976, as amended, the City has selected the Council-Manager form of government and is governed by a Council composed of a Mayor and six (6) council members which constitute the governing body of the City.

(c) Article X, Section 14, of the Constitution of the State of South Carolina, 1895, as amended (the "Constitution"), provides that the General Assembly may authorize by general law that indebtedness for the purpose of redevelopment within incorporated municipalities may be incurred, and that the debt service of such indebtedness be provided from the added increments of tax revenues to result from the redevelopment project.

(d) Pursuant to the Act, the governing bodies of the incorporated municipalities of this State are vested with all powers consistent with the Constitution of this State that are necessary, useful, and desirable to enable them to accomplish redevelopment in areas which are or threatened to become blighted. Incorporated municipalities are further authorized to issue bonds under the Act to finance a "redevelopment project" as defined in the Act.

(e) The Council has by the Redevelopment Plan Ordinance duly enacted by the Council and effective on October 4, 1999, approved the Redevelopment Plan.

(f) Pursuant to the Bond Ordinance of 2002 and the Bond Ordinance of 2010, the City issued the Bond of 2010 as an “Additional Bond” as defined in the Bond Ordinance of 2002 for the purpose of refunding the Bonds of 2002A.

(g) Section 11.2(b) of the Bond Ordinance of 2002 provides that Bonds may be issued at any time for the purpose of refunding (including by purchase) Bonds, including amounts to pay principal, redemption premium and interest to the date of redemption (or purchase) of the refunded Bonds and the Cost of Issuance; provided that (i) the aggregate Debt Service on all Bonds to be Outstanding after the issuance of the proposed Series of refunding Bonds shall not be greater than would have been the aggregate Debt Service of all Bonds not then refunded and the Bond to be Refunded; or (ii) the requirement of part (f) of Section 11.1 of the Bond Ordinance of 2002 are met with respect to the refunding Bonds. Section 11.2(b) of the Bond Ordinance of 2002 further provides that Bonds issued pursuant to such Section 11.2(b) shall comply with the requirements of parts (a), (c), (d) and (e) of Section 11.1 of the Bond Ordinance of 2002.

(h) The Act empowers the City to refund the outstanding Bond to be Refunded.

(i) Pursuant to the provisions of Article XVIII of the Bond Ordinance of 2002, which provisions were carried forward by and incorporated in the provisions of the Bond Ordinance of 2010, the obligations of the City under the Bond Ordinance of 2002 and the Bond Ordinance of 2010, and the liens, pledges, charges, trusts and the covenants and agreements of the City made or provided for in the Bond Ordinance of 2002 and the Bond Ordinance of 2010, shall be fully discharged and satisfied as to any Bond to be redeemed, and such Bond to be redeemed shall no longer be deemed to be Outstanding under the Bond Ordinance of 2002 or Bond Ordinance of 2010 when payment of the principal of, redemption premium, if any, and interest on such Bond shall have been provided for by irrevocably depositing with the Paying Agent, in trust and irrevocably set aside exclusively for such payment, (a) moneys sufficient to make such payment, or (2) Governmental Obligations, maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment, and all necessary and proper fees, compensation and expenses of the Paying Agent, or a combination thereof.

(j) It is now in the best interest of the City for the Council to provide for the issuance and sale of the Series 2017 Bonds of the City pursuant to the aforesaid provisions of the Constitution and laws of the State of South Carolina in the principal amount of not exceeding \$5,000,000 for the purposes of (a) refunding the Bond to be Refunded; and (b) paying the Cost of Issuance.

(k) The Series 2017 Bonds are “Additional Bonds” for purposes of and as defined in the Bond Ordinance of 2002, and this Ordinance is a “Supplemental Ordinance” for purposes of and as defined in the Bond Ordinance of 2002.

Section 3. Authorization to Effect Refunding. The refunding of the Bond to be Refunded shall be effected with a portion of the proceeds of the Series 2017 Bonds which proceeds shall be used for the payment of the Bond to be Refunded as and when such Bond to be Refunded are called for redemption. Moneys presently deposited in the funds created with respect to the Bond of 2010 may be transferred to the Escrow Fund created pursuant to the Escrow Agreement.

Upon the delivery of the Series 2017 Bonds, a portion of the proceeds thereof, together with other funds transferred from the Principal Account and the Interest Account in the Special Tax Allocation Fund, may be deposited with the Escrow Agent and held by it under the Escrow Agreement and in the Escrow Fund.

The Mayor or the City Manager are hereby authorized and directed for and on behalf of the City to execute such agreements and give such directions as shall be necessary to carry out the provisions of this Ordinance, including the execution and delivery of the Escrow Agreement. The Escrow Agreement shall be dated the date of delivery of the Series 2017 Bonds and shall be in such form as the City Manager approves. The execution thereof shall be evidence of the approval of any such modification.

The Escrow Agent will be directed under the terms of the Escrow Agreement to call the Bond to be Refunded for redemption on such date as directed therein, and to pay the principal of, redemption premium and interest on the Bond to be Refunded, when due and upon the redemption thereof, from the moneys and obligations deposited in the Escrow Fund established pursuant to the provisions of the Escrow Agreement authorized herein. All moneys and obligations deposited with the Escrow Agent pursuant to the Escrow Agreement and the income therefrom shall be held, invested, and applied in accordance with the provisions of the Bond Ordinance of 2002, this Ordinance and the Escrow Agreement.

Section 4. Authorization of Series 2017 Bonds; Delegation of Authority to Determine Certain Matters Relating to the Series 2017 Bonds.

(a) There is hereby authorized to be issued tax increment bonds of the City in the aggregate principal amount not exceeding \$5,000,000 to be designated “\$(principal amount_issued) Tax Increment Refunding Bonds (Saint John-Daniel Morgan Redevelopment Project Area), Series 2017, of the City of Spartanburg, South Carolina” (the “Series 2017 Bonds”). The proceeds of the Series 2017 Bonds shall be used for the purposes set forth in Section 2(j) hereof.

The Series 2017 Bonds shall mature on April 1 in each of the years (the “Principal Payment Dates”) and in the principal amounts, and bear interest at the rate or rates per annum (calculated on the basis of a 360-day year comprised of twelve 30-day months), as determined by the Mayor or the City Manager pursuant to Section 7 hereof.

(b) The Series 2017 Bonds shall originally be dated the date of delivery, or such other date as the Mayor or the City Manager shall determine pursuant to Section 7 hereof, and shall be issued as fully registered Bonds in the denominations of \$5,000 and integral multiples of \$5,000 or if issued as a single fully registered bond in the principal amount of not exceeding \$5,000,000. The Series 2017 Bonds shall be numbered and lettered in such a fashion as to maintain a proper record thereof.

(c) The principal of and redemption premium, if any, and interest on the Series 2017 Bonds shall be payable at the corporate trust office of the Paying Agent in East Syracuse, New York, or such other location as the Paying Agent determines. Such payment shall be made to the Purchaser or subsequent Holders as of the immediately preceding Record Date by the Paying Agent by check or draft drawn mailed by first-class mail to the persons in whose names such Series 2017 Bonds are registered, at the addresses appearing upon the Books of Registry on the Record Date; provided, however, that interest may be paid by wire transfer to an account within the continental United States to any Bondholder owning at least \$1,000,000 aggregate principal amount of the Series 2017 Bonds to the address designated by such Bondholder upon timely request of such Bondholder delivered at or prior to the Record Date for such payment. All such payments shall be made in lawful money of the United States of America. Payment of the principal of and interest on the Series 2017 Bonds may be payable to the holder thereof without presentation and surrender of such Series 2017 Bonds; provided the Paying Agent assumes no liability to any person in the event that the holder should fail to return the Series 2017 Bonds to the Paying Agent after final payment, and no obligation will be imposed upon the Paying Agent to seek the return of the Series 2017 Bonds from the holder thereof.

(d) With the consent of the Purchaser, the Series 2017 Bonds may be sold or transferred by the initial Purchaser only to purchasers (“Qualified Investors”) who execute an investment letter deliver to the City, in form satisfactory to the City (the “Investment Letter”), containing certain representations, warranties and covenants as to the suitability of such purchasers to purchase and hold the Series 2017 Bonds. Such restriction shall be set forth on the face of the Series 2017 Bonds and shall be complied with by each transferee of the Series 2017 Bonds.

(e) The Series 2017 Bonds shall be in substantially the form set forth in Exhibit A hereto, with such necessary or appropriate variations, omissions and insertions as are incidental to the issuance of the Series 2017 Bonds or as are otherwise permitted or required by law or by the Bond Ordinance of 2002. The Series 2017 Bonds shall be executed in the name and on behalf of the City by the manual or facsimile signatures of the Mayor (or in his absence, the Mayor Pro Tempore) and Clerk of the City.

(f) A copy of the approving opinion to be rendered on the Series 2017 Bonds shall be attached to the Series 2017 Bonds, preceding the same a certificate shall appear, which shall be signed on behalf of the City by a manual or facsimile signature of the Clerk of the City. Such certificate shall be in the form substantially as follows:

IT IS HEREBY CERTIFIED that the following is a true and correct copy of the approving opinion of McNair Law Firm, P.A., Greenville, South Carolina, the original of which was manually executed, dated and issued as of the date of the delivery of and payment for the within bond, and a copy of which is on file with the City of Spartanburg, South Carolina.

CITY OF SPARTANBURG, SOUTH CAROLINA

By: _____
Clerk

Section 5. Registrar and Paying Agent; Books of Registry. The Bank of New York Mellon Trust Company, N.A., is hereby designated as the Registrar and the Paying Agent of the Series 2017 Bonds. The City shall cause Books of Registry to be kept at the offices of the Registrar for the registration and transfer of the Series 2017 Bonds. Upon presentation at its office for such purpose the Registrar shall register or transfer, or cause to be registered or transferred, on such Books of Registry, the Series 2017 Bonds under such reasonable regulations as the Registrar may prescribe. The City, the Paying Agent and the Registrar may treat the Purchaser or subsequent Holder thereof as the sole and exclusive owner of the Series 2017 Bonds registered in its name for the purpose of payment of the principal of, and interest or premium, if any, on the Series 2017 Bonds, giving any notice permitted or required to be given to the Purchaser or subsequent Holder under the Bond Ordinance of 2002 or this Ordinance, registering the transfer of the Series 2017 Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever, and shall not be affected or by any notice to the contrary.

Section 6. Optional Redemption of Series 2017 Bonds. The Series 2017 Bonds shall be subject to prepayment or redemption as determined by the Mayor or City Manager pursuant to Section 7 hereof. In the event the Series 2017 Bonds are called for redemption, the Registrar shall give notice of redemption by first-class mail, postage prepaid, to the registered Holder thereof as shown on the Books of Registry of the City not less than five (5) Business Days or such period of time as the Mayor or City Manager determine prior to the date fixed for redemption thereof.

Section 7. Sale and Issuance of Series 2017 Bonds; Delegation of Certain Authority to the Mayor or City Manager. Without further authorization, the Council hereby authorizes the Mayor or City Manager to: (a) determine the original issue date of the Series 2017 Bonds; (b) determine the principal amount of the Series 2017 Bonds if less than the authorized amount; (c) determine the principal amount of each maturity of the Series 2017 Bonds; (d) determine the Interest Payment Date, and the initial Interest Payment Date; (e) determine the optional redemption date and terms of redemption for the Series 2017 Bonds; (f) negotiate the sale of the Series 2017 Bond directly with such bank(s) and/or other financial institution(s) as the Mayor or City Manager shall determine in their sole discretion, or approve the form of a Request for Proposals, Private Placement Offering Memorandum and/or other offering documentation or materials with respect to the Series 2017 Bonds and distribute such Request for Proposals, Private Placement Memorandum

and/or other offering documentation or materials to various banks and other financial institutions in the City and other areas as the Finance Director of the City determines; (g) determine the date and time for receipt of bids under a Request for Proposals, if applicable; (i) award the sale of the Series 2017 Bonds to the bidder providing the most advantageous proposal for the purchase thereof in accordance with the terms of a Request for Proposals, if applicable; (j) determine whether the 2017 Debt Service Reserve Fund will be established and funded and, if so, determine the amount of the 2017 Reserve Fund Requirement and the manner in which the 2017 Reserve Fund Requirement will be satisfied; (k) determine which maturities of the Bond to be Refunded will be refunded; and (l) determine whether the Series 2017 Bonds will be designated as “qualified tax exempt obligations” under Section 265(b)(3) of the Code. The determinations by the Mayor or City Manager shall be set forth in a certificate of the City delivered to the Trustee on or prior to the issuance of the Series 2017 Bonds.

Section 8. Pledge of Special Tax Allocation Fund and Franchise Fees. The Series 2017 Bonds, together with the interest thereon shall be payable from and secured by a pledge of the funds deposited, from time to time, in the funds and accounts created hereunder, including the Special Tax Allocation Fund continued by Section 10 hereof. Such Series 2017 Bonds shall be additionally secured by a pledge of Franchise Fees, as hereafter set forth. The Series 2017 Bonds, and the interest thereon, are special obligations of the City payable solely from the funds pledged therefor. The full faith, credit, and taxing powers of the City are not pledged for the payment of the Series 2017 Bonds and the interest thereon.

Section 9. Transfer of Franchise Fees to the Special Tax Allocation Fund. If sufficient Tax Revenues have not been deposited into the Special Tax Allocation Fund to make the payments required by Section 10 hereof and Section 9.2 of the Bond Ordinance of 2002 to be made at the next Interest Payment Date or Principal Payment Date, the City will transfer or cause to be transferred Franchise Fees to the Trustee with written instructions for allocation at the times specified in Section 10 hereof and Section 9.2 of the Bond Ordinance of 2002, the amounts sufficient to satisfy such requirements. Franchise Fees shall also be available to restore the 2017 Debt Service Reserve Fund, if established, to the 2017 Reserve Fund Requirement.

Section 10. Continuation of Special Tax Allocation Fund; Payments from Special Tax Allocation Fund. There is hereby continued the special fund of the City created by the Bond Ordinance of 2002, held by the Trustee and designated as the City of Spartanburg - Special Tax Allocation Fund. Tax Revenues shall continue to be deposited in the Special Tax Allocation Fund in the same manner provided for in Section 9.1 of the Bond Ordinance of 2002.

In accordance with Section 9.2(a) of the Bond Ordinance of 2002, there is hereby continued and maintained for the purpose of paying the interest on the Series 2017 Bonds as the same becomes due and payable an Interest Account in the Special Tax Allocation Fund. Further, in accordance with Section 9.2(b) of the Bond Ordinance of 2002, there is hereby continued and maintained for the purpose of paying the principal of the Series 2017 Bonds as they mature a Principal Account in the Special Tax Allocation Fund. For purposes of Section 9.2(b) of the Bond Ordinance of 2002, the Series 2017 Bonds shall be regarded as “Serial Bonds”.

In accordance with Section 9.2(a) and Section 9.2(b) of the Bond Ordinance of 2002, there is hereby continued and maintained the sub-accounts referenced therein within the Interest Account and Principal Account, respectively; provided, however, that Lease Rentals (as defined in the Bond Ordinance of 2002) are not pledged for payment of amounts due on the Series 2017 Bonds, and shall not be deposited into such sub-accounts.

Payments from the Special Tax Allocation Fund into the Interest Account and the Principal Account established in connection with the Series 2017 Bonds shall be made in accordance with the provisions of Section 9.2 of the Bond Ordinance of 2002.

Section 11. Establishment of the 2017 Reserve Fund Requirement and 2017 Debt Service Reserve Fund. In the event the successful Purchaser of the Series 2017 Bonds requires the funding of a debt service reserve fund and the Mayor or City Manager agree thereto, the 2017 Debt Service Reserve Fund shall be established and held by the Trustee. In accordance with Section 9.3 of the Bond Ordinance of 2002, the 2017 Debt Service Reserve Fund may be established with regard to the Series 2017 Bonds. In this connection, in accordance with Section 9.3 of the Bond Ordinance of 2002, the 2017 Debt Service Reserve Fund shall be satisfied by the City on the date of original delivery of the Series 2017 Bonds, and thereafter maintained at, the 2017 Reserve Fund Requirement, for the benefit of the Purchaser or subsequent Holders of the Series 2017 Bonds, all as provided in the Bond Ordinance of 2002; provided, however, that in the event of any partial defeasance of the Series 2017 Bonds under Article XVIII of the Bond Ordinance of 2002 or any partial payment of the Series 2017 Bonds, then the 2017 Debt Service Reserve Fund shall be recalculated by the City based on the then Outstanding principal amount of Series 2017 Bonds. The 2017 Reserve Fund Requirement may be funded with a portion of the proceeds of the Series 2017 Bonds or by the City with other available funds.

Section 12. Capital Projects Fund. The Capital Projects Fund established by Section 9.4 of the Bond Ordinance of 2002 shall be continued as long as the Series 2017 Bonds are Outstanding. After the payments required by Sections 10 and 11 hereof are made or provided for in each Bond Year, any balance remaining in the Special Tax Allocation Fund shall be transferred on or after October 2 of each year at the written direction of a City Representative to the Capital Projects Fund and applied to the payment of Redevelopment Project Costs. Withdrawals from the Capital Projects Account shall be made upon written certification by a City Representative.

Section 13. Incorporation of Certain Portions of the Bond Ordinance of 2002. Unless otherwise provided for in this Ordinance, the following provisions of the Bond Ordinance of 2002 shall be applicable to the Series 2017 Bonds and are made a part hereof for the benefit and security of the Purchaser and subsequent Holders of the Series 2017 Bonds from time to time, as though fully set forth herein, to wit: Article V (Registrar and Paying Agent); Section 6.2 (Selection of Bonds for Redemption); Section 6.3 (Notice of Redemption); Section 6.4 (Partial Redemption of Bond); Section 6.5 (Effect of Redemption); Section 6.6 (Cancellation); Section 7.1 (relating to the execution of Bonds); Article VIII (Security for and Payment of Bonds), provided, however, that Lease Rentals shall not be pledged for payment of the Series 2017 Bonds; Article IX (Special Tax Allocation Fund; Debt Service Reserve Fund; Capital Projects Fund); Article X (Determination of Assessed Value); Article XI (Additional Bonds; Junior Bonds); Article XII, Section (c) (Lien of Bonds); Article XII, Section (d) (To Pay Principal of and Interest on Bonds); Article XII, Section(e)

(Records, Accounts and Audits); Article XIII (Trustee); Article XVI (Events of Default); Article XVII (Remedies Upon Event of Default); Article XVIII (Defeasance); and Article XIX (Amendments or Supplements to this Ordinance). For purposes of this Ordinance, the term “Bonds” and “Additional Bonds” as used in any of the provisions of the Bond Ordinance of 2002 as incorporated herein and in any of the defined terms used in any such incorporated provisions shall mean and refer to the Bonds of 2002A, the Series 2017 Bonds and any Additional Bonds (as defined in the Bond Ordinance of 2002). In the event of any conflict between the provisions of this Ordinance and the provisions of the Bond Ordinance of 2002 incorporated herein, the provisions of this Ordinance shall prevail.

Section 14. Federal Tax Covenants. The City hereby covenants and agrees with the Purchaser or subsequent Holders of the Series 2017 Bonds that it will not take any action which will, or fail to take any action which failure will, cause interest on the Series 2017 Bonds to become includable in the gross income of the Purchaser or subsequent Bondholders for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original issuance of the Series 2017 Bonds and that no use of the proceeds of the Series 2017 Bonds shall be made which, if such use had been reasonably expected on the date of issue of the Series 2017 Bonds would have caused the Series 2017 Bonds to be "arbitrage bonds," as defined in the Code; and to that end the City hereby shall:

- (a) comply with the applicable provisions of Section 103 and Sections 141 through 150 of the Code and any regulations promulgated thereunder so long as the Series 2017 Bonds are Outstanding;
- (b) establish such funds, make such calculations and pay such amounts, if necessary, in the manner and at the times required in order to comply with the requirements of the Code relating to required rebate of certain amounts to the United States; and
- (c) make such reports of such information at the times and places required by the Code.

To the extent the Series 2017 Bonds are designated as “qualified tax exempt obligations” by the Mayor or City Manager pursuant to Section 7 hereof: (a) the City covenants that the City and all subordinate entities thereof do not anticipate issuing more than \$10,000,000 (or the applicable limitation in effect at the time of issuance of the Series 2017 Bonds) in tax-exempt bonds or other tax-exempt obligations in calendar year 2017 other than private activity bonds (other than private activity bonds which are "qualified 501(c)(3) bonds" as defined in the Code); and (b) the City represents that the sum of all tax-exempt obligations (other than such private activity bonds) issued by the City and all subordinate entities thereof during calendar year 2017 is not reasonably expected to exceed \$10,000,000 (or the applicable limitation in effect at the time of issuance of the Series 2017 Bonds).

The City Manager and the Finance Director of the City, or either of them acting alone, are hereby authorized to adopt written procedures to ensure the City’s compliance with federal tax matters relating to the Series 2017 Bonds.

Section 15. Filings with Central Repository. So long as and to the extent required pursuant to Section 11-1-85 of the Code of Laws of South Carolina 1976, as amended ("Section 11-1-85"), the City covenants that it will file with a central repository for availability in the secondary bond market when requested:

- (i) A copy of the annual audit of the City, within 30 days of the City's receipt of the audit; and
- (ii) Event-specific information within 30 days of an event adversely affecting more than 5% percent of Revenues or the City's tax base.

The only remedy for failure by the City to comply with the covenant of this Section 17 shall be an action for specific performance of this covenant; and failure to comply shall not constitute a default or an "Event of Default" under the Bond Ordinance of 2002 or this Ordinance. The Trustee shall have no responsibility to monitor the City's compliance with this covenant. The City specifically reserves the right to amend or delete this covenant in order to reflect any change in Section 11-1-85, without the consent of the Trustee, the Purchaser or subsequent Holders of any Series 2017 Bonds.

Section 16. Disposition of Proceeds of Series 2017 Bonds. The proceeds of the sale of the Series 2017 Bonds shall be deposited with the City, and applied when collected as follows:

(a) There shall be paid over to the Escrow Agent, for deposit under the Escrow Agreement authorized by Section 3 hereof, an amount which the Mayor or the City Manager determine to be required, together with other moneys of the City, to provide for the payment of the principal of, redemption premium and interest on the Bond to be Refunded upon the redemption thereof.

(b) There is hereby created the "Cost of Issuance Account for the Series 2017 Bonds" (hereinafter referred to and defined as the "Cost of Issuance Account"). The Cost of Issuance Account shall be held by a Custodian selected by the City. The moneys on deposit in the Cost of Issuance Account shall be used and applied to the payment of Cost of Issuance. Withdrawals from the Cost of Issuance Account shall be made in the manner withdrawals from other funds of the City are made. Moneys on deposit in the Cost of Issuance Account shall be invested upon direction of the City in Permitted Investments.

Section 17. Ordinance a Contract. So long as any Series 2017 Bonds are Outstanding, each of the obligations, duties, limitations and restraints imposed upon the City by this Ordinance shall be deemed to be a covenant between the City and each and every Holder of the Series 2017 Bonds, and this Ordinance and each and every provision and covenant hereof shall constitute a contract of the City with each and every Holder, from time to time, of the Series 2017 Bonds.

Section 18. Invalidity of Articles, Sections, Paragraphs, Clauses or Provisions. If any article, section, paragraph, clause or provision of this Ordinance is held invalid or unenforceable under any circumstances, such holding shall not affect the validity or enforceability thereof under other circumstances or the validity or enforceability of this Ordinance as a whole or of any other article, section, paragraph, clause or provision of this Ordinance.

Section 19. Repeal of Conflicting or Inconsistent Provisions of Ordinance. All orders, resolutions, ordinances and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the issuance of the Series 2017 Bonds are hereby repealed, to the extent of such conflict, and this Ordinance shall take effect and be in full force from and after its passage and approval.

Section 20. General Authorization. The Council hereby authorizes the Mayor, City Manager, City Clerk, and Finance Director of the City and City Attorney to execute such documents and instrument as necessary to effect the issuance of the Series 2017 Bonds and the refunding of the Bond to be Refunded.

Section 21. Notices. All communications under this Ordinance shall be in writing and shall be deemed given when delivered and, if delivered by mail, shall be mailed by first-class mail, postage prepaid, and addressed as follows:

(a) To the City:

City of Spartanburg
145 W. Broad Street
Spartanburg, South Carolina 29306
Attention: City Manager

(b) To the Registrar:

The Bank of New York Mellon Trust Company, N.A.
111 Sanders Creek Parkway
Easy Syracuse, New York 13057

(c) To the Paying Agent:

The Bank of New York Mellon Trust Company, N.A.
111 Sanders Creek Parkway
Easy Syracuse, New York 13057

(d) To the Trustee:

The Bank of New York Mellon Trust Company, N.A.
10161 Centurion Parkway
Jacksonville, Florida 32256
Attention: Sharon S. Setterlund

The City, the Registrar, the Paying Agent, and the Trustee may, by notice given to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 22. Instructions to Trustee. Each of the Registrar, the Paying Agent and the Trustee agrees to accept and act upon instructions or directions pursuant to this Ordinance sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Registrar, the Paying Agent and the Trustee, as applicable, shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the City elects to give the Registrar, the Paying Agent or the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Registrar, the Paying Agent and the Trustee, as applicable, in its discretion elects to act upon such instructions, the Registrar's, the Paying Agent's and the Trustee's understanding, as applicable, of such instructions shall be deemed controlling. The Registrar, the Paying Agent and the Trustee, as applicable, shall not be liable for any losses, costs or expenses arising directly or indirectly from the Registrar's, the Paying Agent's and the Trustee's, as applicable, reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The City agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Registrar, the Paying Agent and the Trustee, including without limitation the risk of the Registrar, the Paying Agent and the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 23. Filing of Ordinance. A certified copy of this Ordinance shall be filed with the Clerk of the County Council of Spartanburg County and Treasurer of Spartanburg County and such filing shall constitute the authority for the extension and collection of the taxes to be deposited in the Special Tax Allocation Fund.

Section 24. Effectiveness of Ordinance; Codification. This Ordinance shall be in full force and effect from and after its enactment as provided by law. This Ordinance shall be forthwith indexed by title and a summary thereof codified in the Code of City Ordinances in the manner required by law and shall be indexed under the general heading "Bond Issue – not exceeding \$5,000,000 Tax Increment Refunding Bonds (Saint John-Daniel Morgan Redevelopment Project Area), Series 2017," and shall be made available for public inspection at the office of the Clerk of the City.

Section 25. Alteration of Boundaries to the Redevelopment Project Area. Provided such action is conducted in compliance with the provisions of the Act in effect at such time, the City may at any time remove Spartanburg County Tax Map No. 7-12-06-084.00 from the Redevelopment Project Area without the necessity of obtaining the consent of the Trustee or the Purchaser (or other holder) of the Series 2017 Bonds. Further, provided such action is conducted in compliance with the provisions of the Act in effect at such time, the City may at any time alter the boundaries of the Redevelopment Project Area and general land uses established by the

Redevelopment Plan without the necessity of obtaining the consent of the Trustee or the Purchaser (or other holder) of the Series 2017 Bonds subject to both of the following conditions:

(a) The Council must enact and deliver to the Trustee a certified copy of an ordinance approving the aforesaid changes in accordance with the provisions of the Act; and

(b) Any alteration of the boundaries of the Redevelopment Project Area shall not result in a reduction of the total current equalized assessed valuation immediately prior to such deletion. The City Manager shall file an executed copy of a certificate setting forth such matter with the Trustee.

[Signature page follows]

Enacted by the City Council of the City of Spartanburg, South Carolina, this 28th day of November, 2016.

CITY OF SPARTANBURG, SOUTH CAROLINA

Mayor

(SEAL)

ATTEST:

Clerk

First Reading: November 14, 2016

Second Reading: November 28, 2016

This Ordinance has been reviewed by me and is hereby approved as to form and legality.

City Attorney, City of Spartanburg, South Carolina

[Signature page]

EXHIBIT A

FORM OF SERIES 2017 BONDS

TRANSFER RESTRICTED

THIS BOND MAY BE SOLD OR TRANSFERRED IN WHOLE OR IN PART ONLY TO A PURCHASER OR TRANSFEREE CONSTITUTING A QUALIFIED INVESTOR (AS SUCH TERM IS DEFINED IN THE HEREAFTER DEFINED ORDINANCE UNDER WHICH THIS BOND IS ISSUED), AND ONLY UPON SUCH QUALIFIED INVESTOR DELIVERING TO THE CITY AN INVESTMENT LETTER IN THE FORM REQUIRED UNDER THE ORDINANCE.

**UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
CITY OF SPARTANBURG
TAX INCREMENT REFUNDING BOND
(SAINT JOHN-DANIEL MORGAN REDEVELOPMENT PROJECT AREA)
SERIES 2017**

The City of Spartanburg, South Carolina (the "City"), is justly indebted and, for value received, hereby promises to pay to _____ (the "Purchaser"), its successors or registered assigns, but solely from the special sources hereinafter mentioned and not otherwise, the principal amount of \$ _____ together with interest, but solely from the special sources hereinafter mentioned and not otherwise, on the outstanding principal balance hereof at the rate of ____% per annum (the "Interest Rate") until this Bond matures. This Bond is payable in annual installments on April 1 in each of the years and in the principal amounts as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>

Interest on the unpaid principal balance of this Bond is payable on April 1 of each year commencing _____. Interest on this Bond shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

THIS BOND AND THE SERIES OF BONDS OF WHICH IT IS ONE AND THE INTEREST THEREON ARE SPECIAL OBLIGATIONS OF THE CITY PAYABLE SOLELY FROM, AND SECURED EQUALLY AND RATABLY BY A PLEDGE OF THE FUNDS IN AND TO BE DEPOSITED IN A SPECIAL TAX ALLOCATION FUND CREATED PURSUANT TO THE ACT AND SUCH OTHER FUNDS ESTABLISHED UNDER THE ORDINANCE. THIS BOND AND THE SERIES OF BONDS OF WHICH IT IS ONE ARE ALSO PAYABLE FROM AND SECURED BY A PLEDGE OF FRANCHISE FEES (AS DEFINED IN THE ORDINANCE) AS MAY BE AVAILABLE FROM TIME TO TIME. THE FRANCHISE FEES MAY ALSO BE PLEDGED BY THE CITY TO SECURE OTHER OBLIGATIONS (AS DEFINED IN THE ORDINANCE) IN THE MANNER AND SUBJECT TO THE LIMITATIONS SET FORTH IN THE ORDINANCE. THE FULL FAITH, CREDIT AND TAXING POWERS OF THE CITY ARE NOT PLEDGED FOR THE PAYMENT OF THIS BOND AND THE INTEREST HEREON.

This Bond shall not be entitled to any benefit under the Bond Ordinance (hereinafter defined), nor become valid or obligatory for any purpose, until the certificate of authentication herein shall have been duly executed by the Registrar.

Both the principal of and interest on this Bond are payable at the principal office of The Bank of New York Mellon Trust Company, N.A., in East Syracuse, New York, without presentation and surrender of this Bond, in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts; provided, however, the Holder agrees to surrender this Bond on or within a reasonable time after final payment or its final maturity, and provided further that The Bank of New York Mellon Trust Company, N.A. assumes no liability to any person in the event that the Holder should fail to return this Bond to The Bank of New York Mellon Trust Company, N.A. upon maturity or after final payment and any such liability shall be borne by the Holder and no obligation will be imposed upon The Bank of New York Mellon Trust Company, N.A. to seek the return of this Bond from the Holder.

This Bond is issued by the City for the purpose of refunding certain outstanding tax increment bonds and paying costs of issuance. This Bond is issued pursuant to and in accordance with the Constitution and laws of the State of South Carolina, including Article X, Section 14, of the Constitution of the State of South Carolina, 1895, as amended; Title 31, Chapter 6, Code of Laws of South Carolina 1976, as amended (the "Act"); an Ordinance of the City enacted on April 8, 2002 (the "Bond Ordinance of 2002"), and an Ordinance duly enacted November 28, 2016 (together with the Bond Ordinance of 2002, the "Bond Ordinance"), by the Council of the City.

Additional Bonds (as defined in the Bond Ordinance of 2002) on a parity with this Series 2017 Bond may hereafter be issued under terms and conditions set forth in the Bond Ordinance of 2002. Such Additional Bonds shall be equally and ratably secured with the pledge of the Tax Revenues (as defined in the Bond Ordinance) and Franchise Fees.

The Bond Ordinance contains provisions defining terms; sets forth the moneys, funds and revenues pledged for the payment of the principal of and interest on this Bond, the Series of which this Bond is one, and the Bonds of other Series which may hereafter be issued on a parity herewith under the Bond Ordinance; sets forth the nature, extent and manner of enforcement of the security

of this Bond and of such pledge, and the rights and remedies of the holder hereof with respect thereto; sets forth the terms and conditions upon which this Bond is issued and upon which other bonds may be hereafter issued payable as to principal, premium, if any, and interest on a parity with this Bond and equally and ratably secured herewith; sets forth the rights, duties and obligations of the City thereunder; and sets forth the terms and conditions upon which the pledge made in the Bond Ordinance for the security of this Bond and upon which the covenants, agreements and other obligations of the City made therein may be discharged at or prior to the maturity or redemption of this Bond with provision for the payment thereof in the manner set forth in the Bond Ordinance. Reference is hereby made to the Bond Ordinance, to all of the provisions of which any holder of this Bond by the acceptance hereof thereby assents. The provisions of the Act and the Bond Ordinance shall be a contract with the holder of this Bond.

The principal amounts of this Bond maturing on or before _____, are not subject to redemption prior to their stated maturity. The principal amounts of this Bond maturing on and after _____, are subject to prepayment or redemption at the option of the City on and after _____, as a whole at any time at the principal amount thereof and interest accrued on such principal amount to be redeemed to the date fixed for redemption, without payment of any premium or penalty. In the event this Bond is called for redemption, the Registrar shall give notice of redemption by first-class mail, postage prepaid, to the registered owner thereof as shown on the Books of Registry of the City not less than five (5) Business days prior to the date fixed for redemption thereof.

This Bond is transferable as provided in the Bond Ordinance, only upon the books of the City kept for that purpose at the principal office of the Registrar by the registered holder in person or by his duly authorized attorney upon surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered holder or his duly authorized attorney. Thereupon a new fully registered Bond or Bonds of the same aggregate principal amount, interest rate, and maturity shall be issued to the transferee in exchange therefor as provided in the Bond Ordinance. The City, the Registrar and the Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

Under the laws of the State of South Carolina, this Bond and the income therefrom are exempt from all State, county, municipal, school district and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State of South Carolina to exist, to happen and to be performed precedent to or in the issuance of this Bond exist, have happened and have been performed in regular and due time, form and manner as required by law; that the Series of Bonds of which this Bond is a part does not exceed any constitutional or statutory limitation of indebtedness; and that provision has been made for the payment of the principal of and interest on this Bond and the Series of which it is a part, as provided in the Bond Ordinance.

IN WITNESS WHEREOF, the City of Spartanburg, South Carolina, has caused this bond to be executed as of the ___ day of _____, 2017, in its name by the manual/facsimile signature of the Mayor of the City and attested by the manual/facsimile signature of the Clerk of the City under the seal of the City impressed, imprinted or reproduced hereon.

CITY OF SPARTANBURG,
SOUTH CAROLINA

By: _____
Mayor

(SEAL)

ATTEST:

Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Bond described in the within mentioned Bond Ordinance of the City of Spartanburg, South Carolina, and has been registered in the name of _____ in _____, _____ on the registration books kept by The Bank of New York Mellon Trust Company, N.A., as Registrar.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., Registrar

By: _____
Authorized Signatory

Date of Authentication:
_____, 2017



REQUEST FOR COUNCIL ACTION

TO: Spartanburg City Council

FROM: Chris Story, Assistant City Manager

SUBJECT: SC Abandoned Building Tax Credit Certification for 121 Dunbar St.

DATE: November 10, 2016

Dunbar Street Partners, LLC is renovating 121 Dunbar Street (Parcel # 7-12-21-009.00) to become the home of the new Pokerritto Restaurant. The project will be a positive addition to the Morgan Square area. The attached resolution certifies the building's eligibility for SC Abandoned Building Tax Credits. This has no effect on local revenues.

We recommend your approval and welcome any questions you may have.

RESOLUTION

CERTIFYING ONE (1) UNIT AS AN ABANDONED BUILDING SITE PURSUANT TO THE SOUTH CAROLINA ABANDONED BUILDINGS REVITALIZATION ACT, TITLE 12, CHAPTER 67, SECTION 12-67-100 ET SEQ., OF THE SOUTH CAROLINA CODE OF LAWS (1976), AS AMENDED, REGARDING THE PROPERTY LOCATED AT 121 DUNBAR STREET, SPARTANBURG COUNTY TMS # 7-12-21-009.00.

WHEREAS, the South Carolina Abandoned Buildings Revitalization Act (the “Act”) was enacted in Title 12, Chapter 67 of the South Carolina Code of Laws (1976), as amended, to create an incentive for the rehabilitation, renovation and redevelopment of abandoned buildings located in South Carolina; and

WHEREAS, the Act provides that restoration of abandoned buildings into productive assets for the communities in which they are located serves a public and corporate purpose and results in job opportunities; and

WHEREAS, Section 12-67-140 of the Act provides that a taxpayer who rehabilitates an abandoned building is eligible either for a credit against certain income taxes, license fees or premium taxes, or a credit against local property taxes; and

WHEREAS, Dunbar Street Partners, LLC is or will be the owner and developer of certain real property located at 121 Dunbar Street, Spartanburg County (the “Property”) and is identified by the Spartanburg County Tax Map Number 7-12-21-009.00; and

WHEREAS, the Property is located within the city limits of Spartanburg, South Carolina; and

WHEREAS, Dunbar Street Partners, LLC, also known as the “Taxpayer,” has requested that the City certify that the Property is eligible as an abandoned building site as defined by Section 12-67-120.

NOW, THEREFORE, BE IT RESOLVED By the Mayor and Members of Council of the City of Spartanburg, in Council assembled:

Section 1. The Taxpayer has submitted to the City a request to certify that the abandoned building site was an abandoned building as defined in Section 12-67-120(1) and that the geographic area of the abandoned building site is consistent with Section 12-67-120(2), pursuant to Section 12-67-160 of the Act (the “Request to Certify”).

Section 2. The City has reviewed the Request to Certify and supporting documentation, conferred with the Taxpayer, and conducted its own review of the Property.

Section 3. The City hereby authorizes the Taxpayer to seek state credits as defined in Section 12-67-140 (A) (1).

Section 4. The City hereby certifies that (i) the abandoned building site was an abandoned building as defined by Section 12-67-120(1) of the Act, and (ii) the geographic area of the abandoned building site is consistent with Section 12-67-120(2) of the Act.

Section 5. This Resolution shall become effective immediately upon its enactment.

DONE AND RATIFIED this _____ day of _____, 2016.

Junie L. White, Mayor.

ATTEST:

Connie S. McIntyre, City Clerk.



REQUEST FOR COUNCIL ACTION

TO: Spartanburg City Council
FROM: Chris Story, Assistant City Manager
SUBJECT: Development Agreement – 589 E. Main Street
DATE: November 10, 2016

589 East Main Street, LLC is planning to perform a full historic restoration and renovation to 589 E. Main Street, known by many as the Converse College Alumnae House or Cleveland House. The property will be converted into market rate apartments. We believe this is an appropriate reuse for this prominent structure which will be complementary to its surroundings. Its renovation will be in full compliance with historic standards as supervised by the SC State Historic Preservation Office.

The property is currently not taxable. This repurposing will add it to the tax rolls. The attached development agreement provides for the property to benefit from Special Assessment for Rehabilitated Historic Property. We recommend your approval and welcome any questions you may have.

COUNTY OF SPARTANBURG) DEVELOPMENT AGREEMENT
) BETWEEN
) THE CITY OF SPARTANBURG,
) AND
STATE OF SOUTH CAROLINA) 589 EAST MAIN STREET, LLC

WHEREAS, the City of Spartanburg (the “City”) has determined it is in its best interest to encourage private investment by providing incentives that have included, but are not limited to, discounted land sales, façade renovation grants, residential development grants, special assessments, and funding of public improvements; and

WHEREAS, the City has provided incentives to projects that provide significant benefit and leveraging of public resources and which are likely to create additional jobs and generate revenues for the City; and

WHEREAS, 589 EAST MAIN STREET, LLC, a South Carolina limited liability company (the “Developer”), and its affiliates, are prepared to renovate a prominent structure for positive reuse; and

WHEREAS, Developer is purchasing 589 East Main Street and proposes to completely renovate the structure; and

WHEREAS, 589 East Main Street is a prominent local landmark of strategic importance to the positive development of Spartanburg; and

WHEREAS, SC State Code provides a mechanism for local governments to offer a Special Assessment for Rehabilitated Historic Properties to provide tax incentives for those undertaking projects of this nature.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the Developer and the City in consideration of the promises and the mutual covenants and agreements herein contained do hereby agree to the following:

Developer Commitments:

1. To fully renovate the 589 East Main Street building expending a minimum of \$3 million on the project (the “Project”) as an apartment project.
2. To engage properly licensed contractor(s) and/or subcontractor(s) to make the interior and exterior improvements as stated above.
3. To meet all typical and customary City permitting (Zoning, Building Inspections, and Business License) requirements. Nothing in this Agreement relieves the Property Owner from complying with all other City Ordinances, statutes, laws, or regulations that pertain to the construction of the Project.

City Commitments:

1. To certify by resolution that 589 East Main Street qualifies for the South Carolina Abandoned Buildings Revitalization Act.
2. Take necessary steps to ensure the project benefits from a Special Assessment for Rehabilitated Historic Property for a period of five (5) years.
3. To, within the fourth year of the special assessment period, take necessary steps to authorize the continuation of the special assessment for an additional five (5) years, bringing the total special assessment period to ten (10) years if the following conditions are met:
 - a. The Developer has maintained ownership of the Project
 - b. The Project is well maintained and well managed.
 - c. The Developer has committed to and commenced construction or renovation on a second, unrelated real estate investment of \$2 million or more within the limits of the City of Spartanburg.

General Conditions

1. **Invalidity.** Should any of the provisions of this Agreement held invalid in whole or in part, it shall not affect or invalidate the balance of such provision or any other provisions.
2. **Amendments.** This Agreement may not be amended, modified or changed, except by an instrument in writing and signed by all the parties.
3. **Entire Agreement.** This Agreement contains the sole and entire understanding between the parties, and all other promises, inducements, offers, solicitations, agreements, representations and warranties heretofore made between the parties, if any, are merged into this Agreement.
4. **Notices.** All, notices, requests, demands, or other communications required or permitted to be given hereunder shall be in writing and shall be addressed and delivered by hand or by certified mail, return receipt requested, or by overnight courier, or by fax, with evidence of delivery, to each party at the addresses set forth below. Any such notice, request, demand or other communication shall be considered given or delivered, as the case may be, on the date of delivery. Rejection or other refusal to accept or inability to deliver because of changed address of which proper notice was not given shall be deemed to be receipt of the notice, request, demand or other communication. By giving prior written notice thereof, any party, from time to time, may change its address for notices hereunder.
5. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same agreement.

6. **Successor and Assigns; Termination.** This Agreement shall be binding on the parties hereto, their heirs, successors and assigns. This Agreement may only be terminated with the consent of all parties hereto.
7. **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.
8. **No Continuing Waiver.** The waiver of any party of any breach of this Agreement shall not operate or be construed to be a waiver of any subsequent breach.

IN WITNESS WHEREOF, the parties to this Agreement have hereunto set their hands and seals and executed this Agreement this ____ day of _____, 2016.

IN THE PRESENCE OF:

589 EAST MAIN STREET, LLC

By: _____

Joe Lauer

Its: Principal

CITY OF SPARTANBURG

By: _____

Ed Memmott

Its: City Manager

ATTEST:

By: _____

Connie McIntyre

Its: City Clerk

APPROVED AS TO FORM:

By: _____

Cathy H. McCabe

City Attorney