



CITY OF SPARTANBURG

SOUTH CAROLINA

CITY COUNCIL AGENDA

City Council Meeting
Dr. TK Gregg Community Center Gym
650 Howard Street
Spartanburg, SC
Monday, October 12, 2020
5:30 p.m.

- I. **Moment of Silence**
- II. **Pledge of Allegiance**
- III. **Approval of the Minutes from the September 28, 2020 City Council Meeting**
- IV. **Approval of the Agenda for the October 12, 2020 City Council Meeting**
- V. **Public Comment**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. **Special Presentation**
Presenter: Mitch Kennedy, Assistant City Manager
- VII. **Special Presentation – Citizen Academy Graduates**
Presenter: Mayor White
Kathy Hill, Citizen Academy Coordinator
- VIII. **Emergency Ordinance Extension**
 - A. **Extension of the Emergency Ordinance Passed by City Council on June 26, 2020 Requiring Individuals to Wear Face Coverings in Certain Circumstances, and Matters Related Thereto (One Reading)**
Presenter: Robert P. Coler, City Attorney
- IX. **Comprehensive Plan Update**
Presenter: Martin Livingston, Neighborhood Services Director
- X. **Approval of 2021 City Council Meeting Schedule**
Presenter: Connie Kellner, City Clerk
- XI. **Staff Covid19 Update**
Presenter: Chris Story, City Manager

XII. City Council Updates

XIII. Executive Session

A. Executive Session Pursuant to Section 30-4-70 (a) (5) of the South Carolina Code to Discuss Matters Relating to an Economic Development Project

**XIV. Ordinance Authorizing City Manager to Execute a Development Agreement with Drayton Holdings, LLC for Apartment Development (First Reading)
Presenter: Chris Story, City Manager**

XV. 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
Dr. TK Gregg Community Center Gym
650 Howard Street
Spartanburg, SC
Monday, September 28, 2020
5:30 p.m.**

**(These minutes are subject to approval at
the October 12, 2020 City Council meeting.)**

City Council met this date with the following Councilmembers present: Mayor White, Mayor pro tem Ruth Littlejohn, Councilmembers Erica Brown, Jerome Rice, Meghan Smith, Jamie Fulmer and Rob Rain. City Manager Chris Story and City Attorney Robert Coler 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 from the September 14, 2020 City Council Meeting –**
Councilmember Rice made a motion to approve the minutes as received. Mayor pro tem Littlejohn seconded the motion, which carried unanimously 7 to 0.
- IV. Approval of the Agenda for the September 28, 2020 City Council Meeting –**
City Attorney Coler addressed the Mayor and Council asking that the agenda be amended to include a proclamation declaring October 6, 2020 as “National Night Out and Lights on at Home in Spartanburg”.
Councilmember Erica Brown made a motion to approve the agenda as amended. Councilmember Fulmer seconded the motion, which carried unanimously 7 to 0.
- V. Public Comment**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
1. Allen Smith, 625 Poplar St., Spartanburg, SC spoke supporting Item X. “Healing, Reconciling, and Unity. A Pathway to a More Equitable Spartanburg” resolution on the agenda for the meeting.
- VI. Special Presentation**
Presenter: Mitch Kennedy, Assistant City Manager
Mr. Kennedy introduced Amanda Taylor, Regional Director for AT&T, for the presentation of a check in the amount of \$15,000 to be used as an intentional investment to structured programs for housing and food insecurities to be administered at the Dr. T.K. Gregg Community Center.

Ms. Taylor presented the check to Bill Barnet, Chairman of the Board for Northside Development Group. Mr. Barnet accepted the check with great appreciation to AT&T for its investment in the people and programs of Spartanburg.

Council received the presentation as information.

VII. Economic Recovery Data

**Presenter: Kathrine O’Neill, Chief Economic Development Officer
OneSpartanburg, Inc.**

Ms. O’Neill presented Council with encouraging data as it related to business recovery during COVID19.

Council received the report as information.

VIII. Consent Agenda

**A. ORDINANCE ACCEPTING THE PROPERTY OWNED BY MARK III PROPERTIES, LLC, AND NVR INC. BEING LOCATED AT THE INTERSECTION OF CEDAR SPRINGS ROAD AND OLIVIA SPRINGS DRIVE, AND THAT PORTION OF CEDAR SPRINGS ROAD AND OLIVIA SPRINGS DRIVE ABUTTING SAID PROPERTIES, AND IS FURTHER IDENTIFIED ON SPARTANBURG COUNTY TAX MAP AS: 7-21-00; 025.01, 025.02, 025.03, 025.04, 025.05, 025.06, 025.07, 025.08, 025.09, 025.10, 025.11, 025.12, 025.13, 025.14, 025.15, 025.16, 025.17, 025.18, 025.19, & 025.20 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
(Second Reading)**

Presenter: Martin Livingston, Neighborhood Services Director
Mayor pro tem Littlejohn made a motion to approve the consent agenda on second reading. Councilmember Rice seconded the motion, which carried unanimously 7 to 0.

IX. Boards and Commissions - Recommendation of Council Interview Committee to Fill Spartanburg Housing Authority Vacancy

Presenter: Councilmember Jerome Rice

Councilmember Rice reported that the Interview Committee held Zoom interviews with both candidates. After the interviews, the Committee chose to recommend Drake Jackson to full Council to fill the vacancy on the Spartanburg Housing Authority.

Councilmember Rice made a motion to appoint Drake Jackson to fill the vacancy on the Spartanburg Housing Authority. Councilmember Fulmer seconded the motion, which carried unanimously 7 to 0.

X. Resolutions

A. Healing, Reconciling, and Unity. A Pathway to a More Equitable Spartanburg

Presenter: Robert P. Coler, City Attorney

Mr. Coler presented the item to Council as follows:

“The City Council of Spartanburg recognizes that communities of color have borne the burdens of inequitable social, environmental, economic, and criminal justice policies, practices, and investments. Consistent with its deep resolve to promote equity, inclusion, and diversity in all aspects of city government, City Council desires to make a formal statement regarding its demonstrated efforts to further the aforementioned principles, unequivocally reject racism and racial inequities, commit to creating a community where all are welcome and treated with respect, fairness, trust and empathy, and to pursue meaningful paths to a future of hope for all.

ACTION REQUESTED: City Council to approve the attached resolution titled “Healing, Reconciling, and Unity. A Pathway to a More Equitable Spartanburg.”

After the Mayor and each Councilmember read a portion of the resolution, Councilmember Rice made a motion to approve the resolution as presented.

Councilmember Smith seconded the motion, which carried unanimously 7 to 0.

XI. Staff Covid19 Update

Presenter: Chris Story, City Manager

Mr. Story updated Council on the COVID19 cases and quarantines associated with city staff. He reiterated that staff continued to use all proactive measures to keep employees as safe as possible during the pandemic.

Council received the report as information.

XII. City Council Updates - Each Councilmember gave updates on their activities since the previous council meeting.

XIII. Executive Sessions

A. Executive Session Pursuant to Section 30-40-70 (a) (2) of the South Carolina Code to Receive Legal Advice

B. Executive Session Pursuant to Section 30-4-70 (a) (5) of the South Carolina Code to Discuss Matters Relating to an Economic Development Project

Mayor pro tem Littlejohn made a motion to adjourn to Execution Sessions for the reasons stated. Councilmember Rice seconded the motion, which carried unanimously 7 to 0. Council adjourned to Executive Sessions at 6:39 p.m.

Council reconvened to regular session at 7:13 p.m. Mayor White stated that discussion was held with no decisions made.

XIV. Resolution

A. To Authorize a Purchase Option Agreement Extension for Land Owned by the City of Spartanburg

Presenter: Chris Story, City Manager

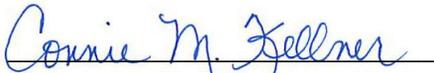
Mr. Story presented the item to Council as follows:

“As you know, the City owns two undeveloped parcels on the west side of N. Liberty Street behind the George and the Marriott. Those parcels are currently subject to a complex option agreement with Jimmy Gibbs that enables his company to acquire and develop the properties under certain conditions. His option on one of the parcels (the location of the proposed office building) is soon to expire. The enclosed proposed action would authorize me to extend the construction start deadline on Parcel A only by six months. Their team has continued to actively pursue this project. We believe that this extension is necessary and appropriate. We remain optimistic about the success of the project.”

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

Mayor pro tem Littlejohn seconded the motion, which carried unanimously 7 to 0.

XV. Adjournment – Councilmember Rice made a motion to adjourn the meeting. Mayor pro tem Littlejohn seconded the motion, which carried unanimously 7 to 0. The meeting adjourned at 7:22 p.m.


Connie M. Kellner, City Clerk



REQUEST FOR CITY COUNCIL ACTION

TO: Chris Story, Manager

FROM: Robert Coler, Attorney

SUBJECT: Extending the Emergency Ordinance requiring individuals to wear face coverings in certain circumstances, and matters related thereto.

DATE: October 7, 2020

BACKGROUND: City Council met on June 26, 2020 to enact an emergency ordinance requiring individuals to wear face coverings in a grocery store, pharmacy, restaurants, retail stores, salons, barber shops, and grocery stores. The ordinance also outlined that all persons entering City Hall, the Police Department, the Fire Department, the Community Services Building, the Public Works building, the Sparta Passenger Center, and all City buses are required to wear a mask. Per the South Carolina Department of Health and Environmental Control as of October 7, 2020 the trend in incidence rate of Covid 19 in Spartanburg County is decreasing. In order to protect, preserve and promote the general health, safety, and welfare and the peace and order of the Community, the City wants to continue to take steps to try to protect the citizens and employees of the City from increased risk of exposure by continuing to require face mask in certain circumstances.

ACTION REQUESTED: City Council to approve the ordinance extending the requirement of mask wearing in the aforementioned places beginning October 13, 2020 and expiring automatically on the 61st day after enactment.

BUDGET AND FINANCIAL DATA:

AN EMERGENCY ORDINANCE

REQUIRING INDIVIDUALS TO WEAR FACE COVERINGS IN CERTAIN CIRCUMSTANCES, AND MATTERS RELATED THERETO

WHEREAS, it is well recognized that SARS-CoV-2 the virus that causes the disease COVID-19 is presents a public health concern that requires extraordinary protective measures and vigilance; and

WHEREAS, on March 11, 2020, the World Health Organization declared a world-wide pandemic; and

WHEREAS, on March 13, 2020, the President of the United States has declared a National Emergency for the United States and its territories in an effort to reduce the spread of the virus; and

WHEREAS, on March 13, 2020, the Governor of the State of South Carolina Henry McMaster has declared a state of emergency for the State of South Carolina; and

WHEREAS, S.C. Code Ann. § 5-7-250 empowers Council to enact emergency ordinances affecting life, health, safety, or property; and

WHEREAS, COVID-19 has spread across the state with the South Carolina Department of Health and Environmental Control (“SCDHEC”) confirming the localized person-to-person spread of COVID-19 in South Carolina, which indicates a significantly risk of exposure and infection and creating an extreme public health risk; and

WHEREAS, as of October 7, 2020, the total number of confirmed cases in the South Carolina is approximately 147,800 and the number of confirmed deaths is 3,275. The number of confirmed cases in Spartanburg County is 7,037; and

WHEREAS, the number of cases is growing rapidly and if COVID-19 continues to spread in the City, the number of persons relying on medical, pharmaceutical, and general cleaning supplies will increase, the private and public sector work force will be negatively impacted by absenteeism, and the demand for medical facilities may exceed locally available resources; and

WHEREAS, it is vitally important that we all work together to decrease the widespread proliferation of COVID-19 among us all now rather than suffer the unfortunate and devastating consequences later; and

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) and SCDHEC advise the use of cloth face coverings to slow the spread of COVID-19; and

WHEREAS, taking measures to control outbreaks minimizes the risk to the public, maintains the health and safety of the City’s residents, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS, in order to protect, preserve, and promote the general health, safety and welfare and the peace and order of the community, the City is taking steps to try to protect the citizens and employees of the City from increased risk of exposure; and

WHEREAS, in light of the foregoing, City Council deems it proper and necessary to adopt this emergency ordinance in order to require (a) patrons of grocery stores and pharmacies to wear face coverings while inside the store in light of the fact these establishments sell essential goods such that individuals do not have a meaningful choice to decide not to shop there and (b) all employees of restaurants, bars, retail establishments, salons, grocery stores, and pharmacies to wear face coverings at any time there is face to face interaction with the public.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA:

1. All persons entering a grocery store or pharmacy in the City must wear a face covering while inside the establishment. For purposes of this ordinance, the term grocery store shall mean a retail establishment that primarily sells food, but may also sell other convenience and household goods; the term does not include a convenience store. The business shall not have responsibility for enforcing this requirement, but shall post conspicuous signage at all entrances informing its patrons of the requirements of this section.
2. All restaurants, retail stores, salons, barber shops, grocery stores, and pharmacies in the City must require their employees to wear a face covering at all times while having face to face interaction with the public.
3. Any person who is unable to safely wear a face covering due to age, an underlying health condition, or is unable to remove the face covering without the assistance of others is exempt from this ordinance. Furthermore, any person whose religious beliefs prevent them from wearing a mask or any person complying with the directions of law enforcement officers are exempt from this ordinance.
4. During the term of this emergency ordinance, any ordinance, resolution, policy, or bylaw of the City that conflicts with the provisions hereof shall be and is hereby suspended and superseded.
5. A person who fails to comply with Section 1 of this ordinance shall be guilty of a civil infraction, punishable by a fine of not more than \$25.00.
6. A person who fails to comply with Section 2 of this ordinance shall be guilty of a civil infraction, punishable by a fine of not more than \$100.00. Each day of a continuing violation of this ordinance shall be considered a separate and distinct offense. In addition to the fines established by this section, repeated violations of this ordinance by a person who owns, manages, operates or otherwise controls a business subject to this ordinance may, subject to all procedural protections set forth in the City Code, result in the suspension or revocation of any occupancy permit or business license issued to business where the repeated violations occurred. Repeated violations of this ordinance is additionally hereby declared to be a public nuisance, which may be abated by the City by restraining order, preliminary and permanent injunction, or other means provided for by the laws of this State. The foregoing notwithstanding, every effort shall be made to bring the business into voluntary compliance with the terms of this ordinance prior to the issuance of any citation. For the purposes of Section 2 of this ordinance, "person" shall be defined as any individual associated with the business who has the control or authority and ability to enforce the social distancing requirements of the ordinance within the business, such as an owner, manager or supervisor. "Person" may also include an employee or other designee that is present at the business

but does not have the title of manager, supervisor, etc. but has the authority and ability to ensure that the requirements of this ordinance are met while the business is open to the public.

7. Furthermore, Council recommends, but does not require, all persons entering all other public buildings or private buildings into which the public is invited, that are not included in Paragraph 1 above, wear a face covering while inside the establishment. Proprietors of such buildings are encouraged to adopt and enforce a policy of requiring face coverings for all employees and visitors to their respective buildings and to post conspicuous signage at all entrances.
8. City Council hereby directs the City Manager to exercise his inherent authority (herein after “City Manager’s Authority”) pursuant to Chapter 2, Article IV, Division 2 of the Code of Ordinances of the City of Spartanburg (herein after “City Code”) to require face coverings of all persons entering the common areas of all City operated facilities, including, but not limited to, City Hall, the Police Department, the Fire Department, the Community Services Building, the Public Works building, the Sparta Passenger Center, and all City buses.
9. City Council further directs the City Manager, pursuant to City Manager’s Authority, to identify and direct a city department or departments to establish and carry out a strategic plan of advising, educating, and collaborating with local business owners to implement and carry out Council’s requirements and recommendations stated herein.
10. City Council further directs the City Manager to report to Council on the community’s adherence to the recommendations stated herein and whether Council needs to consider a progressive step toward other mandatory face covering requirements.
11. Should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this ordinance as hereby adopted shall remain in full force and effect.
12. This emergency ordinance shall be effective at 12:01 p.m. on Tuesday, October 13, 2020 and shall be terminated by the issuance of another ordinance or shall automatically expire on the 61st day after enactment of this ordinance, whichever date is earlier.

DONE, RATIFIED AND PASSED THIS THE ____ DAY OF _____, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY



PLAN SPARTANBURG VISIONING WORKSHOP TO-GO

Plan Spartanburg has begun!

Plan Spartanburg is the City's Comprehensive Plan update process. You are invited to join the discussion about the City's goals for the future! This packet includes information and questions that will help us understand what YOU want for Spartanburg. Grab a pen, pencil, crayon or marker and start telling us about YOUR City's future! You can fill it out as an individual, as a family, or with a friend! Children and young adults should participate too!

The Visioning Workshop To-Go will run through November 30, 2020. Please drop completed packets off at any of the following locations or any place you see a PlanSpartanburg.com box! If you have questions or need someone to pick up your packet, please call (864) 596-2017.

City Hall
145 W. Broad Street

Northwest Community Center
701 Saxon Avenue

C.C. Woodson Recreation Center
210 Bomar Avenue

Pineview Hills Community Center
207 Fisher Avenue

T.K. Gregg Community Center
310 Oakland Ave

Make sure to visit PlanSpartanburg.com for more information about this project and other ways to get involved! Please feel free to take an extra packet or two for friends, family members, coworkers, neighbors, or anyone else who may be interested in this project. Photocopying is permitted, and additional packets can be downloaded at PlanSpartanburg.com/tell-us-what-you-think.

Name: _____ Phone: _____

Address: _____

Email: _____



SPARTANBURG

TODAY

Tell us about an issue Spartanburg is facing today, and how it affects you:

What will it take to fix the issue?



SPARTANBURG

TOMORROW

What is a challenge or opportunity that the city may face in the next 20 years?



How can Spartanburg address this challenge or embrace this opportunity?



TELL US ABOUT....

CONNECTIONS

How do you get around Spartanburg? Do you mostly:

- Walk
- Ride a Bike
- Ride a Scooter or Skateboard
- Get a ride from friends/family
- Drive a car
- Take a bus
- Taxi/Uber/Lyft
- Some other way

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Is it easy for you to get where you need to go in the City?

- Yes
- No

Why or why not?

.....

What could happen in the future to make it easier to get where you need to go?

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Draw a solid line between home and the places you go often. Write the method of transportation you use to get between those places.

Use the dashed line as a guide.



Draw a squiggly/wavy line between the places you would like to be able to go. Write the method of transportation you would like to be able to use.

TELL US ABOUT...

EQUITY



The City of Spartanburg has committed to making equity the foundational principle of Plan Spartanburg. But does that mean? Equity is defined uniquely in every community, but is typically achieved when all members of a community have the resources and opportunities that they need, regardless of gender, race, education, or other specific individual attributes.

In simple terms, equity means that EVERYONE should have the same quality of life, health, and safety; and EVERYONE should have access to housing, jobs, services and resources.

The Comprehensive Plan is an opportunity for the community to work together to address the ways in which inequity has impacted the people of Spartanburg. Help us understand what equity means to you, and how we can move towards a more equitable future together.

For more information, visit PlanSpartanburg.com/what-is-equity.

What does equity mean TO YOU? Do you feel that you have the same quality of life as other residents of Spartanburg? Why or why not?

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What are some ways to make the City a more equitable place for all people?

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TELL US WHAT'S MISSING

There's a lot to love about Spartanburg; from its parks to its schools and neighborhoods. But what's MISSING? As we plan for the future, is there something you'd like to have in your neighborhood? In your downtown? Think about types of future development, new buildings and businesses, events and organizations, or places to shop and eat. Draw a picture or write about what's MISSING from Spartanburg.

PUT YOURSELF IN ... SOMEONE ELSE'S SHOES

It's easy to think about what we want when it comes to Spartanburg's future. But sometimes it helps to put ourselves in someone else's shoes and think about the needs of others.

Think about someone that is different from you in one way or another.

They may be a different age or gender

a different income or education level...

a different race or ethnicity...

They may have different abilities or live in a different neighborhood.

Tell us about that person. They can be someone you know or someone you imagine has a life different from your own.



Tell us how that person's quality of life and experience living in Spartanburg may be different from yours.

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How can we make it better?

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The City of Spartanburg is working on a plan for the future. Lend us a “helping hand” by showing us what that means to you! You can draw, paint, or write your ideas inside the handprint. Drop your hand off at City Hall, submit it through the project website, or take a photo of this page and email it to PlanSpartanburg@cityofspartanburg.org.



For more information about the project and other opportunities for public input, visit PlanSpartanburg.com

**Deadline
November
30th 2020**

Name: _____

Phone: _____ **Email:** _____

Pre-School Elementary School Middle School High School Adult

Disclaimer: All submissions will become property of the City of Spartanburg and may be used on PlanSpartanburg.com or in the Plan Spartanburg Comprehensive Plan documents.

2021 City Council Meeting Schedule

January							February							March						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
					<input type="checkbox"/>	2		1	2	3	4	5	6		1	2	3	4	5	6
3	4	5	6	7	8	9	7	<input type="checkbox"/>	9	10	11	12	13	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11	12	13
10	<input type="checkbox"/>	12	13	14	15	16	14	<input type="checkbox"/>	16	17	18	19	20	14	15	16	17	18	19	20
17	<input type="checkbox"/>	19	20	21	22	23	21	<input type="checkbox"/>	23	24	25	26	27	21	<input type="checkbox"/>	23	24	25	26	27
24	<input type="checkbox"/>	26	27	28	29	30	28							28	29	30	31			
31																				

April							May							June						
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18	19	20	21	22	23	24	16	17	18	19	20	21	22	20	21	22	23	24	25	26
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							30	<input type="checkbox"/>												

July							August							September						
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11	<input type="checkbox"/>	13	14	15	16	17	15	16	17	18	19	20	21	12	<input type="checkbox"/>	14	15	16	17	18
18	19	20	21	22	23	24	22	<input type="checkbox"/>	24	25	26	27	28	19	20	21	22	23	24	25
25	<input type="checkbox"/>	27	28	29	30	31	29	30	31					26	<input type="checkbox"/>	28	29	30		

October							November							December						
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10	<input type="checkbox"/>	12	13	14	15	16	14	15	16	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12	<input type="checkbox"/>	14	15	16	17	18
17	18	19	20	21	22	23	21	<input type="checkbox"/>	23	24	<input type="checkbox"/>	<input type="checkbox"/>	27	19	20	21	22	23	<input type="checkbox"/>	25
24	<input type="checkbox"/>	26	27	28	29	30	28	29	30					26	<input type="checkbox"/>	28	29	30	<input type="checkbox"/>	
31																				

City Council Meetings – 2nd and 4th Monday of the month
 One meeting in December on 2nd Monday

City Hall Holidays – City Offices closed

Tentative dates for 2021 National League of Cities Conferences:

Congressional Cities Conference/Washington, DC - March 7-10, 2021

City Summit/Salt Lake City, Utah - November 17- 20, 2021



REQUEST FOR COUNCIL ACTION

TO: Spartanburg City Council

FROM: Chris Story, City Manager

SUBJECT: Ordinance Authorizing City Manager to Execute Development Agreement with Drayton Holdings, LLC for Apartment Development

DATE: October 8, 2020

Attached is a recommended ordinance authorizing a development agreement (also attached) that would enable the execution of a high quality 320-unit apartment development at 225 Milliken Street (across Drayton Road from Drayton Mill).

This project will help address housing demand and fuel continued growth on the eastside of the City. While the project is predominately market rate, the proposed agreement requires that ten percent of the apartments will be leased at below market rents to tenants with incomes at or below eighty percent of area median income.

The proposed annual fee-in-lieu of taxes on the property will escalate from approximately \$880,000 to over \$1,200,000 in ten years. The developer will invest a minimum of \$44 million.

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

AN ORDINANCE

TO ENTER INTO A DEVELOPMENT AGREEMENT WITH
DRAYTON HOLDINGS, LLC.

WHEREAS, the City has from time-to-time entered into public-private partnerships which have resulted in substantial private investment and furtherance of the City's community development and neighborhood revitalization objectives; and

WHEREAS, the City seeks to increase the availability of high-quality housing available to its low and moderate income residents; and

WHEREAS, the City now has the opportunity to advance the development of the Drayton Mills Community with new multi-family housing that is safe, energy efficient, and affordable by entering into this agreement with the Developer; and

WHEREAS, the City has determined that the provision of certain development incentives and establishing certain terms and conditions are necessary to secure the Developer commitment; and

WHEREAS, it is the purpose of a Development Agreement to clearly set forth the understanding and agreement of the parties concerning the matters contained herein; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA:

Section 1. City Council approves entering into a Development Agreement with Drayton Holdings, LLC. in substantially the same form as that Development Agreement, which is attached hereto and incorporated herein by reference as Exhibit 1 ("Agreement"). Minor changes and modifications to the Development Agreement and attached Lease are authorized as may be necessary or appropriate to allow for a final version mutually acceptable to the parties; said minor changes and modifications shall be approved by the City Manager and the City Attorney. Should the City Manager or City Attorney, or both, determine that any modification of previously negotiated terms is significant and warrants further action by Council, then the matter shall be presented to Council for further review and further action before the final execution, if Council so chooses.

Section 2. This Ordinance shall become effective on the second and final reading.

DONE, RATIFIED AND PASSED THIS THE _____ DAY OF _____, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

apartment projects in similar locations and has provided City with examples of other apartment projects it has developed. Information regarding these other projects is contained in Exhibit B, attached hereto and incorporated by reference. The examples contained in Exhibit B are representative of Project Developer's work and indicative of its emphasis on high quality urban design and construction. Project Developer acknowledges that its commitment regarding the Project's comparability to its other projects in Exhibit B are key considerations in the City's provision of development incentives to support the Project.

- d. *Investment Required.* The Project Developer covenants that it shall make an investment through equity, loans, and other sources of not less than Fifty Million and 00/100 Dollars (\$50,000,000.00) in design, development and construction (the "Project Developer Investment") in the Project as evidenced by documentation which is reasonably acceptable to the City.

- e. *Public Infrastructure Improvements.* The Project Developer agrees to install public infrastructure improvements along in the right of way immediately adjacent to the Project, which shall include, but are not limited to, landscaping and sidewalks (the "Public Improvements") to the satisfaction, in his reasonable determination, of the City Manager based on plans approved by the City, in accordance with this Agreement and in accordance with all applicable laws and regulations. The Project Developer shall make any upgrades or alterations necessary to the traffic signal at Drayton Road and Milliken Street in order for that intersection to appropriately accommodate the additional traffic volumes. The Project Developer will repair any damage to Milliken, Cleveland and/or Montgomery Streets due to construction traffic and ensure that infrastructure is in a condition equal to or better than its current state upon project opening. The Project Developer will ensure that the portion of "The Dan" trail that traverse the development site will have an appropriate design that ensures the attractiveness and functionality of this important community amenity. In addition, the Project Developer's will provide \$100,000 to Partners for Active Living to be utilized for offsite improvements to the Dan to enhance that community amenity.

- f. *Maintenance.* The Project Developer agrees to maintain "The Dan" trail improvements, located in the public right-of-way within the Project in accordance with the Perpetual Easement Agreement dated June 18, 2018 between Spartanburg County, South Carolina and Pacolet Milliken Enterprises.

- g. *Compliance with Law.* Construction of the Public Improvements shall be performed in a good, safe and workmanlike manner and in accordance with all applicable laws, rules, orders, ordinances, regulations and legal requirements of all governmental entities, agencies or instrumentalities relating to the Public Improvements including, without limitation the Americans with Disabilities Act as well as all building code requirements then in effect.

- h. *Performance Data:* Because City is interested in continuing to provide quality affordable, workforce housing options to its residents, Project Developer agrees to share with City upon the City's request (such requests to be made no more frequently than twice each calendar year) its data indicating the Projects performance as it relates to the workforce housing units which comprise a portion of the Project, including but not limited to rent rolls and financial performance related to such units. City shall keep and protect said data in a confidential manner, exempting it from Freedom of Information Act requests pursuant to the economic development exceptions.

- i. *Insurance Requirements.* The Project Developer shall procure and maintain insurance coverage for occurrences during the term of the Agreement against any claim for injuries to persons or damages to property which may arise from, or in connection with, the construction of the Public Improvements by the Project Developer, its employees, agents, contractors, or representatives. Such insurance shall be in the following minimum amounts:
 - A. Commercial General Liability \$1,000,000.00 per occurrence
 - B. Comprehensive Motor Vehicle Liability \$1,000,000.00 per occurrence
 - C. Workers Compensation - Statutory limits
 - D. Employers Liability \$500,000/\$500,000/\$500,000

Within fifteen (15) days of written request by the City (such requests to be made no more than once per calendar year), Project Developer shall deliver certificates of insurance to establish proof of current and ongoing coverage to the City's Risk Manager via email at cwright@cityofspartanburg.org (or to his successor as specified at the time of such request).

The City of Spartanburg must be shown as an additional insured / loss payee with notice of cancellation by delivery to the City in one of the above referenced means of contact.

The General Liability Coverage must list the City, its officers, officials, and employees as additional insureds for activities arising under the Project Developer performance under the Agreement. Upon request, the City shall be responsible for updating the Project Developer with the full list from time to time for this purpose. The coverage shall be primary as to the Project Developer's negligent acts and omissions or willful misconduct. It shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the limits of the insurer's liability coverage.

The Workers' Compensation Coverage shall apply to all of the Project Developer's employees who are in any way connected with the Project Developer's performance under the Agreement. The coverage shall comply with all applicable state laws and provide a waiver of subrogation from the Project Developer against the City, its officers, officials, agents and employees, unless otherwise approved by the City.

The Project Developer must obtain insurance coverage from insurers with a current A.

M. Best's rating of net less than A: VII. The insurers must be licensed to do insurance business in the State of South Carolina, unless otherwise approved by the City. The Project Developer cannot be a self-insured in order to meet these requirements, unless the City in writing consents for the particular named Project Developer for the specific Agreement.

The Project Developer shall be solely liable and the City in no way shall be responsible for any coverage deductible, co-insurance penalty, or self-insured retention (if applicable), including any loss sustained because of the operation of the deductible, penalty, or retention.

Further, the Project Developer has an affirmative duty, and shall carry out that duty, to see that any subcontractor performing on the Project Developer's behalf shall also have the same insurance obligations as are borne by the Project Developer under these general terms and conditions.

2. City Commitments

- a. *Real Property Tax Abatement.* City will provide its consent, upon request prior to the issuance of a Certificate of Occupancy of the permitted plans, for a Fee-In-Lieu of Tax Payment (FILOT) through a Multicounty Industrial Park, or similar mechanism. Furthermore, City will use its best efforts, acting in good faith, to secure Spartanburg County's approval of a Special Source Revenue Credit ("SSRC") in the amount of \$400,000 (expected to result in a net FILOT payment of \$881,468 in the first year following the receipt of the final certificate of occupancy for the Project). Should the taxable valuation of the project deviate from expectation, the SSRC amount will be adjusted proportionately. Such SSRC shall remain in effect at the same amount for nine additional tax years. In the eleventh year, no credits shall be issued.

3. No Assignment Without Consent.

Prior to completion of the duties set forth herein, neither the City nor the Project Developer are authorized to assign its respective duties under the Agreement to third parties without first having received from the other party a written consent, which consent shall not be unreasonably withheld, executed with the same formality of the Agreement. Notwithstanding the foregoing, City does acknowledge and agree that Project Developer may be utilizing a general contractor to perform the work on the Project and may assign this Agreement to a to-be-formed special purpose entity created for the purpose of owning and operating the Project; which entity shall be owned and/or controlled by Project Developer. Nothing herein shall be construed to prohibit the Project Developer from selling or transferring the Project to subsequent owners and the rights and obligations of the Project Developer hereunder, subject to the City's written consent which shall not be unreasonably withheld.

4. Modification.

No modification of the Agreement shall be binding upon the parties unless the same is first reduced to writing in a document having the same formality as the Agreement and executed by the duly authorized officer for each party. However, minor changes and modifications to the Development Agreement are authorized as may be necessary or appropriate to allow for a final version mutually acceptable to the parties, with said minor changes and modification being approved by the City Manager and the City Attorney. Should the City Manager or City Attorney, or both, determine that any modification of previously negotiated terms is significant and warrants further action by Council, then the matter shall be presented to and reviewed by City Council before the final execution.

5. Merger of Negotiations.

All prior negotiations and representations of both parties are merged into the Agreement, and no prior statement, whether written or oral, shall be binding upon either party unless reduced to writing and contained in the Agreement.

6. Applicable Law.

The Agreement is entered into under the laws of South Carolina, the City is a political subdivision of South Carolina, and the subject real property and improvements are located in South Carolina. The Agreement shall be construed in accordance with the laws of South Carolina.

7. No Joint Venture.

The parties acknowledge the City is acting solely in a governmental capacity in expanding/enhancing the City's public infrastructure and spaces, in approving the Agreement and in providing any other approvals related to the Project. Accordingly, the parties further acknowledge that no joint venture is intended or created between the Project Developer (or its affiliates or principals) and the City, and the parties expressly disclaim the same.

8. Indemnification.

The Project Developer shall indemnify, defend and hold harmless the City, as well as its officers, officials and employees, from and against all claims of any nature whatsoever, at law or in equity, arising out of, or related in any manner to the Agreement, the design and construction of the Public Improvements, or the Project Developer's maintenance obligations, excluding only those claims resulting from the breach of this Agreement by the City or the gross negligence or willful misconduct of the City, its officers, contractors, agents, officials and/or employees. This provision shall survive termination of the Agreement.

9. Notice.

All notices and communications hereunder shall be in writing and shall be delivered personally or sent by certified mail, return receipt requested, addressed to the parties as follows:

CITY:

City of Spartanburg
Attention: City Manager
P.O. Box 1749
Spartanburg, SC 29304
Phone: 864.596.2026

PROJECT DEVELOPER:

Drayton Holdings, LLC
Attention: Orange Capital Advisors, LLC, Manager
125 Regional Parkway, Suite 200
Orangeburg, SC 29118
Phone: 803.585.7697

WITH A COPY TO:

Parker Poe Adams & Bernstein LLP
Attn: Richard L. Few, Jr.
110 East Court Street, Suite 200
Greenville, SC 29601
Phone: 864.577.6363

10. Miscellaneous.

If any part or provision of this Agreement is held invalid or unenforceable under applicable law, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining parts and provisions of this Agreement. The waiver of a breach of this Agreement by either party shall not operate as a waiver of any subsequent breach, and no delay in acting with regard to any breach of this Agreement shall be construed to be a waiver of the breach. Headings are inserted for convenience only and shall not be considered for any other purpose. All exhibits referenced above (including all attachments thereto) are attached hereto and incorporated herein as part of the Agreement.

[Signatures Follow]

WHEREFORE, in consideration of the foregoing, the parties do bind themselves by terms and conditions of the agreement by providing below the signature of their authorized officers.

WITNESSES:

DRAYTON HOLDINGS, LLC

By: Orange Capital Advisors, LLC, Manager

By: _____

Name: John P. Evans, Manager

STATE OF SOUTH CAROLINA)

ACKNOWLEDGEMENT

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COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020 by the duly authorized manager of Orange Capital Advisors, LLC, whose name and title appear above.

Notary Public for South Carolina

My Commission Expires: _____

Printed Name of Notary: _____

