



**TOWN OF FORT MILL
SPECIAL CALLED PLANNING COMMISSION MEETING
September 16, 2014
112 Confederate Street
6:30 PM**

AGENDA

CALL TO ORDER

APPROVAL OF MINUTES

1. Regular Meeting: August 26, 2014 *[Pages 3–11]*

OLD BUSINESS

1. **Subdivision Request: Clear Springs Land Company LLC** *[Pages 12–14]*

Request from Clear Springs Land Company LLC to subdivide a portion of York County Tax Map Number 020-09-01-003 to create a new 3.07 acre parcel on Munn Road

NEW BUSINESS

1. **Development Agreement Amendment: SDG Properties, LLC** *[Pages 12–46]*

An ordinance authorizing a second amendment to the Development Agreement by and between SDG Properties, LLC, and the Town of Fort Mill to extend the term of the Agreement, and provide for on site and off site road improvements and utility services to benefit the property, and related commitments and contributions by the developer; and other matters relating thereto

2. **Development Agreement Amendment: Sustainable Dev. Group Inc** *[Pages 47–60]*

An ordinance authorizing a first amendment to the Development Agreement by and between Sustainable Development Group, Inc., and the Town of Fort Mill to provide

for improvements and utility services to benefit the property; and other matters relating thereto

ITEMS FOR INFORMATION / DISCUSSION

1. Impact Fee Study Update

- Introduction Chapter
- Parks & Recreation Chapter

2. Joint Meeting with Fort Mill Town Council

3. August 2014 Development Activity Report

[Pages 61–70]

ADJOURN

**MINUTES
TOWN OF FORT MILL
PLANNING COMMISSION REGULAR MEETING
August 26, 2014
112 Confederate Street
7:00 PM**

Present: Chairman James Traynor, Hynek Lettang, Chris Wolfe, Tom Petty, John Garver, Ben Hudgins, Planning Director Joe Cronin, Planner Chris Pettit

Absent: Tony White, Tom Petty

Guests: Kevin Granelli (Hunton Capital Partners), John Talkington, Delores Talkington, Justin Talkington, Jason Talkington, Larry Long (Forestar Development), John Marks (Fort Mill Times)

Chairman Traynor called the meeting to order at 7:00 pm and welcomed everyone in attendance.

Mr. Garver made a motion to approve the minutes from the July 22, 2014, meeting as presented. Mr. Lettang seconded the motion. The motion was approved by a vote of 5-0.

Chairman Traynor stated that he had a conflict of interest on New Business Item #8 (Subdivision request from Clear Springs Land Company, LLC) and asked if that item could be moved to the end of the agenda. There was no objection and the agenda was reordered.

Planning Director Cronin stated that he had heard from Mr. Petty and Mr. White prior to the meeting. Mr. Petty had a prior obligation and would be unable to attend the meeting. Mr. White had a work commitment and was also unable to attend.

Planning Director Cronin introduced Chris Pettit, who was recently hired as a planner in the Planning Department. Members of the commission welcomed Mr. Pettit to the town.

OLD BUSINESS ITEM

1. **Annexation Request: Talkington Property**: Planning Director Cronin provided a brief update regarding the request, the purpose of which was to review and provide a recommendation on the annexation and zoning designation for approximately 168 acres on S. Dobys Bridge Road.

At the July meeting, commission members expressed concern about traffic impact related to the project and asked the applicant, Kevin Granelli of Hunton Capital Partners, to bring back options or recommendations to mitigate the anticipated traffic impact on S. Dobys Bridge Road.

Mr. Granelli presented a proposal whereby the applicant would agree to donate sufficient right-of-way for the future widening of S. Dobys Bridge Road, and would make a voluntary contribution in the amount of \$150,000 toward future traffic improvements in the town.

Chairman Traynor thanked Mr. Granelli for bringing back an option for additional consideration. Chairman Traynor stated that this contribution and dedication was a good faith effort to address the commission's concerns. He added that it would not be fair to penalize the current applicant for failures of the past, and that the town needs to be respectful of private property rights.

Mr. Wolfe stated that he didn't believe that additional restrictions would be an infringement on private property rights, since the property owners and applicant could still develop the property today, albeit in the county, with well and septic and lower permitted densities.

Mr. Wolfe asked what it would cost to construct additional travel lanes in front of the Talkington parcels. Planning Director Cronin stated that he did not have a firm answer, and that this question would best be addressed by a qualified transportation engineer. Mr. Lettang stated that he had looked up national averages for the cost of adding additional capacity along major roadways, and determined that the cost would likely be over \$4 million per lane mile. Using these averages, Mr. Lettang estimated that the cost to add a single lane along the front of the project (approximately 800 linear feet) would be more than \$600,000.

Mr. Wolfe inquired as to the total density of the project. Mr. Granelli stated that he anticipated the project would yield no more than 386 residential lots, or approximately 2.3 units per acre. Mr. Wolfe asked staff what the future land use map in the comprehensive plan recommended for this area. Planning Director Cronin stated that the map identified the property as "low density residential" and envisioned up to two dwelling units per acre. Planning Director Cronin discussed a discrepancy in the comprehensive plan where low density is defined as up to 2 DUA, and medium density as 3-5 DUA. Densities ranging from 2-3 DUA are a "gray area" requiring further interpretation. Staff recommended that densities under 2.5 DUA be considered as low density, and 2.5 DUA and above as medium density. However, the commission and council could also consider 2 DUA as a hard cap for low density residential. If 2 DUA was indeed considered as a maximum, then the total number of lots per the comp plan would be 336. This was essentially a policy decision.

Mr. Lettang stated that everyone acknowledges Dobys Bridge Road is inadequate for current traffic volumes, and that the problem will continue to get worse as existing projects like Massey and Riverchase build out over time. The central question is whether the town should continue to allow incremental increases in density knowing that the road is already over capacity.

Mr. Hudgins inquired as to how the donation of right-of-way and dollars would be formalized. Planning Director Cronin recommended a development agreement as the best approach. Chairman Traynor agreed with the staff recommendation that any voluntary

donations would be in addition to future traffic impact fees, if such fees are adopted by council in the future.

Mr. Hudgins made a motion to recommend in favor of the annexation request with a zoning designation of R-5 residential, subject to the following conditions:

- The town and applicant shall enter into a development agreement for the property on terms that are mutually agreeable to both parties.
- The development agreement should cap the total number of units at 386, or approximately 2.3 dwelling units per acre.
- The development agreement shall require the dedication of sufficient right-of-way for the future widening of S. Dobys Bridge Road.
- The development agreement shall formalize the applicant's voluntary financial contribution of \$150,000 toward future transportation improvements, and stipulate that this contribution would be in addition to future development impact fees (if any) paid for transportation improvements.

Mr. Garver seconded the motion. The motion was approved by a vote of 4-1, with Mr. Lettang opposed.

NEW BUSINESS ITEMS

1. **Annexation Request: White Property:** Planning Director Cronin provided a brief overview of the request, the purpose of which was to review and provide a recommendation on the annexation and zoning designation for approximately 35 acres on Whites Road.

Kevin Granelli of Hunton Capital Partners was called upon to provide additional details about the intent of the annexation and rezoning request. Mr. Granelli stated that the property was intended to be developed as a single-family residential neighborhood with less than 100 homes, most likely in the range of 75-90 units. The neighborhood was envisioned to be similar in size and scope to the Forest at Fort Mill subdivision on S. Dobys Bridge Road.

Mr. Wolfe asked about the future land use designation for the property in the comprehensive plan. Planning Director Cronin stated that the future land use map identified the property as medium density residential, with a recommended density of 3-5 dwelling units per acre. One hundred units would put the total density of the project at slightly less than 3 per acre.

Mr. Hudgins asked about traffic impact to Whites Road. Planning Director Cronin stated that the SCDOT did not publish traffic counts for Whites Road. Counts for the bypass are also unavailable since the bypass has only been open for less than a month. Planning Director recommended that, if approved, a traffic impact study should be required prior to development, even though the total number of units may not require one under the zoning ordinance.

Planning Director Cronin also stated that the proposed project entrance would be located directly across from property owned by the Fort Mill School District, the future site of the third Fort Mill High School. Staff recommended that the applicant coordinate with the school district and SCDOT regarding future access locations on Whites Road.

Mr. Wolfe asked Mr. Granelli if he would be willing to make a contribution to transportation improvements, similar to that offered for the Talkington Property. Mr. Granelli stated that based on the anticipated unit count, the proportional equivalent would be around \$35,000-\$40,000 for this project, which he would offer to donate.

Mr. Wolfe made a motion to recommend in favor of the annexation request with a zoning designation of R-5 residential, subject to the following conditions:

- The town and applicant shall enter into a development agreement for the property on terms that are mutually agreeable to both parties.
- The development agreement should cap the total number of units at 99, or approximately 2.83 dwelling units per acre.
- The development agreement shall require the completion of a traffic impact analysis.
- The development agreement shall formalize the applicant's voluntary financial contribution of \$40,000 toward future transportation improvements, and stipulate that this contribution would be in addition to future development impact fees (if any) paid for transportation improvements.
- The developer shall coordinate access location(s) on Whites Road with the Fort Mill School District and SCDOT.

Mr. Hudgins seconded the motion. The motion was approved by a vote of 5-0.

2. **Text Amendment: Nonconforming Uses and Structures:** Planning Director Cronin stated that town staff had been contacted by several property owners, appraisers and real estate agents representing the Cascades at River Crossing and the Townes at River Crossing subdivisions. Based on the town's current codes, the non-conforming uses section of the zoning ordinance would not allow a non-conforming townhome in a commercial zoning district to be rebuilt in the event it was destroyed by fire or other causes. The existing ordinance stipulates that any structure that is damaged beyond 50% of its value may only be rebuilt if it is conforming with the current zoning requirements. After reviewing similar sections from the York County, Tega Cay and Rock Hill zoning ordinances, staff recommended increasing the threshold from 50% to 75%. Staff also recommended allowing any residence that is destroyed by fire or other natural causes, regardless of the extent of the damage, to be rebuilt, as long as the new residence is no less conforming than the one it replaces, and as long as a permit is obtained within 6 months from the date the damage occurs. Planning Director Cronin added that there were a few additional amendments included in the draft ordinance, including specifying the length of time for what constitutes a "discontinuance" of a nonconforming use.

Mr. Wolfe asked whether 6 months was sufficient time to pull a permit for rebuilding after a residence is damaged or destroyed by fire. He stated that dealing with insurance and other investigations could take an extended period of time, and that 6 months may be too short. Planning Director Cronin stated that the ordinance could be amended to give the zoning administrator the discretion to extend the period for an additional 6 months if the property owner can provide documentation that they are in the process of moving forward with reconstruction.

Mr. Garver made a motion to recommend in favor of the ordinance, with an amendment to Section 3(5) that would allow a one-time administrative extension to the 6-month timeframe, as recommended by Mr. Wolfe. Mr. Lettang seconded the motion. The motion was approved by a vote of 5-0.

3. **Text Amendment: Amending R-5/Creating RT-4, RT-8 and RT-12 Districts:** Planning Director Cronin provided a brief overview of the draft ordinance, the purpose of which was to amend the R-5 zoning district to remove townhomes from the list of permitted uses, and to create three new townhome-specific zoning districts. Planning Director Cronin stated that in addition to removing townhomes from the R-5 district, the draft ordinance would also place a cap on total density within the R-5 district at 3 dwelling units per acre by right, or up to 5 DUA with an approved development agreement. This would keep the R-5 district in line with its intended purpose of providing a district for medium-density (3-5 DUA) residential development. Planning Director Cronin also provided additional information in regards to the new RT-4, RT-8 and RT-12 residential districts. These districts would apply specifically to townhome developments, but would also allow religious institutions. As the total allowable density increases to 4, 8 or 12 DUA, staff recommended that the minimum open space and buffer requirements should also increase.

Mr. Wolfe stated that he liked the concept of increasing open space and buffer requirements as a tradeoff for receiving higher density, but added that 12 DUA may be excessively high. Planning Director Cronin stated that certain areas of the comprehensive plan allowed densities above 8 DUA, particularly in designated development nodes. Planning Director Cronin added that no properties would be rezoned to RT-12 by adopting the ordinance. Instead, the ordinance would create a tool which council could use in the future when considering properties for possible rezoning, particularly in higher density development nodes.

Mr. Traynor stated that he thought the enhanced buffers in the RT-8 and RT-12 districts were excessive along public rights-of-way. Planning Director Cronin stated that the enhanced buffer would apply only along adjacent side and rear property lines, and not along road frontages, similar to the current language in the R-5 district.

Mr. Lettang made a motion to recommend in favor of the ordinance as drafted by staff. Mr. Garver second the motion. The motion was approved by a vote of 5-0.

4. **Rezoning Ordinance: Cascades at River Crossing:** Planning Director Cronin provided a brief overview of the request, the purpose of which was to rezone the Cascades at River

Crossing subdivision, containing 216 parcels on 24.3 acres +/- on US Highway 21 Bypass, from HC to RT-8. Planning Director Cronin stated that the existing townhomes were a nonconforming use in the HC district, and that staff recommended in favor of rezoning the properties from HC to RT-8. Planning Director Cronin added that more than 100 residents of the Cascades had signed a petition requesting the rezoning. Mr. Garver made a motion to recommend in favor of approving the ordinance to rezone the subdivision from HC to RT-8, pending council approval of the new RT-8 district. Mr. Lettang seconded the motion. The motion was approved by a vote of 5-0.

5. **Rezoning Ordinance: Townes at River Crossing**: Planning Director Cronin provided a brief overview of the request, the purpose of which was to rezone the Townes at River Crossing subdivision, containing 144 parcels on 13.8 acres +/- on US Highway 21 Bypass, from HC to RT-8. Planning Director Cronin stated that the existing townhomes were a nonconforming use in the HC district. Similar to the Cascades at River Crossing subdivision, staff recommended in favor of rezoning the properties from HC to RT-8. Planning Director Cronin added that the Board of Directors for the Townes at River Crossing HOA had submitted a letter of support in favor of the rezoning. Mr. Garver made a motion to recommend in favor of approving the ordinance to rezone the subdivision from HC to RT-8, pending council approval of the new RT-8 district. Mr. Lettang seconded the motion. The motion was approved by a vote of 5-0.
6. **Rezoning Ordinance: Lighthouse Pentecostal Holiness Church**: Planning Director Cronin provided a brief overview of the request, the purpose of which was to rezone a 1.4 acre lot, located at 333 US Highway 21 Bypass, from HC to RT-8. Planning Director Cronin added that the existing church was a nonconforming use in the HC district. Based on the recommendation to rezone the adjacent Cascades at River Crossing and Townes at River Crossing subdivisions from HC to RT-8, staff recommended rezoning the church property to RT-8 as well, since religious institutions would be a permitted use under the current draft of the RT-8 ordinance. Mr. Garver made a motion to recommend in favor of approving the ordinance to rezone the property from HC to RT-8, pending council approval of the new RT-8 district. Mr. Lettang seconded the motion. The motion was approved by a vote of 5-0.
7. **Final Plat Review: Preserve at River Chase Phase II**: Mr. Pettit provided a brief overview of the request, the purpose of which was to review and approve the proposed street names for the Preserve at River Chase Phase II. Mr. Pettit stated that as an MXU project, the subdivision plat may be reviewed and approved administratively; however, state law requires planning commission approval on all proposed street names prior to recording. Mr. Pettit added that the proposed names – Arges River Drive, Slaney Court, and Thames Circle – have all been approved by the York County Addressing Office. Mr. Wolfe made a motion to approve the street names as requested, with a second by Mr. Garver. The motion was approved by a vote of 5-0.
8. **Subdivision Request: Clear Springs Land Company, LLC**: Consideration of this item was moved to the end of the agenda. (See below)

ITEMS FOR INFORMATION / DISCUSSION

1. **Development Activity Report: July 2014:** Planning Director Cronin presented the monthly development activity report for the month of July 2014. Members thanked staff for compiling and presenting this information.
2. **Preliminary Plat Update: Waterside at the Catawba:** Planning Director Cronin stated that staff was in the final phases of reviewing and approving the preliminary plat for the Waterside at the Catawba (MXU) subdivision located at the end of Whites Road. Though staff has the authority to approve the plats under the MXU ordinance and the project conditions, the planning commission will still need to review and approve street names before final plats are recorded. Planning Director Cronin stated that staff would like to present a master list of all street names to the commission in September for review and approval. Assuming the commission approves all street names at one time, this will eliminate the need to bring each phase back to the commission prior to recording, provided all street names comply with the approved master list.
3. **Kanawha/SDG Development Agreement Amendment:** Planning Director Cronin stated that there was a pending amendment to the Kanawha/SDG development agreement related to the pending sale of the property to Crescent Communities. To maintain the current schedule, the planning commission will need to hold a special called meeting between first reading (September 8, 2014) and second reading (September 22, 2014). After discussing several dates, the consensus was to schedule a special called meeting for Tuesday, September 16, 2014, at 6:30 PM.
4. **Text Amendment: Commercial Appearance Review:** Planning Director Cronin stated staff was still working on a draft text amendment. The ordinance should be ready by September or October.
5. **Discussion of Traffic Issues:** As a follow up to the discussion which took place at the July meeting, Planning Director Cronin provided a list of options which could be reviewed and implemented for the purpose of addressing the growing traffic issues in the town. Mr. Wolfe stated that it would be beneficial to schedule another joint meeting between the planning commission and town council for the purpose of discussing traffic issues. Other members agreed that a joint meeting was warranted. Chairman Traynor asked staff to submit a meeting request to town council and report back with possible dates and times.

Chairman Traynor stated that he had a conflict of interest on the following item. Chairman Traynor left the meeting at 9:23 pm. Vice-Chairman Wolfe assumed the duties of Chairman in Mr. Traynor's absence.

NEW BUSINESS ITEMS (CONTINUED)

8. **Subdivision Request: Clear Springs Land Company, LLC:** Mr. Pettit provided a brief overview of the request, the purpose of which was to approve the subdivision of a new 3.07 acre parcel from York County Tax Map Number 020-09-01-003 (Peachtree Apartments).

Mr. Pettit stated that there were two other items on the proposed subdivision plat which could be reviewed and approved administratively. The first would create a separate parcel for 14 acres of excess common area land for the apartment complex. The second would recombine a half acre portion of the apartment parcel containing a small parking area with the neighboring Peach Stand parcel. The remaining 3.07 acre lot was not eligible for administrative review, and would require Planning Commission approval.

Mr. Hudgins questioned the purpose of the subdivision. Planning Director Cronin stated that the applicant wished to create a separate parcel for tax purposes, as the vacant lots could be designated as non-developed, agricultural lots. Planning Director Cronin added that after the changes were made to the existing parcel, the existing parcel containing the Peachtree Apartments would still meet all setback, area, and density requirements of the GR-A district.

Mr. Wolfe inquired as to what could be built on the new parcel. Planning Director Cronin stated that the zoning designation would remain GR-A, and nothing new could be built on the new parcel that couldn't already be built today.

Mr. Wolfe stated that he would like to obtain additional information from the applicant in regards to the purpose of the request before voting on the issue.

Mr. Hudgins made a motion to defer consideration of the request, with a second by Mr. Lettang. The motion to defer was approved by a vote of 4-0.

There being no further business, the meeting was adjourned at 9:46 pm.

Respectfully submitted,

Joe Cronin
Planning Director

**Planning Commission Meeting
September 16, 2014
Old Business Item**

Subdivision Request: Clear Springs Land Company LLC

Request from Clear Springs Land Company LLC to subdivide a portion of York County Tax Map Number 020-09-01-003 to create a new 3.07 acre parcel on Munn Road

Background / Discussion

The Planning Commission is asked to consider a minor subdivision request from Clear Springs Land Company LLC. The purpose of this request is to subdivide a portion of York County Tax Map Number 020-09-01-003 (Peachtree Apartments) for the purpose of creating a new 3.07 acre parcel on Munn Road.

The new parcel will remain zoned GR-A residential. The GR-A district requires a minimum lot width of 75' and a minimum lot area of 10,000 square feet. The proposed lot will have a width of over 223' feet, and a total lot area of more than 133,700 square feet. The proposed lot is currently vacant/wooded. The new lot line will not result in any nonconformities for the remaining uses or structures on Tax Map Number 020-09-01-003.

A subdivision plat prepared by Pittman & Associates is included for review.

The attached plat includes two additional modifications to the existing parcel. The first is to subdivide a 14.08 acre common area parcel into a new lot. This new lot meets or exceeds the requirement for administrative review and approval (both lots are 5+ acres and no new roads are created). Staff has reviewed this request and found no deficiencies. The plat also recombines a 0.52 acre portion of Tax Map Number 020-09-01-003 to the neighboring parcel, 020-09-01-002, which is owned by The Peach Stand Inc. This half acre section contains a parking lot which is used by Peach Stand employees. As a recombination, this item is also eligible for administrative review and approval.

A representative from Clear Springs will be available during the meeting to answer questions regarding the request.

Recommendation

The new 3.07 acre lot will meet or exceed the minimum width, area and dimensional requirements of the GR-A zoning district. The remaining modifications on the plat are eligible for administrative review and approval. Staff recommends in favor of approving the request.

Joe Cronin
Planning Director
September 10, 2014

**Planning Commission Meeting
September 16, 2014
New Business Item**

Development Agreement Amendment: SDG Properties, LLC

An ordinance authorizing a second amendment to the Development Agreement by and between SDG Properties, LLC, and the Town of Fort Mill to extend the term of the Agreement, and provide for on site and off site road improvements and utility services to benefit the property, and related commitments and contributions by the developer; and other matters relating thereto

Background / Discussion

On July 28, 2008, the town entered into a development agreement with Cherokee SDG, LLC (now SDG Properties, LLC) for the Kanawha project located at the southwest quadrant of Sutton Road and I-77.

The Agreement was first amended on January 28, 2013, to remove a 39.22 acre parcel which has since been sold to the Fort Mill School District.

The remainder of property (with the exception of the CHS hospital site) is now under contract for sale to Crescent Communities. Crescent, which owns the neighboring 281.72 acre parcel, intends to combine the remainder of the SDG property with its existing property for the purpose of developing a large, mixed use community.

A draft ordinance and draft second amendment to the Development Agreement are attached for review. The town's bond attorney, Theodore DuBose of the Haynsworth Sinkler Boyd Law Firm, will also be in attendance to provide additional information relating to the request.

Recommendation

This amendment includes substantive changes to the existing development agreement and concept plan for the "Kanawha" project.

Staff believes that the proposed changes incorporated into the revised concept plan (Exhibit B-1) are consistent with the requirements of the MXU district. Staff also supports the modifications to the proposed development conditions (Exhibit B-2); however, we would like to see the inclusion of a buffer around the existing Schweinitz's sunflower population (a federal endangered species) to protect the habitat from possible residential or commercial encroachment.

The questions regarding utility service are a policy matter that is best left to the town council's discretion.

Joe Cronin
Planning Director
September 12, 2014

STATE OF SOUTH CAROLINA
TOWN COUNCIL FOR THE TOWN OF FORT MILL
ORDINANCE NO. 2014-___

AN ORDINANCE AUTHORIZING A SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT BY AND BETWEEN SDG PROPERTIES, LLC AND THE TOWN OF FORT MILL TO EXTEND THE TERM OF THE AGREEMENT, AND PROVIDE FOR ON SITE AND OFF SITE ROAD IMPROVEMENTS AND UTILITY SERVICE TO BENEFIT THE PROPERTY, AND RELATED COMMITMENTS AND CONTRIBUTIONS BY THE DEVELOPER; AND OTHER MATTERS RELATING THERETO

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF FORT MILL IN MEETING DULY ASSEMBLED:

ARTICLE I

FINDINGS OF FACT

Section 1.1 Findings of Fact. As an incident to the adoption of this Ordinance, the Town Council of the Town of Fort Mill (the “Town Council”), the governing body of the Town of Fort Mill, South Carolina (the “Town”), finds that the facts set forth in this Article exist, and the statements made with respect thereto are true and correct.:

(A) The Town is authorized pursuant to the provisions of the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 through 6-31-160, inclusive, of the Code of Laws of South Carolina, 1976, as amended (herein and as codified, the “Act”), to enter into and amend development agreements with developers (as defined in the Act) to promote comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources and reduce the economic cost of development.

(B) Pursuant to Sections 6-31-10 through 6-31-160 of the Act, Cherokee SDG, LLC (now known as SDG Properties, LLC, and identified herein as the “Developer”), and the Town entered into a Development Agreement dated July 28, 2008, and recorded on August 1, 2008 in Book 10219 at Page 1 of the Register of Deeds of York County, South Carolina (the “Original Development Agreement”); and

(C) Pursuant to the Act, the Developer and the Town entered into a First Amendment to Development Agreement dated February 12, 2013, and recorded on February 13, 2013, in Book 13207 at Page 191 of the Register of Deeds of York County, South Carolina (the “First Amendment”)(the Original Development Agreement and the First Amendment being referred to herein as the “Development Agreement); and

(D) The Developer and the Town desire to further amend the terms of the Development Agreement with respect to the terms of the proposed Second Amended Development

Agreement attached hereto as Exhibit A (the “Second Amendment”), and has reached an agreement with the Developer on the matters set forth in the Second Amendment.

(E) After due investigation, the Town Council has determined that it is in the best interests of the Town to approve the Agreement and authorize its execution and delivery.

(F) The Town Council finds that the development of the Property as proposed in the Concept Plan, as defined in the Second Amendment, is consistent with the Town’s comprehensive plan and land development regulations in effect as of the date hereof.

(G) The Town Council has determined that all conditions precedent to the execution and delivery of the Second Amendment shall, upon the final reading of this Ordinance (herein, “Ordinance”), have been met. A public hearing, as required by Section 6-31-60(B) of the Act, has been duly noticed and held.

(H) The Town Council is adopting this Ordinance in order to:

- a. approve the entry by the Town into the Second Amendment; and
- b. authorize the execution and delivery of the Second Amendment on behalf of the Town.

ARTICLE II

THE AGREEMENT

Section 2.1 Authorization of Second Amendment. The Town Council hereby authorizes the entry by the Town into the Second Amendment in the form attached hereto as Exhibit A.

Section 2.2 Execution and Delivery of Second Amendment. The Town Council authorizes the Mayor of the Town to execute and deliver the Amendment to the Developer. The Town Clerk is authorized to affix, emboss, or otherwise reproduce the seal of the Town to the Second Amendment and attest the same.

Section 2.3 Effective date. This ordinance shall be effective from and after the date of adoption.

Section 2.4 Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SIGNED AND SEALED this ____ day of _____, 2014, having been duly adopted by the Town Council for the Town of Fort Mill on the ____ day of _____, 2014.

First Reading: September 8, 2014
Public Hearing: September 22, 2014
Second Reading: September 22, 2014

TOWN OF FORT MILL

Danny P. Funderburk, Mayor

LEGAL REVIEW

Barron B. Mack, Jr, Town Attorney

ATTEST

Dana Powell, Interim Town Clerk

**SECOND AMENDMENT TO
DEVELOPMENT AGREEMENT**

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (this “**Second Amendment**”) is made and entered into as of the ____ day of _____, 2014, by and between **SDG PROPERTIES, LLC**, a Delaware limited liability company (the “**Developer**”), and **THE TOWN OF FORT MILL**, a South Carolina municipality (the “**Town**”).

WITNESSETH:

WHEREAS, pursuant to the South Carolina Local Government Development Agreement Act (the “Act”) as set forth in Sections 6-31-10 through 6-31-160 of the South Carolina Code of Laws (1976, as amended), the Developer’s predecessor in interest, Cherokee SDG, LLC, and the Town entered into a Development Agreement dated July 28, 2008, and recorded on August 1, 2008, in Book 10219 at Page 1 of the Register of Deeds of York County, South Carolina (the “Original Development Agreement”); and

WHEREAS, pursuant to the Act, the Developer and the Town entered into a First Amendment to Development Agreement dated February 12, 2013, and recorded on February 13, 2013, in Book 13207 at Page 191 of the Register of Deeds of York County, South Carolina (the “First Amendment”); and

WHEREAS, the Original Development Agreement, as amended by the First Amendment is referred to as the “Development Agreement”; and

WHEREAS, the Developer and the Town desire to further amend the terms of the Development Agreement as hereinafter set forth for the primary purposes of addressing (i) changes to planned road improvements and (ii) changes to planned water and sewer utility infrastructure, as well as other matters as set forth herein; and

WHEREAS, Section 6-31-60(B) of the Act provides that “a major modification of the Development Agreement may occur only after public notice and a public hearing”; and

WHEREAS, after a duly noticed public hearing held by the Fort Mill Town Council (the “Town Council”), the Town Council approved this Second Amendment by an ordinance legally adopted on September __, 2014; and

WHEREAS, pursuant to the Act and the ordinance adopted by the Town Council on September __, 2014, the parties have entered into this Second Amendment.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained herein, the parties hereto agree as follows.

1. **MODIFICATION OF CERTAIN DEFINED TERMS**

The definitions of the following capitalized terms in the Development Agreement shall be modified to read as follows:

“Property” shall mean that approximately 293.689 acre parcel of land located in the Town of Fort Mill, York County, South Carolina that is more particularly described on Exhibit A attached hereto and incorporated herein by reference. Exhibit A to the Development Agreement is hereby deleted in its entirety and replaced with Exhibit A hereto.

“SDGP Parcels” shall mean that approximately 273.519 acre parcel of land located within the Property that is the subject of a contract for purchase by Crescent Communities, LLC.

The term **“Kanawha Concept Plan”** and its definition are deleted and replaced with the term **“Concept Plan”** as defined below. Additionally, wherever the term “Kanawha Concept Plan” appears in the Development Agreement, it shall be replaced with the term “Concept Plan.”

“Concept Plan” shall mean and refer to the revised conceptual master plan for the development of the Property that consists of a one page site plan prepared by LandDesign, a copy of which is attached hereto as Exhibit B-1 and incorporated herein by reference. Exhibit B-1 to the Development Agreement is hereby deleted in its entirety and replaced with Exhibit B-1 hereto.

The term **“Kanawha Development Conditions”** and its definition are deleted and replaced with the term **“Development Conditions”** as defined below. Additionally, wherever the term “Kanawha Development Conditions” appears in the Development Agreement, it shall be replaced with the term “Development Conditions.”

“Development Conditions” shall mean and refer to the revised building and development standards for the Property set out in Exhibit B-2 attached hereto and incorporated herein by reference. Exhibit B-2 to the Development Agreement is hereby deleted in its entirety and replaced with Exhibit B-2 hereto.

The term **“Kanawha Concept Plan Documents”** and its definition are deleted and replaced with the term **“Concept Plan Documents”** as defined below. Additionally, wherever the term “Kanawha Concept Plan Documents” appears in the Development Agreement, it shall be replaced with the term “Concept Plan Documents.”

“Concept Plan Documents” shall collectively mean and refer to the following: the Concept Plan, the Development Conditions and the Traffic Impact Analysis dated September __, 2014, prepared by Campco Engineering, Inc. The specific details of the Kanawha Infrastructure Improvements as shown on Exhibit E to the Development Agreement and the Kanawha Signage Plan referenced in the Development Agreement are specifically deleted from the definition of “Concept Plan Documents” and from the Development Agreement. All signage installed on the Property will meet the requirements of the applicable Town ordinances.

The term **“Kanawha Infrastructure Improvements”** and its definition are deleted and replaced with the term **“Infrastructure Improvements”** as defined below. Additionally, wherever the term “Kanawha Infrastructure Improvements” appears in the Development Agreement, it shall be replaced with the term “Infrastructure Improvements.”

“Infrastructure Improvements” shall mean and refer to the On-Site Infrastructure Improvements and the MLE Infrastructure Improvements which are defined in amended Paragraph 8(a) of the Development Agreement set out below.

“TIA” shall mean and refer to that certain Traffic Impact Analysis dated September __, 2014, prepared by Campco Engineering, Inc. in connection with this Second Amendment.

“Utility Services Agreement” shall mean and refer to that certain Agreement for Water and Sewer Services Between the Town and Crescent Communities, LLC, (the contract purchaser of the Property) negotiated and agreed to in connection with the Second Amendment.

Except as modified above, all capitalized terms used in this Second Amendment shall have the meaning ascribed to them in the Development Agreement.

2. MODIFICATION OF SECTION 5(E)--ZONING, VESTED RIGHTS AND FEES

The first paragraph of Section 5(e) of the Development Agreement is hereby deleted in its entirety and the following is inserted in lieu thereof:

The Town acknowledges that the transfer of 39.222 acres to Fort Mill School District No. 4 for use as an elementary school site has satisfied the school site donation requirement set forth in the Development Agreement. The Town further acknowledges that the Developer has committed in this Amendment to make additional substantial donations of public facilities to the Town, including the offer to donate a parcel of land within the Property for development and use by the Town as a fire station or other municipal facility, as more fully described in Section 11 of this Amendment. Furthermore, the Developer has agreed, subject to the terms of this Amendment, to construct Off-Site Transportation Improvements (as defined below), as more fully set forth in Section 8 of this Amendment. In view of those substantial public infrastructure contributions, as well as the 10-year maximum Term of this Amendment, the Town agrees with the Developer that the Property shall be exempt from future ordinances of the Town (with the exception of impact fees imposed in accordance with Section 5(d) of the Development Agreement) that would condition development of the Property upon the adequacy of public facilities situated outside of the boundaries of the Property.

3. MODIFICATION OF SECTION 6--COMPREHENSIVE LAND USE PLAN

The Town confirms that it has made a finding that the development of the Property as proposed under the Concept Plan attached hereto as Exhibit B-1 is consistent with the Town’s comprehensive plan and land development regulations in effect as of the Amendment Date.

4. MODIFICATION OF SECTION 7(A)--TERM AND AMENDMENTS

Section 7(a) of the Development Agreement is hereby amended to read as follows:

(a) The term of this Agreement shall be ten (10) years from the date of the approval and execution of this Second Amendment by the Town (the **“Term”**), except as provided in the next two following paragraphs.

(b) If a court of competent jurisdiction determines that the tolling of the running of development rights as expressed in Joint Resolutions of the South Carolina General Assembly H4445 (2009-2010) and H3774 (2013-2014) is applicable to development agreements entered into under the Act, the parties agree that the Term shall be for a period of ten (10) years from the date such tolling period ceases in accordance with such Joint Resolutions.

(c) The Town will have no liability to the Developer or any third party in the event a court of competent jurisdiction in a final unappealable order rules that the extension of the Term as provided in Section 4(a) is for any reason unenforceable. In the event of such unenforceability, the Term shall extend to July 28, 2018.

5. MODIFICATION OF SECTIONS 8(A) AND 8(B)--PUBLIC FACILITIES AND SERVICES

Sections 8(a) and 8(b) of the Development Agreement are hereby deleted in their entirety and the following is inserted in lieu thereof:

(a) The Developer shall be responsible, at its sole cost and expense, for the construction of the following described public facilities and improvements: (1) those public facilities and improvements within the boundaries of the Property necessary to serve the development contemplated under the Concept Plan, including all connection lines to the Town's water lines and the City of Tega Cay's interceptor sewer line (the "**On-Site Infrastructure Improvements**"), which On-Site Infrastructure Improvements are more particularly described on Exhibit C attached hereto and incorporated herein by reference; (2) subject to the approval of the South Carolina Department of Transportation (the "SCDOT"), those off-site transportation improvements described in the TIA (the "**Off-Site Transportation Improvements**"); and (3) those public facilities and improvements within the boundaries of the Property necessary to provide public utilities and public vehicular and pedestrian access to the boundary of the MLE tract (the "**MLE Infrastructure Improvements**"), which MLE Infrastructure Improvements are more particularly described on Exhibit C. Pursuant to the amendment of that certain Development Agreement by and between the Town and Sustainable Development Group, Inc. ("**SDG**") originally recorded August 1, 2008 (the "**SDG Development Agreement**"), whereby SDG acknowledges responsibility for the construction of certain improvements on and within the MLE tract, any and all remaining obligations of Cherokee SDG and its successors (including the Developer) for the construction of such improvements on and within the MLE tract have been assumed by and are the sole responsibility of SDG. Notwithstanding the foregoing sentence and notwithstanding the amendment of the SDG Development Agreement, in the event a court of competent jurisdiction in a final unappealable order rules that the Developer has not been relieved of its obligation to construction improvements within the MLE tract, then the Developer shall perform such obligation in accordance with the terms of the SDG Development Agreement. The transportation improvements that comprise the Off-Site Transportation Improvements may be modified by the SCDOT from time to time, any such modifications to be consented to by the Town, which consent shall not be unreasonably withheld. The Town acknowledges

and agrees that the exact location of the On-Site Improvements are subject to development constraints and may change depending upon conditions existing on the Property. The On-Site Infrastructure Improvements and the MLE Infrastructure Improvements are herein after sometimes collectively referred to as the “Infrastructure Improvements.”

(i) As contemplated in the Development Schedule (as defined and set forth in Section 9 of this Agreement), as same may be subsequently amended by the Developer pursuant to Section 9 of this Agreement, and subject to Section 10(e) of this Agreement, the On-Site Infrastructure Improvements (or the relevant portion(s) thereof) shall be constructed and installed by the Developer on a timetable that will cause them to be completed prior to the date that certificates of occupancy are issued for dwellings or structures to be served by such On-Site Infrastructure Improvements. The On-Site Infrastructure Improvements and the MLE Infrastructure Improvements shall be constructed and designed in accordance with applicable design and construction standards that have been adopted by the Town, provided such design and construction standards are in accordance with then-existing commonly-accepted and adopted standards in the engineering industry, as evidenced by standards published by the South Carolina Department of Health and Environmental Control, the American Society of Civil Engineers or other similar organizations of national repute (collectively, “**Industry Standards**”).

(ii) The On-Site Infrastructure Improvements defined above shall include, without limitation, sanitary sewer lines and facilities, storm water drainage lines and facilities, potable water lines and facilities, fire hydrants, roadways, bridges, streets, and sidewalks. Sanitary sewer lines and facilities, storm water drainage lines and facilities, and potable water lines and facilities shall be constructed to such capacities as may be reasonably required by the Town to serve the development contemplated under the Concept Plan. Developer shall be responsible at its cost for assuring that water and sewer lines are extended to the boundaries and are sized so as to meet the flow needs of the site adjacent to the Property conveyed by the Developer to Fort Mill School District No. 4 of York County, the MLE tract, and the Sutton View tract adjacent to the Property, consisting of approximately 282 acres and presently owned by Crescent Communities LLC or its affiliate, to the extent such properties are served by On-Site Infrastructure Improvements,.

(iii) The Developer agrees that it will make provision for installation of the “Carolina Thread Trail” (the “**Trail**”) within the Property in accordance with this Section 8(a)(iii).

1. Developer will provide a dedicated parking lot sized to accommodate a minimum of 10 cars, or provide on-street parking for a minimum of 10 cars, either of which shall provide public access to the Trail. The location of the parking area will be determined and approved during the preliminary plat process.

2. The Trail will be constructed of soft surface natural material, and will provide pedestrian access points to the Catawba River. Other uses and improvements along the trail may include but are not limited to: picnic areas, picnic tables, benches, and/or trail wayfinding signs. To ensure public access, the Developer may, at its option, offer the trail for public dedication, or prepare and record a public access easement.

3. The Developer shall be responsible for clearing and constructing the trail located within the Property, but may cooperate with others to construct the trail. The trail will be constructed in phases as various areas of the project are developed- proposed phasing will be determined and approved during the preliminary plat process.

4. The Trail will be maintained by a homeowner's association or property owners association. The Town and the Carolina Thread Trail will have the right to access and maintain the Trail if desired and requested by either of them, in their discretion. The Town shall not be obligated to maintain the Trail within the Property unless offered by the Developer and accepted by the Town for public dedication. Acceptance of such dedication is in the Town's sole discretion.

5. Developer will provide connectivity with components of the Carolina Thread Trail to be constructed on the adjoining tract owned by Crescent Communities, LLC and, if applicable, the MLE tract.

6. In addition to the Trail, the Developer agrees to set aside land along the Catawba River (by donation or easement) as part of an overall future greenway system. All dedicated greenway areas shall be included in allowable open space calculation and density calculations. The greenway area will generally be located along the western border of the property running parallel to the Catawba River with the alignment following the general path of the existing Tega Cay Force Main and meandering down toward the Catawba River in appropriate locations. This area may also be part of an overall trail network for the Property and utilized by the public.

(iv) The Off-Site Transportation Improvements shall be constructed and installed in accordance with the schedule set out in a phasing analysis approved by the SCDOT, and such Off-Site Transportation Improvements shall be constructed and installed in accordance with the specifications of the SCDOT. The Developer specifically agrees that its' failure to construct the Off-Site Transportation Improvements in accordance with such schedule shall constitute a material breach within the meaning of Section 6-31-90 of the Act.

(b) With regard to On-Site Infrastructure Improvements to be constructed by the Developer which are intended to be dedicated to public use, conveyed to the Town or connected to any Town utility system, the Town must review and approve the design,

engineering and construction of such On-Site Infrastructure Improvements and MLE Infrastructure Improvements to assure compliance with the Town's design and construction standards then in effect, so long as those standards are consistent with Industry Standards. With regard to On-Site Infrastructure Improvements constructed by the Developer which are not intended to be dedicated to public use, conveyed to the Town or connected to any Town utility system, the design, engineering and construction of such On-Site Infrastructure Improvements shall comply with design, engineering and construction standards applicable to private property then in effect in the Town, so long as those standards are consistent with Industry Standards. With respect to any streets and storm water drainage lines and improvements that are to be constructed by the Developer within the Property and offered, at the Developer's option, for dedication to the Town following completion, the Town may, at its option, accept the dedication of such improvements for public maintenance purposes. The Town and the Developer shall, prior to the construction of a particular component of the On-Site Infrastructure Improvements, reach agreement regarding whether the Town will accept the dedication thereof. With regard to any such improvements that the Town commits to accept, the Developer shall make available such improvements for dedication prior to the issuance of any certificates of occupancy for the subdivision in which such improvements are situated. The Developer shall provide the Town with all such easements and rights-of-way as are necessary for the operation and maintenance of all On-Site Infrastructure Improvements dedicated to the Town.

6. CONFIRMATION OF SECTIONS 8(C), 8(D), AND 8(E), AND DELETION OF SECTION 8(F)--PUBLIC FACILITIES AND SERVICES

Sections 8(c), 8(d) and (e) of the Development Agreement remain of full force and effect except as expressly modified by this Second Amendment. Section 8(f) of the Development Agreement is hereby deleted in its entirety.

7. MODIFICATION OF FORMER SECTIONS 8(G), 8(H) AND 8(I)--PUBLIC FACILITIES AND SERVICES

Former Sections 8(g), 8(h) and 8(i) of the Development Agreement are hereby deleted in their entirety, and the following Sections are inserted in lieu thereof and re-numbered as Sections 8(f), 8(g) and 8(h):

(f) There are mechanisms and tools that are or may be available to the Developer to fund the cost of the Infrastructure Improvements and/or the Off-Site Transportation Improvements (collectively, "**Infrastructure Funding Tools**"), including funding at the County, state and federal levels and other economic incentives (including, but not limited to, entering into FILOT agreements with the County). It is the Town's current intention as of the Amendment Date to give good faith consideration to the Developer's request that the Town cooperate with and facilitate the Developer's efforts to avail itself of Infrastructure Funding Tools to finance costs of the Infrastructure Improvements and/or the Off-Site Transportation Improvements. However, until sufficient details are provided by the Developer to the Town to allow the Town to adequately analyze the appropriateness of using or pursuing such Infrastructure Funding Tools to pay for

particular portions or components of the Infrastructure Improvements and/or the Off-Site Transportation Improvements, nothing in this Agreement shall be deemed or construed as a commitment or pre-approval by the Town to take any specific action(s) with respect to any particular Infrastructure Funding Tools, the undertaking of such action(s) being in the sole discretion of the Town. The parties agree that the Town does not intend to utilize any Infrastructure Funding Tool that would in any manner result in any revenues which would otherwise be received by the Town being applied to the payment of any costs associated in any manner with the development of the Property.

(g) The Town and the Developer have reached the following understandings and agreements relative to the Town's provision of public services and utilities that will be required to serve the contemplated development of the Property pursuant to the Concept Plan Documents defined above:

(i) The Town shall provide the Property and its owners, occupants, and tenants from time to time with the public services (except with respect to water and sewer service, which is addressed in Section 8(g)(ii) in this Agreement) then provided by the Town to other areas within the Town's limits and in a manner consistent with the quality and level of such public services provided by the Town to such other areas from time to time. The Town acknowledges and agrees that it may be necessary for the Town to hire additional employees and/or third-party contractors or consultants, to purchase additional supplies and equipment and otherwise to incur additional expenses to enable the Town to fulfill its obligations to provide municipal services to the Property as contemplated in this Agreement, and the Town agrees to act promptly from time to time as required to fulfill its obligations in that regard, subject to the general law of the State regarding municipal budgeting, appropriations and the imposition of taxes and service charges (collectively, "**State Budget Laws**").

(ii) Pursuant to the Utility Services Agreement, the Town has agreed to provide potable water and sanitary sewer treatment service to the Property, and to certain adjoining or nearby parcels of land. More specifically, the Town has committed to provide adequate potable water capacity and sanitary sewer treatment capacity to serve the Property and the development contemplated under the Concept Plan Documents and the relevant adjoining or nearby parcels of land. The Town may assess all lawful water and sewer capacity fees, capital charges and usage charges and fees, provided such charges and fees are applied consistently and in the same manner to all similarly-situated property within the Town limits. As set out in the Utility Services Agreement, the Town and the Developer have agreed that the fee structure for sanitary sewer treatment services provided to the Property will reflect the cost to the Town of contracting with the City of Tega Cay for transmission, treatment and disposal of wastewater from the Property and that the fee structure may be different from that imposed on other sewer customers within the Town. The fee structure for potable water shall be the same that is imposed on other potable water customers within the Town.

The Developer agrees that it will disclose to each purchaser of real estate

within the Property, prior to the closing of any such purchase, that charges for sewer imposed by the Town to its customers within the Property will differ from those imposed within other portions of the Town on account of the contractual arrangements described in the preceding paragraph.

(iii) Nothing contained in this Section 8(g) shall require the Town to exceed its statutory or state constitutional debt limitations, nor shall the obligations of the Town hereunder constitute a charge against or pledge of the full faith, credit, or taxing power of the Town.

(iv) As between the Developer and the Town, except as provided above in this Section 8, including but not limited to Section 8(a) with respect to the Off-Site Transportation Improvements, the Developer and its successors and assigns in title relative to the Property shall have no obligation to pay for or fund the cost of designing, planning and/or constructing any off-site infrastructure improvements as a condition to securing permits and approvals from the Town or its instrumentalities for the development of the Property pursuant to the Concept Plan Documents or otherwise realizing the rights and entitlements of the Developer as provided in this Agreement.

(v) If and to the extent (but only if and to the extent) the Town has any control and jurisdiction with respect to such matters, residents in the dwellings to be constructed within the Property shall be entitled to enroll in and attend public schools in the Town.

(vi) If requested, the Town agrees to provide reasonable non-monetary support to the Developer in obtaining public financing of the Off-Site Transportation Improvements that are required to implement the Concept Plan Documents. The Developer shall be responsible for the cost of designing and installing the Off-Site Transportation Improvements and all costs associated therewith and the Town shall have no responsibility therefor; provided, however, nothing contained in this Section 8(g)(vi) shall be construed as limiting the Developer's right to seek and obtain grants and other funding from public sources other than the Town.

(h) Unless otherwise hereafter agreed to by the Town and a Developer, nothing in this Agreement contemplates any payments, credits or reimbursements pursuant to Section 6-1-1050 of the Code.

8. MODIFICATION OF DEVELOPMENT SCHEDULE AND PHASING MAP REFERENCED IN SECTION 9

Exhibit C-1 and Exhibit C-2 of the Development Agreement referenced in Section 9 thereof are the development schedule and phasing map relating to the development of the Property. Exhibit C-1 and Exhibit C-2 are hereby deleted from the Development Agreement, and Exhibit D hereto, the revised development schedule, is inserted in lieu thereof. Exhibit C hereto depicts the revised phasing map for the Property.

9. MODIFICATION OF SECTION 10(A)(VII--DEVELOPMENT PERMITS AND OTHER APPROVALS

Section 10(a)(vii) of the Development Agreement is hereby amended by deleting the second sentence thereof, such that it reads as follows:

Sign Permits.

10. MODIFICATION OF SECTION 11--DEDICATION OF LAND FOR PUBLIC PURPOSES

Section 11 of the Development Agreement is hereby amended by deleting in its entirety the fourth sentence of this Section, which currently provides:

“The Developer also has offered to donate to Fort Mill School District No. 4 a site of approximately 15.4 acres, as shown in the Kanawha Concept Plan, for use as an elementary school to be constructed by Fort Mill School District No. 4 in accordance with LEED certification criteria.”

Section 11 of the Development Agreement is hereby amended by revising the fifth sentence of this Section so that it reads as follows:

“Furthermore, the Developer will offer free of charge to the Town a parcel of land within the Property, approximately 1.5 acres in size, the exact size and location of which is to be determined through further negotiations between the Developer and the Town, for the Town’s development and operation of a fire station or other municipal facility. The Developer will also make a monetary donation in the amount of \$(to come) to the Town upon the approval of this Second Amendment for the development of the Town’s recreational facilities.”

11. MODIFICATION OF SECTION 14--GOVERNING LAWS

The first sentence of Section 14 of the Development agreement is amended to read as follows:

The provisions of this Agreement shall be governed by, and construed in accordance with, the Act, the Code and other general laws of the State of South Carolina.

12. MODIFICATION OF SECTION 17--NOTICES

The notice address for each party to the Development Agreement as set out in Section 17 thereof is hereby amended as follows:

If to Developer: SDG Properties, LLC
 PO Box 37255
 Rock Hill, SC 29732
 Attn: Steven Hinshaw

Copy to: Driscoll Sheedy, P.A.
11520 North Community House Road
Suite 200
Charlotte, North Carolina 28277
Attention: James W. Sheedy

If to Town: Town of Fort Mill
P.O. Box 159 (29716)
112 Confederate Street (29715)
Fort Mill, South Carolina
Attention: Dennis Pieper, Town Manager

Copy to: Haynsworth Sinkler Boyd, P.A.
1201 Main Street, Suite 2200 (29201)
P.O.Box 11889 (29211-1889)
Columbia, South Carolina
Attention: Theodore B. Dubose

13. APPROVAL OF CONCEPT PLAN

The Town acknowledges and confirms that the Concept Plan attached hereto as Exhibit B-1 has been approved, and that the Concept Plan satisfies the requirement for the submission of a concept plan under the MXU zoning district standards.

14. EXHIBIT D--CODES AND ORDINANCES AND EXHIBIT E--GRAPHIC DEPICTION OF KANAWHA INFRASTRUCTURE IMPROVEMENTS

Exhibit D to the Development Agreement, which is an index describing all of the Town's codes, ordinances, laws, rules, regulations, policies and policy statements that were in effect as of the Agreement Date (defined in the Development Agreement as July 28, 2008) with respect to which the Developer is vested relative to the Property pursuant to Section 5(b) of the Development Agreement, is hereby designated as Exhibit E and is attached hereto and incorporated herein by reference. Original Exhibit E to the Development Agreement is hereby deleted.

15. RATIFICATION OF DEVELOPMENT AGREEMENT

Except as expressly modified or amended by the Second Amendment, the parties hereto ratify and affirm all provisions of the Development Agreement approved and adopted by Town Council on July 28, 2008, as amended by the First Amendment adopted February 12, 2013.

16. RECORDING

The Developer shall record this Second Amendment in the real estate records of the County within fourteen (14) days of the execution of this Second Amendment by the Town.

17. EFFECTIVE DATE

The Town and the Developer acknowledge and agree that this Second Amendment is effective upon the closing of the purchase of the SDGP Parcels by Crescent Communities, LLC, or its assignee, and shall not be effective in any respects prior to such closing.

SIGNATURES ON FOLLOWING PAGES

EXHIBIT A

The Property

EXHIBIT B-1

Concept Plan

[Copy of Concept Plan, consisting of a one page site plan, is attached hereto.]

EXHIBIT B-2

Development Conditions

Development Conditions Relating to the Concept Plan

Table of Contents

- 1.0 Commitment
- 2.0 Definitions
- 3.0 Relationship to the Zoning Ordinance
- 4.0 Binding Effect
- 5.0 Statement of Intent
- 6.0 Development Program
- 7.0 Development Standards
 - 7.1 Building Height
 - 7.2 Lot Dimensions and Setbacks
 - 7.3 Sidewalks
 - 7.4 Streets and Access
 - 7.5 Open Space
 - 7.6 Signage
 - 7.7 Landscaping
 - 7.8 Screening
- 8.0 Impact Fees

1.0 Commitment

The development and use of the approximately 293.689 acre parcel of land defined as the “Property” in the Agreement (as defined below) and more particularly described on Exhibit A attached thereto (the “Property”) shall be governed and controlled by these Development Conditions.

2.0 Definitions

As used in these Development Conditions, the “Agreement” shall mean and refer to the attached Development Agreement between the Developer, SDG Properties, LLC, and the Town, as amended by the First Amendment to Development Agreement and the Second Amendment to Development Agreement, which Development Agreement was made and entered into pursuant to the South Carolina Local Development Agreement Act.

Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Agreement.

3.0 Relationship to the Zoning Ordinance

Except as expressly set forth herein, in the event that there is any conflict between these Development Conditions and the conditions set forth in the Zoning Ordinance, including those set out for the MXU District, and other local land development codes, ordinances, laws, rules, and regulations adopted by the Town of Fort Mill (“Other Regulations”), these Development Conditions shall supersede the Zoning Ordinance and Other Regulations, unless otherwise prohibited by state or federal law, and shall be vested as of the Agreement Date (as defined in the Agreement). Otherwise, except as provided by these Development Conditions, the Property shall be subject to all of the applicable provisions of the Zoning Ordinance and Other Regulations.

Except as otherwise provided by applicable state or federal law and in Sections 8 and 14 of the Agreement, the Property (or any portion thereof) shall not be subject to future changes or amendments to the Town’s Zoning Ordinance or Other Regulations, with the exception of impact fees imposed pursuant to the South Carolina Development Impact Fee Act, §6-1-910, et seq. of the Code, in accordance with Section 5(d) of the Development Agreement. Furthermore, except as provided in Sections 8 and 14 of the Agreement, no subsequent legislative enactments will apply to the Property which will have an adverse effect on the ability of the Developer to develop the Property in accordance with the Concept Plan Documents and these Development Conditions or which will have the effect of materially increasing the cost of developing the Property in such manner.

Any term or phrase that is defined in the Zoning Ordinance, whether capitalized or not, and which is also used in these Development Conditions shall be deemed to have the same meaning in these Development Conditions as is ascribed to it in the Zoning Ordinance.

4.0 Binding Effect

As of the Amendment Date, the development program for the Property (the “Development Program”) established under the Concept Plan Documents (which include these Development

Conditions) shall, unless amended in the manner provided for in the Agreement, be binding upon the Developer and its successors in interest and assigns.

5.0 Statement of Intent

It is the intent of the Developer to implement the development described in the Concept Plan Documents over time. The goal of the Concept Plan Documents is to create a diverse, economically viable and environmentally sensitive community by integrating a mix of complementary uses and preserving as much as is feasible the Property's natural areas for hiking, other recreational uses and educational purposes. The mixed and integrated complementary uses under the Concept Plan Documents include commercial, office, retail, single family residential, multi-family residential, apartments, civic, institutional and passive and active recreational uses. The ultimate aim of the Concept Plan Documents is to provide a unique and high quality of life not only for the Property's residents and tenants, but for the entire region.

6.0 Development Program

The following provides a description of the Property and the Concept Plan.

The Concept Plan describes the intent of development and the general location of uses on the Property. Each use area is named according to its predominant use, however, a single use or a mixture of uses shall be permitted in all areas of the Property, provided that the maximum number of units and/or square feet of floor area permitted for the Property (as described on the Concept Plan or in these Development Conditions) is/are not exceeded. The Concept Plan is intended to be schematic in nature and is provided to show the general development intent of the Developer. The line(s) depicted on the Concept Plan delineating the different uses may be shifted and otherwise moved in any direction by the Developer to accommodate the specific development program requirements of the Developer, provided all other requirements set forth in these Development Conditions are met.

Description

The Property is more particularly described in Exhibit A attached to the Agreement. The Property contains approximately 293.689 acres and is located within the southwest quadrant of the I-77 and Sutton Road interchange.

Zoning Classification

The entire Property is zoned MXU, which zoning district accommodates a mixture of residential and commercial uses on the Property.

Permitted Uses

The following shall be permitted within the Property:

Use	Max. Floor Area (SF) or Units
Commercial	Not less than 250,000 sf and not to exceed 600,000 sf
Residential	Not to exceed 715 units

If one use is developed to a lower density, the other may be increased subject to Town approval.

Commercial uses shall be limited to the following types:

- adult day care facilities
- all uses listed as a permitted use in the HC District
- amphitheaters
- bed and breakfasts
- businesses involving the rendering of a personal service, repair, and servicing of small equipment permitted in the LC District
- care homes, public or private, including senior housing and assisted living facilities
- child day care facilities, or pre-school nursery
- churches, religious institutions
- civic uses
- clinics
- commercial services directly oriented to the operations of a specific permitted use
- hospital and healthcare institutions
- community halls
- hotels and motels
- municipal buildings, uses, or service lots
- museums
- offices, business or professional
- offices for health care services, such as doctors, dentists, and nursing, and personal care facilities
- parking, surface and structured
- performing arts centers
- private or semi-private club, lodge, recreation facility, union hall, or social center
- publicly-owned building, facility, or land (including schools)
- recreation or park facilities
- restaurants, fast food and standard, and bars
- retail businesses listed as a permitted use in the LC District
- retirement facilities
- theaters

Residential uses shall be limited to the following types:

- one-family dwellings, detached (other than mobile homes)
- one-family dwellings, attached (including townhomes)
- two-family dwellings
- multi-family dwellings
- group dwellings
- accessory uses or buildings
- customary home occupations

7.0 Development Standards

As provided in Section 3.0 in these Development Conditions, all development within the Property shall meet the requirements set forth in the MXU District regulations, except as set forth in this Section and the attached maps and schedules. Therefore, with respect to building height, setbacks, sidewalks, streets and access, open space, signage, landscaping, and screening, all development within the Property shall be in accordance with the standards set forth below in this Section 7.0 (notwithstanding any contrary provisions in the Zoning Ordinance, including the MXU District regulations, and Other Regulations).

7.1 Building Height

All buildings constructed within the MXU District shall not exceed the maximum building height set forth below.

District	Maximum Building Height (feet)
MXU	60*

* See MXU dimensional standards for applicable height limitation.

** A building's height may exceed the maximum building height indicated in the chart above, provided all portions of the structure exceeding the building height limit indicated shall be set back an additional 1 foot from each external boundary line of the Property for each foot that the building's height exceeds the building height limit indicated in the chart above. Provided, however, and notwithstanding the foregoing sentence to the contrary, this additional "foot-for-foot" setback requirement (i) shall be applicable only with respect to external Property boundary lines and shall not be applicable with respect to internal parcel or tract boundary lines within the Property (i.e., it shall not be applicable to the boundary lines of parcels or tracts that are hereafter subdivided within or created within the Property unless any such boundary line also was an original external boundary line of the Property) and (ii) shall not be applicable to the setback requirement measured from the right-of-way of Interstate 77 for buildings that are constructed on portions of the Property adjacent to the Interstate 77 right-of-way boundary.

7.2 Lot Dimensions and Setbacks

All lot dimensional and setback requirements set forth in the MXU District shall be met except as set out below:

Single Family Detached Homes

Minimum front building setback from street right of way: 20 feet

Minimum side yard: 5 feet

Minimum side yard on corner lots from street right of way: 10 feet

Minimum rear yard: 20 feet

Minimum street frontage: 30 feet

Minimum lot size: 2,400 square feet

Additionally, the MXU District Regulations shall be amended to read as follows:

- 1. The first sentence in Note 1 in subsection 4.A shall be amended to read: “The required rear yard depth shall be reduced to five feet when abutting an alley or dedicated open space and to three feet for corner lots when abutting an alley, provided any structure constructed on a corner lot abutting an alley shall maintain adequate line-of-sight setbacks (or “sight triangles”) at the intersection of the alley and public right-of-way”.**
- 2. Subsection 4.K.1 shall be amended to add the following subsection: “c. Project perimeter buffers are not required between the Property and i). the abutting 39.22 acre Fort Mill School District #4 Proposed School Site property, Parcel No. 0202001034, or ii). the abutting 280.72 acre Crescent Communities, LLC property, Parcel No. 0202001038.”**

7.3 Sidewalks

In residential areas, the homebuilder or developer shall construct sidewalks in accordance with Town’s standards in effect on the Amendment Date and within a public easement that is easily accessed by the Town for maintenance purposes, including utility easements (if approved in writing by the utility provider(s)), if such sidewalks are to be maintained by the Town. Each segment shall be constructed prior to the issuance of a certificate of occupancy for such adjacent residential unit(s). The development standards for sidewalks set forth in the MXU District shall be met.

7.4 Streets and Access

All streets constructed within the Property shall be designed and constructed in accordance with the street standards set forth in the MXU District (including, without limitation, subsection 4F of the MXU District Regulations) (all as in effect on the Agreement Date). All other roadways shall be constructed in accordance with the standards established by the governmental authority(ies) having jurisdiction over maintenance and operation.

The Concept Plan indicates the number and general location of access points into the Property. Such access points shall be installed with approval from the appropriate governmental authorities. Developer will provide primary access to the Property from Frances Circle through the area within the recorded easement dated February 20, 2013, from SDG Properties, LLC to the Fort Mill School District 4 of York County connecting the Property with Frances Circle across an existing residential parcel, Tax Map No. 0202001018, or such other alignment as is approved by the appropriate governmental authorities. The exact location of access points may be modified subject to recommendations of the Traffic Impact Analysis

prepared by Campco Engineering, Inc. dated _____, 2014, as may be revised or updated from time to time, and to engineering and site constraints.

7.5 Open Space

The Concept Plan shows schematically the sensitive archeological sites within the Property, as well as the Museum site adjoining the Property, that would be subject to certain restrictions to be established by the Developer, subject to the reasonable approval of the Town.

7.6 Signage

Signs installed within the Property shall comply with the requirements set out in the Zoning Ordinance as of the Agreement Date. Specific sign locations shall be identified on the Final Plan/Site Specific Plan for each portion of the Property as it is developed.

7.7 Landscaping

As the Property is developed, landscaping within each tract shall adhere to the requirements for landscaping as set forth in applicable sections of the Zoning Ordinance and any applicable streetscape plan adopted by the Town prior to the Agreement Date, **except (1) any native, non-invasive plant and tree species will always be permitted and (2) street tree spacing may be as close as 24 feet, depending upon the species.**

7.8 Screening

Fences constructed of the following materials may be used to meet screening requirements: brick, stone, stucco, other masonry materials, vinyl, wood, metal or other materials specifically designed as fencing materials or any combination thereof.

Shrubs used as screening material may include species that exceed six feet in height at maturity. While maximum spacing requirements shall be met at time of planting, shrubs may be removed as plants mature to allow for healthy growth of roots system, provided the overall screening purpose is achieved.

8.0 Impact Fees

Pursuant to section 5(d) of the Agreement, the Property shall be subject to all impact fees enacted by the Town as set forth in the Town's Zoning Ordinance and Other Regulations, **except that no additional impact fees or other similar charges shall be assessed for a separate apartment or structure designated as a "granny apartment" or for other similar use in a residential unit provided such uses have a single tap and meter.**

EXHIBIT C

On-Site Infrastructure Improvements

EXHIBIT D

Development Schedule

EXHIBIT E

Index of Codes and Ordinances

**Planning Commission Meeting
September 16, 2014
New Business Item**

Development Agreement Amendment: Sustainable Dev. Group, Inc.

An ordinance authorizing a first amendment to the Development Agreement by and between Sustainable Development Group, Inc., and the Town of Fort Mill to provide for improvements and utility services to benefit the property; and other matters relating thereto

Background / Discussion

On July 28, 2008, the town entered into a development agreement with Sustainable Development Group, Inc., for the Museum of Life and the Environment (MLE) project located at the southwest quadrant of Sutton Road and I-77.

The MLE property is surrounded by real estate owned by SDG Properties, LLC, formerly known as Cherokee SDG, LLC (Developer). The surrounding property currently under contract for sale from SDG Properties LLC to Crescent Communities. An amendment to the SDG Properties LLC Development Agreement is also currently pending before the town council.

The primary purpose of this first amendment is to clarify responsibility for extending water, sewer and transportation infrastructure to the MLE property. The existing agreements specify that infrastructure improvements will be installed on the MLE tract by the developer of the Kanawha project. The second amendment to the SDG Properties LLC Development Agreement will relieve the developer of the Kanawha project from this requirement. Instead, the revised DA for the SDG Properties LLC property requires only that all lines and roads be stubbed out to allow future connection to the MLE property. To avoid the town having any responsibility or liability for making these future connections, the MLE Development Agreement will be amended to make these improvements the responsibility of Sustainable Development Group, Inc., or its successors in interest.

A draft ordinance and draft first amendment to the Development Agreement are attached for review. The town's bond attorney, Theodore DuBose of the Haynsworth Sinkler Boyd Law Firm, will also be in attendance to provide additional information relating to the request.

Recommendation

Should the planning commission and council choose to approve the second amendment to the SDG Properties LLC (Kanawha) Development Agreement, staff recommends in favor of the proposed first amendment to the Sustainable Development Group, Inc., (MLE) Development Agreement as well.

Joe Cronin
Planning Director
September 12, 2014

STATE OF SOUTH CAROLINA
TOWN COUNCIL FOR THE TOWN OF FORT MILL
ORDINANCE NO. 2014-___

AN ORDINANCE AUTHORIZING A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT BY AND BETWEEN SUSTAINABLE DEVELOPMENT GROUP, INC. AND THE TOWN OF FORT MILL TO PROVIDE FOR IMPROVEMENTS AND UTILITY SERVICES TO BENEFIT THE PROPERTY; AND OTHER MATTERS RELATING THERETO

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF FORT MILL IN MEETING DULY ASSEMBLED:

ARTICLE I

FINDINGS OF FACT

Section 1.1 Findings of Fact. As an incident to the adoption of this Ordinance, the Town Council of the Town of Fort Mill (the “Town Council”), the governing body of the Town of Fort Mill, South Carolina (the “Town”), finds that the facts set forth in this Article exist, and the statements made with respect thereto are true and correct:

(A) The Town is authorized pursuant to the provisions of the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 through 6-31-160, inclusive, of the Code of Laws of South Carolina, 1976, as amended (herein and as codified, the “Act”), to enter into and amend development agreements with developers (as defined in the Act) to promote comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources and reduce the economic cost of development.

(B) Pursuant to Sections 6-31-10 through 6-31-160 of the Act, Sustainable Development Group, Inc. (the “Developer”), and the Town entered into a Development Agreement dated July 28, 2008, and recorded on August 1, 2008 in Book 10219 at Page 62 of the Register of Deeds of York County, South Carolina (the “Original Development Agreement”); and

(C) The Developer and the Town desire to amend the terms of the Original Development Agreement with respect to the terms of the proposed First Amendment to Development Agreement attached hereto as Exhibit A (the “First Amendment”), and has reached an agreement with the Developer on the matters set forth in the First Amendment.

(D) After due investigation, the Town Council has determined that it is in the best interests of the Town to approve the First Amendment and authorize its execution and delivery.

(E) The Town Council has determined that all conditions precedent to the execution and delivery of the First Amendment shall, upon the final reading of this Ordinance

(herein, "Ordinance"), have been met. A public hearing, as required by Section 6-31-60(B) of the Act, has been duly noticed and held.

- (F) The Town Council is adopting this Ordinance in order to:
 - a. approve the entry by the Town into the First Amendment; and
 - b. authorize the execution and delivery of the First Amendment on behalf of the Town.

ARTICLE II

THE AGREEMENT

Section 2.1 Authorization of First Amendment. The Town Council hereby authorizes the entry by the Town into the First Amendment in the form attached hereto as Exhibit A.

Section 2.2 Execution and Delivery of First Amendment. The Town Council authorizes the Mayor of the Town to execute and deliver the Amendment to the Developer. The Town Clerk is authorized to affix, emboss, or otherwise reproduce the seal of the Town to the First Amendment and attest the same.

Section 2.3 Effective Date. This ordinance shall be effective from and after the date of adoption.

Section 2.4 Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SIGNED AND SEALED this _____ day of _____, 2014, having been duly adopted by the Town Council for the Town of Fort Mill on the _____ day of _____, 2014.

First Reading: September 8, 2014
Public Hearing: September 22, 2014
Second Reading: September 22, 2014

TOWN OF FORT MILL

Danny P. Funderburk, Mayor

LEGAL REVIEW

Barron B. Mack, Jr, Town Attorney

ATTEST

Dana Powell, Interim Town Clerk

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

**FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this “Amendment”) is entered into this __ day of _____ 2014 by Town and SDG. Town, SDG and any successor in interest to SDG that takes title to the Property are hereafter collectively referred to as the “Parties”. Except as otherwise specifically defined herein, all capitalized terms used in this Amendment shall have the meanings ascribed to them in the Development Agreement dated July 28, 2008, recorded on August 1, 2008 in Volume 10219 at Page 62, with the Register of Deeds, York County, SC (hereafter, the “Development Agreement”).

RECITALS:

WHEREAS, pursuant to the South Carolina Local Government Development Agreement Act (the “Act”) as set forth in Sections 6-31-10 through 6-31-160 of the South Carolina Code of Laws (1976, as amended), Town and SDG entered into the Development Agreement which addresses certain aspects of development of the Property;

WHEREAS, the Property is surrounded by real estate owned by SDG Properties, LLC, formerly known as Cherokee SDG, LLC (Developer) as described on **Exhibit A** hereto (Developer Property);

WHEREAS, the Developer Property is subject to the Kanawha Development Agreement entered into between Cherokee SDG, LLC and Town, dated July 28, 2008, recorded on August 1, 2008 in Volume 10219 at Page 1, as modified by that certain First Amendment to Development Agreement dated February 12, 2013, recorded February 13, 2013 in Volume 13207 at Page 191, both with the Register of Deeds, York County, SC (this Development Agreement and First Amendment to Development Agreement are hereinafter collectively referred to as the “Kanawha Development Agreement”);

WHEREAS, Developer has entered into a contract with Crescent Acquisitions, LLC (Purchaser) for sale of the Developer Property to Purchaser, as a result of which Purchaser wishes to modify the Kanawha Development Agreement;

WHEREAS, Developer is negotiating with Town over the terms of a second amendment to the Kanawha Development Agreement, which will necessitate certain changes to SDG’s Development Agreement with Town, including the provision of utilities and installation of infrastructure, and those changes may clarify or increase SDG’s obligations to Town but are not intended to reduce any benefits to Town or increase any obligations of Town under the Development Agreement; and

WHEREAS, to set forth the changes to the Development Agreement, the Parties enter into this Amendment, which is a minor modification to the Development Agreement, pursuant to and

in accordance with S.C. Code Ann. § 6-31-60(B) (Rev. 2004), to be recorded in the chain of title and be binding upon and inure to the benefit of all successors in interest of SDG, in accordance with S.C. Code Ann. §6-31-120 (Rev. 2004).

WITNESSETH:

NOW, THEREFORE, in consideration of the foregoing preamble recitals and the mutual covenants and agreements contained herein, the Parties hereby agree as follows.

A. KANAWHA INFRASTRUCTURE IMPROVEMENTS

Section 8(b) of the Development Agreement references the obligation of Developer under Section 8 of the Kanawha Development Agreement to construct and install the “Kanawha Infrastructure Improvements”(as defined below), including, among other things, primary service for water and sanitary sewer lines and improvements, storm water drainage lines and improvements, and the primary road to the Museum planned to be located within the boundaries of the Property, as well as specific road and utility improvements near or adjacent to the Kanawha Community Tract that are expressly identified in Exhibit E to the Kanawha Development Agreement (collectively, the “Kanawha Infrastructure Improvements”). Developer’s responsibilities and obligations for the design, construction and delivery of the Kanawha Infrastructure Improvements as set forth in Section 8 of the Kanawha Development Agreement, insofar as they provide benefit to the Property and were incorporated into the Development Agreement, are hereby modified. Specifically, Developer’s sole obligation with respect to the Property shall be to design and construct to the boundary line of the Property, but not within the Property, those public facilities and improvements necessary to provide public utilities and public vehicular and pedestrian access to the Property. Developer shall have no obligation whatsoever to install any infrastructure improvements within the boundaries of the Property, or to pay for any capacity, tap, connection or other charges that may be imposed or charged by Town related to, arising from or in connection with the provision of public utility service to any development located on the Property. Sections 8(a), 8(b), 8(c) and 8(i)(ii)(1) and (2) of the Development Agreement are hereby modified to the extent such are inconsistent herewith.

B. SDG CONSTRUCTED INFRASTRUCTURE IMPROVEMENTS

Section 8(b) of the Development Agreement defines “SDG Constructed Infrastructure Improvements” to include sanitary sewer lines and facilities, storm water drainage lines and facilities, potable water lines and facilities, fire hydrants, roadways, bridges, streets, and sidewalks within the Property. The definition of SDG Constructed Infrastructure Improvements is hereby amended to include the requisite infrastructure for the primary service for water and sanitary sewer lines and improvements, storm water drainage lines and improvements and the primary road to the Museum located within the boundaries of the Property. SDG, or its successor in interest, shall bear the entire cost for the design, construction and installation of the SDG Constructed Infrastructure Improvements, including the cost of any requisite upsizing of infrastructure installed by Developer at the boundary line of the Property that may be required as a result of the installation of the SDG Constructed Infrastructure Improvements.

C. CORRECTED DESCRIPTION OF PROPERTY

The property description set forth in Exhibit A attached to the Development Agreement is hereby deleted in its entirety and replaced with the description in **Exhibit B** attached hereto.

D. EXPRESS CERTIFICATION OF TOWN

1. This Amendment has been approved by Town in conformity with all applicable provisions of (i) Town's Code of Ordinances and (ii) the South Carolina Local Government Development Agreement Act as set forth in Sections 6-31-10 through 6-31-100 of the South Carolina Code of Laws (1976, as amended).

E. CONDITIONS TO EFFECTIVENESS OF AMENDMENT

1. **Conditions Precedent to Effectiveness of this Amendment.** The effectiveness of this Amendment is contingent upon the occurrence of the following events.

a. **Statutory Requirements.** Any requirements for a minor modification, and not any requirements for a major modification as referenced in S.C. Code Ann. § 6-31-60(B) (Supp. 2000), must be satisfied.

b. **Execution of this Amendment.** This Amendment must be executed by Developer and Town with proper authority to bind their respective entities.

c. **Recordation of this Amendment.** After subsections a. and b. as set forth immediately above have been met, Town or SDG must record the Amendment with the Register of Deeds for York County so that the Amendment appears in the chain of title.

Town and SDG may waive any of the foregoing conditions precedent to the effectiveness of this Amendment. Waiver of any condition precedent shall not be construed as a waiver of all conditions or any other condition precedent, and the right of Town to enforce each and every other condition precedent shall be unimpaired and unaffected by the waiver.

2. **Effective Date of this Amendment.** This Amendment shall become effective upon the occurrence of all of the contingencies set forth in paragraph 1 of this Section E. However, if all of the contingencies are not accomplished on or before November 1, 2014, or if at any time prior to such date any one or more of such contingencies fail, then this Amendment shall, at the option of any of the Parties, terminate. Upon any such termination, Town, SDG and its successor or assignee shall immediately execute a termination of this Amendment and file such termination with the Register of Deeds for York County.

F. MISCELLANEOUS PROVISIONS

1. **Assignment and Assumption.** SDG or any successor in interest thereto shall not sell, convey, assign, transfer, hypothecate, encumber or permit or suffer any encumbrance of all

or any portion of its interest in this Amendment unless approved in writing in advance by Town, which approval shall not be unreasonably delayed or withheld; provided, however, in the event any approval is given by Town, SDG shall not be relieved or released of its responsibilities and obligations to Town under this Amendment. Any attempt to so transfer or encumber any such interest in contravention hereof shall be void.

2. **Default; Remedies on Default.** The default provisions in the Development Agreement shall apply to SDG or to any successor in interest of SDG or to any successive owner of the Property. Resolution of any dispute arising under this Amendment, including any incorporation by reference of the Development Agreement, including any exhibits or attachments thereto, into this Amendment, shall be conducted exclusively in the courts of York County, state of South Carolina. This Amendment shall be governed by and interpreted under South Carolina law. Except as otherwise provided under S.C. Code Ann. § 6-31-10 et seq. (Rev. 2004), the Parties shall have those remedies available to them for breach of this Amendment as allowed by applicable law, without limitation, including claims for equitable and legal relief.

3. **General Representations and Warranties.** SDG represents, warrants and covenants as follows.

a. The execution, delivery and performance of this Amendment has been duly authorized by SDG.

b. No approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by SDG in order for SDG to enter into and perform its obligations under this Amendment, nor will the entry by SDG into this Amendment conflict with or constitute a breach of or default under any agreement or instrument to which SDG is a party or by which it is bound .

c. In connection with SDG's obligations under this Amendment, SDG shall comply with all applicable federal, state and local laws and regulations and shall obtain all required federal, state, and local permits and licenses.

d. The performance of this Amendment by SDG and anyone on its behalf will not violate any contracts or agreements with third parties or any third party rights, including, but not limited to, any non-compete agreements, non-disclosure agreements, patents, trademarks or intellectual property rights. This Amendment must be entered by Town and SDG prior to any conveyance of the Property by SDG, in order for this Amendment to be valid and enforceable.

4. **Term of Agreement.** Section 7(a) of the Development Agreement provides that the term thereof is five (5) years. Accordingly, the intent of the Town and SDG at the time the Development Agreement was executed was that the Development Agreement would expire as of July 28, 2013. Joint Resolutions of the South Carolina General Assembly adopted in the 2009-2010 session (H4445) and the 2013-2014 session (H3774) (together, the "Joint Resolutions") may apply, however, to the running of the effective period of a development agreement entered into under Act (each a "Statutory Development Agreement"). The Attorney General of the State of South Carolina in an opinion dated April 1, 2014 opined that the Joint Resolutions do apply to the

running of effective period of Statutory Development Agreements. If the Joint Resolutions are applicable to the Development Agreement, the effective period thereof would begin running on January 1, 2017 and would expire on December 31, 2021.

The Town and SDG do not intend by this Amendment to extend the term of the Development Agreement beyond its original expiration date of July 28, 2013. In light of the ambiguity created by the Joint Resolutions, however, the Town and SDG are entering into this Amendment as a matter of precaution. In the event that a court of competent jurisdiction shall hereafter rule in a final unappealable order that the Joint Resolutions are not applicable to Statutory Development Agreements, then this Amendment shall be deemed void *ab initio*, and the Development Agreement shall be deemed to have expired on July 28, 2013.

IN WITNESS WHEREOF, SDG and Town have caused their respective names to be subscribed hereto, all on the date set forth above.

[Signatures on Following Pages]

Witnesses:

SDG

Sustainable Development Group, Inc.

By: _____

Its: _____

STATE OF NORTH CAROLINA

)

COUNTY OF MECKLENBURG

)

)

PROBATE

Before me personally appeared the undersigned witness and made oath that s/he saw the within named Jane Peebles, being and as Chairperson of Sustainable Development Group, Inc., a South Carolina corporation, sign, seal and as its act and deed, deliver the within written Amendment; and that s/he, with the other witness whose signature appears above, was present and witnessed the execution thereof.

Sworn to before me this ___ of _____ 2014.

1st witness sign here

Notary Public for NC
My Commission Expires: _____

TOWN

Town of Fort Mill, S.C.

By: _____

Its: _____

STATE OF SOUTH CAROLINA

)

)

PROBATE

COUNTY OF YORK

)

Before me personally appeared the undersigned witness and made oath that s/he saw the within named _____, being and as Manager of the Town of Fort Mill, SC, sign, seal and as Town's act and deed, deliver the within written Amendment; and that s/he, with the other witness whose signature appears above, was present and witnessed the execution thereof.

Sworn to before me this ____ day of _____ 2014.

1st witness sign here

Notary Public for SC
My Commission Expires: _____

Exhibit A

All those certain pieces, parcels or tracts of land lying and being situate on the western side of Sutton Road in Fort Mill Township, York County, containing in the aggregate 332.208 acres, more or less, being designated as PARCEL "A-1" containing 311.9 acres, more or less, PARCEL A-2 containing 0.324 acre, PARCEL A-3 containing 0.347 acre, PARCEL A-4 containing 0.689 acre, PARCEL A-5 containing 0.848 acre, and PARCEL A-6 containing 19.1 acres, more or less, on "Map of Boundary Survey of THE LANDS OF CHEROKEE SDG, LLC AND SUSTAINABLE DEVELOPMENT GROUP, INC.", dated February 14, 2008, by Post, Buckley, Schuh & Jernigan, Inc., Charles J. Dunbar, SCPLS No. 21938 (the "Survey"), recorded in PLAT BOOK D-295, PAGES 9 AND 10, Office of the Clerk of Court for York County, South Carolina, to which plat reference is hereby made for a more particular description of the aforesaid tracts by courses and distances.

DERIVATION: The above-described Parcels were acquired by Cherokee SDG, LLC by the following conveyances: (1) most of Parcel A-1 (Tax Map No. 658-00-00-108 and Tax Map No. 658-00-00-003) by deed from Sustainable Development Group, Inc. dated March 20, 2006, recorded March 20, 2006, in Record Book 7876 at page 69 and Corrective Title to Real Estate dated March 31, 2006, recorded April 11, 2006, in Record Book 7939 at Page 73, (with Parcel B-2 as shown on the Survey subsequently re-conveyed by Cherokee SDG, LLC to Sustainable Development Group, Inc. by deed dated June 3, 2008, recorded June 3, 2008, in Record Book 10091 at page 291); (2) the rest of Parcel A-1 (Tax Map No. 658-00-00-028), by deed from Marie Dianne Brabham dated August 16, 2007, recorded August 16, 2007, in Record Book 9353 at page 135; (3) Parcel A-2 (Tax Map No. 658-00-00-015) by deed from Ralph B. Vess, Sr. and Myra C. Vess dated May 31, 2007, recorded June 1, 2007, in Record Book 9136 at page 116; (4) Parcel A-3 (Tax Map No. 658-00-00-006) by deed from John W. Ruch and Sandra M. Ruch dated May 31, 2007, recorded June 1, 2007, in Record Book 9136 at Page 109; (5) Parcel A-4 (Tax Map No. 658-00-00-005) by deed from William D. Rowell and Mary Kay Rowell dated May 31, 2007, recorded June 1, 2007, in Record Book 9136 at Page 105; (6) Parcel A-5 (Tax Map No. 658-00-00-017) by deed from Earley Hildreth dated August 16, 2007, recorded August 16, 2007, in Record Book 9353 at Page 129; and (7) Parcel A-6 by deed from Sustainable Development Group, Inc. dated June 3, 2008, recorded June 3, 2008, in Record Book 1091 at page 297, Office of the Clerk of Court for York County, South Carolina.

LESS AND EXCEPT:

Being that tract or parcel of land located in Fort Mill Township, York County, South Carolina and described as follows:

Commencing at South Carolina Grid Monument "Joey," with coordinates Northing: 1,151,666.13' and Easting: 2,007,061.76'; thence North 70-09-22 West 556.00' to an iron rebar (pin) found (capped); thence South 17-48-42 West 915.72' to an iron rebar (pin) set [passing a crimped iron pin found and an iron pin found (capped)], the **POINT AND PLACE OF BEGINNING**; thence South 17-48-42 West 642.30' to an iron rebar (pin) set [passing three crimped iron pins found]; thence North 77-21-21 West 831.93' to an iron rebar (pin) set; thence North 21-59-43 East 331.43' to an iron rebar (pin) set; thence North 8-49-36 East 191.51' to an iron rebar (pin) set; thence North

52-42-42 East 620.36' to an iron rebar (pin) set; thence South 39-11-28 East 571.54' to an iron rebar (pin) set, the **POINT AND PLACE OF BEGINNING**, containing 15.0001 acres, more or less, as shown on that "ALTA/ACSM Land Title Survey 315 Sutton Road South," drawn by Leo J. Zoutewelle, SC License No. 6956 and dated September 14, 2010 (last revised April 13, 2011).

The above described parcel was conveyed to The Charlotte-Mecklenburg Hospital Authority by SDG Properties, LLC through that certain Title to Real Estate dated May 2, 2011 and recorded May 5, 2011 in Volume 11971 at Page 259 in the Office of the Register of Deeds for York County, South Carolina.

ALSO LESS AND EXCEPT:

Being that tract or parcel of land located in Fort Mill Township, York County, South Carolina and described as follows:

Commencing at South Carolina Grid Monument "Joey," with coordinates Northing: 1,151,666.13' and Easting: 2,007,061.76'; thence North 70-09-22 West 556.00' to an iron rebar (pin) found (capped), the **POINT AND PLACE OF BEGINNING**; thence South 17-48-42 West 915.72' to an iron rebar (pin) set [passing a crimped iron pin found and an iron pin found (capped)]; thence North 39-11-28 West 571.54' to an iron rebar (pin) set; thence North 52-42-42 East 837.80' to an iron rebar (pin) set; thence South 17-48-42 West 82.67' to an iron rebar (pin) found (capped), the **POINT AND PLACE OF BEGINNING**; containing 5.4933 acres, more or less, as shown on that "ALTA/ACSM Land Title Survey 315 Sutton Road South," drawn by Leo J. Zoutewelle, SC License No. 6956 and dated September 14, 2010 (last revised April 13, 2011).

The above described parcel was conveyed to The Charlotte-Mecklenburg Hospital Authority by SDG Properties, LLC through that certain Title to Real Estate dated May 2, 2011 and recorded May 5, 2011 in Volume 11971 at Page 252 in the Office of the Register of Deeds for York County, South Carolina.

ALSO LESS AND EXCEPT:

Commencing at South Carolina Grid Monument "Joey," with coordinates Northing: 1,151,666.13' and Easting: 2,007,061.76'; thence North 70-09-22 West 556.00' to an iron rebar (pin) found (capped); thence South 17-48-42 West 1,585.64' to an iron rebar (pin) found [passing various crimped iron pins found], the **POINT AND PLACE OF BEGINNING**; thence South 17-48-42 West 39.66' to an iron rebar (pin) found (capped); thence North 77-17-09 West 774.83' to an iron rebar (pin) set; thence North 26-40-55 East 39.73' to an iron rebar (pin) set; thence South 77-21-21 East 768.76' to an iron rebar (pin) found, the **POINT AND PLACE OF BEGINNING**, containing 0.6914 acres, and as shown on that "ALTA/ACSM Land Title Survey 315 Sutton Road South," drawn by Leo J. Zoutewelle, SC License No. 6956 and dated August 1, 2011.

The above described parcel was conveyed to The Charlotte-Mecklenburg Hospital Authority by SDG Properties, LLC through that certain Title to Real Estate dated October 28, 2011 and recorded October 31, 2011 in Volume 12236 at Page 49 in the Office of the Register of Deeds for York County, South Carolina.

ALSO LESS AND EXCEPT:

Being that tract or parcel of land located in Fort Mill Township, York County, South Carolina and described as follows:

ALL that certain piece, parcel or tract of land lying and being within the limits of the Town of Fort Mill, York County, South Carolina, on or near the southern side of Sutton Road, containing **Thirty-Nine and 222/100 (39.222) Acres**, more or less, designated as “New Parcel” on that certain “Boundary Survey for SDG Properties, LLC, 315 S. Sutton Rd., Town of Fort Mill, York County, South Carolina,” dated October 26, 2012, last revised November 8, 2012, recorded in **Plat Book E181, Page 2**, Office of the Clerk of Court for York County, South Carolina (the “Survey”), to which plat reference is made for a more particular description by courses and distances of the said 39.222-acre tract.

The above described parcel was conveyed to Fort Mill School District 4 of York County, South Carolina by SDG Properties, LLC through that certain Title to Real Estate recorded February 20, 2013 in Volume 13222 at Page 95 in the Office of the Register of Deeds for York County, South Carolina.

Exhibit B

All those certain pieces, parcels or tracts of land lying and being situate on the western side of Sutton Road in Fort Mill Township, York County, containing in the aggregate 59.95 acres, more or less, being designated as PARCEL B-1 containing 30.8 acres, more or less, PARCEL B-2 containing 8.6 acres, more or less, PARCEL B-3 containing 17.6 acres, more or less, and ISLAND containing 2.950 acres, more or less, on “Map of Boundary Survey of THE LANDS OF CHEROKEE SDG, LLC AND SUSTAINABLE DEVELOPMENT GROUP, INC.”, dated February 14, 2008, by Post, Buckley, Schuh & Jernigan, Inc., Charles J. Dunbar, SCPLS No. 21938 (the “Survey”), recorded in PLAT BOOK D-295, PAGES 9 AND 10, Office of the Clerk of Court for York County, South Carolina, to which plat reference is hereby made for a more particular description of the aforesaid tracts by courses and distances.

DERIVATION: The above-described Parcels were acquired by Sustainable Development Group, Inc. through that certain Title to Real Estate from the Cultural and Heritage Foundation, Inc. dated March 17, 2006, recorded March 20, 2006, in Book 7876 at Page 63 and that certain Title to Real Estate from Cherokee SDG, LLC to Sustainable Development Group, Inc. dated June 3, 2008 and recorded the same date in Book 10091 at Page 291, both in the Office of the Register of Deeds for York County, South Carolina.

Fort Mill Planning Department



Development Activity Report August 2014

Monthly & Year-to-Date Permit Summary (All Permits)

Monthly Permit Activity (All Permits) – August 2014 vs. August 2013

	August 2014	August 2013	Change (#)	Change (%)
Permits Issued	150	74	+76	+102.7%
Construction Value	\$13,906,813	\$20,206,710	-\$6,299,897	-31.2%
Permit Fees Collected	\$89,641	\$106,692	-\$17,051	-16.0%

Year-to-Date Permit Activity (All Permits) – January-August 2014 vs. January-August 2013

	YTD 2014	YTD 2013	Change (#)	Change (%)
Permits Issued	768	519	+249	+48.0%
Construction Value	\$116,206,771	\$94,180,620	+\$22,026,151	+23.4%
Permit Fees Collected	\$692,240	\$559,603	+\$132,637	+23.7%

Monthly & Year-to-Date Permit Summary (Single-Family Residential Permits)

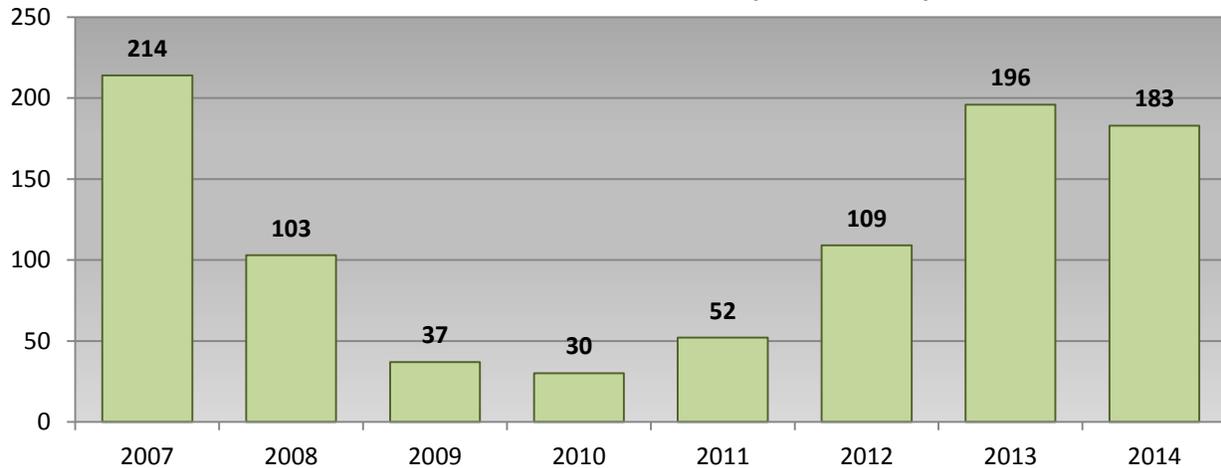
Monthly Permit Activity (Single-Family Residential) – August 2014 vs. August 2013

	August 2014	August 2013	Change (#)	Change (%)
Permits Issued	28	28	0	0.0%
Construction Value	\$10,919,745	\$11,663,408	-\$743,663	-6.4%
Avg. Permit Value	\$389,991	\$416,550	-\$26,559	-6.4%

Year-to-Date Permit Activity (Single-Family Residential) – January-August 2014 vs. January-August 2013

	YTD 2014	YTD 2013	Change (#)	Change (%)
Permits Issued	183	196	-13	-6.6%
Construction Value	\$78,056,193	\$80,182,790	-\$2,126,597	-2.7%
Avg. Permit Value	\$426,537	\$409,096	+\$17,441	+4.3%

Year-to-Date Residential Permits (2007-2014)



A total of 28 new single-family residential permits were issued during the month of August 2014, including 2 in the Forest at Fort Mill, 13 in Massey, 9 in the Preserve at River Chase, and 4 in Springfield.

- **Forest at Fort Mill**
 - 265 Monterey Oaks Circle
 - 281 Monterey Oaks Circle
- **Massey**
 - 909 Culver Drive
 - 4036 Farben Way
 - 4072 Farben Way
 - 1778 Felts Parkway
 - 3062 Ivy Mill Road
 - 3066 Ivy Mill Way
 - 5029 Ivy Mill Way
 - 1263 Kings Bottom Drive
 - 1275 Kings Bottom Drive
 - 1282 Kings Bottom Drive
 - 5009 St. Clair Street
 - 5013 St. Clair Street
 - 5017 St. Clair Street
- **Preserve at River Chase**
 - 2039 Bosna Lane
 - 727 Lagan Court
 - 735 Lagan Court
 - 740 Lagan Court
 - 744 Lagan Court
 - 774 Lagan Court
 - 778 Lagan Court
 - 822 Tyne Drive
 - 834 Tyne Drive
- **Springfield**
 - 1630 Kilburn Lane
 - 1686 Kilburn Lane
 - 313 Newington Court
 - 331 Newington Court

Monthly Permit Summary (Commercial)

The following commercial permits were issued during the month of August 2014:

- **Kingsley #6:** 234 Kingsley Park Drive (Office Upfit, 3rd Floor)

New Businesses

There were no new business licenses issued during the month of August 2014.

Project Updates

Doby's Bridge Elementary School

The new Doby's Bridge Elementary School opened for the 2014-15 school year on Monday, August 18, 2014. Located on "Dragon Way" in the future Phase IV of the Massey subdivision, DBES was built to accommodate an enrollment of up to 900 K-5 students.



New Riverview Elementary School

Construction continues on the new Riverview Elementary School on Spratt Street. RVES will move from its Harris & Munn Road campus to accommodate the planned expansion of Fort Mill High School. The new RVES building is expected to be completed in January 2015.

N/S Dobys Bridge Road

Following a public hearing, the Fort Mill & York County Planning Commissions voted to approve the renaming of Dobys Bridge Road as N Dobys Bridge Road (Tom Hall Street to Fort Mill Parkway) and S Dobys Bridge Road (Fort Mill Parkway to Lancaster County Line).



Annexations

There were no new annexation ordinances approved by town council during the month August 2014.

Year-to-Date Annexation Activity – January-August 2014 vs. January-August 2013

	YTD 2014	YTD 2013	Change (#)	Change (%)
Total # Annexations	6	4	+2	+50.0%
Total # Acres Annexed	409.9	546.7	-136.8	-25.0%

Rezoning

There was one rezoning ordinance approved during the month of August 2014:

- **Ordinance No. 2014-16**

An ordinance adopting a Mixed Use Concept Plan & Development Conditions for the Pleasant/Vista MXU Project

- Applicant: Cooper Willis / Atlantic Beach Inc.
- Location: York County Tax Map Numbers 020-09-01-027, 020-09-01-028, 020-09-01-030, 020-09-01-031, 020-09-01-032, 020-09-01-033, 020-09-01-034, 020-09-01-035 and 020-09-01-036
- Acreage: 156.96 Acres
- Zoning Designation: MXU Mixed Use (Current Zoning)

- Disposition: Approved 2nd reading of an ordinance adopting a Mixed Use Concept Plan & Development Conditions for the Pleasant/Vista MXU Project (6-0). The development conditions allow a total of 123 single-family homes, 146 townhomes, 662 multi-family units, and up to 50,000 square feet of commercial development over a period of 10 years. The development conditions restrict the total number of units which may be developed until four infrastructure projects are completed, including: construction of the redesigned I-77/Gold Hill Road interchange, construction of Gold Hill Road & Pleasant Road intersection improvements, construction of project-related infrastructure on Pleasant Road and Vista Road, and access plans for the future middle school at the intersection of Pleasant Road and Vista Road. Enhanced sidewalk, open space and architectural guidelines are also included as part of the development conditions.
- Date Approved: August 25, 2014



Ordinances & Text Amendments

There were two development/business related ordinances or text amendments approved during the month of August 2014:

- **Ordinance No. 2014-17**
 An ordinance amending the Zoning Ordinance for the Town of Fort Mill; Article II, Requirements by district; Section 8, LC Local Commercial District; so as to add day care centers to the list of permitted uses within the LC District; to remove newspaper publishing plants from the list of permitted uses within the LC District; to amend the prohibition on outdoor speakers for restaurants and other establishments located within the LC District; and to amend the screening requirements for utility substations and towers in the LC District
 - Applicant: Text Amendment Requested by Fort Mill Town Staff
 - Purpose: Amend the LC Local Commercial zoning district so as to add day care centers to the list of permitted uses, remove newspaper publishing plants from the list of permitted uses, and to remove the prohibition on outdoor speaker systems at restaurants within the LC district under certain conditions.
 - Disposition: Approved 2nd reading of zoning text amendment (6-0)
 - Date Approved: August 25, 2014

- **Ordinance No. 2014-18**
 An ordinance amending the Code of Ordinances for the Town of Fort Mill; Chapter 24, Offenses and Miscellaneous Provisions; Article II, Offenses Against the Peace; Section 24-34, Unreasonable Noise Prohibited; so as to provide conditions when restaurants, bars, and other eating, drinking and entertainment establishments may utilize live music and speakers
 - Applicant: Text Amendment Requested by Fort Mill Town Staff
 - Purpose: Amend the town's noise ordinance to permit noise from live music or speakers at any restaurant, bar, or other eating, drinking and/or entertainment establishment, whether open or enclosed, provided the noise does not exceed 75 dB at any point on or beyond the

lot line between the hours of 10:00 am and 10:00 pm, and 65 dB between the hours of 10:01 pm and 9:59 am.

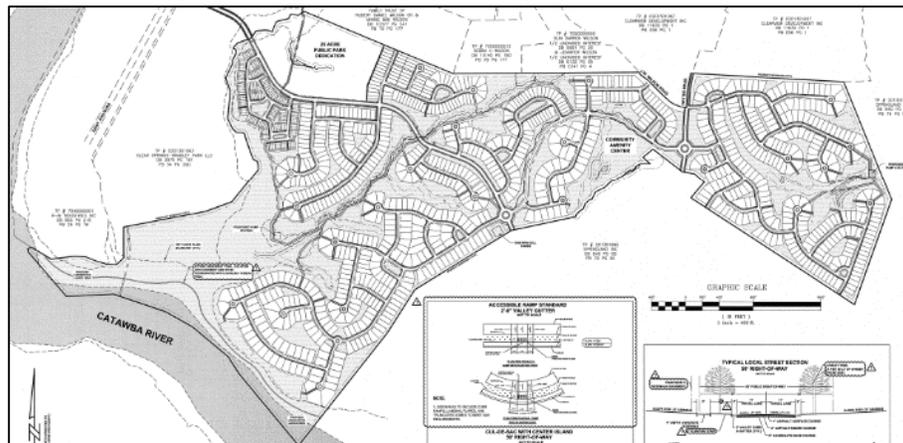
- Disposition: Approved 2nd reading of noise ordinance amendment (6-0)
- Date Approved: August 25, 2014

New Subdivisions

There was one new subdivision plat approved during the month of August 2014:

- **Preliminary Plat Approval: Waterside at the Catawba**

- Applicant: Lennar Carolinas, LLC
- Location: York County Tax Map Numbers 020-13-01-081, 020-13-01-082, 020-13-01-083, 202-13-01-084, 020-13-01-088
- Acreage: 477.3 Acres
- Zoning Designation: MXU Mixed Use
- Buildable Lots: 1,048 (919 Single Family & 129 Townhomes)

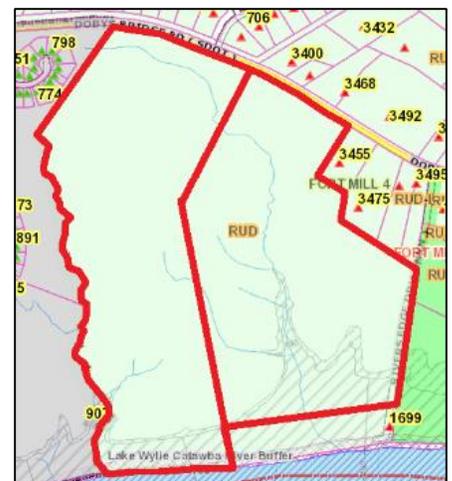


Planning Commission Meeting Summary

The Planning Commission (PC) met on Tuesday, August 26, 2014, to review the following requests(s):

- **Annexation Request: Talkington Property**

- Applicant: John P. & Delores M. Talkington / Justin R. & Jason T. Talkington
- Location: York County Tax Map Numbers 774-00-00-004 & 774-00-00-005 (S Dobys Bridge Road)
- Acreage: 168 Acres
- Zoning Requested: R-5 Residential
- Disposition: Recommended in favor of annexation with R-5 zoning, contingent upon a development agreement which limits density at 386 units, formalizes the donation of right-of-way for future expansion of S Dobys Bridge Road, and outlines a voluntary \$150,000 contribution toward future transportation improvements (4-1)



Annexation Request: White Property

- Applicant: William E. White Jr. & Sidney A. White III
- Location: York County Tax Map Numbers 707-00-00-031, 707-00-00-048 (portion) & 707-00-00-054 (portion) (Whites Road)
- Acreage: 35 Acres
- Zoning Requested: R-5 Residential
- Disposition: Recommended in favor of annexation with R-5 zoning, contingent upon a development agreement which limits the total density at 99 units, requires a traffic impact study, formalizes a voluntary contribution toward future transportation improvements, and requires coordination with SCDOT and the Fort Mill School District regarding proposed access locations on Whites Road (5-0)



● **Text Amendment: Nonconforming Uses & Structures**

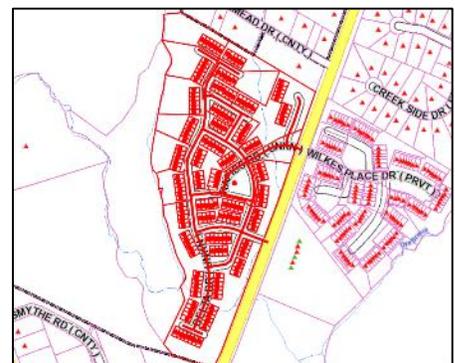
- Applicant: Text Amendment Requested by Fort Mill Town Staff
- Purpose: Amends Article IX, Section 3, of the Zoning Ordinance to allow the reconstruction of nonconforming residential structures when such structures are destroyed by fire or other natural causes. The draft ordinance would also create a definition for a discontinued use (12 months for non-residential uses and 24 months for residential uses). Nonconforming structures which could be rebuilt, altered or repaired under the new provisions outlined in the draft text amendment would need to be permitted within 6 months from the date the damage or destruction occurs.
- Disposition: Recommended in favor of the text amendment, with an amendment to allow one 6-month extension for permitting purposes (5-0)

● **Text Amendment: Amending R-5 District/Creating RT-4, RT-8 and RT-12 Districts**

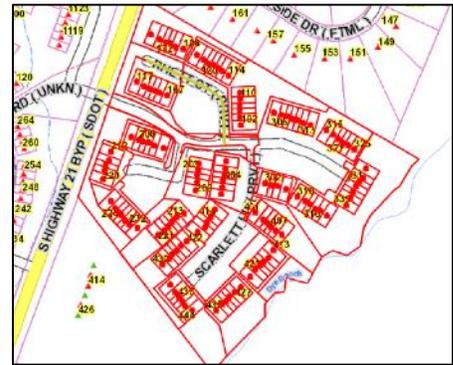
- Applicant: Text Amendment Requested by Fort Mill Town Staff
- Purpose: Amends Article II, Section 23, of the Zoning Ordinance to remove townhomes from the list of permitted uses in the R-5 District, and establishes a maximum density for new residential developments of 3 dwelling units per acre (DUA) by right, and up to 5 DUA with an approved development agreement. The text amendment also creates three new townhome districts, called the RT-4, RT-8 and RT-12 Residential districts. These districts would allow townhome communities with maximum densities of 4, 8 and 12 DUA.
- Disposition: Recommended in favor of the text amendment (5-0)

● **Rezoning Ordinance: Cascades at River Crossing**

- Applicant: Rezoning Requested by Fort Mill Town Staff
- Location: Cascades at River Crossing Subdivision – 216 Parcels (US Highway 21 Bypass)
- Acreage: 24.3 Acres
- Current Zoning: HC Highway Commercial
- Zoning Requested: RT-8 Residential
- Disposition: Recommended in favor of rezoning the subdivision from HC to RT-8, contingent upon council’s adoption of the RT-8 district (5-0)



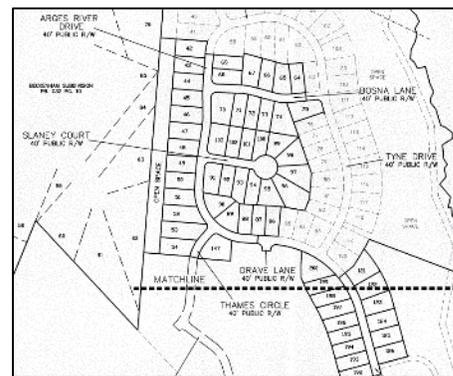
- **Rezoning Ordinance: Townes at River Crossing**
 - Applicant: Rezoning Requested by Fort Mill Town Staff
 - Location: Townes at River Crossing Subdivision – 144 Parcels (US Highway 21 Bypass)
 - Acreage: 13.8 Acres
 - Current Zoning: HC Highway Commercial
 - Zoning Requested: RT-8 Residential
 - Disposition: Recommended in favor of rezoning the subdivision from HC to RT-8, contingent upon council’s adoption of the RT-8 district (5-0)



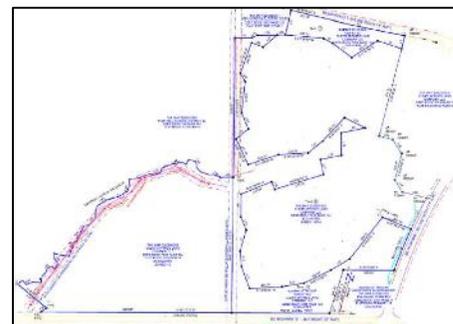
- **Rezoning Ordinance: Lighthouse Pentecostal Holiness Church**
 - Applicant: Rezoning Requested by Fort Mill Town Staff
 - Location: York County Tax Map Number 020-20-01-009 (333 US Highway 21 Bypass)
 - Acreage: 1.4 Acres
 - Current Zoning: HC Highway Commercial
 - Zoning Requested: RT-8 Residential
 - Disposition: Recommended in favor of rezoning the property from HC to RT-8, contingent upon council’s adoption of the RT-8 district (5-0)



- **Final Plat Review: The Preserve at River Chase Phase II**
 - Applicant: Meritage Homes
 - Location: Preserve at River Chase (S Dobys Bridge Rd)
 - Acreage: 20.25 Acres
 - Zoning Designation: MXU Mixed Use
 - Disposition: Approved the following road names for the Preserve at River Chase Phase II: Arges River Drive, Slaney Court and Thames Circle. (5-0) The final plat may be approved administratively once the applicant has obtained the required surety bond or letter of credit.



- **Subdivision Request: Clear Springs Land Company, LLC**
 - Applicant: Clear Springs Land Company, LLC
 - Location: York County Tax Map Number 020-09-01-003 (Peachtree Apartments)
 - Acreage: 3.07 Acres
 - Zoning Designation: GR-A
 - Disposition: The PC asked for additional information regarding the purpose of the request. Consideration of was deferred to the September PC meeting. (4-0)



Board of Zoning Appeals Meeting Summary

The Board of Zoning Appeals (BOZA) did not meet during the month of August 2014 due to a lack of items for consideration.

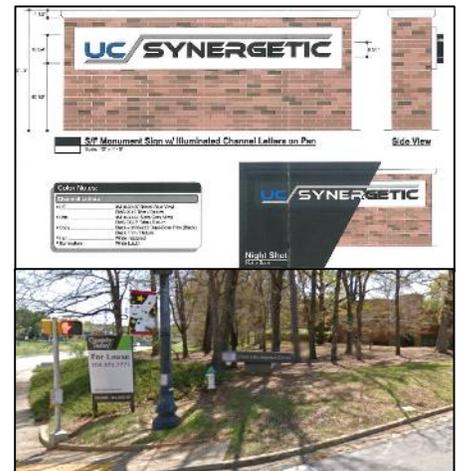
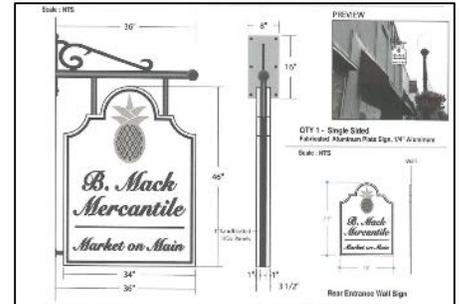
Historic Review Board Meeting Summary

The Historic Review Board (HRB) met on August 12, 2014, to review the following requests:

- **Certificate of Appropriateness: 219 & 221 Main Street**
 - Applicant: Bayles Mack & Tina Tomlinson
 - Location: 219 & 221 Main Street
 - Zoning Designation: LC / Historic Overlay
 - Request: Applicant requested approval to install a projecting sign on the front of the building, and a wall mounted sign at the rear of the building.
 - Disposition: Application approved as submitted (7-0)

- **Certificate of Appropriateness: 123 N. White Street**
 - Applicant: Harker Doerre LLC / UC Synergetic
 - Location: 123 N. White Street
 - Zoning Designation: GI / Historic Overlay
 - Request: Applicant requested approval to install a monument sign at the intersection of N. White Street & McCammon Street
 - Disposition: Application approved, contingent upon the following: care shall be taken to minimize potential damage to the root zone of nearby trees, the brick shall match (as closely as possible) the existing brick on the principal building, and the sign cap shall be white in color to match the principal building's trim color. (7-0)

- **Certificate of Appropriateness: 312 N. White Street**
 - Applicant: Springland Inc. / Tod Snipes Construction
 - Location: 312 N. White Street
 - Zoning Designation: R-15 / Historic Overlay
 - Request: Applicant requested approval to replace an existing black membrane roof with new white roofing material.
 - Disposition: Application approved as submitted (7-0)



Upcoming Meetings & Events

- **Town Council Meeting**
 - Fort Mill Town Hall
 - Mon. September 8, 2014
 - 7:00 PM
- **Historic Review Board Meeting**
 - Fort Mill Town Hall
 - Tues. September 9, 2014
 - 4:30 PM
- **Board of Zoning Appeals Meeting**
 - Fort Mill Town Hall
 - Mon. September 15, 2014
 - 6:00 PM
- **Town Council Meeting**
 - Fort Mill Town Hall
 - Mon. September 22, 2014
 - 7:00 AM

- **Planning Commission Meeting**
 - Fort Mill Town Hall
 - Tue. September 23, 2014
 - 7:00 PM

- **RFATS Policy Committee Meeting**
 - Manchester Meadows
 - Fri. September 26, 2014
 - 12:00 PM

All meetings are open to the public. Please visit www.fortmillsc.org for meeting updates and agendas.

Did you know?

Board of Zoning Appeals (BOZA)

The Town of Fort Mill’s Board of Zoning Appeals (BOZA) was established pursuant to the South Carolina Local Government Comprehensive Planning Enabling Act of 1994.

Under state and local law, the BOZA is a quasi-judicial body charged with the following powers and duties:

- To hear and decide appeals where it is alleged there is error in an order, requirement, interpretation, decision, or determination made by an administrative official in the enforcement of the zoning ordinance;
- To hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. Variances may only be granted pursuant to the requirements of S.C. Code § 6-29-800(2);
- To review and decide applications for special exception permits, subject to the terms and conditions set forth for such uses in this Ordinance;
- To remand a matter to an administrative official if the board determines the record is insufficient for review; and
- To carry out such other powers and duties delegated to it by Town Council, consistent with state law.



Town of Fort Mill
112 Confederate Street
P.O. Box 139
Fort Mill, South Carolina 29715

ZONING APPEALS BOARD
VARIANCE APPEAL

Dear Sir/ma:
Owner's Name: _____
Address: _____
Telephone: _____
Property Address: _____
Current Use: _____
Zoning District: _____

ALL OF THE FOLLOWING QUESTIONS MUST BE ANSWERED

1. Describe the variance request: _____

2. Why did the administrative official deny a permit? _____

3. Is the property, current uses or existing structures, nonconforming? _____ If yes, how are they conforming? _____

4. Describe any extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography: _____

5. How do the extraordinary or exceptional conditions or literal interpretation of the provisions of the Zoning Code create an unnecessary hardship for the property owner? _____

NOTICES OF APPEAL SHALL BE POSTED ON AFFECTED PROPERTY SO AS TO BE CLEARLY VISIBLE FROM A TRAVELER'S PERSPECTIVE. THE OWNER OR APPLICANT IS RESPONSIBLE TO MAINTAIN POSTING AND TO BE RESPONSIBLE FOR NOTIFYING THE TOWN COUNCIL OF THE SIGN'S REMOVAL OR REPEAL. FAILURE TO DO SO MAY BE CAUSAL ACTION.

APPLICANT: _____ DATE: _____

The BOZA is made up of 7 members appointed by Council. Members are appointed based on their professional expertise, knowledge of the community, and concern for the future welfare of the town and its citizens. Each member must be at least 18 years of age and a resident of the town. Members are appointed to 3-year terms.

The BOZA meets on the third Monday of each month at 6:00 PM. Meeting agendas are posted on the town’s website (www.fortmillsc.org) prior to each meeting. Public hearing notices are also posted at least 15 days in advance of each meeting.



Contact Us

The Fort Mill Planning Department enforces the town's zoning ordinance, subdivision regulations and other land development codes; provides staff support to the Planning Commission, Board of Zoning Appeals and Historic Review Board; and handles long-term planning and growth related issues for the Town. Please feel free to contact our office if you need assistance with the following:

- Annexations
- Rezoning
- New residential and commercial construction
- Starting a new business or home occupation
- Accessory uses, such as fences, pools, decks, sheds, etc.
- Sign permits
- Subdivisions and recombinations
- Historic/architectural review
- Interpretation of zoning ordinances
- Zoning confirmation
- Town maps and planning documents
- General land use and development questions

Joe Cronin

Planning Director
Town of Fort Mill

Phone: (803) 547-2116

Fax: (803) 547-2126

Email: jcronin@fortmillsc.gov

[Click here to visit the Planning Department Website](#)