

Council Members

District 1: Terry Graham
District 2: Charlene McGriff
District 3: Billy Mosteller, Secretary
District 4: Larry Honeycutt
District 5: Steve Harper, Chair
District 6: Allen Blackmon
District 7: Brian Carnes, Vice-Chair



County Attorney
John K. DuBose III

Clerk to Council
Sherrie Simpson

September 15, 2021

4:00 PM

**101 North Main Street
Lancaster, SC 29720**

**LANCASTER COUNTY COUNCIL
COMMITTEE OF THE WHOLE
County Council Chambers, County Administration
Building, 101 North Main Street, Lancaster, SC 29720**

AGENDA

1. **Call to Order - Chairman Steve Harper**
2. **Welcome and Recognition - Chairman Steve Harper**
3. **Pledge of Allegiance and Invocation - Council Member Terry Graham**
4. **Approval of Agenda**

[deletion and additions of non-substantive matter]

5. **Citizens Comments**

[Lancaster County Council welcomes comments and input from citizens who may not be able to attend Council meetings in person. Written comments may be submitted via mail to ATTN: Sherrie Simpson, Post Office Box 1809, Lancaster, SC, 29721, by email to Sherrie Simpson at ssimpson@lancastersc.net or by online submission by selecting the "Citizens Comments" quick link located on the County website homepage at <https://www.mylancastersc.org/>. Comments must be no longer than approximately 3 minutes when read aloud. Comments received will be acknowledged during the Citizens Comments portion of the meeting. Comments will need to be received prior to 4:00 p.m. on the day before the meeting. Please use the same link above in order to submit input/comments for Public Hearings.]

6. **Discussion and Action Items**

- a. Lancaster County Water and Sewer District (LCWSD) Discussion of Growth Related Utility Challenges - Rox Burhans
- b. Unified Development Ordinance (UDO) Assessment - Rox Burhans
- c. Proposed Development Agreement for The Exchange - Rox Burhans
- d. Information on Potential Hospitality Tax Bond for Regional Sports Complex - Steve Willis
- e. Discussion of Noise Ordinance - Steve Willis

7. **Citizen Comments**

[If Council delays until end of meeting]

8. Adjournment

Anyone requiring special services to attend this meeting should contact 285-1565 at least 24 hours in advance of this meeting. Lancaster County Council agendas are posted at the Lancaster County Administration Building and are available on the Website: www.mylancastersc.org

Meetings are live streamed and can be found by using the following link:

<https://www.youtube.com/channel/UCgS1MrcYjcYcu1m-e6TV54w>

Agenda Item Summary

Ordinance # / Resolution #: N/A

Contact Person / Sponsor: Rox Burhans/Development Services

Department: Planning

Date Requested to be on Agenda: 9/15/2021

Issue for Consideration:

Presentation by Lancaster County Water and Sewer District regarding growth related utility challenges. Background memo is attached.

Points to Consider:

Funding and Liability Factors:

Presentation and discussion only

Council Options:

Presentation and discussion only

Recommendation:

Presentation and discussion only

ATTACHMENTS:

Description

LCWSD Memo

Upload Date

8/26/2021

Type

Backup Material



TO: Rox Burhans, Division Director Planning, Lancaster County Government

CC: Stephen Hutfles, City of Lancaster Administrator

FROM: Brad Bucy, P.E., District Manager, LCWSD

DATE: July 23, 2021

SUBJECT: Discussion on Management of Wastewater Allocations

Rox:

Lancaster County Water and Sewer District (LCWSD) appreciates the continual feedback and cooperation offered from Lancaster County Government. Both of our organizations deal day to day with unprecedented levels of growth within Lancaster County. Although we have had several discussions on related topics, we would like to take this opportunity to summarize some of our initiatives and recommendations to facilitate responsible growth in the County.

Whereby Lancaster County's duties include managing planning, zoning, development ordinances, transportation planning, stormwater management, economic development, and many other responsibilities; LCWSD manages the water and wastewater utilities for the unincorporated areas of Lancaster County. We share a great number of common goals and plans towards meeting these needs while serving our customers.

Lancaster County Water & Sewer District is a Joint Venture Owner along with Union County, NC of the Catawba River Water Supply Project including a 100 MGD surface water withdrawal permit and intake on the Catawba River and a 40 MGD water treatment facility. LCWSD owns 50% of these respective capacities. LCWSD wholesales water treatment to the City of Lancaster, Town of Heath Springs, Town of Kershaw, a supplemental feed to Carolina Water Service, NC and a 3 MGD emergency connection supply with Charlotte Water.

LCWSD owns the Indian Land Wastewater Treatment Facility with a 15 MGD National Pollutant Discharge Elimination System (NPDES) permit to the Catawba River. LCWSD has reciprocal agreements with the City of Lancaster (Water Treatment and Wastewater Treatment) whereby LCWSD currently occupies 1.6 MGD of capacity in the City's Wastewater Treatment Facility. The City's facility currently treats between 3-4 MGD on



a monthly average basis and has a 7.5 MGD NPDES permit to the Catawba River. LCWSD has a pending allocation request with the City of Lancaster to increase its capacity to 2.8 MGD. LCWSD also has approved participation with the City of Lancaster to prepare a Preliminary Engineering Report (PER) and an NPDES application to expand the NPDES permit beyond 7.5 MGD to a capacity to be determined by the PER. LCWSD has treatment capacity agreements with Charlotte Water, Carolina Water Service, NC, and York County for isolated basins in the northern panhandle as well as limited treatment capacity with the Town of Heath Springs.

As you are aware from our previous discussions, the Lower Catawba River is on the South Carolina 303(d) List of Impaired Waters associated with nutrient loadings. LCWSD along with the City of Lancaster and other users in the region are working with SC DHEC to develop a total maximum daily load (TMDL).

Aside from our efforts to monitor the TMDL process, the end result will be more stringent regulations, more expensive treatment requirements, and greater scrutiny within the permitting procedures. In order to continue to grow our NPDES permits to the River, it will be important for Lancaster County, Lancaster County Stormwater, LCWSD, City of Lancaster, etc. to demonstrate conservation of water, conservation of land, and the protection of surface water.

Lancaster County Council has the power and responsibility to legislate growth in the unincorporated areas of Lancaster County. Permitting publicly owned treatment works impacting the Catawba River and protecting the Rivers of our State is SC DHEC's responsibility. LCWSD has the function and power over water and sewer including good stewardship over water and sewer supplies in the unincorporated areas of Lancaster County.

LCWSD has been taking steps recently to look forward and try to identify and implement steps to support growth and economic development while also being responsible stewards of the river and existing allocations. We have summarized these areas below:

LCWSD Developer Policy

As a matter of policy, LCWSD is not in a position to invoice capacity fees, thus securing willingness and capability, unless there is adequate capacity in the existing, permitted-to-operate downstream wastewater facilities adequate to handle the design flow of the proposed project. The District is hereby ensuring there are adequate downstream facilities in operation before the District accepts any submittals from a Developer that could lead to an availability letter or a capacity commitment from the District.



As an example, if a pump station or other downstream improvement to be performed by a Developer is required for another Developer to proceed with a new increment of growth (i.e. a residential unit), the downstream improvement must have a completed permit to operate before we can authorize any willingness and capability to serve the next project.

The full text of this amendment can be found on our website (www.lcwasd.org) under Developers / Policies & Procedures / Amendment.

Action Needed: When Developers make inquiries to Lancaster County Government or requests for re-zoning, LCWSD and Lancaster County need to communicate the status of downstream improvements. In some cases, they may not be available in the short term.

Density Planning

When PERs were completed for wastewater infrastructure; the sewer basins were digitized over the land use boundaries and the tax map parcels. The parcel data was intersected with the land use coverage. Zoning densities were applied using Lancaster County's Land Development Plan from the Unified Development Ordinance (UDO), in addition to assumptions on planned development and other higher density areas. While we understand the market may dictate a higher demand for these higher density developments, LCWSD will work to advise Lancaster County when multi-family and/or high density development appears to be exceeding the current master planning. Evaluations may be accomplished per sub-basin. This will allow LCWSD and Lancaster County to make adjustments as needed with regards to zoning and/or master planning decisions.

A current example of this exists in the Clem's Branch and McAlpine Creek sub-basins. LCWSD is making modifications to the master-planned infrastructure to accommodate higher than anticipated densities. If developers intend to move forward with projects in these areas, greater infrastructure burdens will be placed upon them if they do not desire to wait on the 5, 10, and 20 year Capital Improvement Plans (CIP) as updated by LCWSD.

Action Needed: Early indicators of high density growth areas such as Clem's Branch and McAlpine Creek will need to be communicated to Developers seeking re-zoning for these uses to assist Lancaster County Government in making decisions on re-zoning and to assist Developers in understanding on the front-end when additional infrastructure requirements are requested which may exceed the available capacity or may exceed LCWSD's timetable for implementation of its CIP.



Discharge Permit / Allocations

Below are the existing NPDES permit flow limits and allocations:

	<u>NPDES</u>	<u>Allocations ##</u>
• Indian Land WWTP:	15 MGD	7.5 MGD
• City of Lancaster:	7.5 MGD	3.6 MGD**
• City of Lancaster (LCWSD share)	1.6 MGD^^	1.5 MGD

** This number does not include an additional 0.35 MGD pending contract approval under the Gallo Project and a 1.2 MGD request by LCWSD pending approval by the City of Lancaster. These are not “allocations” per the DHEC requirements, but if approved, would increase the City’s contractually obligated amount to 5.15 MGD. As addressed previously, City and LCWSD are in the process of preparing a PER and NPDES application for an expansion of the NPDES to a number to be determined by the PER.

^^ LCWSD has a right of first refusal for additional capacity under the City’s agreement and LCWSD has a pending 1.2 MGD request

These numbers are approximate pending true-ups with SC DHEC

Action Needed: LCWSD will keep Lancaster County informed on these allocations moving forward. NPDES modifications and/or new requests will be forthcoming in the next 5, 10, and 20 year planning periods. However, due to the Catawba River being an impaired water body, input can be expected from special interest groups and regulators as pertaining to conservation measures, growth management, TMDL management, etc. The ability to meet the new pollutant limits under these NPDES modifications will be expensive and potentially limited based upon the future capacity needs, future pollutant limits, and available technology. These are considered Major NPDES Modifications and thereby include public notices, public hearings, Environmental Assessments, and potentially Environmental Impact Statements. The process for NPDES expansion can sometimes take 3-5 years and are not guaranteed.



Conservation and Stormwater Enhancements

The Catawba River is an EPA impaired water body due to nutrient loadings. Increased impervious areas also lead to increased run-off and flooding which can negatively impact land including wastewater infrastructure and increases in inflow and infiltration (I&I). Nutrient loadings from non-point sources (natural run-off) are increased by fertilizers associated with additional development. There is a current Total Maximum Daily Load (TMDL) evaluation being undertaken on the River by SC DHEC and the LOWCARB users group which includes LCWSD and the City of Lancaster.

Reasons previously given by American Rivers for siting the Catawba River on its endangered status include its susceptibility to drought, explosive population, and the lack of shoreline vegetation on many of its lakes and rivers. The Catawba Riverkeeper's organizational priorities from their website include stormwater runoff from changes in land use and permitted liquid waste discharges (NPDES). Coordinated efforts between Lancaster County and LCWSD can assist in addressing nutrient loadings resulting from these aforementioned sources. In addition, shoreline management including buffers, open space requirements, enhanced stormwater measures, water conservation, and other forms of land conservancy would be considered mitigating benefits to development and expanding discharges in the future.

Action Needed: Work with comprehensive planning effort to implement enhanced controls to help offset and mitigate the impacts of development through stormwater management, land conservancy, river and shoreline buffers, open space requirements, etc.

Thank you for your cooperation. We see this as a first step in communicating some areas where we can support growth and economic development responsibly while keeping our eye on important metrics and coordinated efforts. The best use of the Catawba River as a long-term resource will include finding extra-ordinary ways we can coordinate efforts to mitigate development. We welcome the opportunity to continue these discussions moving forward!

Sincerely,
LANCASTER COUNTY WATER & SEWER DISTRICT

A handwritten signature in blue ink that reads 'Bradley H. Bucy'.

Bradley H. Bucy, P.E.
District Manager

Agenda Item Summary

Ordinance # / Resolution #: N/A

Contact Person / Sponsor: Robert Tefft / Planning

Department: Planning

Date Requested to be on Agenda: 9/15/2021

Issue for Consideration:

For presentation to County Council at the Committee of the Whole.

Points to Consider:

Funding and Liability Factors:

Council Options:

Recommendation:

ATTACHMENTS:

Description	Upload Date	Type
Committee of the Whole Memo	8/26/2021	Planning Staff Report
UDO Assessment	8/26/2021	Exhibit

PROPOSAL: UDO Assessment
PREPARED BY: White & Smith

OVERVIEW:

In 2020, the County began an effort to update the Unified Development Ordinance (UDO) with a consultant which included conducting stakeholder interviews. This process was ultimately halted when the County parted ways with the consultant. More recently, Lancaster County issued a second Request for Proposals for consulting services to assess and update its UDO, and hired White & Smith Planning and Law Group in May 2021 whom began the project by reviewing the UDO and materials from the 2020 effort, met with staff, and conducted a windshield tour in June 2021. Staff confirmed input from stakeholders interviewed during the previous effort, and provided input from a new stakeholder, as well as a detailed list of recommendations for the UDO update.

White & Smith has completed their assessment of the existing UDO, and has provided the attached assessment for consideration.

PRIOR ACTIONS:

The UDO Assessment was reviewed by the Planning Commission at their Workshop of September 2, 2021. The Commission... *[insert notes/discussion points from the workshop]*.

Lancaster County, South Carolina

UDO Assessment

PUBLIC REVIEW DRAFT | AUGUST 26, 2021



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INTRODUCTION

Project Background

Lancaster County recently issued a Request for Proposals for consulting services to assess and update its Unified Development Ordinance (UDO), and hired White & Smith Planning and Law Group in May 2021.

The County began a previous effort to update the UDO in 2020, and conducted stakeholder interviews. White & Smith began the project by reviewing the UDO and materials from the 2020 effort. We met with staff and conducted a windshield tour in June 2021. Staff confirmed input from stakeholders interviewed during previous effort, and provided input from the new Greater Indian Land Chamber of Commerce (see [Appendix 2](#) and [Appendix 3](#)).

Staff also provided a detailed list of its recommendations for the UDO update (see [Appendix 1](#)). Their experience administering the UDO over the past several years allows them to identify detailed revisions needed to clarify, streamline, and otherwise improve the code. We concur with staff's suggestions for improvement.



How This Assessment is Written

This document assesses the existing Unified Development Ordinance (UDO) and provides a blueprint for revising the document. The assessment begins with a general discussion of the UDO's organization and formatting, followed by a chapter-by-chapter review of the UDO. The discussion in each section of the assessment generally does not repeat staff's comments, but recognizes strengths in the UDO and identifies additional potential concerns.

This assessment is designed to allow the County and consultant team to focus their efforts on the specific issues identified during the assessment phase of the project, based on feedback from the County and key stakeholders, residents, and developers. It is not the last word on the UDO update, but provides an opportunity for the County to verify the approach the consultant team is taking. We therefore encourage County stakeholders to carefully review this assessment, provide comments and suggestions, and stay involved in this important process.

The 2016 Unified Development Ordinance seems to have brought in a number of “best practices” from other jurisdictions within South Carolina and, it appears, from other states. This is an entirely common and legitimate practice. But it only goes so far, of course.

The current UDO includes a number of workable approaches. In our assessment, however, they are not entirely workable for *Lancaster County*. And, likely for that reason, the community has found the UDO to lack “durability” over its first few years of use.

In our experience, the quickest and most cost-efficient way to a “durable” UDO is a full rewrite of the code—drawing on the things that have worked under the 2016 UDO—that allows the current Council to craft a “Lancaster County-specific” regulatory framework and approach.

The rewritten code would then be expected to require minor revisions in the coming years to reflect changes in the community, but not a full rewrite for 10-20 years, at least.

The Unified Development Ordinance revision process has the following goals:

Provide a Comprehensive Framework for Development. Lancaster County covers a range of suburban and rural settings. It is a diverse community with quickly urbanizing areas near municipal population centers, suburban residential neighborhoods and retail centers, industrial developments, rural homesteads, agricultural lands, open spaces, and undeveloped lands. The UDO must cover all development contexts in a way that is appropriate for their neighborhood, market, and environmental settings. A one-size-fits all approach will not work.

Ensure the UDO Is User-Friendly. The UDO should be easy to use for the general public, applicants, and administrators. Information should be logically arranged, easy to find, and with language and graphics that are attractive and clear.

The UDO Should Have Community Support. A UDO is not just a document—it is a process. It should reflect the input of a broad range of stakeholders—from neighborhoods to the development and business community. This will ensure its processes and metrics are understood and will give it sustainable, long-term support.

The UDO Should Make the Right Things Easy. Development that reflects the County’s long-term planning policies, community and area plans, and other adopted plans should have a streamlined approval process.

The UDO Should be Up to Date. The current UDO blends conventional zoning requirements with more modern, character-focused site design standards (such as the mixed use districts). The revised UDO will continue to utilize a hybrid approach to zoning and land development—but with a language, metrics, and processes that are easier to use. The UDO will reflect current best practices, but will avoid making unnecessary changes simply to be trendy.

Right-Size the Standards and Procedures. The UDO should not over- or under-deliver. Lancaster County expects a given level of design, and the zoning and land development standards should

ensure development reflects those expectations. However, the standards should reflect the needs and context of Lancaster County rather than national trends or fads.

The UDO Should Promote Community Cohesion. While parts of the community have experienced significant growth, other areas, particularly in southern Lancaster County, are rural in character and are anticipated to remain so for the foreseeable future. The current UDO does not reflect the differences in desired development patterns and standards in different areas of the county. While the neighborhoods and corridors are different, they should all receive equal and equitable attention in the UDO’s use, dimensional, and design metrics.

Provide a Clear, Fluid Administrative Process. Entitlement processes should be efficient, expand opportunities for administrative review, and coordinate with substantive changes to the UDO.

Avoid Nonconformities. Any substantive change to the zoning districts or development standards will likely create nonconformities. Our approach will consider regulations that minimize nonconformities by exploring standards that reflect the best aspects of current development patterns and eliminating unnecessary and outdated standards. We will also include standards to process existing nonconformities or recognize the legality of minor or beneficial deviations from the new UDO. This will minimize variance requests, potentially avoid litigation, and improve public support for the UDO.

Provide Enforcement Tools. At its core, zoning and land development regulations are legal documents. They provide Lancaster County the authority to regulate and condition development. However, the UDO must be enforceable to serve its intended purpose. The revised UDO can include additional tools to improve enforceability, including reporting requirements, compliance plans, and improved notification procedures, that align with South Carolina land use law.

UDO ORGANIZATION, FORMATTING, & ONLINE ACCESSIBILITY

A well-organized and consistently formatted development code benefits the general public, County staff, and applicants. It makes information easier to find and understand, avoids confusion, and facilitates the long-term process of maintaining and amending the code over time.

Organization

Overall, the UDO is logically organized, with the most frequently used chapters of the code (e.g., zoning districts and uses) located towards the front of the document and the less frequently used sections (e.g., administration and definitions) towards the end. However, there is significant room for improvement in the organization of individual chapters. While similar standards are generally grouped together, the UDO includes many standards in multiple locations. This leaves room for errors and inconsistencies, which staff input indicates is the case.

The UDO would benefit from the separation of certain standards into individual chapters. For example, Chapter 7 *General Development Standards* should be separated into four chapters—Landscaping and Screening, Parking and Driveways, Lighting, and Signs. This improves readability and makes information easier to find and cite. In addition, the revised UDO should place these Chapter 7 provisions before Chapter 6 *Subdivision and Infrastructure Standards*.

The UDO also would benefit from the addition of another level of organization, such as subchapters. This would allow, for example, consolidation of all of the zoning districts into a single chapter, with subchapters for base districts, mixed use districts, and overlay districts.

Improving the organization, format, and online accessibility of the UDO will:

- » Increase readability;
- » Improve administration by making information easier to find and understand;
- » Enhance public input by making complex, technical information accessible to casual users; and
- » Further the County's business-friendly objectives by making development standards and procedures clearer to applicants.

Format

In this context, "format" refers to:

- » **Style** (e.g., font type, font color, headings);
- » **Paragraph hierarchy** (i.e., how paragraphs are numbered/lettered, as well as how other sections refer to them, such as "subsection," "paragraph," or "division");
- » **Capitalization** and other **text attributes** (e.g., **bold** or *italic* font);
- » **Punctuation** (e.g., the use of Oxford commas, the type of punctuation at the end of list items); The format of **numbers** and **percentages** within the text;

- » The format of **internal cross-references** to other sections of the County Code;
- » The format of **external cross-references** (e.g., cross-references to a State statute);
- » **The use of acronyms**;
- » **The use, format, numbering, and titling of tables and graphics**;
- » **Page layout** (e.g., margins, spacing, running headers and footers); and
- » **Readability** (i.e., the use of short sentences, written in the active voice, with ample white space on the page).

Many of the regulations are difficult to read, with legalistic language and long sentences. Sentences should be short, clear, and written in the active voice. The UDO should separate long paragraphs that include multiple standards (e.g., 1.4.6A.) into multiple numbered paragraphs for clarity and ease of reference. Decreasing the left indents and increasing the spacing between paragraphs will help balance the text on the page and increase the amount of white space on a page, which improves readability.

The UDO includes page numbers and running headers that indicate which chapter and section of the code are on a page. However, the exclusion of subsection numbers and titles from the running header make it difficult for readers to know where they are within the section.

Most tables and graphics are not titled or individually numbered, making their location difficult to cite. All tables and graphics should be numbered based on the section or subsection in which they are located. The revised UDO should increase the use of tables to present quantitative or simple standards, which will improve readability and clarity.

Online Accessibility

It is critical for development codes to be easily accessible online. Codes—including tables and graphics—should be viewable on various devices and screen sizes, with no loss of quality or format. Since Lancaster County adopted the UDO as an appendix to the County Code, it is not codified on the Municode website. The UDO is only available as a PDF download from the Development Services Department's website. PDF is a common file type that preserves document formatting so that a document looks the same on different devices.

The website provides both a consolidated PDF, with all chapters and appendices, and PDFs of individual chapters. The individual chapters are maintained in separate Microsoft (MS) Word documents, which are combined using MS Word and/or Adobe Acrobat to produce the

The UDO uses larger fonts and all-capital letters to distinguish section and subsection headings, which is helpful to readers. The revised UDO should consider the use of color to further distinguish headings and improve the aesthetics of the document.

Paragraph hierarchy and text formatting is generally consistent throughout the UDO. However, the UDO includes a number of paragraphs without letters or numbers (and sometimes with bullets), which makes these provisions difficult to cite.

Internal and external cross-references are sometimes necessary and can be helpful to readers. The UDO frequently uses cross-references, but typically only includes the applicable section number. The format of cross-references should include both the section number and title. Further, many cross-references are incorrect or the referenced section does not exist. The revised UDO will reduce the need for cross-references by better consolidating similar standards.

consolidated PDF file. While the revised UDO will be drafted in a series of MS Word documents, the final version could be consolidated into a single document.

The PDFs are bookmarked, but navigation beyond the chapter level is difficult. The bookmarks include chapter, section, subsection, and paragraph headings, as well as regulatory text in some places. As noted above, the running header includes only the section number and title. This makes the 452-page document extremely difficult to navigate, particularly when so many standards cross-reference other standards in the UDO, which is frustrating to the reader. The PDF bookmarks are based on the headings in the MS Word document, so a few adjustments to the document styles will correct this issue.

The PDFs also should include internal hyperlinks that link related UDO provisions. For example, each use listed in the use table could be hyperlinked to its definition in Chapter 10, and cross-references to specific UDO sections could be hyperlinked to the referenced section. This improves usability by allowing readers to quickly navigate between relevant sections in the UDO.

In general, online codification via sites like Municode makes the code easy to navigate, search, and download. A drawback to online codification is that there is some delay between final reading of an ordinance and updates to the online code. This delay can be significant—two months or longer in some cases. Many casual code users today might assume the online code is always up to date, which could result in submittal of applications and plans in accordance with standards that are no longer applicable. However, some online codification sites, like enCodePlus, have features that allow staff to easily maintain and update the code, allowing code amendments to be published on the day of adoption.

Maintaining the UDO in MS Word, rather than codifying the UDO on Municode, allows County staff to update the online code soon after an amendment is adopted. This ensures applicants do not submit applications inconsistent with revised or newly adopted UDO provisions. However, this requires additional staff time and necessitates maintenance of a backup system for the digital files.

Some online codification systems are specifically designed to publish modern, graphically-rich development codes. These systems often can hyperlink to external resources, link the online code to interactive GIS maps, and calculate development metrics. The major drawback to such

systems often is cost. However, these modern systems improve code usability and allow readers to easily find needed information on their own, which reduces staff time spent responding to inquiries and advising applicants.

Any portion of the Lancaster County Code can be downloaded from the Municode site in Microsoft Word format. However, the website produces documents without page numbers, running headers, or bookmarks. This makes the downloaded code onerous and time consuming to navigate. Other online codification sites, like Code Publishing Company, export very usable PDF and MS Word documents, with the navigation features mentioned above.

Online Accessibility

Municode and other online code publishers can accommodate modern zoning and land development codes with integrated graphics and tables.

Communities in the region and around the country use a variety of online code publishers, including:

[American Legal:](#)

[York County, SC](#)

[Town of Cary, NC](#)

[Municode:](#)

[City of Charleston, SC](#)

[enCodePlus.com:](#)

[Charleston County, SC](#)

[Overland Park, KS](#)

[Code Publishing Company:](#)

[Olathe, KS](#)

CHAPTER-BY-CHAPTER REVIEW OF THE UDO

GENERALLY

The Lancaster County Unified Development Ordinance (UDO) consolidates the County’s zoning and land development regulations into a unified framework. This technique is common in communities throughout the country and is becoming increasingly common in South Carolina communities.

“By combining all of these regulations in a single document, a UDO is intended to streamline and coordinate the development process of permits and approvals for development projects by removing inconsistencies and eliminating outdated policies. The required permits, processes, and regulations for the development process are outlined in one place, making it easier for developers, the public, and public entities to understand the requirements.”¹

However, staff and stakeholders do not find this to be the case with the County’s UDO. They find the UDO well-intentioned but difficult to understand and follow, which makes it easy to make mistakes, and too complex, with too many cross-references that necessitate flipping back and forth in the document. This overcomplicates the development review and approval process and makes it difficult to train new staff. They also find the UDO incomplete in many respects, with certain standards, such as landscaping and parking, lacking comprehensive treatment.

We agree with staff and stakeholders—the UDO follows best practices in certain areas but, overall, the document needs more clarity. The UDO would benefit from an introductory section that explains how to use and navigate the UDO and how to determine which requirements apply to a particular lot or use. The UDO overuses the word “should,” which makes it difficult for readers to determine exactly what the code requires.

Standards that applicants “should” or “are encouraged” to follow generally do not belong in a regulatory document.

Many requirements may be modified by staff, but the UDO includes very little guidance for staff and applicants regarding applicability and decision and approval criteria. The UDO does not clearly address the process and requirements for redevelopment and reuse of existing buildings and sites.

Further, the UDO uniformly applies standards throughout the County despite the distinct development patterns evident in the northern and southern portions of the County. The northern “panhandle” is urbanized and accommodates most of the new development in the County. The southern portion of Lancaster County is rural in nature, and is intended to remain so for the foreseeable future. In fact, over 81% of the County’s unincorporated land area is zoned for rural and very low density uses. The UDO development standards are rather urban in nature, and often do not produce the development character desired in more rural areas.

Staff and stakeholders suggested “parallel codes”—one that applies in the County’s urbanized areas and one that applies in rural areas. This type of approach would address many of the community’s concerns and help to streamline the UDO. This does not mean two separate UDOS; rather, the single reorganized UDO would include chapters applicable just in the urbanized areas and others applicable just in the rural areas. Other chapters, such as zoning districts, use regulations, administration, and definitions, would continue to apply throughout the County—though the use regulations could

¹ [*Property Topics and Concepts*](#), American Planning Association, Planning and Law Division

incorporate provisions that regulate particular uses in rural zoning districts differently from how the UDO regulates the uses in other zoning districts. Further, certain districts, such as AR, could provide a broad list of permitted uses to better reflect residents' desires and citizen expectations for a limited government presence.

The UDO could also limit the geographic applicability of certain zoning districts to only the urbanized areas or only the rural areas. The Comprehensive Plan Future Land Use Map provides a rational basis for distinguishing between zoning districts applicable in the different geographic areas of the County.

Key dimensional and development standards for which the UDO could provide separate urban/suburban and rural standards include:

- » Setbacks;
- » Height;
- » Impervious surface ratios;
- » Buffers, landscaping, and screening;
- » Parking, including paving requirements;
- » Street, sidewalk, and connectivity requirements;
- » Subdivision design and construction standards; and
- » Nonconformities.

The following sections of this Assessment discuss each chapter of the UDO, recognizing strengths in the ordinance and identifying areas in need of improvement. We believe implementing the recommendations in this document, including the extensive input provided by staff based on its experience administering the UDO over the past four years, will significantly improve development processes and outcomes in Lancaster County.

UDO CHAPTER 1: INTRODUCTORY PROVISIONS

Overall, this chapter can be streamlined quite a bit. There is some repetition that can be resolved through consolidation of standards, and many provisions can be relocated to other chapters towards the end of the UDO. All provisions related to interpretation of the UDO, how to calculate and measure development standards, and how to resolve conflicts between applicable regulations should be consolidated and placed after the standards they explain. While legal provisions, such as severability and effective date, are critical to have in the UDO, most code users rarely read them. For this reason, they should be located in a separate chapter towards the end of the UDO.

Section 1.1 should more specifically title the UDO as the *Lancaster County* Unified Development Ordinance.

The language in Section 1.1.3 concerning the zoning map should be removed, as it is not explicitly related to establishment of the County's zoning jurisdiction. Sections 1.2.1 and 2.2.1 include essentially the same provisions, and it is best to consolidate all of the zoning map provisions in one place.

Section 1.1.5 *Consistency with All Adopted Plans and Policies* should be reviewed and revised for clarity. The language in this section implies that the comprehensive plan and other adopted plans and policies are regulatory in nature. In South Carolina, comprehensive plans are advisory and

Legacy District

The UDO identifies one legacy district, the Planned Development District (PDD), and prohibits establishment of new PDDs and expansion of existing PDDs. This is a standard practice for legacy districts and is recommended to continue, unless the PDD is reinstated as a base district and no other legacy districts are added. Legacy districts are a common way to transition from old to new zoning districts when wholesale rezoning (and thus elimination of the district) is undesirable. Classifying a district as "legacy" may result in

are implemented, in part, through zoning and land development regulations.

As staff noted, there is a need to reconcile the vested rights provisions in Sections 1.1.6 and 1.1.7, which are, at best, repetitive and at worst, inconsistent. The revised UDO should relocate vested rights provisions to an administrative chapter towards the end of the code.

Much of the text in Section 1.2 is redundant to the text in Section 2.2 and should be removed or consolidated with the provisions in Chapter 2. Staff noted a district is missing from the list in this section. The UDO should provide a list of zoning districts in one location so there are fewer places in the text that need revision when districts are added or removed. Although not explicit, Section 1.2.2.C. implies that "split zoning," or multiple zoning districts applied to a single parcel, is an acceptable practice. However, split zoning unnecessarily complicates the land development process and should rarely, if ever, be used.

The list of districts in Section 1.3 should be relocated to Chapter 2. "General use" zoning districts is an uncommon term; the UDO should classify these as "base" districts. The base districts should continue to be categorized using the current groupings (e.g., rural districts, transitional districts). This helps to convey the intent and intended character of the base districts.

fewer nonconformities than complete elimination of the district.

Stakeholders raised a concern regarding the PDD's status as a legacy district that can no longer be used. They suggested the County reconsider this zoning option, either as a zoning district or through another similar technique (see page 40 for further discussion).

There are currently 8,508 parcels, containing a total of 12,586 acres of land, zoned PDD. While

this represents a small portion (3.68%) of the County's total land area, it is the sixth most used zoning district. The County should confirm its approach to handling development in legacy districts, and provide more direction for PDD property owners in the UDO. It is unclear how the district's legacy status affects existing and future development in PDDs. The list of legacy PDDs in UDO Appendix A simply lists the associated ordinance numbers, but should also specify how a property owner may obtain these ordinances.

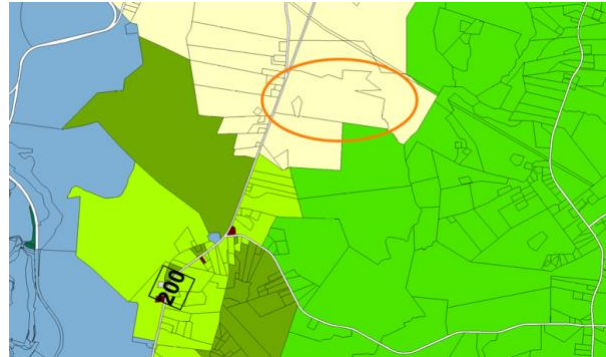
Provisions for legacy districts should be consolidated with other zoning district regulations in Chapter 2. If the UDO update adds other legacy districts, the UDO should include their applicable

General Provisions

All of the provisions in Section 1.4 should be relocated. The UDO should include a single chapter dedicated to explaining how to interpret and measure the various UDO standards, rather than scattering them in different sections of the code. Provisions related to dimensional standards should be consolidated with similar standards in Section 2.4 *District Dimensional Standards*.

Section 1.4.3 A.1. appears to require a minimum lot depth of 100 feet for all lots. This provision should be located with other dimensional standards. In addition, the County should consider whether this minimum depth is appropriate as a County-wide standard. Section 1.4.3 A.2. includes subjective requirements and should be revised. If different standards for corner lots are desired (e.g., greater lot width, larger setbacks), the UDO should specify quantitative standards. The provisions in 1.4.3 B. should be relocated to Chapter 6 with other subdivision and infrastructure design standards.

Section 1.4.3 C.1. specifies that yards (setbacks) are measured from the lot line, making the provisions related to "assumed right-of-way" in paragraph C.1.c. irrelevant. Section 1.4.3 C.2.a. authorizes the Administrator to determine setbacks on irregularly shaped lots, but provides little guidance in making that determination. The



The UDO does not provide sufficient guidance to determine which of these lot lines are side lot lines and which are rear lot lines.

standards since development can still occur within the districts.

UDO includes an illustration of lots located on a curved street section, but these generally would not be considered "irregularly shaped." The code should provide an objective setback standard for lots located on a curved or cul-de sac street. The Administrator's interpretation should be necessary only for truly irregular lots.

Section 1.4.3 C.2.b. requires greater setbacks along thoroughfares (a term the UDO does not define) if there are future widening plans. It is unclear to the reader how to determine whether this requirement applies to their property. It is a relatively common practice in South Carolina to regulate the preservation of right-of-way to accommodate future road widening. These standards must be tied to a specific plan, such as the Rock Hill-Fort Mill Area Transportation Study (RFATS) Long Range Transportation Plan (LRTP). Neighboring York County has an [overlay zoning district](#) that applies to all land that abuts or is located within corridors planned and funded for improvements identified within the RFATS LRTP and/or the County's Capital Projects Sales and Use Tax Programs ("Pennies for Progress").

Section 1.4.4 A.1. provides flexibility for development on infill lots to conform to front setbacks established along the block, if the established setback is less than the minimum

required. This is a relatively common standard that helps maintain neighborhood character. If there is concern with “out-of-scale” development on infill lots, the County could consider additional bulk or height restrictions in certain zoning districts.

Section 1.4.4 A.2. requires consistency in lot width and setbacks for adjacent lots. It is somewhat confusing to combine these two provisions into one sentence. The illustration is unclear—it shows “infill side setback” on one lot adjacent to the infill lot, but not on the infill lot. This section actually raises more questions than it answers: How does the lot width provision relate to the minimum lot width required in a zoning district? Does this provision allow it to be reduced if the infill lot is adjacent to nonconforming lots?

Nonetheless, it appears the intent of the regulations is to promote infill development that is compatible with existing nearby development. Promoting development of lots with access to existing infrastructure is important, but so too is preserving neighborhood character. While the current provisions need clarification, the County should continue to encourage appropriate development on infill lots. For example, the County could consider establishing an infill lot type for lots in areas with mill homes that could, for example, relax setback requirements for these typically small lots. The UDO could limit the applicability of this lot type to lots contiguous to the City of Lancaster to encourage development and redevelopment in proximity to this urbanized area. As noted above, the revised UDO will provide more clarity as to applicable requirements for redevelopment of existing buildings and sites.

The County could also consider adopting a lot compatibility requirement that applies to lots that share a rear lot line. For example, in residential districts, the UDO could require new lots that back

up to existing lots to be the same width as the existing lots, regardless of the zoning district requirements. This provides for less abrupt transitions between neighborhoods of varying densities. Section 1.4.4 B. should be consolidated with the setback encroachment provisions in Section 1.4.5 and relocated to a separate chapter with other UDO interpretation-related provisions. The provisions for setback/yard encroachments also should be revised into a table format.

Section 1.4.6 should be consolidated with other calculation and measurement standards and relocated as noted above. The 14-foot story height limitation in 1.4.6 A. may be problematic for some non-residential uses, such as movie theaters, hotels, and religious facilities. The provisions in this paragraph related to floodplains should be reviewed to ensure consistency with the Building Code and floodplain ordinance. Section 1.4.6 B. is generally consistent with the Building Code, which measures height from “grade plane²” to the highest point on a structure. The UDO simplifies this, and measures from the “highest ground level at the structure foundation”—which provides more flexibility for property owners. However, it is unclear how this measurement works on a sloped lot. Additional explanation of how to measure height, and possibly an illustration, would be helpful here.

The standards for accessory uses and structures in Section 1.4.7 should be relocated to Chapter 5 *Use Regulations* and revised as needed for clarity. For example, 1.4.7 C.1. should be revised to clarify whether the nine-foot maximum width applies only to breezeways or to both breezeways and carports.

² The 2018 International Building Code (IBC) defines grade plane as “[a] reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be

established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet (1829 mm) from the building, between the building and a point 6 feet (1829 mm) from the building” (2018 IBC, [Section 202](#)).

UDO CHAPTER 2: DISTRICT STANDARDS

This chapter establishes the zoning districts and zoning map, specifies dimensional standards for the base zoning districts, and specifies the land uses allowed in each district.

Section 2.1 *Intent* should be consolidated with Section 2.3 *Districts* and separated into several paragraphs to improve readability. The first section in Chapter 2 should instead introduce the reader to the chapter and briefly explain where to find information about allowed uses, dimensional standards, and other zoning district requirements.

Section 2.2 *Official Zoning Map* repeats, verbatim, the zoning map provisions in Section 1.2. These provisions are appropriate to include in Chapter 2 (perhaps following the list of districts in Section 2.3), and the same provisions that appear in

Chapter 1 should be removed. The UDO should recognize that Lancaster County maintains the official zoning map in a digital format, which is common today in many communities. The UDO should specify how and when the official zoning map is updated, who is responsible for doing so, and provide a hyperlink to the online zoning map.

Despite its more general title, Section 2.3 *Districts* only includes purpose statements for each of the base zoning districts (which are referred to as “general use” districts in Section 1.3), and does not include any information related to the overlay or legacy districts. The lists of zoning districts in Section 1.3 should be relocated here, and the base district groups in Section 1.3.1 (e.g., rural districts, transitional districts) should be incorporated into the table in Section 2.3.

Base Zoning Districts

Lancaster County has 21 base zoning districts, plus the PDD legacy district. While there is no “rule of thumb” regarding the most appropriate number of zoning districts in a community, there are several criteria the County can consider in determining the right number for this community, including the:

- » Relationship of the zoning districts to the Comprehensive Plan and Future Land Use Map;
- » Number of distinct character areas in the community that may warrant unique zoning districts;
- » Degree of differences between certain districts (e.g., do some districts allow the same uses, but have slightly different lot size or setback requirements?);
- » Development outcomes in each zoning district (i.e., are the district regulations producing the intended development character?); and
- » Frequency of use of each zoning district (see discussion below).

The base district names are descriptive and reflect the general purpose and intent of the district, which is a best practice. The specified purpose of each district should be supplemented with a statement that describes where the district is intended to be located (e.g., in areas designated as Employment Center on the Comprehensive Plan Future Land Use Map).

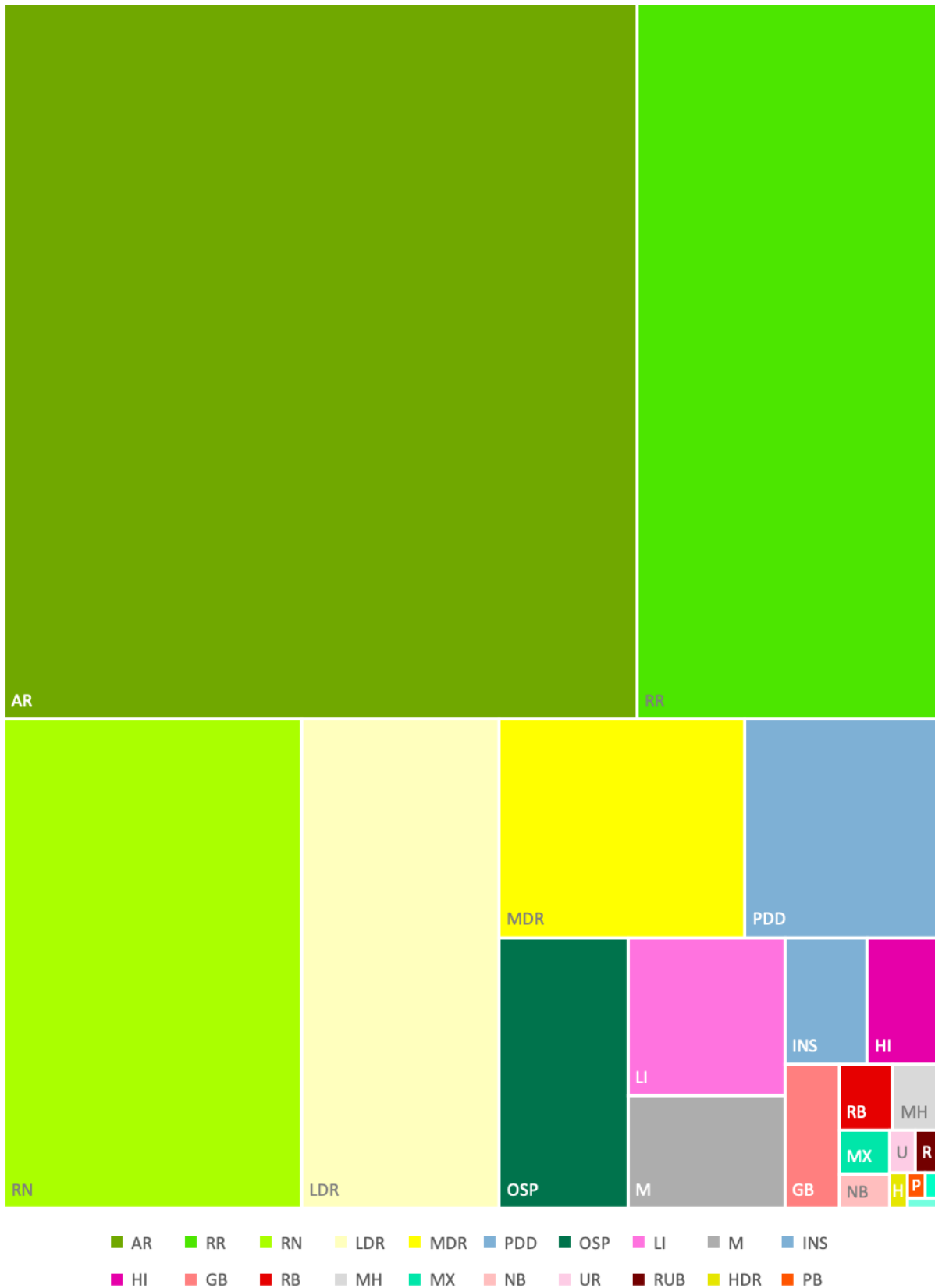
Table 1 and Figure 1 show the County’s zoning districts by percentage of unincorporated land area (acres). The distribution of zoning districts is not unusual in comparison to similarly situated counties. Since much of Lancaster County is rural in nature, it is expected for the bulk of land to be zoned in agricultural and rural residential districts. In fact, the four most used districts (AR, RR, RN, and LDR) comprise over 81% of unincorporated land area. The next most frequently used districts (MDR, PDD, OSP, LI, and M) comprise approximately 15% of unincorporated land area. The remaining 13 districts together comprise only 3.6% of land area. The limited use of these 13 districts may present opportunities to consolidate or eliminate districts. For example, the mixed use

districts are infrequently used which indicates problems with the applicable standards. This is consistent with stakeholder feedback, which expressed significant concerns with the mixed use districts and indicated a need for overhaul and potential consolidation (see page 26 for further discussion).

Table 1. Zoning Districts by Percent of Unincorporated Land Area

Districts*	Percent of Total Unincorporated Land Area
AR, RR, RN, LDR	81.30%
MDR, PDD, OSP, LI, M	15.07%
INS, HI, GB, RB, MH, MX, NB, UR, RUB, HDR, PB, IMX, RMX	3.63%
*The districts are listed in descending order, from largest land area to smallest.	

Figure 1. Zoning Districts by Land Area (Acreage)



Open Space Preservation District

The Open Space Preservation District (OSP) comprises approximately 3% (10,355 acres) of unincorporated land area. While this is a small percentage, it is the seventh most-used district by acreage.

Many communities in South Carolina have or are considering establishing similar districts which, like in Lancaster County, are intended for active and passive public recreation sites and environmentally sensitive areas. This allows communities to establish more context sensitive

regulations in these districts, such as limiting or prohibiting impervious surfaces.

While open space and recreation districts typically allow only a limited set of land uses and development potential, landowners are not precluded from requesting rezoning, which requires an open public process. This allows the County to consider, on a case-by-case basis, whether it is in the community's interest to establish or change an OSP district.

Neighborhood Business and Professional Business Districts

The Neighborhood Business (NB) and Professional Business (PB) Districts are two of the lesser used districts, containing just 501 acres (168 parcels comprising 0.147% of land area) and 132.91 acres (43 parcels comprising 0.039% of land area), respectively. The UDO describes the districts in the following manner:

- » The Neighborhood Business District is generally located on thoroughfares and provides opportunities for the provision of neighborhood services that serve as an acceptable transition to generally auto-dependent neighborhoods.
- » The Professional Business District is generally located adjacent to neighborhoods and provides opportunities for the provision of office and professional services that do not adversely impact the surrounding communities.

Allowing small-scale offices and retail and service uses on collector and local streets in close proximity to residential areas reduces vehicle trips on arterial roads. Safe, accessible sidewalks and multi-use paths connecting neighborhood offices and businesses with nearby homes encourages travel by foot or bicycle, further reducing traffic congestion. However, commercial uses near residential areas have the potential to create

negative impacts, such as noise and traffic congestion. These impacts can be mitigated by narrowly tailoring allowed uses, limiting the size and height of commercial buildings, and requiring pedestrian interconnectivity.

Certain land uses allowed in the County's NB District are limited in size or scale (e.g., live-work units, drive-thru/drive-in facilities, and car washes that are accessory to minor vehicle maintenance or repair service uses), while others are not (e.g., restaurant, personal services, and general commercial). The definition³ of "general commercial" is extremely broad. While this contributes to the flexibility of buildings to accommodate changing land uses over time, it provides little predictability to nearby residents. A lot zoned NB could have an ice cream shop or a big box retail store. Of course, lot size limits the type

Allowing traditional "corner stores" in appropriate residential districts also can help to encourage the development of small, neighborhood-serving uses, without the need to rezone to a commercial district—which increases predictability for residents since corner stores can be very narrowly defined and quite limited in size (typically 1,200 square feet or less).

³ The UDO defines the general commercial use type as "[a] place of business providing the sale and display of goods or sale of services directly to the consumer, with

goods available for immediate purchase and removal from the premises by the purchaser."

of general commercial use that could be accommodated, but the example illustrates why nearby residents might oppose NB District zoning even though the district is intended to provide neighborhood-serving uses.

The PB District allows several types of dwellings and a limited set of non-residential uses, which allows buildings to transition over time from residential to commercial use. Like the NB District, certain land uses are limited in size or scale.

Planned Development District (PDD)

As noted above, stakeholders raised a concern regarding the PDD's status as a legacy district that can no longer be used. They suggested the County reconsider this zoning option, either as a zoning district or through another similar technique.

Planned development districts (PDDs) or planned unit developments (PUDs) grew in popularity in the mid-20th century as a way to give developers more flexibility to design innovative projects or master-planned communities. PDDs typically are stand-alone zoning districts where an applicant can deviate from the normal base district standards, in exchange for providing a higher level of design, amenities, or other community benefits. The underlying concept is that if the private sector is given greater leeway and flexibility to design a project and mix uses, communities will benefit from more creative development and from a higher level of amenities, such as open space, than would otherwise be required.

The theory is sound, yet officials and citizens in communities throughout the country often encounter significant practical shortcomings once they are operating outside of standard zoning district requirements and development regulations. Individual PDDs amount to mini-zoning codes, which can be complex to administer on top of the existing zoning and development codes. Developers may find negotiations inherent in creating a PDD cause a loss of predictability, which can add to longer approval times and higher

The County could consider consolidating the PB District into the NB Business District and revising the development standards to better encourage the use of the consolidated district. The UDO would limit the gross floor area of buildings in the district, allow professional offices, and limit general commercial uses to a specific list of truly neighborhood-serving uses, such as coffee shops, delis, beauty salons and barber shops, bookstores, and food and convenience markets.

carrying costs. Nearby property owners may find there is too much flexibility when it comes to certain aspects of the PDD, such as allowed land uses.

These shortcomings can be mitigated, at least to some degree, by the manner in which a local government regulates PDDs. The [South Carolina Local Government Comprehensive Planning Enabling Act](#) (the "Planning Act"), defines "planned development district" as "a development project comprised of housing of different types and densities and of compatible commercial uses, or shopping centers, office parks, and mixed-use developments. A planned development district is established by rezoning prior to development and is characterized by a unified site design for a mixed use development."⁴ The statute authorizes, but does not require, PDDs to provide for "variations from other ordinances and the regulations of other established zoning districts concerning use, setbacks, lot size, density, bulk, and other requirements to accommodate flexibility in the arrangement of uses."⁵ This appears to provide flexibility for local governments to limit the amount of "variation" from generally applicable development standards that can be allowed in a PDD.

The County could consider reestablishing PDD as a base zoning district. This would provide an entitlement process for developments that are unusual in nature or that offer exceptional

⁴ S.C. Code [§ 6-29-720\(C\)\(4\)](#)

⁵ S.C. Code [§ 6-29-740](#)

community benefits or design, in a way that the other base districts cannot accommodate. As discussed below (see page 28), the County could incorporate certain aspects of the current mixed use districts into the standards required for PDDs—which may address some of the concerns that led to the designation of PDD as a legacy district. Incorporating the best aspects of the Mixed Use Districts’ regulations with the PDD would simplify the UDO and provide applicants with a flexible zoning option, and appears to align

with recent judicial opinions (see discussion on page 40).

PDDs have the flexibility, under the Planning Act, to accommodate developments of any size. However, if the County reestablishes the PDD, requiring a minimum development size (like the UDO’s current 25 acre minimum for Mixed Use Districts) may be more effective in producing the type of mixed use developments envisioned by the Lancaster County Comprehensive Plan than allowing PDDs of any size.

District Development Standards

The beginning of this section cross-references Chapter 1 for development on infill lots and additions to existing development. It should also cross-reference the Mixed Use Districts in Chapter 3, since those also are base districts.

Section 2.4 consolidates the primary development standards for each base zoning district (excluding the mixed use districts) into a series of tables, which is a best practice for quantitative standards. However, the tables could be streamlined quite a bit by removing the rows with standards that apply to developments or subdivisions, rather than individual lots (e.g., Development/District Exterior Setback/Buffer, Open Space, Park Space). The rows for parking standards should be removed as well. Row 5.A. is simply a cross-reference to the parking regulations (which are based on both district and land use), and Row 5.B. does not apply in any of the districts. Where they apply to all districts, cross-references to other UDO sections should appear within the text in order to keep the tables as succinct as possible.

In most cases, the development standards appear reasonable in consideration of the purposes of the zoning districts and in comparison to other South Carolina communities. However, the Medium Density Residential District standards should be reviewed to ensure the metrics are congruent with each other. For example, the maximum density is 2.5 dwelling units per acre but the minimum lot size is 10,000 square feet (which translates to four dwelling units per acre). It is unclear how (or

whether) the density standard applies to minor subdivisions. If density does not apply to minor subdivisions, this could account for the discrepancy between minimum lot size and maximum density. In addition, the minimum 30-foot front setback is a bit large for a 10,000 square foot lot and a slight reduction (e.g., to 25 feet) may be appropriate.

In addition, the County should examine whether a maximum height of 50 feet is appropriate for the Light and Heavy Industrial Districts. While this generally is sufficient for some types of industrial buildings, like warehouses, other types of industrial facilities, like heavy manufacturing, often require taller heights. The table allows increased height in these districts if the setbacks are increased by two feet for every one foot in height above 50 feet. To build a 75-foot tall industrial building, setbacks must be increased by at least 50 feet—which could be prohibitive on some sites that otherwise are well suited for industrial development.

A series of numbered footnotes follows each table. The numbering restarts with each table and, since the tables do not have titles, it is difficult to cross-reference the footnotes. Footnote 5 that follows the final table in this section appears to be generally applicable to all zoning districts, but this is unclear. This footnote exempts certain structures and building elements, such as water towers and chimneys, from height limits. These exemptions are common in zoning ordinances, but

are typically located in a more prominent location. Table footnotes are common as well, but generally should not repeat standards specified in other UDO sections. Some of the footnotes currently in the UDO are appropriate in their current location (e.g., “accessory structures over 600 sf must comply with principal setback requirement”), while others should be relocated (e.g., “no accessory structures may be located on corner lots between the street and wall line of the principal structure”).

The UDO does not include a consolidated set of explanations of how to measure applicable development standards, such as height and setbacks. A chapter should be added to establish rules of interpretation and measurement.

This section requires a minimum percentage of pervious surface on a lot. The more typical

approach is to regulate a *maximum* percentage of *impervious* surface. The end result is the same in either case, though, making this largely a matter of preference. However, the County’s current standard better characterizes the purpose of the regulation—which is to increase on-site stormwater filtration and decrease runoff.

In the LDR and MDR Districts, maximum height is specified in feet for principal structures and in stories for accessory structures. The only other districts in which height is measured in stories are the Neighborhood Business and General Business Districts. In those districts, maximum height for principal structures is the greater of 35 feet or three stories. In both cases, the regulation of height by stories could result in buildings that are incompatible with their surroundings. As staff notes, these unique instances of height measurement by stories should be eliminated.

Uses Permitted

Section 2.5 specifies allowed uses in each of the base zoning districts, including permitted, permitted with review, conditional, and special exception uses. This section should be retitled as “Uses Allowed” or “Use Table.” A permitted use is different from a conditional or special exception use, and the section title should be expansive enough to include all uses allowed.

The beginning of this section briefly describes the land use groups, which aids in interpretation of the use table. The County should review and supplement the land use group descriptions. For example, the description of commercial/entertainment uses does not address the entertainment aspect of the use group. Specific uses are defined in Chapter 10. While this increases the length of the UDO, it reduces the need to refer to external sources and provides clarity to landowners and applicants.

Section 2.5.2 *Interpretation of Use Matrices* primarily addresses the manner in which unlisted uses are allowed. The descriptions of the designations for each use (P, PR, CU, and SE) are located in Chapter 5, but instead should appear

immediately before the use table. Chapter 5 *Use Regulations* establishes standards for certain uses that have unique impacts.

Section 2.5.2 authorizes the Administrator to approve unlisted uses, but does not provide sufficient guidance for making such a determination. The Administrator may determine that an unlisted use is “materially similar” to a listed use if the unlisted use is similarly classified by one or more of three listed use classification systems, including the American Planning Association’s Land-Based Classification Standards (LBCS), North American Industrial Classification System (NAICS), and Institute of Transportation Engineers (ITE) Trip Generation Manual. While these are excellent sources to consult in making unlisted use determinations, the UDO should provide additional criteria beyond a “similar classification” in one of these systems.

The LBCS includes five classification systems: activity, function, structure, site, and ownership. Land uses that are similarly classified in one of these systems may not be similarly classified in another. The NAICS was established to categorize

industries rather than to address land use impacts. Uses within the same NAICS category can have widely different impacts. For example, the NAICS categorizes gas stations as retail trade, the same as other retail uses such as pharmacies, bookstores, and supercenters (i.e., big box retail). The ITE Trip Generation Manual is a comprehensive empirical guide to vehicle trip generation for common land uses, which is a key

Use Table, Generally

Section 2.5.3 specifies allowed uses in each of the base zoning districts in a table format, which allows the reader to easily determine where the County allows each type of use. This is a best practice, as the traditional enumerated list of uses allowed in each district does not permit the same side-by-side comparison. The County's use table categorizes uses into broad land use groups, which also is a best practice. The land use groups rationally divide uses into ten categories, though the table may benefit from reorganization or the addition of other groups. For example, the commercial/entertainment category could be separated into a retail/food service category and an entertainment/recreation category.

In addition, the uses within the land use groups should be evaluated to ensure they are appropriately categorized. For example, medical clinics are categorized as office/service but other healthcare facilities are categorized as educational/institutional. Funeral homes are considered an office/service use, but cemeteries are a civic use. Also, "personal services" may be more appropriately categorized with commercial and retail uses, rather than office uses; "private recreation facilities" should be considered a commercial, rather than civic, use; and "wineries" should appear in the same land use category as breweries and distilleries.

While it is preferable to consolidate similar uses in the use table where possible, the overgeneralization of land uses can result in land uses being "left out" of the table. For example, the use table allows "places of assembly," which the

indicator of land use impact. However, the ITE manual does not classify uses per se.

The UDO should provide additional criteria for the Administrator to use in determining whether and how an unlisted use is allowed, including whether the use has visual, traffic, environmental, or other impacts similar to an expressly listed use; and is consistent with the purpose statement of the zoning district in which it would be allowed.

UDO defines as "structures and land designed for 50 or more people to congregate for civic, social, and religious functions." Clearly, this use is intended to allow for religious facilities such as churches. However, it is unclear how the use table accommodates a small religious facility designed for fewer than 50 people. It is not a "place of assembly" according to the definition, but there are no other listed uses that clearly allow for this use.

The use table should balance the need for specificity with the need for simplicity. While it is unnecessary (and likely nearly impossible) to list every conceivable land use, the use table should include a place for all uses typically found in the community. The use list should be audited against modern industry classifications [such as the North American Industrial Classification System (NAICS) and the American Planning Association's Land-Based Classification Standards (LBCS)] to ensure that—between the listing and use definitions—all known uses are accounted for.

Stakeholders indicated that the use table excludes some common land uses. Specific examples provided include "general office" and "corporate headquarters." The use table appears to classify these under the broad category of "professional services." This category would benefit from expansion into several uses, which not only would provide clarity to readers but would also allow for more granular districting of various types of professional services uses.

For example, business offices are a common land use and should have their own row in the use table, as should medical offices (which are expressly included in the definition of professional services). This would allow for the uses to be permitted in different districts. Medical offices would be allowed in the Institutional (INS) District since they meet the purpose of the district, but general business offices (e.g., travel agencies, insurance offices, real estate offices) would not. Note “medical clinics” already have a line in the use table, but are not allowed in the INS District. The UDO revision will consider whether there is a need to define medical offices and medical clinics as distinct uses, or whether they should be combined and scaled by size. In addition, “research and development facilities” have their own line in the table, but also are included in the definition of “professional services.”

Other “missing” land uses include bus/transit stations; communications and information uses, such as radio and television broadcasting, film and television production, and music recording; data centers; dog day cares, which often have a combination of indoor and outdoor space, but lack outdoor kennels; group dwellings, other than halfway homes, residential care homes and

Residential Uses

Dwellings are classified as single-family, two-family, three-family, multi-family, townhouse, or accessory. However, townhouses are a type of single-family dwelling. For consistency, single-family dwellings should be classified as either detached or attached. Alternatively, the other dwelling types should be renamed according to their common terminology (e.g., “triplex” rather than three-family dwelling).

Stakeholders noted the County needs more options for multi-family uses. Our review indicates multi-family uses appear to be appropriately districted, particularly since triplex and quadruplex dwellings are separately listed and allowed in additional districts. However, the regulations in all four of the districts that allow multi-family uses significantly limit the available

facilities, boarding or rooming houses, dormitories, and fraternity/sorority houses; non-depository financial services uses, which studies demonstrate impact communities in negative ways; fairgrounds; and government offices.

Some existing uses could be consolidated in the table. For example, dormitories are listed separately from fraternity and sorority houses but both uses are permitted in the same district. The same is true for agritourism and ecotourism. “Commercial stables,” an agricultural use, are separately categorized from “riding stables,” a commercial/entertainment use. Riding stables are not defined and appear to fall within the definition of commercial stables. The uses are allowed in different districts. These uses should be combined, or a definition added for “riding stables” to clarify how this use is distinct from “commercial stables.” The use table should be relocated to Chapter 5 so that all use-related regulations appear in a single chapter following the zoning districts chapters. If an additional level of organization is added as recommended on page 6, the zoning district chapters should be consolidated into Chapter 2 with the use-regulations immediately following in Chapter 3.

options for development of a traditional apartment complex.

It is unclear whether the UDO allows for cottage courts, a hybrid housing type becoming more common in South Carolina communities—particularly where land costs are high or traditional multi-family apartment complexes face community opposition. In a cottage court, several small houses are arranged around a central, shared courtyard or green space. This housing type efficiently uses land; is typically compatible with the character and scale of moderate density residential and mixed use neighborhoods; and is increasingly popular among young professionals and families, single-person households, and seniors.

Cottage courts may use different ownership structures, but often they operate like traditional apartment complexes where one entity owns all units and rents them individually which can help to increase affordable housing opportunities.

While some cottage courts may include multiple dwelling units within each building (and thus are easy to classify as “multi-family”), others include just one dwelling unit per building. Many zoning and development codes fail to adequately provide for this unique combination of detached single-family buildings with multi-family land use. The UDO should allow cottage courts, with standards to control building scale and bulk and ensure appropriate site layout and design.

Other than the mixed use districts, the only district that allows multi-family uses is the Regional Business (RB) District. The mixed use districts

require at least 25 acres and a development agreement, and RB limits multi-family buildings to one per block face. The highest density allowed for multi-family uses is in the MX District (15 dwelling units per acre of land [du/ac]).

As discussed in the next section, the mixed use districts should be revised and potentially consolidated, which will further limit the districts in which this use is allowed. The County could consider creating a more conventional multi-family zoning district that does not require a mix of uses or a minimum of 25 acres. A 25-acre minimum more or less ensures multi-family uses will be provided in sprawling apartment complexes. However, small apartment buildings can provide an effective transition between moderate density residential neighborhoods and low intensity commercial areas.



Missing Middle Housing

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Cottage courts, also referred to as bungalow courts, were popular multi-family housing options in the early twentieth century. In a cottage court, several small houses are arranged around a central, shared courtyard or green space. This development type efficiently uses land and is typically compatible with the character and scale of moderate density residential and mixed use neighborhoods.

Other districts allow from 4-12 du/ac which may be too low to accommodate typical multi-family uses, thus forcing multi-family developers to choose the complex MX District or find an alternate site outside Lancaster County. There are provisions to allow increased density in the RMX and MX Districts. A 15% density bonus is allowed in both districts for the provision of affordable housing. In the MX District, the UDO notes “additional density may be considered during the Mixed-Use District / Master Development Plan process by the Planning Commission and County Council.” While this provides flexibility for developers, it contributes to unpredictability in the entitlement process. Density is a critical element of a development pro forma,⁶ and an applicant must contribute significant time and money preparing an MX District rezoning application without knowing the maximum density that County Council will ultimately approve.

Light Industrial Uses

Stakeholders pointed out that certain light industrial land uses may be appropriate in the business and mixed use districts and should be allowed, potentially with use conditions. This is another area where the expansion of a single land use into multiple uses may be beneficial. The UDO defines “light industrial” as “facilities [that] are typically designed for a range of primarily indoor industrial uses such as fabrication, manufacturing, assembly, processing, and bulk storage which have low impacts on surrounding properties.” Some light industrial uses may generate significant truck traffic that may not be appropriate in the business and mixed use districts. Other light industrial uses may function more like a

During the UDO update, the County should reevaluate the districts in which multi-family uses are allowed, as well as the maximum permitted density for this land use. It may be helpful to conduct an analysis of existing multi-family uses to determine typical densities of built developments and also to demonstrate what different densities look like on the ground. This helps frame the conversation around the local context and market rather than the somewhat abstract concept of density. “Appropriate” multi-family density levels differ from community to community due to differences in land costs, market factors, and community character. A critical, yet often overlooked, component in the regulation of multi-family uses is mandating good design. Higher density developments can be designed to complement the character and scale of the surrounding area. The County could consider adding building or site design standards that produce the type of multi-family developments acceptable to the community.

professional office building, which the business and mixed use districts allow.

“Business and technology” zoning districts are increasingly common in South Carolina communities. These districts typically provide for employment-generating land uses; “clean” manufacturing and production uses that have impacts on nearby properties similar to those from office uses; and technology-driven land uses, such as data centers and research and development facilities. A primary reason for having a separate district is to designate and preserve land for uses that generate economic development in a community.

⁶ “A proforma analysis is a set of calculations that projects the financial return that a proposed real estate development is likely to create. It begins by describing the proposed project in quantifiable terms. It then estimates revenues that are likely to be obtained, the costs that will have to be incurred, and the net financial return that the developer expects to achieve. The

proforma is the basic “go / no-go” analysis that developers use to decide on whether to move forward with a project.” (*Pro-Forma 101: Part 1 – Getting Familiar With a Basic Tool of Real Estate Analysis*, Wayne Lemmon, 2007; via PlannersWeb: <https://plannersweb.com/2013/12/proforma-101-getting-familiar-with-a-basic-tool-of-real-estate-analysis/>)

Utility Uses

The UDO regulates utilities using a logical framework (class 1, class 2, and class 3), which should be retained. Stakeholders noted a need to maintain current utility classes and utility

provisions in the institutional districts, which permit classes 1 and 2 and allow class 3 with a type C bufferyard.

Accessory Uses

Section 1.4.7 (which establishes standards for accessory uses and structures and should be consolidated with the use table and use regulations) states that any principal use allowed in a district may also be allowed as an accessory use. This implies that uses listed in the use table are principal uses. However, the use table includes some uses that are accessory by definition (e.g., accessory dwelling units, backyard pens/coops, and home occupations). It also implies that uses

not listed in the use table are not permitted as accessory uses. This raises the question of where and how other (primarily residential) accessory uses, such as private garages and carports, storage sheds and workshops, and swimming pools are allowed. The County should consider including an accessory use group in the use table or, alternatively, creating a separate use table in the accessory uses section.

UDO CHAPTER 3: MIXED-USE DISTRICTS

Chapter 3 establishes building, parking, and street design standards for the five mixed use districts, which are intended to create walkable, mixed use developments. The chapter is heavily and well-illustrated. Many standards are presented in a table format, a best practice for quantitative standards.

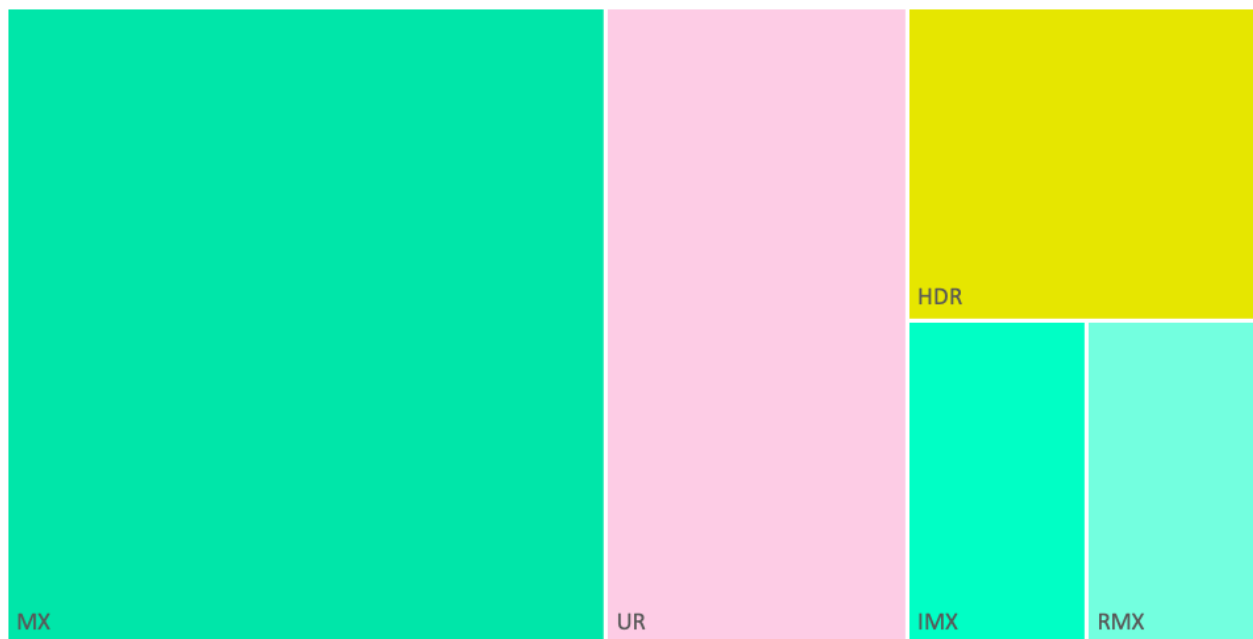
The standards are intended to produce more urban development patterns, which may be appropriate in certain areas of northern Lancaster County and in proximity to municipalities like the City of Lancaster. However, the vast majority of the County is rural or semi-rural—approximately 81% of the County is zoned for agricultural, rural, and low density residential uses.

The mixed use districts are a rather complex way to address development likely to make up very little of the County’s overall land area. In fact, the mixed use districts currently comprise just 0.41% (1,393 acres) of Lancaster County’s unincorporated land area. Figure 2 illustrates the breakdown of mixed use districts comprising that

0.41%. Nearly 48% of the land in a mixed use district is zoned MX and 24% is zoned UR. Mixed use districts are commonly used in South Carolina communities, but it is unusual for a community—particularly a predominantly rural county—to have more than one or two mixed use districts. Form-Based Zoning

Section 3.2 describes the districts as “form-based districts.” Form-based zoning is an alternative to traditional Euclidian zoning where the regulations emphasize form and design over land use. According to the Form-Based Codes Institute, “a form-based code is a land development regulation that fosters predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the code.”⁷ However, the UDO regulates land use in the mixed use districts in the same manner as other zoning districts—the districts are listed in the use table along with the other base zoning districts. Thus, the mixed use district standards function more as robust design standards. The standards are very prescriptive,

Figure 2. Mixed Use Districts by Land Area (Acreage)



⁷ *Form-Based Codes Defined*, Form-Based Codes Institute, available: <https://formbasedcodes.org/definition/>

which limits creative building and site design that might otherwise meet the intent of the districts.

Many communities use form-based zoning, often through a hybrid approach like that used in Lancaster County's UDO. It is more typical, however, to see form-based *elements* (such as

Mixture of Uses

Interestingly, there is no requirement for a proposed development in a mixed use district to actually contain a mixture of residential and non-residential uses. Some of the allowed building types require a mix of residential and non-residential uses by definition. Nonetheless, it is possible to build a development consisting only of townhouses, for example, in any of the mixed use districts.

Real estate financing, among other factors, can present challenges for the development of vertically mixed use buildings in suburban communities like Lancaster County. In Lancaster County and in similar South Carolina communities, "mixed use" tends to be horizontal (multiple separate uses on a site) rather than vertical (multiple uses in a single building).

Building Types

All of the uses allowed in the mixed use districts must be located in one of the ten specified building types. Like land uses, building types are limited by zoning district. For example, civic buildings and townhouses are allowed in all mixed use districts, while mixed use and general buildings are only allowed in MX and IMX. Section 3.3.F. establishes a "garden apartment" building type that accommodates three to twelve dwelling units. Garden apartment buildings are allowed in all mixed use districts except UR. However, small multi-family buildings like triplexes and quadplexes, particularly when they look more like detached single-family houses, are appropriate in the UR District.

build-to lines) in a development code, rather than form-based *districts*. Communities often apply form-based elements and design controls in denser or high visibility areas, such as in downtown districts and along major street corridors.

Short of requiring that buildings contain a mixture of residential and non-residential uses, it is difficult to mandate vertical mixed use. The UDO update could explore implementing incentives, such as density bonuses or reduced parking and landscaping requirements, but they must be significant enough to outweigh local market factors that inhibit vertical mixed use. Further, mandating a minimum percentage of non-residential floor area does not ensure occupancy of the space. An alternative is to allow, but not mandate, vertical mixed use, but require buildings to allow for continued evolution over time. For example, the ground floor could initially accommodate residential units, but be designed with taller ceiling heights to accommodate retail or other non-residential uses in the future.

Although one of the districts is Industrial Mixed Use (IMX), there are no industrial building types. The use table allows limited industrial uses in this district, most of which could be located in a "general" building type. However, wholesaling and distribution uses are permitted in IMX. Section 3.3 does not establish a building type to accommodate this use.

In addition, it is not possible to build standalone retail buildings in the mixed use districts—the "general" building type explicitly excludes retail and there are no building types, other than "mixed use" and possibly "stacked flat," that allow retail uses.

Density

Staff indicated many mixed use district rezonings are proposed because the residential density allowed in other base districts is too low to accommodate the proposed development. The maximum densities allowed in the LDR and MDR districts are quite low, at 1.5 and 2.5 dwelling units per acre (du/ac), respectively. Although the specific definitions of low, medium, and high density vary from community to community, medium density districts typically contemplate development at densities higher than 3 du/ac.

Section 3.5 establishes a range of moderate to high densities for the mixed use districts, from 4 to 15 du/ac and higher. (Note this section should be titled “Mixed Use District Development Standards” rather than “Urban District Development Standards.” Section 1.3 Zoning Districts does not establish any “urban districts.”) There are provisions to allow increased density in the RMX and MX districts, but the UDO provides little guidance to applicants as to the conditions under which County Council would allow for increased density.

Street Types

Section 3.11 establishes street types that “may be required” in the mixed use districts. While the intent may be to allow an applicant to choose the street types to include in a mixed use district, the statement is unclear. Staff indicates that these street types typically are not used and, further, are incongruent with the street design standards in Appendix C: *Manual of Specification and Standard Details*.

Each street type is well-illustrated and clearly depicts the width of each element in the street cross-section. The cross-sections include landscaping, and would benefit from a cross-reference to the street tree planting requirements in Chapter 7. If carried forward in the revised UDO, the County should verify these street types are consistent with other County requirements for streets.

Administration

Section 3.12 addresses administration of the mixed use districts. It authorizes the Technical Review Committee to allow limited deviations to certain standards, and establishes provisions for nonconformities—some of which differ from the general provisions in Chapter 9. During the UDO revision, the County should review the provisions for deviations and ensure the procedure is consistent with statutory requirements. The nonconformity provisions should be relocated to Chapter 9. This way, the generally applicable nonconformity provisions would be consolidated, and any special provisions for mixed use districts would have their own subsection.

Conclusion

Staff and stakeholders expressed numerous concerns with the mixed use districts. The County originally contemplated the districts as an alternative to the now-legacy PD District. However, the requirement for each mixed use district to have a development agreement—and thus a minimum site area of 25 acres⁸—limits the implementation of these districts. PDDs, on the other hand, have the flexibility (under the Planning Act) to accommodate developments of any size. As discussed below (see page 40), recent judicial opinions seem to limit PDDs in South Carolina to mixed use developments.

Reestablishing the PDD may be an approach to addressing concerns with the mixed use districts (see discussion of alternative approaches on page 40). The revised UDO could establish a framework for one or more planned development districts that incorporate the best aspects of the mixed use districts while

⁸ S.C. Code § 6-31-10, *et seq.*

simplifying the applicable standards. Since this would not address concerns related to multi-family development, the current HDR district could be reestablished as a standard base district (i.e., not a mixed use district). Use or site design regulations could apply to multi-family (and other) uses in this district to ensure new development complements the community character. The County could consider the same treatment for the UR district, which would result in four “non-rural” residential districts—LDR, MDR, UR, and HDR.

Alternatively, the County could consider consolidating the UR, HDR, and RMX districts into a single moderate to high density residential base district that accommodates a variety of dwelling types, including standalone multi-family developments.

UDO CHAPTER 4: OVERLAY DISTRICTS

Chapter 4 establishes three types of overlay districts: environmental overlays, corridor overlays, and character protection overlays. Each of the six overlay districts is discussed below.

McWhirter Field Aviation Overlay

This district limits land uses and activities occurring in proximity to the airport to prevent airport hazards. The South Carolina Airports Act⁹ requires local governments to zone land near airports that are funded partially or wholly by the State in conformance with “pertinent regulations of the Division of Aeronautics and the United States Department of Transportation, Federal Aviation Administration.” Section 55-9-300 authorizes local governments to adopt “airport hazard area” regulations, and § 55-9-260 authorizes local governments to regulate land use

and height in zones established within the airport hazard area.

The overlay district establishes height restriction zones that align with the airport’s imaginary surfaces as defined in the Code of Federal Regulations (CFR) Title 14, Part 77—Safe, Efficient Use, and Preservation of the Navigable Airspace. Imaginary surfaces are three dimensional planes that represent aircraft approach paths to a runway. The primary concern from a land use perspective are tall structures that might



⁹ S.C. Code § 55-9-240, *et seq.*

penetrate the imaginary surfaces, which the overlay district's height restriction zones prohibit.

The overlay district also establishes land use restriction zones that are comprised of one or more imaginary surfaces. It includes a lengthy table of permitted, conditional, and prohibited uses. Conditional uses are limited in density and intensity. Three more use-related tables appear at the end of the overlay district that provide more context related to compatible and incompatible land uses. However, it is unclear to the reader how the tables relate to the regulations. The tables appear to conflict with the use table earlier in the section. For example, the use table appears to allow medium density single-family residential uses in Airport Land Use Zone B2, but the compatible land use table specifies that only low density is appropriate.

Stakeholders noted the density and intensity limits are confusing and the overlay district presents challenges to the development of the public-private Lancaster County Air-Rail Business Park. The Federal Aviation Administration (FAA) recently published a public review and comment draft of [Advisory Circular \(AC\) 150/5190-4B: Airport Land Use Compatibility Planning](#). Once finalized, this AC will replace AC 150/5190-4A: Model Zoning Ordinance to Limit Height of Objects Around Airports (1987), on which many airport zoning ordinances are based.

AC 150/5190-4A regulates height and prohibits land uses that may create conditions that interfere with safe aircraft operations (such as uses that produce smoke or create electrical interference). It does not specify numerical density standards like the McWhirter Field Aviation Overlay, nor does it regulate specific types of land uses. The draft AC 150/5190-4B provides a sample airport land use compatibility overlay district ordinance, which provides more guidance on compatible land uses than the 1987 model ordinance. However, it also does not apply specific numerical density standards.

Like the County's airport overlay, the draft AC recommends compatible land uses by airport

"zones," which are based on the location of an airport's imaginary surfaces. However, the draft AC includes five zones aligned with an airport's imaginary surfaces, while the County's overlay establishes eight zones. The only land uses prohibited in all zones are solid/hazardous waste facilities and landfills (excluding transfer stations). [FAA AC 150/5200-33C](#) recommends a five-mile wildlife hazard zone around the airport that limits land uses that could attract birds and other wildlife that may present hazards to air navigation. The overlay district's prohibition on landfills implements this recommendation, though transfer stations and other land uses (including production of certain agricultural crops) could also attract wildlife.

Revisions to Lancaster County's airport overlay should align with current FAA guidance. The airport manager and the Airport Advisory Committee should review proposed changes to the overlay. As noted above, the primary concern with respect to imaginary surfaces is height rather than land use. Land use limitations are typically implemented in areas closer to runways where a higher probability of aircraft accidents exists. The FAA recommends airports own their "runway protection zones," which eliminates the need for local governments to regulate land use in these areas. The [Airport Layout Plan](#) available online through the South Carolina Aeronautics Commission shows the current runway protection zones (RPZs) are located entirely on airport property. However, a small portion of the "ultimate" RPZ (which reflects potential future development/expansion of the runway) on the southwestern runway is located outside airport boundaries.

The UDO requires disclosure statements in purchase contracts or rental agreements for new residential uses established in the airport overlay. The statement notifies future occupants of the proximity of the lots to the airport. This requirement is difficult to enforce. The County could consider instead requiring the disclosure statement to be placed on a recorded plat of the subdivision or residential lot.

The overlay district provisions related to nonconformities should be consolidated with other nonconformity provisions in Chapter 9.

All new development and replacement or significant alteration of existing structures in the airport overlay requires a permit approved by the Administrator, though it is unclear whether this is a zoning permit or another type of permit. The UDO requires Airport Commission (now the

Airport Advisory Committee) approval of all permits for new construction. The outermost extent of the imaginary surfaces extends a significant distance beyond the airfield. The UDO should provide exemptions for minor activities, such as construction of a deck, that are unlikely to create hazards to air navigation.

Carolina Heelsplitter Overlay

The Carolina Heelsplitter Overlay protects the Six Mile Creek Watershed Basin and the endangered Carolina heelsplitter. The County worked with the U.S. Fish and Wildlife Service to develop the overlay following discovery of a new population of heelsplitters in the County in 2006. The overlay requires mitigation for developments in the watershed that create impervious surface or impact existing buffers.¹⁰

The overlay requires forested riparian buffers along streams. When a proposed development exceeds certain impervious surface thresholds, the purchase of credits from the Carolina Heelsplitter Conservation Bank is required. The Conservation Bank is intended to balance environmental protection and economic development needs.

The overlay district would benefit from reorganization and clarification of the approval process, including the formula to calculate the number of credits required and the procedure to purchase credits from the Conservation Bank.

The UDO update should examine whether the Carolina Heelsplitter Overlay District could be converted to generally applicable development standards and relocated to Chapter 7 or 8. It is not unusual for a community to establish an overlay district to protect environmentally sensitive areas or species, and this may be the appropriate route for Lancaster County due to the requirement to purchase Conservation Bank credits.



¹⁰ The Carolina Heelsplitter Conservation Bank, available:
https://www.fws.gov/charleston/pdf/Heelsplitter/Carolina%20Heelsplitter_ConservationBank_FactSheet.pdf

Carolina Thread Trail Overlay District

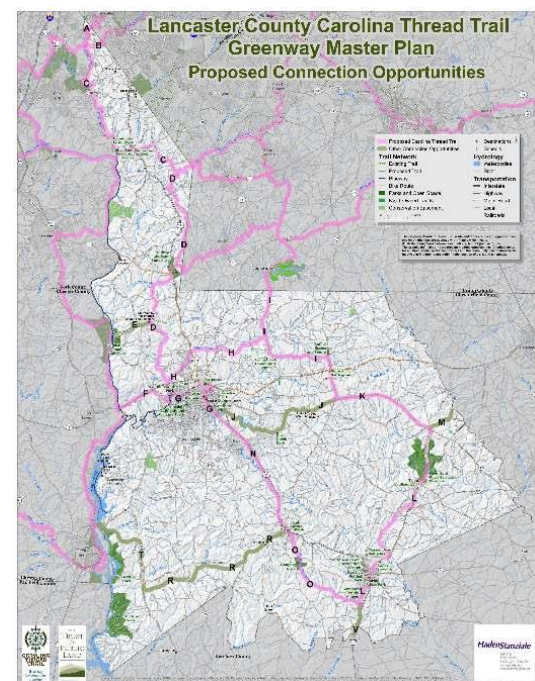
The Carolina Thread Trail Overlay “is established to preserve and enhance trail corridors identified in the Lancaster County Carolina Thread Trail Master Plan.”¹¹ The overlay applies to all lots that fall within trail corridors, and requires developers of major subdivisions to construct and dedicate pedestrian trails.

UDO Section 4.3.1 C.3. authorizes the County Council to award up to a 10% density bonus when the dedicated land is designated for use “by the community at large.”¹² However, paragraph A in the same section already requires the land to be dedicated for public use. The reader must refer to Chapter 6 *Subdivision and Infrastructure Standards* to understand that “public use” as contemplated in paragraph A means the land could be dedicated to a homeowners association. Chapter 6 specifies other standards related to the required improvements in the Carolina Thread Trail Overlay (e.g., § 6.7 *Bicycle Facilities*).

The overlay district should cross-reference these standards, and incorporate any that only apply within the district. Staff input indicates that the County Engineer should evaluate final trail locations, design, and materials, and has prepared a draft ordinance that should be considered for inclusion in the revised UDO.

Staff also expressed interest in creating a “fee-in-lieu” program that would allow developers to provide a financial contribution in lieu of land dedication. This could operate similar to the fee-in-lieu of sidewalk program already in use by Lancaster County (see UDO Section 6.6.1). The required fee would be based on a site-specific cost estimation provided by applicant and verified by the County Engineer.

As suggested for the Carolina Heelsplitter Overlay, the UDO update should examine whether the Carolina Thread Trail Overlay could be converted to generally applicable development standards and relocated to Chapter 6 or 7.



¹¹ UDO § 4.3.1 A.

¹² UDO § 4.3.1 C.3.

Highway Corridor Overlay District

The Highway Corridor Overlay District “is established to preserve and enhance corridors that serve as major gateways leading to, from, and within Lancaster County.”¹³ The overlay applies to properties that front on or are located within 1,000 feet of certain portions of U.S. Highway 521 and S.C. Highway 160, and regulates building and site design. While many communities establish higher building and site design standards along major roads for aesthetic, safety, and other purposes, they typically apply only to lots with frontage on or that are visible from the major road. The large boundary of the HCO captures lots that may not be visible from the highway, and their inclusion may be inconsistent with the purpose of the district. Many of the HCO regulations only apply to lots with frontage on the highways. The County should reduce the boundary of the district to include only these lots and lots that can be seen from intersections on the highways.

The overlay district comprises nearly 20 pages of the UDO and is difficult to read. Quantitative standards are presented in lists rather than tables. Many paragraphs repeat requirements from other sections of the UDO or simply cross-reference other generally applicable sections of the code. Some paragraphs include circular references that need correction (e.g., Section 4.3.2.G.5.c. cross-references “the provisions set forth in Section 4.3.2.G.”).

The bulk of the HCO regulations relate to development standards and site design elements, such as parking, landscaping, tree preservation, and lighting. The building design regulations are minimal, with a focus on materials. The HCO requires architectural variation, but does not mandate how to achieve this. Since the County does not have an architectural review board, this limited regulation of building design is appropriate.

In considering whether to maintain an existing corridor overlay district or instead apply its standards through base district zoning, a community should consider the following:

- » What regulations will apply throughout the overlay areas that won’t be applied everywhere?
- » Do applicants or staff experience confusion with the overlay concept? Is there less actual confusion if the overlay is eliminated?
- » How does the overlay relate to the others the community has/will have?
- » How distinct are the development patterns & characteristics to be governed along each of Boulevards?
- » Does simplifying, consolidating, or eliminating other overlays add to the usefulness of keeping the subject overlay? Does it remove actual or perceived conflicts?
- » Would adding the concept of Floating Zones be helpful?
- » What’s the impact of overlay on the approval process? Are additional steps or approvals required?
- » How important is the length of the code?
- » How does an overlay fit the governing body’s decision-making process?

It may be appropriate to consolidate certain development standards with similar regulations in other UDO chapters. For example, the general sign standards in Chapter 7 apply within the HCO, but there are additional standards specific to the overlay. Chapter 7 applies sign standards by zoning district and it would be clearer to include the HCO standards in this chapter as well.

As an alternative to reducing the boundary of the HCO and incorporating certain standards in other

¹³ UDO § 4.3.2 A.

chapters, the UDO update could eliminate the overlay district entirely. The district standards would be incorporated into other chapters of the UDO.

Stakeholders expressed concern that setback requirements do not accommodate the planned future widening of Highway 521. The County could consider revising the overlay district to require front setbacks that accommodate the future right-of-way. York County has a [Transportation Corridor Preservation Overlay](#) that requires additional setbacks for development adjacent to streets identified for improvement in the County's capital projects or transportation plans or the Rock Hill-Fort Mill Area Transportation Study (RFATS) Long Range Transportation Plan. The RFATS plan addresses the urbanized areas of both York and Lancaster Counties.

Staff indicated a need to provide additional flexibility to allow improvements to nonconforming structures in the overlay. Full compliance with the overlay district provisions could prove onerous on small properties. The UDO update should explore options for bringing nonconforming properties into compliance over time.

The UDO update also could explore the appropriateness of "tiered" applicability of certain overlay district standards. For example, the UDO requires additional pedestrian amenities on sites with retail buildings greater than 40,000 square feet in size. The revised UDO could relax certain requirements for buildings less than a certain size (e.g., 2,500 square feet). Alternatively, when developed sites are improved, the UDO could require compliance with certain aspects of the HCO based on the level of improvement. Minor improvements could trigger compliance with important safety aspects, such as access and connectivity, while major improvements could trigger compliance with aesthetic regulations, such as landscaping, bufferyards, and screening. This could help balance the County's desire to bring properties into compliance with the HCO with the potential burden on property owners.

In Appendix A, staff provides a detailed list of improvements for this overlay developed as a result of their experience administering the ordinance. The revised UDO should implement the staff recommendations and reorganize and reformat the overlay to improve readability.

Cluster Subdivision Overlay District

The Cluster Subdivision Overlay District offers an alternative to conventional subdivision design intended to preserve large contiguous tracts of open space and preserve environmental and historical resources. In exchange, developers can reduce the otherwise applicable minimum lot size and other dimensional standards and “cluster” lots in certain areas of the site. In addition to preserving open space, this reduces infrastructure construction and maintenance costs. The UDO limits cluster subdivisions to the MDR District and to tracts at least 30 acres in size. Development agreements are required.

Cluster subdivisions are an evolution of “conservation subdivisions,” a subdivision type defined by Randall Arendt in the mid-1990s. Conservation subdivisions are very effective in preserving open space and environmental quality, since they typically require 60% to 70% open space. True conservation subdivisions are located in rural areas, have large lots, and are very low density (two dwelling units per acre or less).



Many communities in South Carolina have regulations for conservation subdivisions, but few have seen their actual development. The application requirements are typically more complex than for other types of subdivisions, and developers have to invest significant time and money prior to application submittal. Combined

with high open space percentages and low densities, this makes conservation subdivisions less attractive to developers.

Communities are increasingly using cluster subdivision ordinances (sometimes called “open space subdivisions”) to increase open space in new neighborhoods. The CSO is popular in Lancaster County since it allows 50-foot wide, 5,000 square foot lots—the smallest single-family residential lots outside the Mixed Use Districts.

Section 4.4.1 D. requires a variety of lot sizes, which runs somewhat counter to the intent of the district but can contribute to visual variety within the district. The UDO revision process could explore alternate techniques for improving aesthetics in cluster subdivisions, such as requiring houses to be grouped in small clusters defined by open space (similar to the cottage court development type allowed in the Mixed Use Districts).

The overlay requires reservation of at least 25% of the site acreage, excluding “Primary Conservation” areas like wetlands, surface waters, and intermittent streams, as open space. This is generally consistent with other South Carolina communities. For example, York County requires 40% to 50% open space in cluster subdivisions (depending on zoning district), but allows undevelopable areas to count as up to 50% of the required open space.¹⁴ The appropriate percentage of open space is a policy decision, but we recommend a minimum of 25% to 30%. We also recommend that a minimum percentage of open space is “usable” by neighborhood residents. This does not necessarily preclude areas like stormwater ponds from being counted as open space, but would require installation of amenities such as perimeter walking trails or a small dock.

Required open space should continue to exclude Primary Conservation areas, since these areas are undevelopable under state and federal law. The

¹⁴ See Chapter 154, § 154.074 *et seq.*

CSO expressly allows streams, ponds, wetlands (presumably non-jurisdictional), and floodplains to “count” as required open space. If the County wants to increase useable open space in cluster subdivisions, it should reconsider the inclusion of these items as open space except where they are “amenitized” in some manner.

The overlay requires a 50-foot buffer along all existing public streets. It is unclear how much vegetation the UDO requires in this buffer. The UDO revision should link this requirement to one of the buffer types specified in Chapter 7.

The provisions for tree preservation in Section 4.4.1 F.9. should be clarified and augmented, and perhaps relocated to their own paragraph. Preservation of existing vegetation is important to the purpose of the district. The overlay regulates tree removal in buffers and open space, but not in areas designated as residential lots except that it requires preservation of trees 24 inches DBH and greater (“where practicable”). The County could consider also requiring replacement of removed trees over a certain size. Many South Carolina communities distinguish between “significant” trees and “heritage” or “grand” trees (which often



are 24 inches DBH or greater), and require replacement based on the classification of the tree, the species, health, and/or the number of inches removed.

To streamline the approval process, the UDO update could convert the CSO to a subdivision type that is only allowed in the MDR District. This would change the procedure for cluster subdivisions from a legislative (zoning) process to a subdivision process (preliminary plat, final plat, etc.). Development agreements should be optional.

Equestrian Oriented Subdivision Overlay District

The Equestrian Oriented Subdivision Overlay District provides for the development of residential subdivisions that provide common facilities associated with the care and keeping of horses, such as stables, pastures, and riding trails. The overlay is available for sites located in all agricultural and residential zoning districts. The UDO should clarify applicability by explicitly listing the base zoning districts that may be located in the overlay.

The regulations are simple and straightforward, and primarily pertain to setbacks, public health and safety, and health and safety of the animals. However, the UDO update should consider whether it is necessary to have a separate overlay zoning district, or if this subdivision type could be accommodated through existing subdivision requirements and perhaps the addition of use regulations for the keeping of horses.

UDO CHAPTER 5: USE REGULATIONS

Chapter 5 establishes use-specific standards for uses with unique impacts or that are only appropriate in certain districts if impacts are mitigated. These conditions apply to uses that are permitted with review (PR), conditional (CU), and special exception (SE).

Use Designations

The chapter begins by describing three of the four use designations in the use table: PR, CU, and SE. Neither this chapter nor Chapter 2 describe the term “permitted uses,” and it is not defined in Chapter 10. While permitted uses may be generally understood by readers, the UDO should define this term since it is a basic element of the code. As discussed above, the provisions in Section 2.5, including the use table, should be relocated to Chapter 5.

The provisions for uses permitted by review and conditional uses should be revised. PR uses require compliance with the use-specific regulations in Chapter 5 and are approved administratively (by staff). Conditional uses also require compliance with the use-specific regulations, but require approval by County Council. Section 5.1.2 states that “[i]ndividual consideration of the use may also call for the

imposition of individualized conditions in order to ensure that the use is appropriate at a particular location and to ensure protection of the public health, safety, and welfare.”

The S.C. Planning Act¹⁵ defines conditional uses as “zoning ordinance provisions that impose conditions, restrictions, or limitations on a permitted use that are in addition to the restrictions applicable to all land in the zoning district. *The conditions, restrictions, or limitations must be set forth in the text of the zoning ordinance* [emphasis added].” For this reason, we recommend designating all PR uses as CU to ensure consistency with the Act, and allowing staff approval of all conditional uses. Any conditional uses for which a higher level of review is desired should be recategorized as a special exception use, which requires review and approval by the Board of Zoning Appeals.

Rezoning

Staff and stakeholders recommended the County explore a new approach to rezonings that would permit the Council to better understand the scope of uses and nature of the intended development of the property for which a rezoning is requested. In many situations, the applicant will request a rezoning to accommodate a new use to which there may be no objection. However, the new zoning district may also allow other uses that may be objectionable if pursued in the future. In addition, it can be difficult to determine the appropriateness of a requested rezoning without some understanding of the intended development.

Traditionally, of course, the rezoning step is a legislative one and the approval of a particular development is administrative or “quasi-judicial.” However, stakeholders and staff suggested exploring a process in which rezonings could be tailored to the proposed use or made subject to limiting conditions on a case-by-case basis. There are several planning tools commonly used to accomplish this approach, though none is perfect in application and, for some, the statutory mechanism authorized in South Carolina may not be clear.

First are Planned Development Districts (PDDs), which are expressly authorized in South Carolina.

¹⁵ [S.C. Code § 6-29-720\(C\)\(6\)](#)

PDDs typically involve a rezoning, coupled with negotiated conditions tailored to the specific project. In jurisdictions across the state, PDD processes may include the rezoning, a plat, a development plan, or a development agreement, depending on the jurisdiction and the proposed development. However, as discussed above, PDDs present their own challenges – in part due to recent judicial opinions that seem to limit PDDs to mixed use developments. In fact, Lancaster County has designated PDD as a legacy zoning district and no longer allows new PDDs. Stakeholders noted that PDDs typically have not resulted in the type of development desired in Lancaster County, and feel more appropriate tools should be explored.

Second, the S.C. Planning Act expressly authorizes local governments to grant “use variances:”

A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit a variance, the governing body may require the affirmative vote of two-thirds of the local adjustment board members present and voting. Notwithstanding any other provision of this section, the local governing body may overrule the decision of the local board of adjustment concerning a use variance.
§ 6-29-800(A)(2)(d)(i)

Though not commonly used in South Carolina, the County could consider authorizing this approach in the revised UDO.

The Planning Act authorizes the Board of Zoning Appeals to attach variance approval conditions “regarding the location, character, or other

features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.”¹⁶ Note, however, the statute appears to require four variance criteria¹⁷ to use variances, which would limit their use to particular “hardship” situations and, therefore, may not address the stakeholders’ concerns in all instances.

Third, state statutes expressly authorize the use of development agreements, which provides means of working with individual developers to tailor development approvals to County expectations and neighborhood needs.¹⁸ However, development agreements have their own statutory restrictions, the most limiting being they are generally authorized for parcels of 25 acres or more only.

In addition to these tools expressly addressed by statute, the Planning Act appears to authorize other techniques, despite their not being expressly listed in the Act.¹⁹

In North Carolina, for example, local governments establish parallel “conditional zoning” districts in order to accommodate judicially imposed mandates, but also the ability to limit the breadth or scope of an approved rezoning. Conditional rezoning has not been tested judicially in South Carolina, though it may well fall within the County’s delegated authority under the Planning Act.

There are several options for addressing the shortcomings of the prior experiences of the County. First, the UDO revisions could include revisions to the Planned Development District concept that may offer more flexibility and

¹⁶ S.C. Code § 6-29-800(A)(2)(d)(ii)

¹⁷ S.C. Code § 6-29-800(A)(2) establishes four criteria that must be met in order for a Board of Zoning Appeals to grant a variance: (1) there are extraordinary and exceptional conditions pertaining to the particular piece of property; (2) these conditions do not generally apply to other property in the vicinity; (3) because of these conditions, the application of the ordinance to the

particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and (4) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

¹⁸ S.C. Code § 6-31-10, et seq.

¹⁹ See S.C. Code § 6-29-720(C).

development details to the Council prior to its approvals, while remaining clearly within a listed statutory framework. Variations on the PDD concept—like “flexible review/design districts” and “master planned districts”—are in common use in the state. For example, several communities in the Upstate use review districts, Georgetown County has a flexible design district, and the City of Rock Hill uses master planned districts.

These types of districts require approval of a site plan as part of the rezoning process. Like PDDs, these districts may be used to modify generally applicable zoning standards, such as uses, dimensional standards, or parking, though the code may limit the extent of modification allowed. For example, Georgetown County’s Flexible Design District prohibits modification of the height limits specified in the Zoning Ordinance. This technique provides appointed and elected officials an opportunity to review the site plan for larger developments but, when allowable modifications of code standards are limited, reduces the need to negotiate every aspect of a proposed development.

The City of Rock Hill has four Master Planned Districts: Residential, Commercial, Business/Industrial Park, and College/University. Greenville County uses a similar approach, and has multiple review districts including the Flexible Review District and the Planned Office District. These approaches are similar to Lancaster County’s Mixed Use Districts, but provide significantly less prescriptive standards. This encourages creativity and innovation in the land development process. The UDO update could incorporate the best aspects of the planned districts used in other South Carolina communities, and tailor the standards to the type of development desired in Lancaster County.

Second, the UDO could include a “use variance” process which, as noted, is not in common use in South Carolina, but does appear to be authorized expressly.

Additionally, if the County is in favor of doing so, the UDO might include a rezoning concept similar

to conditional or special use districts, like those used in other states. For example, a potential approach would be to establish a parallel “special use” base district for each current zoning district (e.g., a “General Business” District and a “General Business-Special” District).

Within such a special use zoning district, all allowed uses are designated as special uses, which require both a special use district rezoning approval and a concurrent special use permit approval for the proposed use(s), both of which would require review by the Planning Commission and review and approval by County Council.

Implementation of a concept similar to this one would consider the S.C. Planning Act’s definition of “conditional uses” (see above), which requires the associated conditions to be specifically enumerated in the text of the zoning ordinance.

Such an approach might include the following steps:

1. A property owner submits a rezoning application and a special use permit application, with a site plan that proposes a zoning district and use(s), conditions of approval, and any mitigation requirements. The application may include a draft development agreement, in accordance with the [South Carolina Local Government Development Agreement Act](#), if the property is 25 acres or more in size. Applications for developments that are smaller than this size threshold could indicate the applicant consents to the listed conditions.
2. The Planning Commission and County Council review the application and approve or deny the rezoning.
3. If the rezoning is approved, the Planning Commission and County Council review and approve or deny the special use permit application and, if approved, attach conditions to the site plan.
4. The applicant revises the site plan and development agreement, if applicable, to conform to the conditions of approval.

5. The Zoning Department maintains the conditions on file, which become binding and enforceable against the development.
6. The applicant submits a zoning permit application(s) prior to development of the special use zoning district.

Special uses in a special use zoning district would remain subject to all minimum requirements of the UDO and County Code, which might be increased or supplemented but would not be reduced, through the special use district rezoning and application process. Major changes to an approved special use district would be subject to the same process as a new special use district, while staff might be authorized to review and approve minor changes. The UDO would clearly specify what constitutes major and minor changes.

Use Regulations

The remainder of Chapter 5 establishes conditions for certain land uses, some of which only apply in certain zoning districts. Overall, the conditions appear reasonable. Some conditions could be consolidated in other UDO chapters, such as the use conditions for general commercial uses. The UDO should verify the consistency of the use conditions with State and federal statutes for uses such as wireless communications facilities. The UDO update should consider whether additional use regulations for certain land uses should be added. For example, agritourism and ecotourism are permitted uses in the agricultural and rural districts. These are unique land uses that can have a range of impacts depending on the specific activities conducted, and may warrant conditions related to vehicular access, parking, and hours of operation.

This potential approach balances the community's desire for more control over certain rezonings with applicants' desires for predictability and efficiency in the entitlement process. However, a disadvantage is the potential administrative burden and lack of statutory guidance. In addition, this approach may not vary much from an improved and revised PDD framework, which benefits from statutory clarity. For example, like PDDs, special use zoning districts could still result in numerous "mini-codes" with standards different from the generally applicable UDO standards property to property.

If Lancaster County decides to further explore this approach, the County Attorney should be involved in the development of the concept.

Staff's input in Appendix A includes more than five dozen suggestions for improvement to this chapter, many of which address practical concerns with application of the conditions or shortcomings of the regulations. The UDO revision should incorporate these recommendations and consider where conditions for other uses could help implement the County's planning policies and/or address community concerns.

UDO CHAPTER 6: SUBDIVISION AND INFRASTRUCTURE STANDARDS

Chapter 6 establishes standards for subdivisions and site development, including required improvements for all developments; street, lot, and block layout and connectivity standards; and street, sidewalk, and bicycle facilities design. This chapter includes cross-references to Appendix C: *Manual of Specifications and Standard Details*, which helps keep the chapter succinct. The County should consider consolidating the street naming and renaming procedures in Section 6.11 with other procedures in Chapter 9.

Chapter 6 should more clearly distinguish between requirements applicable to subdivision plats and those that apply to non-residential or multi-family residential site plans. This could be achieved by dividing Chapter 6 into distinct sections for infrastructure related to subdivisions and infrastructure related to site development that does not involve a major subdivision. This would benefit applicants by reducing the need to read the entire chapter to determine which provisions apply to their proposed development. If the revised UDO implements the “parallel codes” concept discussed on page 9, Chapter 6 could be further divided into infrastructure requirements for rural and non-rural areas or could be divided into two separate chapters to address the requirements for different geographic areas.

Required Improvements for All Development

Section 6.3 includes a summary table that specifies required improvements, such as curb and gutter, paving, and sidewalks, by zoning district. The revised UDO should maintain this table, as it helps applicants quickly determine the types of improvements required. This section should provide cross-references to the applicable standards for each of these improvements, since some provisions are found in other chapters of the UDO.

The UDO update process should seek specific input from engineering staff and local engineers and designers on the improvements required for new developments. They can help ensure the UDO reflects current best practices and industry standards, as well as provide valuable feedback on the relationship of the standards to local conditions.

Connectivity

Section 6.4 establishes standards for vehicular and pedestrian/bicycle connectivity. Increased street connectivity helps reduce traffic volumes and delays on major roads by providing multiple routes between two destinations. Well-connected street systems encourage walking and bicycling since block lengths are shorter and dead-ends are minimized. While all of these standards may not be appropriate in rural subdivisions (such as block widths), the revised UDO should maintain connectivity requirements for the more urbanized areas of the County.

While sidewalks are required in many districts, only the CSO and HCO expressly require frontage sidewalks along perimeter roads. This creates a disjointed sidewalk system. The County needs a consistent policy on whether or not perimeter sidewalks are desired and, if so, who is responsible for maintenance.

Subdivisions

The definition of subdivision and the statutory exemptions noted in Section 6.2.2 should be reviewed for consistency with South Carolina statutes. The County should confirm its approach to family subdivisions and determine whether additional standards are needed. Staff and stakeholders expressed significant concerns with the provisions for private drives in Section 6.18 H (which often serve family subdivisions). These provisions should be relocated to their own subsection towards the front of the chapter with other provisions related to minor and family subdivisions. The County should review and revise applicable standards to ensure they comport with fire and emergency access requirements and address practical concerns regarding long-term use and maintenance of private drives.

This chapter primarily includes infrastructure design and construction standards and provides limited guidance on the County's expectations for subdivision layout. For example, the UDO does not

Earthwork and Grading

This chapter does not address earthwork and grading requirements. Mass grading of development sites is often an aesthetic concern, but it can also contribute to increased erosion and potential negative impacts on water quality. Staff expressed concerns with fill areas that could be addressed through standards related to earthwork and grading. Like many of the infrastructure standards in this chapter (e.g., the technical road construction standards in Section 6.14), these requirements are highly technical and may be more appropriately located in Appendix C: *Manual of Specifications and Standard Details*.



effectively address townhouse subdivisions. The UDO should provide standards for both front-loaded and rear-loaded townhouse subdivisions to ensure the final development is consistent with the desired character of these types of subdivisions. In addition, the UDO revision should implement more context-sensitive design standards for rural subdivisions.

It is common for communities to regulate grading, excavation, and earthwork construction, including fills and embankments. Many communities require grading permits as a precursor to any site development, as well as related financial sureties. Grading permits may require submittal of geotechnical studies, which analyze surface and subsurface conditions on a site. Financial sureties often are based on the volume of either excavation or fill material.

S.C. Code § 6-29-1180 authorizes local governments to require financial sureties for site improvements at an amount at least equal to 125% of the cost of the improvements. This

approach is recommended, particularly since Lancaster County has experienced issues with substandard grading and filling activities. Section 6.9 already allows developers to post financial

Improvement Guarantees

Section 6.9 requires a two-year warranty period for new streets, stormwater control structures, and other required utilities. These provisions require a developer to maintain new infrastructure and repair any defects that arise within the warranty period. This is consistent with the practice in other South Carolina communities.

As noted above, Section 6.9 allows developers to post financial sureties for other required improvements if the improvements are not complete at the time of final plat. This is common

sureties for other required improvements, so expanding this to grading activities is consistent with current practice.

among South Carolina communities as well, though many jurisdictions place limits upon the type of improvements that may be completed following final plat. Section 6.9.1.B. allows any improvement, other than water and sewer, to be completed following final plat. However, the County should consider requiring completion of street construction prior to final plat. Following final plat approval, developers typically begin the building construction process and completed streets are important for fire protection and provision of emergency services.

Road Construction Standards

Section 6.5.2. indicates the road standards apply to all public and private roads in the County. Section 6.13.1. specifies that all “roads within a planned development district/mixed-use district, a residential subdivision, or other developments that are identified and created through the submission of a preliminary plat after January 1, 2015,” shall be privately owned and maintained. However, the detailed road construction standards in Section 6.14 apply to “local and collector residential roads that will be maintained by the County.” This needs to be reconciled with the provision in Section 6.5.2., and with the County’s current policy to not accept new roads for maintenance.

Section 6.14 requires all roads to comply with SCDOT and American Association of State Highway and Transportation Officials (AASHTO) standards. The additional standards apply only to the residential roads mentioned above. This practice and the standards themselves appear to be generally consistent with other South Carolina communities. Traffic Impact Analyses

Chapter 6 also establishes the County’s provisions for traffic impact analyses (TIAs). The UDO revision should consider whether this is the appropriate location in the UDO for these requirements, or whether they should be relocated to Chapter 9 or another chapter related to procedures and application submittal requirements.

The applicability of the TIA requirements should be reviewed. The UDO requires a TIA for any land use plan amendment, amendment to the zoning map, subdivision, special exception permit, rezoning or site plan.”²⁰ In particular, the County should consider eliminating the requirement for an applicant to provide a TIA with any rezoning application. A rezoning applicant may not have imminent development plans for the property which, since TIAs are based on land use, makes it difficult to conduct a traffic study. Further, base zoning districts allow a variety of uses. The UDO does not specify whether applicants must revise approved TIAs when the use of a property changes.

Stakeholders expressed a concern that the TIA thresholds are too low. The UDO requires a TIA

²⁰ UDO § 6.8

when the proposed development is anticipated to generate more than 50 peak hour vehicle trips. The UDO update should consider implementation of a tiered TIA process. A tiered process could require a less detailed trip generation summary for smaller developments and a full traffic impact analysis for larger ones. Mitigation is an important component of the TIA process. The UDO should clearly define the types or thresholds of

Variances

Section 6.13.4 authorizes County Council to waive provisions of Chapter 6 on a case-by-case basis. The S.C. Planning Act does not address the procedure for variances from land development regulations. However, the Act authorizes both staff and the Planning Commission to review plans and plats, requires the Planning Commission to hear appeals of staff decisions, and requires Planning Commission approval of street names and street name changes. Since the Planning Commission is responsible for administration of these aspects of land development regulation, it may be appropriate for the Commission to consider variances, or “waivers,” from the standards in Chapter 6.

deficiencies that warrant mitigation and the County’s applicable level of service standards.

The access management provisions in Subsection 6.8.4 should not be located in the TIA section since they appear to be generally applicable to all new development. These provisions should be relocated to their own section in Chapter 6.

UDO CHAPTER 7: GENERAL DEVELOPMENT STANDARDS

7.1 Landscaping and Screening

Generally

Landscaping ordinances provide standards for the preservation and addition of trees and other plants as a part of the development process. Trees, shrubs, and groundcover soften the appearance of development sites to drivers and pedestrians and provide buffers between incompatible uses. In addition, living materials provide important ecosystem services, such as reductions in stormwater runoff, cooling from the shade of trees, and habitat for wildlife. The benefits of landscaping ordinances come at the expense of increased costs in the development process. Onerous landscaping requirements may reduce development of greenfield sites due to the increased expense or loss of land area for development. Therefore, a landscaping ordinance must strike a careful balance between quality of life with the community's interest in the economic impact of land development.

Staff has generally recommended that landscaping requirements should be increased and that requirements for different components should be standardized. For example, Chapter 7 currently includes several different spacing requirements for trees in parking lots, on streets, and in other locations. Staff suggests that all tree spacing should be standardized at one tree per 30 linear feet.

Staff also recommended incorporating more flexibility into the landscaping and screening requirements. Section 7.1.1.E. allows alternative options to provide more flexibility for unique site conditions. This concept could be expanded to allow replacement material in different locations on the site, but these strategies could diminish the effectiveness of landscaping as a buffer or screening technique. One increasingly common approach to add more flexibility would be to incorporate a "point system" where applicants can choose from a menu of options, each with an

associated number of points. Any combination of options can be used to reach the minimum number of points required. While this approach adds flexibility, it can be more complicated for staff to determine whether a landscape plan meets the requirements. Another approach that adds flexibility is allowing substitution options for plant material (e.g., one understory tree equals three shrubs; two understory trees equals one canopy tree). Several subsections of the landscaping chapter adopt this approach.

The landscaping and screening chapter should also be reorganized. It currently includes sections on tree protection and applicability, tree protection on private property, street trees and building perimeter plantings, parking lot landscaping, buffers and screening, and general standards. Chapter 7 should include a clear applicability section with general standards used throughout the chapter followed by re-organized development standards for buffers and screening, building landscaping, parking lot landscaping, street trees and streetscaping, tree preservation, maintenance, and procedures. The re-organization will improve the flow of the document and present distinct concepts in separate sections that are currently combined. For example, some general matters and procedures are located in Section 7.1.1 *Tree Protection and Applicability Matrix* and some are located in Section 7.1.7 *General Installation and Maintenance Standards*.

In addition, the landscaping ordinance should be clarified. Staff has identified numerous vague and contradictory regulations. For example, Section 7.1.1.D.5. requires that vegetation planted on a site with a fence "shall be placed on the side of the fence" but does not state whether the plants should be placed inside or outside the fence.

Tree Protection and Applicability Matrix

Section 7.1.1 includes an applicability matrix and several general procedural provisions, such as landscape plan requirements, inspections, and alternative compliance. The current matrix should be replaced by a matrix showing whether each requirement applies in each type of district. The current matrix appears to apply “all standards” to new construction, but several of the standards do not apply to new residential construction based on a closer review of each section. Section 7.1.1 also

currently conveys some of this information in a graphic that is difficult to decipher. Staff recommends updating the applicability for building expansion that currently requires compliance on specific portions of the lot based on the location of the expansion. Instead, they suggest using a proportional requirement based on the percentage increase in size. All procedures and maintenance standards should be relocated to a separate procedures section.

Tree Protection on Private Property

Section 7.1.2 addresses tree protection, but some tree protection standards are also included in Section 7.1.7 *General Installation and Maintenance Standards*. These should be combined or cross-referenced. Section 7.1.2 provides an incentive-based tree protection framework. The section does not include specific criteria for the types of trees and locations of trees that should be preserved. Many communities in South Carolina have a tree protection ordinance of some type, but the requirements vary greatly. Staff recommends protecting heritage trees and possibly preserving a percentage of the tree canopy on a site. Mandatory tree preservation standards are the only way to ensure that established trees are preserved and to maintain the overall tree canopy in the County. In order to preserve trees, the County could require a tree survey of all trees above a certain minimum size, such as a six-inch diameter. This will help to identify heritage trees and preferred locations for preservation of multiple trees. Concepts for tree preservation can also be integrated with the use of existing vegetative areas for mandatory buffers.



Trees and Landscaping Must Coexist with Utility Lines in the Right-of-Way.

Street Tree and Building Perimeter Plantings

Section 7.1.3 addresses both street trees and building perimeter plantings. These unrelated requirements should be relocated into separate sections. The building perimeter planting standards appear sufficient, and staff recommends reducing the width from six feet to five feet. However, the street tree requirements should be adjusted to match the overall streetscape framework that Lancaster County applies. Staff recommends consolidating and increasing the density of street trees, which currently must be planted at the rate of one canopy tree per for every 40 or 50 feet depending on the district, to a more uniform standard of one tree for every 30 feet of frontage. In addition, the tree species should be clarified and updated to ensure that the County meets its goal to plant native or locally adapted trees. While the current

standards are clear, there is a significant risk of conflict between required trees and utilities and other infrastructure. The current standards require trees to be planted in the right-of-way between the road and sidewalk. This is the preferable location for best practices in urban design, but staff expressed concerns for conflicts with utilities and adequate space for trees to grow. Staff recognizes a need to coordinate any change with the Lancaster Water and Sewer District. Currently, sewer pipes are installed under the roadbed, but water lines are frequently installed in the adjacent right-of-way. The tree standards should also be compared with preferred street layouts and with the current conditions for overhead utility lines to identify the best location for trees and utilities to coexist.

Parking Lot Landscaping

Section 7.1.4 provides standards for parking lot landscaping. In general, these parking lot standards require perimeter and interior landscaping with trees and shrubs and require interior plantings to be located in landscaped islands installed throughout the site. Staff suggests revising the spacing standard to one tree for every 30 linear feet to match the street tree standard. There is some concern with providing adequate space for trees and ensuring that trees

are dispersed throughout the site. In addition, staff would like to consider requiring the end of each parking row to have an island. The exemption for automotive uses is appropriate but could be too restrictive; it appears to require either exterior and interior plantings or a 50-foot landscaped strip with a semi-opaque screen on all road frontages. This type of road frontage screen does not seem appropriate for outdoor vehicle display at car dealers and some other retail uses.

Buffers and Screening

Buffers are a very important component of a landscaping ordinance because they must strike a balance between protecting privacy and allowing connectivity. Section 7.1.5 controls buffer requirements and provides three different buffer standards depending on the difference in the intensity of adjacent uses. Staff recommends more robust buffers. The standards generally require a buffer when a lot within one district adjoins a lot in a lower-intensity district. This framework is widely used and provides clear standards to require buffers. However, this framework does not adequately address

differences in land use within mixed-use districts. Staff suggests that the buffers should be revised to reflect general land use classifications instead of zoning districts to help resolve this problem. It is possible that buffers based on uses could introduce uncertainty in long-range planned developments and require additional staff time to confirm current or future land use for adjacent lots. Section 7.1.6 controls specific buffer requirement for loading areas and utilities. Generally, staff recommends that these standards should also be increased.

General Installation and Maintenance Standards

Section 7.1.7 includes plant and construction standards and some procedural matters, such as inspections. The section suggests plants with a cross-reference to a plant list in Section 4.3.2.J.6.vii. However, numerous sections of this chapter refer to concepts such as “native” or “drought tolerant.” Many of the plant selections listed in the approved plant list are not native to South Carolina. For the purposes of screening, identifying evergreen species of trees and shrubs is helpful, and the plant list does not classify shrubs as deciduous or evergreen. Therefore, the plant list should be reviewed for consistency, and

the landscaping ordinance would be most clear if it included its own plant selection list and a list of prohibited plants, primarily invasive species. Interest in invasive species is growing, as exemplified by the State’s ban on the commercial sale of Bradford Pear trees after October 1, 2024. Staff expressed an interest in improving the long-term maintenance of landscaping. The County could also consider adding an irrigation requirement for certain locations or uses to improve long-term maintenance. Finally, all procedures should be consolidated into one new section.

7.2 Parking and Driveways

In General

Section 7.2 regulates parking and driveways. These features of development have important implications for the community because impervious surfaces increase the urban heat island effect and increase stormwater runoff, and large expanses of parking can detract from the aesthetics of a community. These features are also expensive for developers to construct and are long-term capital improvements that will last for many years. Therefore, it is important to set the correct parking requirements (i.e., not significantly over- or under-parked) and to promote strategies to minimize the negative effects of this necessary use. The parking and driveways sections do not require significant reorganization, but the specific requirements for each use should be evaluated.

Parking Standards

Section 7.2.4 requires parking based on a use table that lists many common land uses. This framework is typical and functions well for many communities but can result in an overabundance of parking because the tables require minimum parking amounts. However, Section 7.2.4.B. also provides for a parking maximum, which is set at twice the minimum parking requirement. In addition, the parking standards provide exceptions for some uses and districts and also control shared and satellite parking and bicycle parking. However, it appears shared parking is only allowed in the context of satellite (off-site) parking. The provisions for satellite parking need review and the provisions for shared parking should be expanded. The UDO should provide additional standards related to parking reductions for shared parking, or provide more guidance for the Administrator to determine when reductions are appropriate. Shared parking areas provide flexibility for applicants, reduce impervious surface coverage, and improve the appearance of development.

Staff suggests that the table should be fully evaluated to ensure that all uses are captured and that the parking requirements are sufficient. Staff suggests that other strategies to offset parking requirements could be explored in addition to the



parking maximum. In addition, the uses should be evaluated and updated parking maximums should be adopted that are tailored specifically to each use in the table based on best practices. Some of the parking ratios should be adjusted, including office and service at 1 per 500 sf and restaurants at 1 per 250 sf, which both are significantly lower than in other similar South Carolina communities. The table would more accurately provide the appropriate level of parking if there were more detail in the use classifications.

Parking and Drive Design

Parking and drive design and materials are controlled by several different subsections of Section 7.2. Appendix C of the Manual of Specifications and Standard Details (MSSD) also provides detailed engineering drawings and dimensions for parking and driveway design. These design specifications are frequently provided in an appendix or a separate manual because it is needed by a limited class of users, so the practice of treating design specifications separately should be continued.

The MSSD provides recommended, minimum, and compact stall and aisle dimensions. However, the Code does not explain in what situations departures from the recommended parking dimensions are appropriate. The parking design standards should clearly cross-reference the preferred parking design standards, and these standards should be compatible with the parking lot landscaping standards.

The location for parking on a lot is defined by a complicated table and graphic in Section 7.2.3 and varies depending on the land use and the character of the surrounding neighborhood. This table cross-references the form-based building types in Chapter 3. Therefore, it would be appropriate to review the parking lot location standards and completely revise this Section,

which staff recommends. The surface requirements and features are controlled by the table in Section 7.2.5.B. In general, the standards differentiate between industrial and non-industrial districts and certain types of parking situations (like overflow parking). Industrial use and overflow parking are allowed to have gravel lots. Many jurisdictions allow gravel lots in rural locations regardless of use, so Lancaster County could consider reviewing the paving requirements. In addition, the standards provide for connectivity and pedestrian corridors in parking lots. Staff reports significant practical difficulties in coordinating connectivity due to grade differences between adjacent lots that were not developed at the same time. This issue could be addressed with additional design requirements and analysis of topography and adjacent lots during the site plan review.

Section 7.2.7 provides specific standards for driveway location, width, and design. These appear to function relatively well, but it appears some developers attempt to avoid these requirements by not using curb cuts. Staff suggests that this situation should be reviewed and that the driveway standards should be revised to accommodate vehicle stacking in drive thru establishments.

7.3 Lighting

In General

Lighting ordinances are intended to prevent nighttime glare that can be caused by the close proximity of incompatible uses and reduce overall light pollution in a community. The lighting ordinance generally applies to new development within commercial districts and exempts residential properties from compliance. The ordinance provides design standards and regulates specific uses and light types through additional regulations and exemptions. The ordinance primarily focuses on lighting installed during the initial development of a site. Staff suggested a general need to improve the lighting ordinance as a whole. Staff questioned the narrow applicability to commercial uses and suggested that it could be appropriate to regulate residential development. This expansion of scope would definitely decrease the impacts of lighting on residences but might be objectionable to some residential users. In addition, staff pointed to a need to expand the regulations from initial conditions to maintenance and ongoing operations.

Design Requirements

Section 7.3.2 provides the specific design standards for lighting and limits the application of the lighting requirements to commercial districts and specifically exempts residential uses. However, staff points out that several commercial districts are not included. Many communities regulate all external illumination, so it is reasonable to consider expanding the application of the lighting regulations. Staff suggests that this expansion to residential uses would be appropriate, and this change would be most likely to prevent off-site glare because most new

residential developments are not adjacent to commercial developments. Several sections apply to shielding, and the shielding standards could be clarified and expanded to regulate specific types of light sources. Staff suggested additional shielding would be appropriate. Staff also suggested the need to reevaluate and clarify the measurement standards.

Specific Uses

Sections 7.3.3 and 7.3.4 provide additional requirements for certain situations and exempt or provide additional standards for certain applications, such as security lighting. These sections appear to be working well for Lancaster County. Staff suggested that a code revision should consider regulating LED string lights on buildings that are used to attract attention to a business. This type of regulation can be addressed in the sign code.

Administration and Nonconforming Lighting

Section 7.3.5 addresses procedures and administration. The ordinance currently does not require that an applicant submit lighting information on the site plan unless requested by Staff. Staff suggested that the submittal requirements should be clarified and that a site plan requirement should be included. The ordinance also allows nonconforming lights to be replaced with the same lighting. Nonconforming lights could be eliminated over time by requiring that lights must be replaced with conforming lights. In addition, incompatibilities could be addressed in the interim by limiting the hours of operation of some nonconforming lights.

7.4 Signs

In General

A sign code provides important standards for visual communication in the public realm. Sign regulations require a balance between limiting visual clutter and minimizing driver distraction on the one hand and providing useful information about the locations of businesses and preserving citizens' constitutionally protected free speech rights on the other hand. This balance is complicated by recent case law that requires local sign regulations to be "content neutral." Lancaster County's Sign Code generally regulates of sign types based on zoning districts. However, the Code includes many distinctions based on content and the identity of the sign user. The Sign Code should be completely updated to provide content-neutral regulation of signs. In general, a content-neutral sign code would replace references to a sign's content and uses with regulations based on factors such as size, design, configuration, and location.

Other sign regulations located in the zoning ordinance should also be combined into the

framework of the Sign Code for all applicable sign standards. For example, the Highway Corridor Overlay (HCO) District provides some deviations from the standard sign regulations in Section 4.3.2.H. Matters like sign height would be appropriate to locate with the general sign standards as a special overlay district. It would be appropriate to provide for exceptions to general rules, such as the prohibition of certain types of signs, in the HCO regulations. In addition, use regulations currently provide standards for signs for uses such as bed and breakfast inns and home occupations. Staff believes that sign allowances for several sign types and uses, including wall signs and freestanding signs and the application of the sign regulations to multi-tenant buildings are not adequate. Staff also suggests that it would be appropriate to evaluate differing standards for the Panhandle/Highway Corridor Overlay. These issues are common and can be addressed in a content-neutral way as discussed in this section.

Content Neutrality

Recent case law requires that regulations should be "content neutral." This section will briefly address the concept of content neutrality and how that principle would be applied to revisions of a sign code like Lancaster County's. In 2015, the United States Supreme Court issued an important opinion about evaluating content neutrality in the case of *Reed v. Town of Gilbert*, 576 U.S. 155 (2015). Prior to *Reed*, some courts found regulations content-neutral if their underlying purpose was to address the secondary effects of signs (such as traffic safety and aesthetics) rather than the sign's message. Under *Reed*, the Court focused the inquiry on the language of the regulations as opposed to their intent. Generally, regulations are now considered content-based if a regulation is triggered by what the sign says. In other words, do you "need to read" the sign to

know what regulations apply? If so, the regulations are subject to strict scrutiny. This new guidance requires local governments throughout the nation to reexamine their sign codes for content neutrality, so Lancaster County is not unique in needing to review and update the Sign Code.

While regulations must be "content neutral," a local government can still impose reasonable time, place, and manner restrictions on signs. Content-neutral regulations restrictions are valid if they (1) are narrowly tailored to serve a substantial government interest and (2) leave open ample alternative channels for communication of the information. In content neutrality, the distinction between commercial and non-commercial speech is a critical element.

Non-commercial speech receives the highest degree of protection and typically involves speech that expresses an opinion but that does not advertise for commercial purposes. Non-commercial speech includes, among other things, election signs and signs that express opinions about social issues. Distinctions between these types of messages is particularly suspect.

Many permanent sign types can be adequately addressed through location, area, and height limitations applied by zoning district. Lancaster County currently imposes permitting requirements using this framework for most permanent commercial on-premises signs, such as wall signs and monument signs.

The difficult aspects of conversion to content-neutral sign regulations involve how to address temporary and incidental signs. Currently, the Code identifies several specific content-based temporary sign categories for differential treatment, including real estate signs, construction signs, political signs, and signs for charitable events. The Code does not require permits for most temporary signs. A content-neutral sign code would accommodate all temporary signs through an allocation system that controls issues such as the location, number, area, spacing, and duration limits. This type of content neutrality approach greatly expands a property-owner's right to display signs.

Applicability, Exemptions, and Prohibitions

The Sign Code defines applicability in §7.4.2 *Applicability* and prohibits certain signs and sign features in §7.4.8 *Prohibited Signs*. Applicability and prohibition of signs are increasingly important in a content-neutral sign code because they can exempt certain classes of signs and prohibit features in an acceptable way. Important exceptions are allowed for government speech, including signs on government property and official traffic control devices located in the right-of-way. Lancaster County has more leeway for regulating signs in the public right-of-way than

Incidental signs present similar difficulties in conversion to content-neutral principles. For example, the Code currently identifies some on-premises incidental signs by content, such as directional signs, directory signs, and menu boards. Most incidental on-site signs do not require zoning approval. These signs are necessary for direction of drivers and pedestrians and provide important information. A content-neutral sign code would accommodate all incidental signs through an allocation system that controls issues such as the location, number, area, spacing, copy height, and setbacks. In order to ensure that signs are appropriately scaled for on-site use, especially by pedestrians, a detailed analysis of current incidental sign characteristics must be evaluated to ensure that the new regulations do not significantly expand or reduce sign users' ability to display necessary messages.

County staff has identified content neutrality as an important issue to the revision of the UDO. In addition, staff suggests that a severability clause would help with the enforceability of the ordinance. This is an important point and would probably preserve most of the regulatory framework if a court invalidated a particular aspect of the ordinance. In other words, the permanent sign regulations probably would not be affected by the invalidation of an unrelated topic like temporary sign regulations.

those on private property. Many communities limit signs in the right-of-way to governmental or traffic directional signs. Currently, Lancaster County allows some signs in the right-of-way, particularly political signs. Staff also identified the need to clarify exemptions and suggests that sign maintenance should be clearly distinguished from expansion of signs. In addition, staff identified the need to better regulate mobile signs, particularly those displayed on vehicles in parking lots that function as a sign.

Sign Standards

Generally, sign standards can apply to different sign types by district and can regulate many sign characteristics. Lancaster County currently uses this framework for most on-premises permanent signs. The sign standards should be revised to eliminate content and user preferences in permanent signs and add similar standards for incidental and temporary signs.

Permanent signs should be regulated primarily by zoning district, and districts can be grouped into sign districts based on similarity of use. Lancaster County divides permanent signs into attached and freestanding categories and allows wall signs, window signs, awning signs, theatre marquee signs, projecting/suspended signs, and address/tenant identification signs, monument/ground signs, and bracket signs. The theatre marquee and address/tenant identification sign rely on a content-based distinction and should be redefined in terms of their physical characteristics. The Sign Code also allows billboards in Section 7.4.6.F. These represent all of the primary permanent sign categories that most communities allow except for pylon or pole signs. Many communities prohibit pylon signs.

The permanent sign standards generally vary by zoning district and distinguish between residential and non-residential users. The standards allow larger signs for more intensive land use districts. In general, the sign allowances for permanent signs are the same for the HCO District except that it allows taller ground signs for developments larger than 40,000 square feet. The general sign types

appear to be well-considered and clear. However, staff suggests that many of the sign allowances are not adequate. For example, the 75 square foot limitation of wall signs is relatively small and is particularly difficult for anchor tenants and larger multi-tenant buildings with many sign users. Many communities limit the size of wall signs as a percentage of wall area with an overall maximum limit and allow each tenant with a public entrance to have a separate wall sign allowance. The limit sometimes approaches 200 square feet or more for larger multitenant developments.

In addition, staff points out that the 10-foot limitation on freestanding sign height is not adequate for most commercial uses and suggests an increase to 20 feet. The current height limitation reduces the legibility of freestanding signs. Larger developments in the HCO District can display ground signs up to 20 feet in height. Larger developments in commercial districts can have one additional ground sign per street frontage and one smaller sign for individually platted lots. In addition, the standard monument sign area may not be enough for larger multitenant developments. Monument signs can be scaled based on the size of the development, usually in square feet of floor area. This type of regulation allows larger signs or more signs depending on the size of the use. This could allow more flexibility than the current allowance, which is based on road frontage and land area. In addition, sign standards can be tested against best practices based on driver and pedestrian perception of signs depending on factors like sign size, distance, and speed of travel.



Wall Signs in a Multitenant Development.

Temporary and incidental signs are difficult to address because they include many users and sign types. Examples of temporary signs include a grand opening sign for a national credit tenant retailer in a commercial corridor and a 5-year-old's lemonade stand on a quiet residential street. Regulation of these diverse types of uses neutrally requires a detailed analysis of the current metrics for size and number of signs for specific locations. Based on those general standards, the County can select new content-neutral allowances for temporary and incidental signs by zoning district. This approach provides content neutrality without any abrupt changes in the number or size of signs in particular locations. However, this content-neutral approach presents some difficulties, including the administrative burden of tracking and enforcing temporary sign regulations and identifying an appropriate content-neutral period for the length of the "temporary" time period in a way that allows political signs, which may only be in place during campaign years and seasons, and real estate "for sale" signs, which can be in place for a much longer duration.

The current Sign Code does not adequately address allowances for temporary sign types. Instead, it categorizes temporary signs based on the content, including real estate signs, political signs, yard sale signs, special event signs, and construction signs. Each of these categories is given an allowance in area, height, and duration of display. However, the type of sign is not defined. Temporary sign types that many communities allow include banners, feather signs, inflatable devices, post signs, stake signs, and A-frame signs. The sign types can be regulated implicitly by size limitations or explicitly by type. For example, the HCO District explicitly prohibits inflatable signs and banners.

Incidental signs can be included in a separate sign allowance for each district. Currently, the content defines these signs, including drive-thru menu boards, entrance signs, directional signs, directory signs, and hazard identification signs. This approach provides certainty about the content of the signs that users will display. A content-neutral approach that provides sign users with a flexible allowance per lot or per acre provides clarity and flexibility for the user and requires less

administration from staff, but it risks the uncertainty out-of-scale “incidental” signs

creating visual clutter if large signs are allowed close to the right-of way.

Sign Features

The Code regulates features, such as illumination and electronic message components. Section 7.4.9 *Sign Illumination* regulates some aspects of sign lighting and provides a side setback from property lines with adjacent residential uses. While separation distances are common, the illumination requirements function more like a lighting standards ordinance than a sign standards ordinance. The illumination section should be

updated to clarify what types of lighting and sign features are allowed in each district. The Code should also include clear standards about use of electronic message boards in all districts. The Code includes controls for electronic messages for billboards and in the Highway Overlay District, but these signs are increasingly popular for uses from gas station price signs to church and school announcements.

UDO CHAPTER 8: NATURAL RESOURCES PROTECTION

Chapter 8 includes the County's floodplain, stormwater management and sediment control, and illicit discharge ordinances. This is another chapter that would benefit from separation into multiple chapters. Alternatively, these regulations could be removed from the UDO and adopted as standalone ordinances. Both approaches are common, and several advantages and disadvantages are discussed below. In either case, the regulations in Chapter 8 are highly specialized and should be updated by staff members most familiar with the ordinance and State and federal regulatory requirements.

According to the Federal Emergency Management Agency (FEMA), "[m]any, if not most, communities in the NFIP have enacted a separate ordinance that includes all the NFIP regulatory requirements, usually based on a FEMA or state model. The advantage of doing this is that one ordinance contains all floodplain development standards. Developers can easily see what is required of them, and FEMA and the state can easily see if your community has adopted the latest requirements."²¹ The disadvantage is the risk of inconsistency between the floodplain ordinance and other building, zoning, and land development regulations.

The same advantages and disadvantages apply to the illicit discharge ordinance. The Environmental Protection Agency (EPA) and the South Carolina Department of Health and Environmental Control (SCDHEC) require a local illicit discharge ordinance

for compliance with the County's National Pollutant Discharge Elimination System (NPDES) permit.

Other considerations include the procedures required to update the regulations and for applicants to request variances from the standards. If the UDO includes these regulations, any text amendment requires a public hearing by the Planning Commission prior to review by County Council, which adds time to the amendment process. The Board of Zoning Appeals hears requests for variances from the strict application of the UDO, but may not have the technical expertise needed to consider variances from the floodplain, stormwater management and sediment control, and illicit discharge ordinances.

Removing these ordinances from the UDO is recommended since it would streamline the UDO and enable the County to clearly demonstrate the ordinances comply with state and federal law.

Other UDO regulations pertaining to natural resources protection should be relocated to this chapter, potentially including the Carolina Heelsplitter Overlay.

Section 8.6 *Environmentally Sensitive Lands* includes provisions for riparian buffers buried within the stormwater regulations. UDO Sections 1.3.2 and 4.1.2 cross-reference the riparian buffer regulations, but the regulations should be more prominent in this chapter.

²¹ National Flood Insurance Program (NFIP), *Floodplain Management Requirements: A Study Guide and Desk Reference for Local Officials*, pp. 7-9, available:

<https://www.fema.gov/floodplain-management/manage-risk/document-library>

UDO CHAPTER 9: ADMINISTRATION

Chapter 9 establishes review agencies and review procedures, regulates nonconformities, and provides enforcement procedures. This is one of the longest chapters in the UDO and is sometimes difficult to follow, due in part to the level of detail provided for each process and procedure. While in general, we recommend a high level of detail in the administration sections of the zoning and land development regulations, those provided in the current UDO should be culled through to streamline in accordance specifically with South Carolina's Planning Act and other statutory requirements, particularly with regard to enforcement in the Lancaster County context. To that end, we recommend each subsection should have its own subchapter, which would significantly improve organization and readability. We would also maintain the flowchart tool as a good overview of the final revised text. At this time, staff is finding the flowchart approach useful.

Review Agencies

Section 9.1 of this chapter sets out the framework of the County's decision-making bodies regarding zoning and land development regulations in the UDO. The following bodies are currently in existence under this section:

- County Council
- Technical Review Committee
- Planning Commission
- Board of Zoning Appeals
- Stormwater Advisory Committee

The roles, membership, and powers of each are set out here. These are the five primary decision-making bodies active in the UDO today and it is not expected now that any additional bodies are needed.

Note too, the County Council convenes as a "committee of the whole" to workshop but not to take action on projects and policy concepts. We would consider whether and to what degree to incorporate a formal role for the committee of the whole either in Chapter 9 or in other parts of the UDO.

Review Procedures

Section 9.2 begins with a summary table of the various approval processes that should be reviewed and revised, if necessary, to ensure compliance with current South Carolina statutes, specifically. While a very detailed approach to setting out these processes remains the preference, it appears some terminology and standards in the current UDO may have been drawn from other nearby jurisdictions.

This section also specifies requirements generally applicable to all procedures, such as public notice. Unfortunately, the Planning Act includes public notice and procedural requirements that vary, in some cases, as between zoning and land development regulations. In addition, there are some "gaps" in state requirements for certain rezoning processes—regarding posted notice, for example—that are handled differently by counties around the state. It's important that these be resolved based on Lancaster County's approach and legal posture.

The UDO currently has a good, efficient means of laying out current notice requirements and the instances in which they are triggered, by use of a series of "levels" of notice. However, our initial review indicates that a close review of these provisions is recommended to ensure ongoing compliance with current South Carolina statutes and case law, where applicable. For example, some statutory distinctions between zoning and land development adoption procedures appear to be lacking.

Subsection 9.2.5 generally specifies application submittal requirements and cross-references a more detailed “Application Submittal Requirements” list on file with the County. Maintaining this list outside the UDO is a best practice, as it allows staff to update the list as needed. This subsection defines the various components of an application, such as a site analysis, sketch plan, and sedimentation and erosion control plan. These definitions should be relocated to Chapter 10.

The general requirements for quasi-judicial hearings and decisions in Subsection 9.2.6., including variances, special exceptions, and appeals of administrative decisions, should be consolidated with other provisions related to the Board of Zoning Appeals in Section 9.1. In addition, we recommend converting the terminology currently used in the UDO to that typically used under the South Carolina statutory framework and in common practice in this state.

The provisions for specific procedures beginning in Subsection 9.2.7 include a common workflow:

- Process Type
- Pre-Application Procedure
- Required Application Information
- Determination of Conformity
- Public Notification
- Appeals
- Permit Validity
- Permit Extension

Standardizing the procedures to include a common workflow is a best practice. This provides clarity to applicants and the community and increases efficiency in the development review and approval process. Where not provided for a particular procedure, the revised UDO should supplement this workflow with an applicability provision so it is clear when a procedure applies. As staff comments indicate, provisions for modifications of an approval should be added as well.

Procedural streamlining is important for applicants, staff, and citizens. Wasteful permitting

processes cost applicants and taxpayers money, and often lead to unexpected development outcomes. It is also important to consider procedural requirements in light of current and anticipated future staffing levels. While streamlining is important, it is essential to give citizens a way to weigh in on projects that affect them.

The UDO revision presents an opportunity to update the procedural workflow to more clearly convey the steps in development review and approval processes. The list below presents an example of an updated workflow.

- » Purpose
- » Applicability
- » Initiation
- » Completeness
- » Notice
- » Decision
- » Approval Criteria
- » Scope of Approval
- » Reapplications
- » Modifications
- » Appeals
- » Recordkeeping

The modern best practice is to assign as many processes as possible to administrative staff when public hearings are not necessary. Public hearings are not necessary when a use is subject to very clear regulations defined in the ordinance (leaving no room for interpretation or discretion), or where the application is the final step in multi-step approval processes where discretionary decisions have already been made.

Preliminary plats are a good example of a procedure that should require administrative approval. There is little, if any, discretion in the preliminary plat process. The legislative action of zoning or rezoning the property has already occurred, in some cases in conjunction with a site plan for the entire development. Preliminary plats either meet the UDO requirements, and thus should be approved; or they don't fully meet the requirements and should be conditionally approved or disapproved. There is little benefit in requiring Planning Commission review when all of the standards are objective. It can require significant staff to time to prepare reports and for

the Commission to review these reports. It can be confusing to the public, who may think community input can influence the decision. And it can put Commissioners in a difficult position when the community opposes a proposed development that meets all of the applicable preliminary plat requirements.

Where development has unique impacts, or impacts that are incapable of resolving completely through development standards, public hearings may be required to ensure that neighborhoods have an opportunity to weigh in on applications that affect them. Even without public hearings, the code could require neighborhood meetings to sort through issues that could otherwise become the topic of a variance request or third-party lawsuit challenging the application.

The Planning Act empowers local governments with three distinct planning authorities: Comprehensive Planning (Article 3), Zoning (Article 5), and Land Development Regulation (Article 7). Each article has its own definitions, procedures, administrative responsibilities, and appeal processes. The revised UDO should ensure

the provisions in the procedures subchapter comport with the latest version of the Planning Act.

Finally, the Act, Chapter 4 of the South Carolina Ann. Code, as well as the South Carolina court rules of procedure all set out the judicial processes, fines, and penalties for enforcing provisions of the zoning and land development regulations for a county. It appears that certain sections of the current UDO may not use the same terminology as these state sources of authority and, in any case, need to be reviewed carefully and updated during the rewrite of the code.

Staff comments include an extensive list of revisions and clarifications needed in this chapter. The UDO revision should include a complete overhaul of this chapter to improve readability, streamline procedures where possible, add new procedures where needed (e.g., a formal administrative interpretation process), eliminate inconsistencies, and align the procedures with current administrative policies and practices and State law.

Nonconformities

Section 9.3 would benefit from some clarifications and reorganization but, overall, the provisions appear reasonable and are generally in line with other communities. Section 9.3 addresses the full range of nonconformities—nonconforming lots, structures, uses, and site improvements. However, the UDO considers nonconforming site improvements, like parking and buffers, to be structures. These types of improvements warrant their own treatment.

The Town of Mount Pleasant, SC, recently adopted a unique approach to regulating nonconformities. The Zoning Code defines three levels of nonconformity, and provides more flexibility to continue nonconforming situations that have a lesser impact on surrounding properties. See [Zoning Code Section 156.140](#).

We typically recommend consolidation of provisions for nonconformities, though some communities prefer to consolidate the provisions for nonconforming site improvements with their related standards (e.g., nonconforming sign provisions consolidated with the other sign regulations). This is a rational approach, since site improvements may not become nonconforming until a site is redeveloped.

Section 9.3 does not clearly address nonconformities in the HCO. For example, does a change in use trigger compliance with all of the HCO standards? As noted in the discussion of the HCO, due to the level of regulation in this district, the UDO update should explore options for bringing nonconforming properties into compliance over time. The UDO should include “triggers” that mandate a certain degree

of compliance with the HCO. For example, the UDO could require applicants to bring nonconforming buildings into compliance when gross floor area is increased by 60% or more.

Nonconformities are another area where the UDO could distinguish between rural and non-rural areas. Applying zoning in rural areas, particularly in older commercial areas, can create conflicts. A more relaxed approach to nonconformities may be appropriate in rural areas where nonconformities may have a lesser impact on the community than they do in more urbanized areas.

UDO CHAPTER 10: DEFINITIONS

Chapter 10 includes definitions of use types, as well as definitions of general terms used in the UDO. Section 10.3 defines use types, while other definitions appear in Section 10.4. The revised UDO should combine all definitions into a single section. The individual definitions specify whether the term is a “use type” so there is no need to further clarify this by placing use type definitions in a separate section.

Section 10.4 includes definitions related to the airport overlay and floodplain and stormwater regulations. Some communities maintain such definitions in the code sections to which they apply, as the terms are highly specialized and not generally used in the code. This is largely a matter of preference. Where the UDO applies a definition in one section or chapter that is different from the general definition of the term (e.g., “uncovered”), the section or chapter should define the term and explain the meaning only applies with respect to the regulations in that section or chapter. Otherwise, consolidating all definitions into a glossary at the end of the code, as the County has done, is a best practice.

While the list of definitions is extensive (also a best practice to improve clarity in the UDO), staff identified a number of missing terms that are foundational to the UDO, including principal structure, property lines, setbacks, yards, and different types of lots. The revised UDO should incorporate definitions for all of these terms.

Staff noted the various definitions of height, building height, story height should be assimilated into a singular cohesive definition. We concur, and note that the revised UDO should consolidate all rules of interpretation and measurement into a single chapter, including the provisions in Section 10.2 *Rules of Construction*.

Definitions should not include use conditions, and most of the UDO definitions do not. Where a definition does include use conditions (e.g., independent living facilities), those should be consolidated with other use conditions in Chapter 5.

During the UDO revision, existing definitions should be comprehensively reviewed and revised, if needed, to ensure clarity and consistency with the rest of the UDO.

While many communities use the same or similar definitions for zoning and land development terms, it is important to tailor most definitions to the community context. Communities should consult a variety of resources in developing or revising definitions, including:

- State and federal laws;
- Other sections of the community’s code of ordinances;
- The community’s building code;
- Accepted industry definitions, such as those found in ANSI or ITE standards;
- The American Planning Association’s *A Planners Dictionary*;
- NAICS use descriptions; and
- LBCS use classifications.

UDO APPENDICES

UDO Appendix A: Legacy Planned Development Districts

Appendix A lists legacy planned development districts along with their related ordinance numbers. This is helpful for readers, but requires a text amendment to modify when legacy PDDs are rezoned to another district. The County could consider maintaining this document outside the UDO and cross-referencing this document in Section 1.3.3 *Legacy District*. If maintained within the UDO, the list should be updated as staff indicated some legacy PDDs were inadvertently omitted from the list.

UDO Appendix B: Highway Corridor Overlay District Supplementary Diagrams

Appendix B supplements the standards in Section 4.3.2 and is primarily comprised of photographs that depict allowed and prohibited building and site elements in the overlay district. The County could consider removing this appendix from the UDO, which would allow staff to supplement it as needed to provide clarity to applicants.

UDO Appendix C: Manual of Specifications and Standard Details (MSSD)

Appendix C provides a variety of technical standards for streets, driveways, cluster mailbox units, parking, trails, and stormwater drainage system elements. These standards are highly technical and not frequently referenced by most code users. Further, the appendix adds significant length (nearly 50 pages) to the UDO.

Staff recommends expansion of the technical standards to include minimum design and construction standards for development projects (e.g., earthwork). These standards should be added and any existing standards should be updated for consistency with the revised UDO.

Including these standards in the UDO raises the question of whether applicants can request variances or waivers from the standards. The County should consider removal of these specifications from the UDO and relocation to a separate administrative manual. As with the other appendices, this would allow staff to update and supplement the standards as needed. The administrative manual also could be separately adopted by County Council.

CONCLUSION

The Lancaster County Unified Development Ordinance incorporates a number of best practices and includes some progressive planning concepts (such as connectivity ratios) not typical in predominantly rural counties. However, applicants, staff, elected and appointed officials, the public, and the consultant team find the UDO cumbersome, difficult to read, and, at times, difficult to interpret. This creates confusion and inefficiency in the land development process, and makes it difficult for new staff members and new elected and appointed officials to understand and administer the ordinance.

Reorganizing and reformatting the UDO, consolidating related provisions, correcting inconsistencies, and resolving internal conflicts—even without making major changes to the standards themselves—would go a long way in addressing many of the identified concerns with the ordinance. Clarifying procedural requirements and responsibilities and consolidating processes where possible would significantly improve the zoning and land development process.

As noted in the Introduction, the current UDO includes a number of workable approaches. In our assessment, however, they are not entirely workable for *Lancaster County*. The UDO should draw on best practices from other communities, but should be calibrated for the local context. Any policies in the current UDO that have worked, or that can work for Lancaster County with some restructuring, should be carried forward.

In order to craft a “Lancaster County-specific” regulatory framework and approach, we recommend the UDO update process include a steering committee that can provide feedback on the consistency of the revised regulations with the community’s vision as well as the practical implications of the proposed revisions. We also recommend work sessions with the Planning Commission and County Council at key milestones during the project. The revisions recommended in this assessment are extensive, and it will be critical to receive feedback as the revised UDO takes shape to help ensure the regulations will result in the development outcomes desired by the community.

POTENTIAL INTERIM ACTIONS PRIOR TO ADOPTION OF THE REVISED UDO

Since the UDO update will be comprehensive and take time to prepare and adopt, the County should consider implementing one or more of the following “interim actions” between the completion of this assessment and final adoption of the revised UDO.

The reasons for implementing one or more of these actions include not just avoidance of going down a path counter to the direction of the UDO, but also to keep the UDO revision process efficient.

Items the County should consider avoiding prior to completion of the revised UDO include:

- Rezoning to districts that may be revised or replaced;
- Significant text amendments, particularly those that could run counter to the revised UDO;
- Major “plan-level” projects (e.g., a corridor study) that may inform or be informed by the UDO revision process; and
- Major developments and subdivisions that likely would not reflect the final UDO.

County Council may accomplish these as a matter of policy, interim development standards, moratorium, or, eventually, invocation of the pending ordinance doctrine. We can assist the Council and the County Attorney in exploring options for implementation of one or more of these interim actions.

APPENDIX I: STAFF RECOMMENDATIONS FOR UDO UPDATE

Appendix 1 provides staff comments and recommendations. Their experience administering the UDO over the past several years allows them to identify detailed revisions needed to clarify, streamline, and otherwise improve the code. We concur with staff's suggestions for improvement.

Lancaster County



South Carolina

UNIFIED DEVELOPMENT ORDINANCE (UDO) UPDATE PROJECT

Last Updated: March 3, 2021

The following list identifies potential issues with the Lancaster County UDO, and will be used to guide future updates. As you come across issues or flaws within the ordinance, please identify them in this list by 1) Section # and name, 2) describe the issue, and 3) describe what you believe the solution is (summary form).

COVER

1. Suggest new cover graphic with updated UDO
2. Replace Planning Department with Development Services Division

GENERAL COMMENTS (MULTIPLE CHAPTERS)

1. Aesthetics: Improve use of colors, font styles (bold, etc.) table presentations, and overall visual representation of UDO to make it easier on the eyes and to review. We recognize this is not a UDO re-write, so just asking for improvements that can be implemented without major investment of time.
2. Text to Tables: Need to comprehensive review the document in order to create more opportunities to convert paragraphs and text and convert information into tables where possible to be more user. Too much reliance on numbered subsections, etc. for detailed standards.
3. Conciseness: Need to comprehensively review the entire text and make text more concise by removing sections that are duplicated elsewhere or use multiple section to create standards for one topic area, and other considerations.
4. Conflicting or Non-Existent Cross References: Need to check existing cross references and confirm they exist and/or are attributed to correct ordinance section. In many cases these references are non-existent. Please also provide cross references where it would be helpful to connect related code sections.
5. Consistency: Need to confirm consistency throughout the document in regards to process standards and actual development standards. Many inconsistencies exist.
6. Best Management Practices/Standards: Need to comprehensively review the document to identify process and standards improvements to ensure Lancaster County is using contemporary standards for a fast growing community.
7. Rural-Urban Divide: Need to identify recommendations/standards that should be scaled back in the more rural areas. Only the Panhandle area (general north of City of Lancaster) is urban. What standards could be scaled back in the rural areas to be more appropriate (use of paving, etc.)? Chapter 6 infrastructure standards seem to touch on this (see table) where it applies different standards based on zoning district (for subdivisions).
8. No revision dates are indicated in the UDO, no indication of what the revisions were or dates revisions made. Therefore, the rules of engagement may have changed but there is no way to know, there are no footnotes, dates or any indication of the changes. If developments are responsible for compliance with the UDO when the project is submitted, how can that be verified if an element was in compliance but the UDO changed concerning it later. There have

been many text revisions since adoption date of 11/28/2016. The reader does not know what version they are referencing.

9. Administrative Discretion: There are too many opportunities for exceptions embedded throughout the document. There are phrases such as these throughout: “when the administrator deems,” “unless the administrator determines,” “where deemed essential by administrator,” “the suggestions made as to how to address,” “the applicant can make any other proposals which they believe,” etc. It is not a good practice to portray to the developer that special cases are regularly granted. Need to identify areas where we do not need this type of language and remove. In areas that remain, need to create approval criteria in which to evaluate individual cases.
10. Council has asked for ways that the UDO can be updated to address junk in the community, particularly in the rural areas. One thought from staff was to create an amortization clause eliminating grandfathered, non-conforming junk yards.
11. Gender Neutral Titles: Several sections contain terms like “chairman”, etc. and need to be updated to reflect gender-neutral titles.
12. Stormwater Ordinance: The County Engineer has been re-writing the stormwater ordinance (Ch-8) and will likely have a new/replacement chapter to insert. Alternatively, it could simply be a standalone ordinance.
13. High Growth Community: Lancaster County is the 2nd fastest growing county in the state and the fastest growing community in the Charlotte region. The organization and content of our development standards and approval process are not sophisticated enough or suitably organized to manage this. Many of our projects are very large with multi-year (decade sometimes) vested approvals, substantial bonding, and incorporate the creation of public and private infrastructure. We need a Major Site Plan and Civil Construction Plan process that can suitably address and keep pace with our growth and complexity of projects.
14. The UDO needs to have improved standards for townhomes and larger quadraplex developments, which are returning.
15. The UDO needs to have improved standards for live-work development.
16. Comprehensively amend the UDO to prohibit connex containers outside of the AR, LI and HI Districts, and with the exception of seasonal sales storage for retail business in the GB and RB Districts, but only when not visible from a right-of-way.
17. Look into the creation of tiny home parks (similar to a mobile home park).
18. Approval/Findings criteria for Special Exceptions and Variances need to be deleted and replaced with those found in the State statutes.
19. In 2016, PDDs were replaced with the various MX Districts, which have not been received well by all internal and external parties. The County would like to develop a conditional zoning tool similar to North Carolina. Examples in South Carolina include Rock Hill’s master plan district and Charleston County’s conditional zoning district. This is must have item.

CHAPTER I INTRODUCTORY PROVISIONS

1. Section 1.1.3: Need a reference that we have some smaller townships that use the County UDO. May also need a reference that the towns within the County may use their own UDO/code.
2. Section 1.1.6.C: Grandfathered lot designs should be referenced in Nonconformance Chapter. Subsection D should reference Vested Rights section of ordinance versus developing a new system. This would also appear to conflict with Section 1.17 - need to reconcile all of this and with vested rights section.
3. Section 1.1.11: Does not appear to be functionally necessary – delete.
4. Section 1.2.1.B: Does not include Floodplain Overlay District.
5. Section 1.3: This section would seem to make more sense as a part of Chapter 2.
6. Section 1.3.3: As there is only one district there does not need to be a bullet point list.
7. Section 1.3.3: Replace “eventually” with “may be.”
8. Section 1.4: Incorporate lot design standards into subdivision provisions of Chapter 6.
9. Section 1.4: Whether here or in Chapter 6, we need to create provisions for flag lots.
10. Section 1.4.2: Should provide for interpretation of dimensional standards, per title; however no such provisions are included.
11. Section 1.4.3: This section has several errors and inconsistencies (including text and graphics being inconsistent), and should likely not exist within this chapter at all – should be deleted.
12. Section 1.4.3: Title includes “use standards;” however the section provides no “use standards.”
13. Section 1.4.3.A: Need to incorporate provisions for “Through Lots.”
14. Section 1.4.3.A.2: Useless provision – additional widths would need to be included in the development standards of Chapter 2.
15. Section 1.4.4 and Section 1.4.7: Includes many references to “yards” such as “front yard,” “street yard,” “required yard,” side yard,” and “rear yard.” Yard should be replaced with setback.
16. Section 1.4.4.A: Proof for consistency. Create a definition for “Infill Lot” or some criteria where they should be found (unincorporated areas near municipalities such as Brooklyn neighborhood near Lancaster City?).
17. Section 1.4.4.B: Consider deleting as a separate setback standard for garage additions unless it is being specifically tailored to the unique infill lot setback standard.
18. Section 1.4.5:
 - a) Include standards for additional common residential encroachments such as chimneys, HVAC units, etc. Need to address retaining walls above 4-ft subject to accessory structure setback.;
 - b) Expand the awnings encroachment to address residential uses (side/rear yards and new standard); and

- c) Create some basic fencing standards as a separate chapter from encroachments. One in particular would be the use of customary fence materials or prohibition in the use of junk material.
19. Section 1.4.6.A: Search how often “story” is used for building height. I think it’s just in the mixed-use districts. If we can replace “story” limits with a height limit without compromising a design intent, then we should do so and eliminate this subsection.
 20. Section 1.4.6.B: If this section is to exist at all, and I see no immediate reason that it should, then it must be made to be consistent with the definition for height.
 21. Section 1.4.6.C: Please review this and the footnotes within Chapter 2 Use table to create a single section for height exclusions or special allowances. In the Chapter 2 footnote, need to create a limit when using the increased setback allowance and create Fire Marshall review provision.
 22. Section 1.4.7.A: Eliminate building permit reference.
 23. Section 1.4.7.B: Consider incorporating a separate setback standards for accessory uses and create threshold for when the principle setback would apply. This may eliminate the “small structure” exemption later on.
 24. Section 1.4.7.C: Eliminate building permit reference. Increase carport/breezeway width to 18-ft. Delete lighting reference. Confirm lighting ordinance applies to accessory structures (correct if not).
 25. Section 1.4.7.D: Gatehouses are listed twice with different standards. Relocate sign setbacks to sign ordinance.

CHAPTER 2 DISTRICT STANDARDS

1. Entire Chapter: Consider creation of new “Master Planned District” (other something of similar ability). How would this be best implemented and what scope could development be approved? Conflicts or requirements through SC Statutes?
2. Section 2.2.1.B: Section does not mention the floodplain district.
3. Section 2.2.2.C: Provide an administrative flexibility statement for split zoned parcels.
4. Section 2.2.2.D: Unclear what the Chapter 9 reference is pointing to unless it is requiring an official interpretation process, which this ordinance lacks (and needs).
5. Section 2.3: Where zoning districts are described with such similar language (LDR vs. MDR), the corresponding uses in Section 2.4 must share such similarity. Also, if the districts are so similar, should they not be merged?
6. Section 2.4: Remove Development District/Exterior Setbacks/Buffer row from all tables, and remove Parking Configuration Standards row from all tables.
7. Section 2.4: Need to comprehensively evaluate non-SF residential district building heights. Remove reference to stories in commercial districts height. Many seem too low for both commercial and industrial. Need to provide limitation on increased height allowance with increased setback. Reduce accessory structure building height for MDR district. 25-ft?
8. Section 2.4: If the PB District remains, then the front setback should be increased to 25 feet.
9. Section 2.4: There is no density established for the PB, NB, GB, RB and INS Districts; however these districts permit residential uses which refer back to this table for allowed density.
10. Section 2.4: Need to eliminate unnecessary italicized notes and/or integrate them into more appropriate areas.
11. Section 2.4: Consider increasing the density for the RB District to 15-units per acre, or consider eliminating with updated MX districts and new multi-family district.
12. Section 2.4: Add and asterisk or footnote clarifying that a minimum of 25-acres of “highland” is required in mixed use districts, and provide a reference to DA section of UDO.
13. Section 2.4: Remove the asterisk from District/Development Area for the LI Districts – doesn’t reference anything.
14. Section 2.4, standard 2.B: Strike “at Front Setback.”
15. Section 2.4, standard 3.A: Strike “Principal.”
16. Section 2.4, standard 3.B: Strike “Street Side Secondary Front.”
17. Section 2.4, standard 3.C: Should read: “Interior Side Setback (min).”
18. Section 2.4, standard 4.A: Should read: “Interior Side Setback.”
19. Section 2.4: Clean-up building height for accessory structures and ability to use the 2 for 1 rule in combination with the 90ft height limit for non-habitable structures.
20. Section 2.4 / Section 4.4.1.G: Address the conflict between density allowances in MDR and Cluster Overlay (2 du versus 2.5). Indicates different standard in multiple places.
21. Section 2.5.1: Use categories need to be revised, reorganized and generally improved.

22. Section 2.5.2: Need to simplify/generalize the use interpretation process. Administratively burdensome.
23. Section 2.5.3: Need to comprehensively update this table to:
 - a) Incorporate missing uses;
 - b) Evaluate the logic of what districts allow specific uses in order to ensure it's reasonable and consistent; and
 - c) Incorporate other helpful information in the tables, such as relationship to parking standards and potentially buffer requirements, which typically relate to uses.
24. Section 2.5.3: Consider expanding upon the districts where manufactured housing may be permitted.
25. Section 2.5.3: Revise Agritourism to be Permitted with Review (PR) in all currently permitted districts.
26. Section 2.5.3: Consider allowing light industrial uses in business and mixed use districts (GB, RB, MX and IMX) as "Permitted with Review" or as a "Conditional Use."
27. Section 2.5.3: Consider the creation of limited opportunities for retail sales and display of manufactured products for businesses in the LI and HI Districts (this is referenced in the description of these districts, but not implemented).
28. Section 2.5.3: Need to create a conventional multifamily district or allow use in more districts.
29. Section 2.5.3: Consider allowing solar farms in the Mining district.
30. Section 2.5.3: Consider allowing "Child/Adult Day Care Home (6 or more persons)" in PB District as a Permitted with Review tier use.
31. Section 2.5.3 / Chapter 10: Correct discrepancy between "Vehicle Services – Minor Maintenance/Repair" use with its definition.

CHAPTER 3 MIXED-USE DISTRICTS

1. General: This chapter has significant issues and is in need of a robust rewrite or reimagining process. Minimal specific comments are provided due to this. We would like some professional guidance from consultant.
2. General: The building design standards do not tie into the Building Type images in the building typologies and do not appear to create the envisioned buildings.
3. General: We need to add language to require multiple uses on properties. Requirement for two types of residential uses is buried in Chapter 9 application submittal. Should be moved to this chapter (if want to retain).
4. Section 3.6.8.C: Building height for the HDR District is not provided.
5. Section 3.6.8.C: Text regarding reduced height should reference 3.8.J, not 3.7.J.
6. Section 3.8.E.1: Should read: "Where required, outdoor amenity space must be provided on the ~~lot~~ site and must be available for use by the occupants of the development."
7. Section 3.8.K.5: The County does not have a "Midtown Development Review Committee."
8. Section 3.10.1.C.1.a: Provision is specific to public rights-of-way. Why not private rights-of-way? In the instance that we really do only want on-street parking on public streets - since the County is no longer accepting public rights-of-way should this not be amended to include private streets?
9. Section 3.10.1.C.1.b: References "50% or more." Should be "51% or more."

CHAPTER 4 OVERLAY DISTRICTS

1. Section 4.2.1: Update the McWhirter Field Aviation Overlay (MFAO) District to:
 - a) Replace “Commission” with “Committee” and modify any decision-making processes resulting since Committee by design is advisory only (get County Attorney feedback);
 - b) Need to correct the process for Zone 5 project reviews. Currently any development activity in Zone 5 requires a Commission approval, which is punitive given its broad geography;
 - c) Need to address solar farms in Use Table and update MFAO to require a conflict analysis for proposed solar facilities (per airport manager); and,
 - d) Landfills are the only prohibited use in all zones. This needs to be more identifiable/explicit.
2. Section 4.2.1: Need to clarify if the density restrictions were intended to also apply to non-residential uses such as a factory, etc.
3. Section 4.2.1: Commercial Industrial, Manufacturing and Warehousing density and use requirements for the various zones (Section E, Pages 4-5 to 4-6) may be more restrictive than what is needed. As the county seeks to develop a 478 acre industrial park around the airport we need to make sure we are complying with state and federal requirements but are not being more restrictive. Also, the language regarding permitted uses is contradictory and needs to be corrected. For example the first category list Manufacturing Facilities, Industrial Plants and Warehousing as not allowed in Zones A and Zones B1 & C2; however, in the same table it lists Warehousing and Light Industrial/Manufacturing as conditional uses. Section G (Pages 4-7 to 4-8) of the airport overlay district has a permit process for existing and future uses that seems to create a number of extra steps and it is unclear who is issuing the permit. Table 2 (pages 4-9 to 4-11) has information for compatible and incompatible may be more restrictive than what is allowed by state and federal requirements. Review the density and use requirements for the various airport zones and make adjustments that allow for maximum use of industrial property within the zones while meeting state and federal requirements. Also, review Table 2 that lists compatible and non-compatible uses to make sure these are maximizing what is allowed and still meets state and federal requirements. *(NOTE: this may be beyond the scope of this update without specific guidance from the County)*
4. Sections 4.2.2.B.2.f and g: Clarify that the role of the Planning Commission was in establishing the Carolina Heelsplitter Overlay (CHO) District credit criteria and continuous review of individual projects is not needed. Point of uncertainty in current administration of CHO.
5. Section 4.3.1: Update the Carolina Thread Trail Overlay (CTTO) District to:
 - a) Consolidate all of the design standards and various other thread trail elements in UDO into this section;
 - b) Create a Fee-In-Lieu Section; and,
 - c) Create a County Engineer process to evaluate final CTT location, design, and materials. Staff has a draft ordinance we can share that achieves this that consultant can modify, as needed.
6. Section 4.3.2: Need some more specific guidance on gradual improvements to existing non-conforming properties in the Highway Corridor Overlay (HCO) District in order to achieve

ultimate compliance and to be reasonable to non-conforming properties with significant useful life remaining.

7. Section 4.3.2: The UDO in various sections places requirements on retail center design that does not allow for projects like The Promenade in which the shops are visible from the road with parking in the front. This does not lend itself to developments that appear welcoming and full of activity, which in turn limits their ability to be successful. Additionally, the UDO requires commercial buildings to be constructed close to the road which creates a safety and the ability to widen roads in the future as the structures are too close to the roadway. The older UDOs did not have such restrictions. Economic Development recommends eliminating design requirements that hide the front of the stores from the road and requires buildings to be constructed close to the road.
8. Section 4.3.2: Need to incorporate HCO layout and other standards for non-traditional buildings like apartments, churches, etc. as much of the ordinance targets commercial development. Consider exempting institutional buildings like churches, govt. facilities, etc.
9. Section 4.3.2: Increase building setback in Highway Corridor Overlay to better accommodate future US 521 road widening. Consider establishing a supplementary street yard requirements to provide an additional buffer area or lower cost future ROW cost.
10. Section 4.3.2: Help make overlay more concise by deleting text that simply refers back to conventional ordinance such as “design review”, “building height” “permitted uses”, etc.
11. Section 4.3.2.F.1: Define “front onto” and “parallel to ROW” or be more explicit. Graphic may help. Delete 1.b regarding front and rear access. Delete 1.C as it’s a policy statement.
12. Section 4.3.2.F.4: Replace “concrete” siding with “cementitious” Modify applicability statement to require on all four sides of a building with exception of a fully screened service area. Remove TRC approval of fence color and simply permit earth-tone colors or similar general standard. Delete last sentence about aesthetics and building codes.
13. Section 4.3.2.F.5.b: Clarify this is cumulative sq. (40k). Remove “retail.” Require minimum number of open space areas and clarify 500-sq. ft. is for a single area Replace tree height to 8-ft to match caliper size.
14. Section 4.3.2.G: Consider allowing some limited parking between the road and building for larger centers. Replace “fronting on the corridor” with fronting on US 521 and SC 160. Where should vehicle park for sites fronting secondary roads within the overlay? In subsection 2, delete reference to on-street parking prohibited on corridor or other street. Delete redundant subsection 3 related to quantity. Delete 5C as there are no such standards in this section related to spacing or correct citation. Create criteria for conflicting uses in subsection 5e.
15. Section 4.3.2.G: Revisit parking location standard.
16. Section 4.3.2.G.5.b: Private and public roads are not defined in either Chapter 6 or Chapter 10.
17. Section 4.3.2.G.5.c: Indicates that the minimum spacing between driveway accesses shall comply with the provisions of Section 4.3.2.G; however this is in 4.3.2.G ...and there are no provisions.
18. Section 4.3.2.H: Need to reformulate this section more comprehensively address the following performance items (possibly into a table).

- a) All parcels get a free standing sign in addition to any shopping ctr shared signs;
 - b) All corner parcels can have a secondary frontage sign (single use or shared);
 - c) Greater height allowances for freestanding signs (10-ft single use, 25-ft shared sign);
 - d) For shopping center signs, allow one at a min. for each road frontage and signalized entryway. For measurement of height, there is generally a significant grade difference between the corridor pavement and development parcels. Point of measurement should be modified to address this; and
 - e) Allowance for directional signage and tenant mapping signs with size thresholds.
19. Section 4.3.2.H.1:
- a) Retitle this to General standards or similar;
 - b) Clarify if ground mounted signs are required to be of a monument design. If yes, for shared signs, need to enable use of a pylon sign with a solid base up to X% of its height; and
 - c) Create ability for use of signs in roadway center landscape islands located within private ROW.
20. Section 4.3.2.H.4 and 5: Remove prohibition on banners. Need to comprehensively improve temporary sign regulations. In HCO and in Chapter 7 to better utilize current marketing tools and better balance advertising needs with aesthetic goals. Can provide some separate language from neighboring community staff worked on recently that may help, if desired.
21. Section 4.3.2.H.4: Relocate most of these to Chapter 7 sign ordinance. These would apply anywhere. A few may be unique to the corridor.
22. Section 4.3.2.I:
- a) Clarify if the light levels are based on “initial” or “maintained” light levels. Make consistent with Ch-7 standard if there is one;
 - b) Delete Signalized Intersection section;
 - c) Eliminate any redundant standards with Chapter 7; and
 - d) Develop section/subsection titles for better organization.
23. Section 4.3.2.J.1:
- a) Review Subsection 1 General against Ch-7 standards and remove redundant text; and
 - b) Relocate native species and drought tolerance language to Ch-7. Create a minimum percentage of material standard featuring these characteristics.
24. Section 4.3.2.J.2:
- a) Increase the corridor buffer width to 40-ft along US 521 to account for widening; and
 - b) Reformulate planting rate to require canopy and understory trees and shrubs.
25. Section 4.3.2.J.3: Consolidate some of the utility screening areas, Seems redundant. In subsection g, there are no fence or wall standards in Ch-7.
26. Section 4.3.2.J.3.f: Reference provide in provision is incorrect. Change to Section 4.3.2.J.6.a.ii.

27. Section 4.3.2.J.4: Need to flag as a policy question whether we want to have SCDOT medians planted. Has not been consistently administered in plan review as well leading to some disjointedness.
28. Section 4.3.2.J.6:
 1. Revise tree height to 8-ft; and
 2. Create landscape divider island standards for larger shopping centers.
29. Section 4.3.2.J.6: Remove list. Develop new tree list to be applied countywide.
30. Section 4.3.2.K: Consider deletion - redundant.
31. Section 4.3.2.K: The amount of on-site impervious surface areas shall be limited to the prescribed ratios set forth in Chapters 2, 3, and 8 of the UDO. There are no ratios in Chapter 3 and it is unclear if ratios exist in Chapter 8.
32. Section 4.3.2.L: Delete tree preservation section. Highway corridors not best place to implement. Please create new countywide tree preservation ordinance (will require some feedback from Planning Commission and/or County Council).
33. Section 4.3.2.M: Delete 25-ft setback section for industrial buildings.
34. Section 4.4.1: Need consultant guidance regarding the quality of this ordinance and any necessary improvements. For background, a developer paid to have this ordinance written.
35. Section 4.4.1: Have staff approval on all sections versus Planning Commission (referenced in multiple locations).
36. Section 4.4.1.A-C, E and G: Convert text to a table.
37. Section 4.4.1.B: Increase to 6,500 SF.
38. Section 4.4.1.D.2: Clean up last sentence to indicate modified lots will count in the category of the predominate lot type on the block (or similar).
39. Section 4.4.1.E: Revise front setback to 25 feet.
40. Section 4.4.1.F: Consider increasing the open space percentage (by not including floodplain, wetlands, etc. in min. acreage) and creating design and amenity requirements, require tree retention, and other enhancements to this district. Add Floodplain and stream buffers to list of Primary Conservations areas if this system continues. Tree protection should be required in a cluster subdivision overlay, not suggested. If we create a general tree protection ordinance, perhaps the cluster ordinance has a higher standard.
41. Section 4.4.1.G: The density example is incorrect. Should be 2.5 du/acre in MDR.
42. Section 4.4.1.H: Delete this subsection.
43. Section 4.4.1.I: Speak with County Engineer regarding increasing pavement width to 24-ft due to on-street parking and commensurate increase in ROW width.
44. Section 4.4.1.I.6: Need to clarify sidewalk required around cul-de-sac bulb here and in Ch-6. In areas with single sided sidewalk, increase to 6-ft in width for CSO and in Ch-6 general sidewalk requirements.

45. Section 4.4.2: Consultant should provide any general recommendations for improvements as staff has little experience with these project types.
46. Section 4.4.2: Create a minimum grazing space to compliment the min. lot size for horses. This is more typical with equine standards.
47. Section 4.4.2.B: Line 2 should be changed to "...20 feet from any side interior property line..."
48. Section 4.4.2.B: Line 3 should be changed to "...any ~~corner yard~~ side street property line..."
49. Section 4.4.2.B: Line 3, strike "in the front yard it shall."

CHAPTER 5 USE REGULATIONS

1. Consider integrating Chapter 5 with Chapter 2 to improve overall document flow.
2. Section 5.1.1.C: Not sure approval process in is Ch-9.
3. Sections 5.1.1 – 5.1.3: Consider evaluating these a little further regarding creation of a concise approval process. Perhaps PR is eliminated and CU replaces it. CUs could be approved at a staff level. Any existing CU that may be of a sensitive or controversial nature could be made a SE.
4. Section 5.1.4: Clarify separation requirements will be measured from property line to property line unless specifically indicated otherwise in an individual use regulation.
5. Section 5.1.4.B: What is in accordance with 5.1.4.A? No real content in that section. Need to reconcile these waiver processes if the approval types commented above change. Any waivers to separation requirements that would ordinarily be subject under a staff-level process should be elevated to the BZA.
6. Section 5.2: Eliminate or revise the block face limitations for all residential uses.
7. Section 5.2: Create additional multifamily design standards (open space, architecture, min. # of access drives/points, etc). In subsection C, shouldn't HDR also be subject to Ch-3 standards? Perhaps any mixed use district standards get relocated to Ch-3 and this only applies to non-mixed use districts.
8. Section 5.2.4: Professionalize language "straight line on map."
9. Section 5.2.5: Delete IBC reference. Should the entire ground floor be restricted to work area only versus opportunity for a split between work and live?
10. Section 5.2.6: Remove acreage sq. ft. in subsection 7. Indicate density is calculated on "total net acreage....." In subsection 17, unclear what the civic and open space reference is. In subsection 18, remove IBC reference and clean up remaining text. Little fuzzy on intent.
11. Section 5.2.7: These standards seem light for such big facilities that in many cases resemble senior apts. Please review and update with best industry practices.
12. Section 5.3.1.B: Loosen up the ability to make alterations/maintenance.
13. Section 5.3.1.E: Indicate one space for each guest room versus guest.
14. Section 5.4.1: What is benefit of the 500-ft separation requirement in an AR District? Consider for possible inclusion in additional districts given the relatively low-key nature.
15. Section 5.4.2: County staff has a comprehensive amendment under Council review. Will provide adopted version for inclusion.
16. Sections 5.4.3 and 5.4.4: Delete disposal of waste in toilet.
17. Section 5.4.5: Are these standards necessary?
18. Section 5.4.6: Need to eliminate or modify access standards for single use sites. How will it access an interior street along US 521 where most of RB is located?
19. Section 5.5: Would like to create new standard (Outside Sales/Display, Industrial) that would provide an allowance for manufacturers to have limited outdoor display of products made on

site and offered for sale or general marketing. Could permit a very limited amount of retail sales as well.

20. Section 5.5.2: Create standards for outdoor seating near residential (noise, lighting, etc.).
21. Section 5.5.4: Can this be eliminated and have the information relocated to topic-specific chapters?
22. Section 5.5.5: How do we apply these standards if there are no permanent buildings onsite such as a pick up mulch yard, storage building sales lot, etc.?
23. Section 5.5.5: Concerned the 25% limitation would prohibit a Home Depot from locating in our community or similar desirable user. Perhaps adjust the standard and develop more specificity/screening, etc. for parking lot display areas. Also need to exempt uses like landscape nurseries and similar.
24. Section 5.5.5: Not sure what the Section 3.12.4 reference is for as this is the MX section.
25. Section 5.5.5: Do not include the RUB district within 25% threshold since it's more rural in nature.
26. Section 5.5.6: Remove "public" prior to sidewalk. Revise B.3 regarding what 12-ft is intended to regulate (i.e. depth, distance, height).
27. Section 5.5.9: Can this be relocated to more topic-specific chapters? Delete kitchen exhaust std. Not sure that is commonly regulated.
28. Section 5.5.9: Do we need to regulate restaurants? How would the buffer regulation be applied in the context of a shopping center that has already been developed/constructed and the restaurant is being added in to an existing tenant space? Similar buffer language for other uses should also be considered for deletion.
29. Section 5.5.10.B.1: From an industry practices standpoint, should this be expanded to also include separation from residential or institutional districts as well to contemplate vacant land?
30. Sections 5.5.11 and 5.5.12: Do these standards typically apply to archery ranges since nearly all of the standards are noise and ventilation, etc. related?
31. Section 5.2.7.C.17: Reference to open space requirements in Chapter 7 – there are no open space requirements in Chapter 7.
32. Section 5.6.1: Need to distinguish or exempt rural family burial sites on larger properties as this still occurs in Lancaster County.
33. Sections 5.6.1, 5.9.8 and 5.11.3: Replace references to "yard" with "setback."
34. Section 5.6.2: Rephrase the second sentence in A.1.
35. Section 5.6.3.A: Rework this provision as it seems inappropriate.
36. Sections 5.6.4.C.1, 5.6.5.C.1, and 5.6.6.C.1: Delete lighting code references since they would apply in Chapter 7.
37. Section 5.7.2.B: Appears to be duplicated by 5.7.2.C.3.b - should be combined.
38. Section 5.7.7.B: Firm up the language. Very undefined.
39. Section 5.8.1:

- a) Will need to update with elimination or modification of parking layers;
 - b) Could probably eliminate LI and HI from restrictions; and
 - c) If no restriction in parking ordinance, need to restrict blockage of min. required stalls with drive thru queuing.
- 40. Section 5.8.2: Need to allow private charging station in any residential district permitting multifamily (current or future district/proposed).
- 41. Section 5.8.3: Need to clarify that display areas are not intended for inventory storage. These need to be located in screened in accordance with outdoor storage standards.
- 42. Section 5.8.5:
 - a) Eliminate CU permit for non-franchise lots;
 - b) Need some more robust standards for vehicle display and parking;
 - c) Clarify fence is comprised of wood, vinyl or finished masonry; and
 - d) Eliminate MX district restriction on non-franchise dealership. In subsection C, references "...that directly adjoin a Single Family residential district..." What constitutes a single family residential district? This should reference the specific Districts.
- 43. Section 5.8.6.A: Errant "or" in sentence.
- 44. Section 5.9.1:
 - a) In subsection B: Eliminate fire code compliance since this is a given. In subsection 5, this may need to be modified as it could prohibit a viable economic development opportunity due to height limitation.
 - b) In subsection C.6, 300-ft separation from another industrial use would be impossible within an industrial district.
- 45. Section 5.9.2.F.2: Replace chain link with solid vinyl, wood, or masonry fence.
- 46. Section 5.9.3.F.2: Replace chain link with solid vinyl, wood, or masonry fence.
- 47. Section 5.9.9.C: Can 15-ft light pole std. be eliminated and replaced with a more comprehensive standards for all uses next to residential? Reduce the 100-ft buffer to 50-ft.
- 48. Section 5.9.10: Concerned that 300-ft separation from residential may be punitive. Could envision residentially zoned property backing up to an industrial business with a yard. What separation is more typical? This use should require an opaque screen.
- 49. Section 5.9.11: As compared to other ordinances, should be require solid screening (i.e. fence) around these uses? Do comparable ordinances have dimensional requirements for the drive aisles?
- 50. Section 5.9.8.B: Strike entire paragraph.
- 51. Section 5.9.8.D: Add " , or the setback requirement for the district in which it is located, whichever is greater" to the end of the paragraph.
- 52. Section 5.10: Create Agritourism standards.

53. Section 5.10.4: Need to expand table for lots less than 1-acre. Need to replace “or other small creatures” with specific animals allowed. Expand to include bee keeping as well with relevant standards.
54. Section 5.10.5: Subsections D and I are the same.
55. Section 5.10.5.E: Review temporary/movable requirement for structures. Does it make sense to retain this provision?
56. Section 5.10.6: Need to list permitted districts. Should this be included with brewery standards given similarity? Distilleries?
57. Section 5.11.3.A: Eliminate building and electric code requirements. Please segregate standards by district. Some of the aesthetic standards are not needed in the rural residential districts (AR, RN, RR, MH).
58. Section 5.11.3.C.1: Line 2, should read: “located in a required front or side street setback.”
59. Section 5.11.4: Expand subsection “A” that solar farms are only allowed in the AR District existing as of the date of this ordinance to prohibit rezonings to AR to support this. In subsection H, provide a cross reference for a compatibility report to be provided for solar farms in the Airport Overlay.
60. Section 5.11.5: The design standards for the type of tower required are very arbitrary and ripe for appeal if a Planning Director was very strict. We need to clean this ordinance up to be more definitive. Need to re-evaluate the district locations for where towers are permitted as much of the county is zoned non-industrial and may need tall towers to serve outlying areas.
61. Section 5.11: Create small cell wireless design standards when north of SC 5 intersection of US 521 to create a more uniform look for newly installed poles in urbanizing area.
62. Section 5.12.1: In subsection B, security/safety plans should be broadened for uses intended to attract large groups of people (over 50?). In Section E, include State parks as well in exemptions (Andrew Jackson SP, 40-Acre Rock Heritage Preserve).

CHAPTER 6 SUBDIVISION AND INFRASTRUCTURE STANDARDS

1. General Comment: Need to have a clean break between what is required for subdivisions and what is required for non-residential civil construction plans. While there is a general reference in applicability section, it's not distinguished anywhere else.
2. General Comment: Need to evaluate some of the subdivision standards such as block lengths, connectivity index, external connections, etc. regarding whether or not these make sense to apply in our rural areas of the County. Perhaps this is addressed by expanding the improvement table to include standards as well.
3. General: Need to create Subdivision Variance process approved by staff or PC or create distinction with existing deviation language regarding who approves this when plat goes to PC.
4. General Comment: Need to create a general road design section with language to help prevent long straightaway streets and incorporate natural traffic calming.
5. General Comment: The UDO is silent in several critical areas; one obvious example is concerning earthwork/grading requirements. Many large fill areas are failing and sink holes, embankment failures and foundation problems are becoming more and more frequent complaints. These types of failures will only increase as construction without inspection increases. Traffic control when working in Right-of-Way. Either stand-alone ordinances or strengthening of UDO Chapter 6, Infrastructure Standards need to occur. We have to implement minimal earthwork standards and enforce them. The project drawing notes have minimal compaction notes, but the contractor can move a lot more dirt faster without compaction. Need some recommendations from consultant regarding how to address.
6. Section 6.2.1: Rephrase: Applicable to all land in unincorporated county or those municipalities that have adopted this UDO.
7. Section 6.2.2.B: These exemptions are based on North Carolina statutes (largely). Our attorney has confirmed we may apply a higher std. than SC Code, however, we likely need to revisit this as it generates significant conflict. The State exemption is 5-acre lot. Need help and/or advice on this. Perhaps we adopt the State Exemption (5-acre lots exempt, like most of SC Counties) and loosen the familial exemption section (2nd half).
8. Sections 6.2.2.C and D: Provide statement indicated to effect "and all other items that may be required on application checklists."
9. Section 6.2.2.F: This should be Building Official, not inspector.
10. Section 6.2.4: Pull this out and adopt separately to make future updates easier. This section can remain with modified verbiage to reflect new location.
11. Section 6.2.5: This seems to be a given and ripe for removal.
12. Section 6.3:
 - a) Street lights, curb/gutter, and underground drainage need to be required in the MDR District.
 - b) Delete underground wiring since it's not required in any district.
 - c) Sidewalks should be addressed here.

- d) Should require interior and perimeter road frontage sidewalks in the Panhandle area for residential and commercial development.
 - e) The final line within the table references Section 6.7.1; however this should reference Section 6.6.1.
 - f) The footnote uses “wave” instead of “waive.”
 - g) The footnote references LID standards – this should direct users to Section 7.1.4.F – may need to be restated as bioretention areas / rain gardens.
13. Section 6.4.1.B: Delete this standard.
 14. Section 6.4.1.C: Delete “...in excess of 800 feet ~~where deemed essential by the Administrator to provide...~~”
 15. Section 6.4.1.D: Chapter 6 references 800-ft and 1000-ft in different sections. Need to use one std. that reflects best practices.
 16. Section 6.4.1.D.1: Should be “~~and~~ or no more than 20 lots.”
 17. Section 6.4.2: When stubs are created, require installation of sign indicating: “Future Street Extension” or similar.
 18. Section 6.4.3: A CI of 1.3 seems low for a conventional subdivision.
 19. Section 6.4.4: Delete this section.
 20. Section 6.4.6: Need to evaluate this more as it appears to read that developer will bring existing perimeter streets up to current standard, which may not be appropriate in many cases (sidewalk, C/G, etc).
 21. Section 6.5.1: The content of this section does not match the title. This should be x-number of ADT shall require Y-street type, etc. and any other necessary details. This would be the section we would use to require a collector road, etc.
 22. Section 6.6.1.A.2: Need criteria. Perhaps combine with subsections C and D that follow, or consider deleting.
 23. Section 6.6.1.B.4: Delete/add “...other materials (~~such as pavers~~) and built in accordance with current Americans with Disabilities Act, ADA guidelines and Appendix C...”
 24. Section 6.6.2: Not sure where these are required. Regardless, 6-ft is not wide enough for shared use. If there is no existing UDO regulation connection, perhaps this is rebranded into a multiuse path standard (9-ft min. width) that may be used in-lieu of sidewalks on both sides for collector roads, etc. Remove crushed stone option.
 25. Section 6.6.2.C: Add “...concrete, and crushed stone. All surfaces shall be built in accordance with current Americans with Disabilities Act, ADA guidelines.”
 26. Section 6.6.2: Add “D. Foundation: Shall be Mirifi 500X geogrid, four-inch compacted ABC stone, or native material at 95% standard proctor compaction, and built in accordance with current Americans with Disabilities Act (ADA) guidelines and Carolina Thread Trail design standards, as applicable.”

27. Section 6.6.3: Relocate to CTTO District (Chapter 4) and create fee in-lieu option (can share text). Repurpose this by creating a subdivision trail standard (5-ft wide comprised of asphalt, concrete, or compacted gravel).
28. Section 6.6.3.D: Add: “...other material ~~approved by the administrator~~ and built in accordance with current Americans with Disabilities Act (ADA) guidelines and Carolina Thread Trail design standards, as applicable.”
29. Section 6.6.4.B: Delete/ add: “~~When required such~~ Such crosswalks shall...”
30. Section 6.7: Combine with CTTO District (Chapter 4). Not sure of any other adopted plan requiring this.
31. Section 6.8: Requires a TIA for a text amendments, land use plan amendments, zoning map amendments, and rezonings (unsure how we will know nature of use in rezoning) which meet the 50 peak hour trips/day threshold – requires a lot of details for items that don’t otherwise require it. Need to reduce the applicability section and increase the peak hour trip to 100. Need to also update or eliminate the use square footages.
32. Section 6.8.1.A: Remove the 2nd part of TIA requirement to identify additional improvements needed to raise the standards to adopted LOS std. It suggests this is an improvement expectation by developer.
33. Section 6.8.1.C: Delete/ add “... average daily trips ~~by~~ or more than 25%.”
34. Section 6.8.1.E: Delete/add “... deceleration of site traffic lanes in accordance with SCDOT design guidelines.”
35. Section 6.8.2: Add preliminary sight distance evaluation for all proposed streets and drives.
36. Section 6.8.3: The first 3-paragraphs do not reflect our process which is:
 - a) TIA is submitted;
 - b) Staff and/or County Traffic Consultant reviews with SCDOT;
 - c) TIA is approved (typically); and
 - d) Developer constructs improvements.

Not sure if all of the detail in A thru M is needed. Is this typical in UDO’s?
37. Section 6.8.4: Need to distinguish driveway spacing for full access versus restricted access. Subsection 3 regarding 5-acre parcels seems trivial. Existing median crossovers north of Highway 5 should be encouraged for removal. Need to distinguish what is applicable in the HCO and all other areas. In subsection B, need to indicate shared access drives are required within the same development.
38. Section 6.8.4.A.5: Eliminate Access Management provision limiting closure of median cross overs. Create intersection/driveway separation standard for R-I/R-O similar to SCDOT. Current std. makes no distinction between full and limited access.
39. Section 6.9: Need to clearly indicate these provisions apply to public and private roads platted with ROW.
40. Section 6.9.1.C.1: The estimate should be provided by a PE for infrastructure improvements and a landscape professional (arborist / landscape architect) for landscaping improvements.

41. Section 6.9.2.A.2, tries to provide a fax number, but only includes a string of x's as, conceivably, the writer of the 2017 amendment did not know the correct fax number and could not be bothered to determine the correct number and nobody actually reviewed the ordinance or questions the string of x's.
42. Section 6.9.3: Need to specify the warranty surety formula. For streets, could use 50% of final lift of asphalt.
43. Section 6.10.1: Easement width shall be determined based on need of improvement (not admin.). Require a 5-ft general utility easement along the front of all residential lots in a major subdivision. Easements shall also identify who the holder of the easements is and specific terms associated.
44. Section 6.11.3.G and H: The naming of roads can be restricted by duplications or similar names in surrounding counties. This requirement can be excessive at times as was the case with the renaming of HSBC Court to Sharonview Way. Sharonview owns the only building on the court and was told they could not have their requested name due to a Sharonview Street in incorporated Fort Mill approximately 8 miles from the Indian Land location. Also, Sharon Road in Charlotte which was 14 miles away was cited. Greater flexibility is needed in the naming of roads when similar names may exist in neighboring counties. Perhaps a distance should be agreed upon. For example: Similar names that are less than five miles from the location being named will be considered when approving a road name.
45. Section 6.13: Need to clearly indicate the inspection and warranty provisions apply to public and private roads platted with ROW.
46. Section 6.13.3: This section assumes all improvements are in place, which is not typically the case at final plat (final lift of asphalt, trees, and sidewalks usually not installed). Need to revise.
47. Section 6.13.4: It's not clear to me what a variance would be granted for. The warranty bond details should be relocated to Section 6.9 Improvement Guarantees.
48. Section 6.13.5: This isn't appropriate for a UDO.
49. Section 6.13.8: This section duplicates Section 6.10.
50. Section 6.14: Need to clearly indicate these standards apply to public and private roads platted with ROW.
51. Section 6.14.1.B: Replicates roadway standards already noted elsewhere. It establishes a 500-ft cul-de-sac standard, which is inconsistent elsewhere. All standards need to be in one section. Also need to have a section that specifies when you built a certain road type.
52. Section 6.14.1.D: "sight" not "site."
53. Sections 6.14.E and H: These subsections conflict and need to be consolidated.
54. Section 6.15: Incorporate into Section 6.6.
55. Section 6.16: Typo in last line (shale).
56. Section 6.17.1: Errant word in sentence (must be meet...)
57. Section 6.18: Need to retitle this section.

58. Section 6.18.1.C: Need to create provision for 2nd access when interior section of subdivision has more than 100-lots served by one access. Need to also create standard for multifamily communities. Need to clean up items in C.1.a thru c....written poorly.
59. Section 6.18.1.D: Need provision for minimum stacking distance and required turnaround.
60. Section 6.18.1.F: Coordinate with Fire Marshall on eliminating or revising this. Many areas of the county lack public water and are served by wells. I don't think homes in other rural communities are built with these types of features.
61. Section 6.18.1.G: Coordinate with Fire Marshall to incorporate appropriate standards they have created, but not incorporated. Include provision that County can mandate developer installation of traffic calming measures when road design warrants.
62. Section 6.18.1.H: This section conflicts with our requirement that all lots front a road. The five lot standard also gives the County a lot of angst regarding long term maintenance. Need to reconcile the lot access conflict and discuss best way to address this section as not all lots in rural area can front road. Any shared drives should have a shared access and maintenance agreement recorded with the plat. Subsection H.4 could be delete as it's a given.

CHAPTER 7 GENERAL DEVELOPMENT STANDARDS

1. General Comment: There are numerous sections with individual deviation provisions. Should we eliminate these and/or incorporate them into the general Alternative Landscape section which gives the Planning Director ability to approve a modified plan? Or, should we establish a new section (eliminating the alternative section) at the end of the landscape provisions granting certain abilities to staff to work with applicants on flexibility to the landscape plans given that certain criteria or thresholds are met?
2. Section 7.1: The RUB District is excluded from the landscape provisions.
3. Section 7.1: Need to require a perimeter planting strip when no buffer exists. Minimum 10-ft wide planted with trees and ground cover.
4. Section 7.1: Need to require 20-ft street yard landscape requirements (beyond street trees) requiring trees, shrubs, and ground cover along roads.
5. Section 7.1.1: Relocate nonconforming provisions to nonconformance sections of Chapter 9. May want to consider eliminating these standards and similar parking standards and replace with a more comprehensive system of percent of improvements equates to a commensurate increase in nonconformance upgrades.
6. Section 7.1.1.C: Delete this section. Can revise plans if in conformance to ordinance.
7. Section 7.1.1.D.1: Where is the referenced section B related to Bonding? Section 2?
8. Section 7.1.1.D.3: Eliminate the 180-days limitation on replacement of dead planting. Should be in perpetuity.
9. Section 7.1.1.D.5, states “all required vegetation shall be placed on the side of the fence or wall of the development site under consideration.” Which side of the fence; the interior or the exterior?
10. Section 7.1.1.E.3: Delete provision – covered elsewhere.
11. Section 7.1.2: Create a tree protection requirement that contemplates at a min. protection of Heritage Trees and potentially existing tree canopy percentage.
12. Section 7.1.7.B.3: Understory trees need to be required to be native or locally-adapted consistent with canopy and evergreen trees.
13. Section 7.1.7.C.1: Requires mulching with 3-inch layer of appropriate material. Needs to identify what materials are appropriate.
14. Section 7.1.7.C.2: Prior provisions require native or locally-adapted trees – this provision only encourages native and drought-tolerant vegetation. Delete final sentence for consistency.
15. Section 7.1.3: Create a single planting rate of 1 tree per 30 linear feet. Create a street tree planting for the rural districts where not currently required of 1 tree per 50-ft. Keep the tree well planting rate. Need to create a proviso that trees are in planting strip unless conflicting with water or sewer utilities.
16. Section 7.1.3: Need to create standards that provide for adequate space for street trees to be planted and grow.
17. Section 7.1.3.B.3: Delete this section.

18. Section 7.1.3.C: Reduce this width to 5-ft.
19. Section 7.1.4: Consider adding requirement prohibiting parking lot light poles within landscaped islands.
20. Section 7.1.4.B: Not sure this exemption will ever be utilized. Consider deleting.
21. Section 7.1.4.C: Use 1 tree per 30-linear feet. Require the shrub and tree screening around all parking lot sides. Not just facing street.
22. Section 7.1.4.C.2: What constitutes “semi-opaque?”
23. Section 7.1.4.D: Require trees/islands at the ends of each row of parking in addition to every 10-spaces. Consolidate the parking space within 50-ft standard in this section as well.
24. Section 7.1.4.D.2.b: Minimum island length should also be established.
25. Section 7.1.4.D.2.d: Does the requirement for parking spaces within 50 feet from base of a tree make sense? Would seem to require more cars within the critical root zones of trees which would be detrimental to the trees. Consider increasing or eliminating requirement.
26. Section 7.1.4.E: Require curbing (versus wheel stops) for non-single family parking lots with more than 25-stalls with exception of the RUB District.
27. Section 7.1.4.G: Use 1 tree per 30LF.
28. Section 7.1.4.G: Need narrative requiring the perimeter screen shown in the Section G exhibit that frames the perimeter or the parking long the interior drives (see left side of image) similar to when parking lots front a public or private road.
29. Section 7.1.4.G: Graphic does not reflect requirements of code.
30. Section 7.1.5.A: Need to establish buffers between use categories or groups of uses verses zoning districts.
31. Section 7.1.5.A.1: Erroneously notes RM instead of RN as an adjacent zoning district.
32. Section 7.1.5.A.5: Replace “yard” with “setback.”
33. Section 7.1.5.A.6: Replace “yard” with property line.”
34. Section 7.1.5.B: Need to re-evaluate these types and make more robust. There should not be a 10-ft option when residential abuts commercial. Need to create instances where a fence or berm is required in these instances as well.
35. Sections 7.1.6.3.b and c: Eliminate chain link fence with slats option and allow solid vinyl fence.
36. Section 7.1.6.4: Increase distance to 400-ft.
37. Section 7.1.7: Relocate General section of landscape ordinance at beginning of chapter here.
38. Section 7.2.4: Consider the creation of a set aside area for parking where a user that may not need all of the parking which they are otherwise required to provide can set aside an area of the property that could be developed as parking in the future should a subsequent user of the property have a greater requirement.

39. Section 7.2.4.A: Create more robust required parking table. Missing many uses and some uses are not accurate and/or are otherwise unnecessarily exempt from parking requirements.
40. Section 7.2.4.A: Need a parking rate for senior housing.
41. Section 7.2.3: Eliminate this table and graphic exhibit. Revisit the parking location and building orientation section in the HCO to improve it and create options.
42. Section 7.2.4.A: Gross leasable area (GLA) is not defined in the code. As this is not defined, it is unclear how parking may be calculated. Replace with gross floor area (GFA).
43. Section 7.2.4.A: Provide parking requirements for Banquet Hall and Agritourism uses.
44. Section 7.2.4.B: Create more conventional parking rates. Require an offset for the maximum parking such as enlarged street yards, etc. or other techniques.
45. Section 7.2.4.C: The exemptions we have are fine; however should there be a further “catch-all” option available for other unforeseen circumstances?
46. Section 7.2.4.C.1: This seems excessive – more so for the IMX District.
47. Section 7.2.4.D: Retitle to “Alternative Parking” and incorporate more traditional options: Shared parking, Satellite, etc.
48. Section 7.2.5: Need to create driveway throat standards between public road and drive aisle.
49. Section 7.2.5: Need to create stacking requirements for drive thrus.
50. Section 7.2.5.A.10: Delete subsection 10 for residential.
51. Section 7.2.5.B: Allow “post and rope/chain” for gravel, grass, etc. lots marking.
52. Section 7.2.5.B.2: This table needs to be revised and any allowance for non-paved surface need to be more simplified.
53. Section 7.2.5.E: Need to clarify pedestrian walkways will be connected to public sidewalk. Clarify striping is only for driveway crossings, not the actual walkway.
54. Section 7.2.5.F.1: Need to exclude vehicle sales from the provision: “Open storage of automobiles, trucks or trailers of any type without current license plates shall be prohibited on any parcel.”
55. Section 7.2.6: Simplify this section to only require one type of bike parking. Facility does not need to be covered. Conventional U-rack is fine mounted into concrete pad.
56. Section 7.2.7.A: Need to generalize this more to avoid someone trying to maneuver out of compliance by not using cut-away curb, etc.
57. Section 7.2.7.A.2: Define “driveway approach.”
58. Section 7.2.7.A.3: Need to modify the applicability language to not whenever the Administrator deems feasible. Perhaps this gets rightsized by requiring it when adjacent properties are part of the same development or in common ownership.
59. Section 7.2.7.A.4: Need to create language requiring that grading and finished elevations on subject parcel shall enable future connection from abutting parcels. Having too many properties develop with side lot line retaining walls challenging connectivity.

60. Section 7.2.7.A.5: “At all driveway approaches, a sight area shall be maintained according to the provisions of Appendix C, MSSD.” No such provision exists in Appendix C.
61. Section 7.3: Improve the lighting ordinance as a whole.
62. Section 7.3.2: Need to note if this is Initial or Maintained light levels.
63. Section 7.3.2.A: Having the standards designed by zoning district makes little sense, and given how footnote #1 discusses the applicability of light trespass between residential and non-residential properties (regardless of conformity of use), it only serves to make the very premise of this district-based standard more pointless.
64. Section 7.3.2.A: The RUB, OSP and MX Districts are not included.
65. Section 7.3.2.A: Based upon footnote #1, there is no concern of light trespass between residential properties, or between non-residential properties. This omission renders these regulations fairly pointless.
66. Section 7.3.2.A: Footnote #2 is utterly pointless. It only repeats the language to which it is a footnote.
67. Section 7.3.2.A: Footnote #3 is comprised of two halves. The first half states that the footcandles for outside sales areas shall be “measured as the average point of horizontal illuminance.” If this measurement is to be the average, and is to either be 10 f.c. or 20 f.c., and the otherwise maximum f.c. onsite per this same Section can be no more than 10 f.c., then this “average” cannot ever mathematically happen. The second half of this footnote is now moot as the balance of this footnote and the language to which it pertains is now irrelevant.
68. Section 7.3.2.B: Provide non-cut off designation allowance for decorative building lighting (not including wall packs, etc.). Max. height should be 32-ft (for pedestal) and 22-ft within 100-ft of residential zoning district or use. Require use of house-side shield when within 100-ft of residential.
69. Section 7.3.3.B: Eliminate vague Administrator reference in #3
70. Section 7.3.4.A.7: Replace municipal with County.
71. Section 7.3.4.B: Prohibit the use of neon or LED lighting around doors or buildings that are used as an attention grabbing device. Need to combine this section with 7.4.8 Prohibited Signs.
72. Section 7.3.5: Revise/restructure this to include two sections:
 - a) Submittal requirements of a site plan; and
 - b) Ongoing Compliance

Make clear that light values are based on Maintained values (it’s buried in existing language). Relocate Nonconforming Lighting to Nonconformance ordinance.
73. Section 7.4: Re-examine temporary sign provisions in Panhandle/Hwy Corridor Overlay area.
74. Section 7.4: Need to re-examine wall signage allowance. 75 sq. ft. per building is insufficient. Based on percentage of façade area with max. size per sign.
75. Section 7.4: Need to re-examine freestanding heights/message areas to ensure they are consistent with industry standards.
76. Section 7.4: Need to have Reed case law consistency review.

77. Section 7.4: Need a Severability clause that states if any section of ordinance is found in violation of law that it will not impact enforceability of remaining valid sections of ordinance.
78. Section 7.4.2.A: Delete unnecessary language.....”no zoning permit will not be issued without application and fee...” at end of paragraph.
79. Section 7.4.2.A: Create a new “Exempt” signs section that notes all signs exempt from the ordinance. Include sign refacing where there are no modifications to sign structure or panel or enlargement of message area.
80. Section 7.4.4.A.3: Increase Dated Sign threshold to 120-days.
81. Section 7.4.5.A Attached Signs: Wall signage is insufficient for non-residential districts. Maximum allocation of 50 or 75 sq. ft. does not work for larger single use sites or multitenant shopping centers. The districts clustered together are also not consistent. MX and IMX are fairly intense, but do not enjoy the highest allowance. In subsection F, relocate Address signs to “Signs not Requiring a Permit” section.
82. Section 7.4.5.B: In subsection A, eliminate landscaping around base. Allow pole signs so long as the sign so long as the sign box is only x-feet from the grade.
83. Section 7.4.5.B: Please evaluate message area allotments. Hwy 521 signs inside or outside the HCO should be relatively large given 45 to 55mph speed limit in width of ROW.
84. Section 7.4.5.B:
- a) Reorganize the district groupings by intensity. As previously noted, some of these are not grouped consistently.
 - b) Why would Institutional have a different max. # allowance? In monuments section, the Chapter 5 reference may need to be a Chapter 4 HCO reference.
85. Section 7.4.5.B: Relocate A-frame signs to temporary sign section. Allow A-frames in all business districts and home occupations.
86. Sections 7.4.5.C and D: Confirm this verbiage matches definitions of these in Ch-9.
87. Section 7.4.5: Section limits the amount of wall signage (Regional Business) to a maximum of 75’ per building, regardless of building size. Under the previous UDO, the maximum surface area for any wall sign permitted on any commercial building was limited to one square foot of sign space for each linear foot of frontage for each designated leased area. The change in standard - from 1 SF per each linear foot of leased frontage to a maximum of 75 SF per building - effectively means anchor tenants (such as a grocer or big box user) are limited to the same amount of signage as a tiny boutique store. It also means, in the case of multi-tenant buildings, the likely maximum number of signs per building will be three (assumes 25’ per sign, measuring 3’ x 8.33’). Given that each multi-tenant building will likely have 4-6 tenants, this is a deal killer. The same can be said for the 75’ limitation on big-box anchor tenants. Restore the former wall sign requirements or develop a new formula that is based on percentage of wall space for each tenant.
88. Section 7.4.5: Free standing signs are now limited to 10’ in height. The previous standard was 20’. Along major thoroughfares the location of projects in need of larger ground signs a 10’ sign is too small to provide the necessary panels and exposure required. Restore the previous standard of 20’.

89. Section 7.4.6.A: Include “walk-up window and/or drive-through window”
90. Section 7.4.6.D.3.b: This section needs to be substantially broadened to take into account contemporary temporary advertisements tools that balance need for advertising and aesthetics. Not clear what types of tools are allowed without checking off the prohibition list. Any temporary wall type signage or banners should be 32 sq. ft. message areas to match plywood dimensions. This should also be relocated towards the end of the chapter.
91. Section 7.4.6.E: Eliminate the individually platted parcels section and just fall back on freestanding sign allowance. In subsection 2, drop the acreage threshold to 25-acres.
92. Section 7.4.6.F: There is very limited land (if any) in LI and HI that would be desirable for a billboard. It seems like we just want to prohibit them. If we are allowed to prohibit them by law, perhaps we do so.
93. Section 7.4.6.G: Eliminate subsection G.2.c regarding drawings. It’s a given.
94. Section 7.4.7: Relocate this to a more administrative section such as where prohibited signs are.
95. Section 7.4.7.C: Make sure this is legal. Seems like there may be conflicting case law.
96. Section 7.4.7.G: Include provision that signs cannot be oriented to adjacent roadways in a manner that provide offsite visibility.
97. Section 7.4.7: In real estate signs, increase commercial signs to 32 sq. ft. Clarify the 4 sq. for residential is for subdivision lots. Allow 32 sq. ft. for non-subdivision lots. In subsection 2, increase subdivisions to 32 sq. ft. In subsection J Yard Sales, remove “subject to penalties.” No other similar section has this. In subsection L, increase sign allotment to 32 sq. ft. In subsection Q, why would this be in place when there is a Directional sign section already?
98. Section 7.4.8: In subsection G Portable Signs, need to be more specific. In subsection I, Motor Vehicles, this needs some more specificity.
99. Section 7.4.9.A: In subsection 2, are these setbacks typical? If retained, relocate this to sign setback section. It’s lost here.
100. Section 7.4.11: Can this be relocated to Violations chapter in Ch-9?

CHAPTER 8 NATURAL RESOURCES PROTECTION

1. The structure of the UDO is very hard to follow for development community and staff. There are stormwater and floodplain sections in multiple chapters (Chapter 8, Natural Resources Protection, Chapter 9.2.8 and 9.2.12.C.2.b., 9.4.2., 9.4.7.). Chapter 8 oscillates between stormwater and floodplain issues every other paragraph. Chapter 8 needs to be broken apart in to Stormwater, Floodplain, and Illicit Discharge Prohibitions. EPA and DHEC require a local Illicit Discharge ordinance for compliance with our National Pollutant Discharge Elimination System, NPDES permit. FEMA requires a Floodplain Development ordinance to be eligible to participate in the National Flood Insurance Program, NFIP. These are typically individual ordinances. Our current UDO is insufficient in stormwater, floodplain, and illicit discharge. Carolina Heelsplitter needs to be moved from Chapter 4 to Chapter 8. Stream buffers should be in Chapter 8.
2. Pg. 8-2 - Section 8.1.4. #2-C (Delete – “To insure that potential homebuyers are notified”)
3. Pg. 8-6 – Section 8.2.1.K (Delete “A building” and replace with “All construction”)
4. Page 8-9 - Recreational Vehicle standard in middle of flood ordinance? Standard for RVs in the floodplain? (Not clear)
5. Pg. 8-10 – K. Fill #2 (delete tidal or non tidal)
6. Pg. 8-13 – Section 8.3.2 (Delete MS-4)
7. Pg. 8-15 – L-3 (Add – “at ground level”)
8. Pg. 8-16 – 8.4 – (Omit dash in MS4)
9. Pg. 8-16 – 8.4.1, A-1 (All licenses must be of the State of SC)
10. Pg. 8-18 – d. (Delete “either” – add “both” and between i. and ii. add “and”)
11. Pg. 8-23 – Item #6 (Add “storm water conveyance of the detention system”)
12. Pg. 8-25 – i. 3rd bullet – (Add - Permanent access easements)
13. Pg. 8-26 – Section 8.6 B-1 – (Reword entire sentence – “The applicant shall indicate all wetland area boundaries delineate in accordance with the current federal wetland determination methodology”. (Replaced delineate with indicate and after boundaries inserted “delineate”)
14. Pg. 8-27 – B. Stream Channel Conveyance #1 (Delete “channel” and add “infrastructure elements”)
15. Pg. 8-28 – Section 8.6.3 A. 1-b – (as measured from the ordinary high water mark)
16. Pg. 8-29- Chapter 8.6.3A.1a and b: Need a simpler criteria for determining buffer widths. Drainage basin size is not easily located.
17. Pg. 8-31 – Section 8.7.2 A-1 – (add “or capacity”)
18. Pg. 8-31 – Section 8.7.2 A-2 – (FEMA)
19. Pg. 8-31 – Section 8.7.2 B-2 – (Add “or capacity”)
20. Early Grading/Erosion Control permit active project that is tracking towards full civil approval. Some criteria should be:

- Needs a to be a separate submittal/plan set;
- Project has undergone a min. of one round of full civil plan review;
- Major issues with grading, etc. (if any) have been resolved
- Preconstruction meeting required

CHAPTER 9 ADMINISTRATION

1. General Comment: Need to create a general applicability, modification and appeal provision for each permit type.
2. Section 9.1.1.A: Need to update to take into account organizational changes. Rephrase to a combined “Planning and Zoning Department.” Delete “Zoning Official.” PD has that role. Incorporate Stormwater Management Department and “County Engineer.” This Dept. and position oversees Floodplain and review of public streets and stormwater. Public works is responsible for road inspections and maintenance.
3. Section 9.1.3: Need to modify this language to reflect TRC’s actual function of being a coordination body for the review of plans, projects, and ordinances and technical standards. TRC does not have decision-making authority as a body. In membership section, remove ED Department and replace with SCDOT.
4. Section 9.1.4: Need some introductory language stating these powers and duties (subsections 1 and 2) are subject to concurrence by CC. They cannot initiate these items w/o funding, etc.
5. Section 9.14.A: Remove vested rights as that is a legal function unless SC Codes state otherwise. Make sure this is not elsewhere in UDO.
6. Section 9.14.A.5.a: Remove approval of preliminary plats from the PC decision making and transfer to staff. This is permitted by SC Codes and is universally advocated for by staff, legal counsel, administration dept, development community, etc.
7. Section 9.1.5.A.3: Add Special Exception (SE) decisions.
8. Section 9.1.6.B: Update to reflect changing dept. names and position changes per earlier feedback.
9. Section 9.2.2:
 - a) This would be a good section to reference the construction standards manual in the appendix and reference as being adopted by reference so that we could detach it as its own document and update more easily.
 - b) This would also be a good section to reference and give credence to plan, study, document, application submittal requirements found on various staff-developed applications and related articles.
10. Section 9.2.3:
 - a) Correct Conditional Use permit period
 - b) Replace TRC with Admin
 - c) Define Zoning Permit (somewhere)
 - d) Temp Use Permits are called out specifically, yet we have numerous other minor zoning permits not listed. Combine within “zoning permits” or broaden it.
 - e) Retitle site plan with “Civil Construction Plan” and give it 2-year permit period
 - f) Remove Preliminary Plat noticing with it being a staff-level approval and update approving agency
 - g) Not sure if Development Agreements should have an appeal procedure

- h) Add Comprehensive Plan Development or Amendment
 - i) Double check UDO Section reference in Colum 2 of table
 - j) In table header, have the topic areas aligned in center of cell or bottom (not top aligned)
 - k) Chapter 9.2.3 and 5: This section of Chapter 9 needs to be the “recipe card” for how development projects (amongst other approvals) are facilitated through Lancaster County and needs to be directly linked with Chapter 6 for standards and bonding and earlier sections of Ch-9 for approving entity. This section would in essence specify how an idea or vision becomes a completed project.
11. Section 9.2.3: This section may require a more robust update versus strategic modifications. The format of individual permit types in Ch-9 may be salvageable, if new or modified subsections are created, content is made more concise, and the relationship to brother or sister permit types is more fully specified. The following is an outline to guide you; however further improvements/suggestions would be welcomed.
- a) Immediately following the table in 9.2.3 Permit/Process Type, Organize development approvals into a logical and sequential order and possibly into families such as Major Subdivisions, Non-Single Family Residential Civil Site Plans, and Administrative Permits. A goal for the Major Subdivision and Civil Construction Plan “Family Photo” would be to hand a developer this section and they would have a concise outline of the process for full entitlement and construction.
 - i. The Major Subdivision Family would be: Zoning Map Amendment, Sketch Plan, Prelim. Plat, Grading Permit, Civil Construction Site Plan, As-built drawings, Final plat, Zoning Permit for New Home, Cert of Occupancy, and ROW Dedication.
 - ii. The Civil Construction Site Plan Family would be: Zoning Map Amendment, Sketch Plan, Grading Permit, Civil Construction Site Plan, As-built drawings, Zoning Permit for tenants, and Cert. of Occupancy.
 - b) Need to describe (sentence or 2) what each the above permit types are functionally, what has to be accomplished (if anything) before reaching that stage, the approval period, the extension of the approval period to take into account approval of subsequent permits, and the appeal process of each.
12. Section 9.2.3: Indicates that the Permit Period for a Subdivision (Major) – Preliminary Plat is “2 years to Final Plat.” This seems overly long.
13. Section 9.2.3: Indicates that the Permit Period for a Conditional Use “may be rescinded.” It needs to be changed to “2 years.”
14. Section 9.2.3: Civil plans need to be addressed.
15. Section 9.2.4: This should be relocated to the rear of chapter as it gets in the way of an orderly transition from the table in 9.2.3 and the development approval permits/types.
16. Section 9.2.5: This table may need to be significantly revised or removed based on comment 11 above. Some specific comments include.

- a) Site Analysis: This seems like a fancy descriptor for base level of information found on a Civil Construction plan or other plans. Perhaps this gets restructured using more conventional approaches.
 - b) Sketch Plan: Remove “binding” language in this paragraph
- 17. Section 9.2.6.C: Delete ability to request a transcript. We do not prepare transcripts.
- 18. Section 9.2.7: Need a provision authorizing the County to require site and/or foundation as-built drawings in association with the Civil Construction Plan process and Zoning Permit process. The underlying intent is to verify conformance with building setbacks and other development requirements that may not be confirmed through the site inspection process or be otherwise readily apparent. Would prefer the language to be mandatory unless deemed unnecessary by the Administrator.
- 19. Section 9.2.7.A.1: Need proviso that a zoning permit is only needed if an underlying development approval is not needed (civil construction permit, etc.).
- 20. Section 9.2.7.B: Consistent with previous comment, we have numerous other admin. permits not addressed in Ch-9; however temporary use is (sign permits, home occupation, etc.). Consider creating a broader category as a standalone or broaden Zoning Permits.
- 21. Section 9.2.7.C: Need to create a more robust process for temporary or interim COs with criteria versus what is currently noted. Need to also create within this or a separate section the ability to issue temporary or interim Cos or phased commercial sites like a shopping center where one tenant or building is ready to open while other sections or shopping center are under construction. Similar analogy for apartment complexes that wish to CO individual buildings while site construction is still underway.
- 22. Section 9.2.7.D: Need to create a more robust Admin. Modification process (similar to Rock Hill or others) for reductions to setbacks, buffer areas, height, parking, etc. Create thresholds and approval criteria.
- 23. Section 9.2.8.A: Incorporate a proviso that grading permit approvals are at the discretion of the County Engineer and may only be issued once a full civil construction submittal has been made and has undergone a full, first submittal review. Need to also provide the County Engineer with the ability to require a stabilization bond in the event the project initiates grading and goes bankrupt with construction activity ceasing. This section also needs to reference DHEC’s role in issuing the final approval.
- 24. Section 9.2.8.B: Need to reference SCDHEC role in issuing the final approval.
- 25. Section 9.2.9: Flow chart is not accurate. Seems like this could be simplified and relocated to the “Family of Permits” previously referenced.
- 26. Section 9.2.9.A: Would like to have this process merged with the Civil Construction Plan process.
- 27. Section 9.2.9.A:
 - a) Need to retitle Civil Construction Plan. Need to contemplate phased site plans and how that impacts permit validity, etc. Plans should be good for 2-years unless common law vesting established.

- b) There needs to be a cohesive link between Grading Plans-Civil Construction Plans (including phasing)-Cos that clearly details their interrelationships.
- 28. Section 9.2.9.A.1: It is unclear as to when this is actually applicable.
- 29. Section 9.2.9.B.1: It is unclear as to when this is actually applicable.
- 30. Section 9.2.10.A: Consistent with prior comments, need to update the minor subdivision criteria. Remove TRC from 3rd bullet. In Item 4, a plat drawing is needed, not a Final Plat. Remove stormwater permit.
- 31. Section 9.2.10.A: In concert with Ch-6 comments on major subdivision requirements, if a proposed subdivision is located in the rural district and exceeds the minor plat thresholds, there should be an ability to do a Major subdivision with lower standards perhaps (no OSP, gravel roads w/ROW, etc.). How do other Counties manage this issue? We struggle with it weekly.
- 32. Section 9.2.10.B:
 - a) In B2, need to clarify “associated with a major subdivision” since commercial projects don’t need this.
 - b) In B5, need to revise to take into account staff approval. Any use of days (if needed) should be calendar days.
 - c) In B6, remove all noticing requirements.
 - d) In B7, eliminate TRC mention.
 - e) In B9, shouldn’t issuance of Civil Construction permits have a relationship to Preliminary Plat validity and not just Final Plats? There needs to be a cohesive link between Prelim Plat-Grading Plans-Civil Construction Plans (including phasing)-Final Plats that clearly details their inter-relationships.
- 33. Section 9.2.10.C: Remove TRC references, phasing should be provided in Prelim. Plat or with Civil Construction Plans (typically).
- 34. Section 9.2.11: Section can be reserved without “Street Names.”
- 35. Section 9.2.12: Require variances to be recorded with the Register of Deeds.
- 36. Section 9.2.12.C.1.a: Section makes reference to the required quasi-judicial hearing on variance requests. However, Section 9.2.12.C.1.b states that the BZA may conduct another “public hearing” on the variance application but the preceding sections do not make clear a “public hearing” is required in the first instance and just that a quasi-judicial hearing occurs. SC Code 6-29-800 (D) provides that:

“The board must fix a reasonable time for the hearing of the appeal or other matter referred to the board, and give at least fifteen days' public notice of the hearing in a newspaper of general circulation in the community, as well as due notice to the parties in interest, and decide the appeal or matter within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney.”
- 37. Section 9.2.14: Create a formal Interpretation process that is appealable to the BZA.
- 38. Section 9.2.14: Make sure this appeals process is consistent with others. Noticing different types of courts are referenced for appeals, which seems odd.

39. Section 9.2.15: Separate text amendments and rezonings into their own review procedures.
40. Section 9.2.15: Eliminate ability of BZA to submit text amendments.
41. Section 9.2.16: Per earlier discussions, this could be converted to use specific standards with controversial uses reviewed as Special Exceptions.
42. Section 9.2.17:
 - a) I am guessing this relates back to the vested rights section of the State statutes. Will need to clean some of this up for removal of PC issuing plat approvals, etc.
 - b) Need to clarify in new introductory section that this a “Statutory Vesting”
 - c) Need to create a separate section for establishing “Common Law Vesting” that typically runs much longer than statutory vesting. This doesn’t have to be super detailed. I have seen summarized versions of Common Law vesting establishment.
 - d) May need to simply rewrite this section in total or adopt another SC jurisdiction’s VR ordinance that reads more clearly (City or RH?). Need to define “Site Specific Development Plan.”
43. Section 9.3: Need to reorganize into clean and distinct subsections addressing Nonconforming lots, Nonconforming Structures, Nonconforming Uses, and Nonconforming Site Aspects (or similar descriptor) and create criteria within each. I am okay with separate Mobile Home and Sign subsections.
44. Section 9.3: Can we create a sunset clause for legal nonconforming junkyards/open storage? Council has requested this ordinance update address junk or junkyards more thoroughly so other suggestions beyond nonconformance are welcomed.
45. Section 9.3: Need to create some Exemption criteria for nonconforming structures, lots, and uses (Ch-5 stds) when the nonconformance was created by virtue of ROW acquisition.
46. Section 9.3: Need to incorporate change of use provisions within this chapter.
47. Section 9.3: Need to add new subsection concerning Nonconforming Site Aspects, which should incorporate the nonconformance language addressed in individual sections of Chapter 7 (parking, landscaping, lighting, etc.).
48. Section 9.3.2: This sections needs to be cleaned up. Remove subsection A1 - it has already noted elsewhere. Subsection A2 appears to be a use substitution provision which should fall under Nonconforming Uses and Nonconforming Structures. Please clean up criteria.
49. Section 9.3.2.B: This can be relocated to Nonconforming Structures section.
50. Section 9.3.3: This section seems out of place within a nonconformance chapter. Much of this content may be more appropriate within the Civil Construction Plan section of Ch-9. Completely delete subsection 4 regarding building out period.
51. Section 9.3.2.C: This can be relocated to nonconforming uses. In subsection e.i, add something to the effect of failure to maintain or expiration of most recent tenant’s permits, licenses, or incorporation status.
52. Section 9.3.4:

- a) I want to make sure that subsections B.2.a do not preclude development of a single house or other dwelling unit if minimum density requirements are exceeded by virtue of not complying with min. lot area on a single lot.
- b) Clarify in subsection B.3 or in Ch-1 that new structures built in previously approved plats shall comply with the setbacks recorded on the plat.
- c) Are Subsections B4 and B5 needed given general language in subsection B1?

53. Section 9.3.5:

- a) In section A1, clarify that non-compliance with a Ch-5 use-specific requirement also constitutes a nonconforming use.
- b) In subsection A2, Nonconforming Structures should just be for dimensional requirements associated with Ch-2 (i.e. setbacks, etc.). Other sections should be addressed in new Nonconforming Site Aspects or similar chapter.
- c) In subsection B3, do we need to clarify damage resulting from natural disaster or act of God versus deferred maintenance? Delete subsection C related to extensions
- d) In Subsection C2, this seems really wordy. Could we just simply state that enlargements or structural operations are permitted so long as the existing nonconformance is not increased and no new nonconformance or violations are created? Delete Historic District section (none existing).
- e) Shouldn't we have a value threshold limiting investment in nonconforming structures until they are corrected?
- f) As noted above, incorporate natural disaster/act of god provisions in subsection C3. In subsection C3b, delete last sentence about discretion of Administrator
- g) Please clean up language in Subsection D (2nd half).

54. Section 9.3.6.A: Needs to have language continuation consistent with that found in 9.3.6.B.

55. Section 9.3.6.A.1: Needs to include, or at least contain reference to the 180 day discontinuance threshold set forth in Section 9.3.2.C.1.e as it relates to the replacement of a nonconforming manufactured home.

56. Section 9.3.6.B: Need to raise as a policy issue whether or not we wish to not allow replacement mobile homes in nonconforming use parks (old unit is moved or destroyed and no replacement unit allowance).

57. Section 9.3.7:

- a) Can subsection A1 be deleted since this is a given with all nonconformance or create a general section at beginning of chapter applicable to all nonconformances?
- b) In subsection A3, should this be tied to damage from natural disaster or act of God?

58. Section 9.4: Organization system needs to be reworked. There are subsections given primary section numbering types, etc. This chapter needs to be reorganized to create a more streamlined and uniform organization of violations, noticing procedures, appeals and hearing options, remedies/tools available to the County to seek abatement, etc. Its presently very disorganized and duplicative in many areas.

59. Section 9.4.1.C:

- a) In subsection 2, For mailed NOVs, if State law does not require certified or registered mail, replace with “first class”
 - b) Subsection C5 duplicates subsection C.1.C
60. Section 9.4.1.D.2: This appears to relate to public noticing. Clarify. If it’s already in Ch-9, delete.
61. Sections 9.4.1.E.1 and 2: In subsection 1, should this be enlarged to include all unsafe structures (not just signs)? In subsection 2, should the word “temporary” be removed to not confuse with only uses permitted as temporary uses?
62. Section 9.4.1.G: Provision regarding liens seems incomplete. There is usually a descriptive sentence regarding lien process, etc.
63. Section 9.4.3:
- a) Subsection C within paragraph is incomplete
 - b) Include provision that enables staff to undertake other administrative actions to achieve compliance that may be less than a stop work order. For example, we often times will cease all inspection services on an active construction site until violations of approved plans are remedied (mostly erosion control violations).

CHAPTER 10 DEFINITIONS

1. Need a comprehensive review of use definitions and general definitions to ensure necessary words or phrases are suitably defined. Use of industry standard guides such as APA Planners Dictionary and similar resources is fine, if appropriate.
2. Combine the definitions in 10.3 with those in 10.4.
3. Accessory Structure definition references "principal structure". Principal structure is not defined.
4. Definition of encroachment doesn't seem to take Section 1.4.5 into account.
5. The various definitions of height, building height, story height need to be assimilated into a singular cohesive definition.
6. Definition of new impervious surface forgot to insert the date.
7. Definition of structure is limited to principal uses.
8. Need to distinguish restaurants (i.e. bar/grills) that serve alcohol from bar/tavern uses. ABC has seating and cooking facility requirements for on-premises hard alcohol establishments.
9. Define block.
10. Define change of use
11. Define enclosed.
12. Define frontage.
13. Define infill lots.
14. Define corner lot.
15. Define double frontage lot.
16. Define through lot.
17. Define front property line.
18. Define rear property line.
19. Define side interior property line.
20. Define site street property line.
21. Define property lines.
22. Define setback.
23. Define front yard setback. List this and others as "Setback, Front", etc. so they are clustered together.
24. Define rear yard setback.
25. Define side interior yard setback.
26. Define side street yard setback.
27. Delete definition of site area – already have lot area.
28. Delete definition of site depth – already have lot depth.

29. Define site plan.
30. Delete definition of site width – already have lot width.
31. Define unenclosed.
32. Define front yard. List this and others as “Yard, Front, etc.” so they are clustered together.
33. Define rear yard.
34. Define side interior yard.
35. Define side street yard.
36. Reorganize sign related definitions by indicating “Sign, window, Sign, Bracket,” etc so that they are clustered together. Clarify Window signs can also be installed on the outside also.

APPENDIX A: LEGACY PLANNED DEVELOPMENT DISTRICTS

1. Some PDDs were erroneously left off this list and need to be included

APPENDIX B: HIGHWAY CORRIDOR OVERLAY DISTRICT SUPPLEMENTARY DIAGRAMS

1. Remove Appendix B from UDO

APPENDIX C: MANUAL OF SPECIFICATIONS AND STANDARD DETAILS (MSSD)

1. Need to get these consistent with UDO Chapter 6 requirements (this may need to be separate from UDO update)
2. There are no specifications in Appendix C. We propose to add minimum design and construction standards for development projects to this Appendix (earthwork, etc.).
3. Need to pull this out and adopt separately to enable easier updates, etc.

APPENDIX 2: STAKEHOLDER SUMMARY

Appendix 2 summarizes stakeholder input from the County’s previous UDO update effort. Since the stakeholder interviews were conducted a year ago, staff followed up with the stakeholders and confirmed the input provided in 2020.

To: Rox Burhans, Lancaster County
From: Chad Meadows, CodeWright
Date: 8.6.20
CC: Robert Tefft, Lancaster County
RE: Stakeholder Interview Summary Notes



MESSAGE

This memorandum provides a summary of the input and feedback collected from the stakeholder interviews conducted as part of the UDO Assessment Report project. This memo is organized into the following three sections:

1. Stakeholder Interview Details
2. Issue Summary, Organized by Theme
3. Insights and Aspects for Follow-Up

Part 1. Stakeholder Interview Details

The following list identifies the 18 stakeholders identified by County staff who were contacted as part of this task over the month of June, 2020:

NAME	AFFILIATION	DATE
Charles Deese	Lancaster County Planning Commission	6.10.20
Dean Faile	Lancaster Chamber of Commerce	6.9.20
Donna Hagins	D.H. Haggins & Associates	6.9.20
Evan Freeman	Indian Land Action Council	6.9.20
James Hawthorne / Wes -	Lancaster County Water & Sewer District	6.10.20
Jamie Gilbert	Lancaster County Economic Development Dir.	6.11.20
Jeff Catoe	Lancaster County Public Works Director	6.9.20
Jim Crumpler	Iseley Surveying	6.9.20
John DuBose	Lancaster County Attorney	6.10.20
Jon Hardy	Lennar Homes Carolinas	6.24.20
Larry Honeycutt	Lancaster County Councilman	6.17.20
Matt Mandle	ESP Associates	6.10.20
Mike Bilodeau	MPV Properties	6.9.20
Mike Magette	Lancaster County Fire Marshal's Office	6.10.20
Shannon Catoe	Lancaster County Planning/Zoning Department	6.9.20
Steve Willis / Alison Alexander	Lancaster County Administrator/ Deputy Administrator	6.10.20

Part 2. Issue Summary, By Theme

This section provides a summary of the stakeholder comments received during the interview process. To protect confidentiality, comments are not attributed to any individuals. Rather, comments are summarized and grouped by category. One exception to this is a set of written comments prepared by Jamie Gilbert, Economic Development Director for Lancaster County. Jamie had prepared a prior list of comments regarding the current UDO and development review process which had already been submitted to County Planning staff. Mr. Gilbert's list is provided at the end of this memorandum, and the comments from his list have been incorporated here with the other feedback.

Approximately 150 comments have been organized into 10 general themes, with an additional "other" theme category for topics that do not easily fit into code-related provisions. It is important to note that there was a very wide range of stakeholder perspectives on the current UDO, and as such, some comments may conflict with others. The ten themes form the basis of exploration in the upcoming UDO assessment. Comments within each theme are not listed in any particular order and have been paraphrased to capture the essence of the comment. Issues that were mentioned multiple times by different stakeholders are only listed once. This issue summary is followed by a series of insights and topics for further follow-up.

1. CURRENT UDO STRUCTURE & ORGANIZATION

- i. Current code was well-intentioned, but the standards are too onerous
- ii. Current code is a difficult code to understand, even for staff, and it needs to be tweaked to make it easier to understand and follow
- iii. Too many "shoulds" – it is difficult to interpret what's mandatory versus what's encouraged
- iv. The current UDO is hard to work with and it's easy to make a mistake
- v. Given its complexity, it is really hard to teach new staff how to use the current code
- vi. Current code is too complex and requires users to review multiple different sections
- vii. The amount of "jumping around" necessary in the current ordinance (from section to section) is not productive
- viii. New code should have more charts
- ix. New code should simplify the rules, and should be very clear
- x. There is a lack of definitions, definitions need to be more clear and focused; for example, need a definition of land disturbance

2. DEVELOPMENT CONTEXT

- i. The 'panhandle' portion of the County is urban, and thus very different from the balance of the County, but there are no distinctions in the standards
- ii. There is a mismatch between the standards in the UDO – the County is largely rural, but many of the standards are very urban
- iii. The new code has many form-based elements that are not congruent with established community character
- iv. Zoning [*density (sic.)*] in panhandle area is too low and should be reassessed
- v. People would like to avoid Highway 521 appearing as a major auto-oriented corridor (like Independence Boulevard in Charlotte)
- vi. People want quality development all along Highway 521
- vii. Highway 521 corridor needs more beautification
- viii. Growing concern about accelerated development and growth in the area between Highway 5 and City of Lancaster
- ix. Density rules that allow 3 or more single-family detached homes on 1 acre are too dense
- x. Residential densities need to be lower in order to retain infrastructure capacity



3. DEVELOPMENT PROCEDURES (esp. SUBDIVISIONS)

- i. Current review process is fine and the planning team is a good group
- ii. The review process is overly complicated, and the rules remain unclear
- iii. The update project should find things that add time to the development review process and remove them
- iv. Length of review time is too long; takes longer than reviews in York County
- v. The water district is taking too long to provide comments on development applications
- vi. Process for new development is pretty straightforward, but there is a need to better clarify the process for redevelopment
- vii. Process for retrofitting sites that don't comply with the current standards is unclear
- viii. Preliminary plat decided by the Planning Board; should be the TRC
- ix. There is no real way to appeal denial from the Planning Commission, and this needs to be addressed
- x. Concern over elected officials reviewing site plans - this is a technical or ministerial process and not one that is open to the application of a lot of judgement or discretion
- xi. The variance requirements are too restrictive and exceed state rules – should limit to state standards
- xii. It seems that “mom & pop” applicants regularly get their variance applications approved, but developers do not
- xiii. UDO needs a procedure for adjusting development standards on a case-by-case basis
- xiv. Need more “embedded” flexibility as work-arounds take too much time
- xv. Current infrastructure bonding process has problems and needs review
- xvi. It is too difficult to do development agreements; other stakeholders claim that County cannot do development agreements
- xvii. Submittal/drawing requirements for site plans and plats is unclear
- xviii. Current subdivision standards are a little “weak” and provide a lot of “outs”
- xix. Subdivision plats review is much easier in York and Chester Counties
- xx. After-the-fact subdivisions that do not comply with the current provisions are a problem and the County needs a process to help ensure the after-the-fact subdivision is retrofitted to minimum requirements
- xxi. Major/minor subdivision threshold does not account for very large lots and should allow very large lot subdivisions of 6 or more lots to be treated as minor subdivisions
- xxii. Requirements for owners to sign subdivision applications is problematic when owners are from out-of-state
- xxiii. The lot size variation provisions in the cluster subdivision is unnecessary
- xxiv. Need more flexibility in terms of lot sizes in cluster subdivisions
- xxv. People like the cluster subdivision flexibility, but it can only be accomplished in the MDR district, and would be helpful if allowed in other districts
- xxvi. Cluster/conservation subdivisions need to include non-combustible siding and soffits, and 3 feet of clearance between the soffit and the lot line

4. ZONING DISTRICTS

- i. In many cases, the mixed-use district is the only way to accommodate multi-family- the requirement for inclusion of non-residential is problematic for residential developers
- ii. Mixed-use does not allow industrial uses
- iii. The MX district system is a mess and needs to be overhauled
- iv. Would like to see more environmentally-friendly/sustainable development in the MX districts
- v. Carolina Heelsplitter overlay district - do the current buffer width standards exceed the state standards?
- vi. McWhirter overlay has confusing density limits
- vii. Highway corridor overlay has building orientations standards that are not pedestrian friendly



- viii. No way to do PDDs anymore, and this option should be re-instated in the UDO; but perhaps not as a district
- ix. County should consider a conditional rezoning approach

5. LAND USES

- i. The use table is missing many modern use types
- ii. Need to add a major home occupation that allows for vehicles and equipment to be brought home for the evening
- iii. Need to maintain current utility classes and utility provisions in institutional districts
- iv. There is no provision for front-loaded townhomes - reconsider; rear-loaded townhome requirements add infrastructure costs
- v. Suggestion that overhangs over garages should be a sufficient way to address design considerations associated with front loaded townhomes
- vi. County needs more multi-family options in general

6. BUILDING PLACEMENT AND DIMENSIONAL REQUIREMENTS

- i. Current code requirements call for placement of buildings close to streets which hinders the ability to protect right-of-way for future road widening
- ii. Building placement requirements are resulting in curb cuts that are placed too close to street intersections
- iii. Building placement close to the street is not working – backs of buildings face streets; requires two-sided buildings
- iv. Standards requiring buildings to be close to the street is not leaving sufficient room for off-street parking
- v. Need deeper setbacks along Highway 521
- vi. Setbacks are established based on the size of a building, so it's difficult to answer basic setback questions
- vii. Need setback standards based on zoning districts
- viii. Lot widths should be reduced to a minimum of 50 feet in cluster subdivisions
- ix. The UDO provisions are relative, so aspects like setbacks and other provisions are hard to explain because everything depends upon the situation

7. INFRASTRUCTURE, STREETS, AND ACCESS

- i. Fire department rules for rural areas are problematic
- ii. The County should upgrade its development standards to help mitigate environmental degradation and reduce infrastructure costs
- iii. Meandering or curved sidewalks are a problem with utilities
- iv. Stormwater regulations may be better as a stand-alone ordinance, mostly due to volume of these standards
- v. Call for increased stormwater retention and decreased impervious surfaces
- vi. Should not require functional water/sewer systems prior to building permit issuance in cases where one applicant is the owner, developer, and builder
- vii. All streets should incorporate a utility strip within the right-of-way
- viii. Traffic congestion is a concern in the panhandle along Highway 521, and it should be widened to help alleviate congestion
- ix. Trucks and construction vehicles are damaging area roadways, and there are few funds for repair (example: Possum Hollow Road)
- x. The County is not currently accepting dedication of streets



- xi. The street configuration requirements in the mixed-use districts are too urban in nature for the County
- xii. The roadways are not classified, though many of the development regulations are applied based on the type of street the development fronts
- xiii. Arterial streets should be developed differently from other types of streets
- xiv. TIA requirement thresholds are too low
- xv. Road-naming system in UDO is strange
- xvi. Reconcile cul-de-sac diameter requirements
- xvii. 1,000-foot maximum block lengths are a problem
- xviii. Unit caps on cul-de-sac streets for the need for additional streets and promotes mass grading
- xix. Street connectivity standards are a problem
- xx. Does not support street stubs to adjacent development
- xxi. Block length standards lack flexibility, and there are a lot variance requests
- xxii. There are existing subdivisions in the County created without plats or deeds for access easements; allows access to lots to be subsequently removed
- xxiii. Should ensure private accessway easements are deeded and shown on plats
- xxiv. Current code allows individual lot access via a 25-foot-wide accessway for subdivisions of 5 or fewer lots; this is a problem
- xxv. Need better standards for private accessways, when they are allowed
- xxvi. Private access provisions are a problem, and need standards that will ensure access for emergency service vehicles
- xxvii. Private accessways need to be all-weather, 22 feet wide with no parking, and include a vehicular turn-around
- xxviii. Need better enforcement of conversion of private accessway easements into streets as subsequent development takes place

8. SIGNAGE REQUIREMENTS

- i. The sign ordinance is too complicated
- ii. Sign regulations are spread throughout the ordinance, instead of in just one place
- iii. Sign rules don't limit the number of signs, just adds unnecessary costs
- iv. The sign standards do not allow banners (e.g., "now open") along corridors
- v. Sign standards need to be more flexible
- vi. Sign spacing rules have lost their common sense - makes it difficult for tenants and sub leasers to have signage
- vii. Many of the sign standards are small and thus require variances, and requirements to secure variances makes it difficult to secure commercial tenants.
- viii. There is no need to regulate window signs
- ix. Monument sign standards are also too small
- x. Max wall sign size provisions are too small
- xi. Wall sign limitations of 75 sf max for commercial buildings is a problem, and would suggest tying sign size back to façade length – some prefer the old wall sign standards: 1 sf of sign area for each 1 linear foot of building façade.
- xii. Highway corridor overlay requirements result in buildings backing up to the roadway, and the need for signage on two sides of the building – the max wall sign size limitations result in very small signage that could create a safety problem.



9. LANDSCAPING AND OPEN SPACE REQUIREMENTS

- i. The new UDO has much less landscaping than the prior code
- ii. Bufferyard standards are hard to implement and don't work well
- iii. Main corridor streets are not getting enough landscaping – the buffers along Highway 521 can be reduced to 15 feet – this is too narrow to be a meaningful buffer
- iv. Landscaping standards require so much landscaping that it can hide signage and that is unreasonable
- v. Landscaping requirements to place plants adjacent to exterior building walls is not desirable as it promotes rot
- vi. There are utility conflicts with planting requirements along streets
- vii. 5" caliper requirements for trees is problematic
- viii. Buffer yards should be determined by use, not district – commercial uses next to residential uses yields lots of problems
- ix. Landscaping buffer rules should allow fences/walls to reduce buffer widths; should also allow walkways or trails
- x. Buffer requirements should be increased to help protect the environment and keep infrastructure costs manageable
- xi. Need limitations on clear cutting of existing trees in advance of submitting a development application
- xii. People feel like there is a lack of public gathering space and public park resources (at least in urban areas)
- xiii. People like trails for transportation and recreation
- xiv. County does not have the kinds of sport facilities needed for its residents
- xv. Concern over dedication of trail segments to County- need to be maintained by others; not the County
- xvi. Need more subdivision amenity requirements, particularly for open space and recreation

10. OFF-STREET PARKING REQUIREMENTS

- i. Parking standards are vague
- ii. Maximum parking standards are a problem
- iii. The commercial off-street parking maximum standard (2x/minimum) makes it difficult to accommodate parking spaces for employees (the current parking standards would make a development like Redstone impossible)
- iv. 10-foot minimum spacing between parking and buildings is too extreme
- v. Some use types are missing from the parking standards
- vi. Need parking standards for light industrial uses
- vii. Why are bicycle parking standards required in rural portions of the County?

11. OTHER COMMENTS

- i. Elected officials want development to happen quickly, but also want quality
- ii. The County Council wants the UDO and development review process to be simple, easy, clear, and fast
- iii. Happy with the new Planning staff
- iv. Permit fees are too high; need to avoid high permit fees because it can result in developers cutting corners
- v. The code allows owners of existing buildings to use the prior ordinance
- vi. High quality metal siding should be a permitted exterior material
- vii. Want to be sure that new development address the negative impacts it creates



Part 3. Insights and Aspects for Follow-Up

REFORMATTING

The current UDO is organized into a series of different Word files, and lacks a unified table of contents, index, and cross references. The current UDO has subtly different numbering styles and lacks any navigation features. Establishing a new single Word file with a new style set would improve many of these problems, and would make using the document easier.

RECOGNIZE CONTEXT

Many of the comments identify the problems resulting from the application of urban standards in suburban or rural areas. The new UDO needs development standards that are better calibrated to their urban, suburban, or rural contexts. Mandates for establishment of mixed use as the sole means of accommodating higher density residential housing are not working, and should be reconsidered. Successful vertically-integrated mixed-use development requires an urban or small town context and also relies on demand from numerous households in close proximity – an aspect that has not yet developed in many parts of the County. Standards need better tailoring and the mixed-use system should be re-thought.

ADD FLEXIBILITY

The current UDO includes few incentives and an insufficient amount of flexibility. It would benefit from adding procedural flexibility, alternative methods of compliance for some development standards, menu-based options for reaching compliance with design standards where an applicant may choose from among a variety of acceptable measures, and provisions that provide guidance for retrofitting and redevelopment. While not initially envisioned as part of this project, inclusion of these features would likely assist the County in reaching its goals for UDO improvement.



Comments from Jamie Gilbert, Economic Development Director

Sect.	Item	Issue	Recommendation
1.14 A	Promote a strong, diverse economy that supports a wide variety of businesses and enterprises.	Economic development is noted as the first priority (Page 1-1). Need to make sure this objective is addressed throughout the UDO.	UDO needs to be more business friendly to achieve this.
2.5.3	Use Table	The use table ignores a number of common uses such as general office, corporate headquarters, etc. Additional uses should be added to the table. Also, business and mixed zones do not allow for light industrial uses. Some of these zones are compatible for such uses.	Allow light industrial uses to be Permitted with Review or a Conditional Use in the GB, RB, MX and IMX zones.
3.5	Mixed Use District	There are a number of typical uses not listed. Minimum lot size is 25 acres. This is arbitrary and prevents smaller lots from being zoned MX that may be conducive to the zoning.	Consider removing or significantly reducing the size requirement
4.2.1 E	McWhirter Field Overlay District - Land Use Compatibility and Guidance	Commercial Industrial, Manufacturing and Warehousing density and use requirements for the various zones (Section E, Pages 4-5 to 4-6) may be more restrictive than what is needed. As the county seeks to develop a 478 acre industrial park around the airport we need to make sure we are complying with state and federal requirements but are not being more restrictive. Also, the language regarding permitted uses is contradictory and needs to be corrected. For example the first category list Manufacturing Facilities, Industrial Plants and Warehousing as not allowed in Zones A and Zones B1 & C2; however, in the same table it lists Warehousing and Light Industrial/Manufacturing as conditional uses. Section G (Pages 4-7 to 4-8) of the airport overlay district has a permit process for existing and future uses that seems to create a number of extra steps and it is unclear who is issuing the permit. Table 2 (pages 4-9 to 4-11) has information for compatible and incompatible may be more restrictive than what is allowed by state and federal requirements.	Review the density and use requirements for the various airport zones and make adjustments that allow for maximum use of industrial property within the zones while meeting state and federal requirements. Also, review Table 2 that lists compatible and non compatible uses to make sure these are maximizing what is allowed and still meets state and federal requirements.
6.8	Traffic Impact Analysis	The UDO (Page 6-10) requires any project that generate 50 peak hour trips to undertake a Traffic Impact Analysis. The chart list uses and their square footage of each that would generate these trips based on the ITE Trip Generation Model. The numbers are higher than what is listed in the 10th edition of the ITE and are not competitive with what is required by other counties in the area. In fact, York County's UDO requires the more in depth Tier 2 traffic impact analysis (similar to what we require for all TIAs) for industrial and commercial projects when they are expected to generate more than 400 average daily trips or 100 or more peak hour trips. This seems to be far more reasonable than what Lancaster County requires. Also, the requirement for a TIA seems excessive when required in locations that have very little traffic such as some parts of Lancaster, Heath Sprines and Kershaw.	Amend the TIA requirement in the UDO to increase the number of peak hour trips required for a TIA to be undertaken for industrial and commercial projects. The 10th edition of the ITE Trip Generation numbers and the section of the York County UDO that pertains to TIA requirements are attached.
7.2.4 B	Parking Maximum	Maximum parking standard is twice the minimum number of spaces required for a use as outlined in Section 7.2.4A above. According to one developer who spoke with the previous planning director, they were told the maximum parking provision was added to "encourage customer biking to area retail projects." By way of example, restaurants are required to have 1 parking space for every 250 SF. Thus, the maximum parking spaces allowed for any restaurant is 2 spaces for every 250 SF. At Chick-Fil-A (Indian Land), the building contains 4,737 SF and 57 parking spaces. Under the UDO, the maximum number of spaces allowed would have been 38 spaces. Had this ordinance been in effect at the time the Chick-Fil-A deal was done the project would not have happened. Restaurants need to have the ability to allow them to accommodate large volumes at peak times. Without it, they will not be successful.	Remove the maximum number of spaces.
7.4.5	Wall Signs	Section 7.4.5 of the new UDO limits the amount of wall signage (Regional Business) to a maximum of 75' per building, regardless of building size. Under the previous UDO, the maximum formula for any wall sign permitted on any commercial building was limited to one square tenant. foot of sign space for each linear foot of frontage for each designated leased area. The change in standard - from 1 SF per each linear foot of leased frontage to a maximum of 75 SF per building - effectively means anchor tenants (such as a grocer or big box user) are limited to the same amount of signage as a tiny boutique store. It also means, in the case of multi-tenant buildings, the likely maximum number of signs per building will be three (assumes 25' per sign, measuring 3' x 8.33'). Given that each multi-tenant building will likely have 4-6 tenants, this is a deal killer. The same can be said for the 75' limitation on big-box anchor tenants.	Restore the former wall sign requirements or develop a new formula that is based on percentage of wall space for each square tenant.
7.4.5	Monument Signs	Free standing signs are now limited to 10' in height. The previous standard was 20'. Along major thoroughfares the location of projects in need of larger ground signs a 10' sign is too small to provide the necessary panels and exposure required.	Restore the previous standard of 20'
6.11.3 G and H	Road Name Standards	The naming of roads can be restricted by duplications or similar names in surrounding counties. This requirement can be excessive at times as was the case with the renaming of HSBC Court to Sharonview Way. Sharonview owns the only building on the court and was told they could not have their requested name due to a Sharonview Street in incorporated Fort Mill approximately 8 miles from the Indian Land location. Also, Sharon Road in Charlotte which was 14 miles away was cited.	Greater flexibility is needed in the naming of roads when similar names may exist in neighboring counties. Perhaps a distance should be agreed upon. For example: Similar names that are less than five miles from the location being named will be considered when approving a road name.
Various Sections	Commercial/Retail Design (Highway Overlay District and other sections)	The UDO in various sections places requirements on retail center design that does not allow for projects like The Promenade in which the shops are visible from the road with parking in the front. This does not lend itself to developments that appear welcoming and full of activity, which in turn limits their ability to be successful. Additionally, the UDO requires commercial buildings to be constructed close to the road which creates a safety and the ability to widen roads in the future as the structures are too close to the roadway.	The older UDOs did not have such restrictions. Economic Development recommends eliminating design requirements that hide the front of the stores from the road and requires buildings to be constructed close to the road.



APPENDIX 3: INPUT FROM GREATER INDIAN LAND CHAMBER OF COMMERCE

Appendix 3 includes input from the Greater Indian Land Chamber of Commerce. In June 2021, the Lancaster County Development Services Director met with representatives from the Greater Indian Land Chamber of Commerce. The Chamber formed approximately four months ago. The purpose of the meeting was to identify any issues with the current UDO the Chamber's member have presented.



DATE: June 4, 2021

FROM: Rox Burhans, Development Services Director

TO: Robert Tefft, Senior Planner

RE: **UDO Update; Greater Indian Land Chamber of Commerce Meeting**

This memo summarizes my June 10, 2021 meeting with Mr. Mike Neese, Chief Executive Officer and Ms. Clare McConaughy, Chamber Captain of the Greater Indian Land Chamber of Commerce. The Chamber formed approximately four months ago and the purpose of the meeting was to identify any issues with the current Unified Development Ordinance (UDO) that have been presented by members.

The feedback was of a generalized nature and may be more appropriate for the upcoming Comprehensive Plan. Consideration should be given to including a chamber member on any future Comprehensive Plan stakeholder committee. The generalized nature of the feedback is likely attributed to the recent nature of their formation. The following will summarize the feedback.

GILCC Chamber Feedback

1. There should be two development ordinances and regulatory approaches: One for Indian Land and one for outside Indian Land/rural areas
2. County needs to have a proactive plan for Indian Land
 - a. New development such as apartments being constructed without sidewalks. Existing sidewalks are disjointed and lack connections.
 - b. County and school district not properly planning for pace of growth for facilities and service needs (staff referenced upcoming comprehensive plan). School district needs a new high school site.
 - c. Need better roadway connectivity/collector roads
3. Need to have a plan for beautification. Intersections and corridors need to be more attractive as a gateway to Lancaster County from the Ballantyne Area of Charlotte.
 - i. Need identity elements such as signage and landscaping, etc.
 - ii. Specifically referenced having county maintain the US-521 center landscape median similar to some North Carolina communities maintaining US-74.
 - iii. Have more roadside litter removal efforts
 - iv. Require restaurants, particularly fast food establishments, to have parking lot garbage receptacles for customer use.
4. Would generally like to have the county manage Indian Land in a "city-like" manner with possibly separate or enhanced services provided due to the unique nature of the community and the level of investment Indian Land produces.
 - a. Did not believe incorporating Indian Land into a municipality will be possible in foreseeable future due to the issues with prior (failed) incorporation movement three years ago.
5. Views Indian Land boundary to be at the new US 521 Indian Land High School. I commented that I viewed it at intersection of US 521 and Waxhaw Highway, which would be a smaller boundary.

Please let me know if you have any questions regarding the above feedback.

Agenda Item Summary

Ordinance # / Resolution #: DA-2021-0664, The Exchange

Contact Person / Sponsor: Robert Tefft / Planning

Department: Planning

Date Requested to be on Agenda: 9/15/2021

Issue for Consideration:

Proposed Development Agreement in association with a proposed mixed-use development located on approximately 130 acres at 8918 Charlotte Highway (across from US 521 and Possum Hollow intersection). This is intended to be an staff introduction of the agreement and project only.

The site is zoned Light Industrial (LI) District and the applicant is concurrently requesting to rezone the site to Mixed Use (MX) District, as well as to receive approval of a Master Development Plan.

Points to Consider:

Should Lancaster County enter into a Development Agreement in association with a proposed mixed-use development consisting of 105,000 square feet of non-residential floor area, 390 multifamily apartments, and 320 townhomes. Proposed Master Development Plan is attached.

Funding and Liability Factors:

N/A

Council Options:

Informational only.

Recommendation:

Informational only.

ATTACHMENTS:

Description	Upload Date	Type
Committee of the Whole Memo	8/25/2021	Exhibit
Proposed Master Development Plan	8/25/2021	Exhibit
Revised Proposed Development Agreement	9/10/2021	Backup Material

PROPOSAL: Application by Crosland Southeast to approve a Development Agreement with Lancaster County in accordance with Unified Development Ordinance Section 9.2.18 for a proposed 710-unit (5.5 dwelling units per acre) townhome/multifamily apartment and 105,000 square foot nonresidential development located on approximately 130 acres of land.

COUNCIL DISTRICT: District 7, Brian Carnes

OVERVIEW:

The intent of this request is to rezone an approximately 130-acre portion of 8918 Charlotte Highway from Light Industrial (LI) to Mixed-Use (MX) District. The intent is to develop the property with 105,000 square feet of non-residential uses, 390 multifamily apartment units, and 320 townhomes at a density of 5.5 dwelling units per acre. In addition to including Indian Land's first two mixed-use buildings, the development would include several private roads and alleys (with street trees and lighting) extending through the parcel to serve the various buildings and lots, as well as connect to the adjacent parcel (TM# 0010-00-028.02) to the east as part of a potential future collector road alignment that could ultimately connect to Henry Harris Road.

It should be noted that staff has been continuing to work with the developers on the public space to be incorporated within the development. In addition to typical streetscape elements, the project would also include a community space where the non-residential areas, multifamily and townhome all come together.

The applicant submitted the proposed Development Agreement enclosed with this staff report. The Development Agreement reflects the requirements of UDO Section 9.2.18 including, but not limited to: legal description, description of uses, and traffic impact analysis (TIA).

COMMUNITY FACILITY NEEDS:

There are no facility needs identified at this time.

PRIOR ACTIONS:

The Development Agreement was reviewed by the Planning Commission at their meeting of August 17, 2021, where the Commission recommended disapproval by a vote of 4-1. The Commission noted uncertainty over the Traffic Impact Analysis (TIA) and poor timing for the project given recent traffic impacts with the start of the new school year as reasons for their recommendation. It should also be noted that the Commission recommended disapproval of the rezoning application (4-1 vote) and Master Development Plan (motion to approval failed due to lack of second) associated with this Development Agreement.

DRAFT

(Space above this line for recording use)

STATE OF SOUTH CAROLINA) **DEVELOPMENT AGREEMENT**
)
COUNTY OF LANCASTER)

This **DEVELOPMENT AGREEMENT** (the “Agreement”) is made and entered into as of the ____ day of _____ 2021 (“Agreement Date”), by and between C4 Investments, LLC, doing business as Crosland Southeast (“Developer”), and the **COUNTY OF LANCASTER** (the “County”), a body politic and corporate, a political subdivision of the State of South Carolina.

RECITALS

WHEREAS, Developer has obtained the contractual right to acquire certain real property consisting of approximately 130.2455 acres, more or less, located in the County and known as The Exchange at Indian Land development and more fully described in Section 1.04 of this Agreement (“Property”) and thus has an equitable interest therein;

WHEREAS, Developer has submitted an application to the County requesting that a portion of Tax Parcel No. 0010-00-029.00, Parcel A shown on Exhibit A-2 hereto, comprising approximately 130.2455 acres (out of a total of approximately 158.258 acres), be rezoned to Mixed Use (MX) District;

WHEREAS, Developer has also submitted an application to the County requesting approval of the MX District Master Development Plan for the Property;

WHEREAS, Developer and County have determined that it is in the best interests of the County and Developer to enter into this Agreement to set forth the terms and conditions of the development in order to achieve a well-coordinated, master planned development, reasonably mitigate any project impacts to the community and achieve predictability to the County and the Developer on the scope and terms of the development;

WHEREAS, the Developer desires to obtain from the County in connection with the development, and the County is willing to provide, assurances: (1) that the Property will be zoned Mixed Use (MX) District for the duration of this Agreement; (2) that upon receipt of its development and construction permits it may proceed with the planned development and construction; and (3) that the development rights will be vested for the duration of this Agreement; and

WHEREAS, in connection with the proposed development, Developer and County recognize that the scope and term of the planned development under this Agreement accomplish the statutory aims of comprehensive, orderly planning and development within the County, thus providing benefits to the citizens of the County and providing public benefits through, among other things, the donation of funds or financing of those public facilities and services described and identified in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth in this Agreement, the receipt and sufficiency of such consideration being acknowledged by the parties, and pursuant to the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 to -160, Code of Laws of South Carolina 1976, as amended (the “Act”) and the Development Agreement Ordinance for Lancaster County, South Carolina (“Ordinance No. 663”), the parties to this Agreement, intending to be legally bound to a development agreement in accordance with the Act and Ordinance No. 663, agree as follows:

ARTICLE I

GENERAL

Section 1.01. Incorporation. The above recitals are incorporated in this Agreement as if the recitals were set out in this Agreement in its entirety. The findings contained in the Act are incorporated into this Agreement as if it were set out in this Agreement in its entirety.

Section 1.02. Definitions. (A) As used in this Agreement:

(1) “Act” means the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 to -160, Code of Laws of South Carolina 1976, as amended.

(2) “Agreement” means this Development Agreement.

(2A) “Agreement Date” means 2021.

(3) “Comprehensive Plan” means the master plan for the County and the official map adopted pursuant to S.C. Code §§ 6-29-510 through 6-29-530, inclusive, as amended from time to time, including the Lancaster County Comprehensive Plan adopted December 14, 2014 and updated and amended on July 20, 2020.

(4) “County” means the County of Lancaster, a body politic and corporate, a political subdivision of the State of South Carolina.

(5) “County Council” means the governing body of the County.

(6) “Developer” means C4 Investments, LLC, doing business as Crosland Southeast, and its successors in title to the Property who undertake Development of the Property or who are transferred Development Rights.

(7) “Development Rights” means the right of the Developer to develop all or part of the Property in accordance with this Agreement.

(8) “Laws and Land Development Regulations” means the County’s current applicable rules and regulations governing development of real property in force as of the Agreement Date, including the UDO as amended through the Agreement Date, as evidenced by Exhibits E and E-1 through E-5 attached hereto and incorporated herein by reference.

(9) “Ordinance No. 663” means Ordinance No. 663 of the County which is cited as the Development Agreement Ordinance for Lancaster County, South Carolina.

(10) “Ordinance No. 2021- ” means Ordinance No. 2021- of the County, zoning a portion of Tax Parcel No. 0010-00-029.00, comprising the Property herein, to Mixed Use (MX) District, a copy of which is attached hereto as Exhibit E-1.

(11) “Ordinance No. 2021- ” means Ordinance No. 2021- of the County approving this Agreement, a copy of which is attached hereto as Exhibit E-2.

(12) “Parties” means County and Developer.

(13) “Property” means the land, and any improvements thereon, described in Section 1.04.

(14) “UDO” means the Lancaster County Unified Development Ordinance adopted by the County Council of Lancaster County, as amended through the Agreement Date, a copy of which is attached hereto as Exhibit E-4.

(B) Unless the context clearly indicates otherwise, terms not otherwise defined in this Agreement have the meanings set forth in the Act and Ordinance No. 663 or the UDO.

Section 1.03. Parties. The parties to this Agreement are County and Developer.

Section 1.04. Property. This Agreement applies to a portion of Tax Parcel No. 0010-00-029.00, comprising approximately 130.2455 acres (out of a total of approximately 158.258 acres). The Property is reflected in Exhibit A-1 (Legal Description) and A-2 (Plat) (the subject Property is Parcel A shown on Exhibit A-2), which exhibits are attached hereto and incorporated herein by reference as if these exhibits were set out in this Agreement in their entirety.

Section 1.05. Zoning. A portion of Tax Parcel No. 0010-00-029.00, totaling approximately 130.2455 acres (out of a total of approximately 158.258 acres) comprising the

Property, is anticipated to be rezoned MX District (from LI District) pursuant to Ordinance No. 2021- .

Section 1.06. Development Program.

(A) The UDO provides for the development uses on the Property, including population densities, building intensities and height.

(B) The development of the Property must meet all applicable standards contained in the UDO as of the Agreement Date. In the event of conflict between the standards contained in the UDO as of the Agreement Date and this Agreement, the terms of the UDO control.

(C) The Development Program for the Property is set forth in the MX District Master Development Plan for the Property which has been approved by the County Council pursuant to Resolution No. 2021- . This MX District Master Development Plan for the Property, reference to which is herewith made, is included as part of this Agreement as Exhibit B.

Section 1.07. Development Schedule.

(A) The estimated development schedule for the Property is set forth on Exhibit C, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.

(B) County and Developer acknowledge that the development schedule is an estimate. The failure of the Developer to meet a commencement or completion date does not, in and of itself, constitute a material breach of this Agreement, but must be judged based on the totality of the circumstances. The development schedule is a planning and forecasting tool only. County and Developer acknowledge that actual development is likely to take place at a different pace than set forth in the development schedule because of future market forces.

(C) County agrees that if Developer requests an adjustment to the development schedule, including commencement dates and interim completion dates, then the dates must be modified if the Developer is able to demonstrate and establish that there is good cause to modify those dates. “Good cause” includes, but is not limited to, changes in market conditions.

(D) Periodic adjustments to the development schedule do not require a formal amendment to this Agreement and are not considered a major modification. To adjust the development schedule, the Developer shall submit a proposed adjustment to the Clerk to Council who shall forward copies of the proposed adjustment to each member of County Council. The proposed adjustment must be accompanied by an explanation and justification. The proposed adjustment is effective sixty (60) days from receipt by the Clerk to Council unless the County Council has disapproved the proposed adjustment by passage of a resolution to that effect within the sixty (60) day period.

Section 1.08. Relationship of Parties. This Agreement creates a contractual relationship among the Parties. This Agreement is not intended to create, and does not create, the relationship of partnership, joint venture, or any other relationship wherein any one of the parties may be held responsible for the acts of any other party. This Agreement is not intended to create, and does not create, a relationship whereby any one of the parties may be rendered liable in any manner for the debts or obligations of any other party, to any person or entity whatsoever, whether the debt or obligation arises under this Agreement or outside of this Agreement.

Section 1.09. Benefits and Burdens.

(A) The Parties agree that the burdens of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interests to the Parties to this Agreement.

(B) Except for the owners and lessees of completed residences and buildings on individual lots who are the end users and not developers thereof and the owners and lessees of individual lots, who are not developers and who intend to build a residence or building on the lot for the owner or lessee to occupy, any purchaser or other successor in title is responsible for performance of Developer's obligations pursuant to this Agreement as to the portion of the Property so transferred. Developer must give notice to the County of the transfer of property to a developer in the manner prescribed in Section 3.05.

(C) Developer acknowledges and agrees that it and its successors and assigns (i) are responsible for the development of the Property if and when Developer acquires title to and Development Rights for the Property, and (ii) if Developer develops the Property, Developer will develop the Property in accordance with the terms and conditions of this Agreement.

Section 1.10. Term. The term of this Agreement commences on the Agreement Date and terminates five (5) years thereafter.

Section 1.11. Required Information. Ordinance No. 663 requires a development agreement to include certain information. Exhibit D contains the required information or identifies where the information may be found in this Agreement. Exhibit D is incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations and Warranties of County.

(A) The County has found that the development permitted by this Agreement is consistent with the County's Comprehensive Plan and UDO.

(B) The County has approved this Agreement by adoption of Ordinance No. 2021- in accordance with the procedural requirements of the Act, Ordinance No. 663 and any other applicable state law.

(C) The County represents that prior to the final reading of Ordinance No. 2021- [REDACTED] that at least two public hearings were held after publication of the required notice and the publication of a notice of intent to consider a proposed development agreement.

Section 2.02. Representations and Warranties of Developer.

(A) Developer represents that the number of acres of highland contained in the Property is greater than twenty-five acres.

(B) Developer represents that, as of the Agreement Date, it has contractual rights to acquire the Property and thus has an equitable interest therein.

(C) Developer represents and warrants that the execution, delivery and performance by the respective individual or entity signing this Agreement on behalf of the party has been duly authorized and approved by all requisite action on the part of Developer.

ARTICLE III

DEVELOPMENT RIGHTS

Section 3.01. Vested Right to Develop.

(A) County agrees that the Developer, upon receipt of its development permits as identified in Section 3.04, may proceed to develop the Property according to the terms and conditions of this Agreement, including the MX District Master Development Plan described in Section 1.06(C), the UDO, and the other Laws and Land Development Regulations. The right of Developer to develop the Property as set forth in this Agreement is deemed vested with Developer for the term of this Agreement when the Developer has complied with all of the requirements of Section 5.19 of this Agreement.

(B) County agrees that the specific Laws and Land Development Regulations in force as of the Agreement Date, including the UDO, as set forth in Exhibits E and E-1 through E-5 to this Agreement, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety, shall govern all aspects of the development of the Property, according to the terms and standards as stated in this Agreement, for the term of this Agreement.

(C) The Developer has a vested right to proceed with the development of the Property in accordance with the zoning classification set forth in Ordinance No. 2021- [REDACTED], the UDO, the other Laws and Land Development Regulations, and the terms of this Agreement, including without limitation the Development Program, when the Developer has complied with all of the requirements of Section 5.19 of this Agreement.

(D) To the extent that this Agreement may contain zoning and development standards which conflict with existing zoning and development standards, including zoning and development

standards contained in the UDO, the standards contained in this Agreement supersede all other standards and this Agreement is deemed controlling.

(E) The Developer acknowledges that financial guarantees will not be accepted for water, sewer and storm water infrastructure and the water, sewer and storm water infrastructure must be installed, tested and in acceptable condition before final plat approval.

Section 3.02. Effect on Vested Rights Act and County Ordinance No. 673. The Parties agree that vested rights conferred upon Developer in this Agreement are not affected by the provisions of the Vested Rights Act, codified as S.C. Code §§ 6-29-1510 to -1560, Code of Laws of South Carolina 1976, as amended, or the provisions of Ordinance No. 673, the County's ordinance relating to the Vested Rights Act. In addition, subject to the provisions of Section 3.03(A) of this Agreement, all rights and prerogatives accorded Developer by this Agreement shall immediately also constitute vested rights for the development of the Property including vested rights pursuant to the Vested Rights Act and the provisions of Ordinance No. 673, for the term of this Agreement and the maximum period for vesting rights under the Vesting Rights Act. Section 3.03(A) of this Agreement does not abrogate any rights either preserved by S.C. Code § 6-31-140, Ordinance No. 663, Ordinance No. 673, the UDO, or that may have vested pursuant to common law and otherwise in the absence of a development agreement.

Section 3.03. Applicability of Subsequently Adopted Laws and Land Development Regulations.

(A) It is recognized that laws and regulations will periodically change. However, the laws applicable to the development of the Property during the Term of this Agreement shall be the Laws and Land Development Regulations in effect on the Agreement Date as set forth on Exhibits E and E1 – E5, except as expressly provided otherwise in this Agreement.

Subject to the provisions of S.C. Code § 6-31-140, the County shall not apply subsequently adopted laws or regulations to the Property or the Project unless the County has held a public hearing and has determined: (1) the proposed subsequent laws or regulations are not in conflict with the Current Laws and Land Development Regulations governing the Agreement and do not prevent the development of the Property set forth in this Agreement; (2) the proposed subsequent laws or land development regulations are essential to the public health, safety, or welfare and the proposed subsequent laws or land development regulations expressly state that they apply to a development that is subject to a development agreement; (3) the proposed subsequent laws or land development regulations are specifically anticipated and provided for in this Agreement; (4) substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement which changes, if not addressed by the County, would pose a serious threat to the public health, safety, or welfare; or (5) this Agreement is based on substantially and materially inaccurate information supplied by Developer.

(B) Notwithstanding the provisions of subsection (A) of this section, the County agrees that if County Council imposes a moratorium or other similar restriction that would curtail or

hinder the rate at which development can occur, then the moratorium or other similar restriction shall not apply to the Development of the Property.

(C) Developer agrees to comply with any county-wide storm water regulations, building, housing, electrical, plumbing, and gas codes adopted by County Council after the Agreement Date and in force at the time plans for buildings are submitted to the County for review. Nothing in this Agreement is intended to supersede or contravene the requirements of any storm water, building, housing, electrical, plumbing, or gas code adopted by County Council.

Section 3.04. Development Permits.

(A) Developer agrees to obtain all local development permits for the development of the Property. Local development permits, approvals and processes, some of which may have been obtained or complied with as of the Agreement Date, include, but are not limited to:

- (1) Site plan or preliminary plan approval;
- (2) Civil plan approval;
- (3) Final plat approval;
- (4) Zoning permits;
- (5) Building permits; and
- (6) Sign permits.

(B) The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions.

Section 3.05. Transfer of Development Rights.

(A) Developer may, at its sole discretion, transfer its Development Rights to other developers. The transferring Developer must give notice to the County of the transfer of any Development Rights. The notice to the County must include the identity and address of the transferring Developer, the identity and address of the acquiring Developer, the acquiring Developer's contact person, the location and number of acres of the Property associated with the transfer and the number of residential units or commercial acreage subject to the transfer. Any Developer acquiring Development Rights is required to file with the County an acknowledgment of this Agreement and the transfer of Development Rights is effective only when the County receives a commitment from the acquiring Developer to be bound by it. In the event of the sale, transfer, or other conveyance of all or a portion of the Property and compliance with the conditions set forth herein, Developer shall be released from any further obligations with respect to this Agreement as to the portion of the Property so transferred, and the transferee shall be considered as substituted as Developer under the Agreement as to the portion of the Property so transferred.

(B) This provision does not apply: (i) to the purchaser or other successor in title to Developer who is the owner or lessee of a completed residence or building and is the end user and not the developer thereof or who is the owner or lessee of an individual lot, who is not a developer and

who intends to build a residence or building on the lot for the owner or lessee to occupy; (ii) to any mortgage lender either as the result of foreclosure of any mortgage secured by any portion of the Property or any other transfer in lieu of foreclosure; (iii) to any third party purchaser at such a foreclosure; or (iv) to any third party purchaser of such mortgage lender's interest subsequent to the mortgage lender's acquiring ownership of any portion of the Property as set forth above. Furthermore, nothing contained herein shall prevent, hinder or delay any transfer of any portion of the Property to any such mortgage lender or subsequent purchaser. Except as set forth herein, any such mortgage lender or subsequent purchaser shall be bound by and shall receive the benefits from this Agreement as the successor in title to Developer.

ARTICLE IV

DEDICATIONS AND FEES AND RELATED AGREEMENTS

Section 4.01. Purpose of Article. The Parties understand and agree that Development of the Property imposes certain burdens and costs on the County, including those for certain services and infrastructure improvements. Eventually, *ad valorem* taxes collected from the property may meet or exceed the burdens and costs placed upon the County, but certain initial costs and capital expenditures are now required that are not to be funded by any increase in taxes paid by existing residents of the County. The purpose of this article is to identify the matters agreed upon to be provided by the Developer to mitigate such burdens and costs.

Section 4.01A. Facilities for Development. Subject to compliance with applicable laws, all provisions of this Agreement and prior approval of construction plans by the County or other applicable governmental entity, Developer, at its cost and expense, shall install the requisite infrastructure, including transportation, water, and sanitary sewer infrastructure, for its Development of the Property, pursuant to Section 4.04 below and the Development Program set forth on Exhibit B as such Development proceeds pursuant to Exhibit C. Notwithstanding any provision herein to the contrary, Developer hereby assures the County that adequate infrastructure shall be available concurrent with the impacts of Development of the Property.

Section 4.01B. Payment for School District. Developer will pay Lancaster County Five Hundred and No/100 Dollars (\$500.00) per residential housing unit to offset the impact of the development upon the Lancaster County School District. The school district payment shall be made when a building permit is issued.

Section 4.01C. Funds for Public Safety. Developer agrees to pay Lancaster County as follows: (1) for new residential dwelling units (a) the sum of One Thousand ~~Four~~Two Hundred Sixty-~~Eight~~Three (~~\$1,468.00~~1,263.00) Dollars per multi-family residential housing unit, and (b) One Thousand ~~Seven~~Five Hundred ~~Fifty-Six~~Nine (~~\$1,756.00~~1,509.00) Dollars per townhome/single-family attached residential housing unit; and (2) for new non-residential construction (a) the sum of One Thousand ~~Five~~Six Hundred ~~Ninety-Three~~(Fifty ~~\$1,593.00~~\$1,650.00) Dollars per 1,000 square feet of floor area for commercial/retail building, and (b) Five Hundred ~~Forty-One~~Sixty (~~\$541.00~~560.00) Dollars per 1,000 square feet of floor area for office building, which shall be paid when a building permit is issued (the "Public Safety Payment"). Upon receipt of the Public Safety Fund Payment, those monies must be accounted for separate and distinct from other monies of the County. The Public Safety Payment paid for residential construction must be used for non-recurring purposes for parks & recreation, law enforcement/Sheriff, emergency medical services, and fire department in the Greater Panhandle

area of Lancaster County. The Public Safety Payment paid for non-residential construction must be used for non-recurring purposes for law enforcement/Sheriff, emergency medical services, and fire department in the Greater Panhandle area of Lancaster County. The determination of the specific use of the Public Safety Payment is at the discretion of County Council.

Section 4.01D. Fee Schedule Annual Update. The developer fees set forth in Section 4.01B and Section 4.01C (collectively “Developer Fees”) shall be adjusted annually to reflect the effects of inflation on the costs for facilities and services set forth herein. The fee amounts shall be adjusted using the Construction Cost Index calculated by the publication, Engineering News-Record (ENR). For each such adjustment, each of the Development Fees shall be multiplied by a fraction, the numerator of which is the ENR Construction Cost Index for the most recent month for which figures are available, and the denominator of which is the ENR Construction Cost Index for the period one year prior to the period reflected in the numerator. The fee adjustment become effective on July 1 of each year. If July 1 falls on a weekend, the fee adjustment will become effective on the next business day thereafter.

Section 4.01E. Credit for Fees. In the event that the County approves or passes any future ordinance(s) (collectively, “Future Impact Fee Ordinance(s)”) imposing or assessing impact fees of generally applicability to property development within the County and which Future Impact Fees are to be used or applied for the same purpose(s) for which the Developer Fees have been designated (collectively, “Future Impact Fees”) and if the Future Impact Fees apply to the Developer’s development of the Property, the Developer shall receive a credit toward such Future Impact Fees in the amount(s) equal to the Developer Fees which the Developer has paid or is obligated to pay pursuant to Sections 4.01B and 4.01C.

Section 4.01F. Use of Community Building as Polling Place. The multi-family community building, show on the MX Master Development Plan as the Amenity Center, will be made available, if needed, as a polling place for elections, including primaries and special elections, administered by the South Carolina Election Commission and the Lancaster County Board of Voter Registration and Elections.

Section 4.01G. Economic Development Property. In consideration of the County’s approvals of the Developer’s rezoning and MX Master Development Plan applications and the County’s issuance of the development approvals as identified in Section 3.04, the Developer agrees to acquire Parcel B identified in Exhibit A-2 hereto, comprising approximately 28 acres (“Economic Development Property”). Developer agrees to acquire title to the Economic Development Property within ninety (90) days after it acquires title to the Property as called for in Section 5.19. County and Developer agree that the Economic Development Property shall remain zoned Light Industrial District (“LI”) under the UDO unless the County and Developer agree to adopt a different zoning classification. Within ninety (90) days after Developer acquires title to the Economic Development Property and before Developer conveys any part of the Economic Development Property to another party, Developer agrees to record Covenants, Conditions and Restrictions (CCR’s”) with the Lancaster County Register of Deeds so as to preclude certain uses on the Economic Development Property that are otherwise allowed in the LI District. The form of the CCR’s applicable to the Economic Development Property are attached hereto as Exhibit F and are subject to change by the attorneys for the County and Developer as to matters of form and recording only. After execution and recording, the CCR’s applicable to the Economic Development Property may not be changed without the consent of the County and Developer.

Section 4.02. Payment of Costs. Upon submission of appropriate documentation of the expenditure, Developer agrees to reimburse the County, not later than [REDACTED], 2022, for the County's reasonable unreimbursed actual costs related to this Agreement. The foregoing cost reimbursement is capped at ten thousand dollars (\$10,000.00) and is limited to County payments to third-party vendors and service providers that have not been otherwise reimbursed from the fee paid by Developer pursuant to Section 10 of Ordinance No. 663.

Section 4.03. Other Charges or Fees.

(A) Nothing in this Agreement shall be construed as relieving Developer from the payment of any fees or charges in effect at the time of collection as may be assessed by entities other than the County.

(B) Developer is subject to the payment of any and all present or future fees enacted by the County that are of County-wide application and that relate to the County's costs of processing applications, issuing development permits, reviewing plans, conducting inspections or similar type processing costs.

Section 4.04. Infrastructure and Services.

The Parties recognize that the majority of the direct costs associated with the Development of the Property will be borne by Developer, and many necessary infrastructure improvements and services will be provided by Developer or other governmental or quasi-governmental entities, and not by the County. For clarification, the Parties make specific note of and acknowledge the following:

(A) Roads. (1)(a) Developer is responsible for the construction and costs of all roads, whether for public or private use, within the Property including but not limited to any necessary entrance and intersection improvements as required by the South Carolina Department of Transportation related to the development of the Property. All roads must be constructed in accordance with the County's road standards. The road improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development. Developer is also responsible for maintenance of all roads that are not public roads. Pursuant to Ordinance 2014-1299, Developer acknowledges that County will only accept as public roads those roads constructed in full compliance with the UDO and providing connectivity to the county road system or serving as a necessary component for the proper development of the county road system. County will not accept the roads within the Property into the County road system for any other purpose, including, but not limited to, maintenance. Developer may transfer the ownership of the roads and its obligations for the roads to a homeowners' or property owners' association or similar organization.

(b) Developer shall cause to be prepared a traffic impact analysis conducted and sealed by a licensed South Carolina professional engineer (if not already prepared at time of Agreement). Any road improvements, which are determined to be necessary, based on the results of the traffic impact analysis, shall be incorporated into the final site plan prior to County approval and the Developer is responsible for all costs of the road improvements. The traffic impact analysis shall be reviewed by the County and in conjunction with the South Carolina Department of Transportation. If a County-level traffic planner is not available to review the traffic impact analysis at the time of submittal, the County may choose to hire a third-party consultant to assist in this review. The cost of the traffic impact analysis, including any additional reviews requested by the County, shall be paid by the Developer. Improvements set forth in the traffic impact analysis may be installed based on a phasing study prepared by a licensed South Carolina professional engineer at the expense of Developer. The installation of new traffic signals or improvements to existing traffic signals shall be based on warrant studies conducted by a licensed South Carolina professional engineer at established specific times and at the expense of Developer.

(B) Potable Water, Sewage Treatment and Disposal. Potable water, sewage treatment and disposal will all be supplied to the Property by the Lancaster County Water and Sewer District. Developer will construct, or cause to be constructed, all necessary water and sewer service infrastructure within the Property and the water and sewer service infrastructure will be maintained by the provider. County is not responsible for any construction, treatment, maintenance, or costs associated with water or sewer service or water and sewer service infrastructure to or within the Property. The water and sewer service infrastructure is expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development. Developer acknowledges that County has no authority or responsibility for providing potable water services or sewer services in the County and that the Lancaster County Water and Sewer District is a governmental entity separate and distinct from the County.

(C) Storm Water Management. Developer will construct or cause to be constructed all storm water runoff and drainage improvements within the Property required by the development

of the Property and such infrastructure will be maintained by Developer or a homeowners' association. County is not responsible for any construction, maintenance or costs associated with the storm water runoff and drainage for the Property. Storm water management improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

(D) Solid Waste Collection. The County shall provide solid waste collection to the Property on the same basis as is provided to other residents and businesses within the County. It is understood and acknowledged that the County does not presently provide solid waste collection or disposal for single, multi-family or commercial developments. Residential units shall be served by a private waste hauling company.

(E) Fire Services. The Property is in the Pleasant Valley Fire Department service area and fire services will be provided by the Pleasant Valley Fire Department, or its successor entities. Developer acknowledges that the Pleasant Valley Fire Department provides services using volunteers.

(F) School Services. Public school services are now provided by the Lancaster County School District. Developer acknowledges that County has no authority or responsibility for providing public school services in the County.

ARTICLE V

MISCELLANEOUS

Section 5.01. Notices. Any notice, election, demand, request or other communication to be provided under this Agreement shall be in writing and shall be effective (i) when delivered to the party named below, (ii) when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, or (iii) when deposited in Federal Express (or any other reputable national "next day" delivery service) addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

To the County: County of Lancaster
Attn: County Administrator
101 N. Main St. (29720)
P.O. Box 1809 (29721)
Lancaster, SC

With a Copy to: County of Lancaster
Attn: County Attorney
101 N. Main St. (29720)
P.O. Box 1809 (29721)
Lancaster, SC

And to Developer: C4 Investments, LLC
d/b/a Crosland Southeast
Attn: Yates Dunaway
121 West Trade Street, Suite 2550
Charlotte, NC 28202

With a Copy to: Robinson Bradshaw
Attn: Benjamin A. Johnson
202 E. Main Street, Suite 201
Rock Hill, SC 29730

Section 5.02. Amendments.

(A) This Agreement may be amended or cancelled by mutual consent of the Parties to the Agreement or by their successors in interest. An amendment to this Agreement must be in writing. No statement, action or agreement made after the Agreement Date shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom the change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

(B) An amendment to this Agreement with the exceptions identified on Exhibit B must be processed and considered in the same manner as set forth in Ordinance No. 663 for a proposed development agreement. Any amendment to this Agreement other than as set forth on Exhibit B constitutes a major modification and the major modification may occur only after public notice and a public hearing by the County Council.

(C) This Agreement must be modified or suspended as may be necessary to comply with any state or federal laws or regulations enacted after the Agreement Date which prevents or precludes compliance with one or more of the provisions of this Agreement but only to the extent necessary to effectuate compliance with the state or federal law.

(D) Anything to the contrary contained herein notwithstanding, in the event Developer or its successors or assigns elects not to or otherwise does not acquire the Property at any time, Developer may so notify the County in writing and upon such notification and written request by Developer to terminate this Agreement, this Agreement shall terminate and Developer shall not be considered in breach of this Agreement and the parties shall have no further obligations to one another.

Section 5.03. Periodic Review. At least every twelve (12) months, the Development Services Director for the County or the designee of the Development Services Director for the County, must review compliance with this Agreement by the Developer. At the time of review the Developer must demonstrate good faith compliance with the terms of the Agreement.

Section 5.04. Breach of Agreement.

(A) If, as a result of the periodic review provided in Section 5.03 of this Agreement or at any other time, the Development Services Director for the County, or their designee, finds and determines that the Developer has committed a material breach of the terms or conditions of this Agreement, the Development Services Director for the County shall serve notice in writing, within a reasonable time after the periodic review, upon the Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Developer a reasonable time in which to cure the material breach.

(B) If the Developer fails to cure the material breach within a reasonable time and is not proceeding expeditiously and with diligence to cure the breach, then the County Council may unilaterally terminate or modify this Agreement. Prior to terminating or modifying this Agreement as provided in this section, the County Council must first give the Developer the opportunity (i) to rebut the finding and determination, or (ii) to consent to amend the Agreement to meet the concerns of the County Council with respect to the findings and determinations.

Section 5.05. Enforcement. The Parties shall each have the right to enforce the terms, provisions and conditions of this Agreement, if not cured within the applicable cure period, by any remedy available at law or in equity, including specific performance, and the right to recover attorney's fees and costs associated with enforcement.

Section 5.06. No Third Party Beneficiary. The provisions of this Agreement may be enforced only by the Parties. No other persons shall have any rights hereunder.

Section 5.07. Recording of Agreement. The Parties agree that Developer shall record this Agreement with the County Register of Deeds within fourteen (14) days of the date of execution of this Agreement.

Section 5.08. Administration of Agreement. County is the only local government that is a party to this Agreement and the County is responsible for the Agreement's administration.

Section 5.09. Effect of Annexation and Incorporation. The Parties agree that this Agreement remains in effect if the Property is, in whole or in part, included in a newly-incorporated municipality or is annexed into a municipality. The Parties acknowledge that upon incorporation or annexation the application and duration of this Agreement is controlled by Section 6-31-110 of the Act. County reserves the right to enter into an agreement with the newly-incorporated municipality or the annexing municipality for the administration and enforcement of this Agreement after the date of incorporation or annexation.

Section 5.10. Estoppel Certificate. Any of the Parties may, at any time, and from time to time, deliver written notice to the other party requesting the party to certify in writing (i) that this Agreement is in full force and effect, (ii) that this Agreement has not been amended or modified, or if so amended, identifying the amendments, and (iii) whether, to the knowledge of the party, the requesting party is in default or claimed default in the performance of its obligation under this Agreement, and, if so, describing the nature and amount, if any, of any such default or

claimed default, and (iv) whether, to the knowledge of the party, any event has occurred or failed to occur which, with the passage of time or the giving of notice, or both, would constitute a default and, if so, specifying each such event.

Section 5.11. Entire Agreement. This Agreement sets forth, and incorporates by reference all of the agreements, conditions, and understandings among the Parties relative to the Property and its Development and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among the Parties relative to the matters addressed in this Agreement other than as set forth or as referred to in this Agreement.

Section 5.12. Covenant to Sign other Documents. County and Developer acknowledge that consummation of the transactions contemplated by this Agreement may require the execution contemporaneously with the execution of this Agreement and thereafter of certain documents in addition to this Agreement and County and Developer agree to cooperate with the execution thereof.

Section 5.13. Construction of Agreement. The Parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

Section 5.14. Assignment. The rights, obligations, duties and responsibilities devolved by this Agreement on or to the Developer are assignable to any other person, firm, corporation or entity except that the assignment must conform to the requirements of Section 1.09 and Section 3.05. This Agreement shall also be binding on the County and all future County Councils for the duration of this Agreement, even if the County Council members change.

Section 5.15. Governing Law; Jurisdiction; and Venue.

(A) This Agreement is governed by the laws of the State of South Carolina.

(B) The Parties agree that the jurisdiction and venue for disputes relating to this Agreement is Lancaster County, South Carolina which is within the Sixth (6th) Judicial Circuit of the State of South Carolina.

Section 5.16. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

Section 5.17. Eminent Domain. Nothing contained in this Agreement shall limit, impair or restrict the County's right and power of eminent domain under the laws of the State of South Carolina.

Section 5.18. Severability. If any provision in this Agreement or the application of any provision of this Agreement is held invalid, the invalidity shall apply only to the invalid provision,

and the remaining provisions of this Agreement, and the application of this Agreement or any other provision of this Agreement, shall remain in full force and effect. However, if the invalid provision would prevent or materially impair Developer's right or ability to complete performance of this Agreement, the Parties agree to use their best efforts to renegotiate that provision in order for Developer to complete performance of this Agreement.

Section 5.19. When Agreement takes Effect. This Agreement is dated as of the Agreement Date and takes effect when (i) the County and Developer have each executed the Agreement, and (ii) the Developer has delivered to the County Administrator clocked-in copies, with book and page numbers, of the recorded deeds conveying the Property to Developer. If the County Administrator has not received clocked-in copies of the deeds conveying the Property to Developer by 5:00 p.m., December 31, 2022, then this Agreement is automatically terminated without further action of either the County or Developer. The obligation of the Developer pursuant to Section 4.02 is effective on the date the last Party to sign this Agreement executes this Agreement and the obligations imposed on Developer pursuant to Section 4.02 survives the termination of this Agreement pursuant to this Section.

Section 5.20. General Terms and Conditions.

(A) Agreements to Run with the Land. This Agreement shall be recorded against the Property as described in Exhibit A-1 and shown on Exhibit A-2. The agreements contained herein shall be deemed to run with the land.

(B) No Waiver. Failure of a Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future time said right or any other right it may have hereunder.

(C) Merger. This Agreement, coupled with its Exhibits which are incorporated herein by reference, shall state the final and complete expression of the Parties' intentions with respect to the matters set forth herein. All prior negotiations and representations are superseded and merged herein.

SIGNATURES FOLLOW ON NEXT PAGE.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date below found.

WITNESSES:

DEVELOPER:
C4 Investments, LLC,
d/b/a Crosland Southeast

By: _____

Name:

Title:

Date: _____

STATE OF SOUTH CAROLINA)

COUNTY OF LANCASTER)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named C4 Investments, LLC d/b/a Crosland Southeast, by its duly authorized officer/s sign, seal and as its act and deed deliver the within written instrument and that (s)he with the other witness above subscribed, witnessed the execution thereof.

First Witness Signs Again Here

Seal

SWORN to before me this
____ day of _____, 2021

Notary Public Signs AS NOTARY
Notary Public for the State of _____
My Commission Expires: _____

WITNESSES:

COUNTY:

COUNTY OF LANCASTER,
SOUTH CAROLINA

By: _____
Steve Harper, Chair, County
Council

Date: _____

By: _____
Billy Mosteller, Secretary, County
Council

Date: _____

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named County of Lancaster by its duly authorized officer/s sign, seal and as its act and deed deliver the within written instrument and that (s)he with the other witness above subscribed, witnessed the execution thereof.

First Witness Signs Again Here

Seal

SWORN to before me this
____ day of _____, 2021.

Notary Public Signs AS NOTARY

Notary Public for the State of South Carolina
My Commission Expires: _____

Exhibit A

[Legal Descriptions and Plat to be inserted here as Exhibit A-1 and Exhibit A-2]

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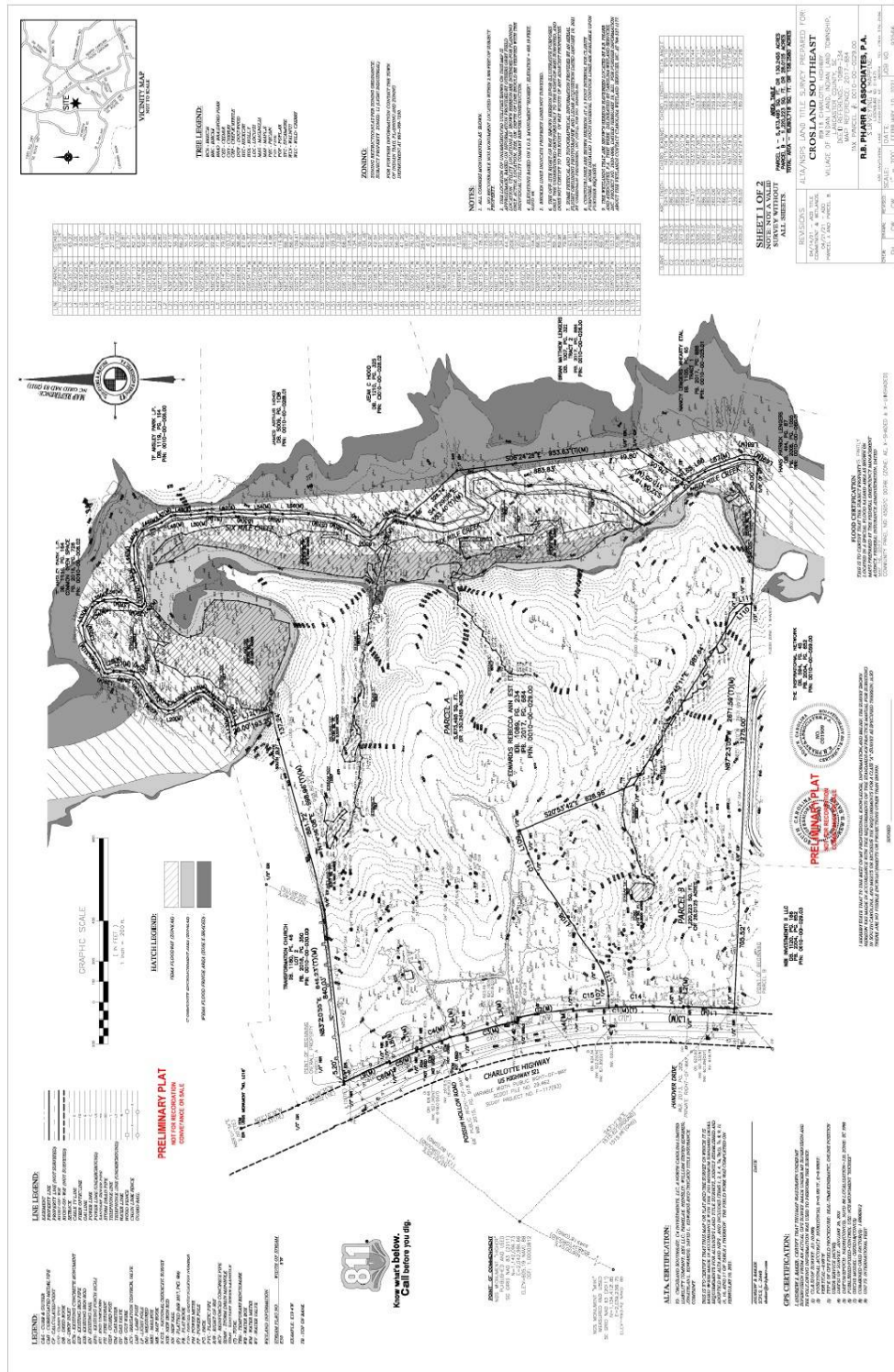


Exhibit B
Development Program
MX District Master Development Plan
[Attached]

Modification of Development Program: It is recognized that periodic modifications to the Development Program may be needed to address market conditions, environmental challenges, and other elements. The following will outline the processes for Minor, Moderate, and Major Modifications to Exhibit B. Modifications to other sections of the Agreement will be processed in accordance with those provisions.

- a. Minor Modifications: “Minor Modifications” are defined as those modifications that reflect minor adjustments to the site layout caused by environmental features, adaptations to comply with regulatory requirements, and other changes considered incidental by County staff. Generally, Minor Modifications shall only be to the Site Plan and not to a specific development standard set forth within Exhibit B. The Planning Director shall determine what shall constitute a Minor Modification and have the authority to administratively approve such.
- b. Moderate Modifications: “Moderate Modifications” are those modifications to the Conceptual Site Plan that are not caused by environmental features, adaptations to comply with regulatory requirements, and are not considered by County staff to be incidental changes. Moderate Modifications may be approved by the County Council after a review and recommendation is provided by County Staff. Approved Moderate Modifications shall be recorded by the Developer and made an amendment to Exhibit B.
- c. Major Modifications: “Major Modifications” are those that do not qualify as either a Minor or Moderate Modification, such as the addition of new external access point to the public road system. Major Modifications must be processed and considered in the same manner as set forth in Ordinance No. 663 for a proposed development agreement.

Exhibit C

Development Schedule

<u>Years</u>	<u>Commercial</u>	<u>Residential</u>
1	0	0 units
2	0	0 units
3	0	0 units
4	50,000 SF	720 units (Estimated Completion)
5	<u>40,000 SF</u>	<u>0 units</u>
Total	90,000 SF	720 units

This Development Schedule is an estimate. The provisions of Section 1.07 of this Agreement apply to this exhibit.

NOTE: County and Developer acknowledge that commercial development of the Property is limited to 90,000 square feet. County and Developer acknowledge that residential development of the Property is limited to 400 multi-family units and 320 townhome units.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Exhibit D

Required Information

The Act and Ordinance No. 663 require a development agreement to include certain information. The following information is provided in conformance with the Act and Ordinance No. 663.

(A) *a legal description of the property subject to the agreement and the names of the property's legal and equitable owners.* The legal description of the Property is set forth in Exhibit A. As of the Agreement Date, EEV, LLC, a North Carolina limited liability company, Pamela E. Hensley, William Steven Edwards, Jonathan L. Edwards, and David L. Edwards are the legal and equitable owners of the Property, except to the extent that C4 Investments, LLC d/b/a Crosland Southeast has contractual rights to acquire the Property and is the equitable owner of the Property.

(B) *the duration of the agreement which must comply with Code Section 6-31-40.* See Section 1.10.

(C) *a representation by the developer of the number of acres of highland contained in the property subject to the agreement.* See Section 2.02.

(D) *the then current zoning of the property and a statement, if applicable, of any proposed rezoning of the property.* See Section 1.05.

(E) *the development uses that would be permitted on the property pursuant to the agreement, including population densities, building intensities and height.* See Section 1.06 and Exhibit B.

(F) *a description of the public facilities that will service the development, including who provides the facilities, the date any new facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development construction timeline for those facilities. If the agreement provides that the County shall provide certain public facilities, the agreement shall provide that the delivery date of the public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer.* See Article IV.

(G) *a description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the agreement.* Developer agrees to comply with all applicable environmental laws.

(H) *a description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions.* See Section 3.04.

(I) a finding that the development permitted or proposed is consistent, or will be consistent by the time of execution of the agreement, with the County's comprehensive plan and land development regulations. See Section 2.01(A).

(J) a description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens. See Article IV.

(K) a description, where appropriate, of any provisions for the preservation and restoration of historic structures. Developer agrees to comply with all laws applicable to the preservation and restoration of historic structures within the Property.

(L) a development schedule including commencement dates and interim completion dates at no greater than five year intervals. See Section 1.07 and Exhibit C.

(M) if more than one local government is made party to the agreement, a provision stating which local government is responsible for the overall administration of the agreement. See Section 5.08.

(N) a listing of the laws and land development regulations that will apply to the development of the property subject to the agreement, including citation to specific ordinance numbers or portions of the County Code of Ordinances or both. See Sections 3.01, 3.03 and Exhibits E and E-1 – E-5.

(O) a provision, consistent with Code Section 6-31-80, addressing the circumstances under which laws and land development regulations adopted subsequent to the execution of the agreement apply to the property subject to the agreement. See Section 3.03.

(P) a provision stating whether the agreement continues to apply to the property or portions of it that are annexed into a municipality or included in a newly-incorporated area and, if so, that the provisions of Code Section 6-31-110 apply. See Section 5.09.

(Q) a provision that the agreement may be amended or cancelled by mutual consent of the parties to the agreement or their successors in interest. See Section 5.02.

(R) a provision that if the amendment constitutes a major modification of the agreement, the major modification may occur only after public notice and a public hearing by the council, provided that, for purposes of this item, a "major modification" means: (i) significant changes to the development scheduled time-frames set forth in the agreement; (ii) density modifications; (iii) land use changes; (iv) any major miscalculations of infrastructure or facility needs which create demand deficiencies; or (v) any significant deviation from the development as contained in the agreement. See Section 5.02.

(S) a provision that if the developer requests an amendment to the development schedule, including commencement dates and interim completion dates, then the dates must be modified by the council if the developer is able to demonstrate and establish that there is good cause to modify those dates. See Sections 1.07 and 5.02.

(T) *a provision that the agreement must be modified or suspended as may be necessary to comply with any state or federal laws or regulations enacted after the agreement is entered into which prevents or precludes compliance with one or more of the provisions of the agreement. See Section 5.02*

(U) *a provision for periodic review, consistent with the provisions of Section 8 of Ordinance No. 663. See Section 5.03.*

(V) *a provision addressing the effects of a material breach of the agreement, consistent with the provisions of Section 9 of Ordinance No. 663. See Section 5.04.*

(W) *a provision that the developer, within fourteen days after the County enters into the agreement, will record the agreement with the County Register of Deeds. See Section 5.07.*

(X) *a provision that the burdens of the agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement. See Section 1.09(A).*

(Y) *a provision addressing the conditions and procedures by which the agreement may be assigned. See Section 1.09, Section 3.05 and Section 5.14.*

(Z) *a traffic impact analysis prepared in accordance with UDO Chapter 6.8 and SCDOT standards. See Section 4.04.*

Exhibit E

Laws and Land Development Regulations

1. Ordinance No. 2021- [REDACTED] zoning a portion of Tax Parcel No. 0010-00-029.00, comprising the Property herein, to Mixed Use (MX) District, attached hereto as Exhibit E-1.
2. Ordinance No. 2021-[REDACTED], approving this Development Agreement attached hereto as Exhibit E-2.
3. The Development Agreement Ordinance for Lancaster County, South Carolina: Ordinance No. 663, a copy of which is attached hereto as Exhibit E-3.
4. Unified Development Ordinance of Lancaster County (UDO): Ordinance No. 309, as amended as of the Agreement Date. The UDO includes Ordinance No. 328, as amended, as of the Agreement Date and which is cited as the Land Development Regulations of Lancaster County, a copy of which attached hereto as Exhibit E-4.
5. Land Development Regulations of Lancaster County: See Unified Development Ordinance of Lancaster County.
6. Lancaster County Manual of Specification and Standard Details, See Appendix C to the UDO.

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Exhibit E-1

Ordinance No. 2020-

[Rezoning Ordinance - Attached]

Exhibit E-2

Ordinance No. 2020-

[Ordinance Approving Development Agreement - Attached]

Exhibit E-3

The Development Agreement Ordinance, Ordinance No. 663

[Attached]

Exhibit E-4

The UDO

[The UDO, updated to the effective date of the ordinance, will be signed by County and Developer and maintained by Lancaster County Development Services]

Exhibit E-5

Lancaster County Manual of Specification and Standard Details, See Appendix C to the UDO.

Document comparison by Workshare Compare on Tuesday, August 31, 2021
11:33:12 AM

Input:	
Document 1 ID	iManage://WORKSITE/WSACTIVE/13935877/6
Description	#13935877v6<WSACTIVE> - The Exchange at Indian Land DA
Document 2 ID	iManage://WORKSITE/WSACTIVE/13935877/7
Description	#13935877v7<WSACTIVE> - The Exchange at Indian Land DA
Rendering set	Standard

Legend:	
<u>Insertion</u>	
~~Deletion~~	
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<u>Moved to</u>	
Style change	
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Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	42
Deletions	40
Moved from	0
Moved to	0
Style changes	0
Format changes	0
Total changes	82

Agenda Item Summary

Ordinance # / Resolution #: N/A

Contact Person / Sponsor: Steve Willis/ Hal Hiott/ Frannie Heizer

Department: Administration

Date Requested to be on Agenda: 9/15/2021

Issue for Consideration:

By mid 2022 we may well be in a position to issue a Hospitality Tax Bond for construction of the Regional Sports Complex at Rosalyn. We are not in a position to finalize this but need to brief Council on where we stand.

Points to Consider:

As Council will recall, we needed to develop a track record of several years Hospitality Tax collection in order to go to the market to place a bond for the Regional Sports Complex. Just about the time we were moving forward COVID hit and the market for any Accommodations Tax/ Hospitality Tax, or similar tourism type bonds cratered.

The market is starting to return, especially for entities such as Lancaster County that did not see a significant downturn in receipts and have an excellent credit rating.

Brian Nurick of Compass Municipal Advisors (who we have used for all bond work since before my time with Lancaster County) has prepared a preliminary estimate, with emphasis on preliminary, of what we could do with such a bond. It is attached as information.

Frannie Heizer is proposing that we look at utilizing the bond as an Installment Purchase option similar to what we did with the Courthouse and will do with the Detention Center/ Magistrates Court.

It is important to note that Frannie will draft an Ordinance, at the appropriate time, to provide for additional sources of funding to be used for the Installment Purchase. We will have Impact Fee revenue coming in by the time this is ready to be placed. Obviously we have no track record of collections at this point but by April 2022 we will have 6 months of collection data.

I do not have final information at the time of this report but by the meeting Hal Hiott will have information on the master planning for the complex.

Funding and Liability Factors:

To be determined - the pro forma on the bond is preliminary only.

Please note this would be a 20 year bond with principal and interest payments averaging \$1 million per year. Our annual collections are higher (roughly \$500,000) but we will need funding to staff and operate the facility from the Hospitality Tax.

As noted previously this is only the Hospitality Tax component and we anticipate having Impact Fee revenue to utilize for the complex. Please remember the Impact Fee revenue can only be utilized for the capital component of the complex and cannot be used for any staffing or operational needs.

Council Options:

At this point we wanted to allow Council to pose questions and make sure that Council approves of the planned course of action.

Recommendation:

N/A For discussion only.

ATTACHMENTS:

Description	Upload Date	Type
Preliminary Pro Forma	9/6/2021	Exhibit

Lancaster County, South Carolina

Installment Purchase Revenue Bonds, Series 2022

DRAFT: Priced by Piper Sandler on __.__.__ - Delivery on __.__.__

(Estimated Rating: Aa2 - Recreation Facilities Project)

Sources & Uses

Dated 06/01/2022 | Delivered 06/01/2022

Sources Of Funds

Par Amount of Bonds	\$14,385,000.00
Reoffering Premium	988,335.90

Total Sources	\$15,373,335.90
----------------------	------------------------

Uses Of Funds

Total Underwriter's Discount (0.650%)	93,502.50
Costs of Issuance	275,000.00
Deposit to Project Fund	15,000,000.00
Rounding	4,833.40

Total Uses	\$15,373,335.90
-------------------	------------------------

Lancaster County, South Carolina

Installment Purchase Revenue Bonds, Series 2022

DRAFT: Priced by Piper Sandler on __.__.__ - Delivery on __.__.__

(Estimated Rating: Aa2 - Recreation Facilities Project)

Pricing Summary

Maturity	Type of Bond	Coupon	Yield	Maturity Value	Price	YTM	Call Date	Call Price	Dollar Price
06/01/2023	Serial Coupon	4.000%	1.200%	490,000.00	102.766%	-	-	-	503,553.40
06/01/2024	Serial Coupon	4.000%	1.290%	505,000.00	105.316%	-	-	-	531,845.80
06/01/2025	Serial Coupon	4.000%	1.440%	530,000.00	107.464%	-	-	-	569,559.20
06/01/2026	Serial Coupon	4.000%	1.620%	550,000.00	109.146%	-	-	-	600,303.00
06/01/2027	Serial Coupon	4.000%	1.750%	570,000.00	110.682%	-	-	-	630,887.40
06/01/2028	Serial Coupon	4.000%	1.890%	595,000.00	111.863%	-	-	-	665,584.85
06/01/2029	Serial Coupon	4.000%	2.010%	615,000.00	112.874%	-	-	-	694,175.10
06/01/2030	Serial Coupon	4.000%	2.140%	640,000.00	113.543%	-	-	-	726,675.20
06/01/2031	Serial Coupon	4.000%	2.230%	670,000.00	114.289%	-	-	-	765,736.30
06/01/2032	Serial Coupon	4.000%	2.340%	695,000.00	114.649%	-	-	-	796,810.55
06/01/2033	Serial Coupon	4.000%	2.450%	720,000.00	113.600%	c 2.565%	06/01/2032	100.000%	817,920.00
06/01/2034	Serial Coupon	4.000%	2.550%	750,000.00	112.657%	c 2.748%	06/01/2032	100.000%	844,927.50
06/01/2035	Serial Coupon	4.000%	2.590%	780,000.00	112.283%	c 2.856%	06/01/2032	100.000%	875,807.40
06/01/2036	Serial Coupon	4.000%	2.620%	810,000.00	112.003%	c 2.942%	06/01/2032	100.000%	907,224.30
06/01/2037	Serial Coupon	3.000%	2.940%	845,000.00	100.513%	c 2.957%	06/01/2032	100.000%	849,334.85
06/01/2038	Serial Coupon	3.000%	2.940%	870,000.00	100.513%	c 2.959%	06/01/2032	100.000%	874,463.10
06/01/2039	Serial Coupon	3.000%	3.060%	895,000.00	99.213%	-	-	-	887,956.35
06/01/2040	Serial Coupon	3.000%	3.060%	925,000.00	99.178%	-	-	-	917,396.50
06/01/2041	Serial Coupon	3.000%	3.060%	950,000.00	99.145%	-	-	-	941,877.50
06/01/2042	Serial Coupon	3.000%	3.060%	980,000.00	99.112%	-	-	-	971,297.60
Total	-	-	-	\$14,385,000.00	-	-	-	-	\$15,373,335.90

Bid Information

Par Amount of Bonds	\$14,385,000.00
Reoffering Premium or (Discount)	988,335.90
Gross Production	\$15,373,335.90
Total Underwriter's Discount (0.650%)	\$(93,502.50)
Bid (106.221%)	15,279,833.40
Total Purchase Price	\$15,279,833.40
Bond Year Dollars	\$168,625.00
Average Life	11.722 Years
Average Coupon	3.4300371%
Net Interest Cost (NIC)	2.8993723%
True Interest Cost (TIC)	2.7841100%

IPRB (RECREATION) | SINGLE PURPOSE | 8/19/2021 | 3:45 PM

Compass Municipal Advisors, LLC
Public Finance

Lancaster County, South Carolina

Installment Purchase Revenue Bonds, Series 2022

DRAFT: Priced by Piper Sandler on __.__.__ - Delivery on __.__.__

(Estimated Rating: Aa2 - Recreation Facilities Project)

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I
06/30/2022	-	-	-	-
06/30/2023	490,000.00	4.000%	520,750.00	1,010,750.00
06/30/2024	505,000.00	4.000%	501,150.00	1,006,150.00
06/30/2025	530,000.00	4.000%	480,950.00	1,010,950.00
06/30/2026	550,000.00	4.000%	459,750.00	1,009,750.00
06/30/2027	570,000.00	4.000%	437,750.00	1,007,750.00
06/30/2028	595,000.00	4.000%	414,950.00	1,009,950.00
06/30/2029	615,000.00	4.000%	391,150.00	1,006,150.00
06/30/2030	640,000.00	4.000%	366,550.00	1,006,550.00
06/30/2031	670,000.00	4.000%	340,950.00	1,010,950.00
06/30/2032	695,000.00	4.000%	314,150.00	1,009,150.00
06/30/2033	720,000.00	4.000%	286,350.00	1,006,350.00
06/30/2034	750,000.00	4.000%	257,550.00	1,007,550.00
06/30/2035	780,000.00	4.000%	227,550.00	1,007,550.00
06/30/2036	810,000.00	4.000%	196,350.00	1,006,350.00
06/30/2037	845,000.00	3.000%	163,950.00	1,008,950.00
06/30/2038	870,000.00	3.000%	138,600.00	1,008,600.00
06/30/2039	895,000.00	3.000%	112,500.00	1,007,500.00
06/30/2040	925,000.00	3.000%	85,650.00	1,010,650.00
06/30/2041	950,000.00	3.000%	57,900.00	1,007,900.00
06/30/2042	980,000.00	3.000%	29,400.00	1,009,400.00
Total	\$14,385,000.00	-	\$5,783,900.00	\$20,168,900.00

Yield Statistics

Bond Year Dollars	\$168,625.00
Average Life	11.722 Years
Average Coupon	3.4300371%
Net Interest Cost (NIC)	2.8993723%
True Interest Cost (TIC)	2.7841100%
Bond Yield for Arbitrage Purposes	2.6686650%
All Inclusive Cost (AIC)	2.9769633%

IRS Form 8038

Net Interest Cost	2.7056624%
Weighted Average Maturity	11.529 Years

Agenda Item Summary

Ordinance # / Resolution #: N/A

Contact Person / Sponsor: Steve Willis / Administration

Department: Administration

Date Requested to be on Agenda: 9/15/2021

Issue for Consideration:

To consider potential changes to the Lancaster County Noise Ordinance (copy attached).

Points to Consider:

Staff and Council are in receipt of complaints the current noise ordinance is ineffective.

At the time of this report investigation for potential options are just commencing. We hope to have some preliminary information at the Committee meeting.

Funding and Liability Factors:

N/A

Council Options:

Discussion only.

Recommendation:

N/A

ATTACHMENTS:

Description	Upload Date	Type
Noise Ordinance	9/9/2021	Exhibit

ARTICLE II. - NOISE^[2]

Footnotes:

--- (2) ---

Editor's note— Ord. No. 1394, § A, adopted May 23, 2016, repealed former Art. II, §§ 23-21—23-23, and § B of said ordinance enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from Ord. No. 692, §§ 1—3, adopted Oct. 3, 2005; and Ord. No. 846, adopted Sept. 10, 2007. See the Code Comparative Table for prior derivation.

Sec. 23-21. - Definition.

Excessive noise is any loud unnecessary noise which disturbs the peace and quiet of any unincorporated area of the County of Lancaster or which causes disturbance, discomfort, or annoyance to any reasonable person of normal sensitivities in any unincorporated area of the County of Lancaster or which endangers or injures the safety or health of any person or domestic animal in any unincorporated area of the County of Lancaster. This shall include but not be limited to noise made by human voice or mechanical, electric, or electronic machine or device. In determining whether a noise complained of constitutes excessive noise, the finder of fact shall consider all relevant factors, including but not limited to the following:

- (1) The intensity and level of the noise;
- (2) The nature of the noise including whether it was usual or unusual and whether it was produced naturally or unnaturally;
- (3) The duration of the noise;
- (4) The date and time of day or night the noise occurred;
- (5) The general characteristics of the area where the noise was produced;
- (6) The general characteristics of the area where the noise was heard;
- (7) The distance between the source of the noise and the hearer of the noise;
- (8) The reasonable expectation of quiet of persons where the noise was heard;
- (9) Any prior complaints concerning the noise or its source or the person producing the noise.

(Ord. No. 1394, § B, 5-23-2016)

Sec. 23-22. - Prohibited acts.

It shall be unlawful for any person to make or continue or cause to be made or continued any excessive noise in any unincorporated area of the County of Lancaster.

(Ord. No. 1394, § B, 5-23-2016)

Sec. 23-23. - Exceptions.

This article shall not apply to:

- (1) Noise emanating from a lawfully established business or industry on a fixed site in any unincorporated area of the County of Lancaster except a business licensed for on premise consumption of alcoholic beverages, which business shall be subject to this article.
- (2) Noise emanating from governmental activities, airports and aircraft, railways, emergency signal devices, parades, carnivals, school band practice and performances, school or government sponsored events, or similar activities.
- (3) Noise caused by emergency operations for the immediate safety, health, and welfare of the unincorporated areas of the County of Lancaster and its inhabitants or to restore property to a safe condition following a calamity.
- (4) Noise emanating from construction activities, agriculture activities, tree harvesting or land clearing activities, lawn care activities, or similar activities between the hours of 6:00 a.m. and 10:00 p.m.

(Ord. No. 1394, § B, 5-23-2016)

Sec. 23-24. - Evidence, enforcement and penalties.

- (a) The provisions of this article shall be enforced by the Lancaster County Sheriff's Office.
- (b) The complaint of one (1) or more persons, when combined with the complaint of a law enforcement officer, or the complaint of a law enforcement officer is prima facie evidence that excessive noise regulated by this article has been produced.
- (c) A person violating this article shall be guilty of a misdemeanor and shall be punished by a fine and/or imprisonment as provided by section 1-10 of the Lancaster County Code of Ordinances for a first and a second offense. For a third or subsequent offense a person violating this article shall be punished by a minimum fine of \$250.00 and/or

imprisonment as provided by section 1-10 of the Lancaster County Code of Ordinances.
Each occurrence shall constitute a separate offense.

(Ord. No. 1394, § B, 5-23-2016; Ord. No. 2019-1597, § 1, 8-12-19)

Secs. 23-25—23-30. - Reserved.