

Council Members

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

**County Administrator**

Dennis E. Marstall

County Attorney

Ginny L. Merck-Dupont

Clerk to Council

Sherrie Simpson

January 8, 2024

6:00 PM

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

**LANCASTER COUNTY COUNCIL
County Council Chambers, County Administration
Buidling, 101 North Main Street, Lancaster, SC 29720**

AGENDA

- 1. Call to Order Regular Meeting - Chairman Steve Harper**
- 2. Welcome and Recognition - Chairman Steve Harper**
- 3. Pledge of Allegiance and Invocation - Council Member Brian Carnes**

- 4. Approval of the 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 of the meeting. Please use the same link above in order to submit input/comments for Public Hearings. *Please note that any handouts presented to Council or Council Boards and Commissions become an official part of the record and a copy is attached to the legal minutes for the meeting.]*

- 6. Consent Agenda**

[Items listed under the Consent Agenda have previously been discussed by Council and approved unanimously. As such, these items are normally voted on as a group through a single vote rather than with a Council vote for each individual item. However, any Council member may remove any item on the Consent Agenda for individual discussion and vote]

- a.** Approval of Minutes from the December 11, 2023 County Council Regular Meeting
- b.** Approval of Minutes from the December 13, 2023 County Council Committee of the Whole Meeting

- c. 2nd Reading of Ordinance 2023-1887 Fee Agreement Amendment for Project Cobalt
Ordinance Title: An Ordinance To Authorize And Approve The Execution And Delivery Of A First Amendment To Fee Agreement By And Among Lancaster County, South Carolina, Project Cobalt And Project Cobalt Affiliate; And To Provide For Other Matters Related Thereto. - ***Passed 7-0 at the December 11, 2023 County Council Meeting. - Brian Fulk***

7. **Non-Consent Agenda**

- a. 2nd Reading of Ordinance 2023-1879 regarding Amending the Unified Development Ordinance (UDO) regarding Chapters 2, 5, And 10 to Add a Definition and Regulations for Non-Metallic Mineral Product Manufacturing (Applicant Kim Lineberger on behalf of KCH Real Estate LLC)
Ordinance Title: An Ordinance To Amend The Unified Development Ordinance (“UDO”) Chapters 2, 5, And 10 To Include A New Use Definition For “Nonmetallic Mineral Product Manufacturing,” To Create “Nonmetallic Mineral Product Manufacturing” As A Use Permitted With Review (PR), And To Establish The Conditions For The Use, On The Effective Date Of This Ordinance - ***Planning Department Case Number: UDO-TA-2023-1819. The Planning Commission recommended denial by a vote on 5-1. Passed 6-1 at the December 11, 2023 County Council Meeting (Jose Luis Opposed). - Allison Hardin***
- b. 1st Reading of Ordinance 2024-1889 regarding Excess Capital Project Sales Tax Collections
Ordinance Title: An Ordinance Amending And Restating Ordinance No. 2022-1796 Specifying The Purposes For Which Excess Capital Project Sales Tax Collections From The First Reimposed Capital Project Sales Tax Will Be Utilized Pursuant To State Budget Proviso And The Capital Project Sales Tax Act - ***Dennis Marstall***

8. **Discussion and Action Items**

- a. Appointment to the Indian Land Consolidated Fire Commission
- Lance Reynolds to the Indian Land Consolidated Fire Commission to fill an initial term that would end on 12/31/2026

9. **Status of items tabled, recommitted, deferred or held**

- a. HOLD UNTIL THE 2-12-2024 COUNCIL MEETING - 2nd Reading of Ordinance 2023-1877 regarding Rezoning Property Located at 1662 MacMillan Park Drive from Light Industrial (LI) to Institutional (INS) District to Convert an Existing Structure to a K-12 Private School Facility (Applicants Brian Cillian/Greybridge MacMillan LLC and LEH SC MacMillan LLC)
Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County To Rezone Approximately 7.286 Acres (TM# 0007-00-008.05) Located At 1662 Macmillan Park Dr, From Light Industrial (LI) District To Institutional (INS) District - ***Planning Department Case Number: RZ-2023-1464. The Planning Commission recommended denial by unanimous vote and the Planning staff also recommended denial of the rezoning request. At the October 9th Council Meeting, the public hearing was held but the 1st Reading was postponed until the October 23, 2023 County Council Meeting. 1st Reading Passed 5-1 at the October 23, 2023 County Council Meeting (Billy Mosteller Opposed). At the November 13th Council Meeting, the 2nd Reading was postponed until the November 27, 2023 County Council Meeting. At the November 27th Council Meeting, the 2nd Reading was postponed until the Park Covenants have been amended. - Allison Hardin***
- b. HOLD UNTIL THE 1-22-2024 COUNCIL MEETING - 1st Reading of Ordinance 2024-1888 regarding Amending the Future Land Use Designation for Property Located at 1662 MacMillan Park Drive from Employment Center to Neighborhood Mixed-Use
Ordinance Title: An Ordinance To Approve The Request Of Greybridge MacMillan, LLC To Amend The Future Land Use Map Contained In The Lancaster County, South Carolina Comprehensive Plan 2014-2024, Amending The Use “Special District-Industrial” Designation To Include Private Schools As An Allowed Use. - ***Planning Case Number: CP-2023-1464. The Planning Commission recommended denial of the request and the Planning staff also recommended denial. - Allison Hardin***

10. Executive Session

[motions from Members may follow]

a. Four Items:

1. Receipt of legal advice subject to the attorney-client privilege regarding a potential contractual matter relating to County office space.
2. Receipt of legal advice subject to the attorney-client privilege regarding a potential contractual matter relating to County Office space.
3. Receipt of legal advice subject to the attorney-client privilege regarding a potential contractual matter relating to an Economic Development project.
4. Receipt of legal advice subject to the attorney-client privilege regarding the Lancaster County Board of Zoning Appeals.

11. Items Requiring a Vote Following Executive Session

12. 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/@LancasterCoSCGov/streams>*

Agenda Item Summary

Ordinance # / Resolution #: N/A

Contact Person / Sponsor: Lauren Hill / Deputy Clerk to Council / Administration

Department: County Clerk

Date Requested to be on Agenda: 1/8/2024

Council Action Requested:

Approve or amend the minutes from the December 11, 2023, County Council regular meeting.

Points to Consider:

The draft minutes from the December 11, 2023, County Council regular meeting are attached for Council's review and consideration.

Funding and Liability Factors:

There are no funding or liability factors regarding approval of minutes.

Recommendation:

Approve the minutes as written.

ATTACHMENTS:

Description	Upload Date	Type
Draft Minutes from the 12-11-2023 County Council Regular Meeting	1/3/2024	Backup Material

Council Members

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

**County Administrator**

Dennis E. Marstall

County Attorney

Ginny L. Merck-Dupont

Clerk to Council

Sherrie Simpson

December 11, 2023

6:00 PM

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

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

MINUTES

Council Members Present: Allen Blackmon, Brian Carnes (via conference call), Steve Harper, Billy Mosteller, Charlene McGriff, Terry Graham, and Jose Luis.

Staff Members/Others present: Dennis Marstall, County Administrator; Ginny Merck-Dupont, County Attorney; Sherrie Simpson, Clerk to Council; Lauren Hill, Deputy Clerk to Council/Administrative Assistant; Stephany Snowden, Deputy County Administrator; Veronica Thompson, Chief Financial Officer; Allison Hardin, Development Services Director; Amy Carnes, Economic Development Coordinator; the press; various elected officials; various Department Heads; various employees; and citizens.

A quorum of Lancaster County Council was present for the meeting. The following press were notified of the meeting by e-mail in accordance with the Freedom of Information Act: *The Lancaster News*, *Kershaw News Era*, *The Rock Hill Herald*, Cable News 2, Channel 9 and the local government channel. The agenda was posted in the lobby of the County Administration Building and also on the County website the required length of time. The power point presentation utilized during the meeting is attached to the written minutes in the Clerk to Council's office.

Call to Order Regular Meeting - Chairman Steve Harper

Chairman Steve Harper called the regular meeting of County Council to order at approximately 6:00 p.m. and noted that this was the only Council meeting being held in December due to the upcoming holidays.

Welcome and Recognition - Chairman Steve Harper

Chairman Steve Harper welcomed everyone to the meeting and recognized Veronica Thompson for her years of service with Lancaster County. Council members wished her well in her retirement.

Pledge of Allegiance and Invocation - Council Member Charlene McGriff

Charlene McGriff led the Pledge of Allegiance to the American Flag and delivered the Invocation.

Approval of the Agenda

Charlene McGriff moved to approve the agenda. Seconded by Terry Graham. A roll call vote was taken. Motion Passed 7-0. Ayes: Blackmon, Carnes, Harper, Mosteller, McGriff, Graham, Luis.

Citizens Comments

The following citizens signed up for and spoke during Citizen Comments:

1. Steve Willis, Lancaster, SC, spoke regarding Veronica Thompson's retirement and recognized her years of service and accomplishments while working for Lancaster County.

The following citizens submitted electronic, written comments for Citizen Comments: None.

Special Presentations

Allison Hardin provided an update on procedures regarding the Carolina Heelsplitter via the County PowerPoint presentation and that presentation is attached to the written minutes in the Clerk to Council's office. She also provided an update on the Carolina Heelsplitter's required credit banking process. She noted that developers would have to work with the United States Fish and Wildlife Service (USFWS) unless the County decided to develop its own conservation bank. She explained that a new, County run conservation bank would be less cumbersome than working directly with USFWS. She provided options to continue the Heelsplitter habitat protection, but noted that it could possibly be administered by Lancaster County instead of USFWS.

Consent Agenda

Billy Mosteller moved to approve Consent Agenda Item **7a., 7b., 7c., and 7d.** [which are the same as Item **a., b., c., and d.** listed below]. Seconded by Charlene McGriff. A roll call vote was taken. The Consent Agenda items Passed by a vote of 7-0. Ayes: Blackmon, Carnes, Harper, Mosteller, McGriff, Graham, Luis.

- a. Approval of Minutes from the November 15, 2023 County Council Committee of the Whole Meeting

- b. Approval of Minutes from the November 27, 2023 County Council Regular Meeting

- c. 3rd Reading of Ordinance 2023-1869 regarding Rezoning Property Located at 2458 Mineral Mining Road, Kershaw, from Light Industrial (LI) to Agricultural Residential (AR) District (Applicants Charles and Ruth Strunk)

Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County To Rezone Approximately 6.60 Acres (TM# 0098-00-037.01) Located At 2458 Mineral Mining Road, Kershaw, From Light Industrial (LI) District To Agricultural Residential (AR) District. - *Planning Department Case Number: RZ-2023-1197.*

- d. 3rd Reading of Ordinance 2023-1881 regarding Amending the Future Land Use Designation for Property Located at 2458 Mineral Mining Road, Kershaw, SC, from Special District-Industrial to Rural Living (Applicants Charles and Ruth Strunk)

Ordinance Title: An Ordinance To Approve The Request Of Charles And Ruth Strunk To Amend The Future Land Use Map Contained In The Lancaster County, South Carolina Comprehensive Plan 2014-2024, Changing The Future Land Use Designation For Their Property Located At 2458 Mineral Mining Road, Kershaw, SC, From Special District-Industrial To Rural Living (TMS # 0098-00-

Non-Consent Agenda

Public Hearing and 3rd Reading of Ordinance 2023-1880 regarding Amending the Fiscal Year 2023-2024 Budget Related to Land Acquisition and Sheriff's Uniforms

Ordinance Title: An Ordinance To Amend Ordinance No. 2023-1849, Relating To The Appropriation Of Funds And The Approval Of A Detailed Budget For Lancaster County For The Fiscal Year Beginning July 1, 2023 And Ending June 30, 2024 (FY 2023-2024), To Further Provide For Revenues And Expenditures During The Fiscal Year; And To Provide For Matters Related Thereto.

Jose Luis moved to approve the 3rd Reading of Ordinance 2023-1880. Seconded by Allen Blackmon.

Veronica Thompson noted no changes since the 2nd Reading of Ordinance 2023-1880.

Steve Harper opened the Public Hearing for Ordinance 2023-1880 at approximately 6:22 p.m. He noted that no one signed up to speak at the Public Hearing for the Ordinance. There were approximately 18 citizens, including staff members, in attendance during the Public Hearing for this Ordinance. The following speakers came forward to make comments or sent in written comments regarding the Ordinance: None. Steve Harper closed the Public Hearing at approximately 6:22 p.m.

There was no discussion from Council. A roll call vote was taken. The 3rd Reading of Ordinance 2023-1880 Passed by a vote of 7-0. Ayes: Blackmon, Carnes, Harper, Mosteller, McGriff, Graham, Luis.

Public Hearing and 3rd Reading of Ordinance 2023-1883 regarding an Intergovernmental Agreement with the Town of Heath Springs

Ordinance Title: An Ordinance Of Lancaster County, South Carolina Authorizing The Execution Of An Intergovernmental Agreement By And Between Lancaster County, South Carolina And The Town Of Heath Springs, South Carolina; And Other Matters Relating Thereto.

Allen Blackmon moved to approve the 3rd Reading of Ordinance 2023-1883. Seconded by Charlene McGriff.

Allison Hardin noted that the changes regarding an annual review and termination period that Council requested were reflected in the 3rd Reading. Ms. Hardin pointed out a town name typo in the Intergovernmental Agreement and stated that she would make the appropriate corrections for that scrivener's error.

Steve Harper opened the Public Hearing for Ordinance 2023-1883 at approximately 6:25 p.m. He noted that no one signed up to speak at the Public Hearing for the Ordinance. There were approximately 18 citizens, including staff members, in attendance during the Public Hearing for this Ordinance. The following speakers came forward to make comments or sent in written comments regarding the Ordinance: None. Steve Harper closed the Public Hearing at approximately 6:25 p.m.

There was no discussion from Council. A roll call vote was taken. The 3rd Reading of Ordinance 2023-1883 Passed by a vote of 7-0. Ayes: Blackmon, Carnes, Harper, Mosteller, McGriff, Graham, Luis.

Public Hearing and 3rd Reading of Ordinance 2023-1884 regarding an Intergovernmental Agreement with the Town of Kershaw

Ordinance Title: An Ordinance Of Lancaster County, South Carolina Authorizing The Execution Of An Intergovernmental Agreement By And Between Lancaster County, South Carolina And The Town Of Kershaw, South Carolina; And Other Matters Relating Thereto.

Charlene McGriff moved to approve the 3rd Reading of Ordinance 2023-1884. Seconded by Billy Mosteller.

Allison Hardin noted that the changes regarding an annual review and termination period that Council requested

were reflected in the 3rd Reading.

Steve Harper opened the Public Hearing for Ordinance 2023-1884 at approximately 6:26 p.m. He noted that no one signed up to speak at the Public Hearing for the Ordinance. There were approximately 18 citizens, including staff members, in attendance during the Public Hearing for this Ordinance. The following speakers came forward to make comments or sent in written comments regarding the Ordinance: None. Steve Harper closed the Public Hearing at approximately 6:26 p.m.

There was no discussion from Council. A roll call vote was taken. The 3rd Reading of Ordinance 2023-1884 Passed by a vote of 7-0. Ayes: Blackmon, Carnes, Harper, Mosteller, McGriff, Graham, Luis.

Public Hearing and 3rd Reading of Ordinance 2023-1885 regarding Amending Article IV of Chapter 25 of the County Code

Ordinance Title: An Ordinance To Amend Article IV Of Chapter 25 Of The Lancaster County Code So As To Amend The Duties Of The Building Department, Planning Department, And The Zoning Department Per The Intent Of The Intergovernmental Agreements Signed Between Lancaster County And The Towns Of Heath Springs And Kershaw.

Charlene McGriff moved to approve the 3rd Reading of Ordinance 2023-1885. Seconded by Terry Graham.

Allison Hardin noted no changes since the previous reading of Ordinance 2023-1885.

Steve Harper opened the Public Hearing for Ordinance 2023-1885 at approximately 6:28 p.m. He noted that no one signed up to speak at the Public Hearing for the Ordinance. There were approximately 18 citizens, including staff members, in attendance during the Public Hearing for this Ordinance. The following speakers came forward to make comments or sent in written comments regarding the Ordinance: None. Steve Harper closed the Public Hearing at approximately 6:28 p.m.

There was no discussion from Council. A roll call vote was taken. The 3rd Reading of Ordinance 2023-1885 Passed by a vote of 7-0. Ayes: Blackmon, Carnes, Harper, Mosteller, McGriff, Graham, Luis.

1st Reading of Ordinance 2023-1865 regarding Amending the Unified Development Ordinance related to Chapter 2, Section 2.4 District Standards for Medium Density Residential (MDR)

Ordinance Title: An Ordinance To Amend The Unified Development Ordinance (“UDO”) Chapter 2 (District Standards), Chapter 5 (Use Regulations), And Chapter 6 (Subdivision And Infrastructure Standards) Relating To The Medium Density Residential (MDR) Zoning District, On The Effective Date Of This Ordinance - *Planning Department Case Number: UDO-TA-2023-0972*.

Chairman Harper called for a motion, but no motion was made. The 1st Reading of Ordinance 2023-1865 died on the floor.

1st Reading of Ordinance 2023-1870 regarding Amending the Unified Development Ordinance (UDO) related to Chapter 4, Section 4.4.1 Cluster Subdivision Overlay Standards

Ordinance Title: An Ordinance To Amend The Unified Development Ordinance (“UDO”) Sections 4.4.1 (Cluster Subdivision Overlay District) On The Effective Date Of This Ordinance - *Planning Department Case Number: UDO-TA-2023-0973*.

Charlene McGriff moved to approve the 1st Reading of Ordinance 2023-1870. Seconded by Terry Graham.

Allison Hardin reviewed the County PowerPoint presentation with Council and highlighted that the overlay allows for different configuration of properties. Ginny Merck-Dupont noted that the adoption of the text amendment would be best if it was included in the new Unified Development Ordinance (UDO), rather than it being treated as a stand-alone ordinance. Terry Graham stated that he was not in favor of Cluster Subdivision Overlay

Districts. Steve Harper stated that Council needed more in-depth discussion before taking a vote on the matter, and Charlene McGriff agreed with him.

A roll call vote was taken. The 1st Reading of Ordinance 2023-1870 Failed by a vote of 2-5. Ayes: Carnes, Graham. Nays: Blackmon, Harper, Mosteller, McGriff, Luis.

Public Hearing and 1st Reading of Ordinance 2023-1879 regarding Amending the Unified Development Ordinance (UDO) regarding Chapters 2, 5, And 10 to Add a Definition and Regulations for Non-Metallic Mineral Product Manufacturing (Applicant Kim Lineberger on behalf of KCH Real Estate LLC)

Ordinance Title: An Ordinance To Amend The Unified Development Ordinance (“UDO”) Chapters 2, 5, And 10 To Include A New Use Definition For “Nonmetallic Mineral Product Manufacturing,” To Create “Nonmetallic Mineral Product Manufacturing” As A Use Permitted With Review (PR), And To Establish The Conditions For The Use, On The Effective Date Of This Ordinance - *Planning Department Case Number: UDO-TA-2023-1819.*

Allen Blackmon moved to approve the 1st Reading of Ordinance 2023-1879. Seconded by Billy Mosteller.

Allison Hardin reviewed the County PowerPoint presentation with Council and noted that this proposed use was not allowed in the current Unified Development Ordinance (UDO). She explained that this amendment would apply to all properties in the County that are zoned Heavy Industrial (HI). The applicant, Kim Lineberger of Rock Hill, SC, spoke and noted that this was a business expansion decision. She provided Council with a handout that shows the aerial view of the property. A copy of the handout is attached as Schedule A to the written minutes in the Clerk to Council's office. Ms. Lineberger also discussed that the facility would be required to follow the standards implemented by the Department of Health and Environmental Control (DHEC). Several Council members spoke in favor of the amendment and highlighted that it would allow the business to move forward and create new jobs for Lancaster County residents. Jose Luis voiced concerns regarding the environment and the health and safety of residents.

Steve Harper opened the Public Hearing for Ordinance 2023-1879 at approximately 6:56 p.m. He noted that no one signed up to speak at the Public Hearing for the Ordinance. There were approximately 17 citizens, including staff members, in attendance during the Public Hearing for this Ordinance. The following speakers came forward to make comments or sent in written comments regarding the Ordinance: None. Steve Harper closed the Public Hearing at approximately 6:56 p.m.

A roll call vote was taken. The 1st Reading of Ordinance 2023-1879 Passed by a vote of 6-1. Ayes: Blackmon, Carnes, Harper, Mosteller, McGriff, Graham. Nays: Luis.

1st Reading of Ordinance 2023-1887 Fee Agreement Amendment for Project Cobalt

Ordinance Title: An Ordinance To Authorize And Approve The Execution And Delivery Of A First Amendment To Fee Agreement By And Among Lancaster County, South Carolina, Project Cobalt And Project Cobalt Affiliate; And To Provide For Other Matters Related Thereto.

Charlene McGriff moved to approve the 1st Reading of Ordinance 2023-1887. Seconded by Terry Graham.

Amy Carnes presented Project Cobalt to Council and highlighted that they were a long-time employer in Lancaster County. She explained that the company has requested more flexibility in the minimum number of employees requirement and an 18% reduction in their Special Source Revenue Credit.

There was no discussion from Council. A roll call vote was taken. The 1st Reading of Ordinance 2023-1887 Passed by a vote of 7-0. Ayes: Blackmon, Carnes, Harper, Mosteller, McGriff, Graham, Luis.

Discussion and Action Items

Appointments to Various Boards and Commissions

- Dale Sullivan as one of the District 1 Representatives to the Keep Lancaster County Beautiful Board to fill an unexpired term that would end on 06/30/2025
- Danielle Calabro as the Department of Social Services' representative to fill an unexpired term that would end on 06/30/2025
- Adrienne Robinson as the Adult Education Representative for the Catawba Regional Workforce Board to fill a three year term that would end on 12/31/2026

Charlene McGriff moved to approve the Appointments to Various Boards and Commissions. Seconded by Allen Blackmon.

There was no discussion from Council. A roll call vote was taken. The motion Passed by a vote of 7-0. Ayes: Blackmon, Carnes, Harper, Mosteller, McGriff, Graham, Luis.

Status of items tabled, recommitted, deferred or held

- HOLD UNTIL PARK COVENANTS AMENDED - 2nd Reading of Ordinance 2023-1877 regarding Rezoning Property Located at 1662 MacMillan Park Drive from Light Industrial (LI) to Institutional (INS) District to Convert an Existing Structure to a K-12 Private School Facility (Applicants Brian Cillian/Greybridge MacMillan LLC and LEH SC MacMillan LLC)**
Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County To Rezone Approximately 7.286 Acres (TM# 0007-00-008.05) Located At 1662 Macmillan Park Dr, From Light Industrial (LI) District To Institutional (INS) District - ***Planning Department Case Number: RZ-2023-1464. The Planning Commission recommended denial by unanimous vote and the Planning staff also recommended denial of the rezoning request. At the October 9th Council Meeting, the public hearing was held but the 1st Reading was postponed until the October 23, 2023 County Council Meeting. 1st Reading Passed 5-1 at the October 23, 2023 County Council Meeting (Billy Mosteller Opposed). At the November 13th Council Meeting, the 2nd Reading was postponed until the November 27, 2023 County Council Meeting. At the November 27th Council Meeting, the 2nd Reading was postponed until the Park Covenants have been amended. - Allison Hardin***

There was no discussion regarding the status of any tabled, recommitted, deferred or held items.

Executive Session

Two Items:

1. Receipt of legal advice subject to the attorney-client privilege regarding a potential contractual matter relating to land acquisition.
2. Receipt of legal advice subject to the attorney-client privilege regarding a potential contractual matter relating to land acquisition.

Steve Harper stated that he needed a motion to go into Executive Session for the receipt of legal advice subject to the attorney-client privilege regarding two separate potential contractual matters relating to land acquisition. Terry Graham stated that he so moved. Seconded by Charlene McGriff. A roll call vote was taken. The motion to go into Executive Session Passed by a vote of 7-0. Ayes: Blackmon, Carnes, Harper, Mosteller, McGriff, Graham, Luis. At approximately 7:04 p.m., Council went into Executive Session.

Items Requiring a Vote Following Executive Session

Council came out of Executive Session and Steve Harper called the Council meeting back to order at approximately 7:33 p.m. Allen Blackmon moved to come out of Executive Session. Seconded by Jose Luis. A roll call vote was taken. The motion to come out of Executive Session Passed by a vote of 7-0. Ayes: Blackmon, Carnes, Harper, Mosteller, McGriff, Graham, Luis.

Upon returning to open session, Ginny Merck-Dupont noted that during Executive Session, Council received legal advice subject to attorney-client privilege regarding two separate potential contractual matters relating to land acquisition. She stated that during Executive session, no motions were made and no votes were taken.

Jose Luis made a motion to authorize the County Administrator to enter into negotiations and execute all necessary documentation related to the purchase of property for the County Fleet Operations within the parameters discussed during Executive Session. Seconded by Allen Blackmon. A roll call vote was taken. The motion Passed by a vote of 7-0. Ayes: Blackmon, Carnes, Harper, Mosteller, McGriff, Graham, Luis.

Adjournment

Jose Luis moved to adjourn the Council meeting. Seconded by Terry Graham. A roll call vote was taken. The motion to adjourn Passed by a vote of 7-0. Ayes: Blackmon, Carnes, Harper, Mosteller, McGriff, Graham, Luis.

There being no further business, the regular meeting of Council adjourned at approximately 7:35 p.m.

DRAFT

Agenda Item Summary

Ordinance # / Resolution #: N/A

Contact Person / Sponsor: Lauren Hill / Deputy Clerk to Council

Department: County Clerk

Date Requested to be on Agenda: 1/8/2024

Council Action Requested:

Approve or amend the minutes from the December 13, 2023, County Council Committee of the Whole meeting.

Points to Consider:

The draft minutes from the December 13, 2023, County Council Committee of the Whole meeting are attached for Council's review and consideration.

Funding and Liability Factors:

There are no funding or liability factors regarding approval of minutes.

Recommendation:

Approve the minutes as written.

ATTACHMENTS:

Description	Upload Date	Type
Draft Minutes from the 12-13-2023 Committee of the Whole Meeting	1/4/2024	Backup Material

Council Members

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

**County Administrator**

Dennis E. Marstall

County Attorney

Ginny L. Merck-Dupont

Clerk to Council

Sherrie Simpson

December 13, 2023

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**

MINUTES

Council Members Present: Allen Blackmon, Brian Carnes (via conference call), Billy Mosteller, Charlene McGriff, Terry Graham, and Jose Luis.

Council Members Absent: Steve Harper.

Staff Members/Others present: Dennis Marstall, County Administrator; Ginny Merck-Dupont, County Attorney; Sherrie Simpson, Clerk to Council; Lauren Hill, Deputy Clerk to Council/Administrative Assistant; Stephany Snowden, Deputy County Administrator; Allison Hardin, Development Services Director; Veronica Thompson, Chief Financial Officer; Jamie Privuznak, Budget Director; Brenda Thompson, Communications and Marketing Director; Jeff Catoe, Public Works Director; Scott Hernandez, IT Director; Frannie Heizer, Burr Forman LLP; the press; various elected officials; various Department Heads; various employees; and citizens.

A quorum of Lancaster County Council was present for the meeting. The following press were notified of the meeting by e-mail in accordance with the Freedom of Information Act: *The Lancaster News*, *Kershaw News Era*, *The Rock Hill Herald*, Cable News 2, Channel 9 and the local government channel. The agenda was posted in the lobby of the County Administration Building and also on the County website the required length of time. The power point presentation utilized during the meeting is attached to the written minutes in the Clerk to Council's office.

Call to Order - Secretary Billy Mosteller

Secretary Billy Mosteller called the Committee of the Whole meeting to order at approximately 4:00 p.m.

Welcome and Recognition - Secretary Billy Mosteller

Secretary Billy Mosteller welcomed everyone to the meeting.

Pledge of Allegiance and Invocation - Council Member Allen Blackmon

Allen Blackmon led the Pledge of Allegiance to the American Flag and delivered the Invocation.

Approval of Agenda

Charlene McGriff moved to approve the agenda. Seconded by Terry Graham. A roll call vote was taken. The motion Passed by a vote of 6-0. Ayes: Blackmon, Carnes, Mosteller, McGriff, Graham, Luis; Absent: Harper.

Citizens Comments

The following citizens signed up for and spoke during Citizen Comments: None.

The following citizens submitted electronic, written comments for Citizen Comments: None.

Discussion and Action Items

Lancaster County Criminal Justice Coordinating Council (CJCC) - Sheriff Barry Faile

Sheriff Faile presented the proposal for a grant that would create the Lancaster County Criminal Justice Coordinating Council (CJCC) and highlighted how it would increase efficiency in the criminal court system. Sheriff Faile discussed how members would be selected and that the program would be funded through a federal grant that was awarded. Council was in favor of the program.

American Rescue Plan Act (ARPA) Update and Barnett Building Proposal - Dennis Marstall

Dennis Marstall introduced the County's new Budget Director, Jamie Privuznak.

Stephany Snowden provided an update, via the County PowerPoint, on the American Rescue Plan Act (ARPA) funds that the County was awarded as a COVID-19 pandemic recovery fund and how those funds have been allocated thus far. Ms. Snowden made a note that, in the future, staff will present an ARPA update to Council every three months. Dennis Marstall clarified the difference in the funds on Council's spreadsheet and the PowerPoint presentation. Mr. Marstall presented a project proposal for the Barnett Building. The building, if renovated, would house the Information Technology Department, Clemson Cooperative Extension, a limited number of Solicitor staff, and a computer/training lab. He noted that architectural plans and a cost estimation for the renovation project would be reviewed in January 2024 and then presented to Council.

Discussion of Proposed Ordinance regarding Amending Ordinance 2022-1796 regarding the State Budget Proviso and the Capital Project Sales Tax - Ginny Merck-Dupont/Frannie Heizer

Dennis Marstall presented the amendment to Council and noted that this amendment would clarify the amount of excess funds being used for projects on Capital Project Sales Tax 3. The items discussed were the Lindsay Pettus Greenway, the University of South Carolina - Lancaster pedestrian improvement project, and road projects. Frannie Heizer noted that, for ease of process, the ordinance was presented as an amended and restated ordinance as opposed to presenting two separate documents. Staff, Council and Ms. Heizer discussed, in length, the State law for Capital Project Sales Tax, the proviso that changed the State law, and the intent of the original ordinance that was adopted. Several Council members were concerned that these projects were being double funded, which was not Council's understanding or intent when the ordinance was originally adopted in March of 2022.

Funding for Kershaw Pool Partnership with Young Men's Christian Association (YMCA) - Dennis Marstall

Dennis Marstall explained that the Town of Kershaw has requested that Lancaster County commit \$40,000 each year for the next three years to support a partnership between the Town of Kershaw and the YMCA. Dennis

Marstall noted that Lancaster County already shares the cost of the pool maintenance with the Town of Kershaw, and he explained that this annual \$40,000 would be in addition to the funds already provided. Several Council members were concerned that when the County was approached in the past about a partnership with different YMCA branches, those partnership opportunities were turned down. Charlene McGriff and Jose Luis requested that the partnership decision be postponed until budget time. However, it was discussed that the Town would like to use the partnership as a way to attract the YMCA and so would like a decision before that time. Council members also had questions regarding what the annual \$40,000 commitment goes towards. Dennis Marstall stated that he would work with Kershaw's Town Administrator to draft an Intergovernmental Agreement that would address the concerns of Council and outline the details of the partnership.

General Discussion regarding Grants and Fundraising for Boards and Commissions - Dennis Marstall

Dennis Marstall and Council discussed whether Council wished to allow County Boards and Commissions the ability to apply for grants. Dennis Marstall noted there has been an increase in the number of grant requests from various Boards and Commissions, but that the Health and Wellness Commission was the only group that has the official ability to apply for grants as outlined in their ordinance. Council agreed that each grant application should be presented to Council and the process should have oversight from County staff. Council was not in favor of allowing Boards and Commissions to undertake fundraising activities.

Follow-up Discussion on the Number of Times a Parcel can be Subdivided - Allison Hardin

Allison Hardin explained the definition of a subdivision found in the Unified Development Ordinance and in the South Carolina Code of Laws. Ms. Hardin also explained the three different types of subdivision reviews and their processes under the County's current Unified Development Ordinance.

Budget Calendar Discussion - Dennis Marstall

Dennis Marstall presented the draft Fiscal Year 2024-2025 Budget Calendar to Council. Mr. Marstall noted that the calendar was created to allow Council more time to review the detailed departmental budget requests.

Adjournment

Terry Graham moved to adjourn the Committee of the Whole meeting. Seconded by Brian Carnes. A roll call vote was taken. The motion to adjourn Passed by a vote of 6-0. Ayes: Blackmon, Carnes, Mosteller, McGriff, Graham, Luis. Absent: Harper.

There being no further business to discuss, the Committee of the Whole meeting adjourned at approximately 5:58 p.m.

Agenda Item Summary

Ordinance # / Resolution #: Ordinance 2023-1887
Contact Person / Sponsor: Brian Fulk / Economic Development
Department: Economic Development
Date Requested to be on Agenda: 1/8/2024

Council Action Requested:

Approve the reduction in number of employees to be maintained from 63 to 40, on-site while authorizing a corresponding reduction in the amount of Special Source Revenue Credit offered from 58% to 40%, while requiring 40 on-site individuals as the minimum number of employees required to receive the SSRCs. All other terms to remain unchanged, including the company commitment to invest \$2,500,000 during the investment period which runs for five years to 2027.

Points to Consider:

Project Cobalt is an existing company in Lancaster County. Part of a group that has been operating for nearly 100 years, it has operated in the County for over two decades and has consistently participated in philanthropic missions in Lancaster County. The company manufactures geo-membranes made from a diversity of proprietary polymer Chemistry formulas powered through state-of-the-art polymer extrusion equipment.

The company has not been about to reach and maintain it agreed to employment numbers, as outlined in the economic development agreement. They are close, but do not foresee that they will be able to maintain the 63-employee threshold that was established in the agreement.

Given this situation, they have agreed to a 18% reduction in the SSRC percentage to recognize they have not satisfied the employee requirement.

They are on track to satisfy the other components of the economic development agreement.

Funding and Liability Factors:

The County will receive additional net taxes over the life of the FILOT Agreement based upon this percentage change from the original agreement. (SSRCs reduced from 58% to 40%).

Recommendation:

Staff recommends to proceed with three readings and conclude with approval of this Economic Development Incentive amendment request.

ATTACHMENTS:

Description	Upload Date	Type
Ordinance 2023-1887	12/6/2023	Ordinance
First Amendment to Fee Agreement Project Cobalt 12-6-23	12/6/2023	Amendment

STATE OF SOUTH CAROLINA

)

ORDINANCE 2023-1887

COUNTY OF LANCASTER

)

)

AN ORDINANCE TO AUTHORIZE AND APPROVE THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO FEE AGREEMENT BY AND AMONG LANCASTER COUNTY, SOUTH CAROLINA, PROJECT COBALT AND PROJECT COBALT AFFILIATE; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings and Determinations

The Lancaster County Council finds that:

(a) Lancaster County, South Carolina (the “County”) acting by and through its County Council (the “Council”), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the “Code”), and specifically Title 12, Chapter 44 of the Code (the “Fee in Lieu of Tax Simplification Act” or “FILOT Act”), to enter into agreements with business and industry, to offer certain privileges, benefits, and incentives as inducements for economic development within the County whereby the industry would pay fees in lieu of *ad valorem* taxes (“FILOT Payments”) with respect to qualified business and industrial projects, through all such powers the industrial development of the State of South Carolina (the “State”) will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain and expand in the State and thus utilize and employ the workforce, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise adequately provided locally; and

(b) The County, acting by and through its Council, is authorized and empowered to establish, in conjunction with one or more other counties, multicounty parks (each, an “MCP”) pursuant to Article VIII, Section 13(D) of the Constitution of South Carolina, and Sections 4-1-170, 4-1-172, and 4-1-175 of the Code, as amended (the “MCP Act”) to further the investment of capital and the creation of jobs in the County, and to facilitate the provision of special source revenue credits; and

(c) Section 12-44-70 of the FILOT Act, Section 4-1-175 of the MCP Act and Section 4-29-68 of the Code authorizes the Council to provide special source revenue credits (“SSRCs”) that are applied against FILOT Payments made pursuant to the FILOT Act and MCP Act to reimburse a project for the costs of designing, acquiring, constructing, improving, or expanding, among other things, (i) infrastructure serving the project, or (ii) improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County; and

(d) A company known to the County as “Project Cobalt” and a company known to the County as “Project Cobalt Sponsor Affiliate” (collectively, the “Companies”), are party to that certain Fee Agreement, dated as of _____, _____, by and among the Companies and the County, subsequently assigned to Project Cobalt Sponsor Affiliate by that certain Assignment of Fee Agreement and Special Source Revenue Credit Agreement dated as of _____, _____, pursuant to which the Companies committed to making investment in real and personal property located in the County (the “Project”); and

(e) The Companies and the County desire to amend the Fee Agreement to adjust the Jobs Commitment and approved SSRs, pursuant to the terms and conditions of a First Amendment to Fee Agreement by and among the Companies and the County, attached to this ordinance as Exhibit A (the “First Amendment”); and

(f) It is the purpose of this ordinance to effectuate the approval of the First Amendment.

Section 2. Statutory Findings

Council makes the following additional findings:

- (a) The Project will constitute a “project” as referred to and defined in the FILOT Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the FILOT Act.
- (b) The Project and the FILOT Payments are beneficial to the County, and the County has evaluated the Project based on all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made.
- (c) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.
- (d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.
- (e) The purposes to be accomplished by the Project, *i.e.*, economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes.
- (f) The inducement of the location of the Project within the County and State is of paramount importance.
- (g) The benefits of the Project to the public will be greater than the costs to the public.

Section 3. Approval of First Amendment

The form, terms, and provisions of the First Amendment (the “First Amendment”), attached to this ordinance as Exhibit A, are authorized, ratified and approved, and all the provisions, terms, and conditions thereof are authorized, ratified and approved and incorporated herein by reference as if the Fee Agreement were set out in this ordinance in its entirety. The Council Chair and Council Secretary are authorized, empowered, and directed to execute the First Amendment in the name of and on behalf of the County, and thereupon to cause the First Amendment to be delivered to the Company and performed by the County. The First Amendment is to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the official or officials of the County executing the same, upon the advice of counsel to the County, each such official’s execution thereof to constitute conclusive evidence of such official’s approval of any and all changes or revisions therein from the form of the First Amendment attached to this ordinance.

Section 4. Authority to Act

The Council Chair, Council Secretary, Clerk to County, County Administrator, County Attorney and all other appropriate officials of the County are (and each acting individually is) hereby authorized, empowered, and directed to take such actions and to execute such agreements, certificates, or other documents as may be necessary to effectuate the purposes of this ordinance, and the performance of all obligations of the County under and pursuant to the First Amendment.

Section 7. Severability

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

Section 8. Conflicting Provisions

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances and resolutions, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 9. Effective Date

This ordinance is effective upon third reading.

[Signatures follow on next page]

AND IT IS SO ORDAINED

Dated this ____ day of _____, 2024.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

Billy Mosteller, Secretary, County Council

ATTEST:

Sherrie Simpson, Clerk to Council

First Reading: December 11, 2023

Second Reading: January 8, 2024

Third Reading: January 22, 2024

Public Hearing: January 22, 2024

Approved as to form:

Ginny L. Merck-Dupont, County Attorney

Exhibit A to Ordinance 2023-1887

FIRST AMENDMENT

See attached.

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FIRST AMENDMENT TO THE FEE AGREEMENT

This FIRST AMENDMENT TO THE FEE AGREEMENT (the “First Amendment”) is made and entered into as of _____, 2024, by and among LANCASTER COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (“County”), [PROJECT COBALT], a _____ Corporation (“Sponsor”), and [PROJECT COBALT SPONSOR AFFILIATE], a _____ limited liability company (“Sponsor Affiliate”) (Sponsor and Sponsor Affiliate are collectively referred to herein as the “Companies”).

RECITALS

WHEREAS, pursuant to Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the “Act”), the County, Sponsor and _____, a _____ limited liability company, entered into a Fee Agreement dated as of December 14, 2020 (the “Fee Agreement”), for the purpose of, among other things, providing incentives in the form of a fee in lieu of tax arrangement and special source credits in connection with the “Project,” as defined in the Fee Agreement;

WHEREAS, pursuant to the Act and Sections 4-1-175, 4-29-68, and 12-44-70 of the Code of Laws of South Carolina 1976, as amended (the “SSRC Act”), the County is authorized to provide infrastructure improvement credits or special source revenue credits (“SSRCs”) to the Sponsor for the purpose of paying the cost of designing, acquiring, constructing, improving, or expanding certain qualifying infrastructure;

WHEREAS, _____ assigned its interest in the Fee Agreement to _____, a _____ limited liability company, by that certain Assignment and Assumption of Fee Agreement and Special Source Revenue Credit Agreement dated as of _____, ____; and

WHEREAS, _____ assigned its interest in the Fee Agreement to Sponsor Affiliate by that certain Assignment of Fee Agreement and Special Source Revenue Credit Agreement dated as of _____, ____; and

WHEREAS, the County, pursuant to the SSRC Act, has previously provided SSRCs to the Sponsor in the Fee Agreement; and

WHEREAS, pursuant to Section 4.01(b) of the Fee Agreement, the Sponsor agreed to have employed in Full-Time Jobs, paying an hourly wage rate not less than the Wage Requirement, an average of: (i) not less than sixty-three (63) in calendar year 2020 through calendar year 2022; and (ii) not less than sixty-eight (68) in calendar year 2023 through calendar year 2026, but the Sponsor for various reasons, including, the COVID pandemic and other reasons outside the Company’s control, did not create the requisite average number of Full-Time Jobs in calendar year 2020 through calendar year 2022, and does not anticipate creating the requisite average number of Full-Time Jobs in calendar year 2023 through calendar year 2026; and

WHEREAS, in consideration of the Sponsor’s continued investment at the Project, the County and the Companies desire to amend the Fee Agreement so as to adjust the stated Jobs Commitment and previously approved SSRCs.

FIRST AMENDMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the Companies agree:

Section 1. *Incorporation of Recitals.* The above recitals are incorporated into this First Amendment as if the recitals were set out in this First Amendment in their entirety.

Section 2. *Statutorily Required Recapitulation.* Section 1.01(b)(7)(c) of the Fee Agreement is amended to read:

“Special Source Revenue Credits shall be provided for the Economic Development Property in amounts equal to: (i) fifty-eight percent (58%) of the Negotiated FILOT Payments beginning not later than the Negotiated FILOT Payments due without penalty by January 15, 2022 and ending not later than the Negotiated FILOT Payment due without penalty by January 15, 2024; and (ii) forty percent (40%) of the Negotiated FILOT Payments beginning not later than the Negotiated FILOT Payment due without penalty by January 15, 2025 and ending not later than the Negotiated FILOT Payment due without penalty by January 15, 2028;”

Section 3. *Investment by Company in Project.* Section 4.01(b) of the Fee Agreement is amended to read:

“For the Project, Sponsor agrees and commits to the following aggregate Jobs Commitment: the creation and maintenance of the number of Full-Time Jobs, paying an hourly wage rate not less than the Wage Requirement, at the following employment levels and in the designated timeframes:

(1) to have employed in Full-Time Jobs, paying an hourly wage rate not less than the Wage Requirement, an average of not less than sixty-two (62) in calendar year 2020 through calendar year 2022, and

(2) to have employed in Full-Time Jobs, paying an hourly wage rate not less than the Wage Requirement, an average of not less than forty (40) in calendar year 2023 through calendar year 2026.”

Section 4. *Payments in Lieu of Ad Valorem Taxes.*

(a) Section 5.01(d) of the Fee Agreement is amended to read:

“Special Source Revenue Credits shall be provided for the Economic Development Property in amounts equal to: (i) fifty-eight percent (58%) of the Negotiated FILOT Payments beginning not later than the Negotiated FILOT Payments due without penalty by January 15, 2022 and ending not later than the Negotiated FILOT Payment due without penalty by January 15, 2024; and (ii) forty percent (40%) of the Negotiated FILOT Payments beginning not later than the Negotiated FILOT Payment due without penalty by January 15, 2025 and ending not later than the Negotiated FILOT Payment due without

penalty by January 15, 2028. Company agrees to maintain a membership in the Lancaster County Chamber of Commerce in any year in which it receives a Special Source Revenue Credit pursuant to this Section 5.01(d). At no time shall the aggregate Special Source Revenue Credits provided pursuant to this Section 5.01(d) exceed the aggregate cost of Infrastructure Improvements incurred by Sponsor and any other Co-Investors. The Special Source Revenue Credit provided in this Section 5.01(d) applies only to the Economic Development Property and does not apply to the Non-Qualifying Property or to any other property.”

(b) Section 5.01(j) of the Fee Agreement is amended to read:

“Notwithstanding any other provision of this Agreement, the Special Source Revenue Credits provided in Section 5.01(d) above are not applicable in any year immediately following a year in which the Company has failed to maintain the Jobs Commitment in Section 4.01(b) above.”

Section 5. *Payment of Expenses.* Upon submission by the County of appropriate documentation of the expenditure, the Sponsor agrees to reimburse the County, not later than sixty (60) days following such submission, for the County’s reasonable unreimbursed actual costs incurred related to this First Amendment. The cost reimbursement is limited to County payments to third-party vendors, including, but not limited to, payments for attorney’s fees.

Section 6. *Representations and Warranties.* (A) Sponsor represents and warrants, as the basis for the undertakings on its part contained in this First Amendment, that it (i) is a corporation organized and existing and in good standing under the laws of Rhode Island, (ii) is authorized to do business in South Carolina, (iii) has all requisite power to enter into this First Amendment, and (iv) by proper action has been duly authorized to execute and deliver this First Amendment.

(B) Sponsor Affiliate represents and warrants, as the basis for the undertakings on its part contained in this First Amendment, that it (i) is a limited liability company organized and existing and in good standing under the laws of Delaware, (ii) is authorized to do business in South Carolina, (iii) has all requisite power to enter into this First Amendment, and (iv) by proper action has been duly authorized to execute and deliver this First Amendment.

(C) County represents and warrants, as the basis for the undertakings on its part contained in this First Amendment, that it (i) is a body politic and corporate and a political subdivision of the State of South Carolina, (ii) is authorized by the Act and SSRC Act to enter into this First Amendment, (iii) has approved this First Amendment in accordance with the procedural requirements of the Act, the SSRC Act and any other applicable state law, and (iv) has authorized its officials to execute and deliver this First Amendment.

Section 7. *Multiple Counterparts.* This First Amendment may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

Section 8. *Fee Agreement.* Except as specifically provided in this First Amendment, the Fee Agreement shall remain unchanged and in full force and effect.

SIGNATURE PAGES FOLLOW ON NEXT PAGE.

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this First Amendment to be effective as of the date first written above.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

Billy Mosteller, Secretary, County Council

[SEAL]

ATTEST:

Sherrie Simpson, Clerk to Council

COMPANIES SIGNATURES FOLLOW ON NEXT PAGE.

[SPONSOR],
a _____ corporation

By: _____

Name: _____

Title: _____

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[SPONSOR AFFILIATE],
a _____ limited liability company

By: _____

Name: _____

Title: _____

Agenda Item Summary

Ordinance # / Resolution #: Ordinance 2023-1879 / Planning Case Number: UDO-TA-2023-1819

Contact Person / Sponsor: A. Hardin / Planning

Department: Planning

Date Requested to be on Agenda: 1/8/2024

Council Action Requested:

Consideration of Planning Case Number UDO-TA-2023-1819: Application by Kim Lineberger on behalf of KCH Real Estate LLC for an amendment to UDO Sec. 5.9 Industry/Wholesale/Storage Uses and Sec. 2.5 Use Table, to add a definition and regulations for Non-Metallic Mineral Product Manufacturing.

Points to Consider:

Applicant is asking for a 2,100+ foot reduction in setbacks from adjacent residential and business uses.

Funding and Liability Factors:

Applicant states that this use is needed for the construction industry in Lancaster County and to replace Portland concrete production.

Recommendation:

Planning Commission recommended denial (5-1).

ATTACHMENTS:

Description	Upload Date	Type
Ordinance 2023-1879	12/6/2023	Ordinance
Application	10/30/2023	Exhibit
Hi Map & Buffer Maps (3)	11/15/2023	Backup Material
Astec Pamphlet 1: How it Works	11/13/2023	Backup Material
Astec Pamphlet 2: Meet the Neighbors	11/13/2023	Backup Material
Other Jurisdiction Ordinances	11/15/2023	Backup Material
Lineberger Memo 11-15-2023	11/15/2023	Exhibit
Staff Report - Amended	12/6/2023	Planning Staff Report

STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2023-1879

COUNTY OF LANCASTER

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AN ORDINANCE

TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE (“UDO”) CHAPTERS 2, 5, AND 10 TO INCLUDE A NEW USE DEFINITION FOR “NONMETALLIC MINERAL PRODUCT MANUFACTURING,” TO CREATE “NONMETALLIC MINERAL PRODUCT MANUFACTURING” AS A USE PERMITTED WITH REVIEW (PR), AND TO ESTABLISH THE CONDITIONS FOR THE USE, ON THE EFFECTIVE DATE OF THIS ORDINANCE

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings and Determinations.

The Council of Lancaster County (“Council”) finds and determines that:

- (a) Lancaster County initiated a full rewrite of the Unified Development Ordinance (UDO) in October 2021 to address substantive issues with the UDO, has retained a UDO consultant to assist in the full rewrite of the UDO, and the full rewrite is expected to take another twelve (12) to eighteen (18) months to complete.
- (b) There is an interest in the business community to install a nonmetallic mineral product manufacturing facility in the Lancaster area to serve the construction industry locally.
- (c) The current Lancaster County UDO does not include a definition for “nonmetallic mineral product manufacturing facility.”
- (d) The text amendment is consistent with the applicable provisions of the Comprehensive Plan as required by UDO Section 9.2.15.B.3, as well as applicable provisions of South Carolina Code, Title VI.
- (e) Lancaster County Planning Commission considered the proposed text amendment at its meeting on August 15, 2023 and by a 5-1 vote did not recommend approval of the proposed text amendment.

Section 2. Amendment of Ordinance 2016-1442 (Unified Development Ordinance)

Ordinance 2016-1442 (Unified Development Ordinance), is amended as set forth in the “Proposed Amendment - Exhibit 1” attached hereto and incorporated herein by reference.

Section 3. Severability.

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

Section 4. Conflicting Provisions.

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance, to the extent to of the conflict, supersede all other provisions and this ordinance is controlling.

Section 5. Effective Date.

This ordinance is effective upon Third Reading.

AND IT IS SO ORDAINED

Dated this _____ day of _____, 2024.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

Billy Mosteller, Secretary, County Council

ATTEST:

Sherrie Simpson, Clerk to Council

First Reading: December 11, 2023
Public Hearing: December 11, 2023
Second Reading: January 8, 2024
Third Reading: January 22, 2024

Approved as to form:

Virginia Merck-Dupont, County Attorney

PROPOSED AMENDMENT

CHAPTER 10.3 DEFINITIONS, USE TYPE

New definition:

Nonmetallic Mineral Product Manufacturing: Uses as described in the North American Industry Classification System (NAICS) group 3200.

CHAPTER 5 USE REGULATIONS, SECTION 5.9 INDUSTRY/WHOLESALE/STORAGE USES

New section:

5.9. Nonmetallic Mineral Product Manufacturing [HI]

- A. Permitted Industrial and Manufacturing Activities: Nonmetallic Mineral Product Manufacturing includes industrial facilities used for the manufacturing and production of clay product and refractory manufacturing (NAICS 3271); glass and glass production manufacturing (NAICS 3272); cement and concrete product manufacturing (NAICS 3273); Lime and gypsum product manufacturing (NAICS 3274); and other nonmetallic mineral product manufacturing (NAICS 3279) as described in the North American Industry Classification System (NAICS) group 3200. This land use activity includes facilities that engage in the recycling, storage, processing, resale, or reuse of recovered materials and are not classified as a Class III Landfill.
- B. Permitted Location and Size
1. Such uses shall be exclusively located in the HI zoning district.
 2. Such uses shall be sited on a parcel(s) of not less than 6 acres.
- C. Separation Requirements
1. A nonmetallic mineral product manufacturing use shall be located at least 500 feet from: (A) ~~A~~Any lots located in the LDR, MDR, HDR, MH, RMX, MX, IMX, BP, and INS zoning districts; and
 2. A nonmetallic mineral product manufacturing use shall be located at least 500 feet from any lots containing residential dwelling units, schools, day care centers, religious facilities, public parks, and designated historic districts and landmarks, whether or not such lots are located in the incorporated or unincorporated area of Lancaster County.
- D. Required Setbacks
- All elements of the nonmetallic mineral product manufacturing facility, including structures, buildings, equipment, parking areas, and access roads, shall be located at least 75 feet from all property lines; except that access roads may cross

the 75- foot setback area and utilities may be located within the 75-foot setback area.

E. Screening

A minimum 8ft. tall opaque buffer of no less than 50ft in width consisting of 18 trees and 36 shrubs per 100 lf **linear feet** will be placed between adjoining properties. Buffer can be placed within required setbacks.

F. Vehicular Access

Vehicular access to the site of all nonmetallic mineral product manufacturing uses shall be located on an arterial or major collector road, or on a road improved to necessary industrial capacity as determined by the Administrator.

G. Dust Reduction Measures

Nonmetallic mineral product manufacturing facilities shall employ dust reduction measures to minimize on-site and off-site dust nuisance generated by the manufacturing use. These measures may include, but are not limited to: (A) Utilization of stabilized roadways within the site; (B) On-site speed limits to minimize disturbance; and (C) Application of water and other dust palliatives.

H. Outdoor Storage

1. All materials stored outdoors must follow the separation requirements in Section C of this ordinance.
2. All materials must be contained within a defined area or structure and shall not be allowed to spill out into adjacent areas or the separation buffers.
3. All materials shall be stored and maintained so as to not create environmental hazards that may pose a threat to ground or surface water quality, air quality, wildlife, and/or humans.

CHAPTER 2, SECTION 2.5.3.D USE TABLE - COMMERCIAL/ENTERTAIN INDUSTRY/WHOLESALE/STORAGE – add “Nonmetallic Mineral Product Manufacturing” as a Use Permitted with Review (PR) in HI zones.



Planning Department
P.O. Box 1809, 101 N. Main Street, Lancaster, SC 29721
Phone: 803.285.6005, planning@lanastercountysc.net
www.mylanasteresc.org

TEXT AMENDMENT APPLICATION

SUBMITTAL REQUIREMENTS

- Completed Application
- Signatures of Applicant
- Fees associated with Application

GENERAL INFORMATION

UDO Section(s) Proposed to be Amended See Text Amendment Item 1 and Item 2 on attached pages.

Current Text Please see the proposed Text Amendment Item 1 and Item 2 on the attached pages
for detailed information the text changes proposed to the Unified Development Ordinance.

Proposed Text Please see the proposed Text Amendment Item 1 and Item 2 on the attached pages for
detailed information on the newly proposed text to provide for Nonmetallic Mineral Product Manufacturing
as a new land use activity.

Description of Need for Proposed Text The current Unified Development Ordinance does not provide for
Nonmetallic Mineral Product Manufacturing. An opportunity exists for development of such facilities in the
County that will require extensive capital investment and job creation. The standards proposed governing this
newly designated land use activity are consistent with provisions governing similar uses in other jurisdictions.

☒ Additional pages attached for more information

CONTACT INFORMATION

Applicant Name KCH Real Estate, LLC
Address 1490 Kershaw Camden Highway
City Lancaster State SC Zip 29721 Phone (803) 289-7315 **7531**
Fax (803) 286-5051 Email Kim@lci-lineberger.com

435
- 325
110

APPLICATION CERTIFICATIONS

I hereby certify that I have read this application and the information supplied herein is true and correct to the best of my knowledge. I agree to comply with all applicable County ordinances and state laws related to the use and development of the land. I further certify that I am the property owner, or his/her authorized agent, or the subject property. I understand that falsifying any information herein may result in rejection or denial of this request.

K. [Signature]
Applicant

10/6/23
Date

KCH Real Estate By [Signature]
Property Owner(s)

10/6/23
Date

Attach owner's notarized written authorization with property information if the applicant is not the owner.

LANCASTER COUNTY OFFICE USE ONLY

Application Number _____ Date Received _____ Receipt Number _____

Amount Paid _____ Check Number _____ Cash Amount _____

Received By _____ Planning Commission Meeting Date _____

SCHEDULE/PROCESS

1. Submit Application

- The deadline for this application is at least 45 days prior to the Planning Commission meeting, held every third Tuesday of the month.
- Once an application is submitted, it is placed on the Planning Commission agenda for the following month.
- An application withdrawal should be made in writing and received prior to public notice in order to receive a refund.
- Text Amendment Application Fee - \$325.00

2. Planning Commission

- Conducts a public hearing on the application to receive input from Lancaster County citizens, applicant, and other interested parties.
- Reviews the application to ensure it is consistent with the Lancaster County Unified Development Ordinance, Comprehensive Plan, and all adopted County plans.
- Makes a recommendation to the County Council.

3. County Council

- Approves, denies, or submits application to the Planning Commission for further study.
- Action requires three readings for approval.

Text Amendment Item 1.

Amend Section 5.9 of the UDO to add the following use regulations for “Nonmetallic Mineral Product Manufacturing” as a new category of land use activity:

Nonmetallic Mineral Product Manufacturing [HI]

- A. Permitted Industrial and Manufacturing Activities: Nonmetallic Mineral Product Manufacturing includes industrial facilities used for the manufacturing and production of clay product and refractory manufacturing (NAICS 3271); glass and glass production manufacturing (NAICS 3272); cement and concrete product manufacturing (NAICS 3273); Lime and gypsum product manufacturing (NAICS 3274); and other nonmetallic mineral product manufacturing (NAICS 3279). This land use activity includes facilities that engage in the recycling, storage, processing, resale, or reuse of recovered materials.
- B. Permitted Location and Size
 - 1. Such uses shall be exclusively located in the HI zoning district.
 - 2. Such uses shall be sited on a parcel(s) of not less than 6 acres.
- C. Separation Requirements
 - 1. A nonmetallic mineral product manufacturing use shall be located at least 500 feet from: (A) Any lots located in the LDR, MDR, HDR, MH, RMS, RIX, BP, and INS zoning districts; and
 - 2. A nonmetallic mineral product manufacturing use shall be located at least 500 feet from any lots containing residential dwelling units, schools, day care centers, religious facilities, public parks, and designated historic districts and landmarks, whether or not such lots are located in the incorporated or unincorporated area of Lancaster County.
- D. Required Setbacks

All elements of the nonmetallic mineral product manufacturing facility, including structures, buildings, equipment, parking areas, and access roads, shall be located at least 75 feet from all property lines; except that access roads may cross the 75-foot setback area and utilities may be located within the 75-foot setback area.
- E. Screening

A minimum 8ft. tall opaque buffer of no less than 50ft in width consisting of 18 trees and 36 shrubs per 100 lf will be placed between adjoining properties. Buffer can be placed within required setbacks.
- F. Vehicular Access

Vehicular access to the site of all nonmetallic mineral product manufacturing uses shall be located on an arterial or major collector road, or on a road improved to necessary industrial capacity as determined by the Administrator.

G. Dust Reduction Measures

Nonmetallic mineral product manufacturing facilities shall employ dust reduction measures to minimize on-site and off-site dust nuisance generated by the manufacturing use. These measures may include, but are not limited to: (A) Utilization of stabilized roadways within the site; (B) On-site speed limits to minimize disturbance; and (C) Application of water and other dust palliatives.

Text Amendment Item 2.

Amend the Use Table in Section 2.5.3 of the UDO to add the following use type under Section H:

“Nonmetallic Mineral Product Manufacturing” and providing that such use shall be designated as Permitted with Review (PR) within the HI zoning district, subject to the standards referenced in the newly created land use category referenced in Text Amendment Item 1.

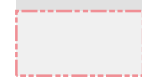


HI Zones in Lancaster County

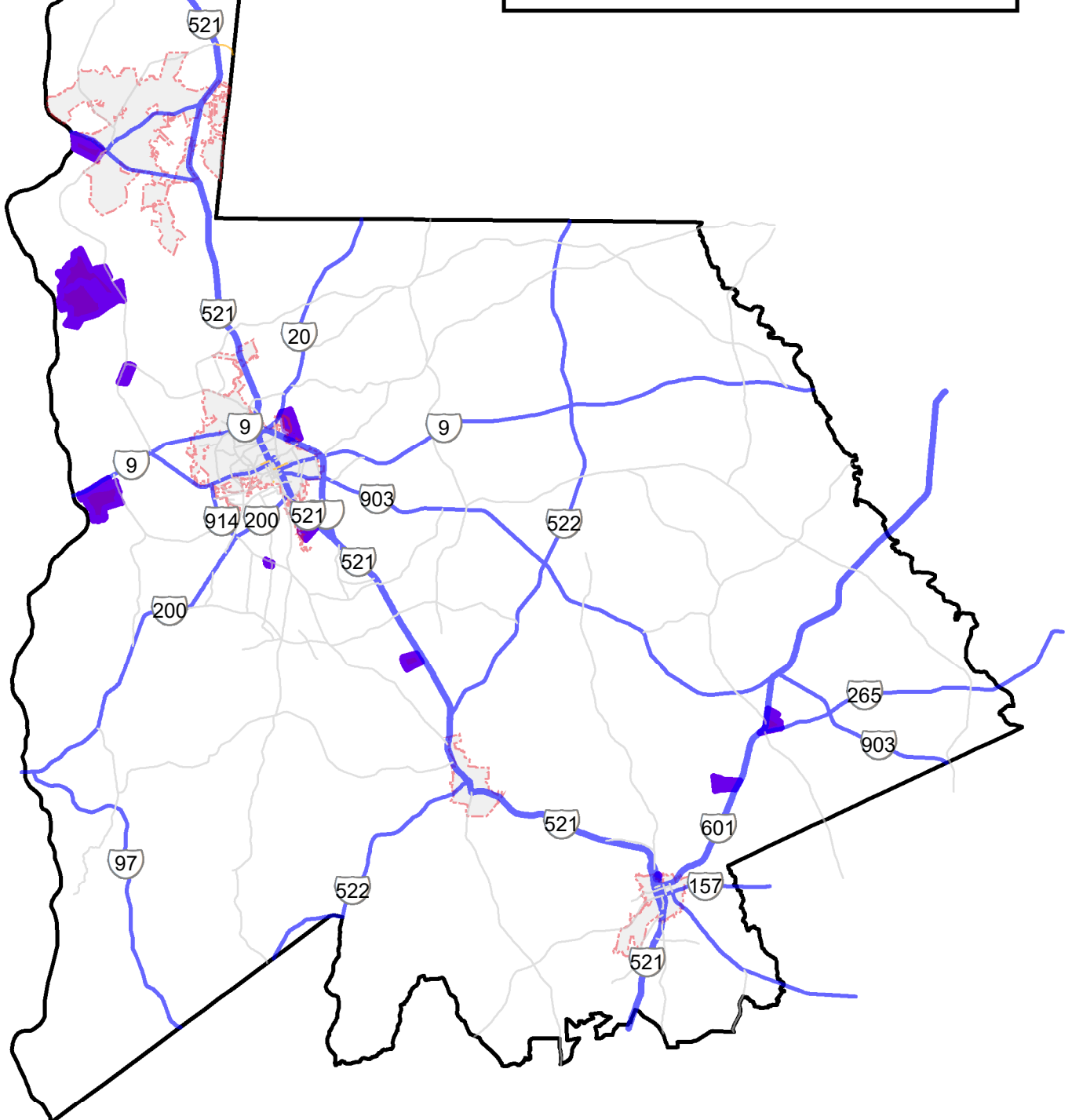
Zoning

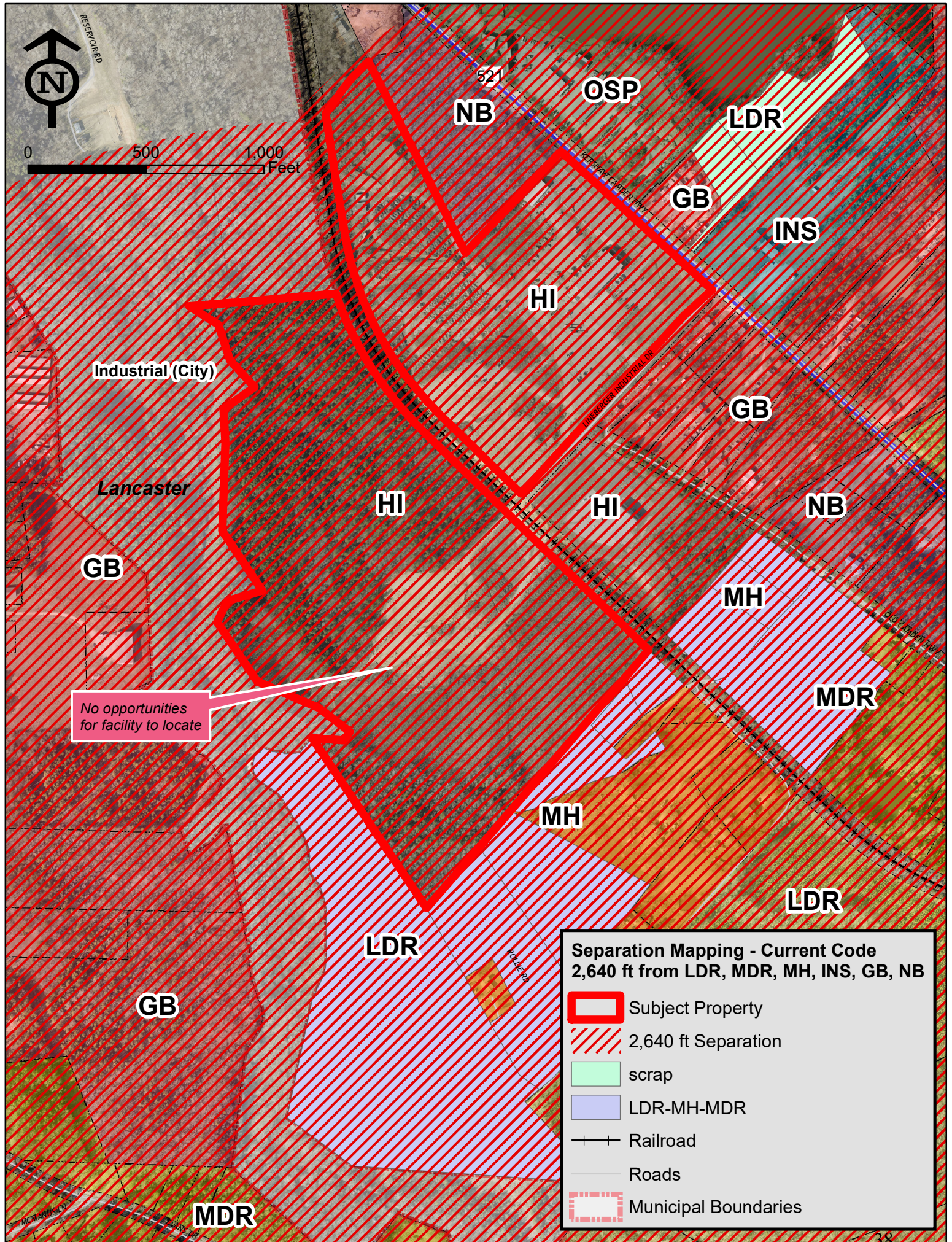


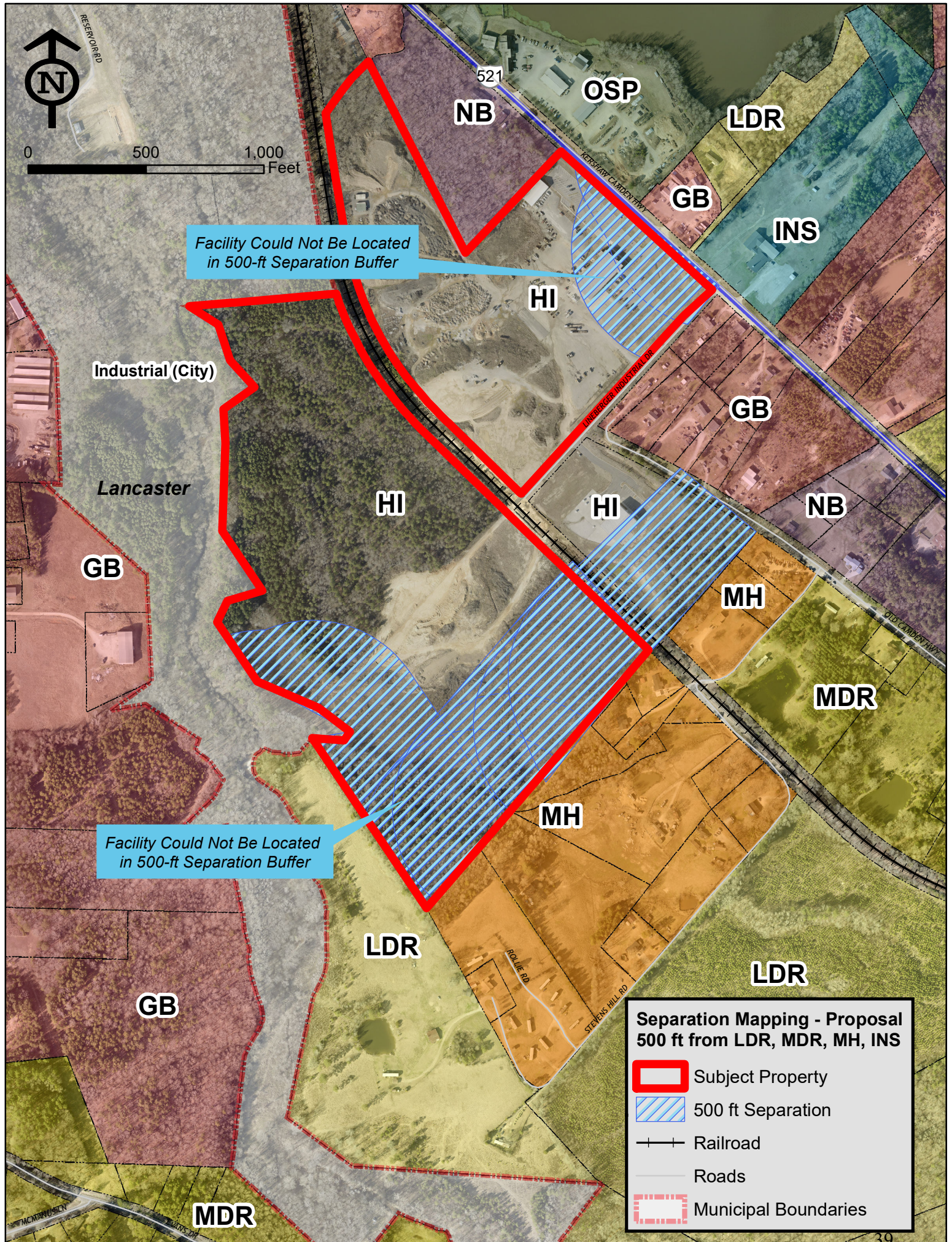
HI

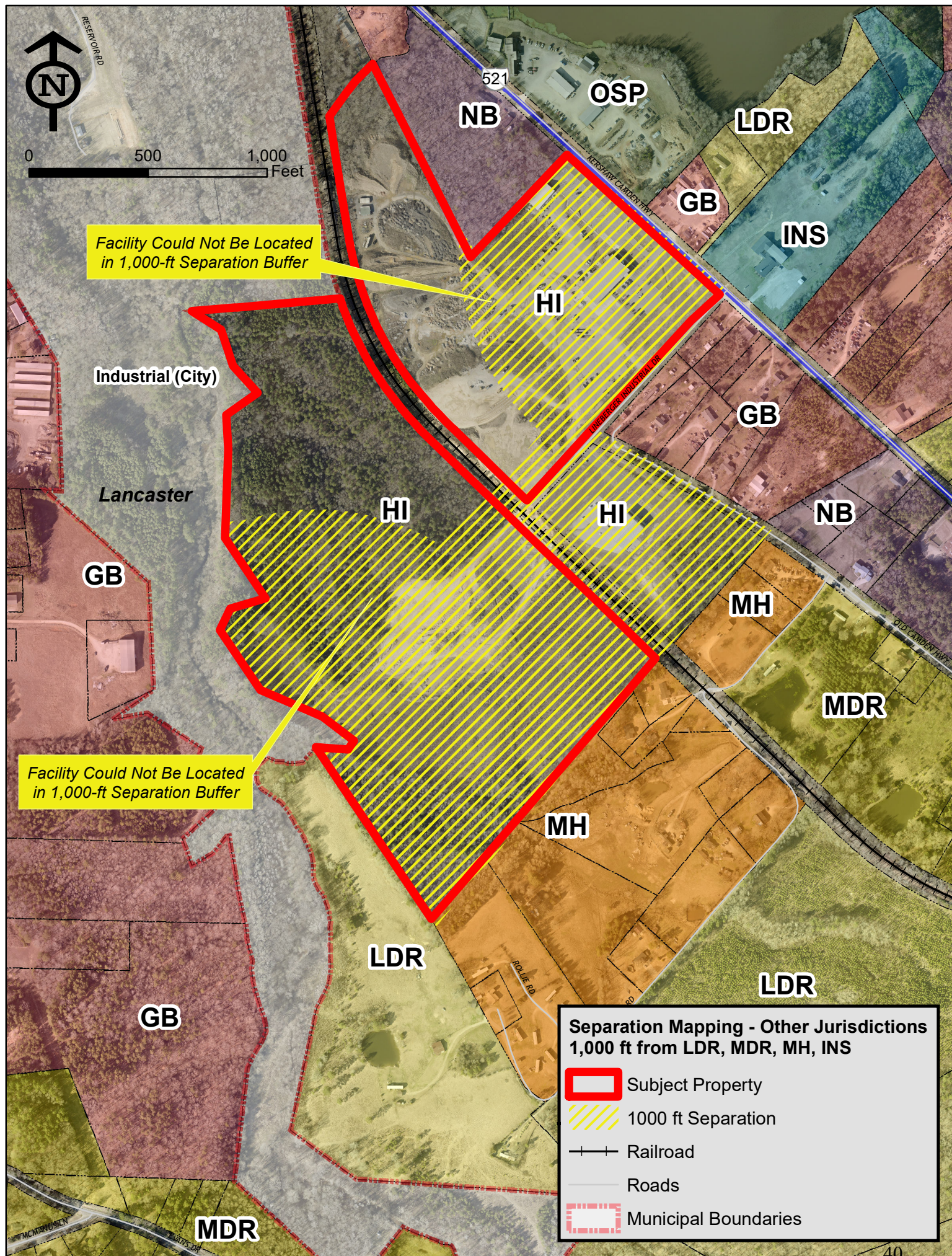


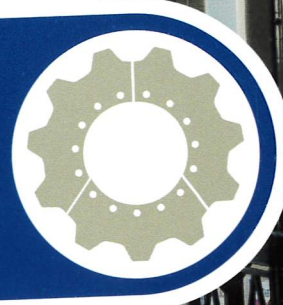
Municipal Boundaries











HOW IT **WORKS**

Quick Guide To Asphalt Production





HOW IT WORKS

Making asphalt pavement is like baking a cake. Measure all the right ingredients, mix them up and heat them for the final product. It starts with a mixture of sand and small and large rocks. Next, asphalt cement is heated and combined with the rocks. The pavement material must be kept pliable for proper installation, so asphalt facilities must be located near paving sites.



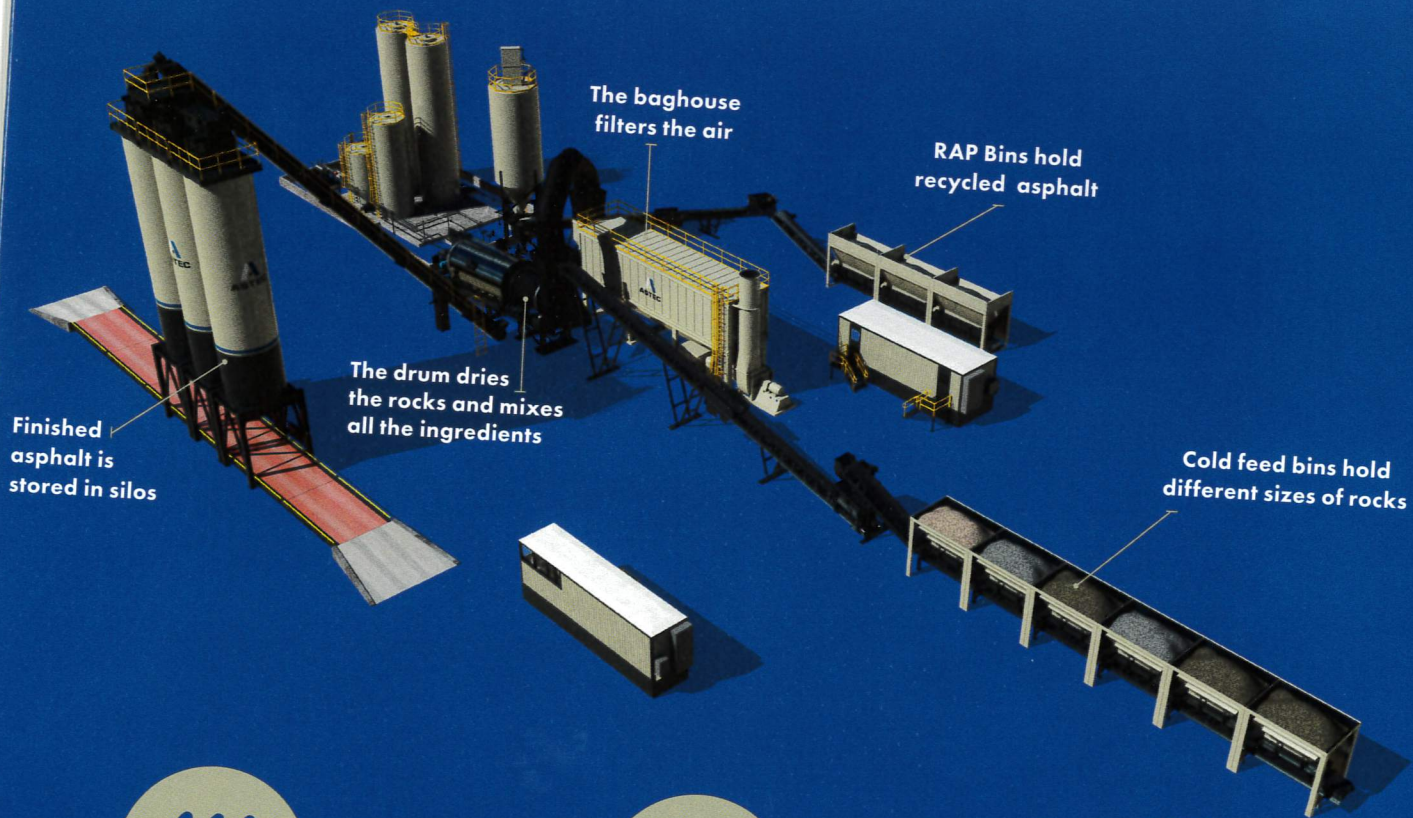
IT STARTS WITH ROCKS

Rocks and RAP (Recycled Asphalt Pavement) are sorted in bins and dropped in specified amounts onto conveyors.



THE ROCK IS HEATED

The conveyors carry the sorted rocks to the drum, where it is heated and dried.



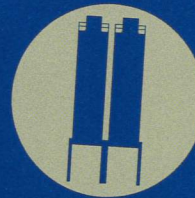
THE AIR IS FILTERED

The baghouse filters dust from the airflow. Clean air and steam are released into the atmosphere and the separated dust is recycled back into the mix.



IT'S MIXED TOGETHER

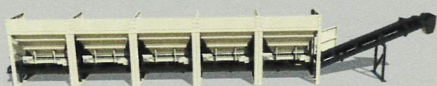
The heated and dried rocks mixed with the RAP and dust. Asphaltic cement is added to hold it all together.



FINISHED ASPHALT FOR PAVEMENT

The final mix exits the drum onto a drag conveyor into a silo for storage until it can be dropped by weight into trucks. Trucks will deliver the mix to the paving site.

THE BREAKDOWN



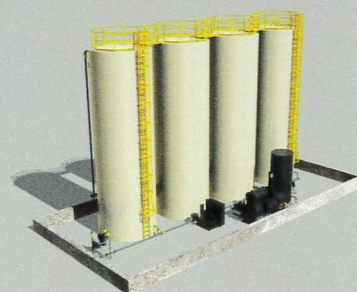
COLD FEED AND RAP BINS

Bins hold rock and RAP, which have been sorted by size and type, before measuring them onto a conveyor.



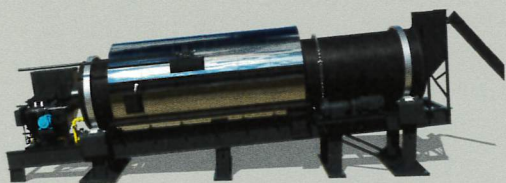
CONVEYORS

Transfers rock and RAP to specific components of the plant.



ASPHALTIC CEMENT TANKS

Specially designed tanks heat and store the asphaltic cement until it is ready to be mixed with the rock and RAP.



DRYING/MIXING DRUM

It all comes together in the drum. Rock is heated and dried then mixed with RAP and asphaltic cement to make asphalt paving mix.



BAGHOUSE

Efficiently removes particulates from the exhaust stream.



SILo

Maintains the quality of the finished asphalt paving mix until it is loaded into trucks and transported to a paving site.





www.astecindustries.com

*Please contact Astec Engineering at 423.867.4210
for additional information about asphaltic concrete facilities.*

Rev. 6/22



MEET THE **NEIGHBORS**

Everything You Wanted To Know About Asphalt Facilities





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About Asphalt Facilities





ASTECTM

WHAT IS

ASPHALTIC CEMENT?

Asphaltic cement is a highly viscous, black substance comprised of a complex mixture of hydrocarbons. Some asphaltic cement comes from natural asphalt lakes such as the La Brea Tar Pits. Most of the asphaltic cement used in road building is actually a by-product of crude oil refining. Asphaltic cement is the residual material remaining after lighter fractions, or grades of oils, have been distilled from crude oil. It can be further processed for use in paving mixtures or other industries such as roofing. Asphaltic cement is a thermoplastic, which means it is hard at ambient temperatures, but thick and sticky when heated. It may be referred to as "binder" or bitumen (a term commonly used outside North America). It is the material in pavement that coats aggregate and glues (or binds) the mix together. Eighty percent of the asphaltic cement used in the United States is for paving mixtures.

ASPHALT

IS TAR THE

SAME AS ASPHALTIC CEMENT?

No. Tar is a black or brown mixture comprised of hydrocarbons and free carbon. It typically results from the destructive distillation of organic matter. Though it can be produced from petroleum, most often it is produced from coal as a by-product of coke production. It was once used to seal roadways, roofing shingles, and wooden ship hulls. However, since the 1970s, asphaltic cement has completely replaced the use of tar in paving mixtures.

WHAT IS

ASPHALT PAVEMENT?

Pavement is a hard, smooth surface that facilitates vehicular and pedestrian transportation. It consists of a highly controlled mixture of asphalt cement and aggregate. Prior to placement, this mixture is referred to as asphaltic concrete, or bituminous concrete. Mix can be further classified as Hot Mix Asphalt (HMA) or Warm Mix Asphalt (WMA) based on the mix temperature at which it is produced. Typical paving mixtures contain 95% aggregate and 5% asphaltic cement. Asphalt pavements produced at temperatures below 300°F are referred to as Warm Mix Asphalt (WMA). Paving mixtures produced at temperatures between 300°F and 350°F are termed Hot Mix Asphalt (HMA).

WHAT IS THE DIFFERENCE

BETWEEN HMA AND WMA?

Hot Mix Asphalt (HMA) is asphaltic concrete produced at mix temperatures of 300°F and higher. Warm Mix Asphalt (WMA) is asphaltic concrete produced at mix temperatures below 300°F. WMA is produced by modifying the viscosity of the asphalt cement, typically by mechanically foaming the binder through water injection. This allows the mixing process to be conducted at lower temperatures. Production of WMA reduces energy consumption, which results in lower emissions.



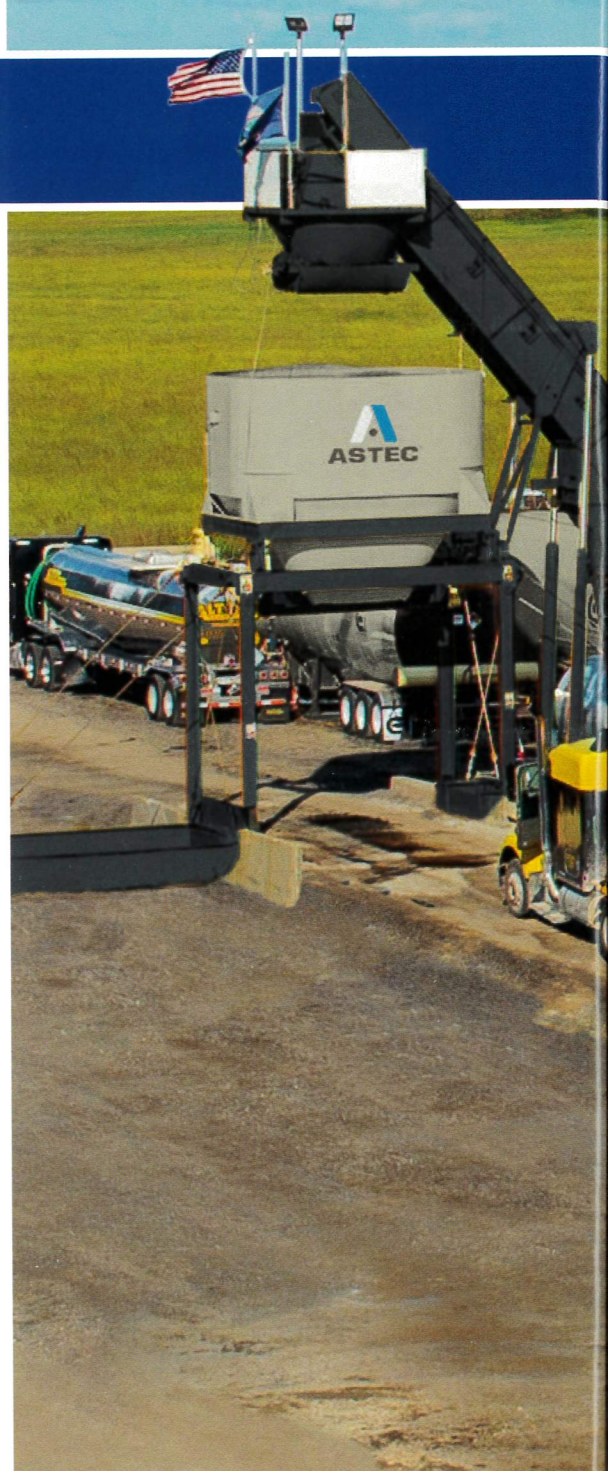
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HOW MANY ASPHALTIC CONCRETE FACILITIES **ARE IN THE UNITED STATES?**

According to the EPA industry estimates, there are approximately 4,000 asphaltic concrete production facilities operating throughout the country.

WHY ARE SO MANY **FACILITIES NEEDED?**

Considering how large the United States is, there really are not a lot of facilities. This amounts to only one facility per 950 square miles. Approximately 2.68 million miles of U.S. roadways are paved, 94% of which are surfaced with asphaltic concrete. Road maintenance and new construction projects require between 650 and 750 million tons of asphaltic concrete each year. Asphaltic concrete must be laid quickly after being loaded into the haul truck, because it hardens as it cools. Cooling occurs during transport from the facility to the paving site. The haul distance needs to be as short as possible to minimize the amount of heat lost during transport, because mixes become harder to lay down by a paving machine and compact with rollers as they cool. Ambient air temperature greatly effects how long the mix is "workable" and can be properly installed on the roadway. In addition, trucking is a large part of road maintenance and construction costs. Minimizing haul distances lowers road paving costs to the community.



FACILITIES

HOW IS ASPHALTIC CONCRETE MADE?

Aggregate is divided and placed into bins according to size. Depending on the mixture of aggregate called for, the bins automatically meter out the appropriate volume of each size needed onto a conveyor belt. The belt deposits the aggregate into a rotary dryer. This machine tumbles and veils the aggregate through hot air to dry it thoroughly. A fuel burner is located at one end of the drum to provide a flame for heat. It is necessary to remove the moisture from the aggregate so the asphaltic cement will adhere to the rock. Remember, water and asphalt do not mix. After drying, the aggregate is then coated with heated asphaltic cement and thoroughly mixed. Production of asphaltic paving mixtures does not entail harmful chemical reactions.



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IS AN ASPHALTIC CONCRETE FACILITY

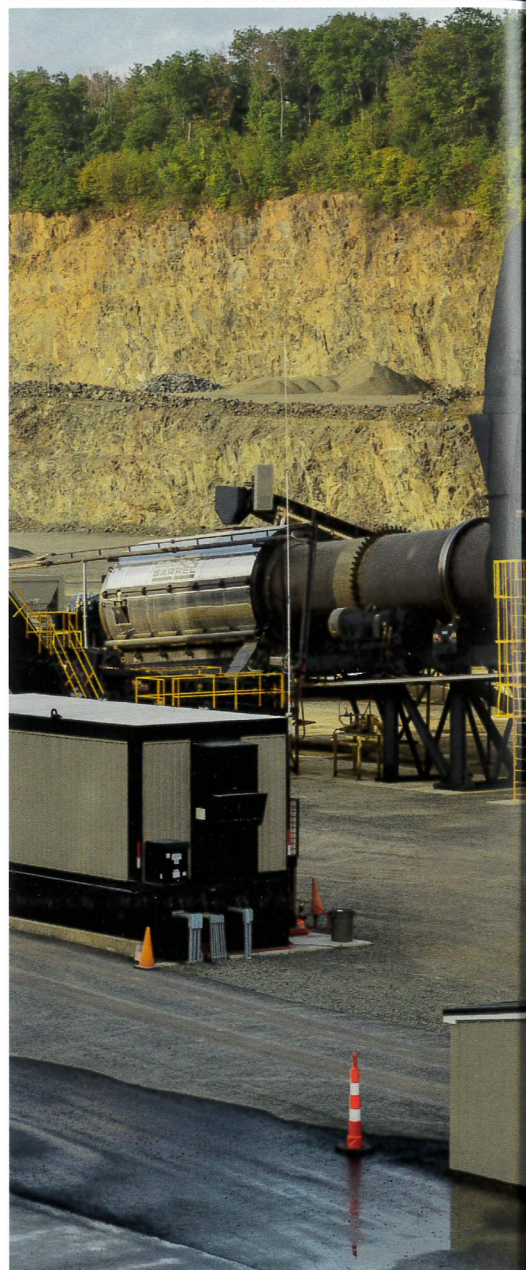
A LARGE SOURCE OF EMISSIONS?

No. In fact, studies show that emissions from the asphalt paving industry have decreased over 97% since 1970, despite a 250% increase in production. All emission concentrations from asphaltic concrete production facilities are well below the established threshold limit values set forth by the American Conference of Governmental Industrial Hygienists. The EPA delisted asphaltic concrete production facilities from the Maximum Available Control Technology standard in February, 2002, because such facilities are not major sources of air pollutants. The asphalt paving industry continues to develop new technologies to further minimize emissions during mix production and paving operations. Mix production facilities must be permitted through local or state air quality agencies. The permits establish operating limits for the facilities to strictly control emissions generated during mix production, in order to prevent degradation of ambient air quality.

WHAT IS

"PARTICULATE MATTER"?

Particulate matter is a term used to denote microscopic liquid or solid particles much smaller than the diameter of human hair. Particle size is measured in microns, which is equal to one-millionth of a meter. Particulate matter results from the drying process at an asphaltic concrete production facility. In the case of such facilities, the particulate is almost entirely stone dust. Stone dust is a valuable part of the product that the facility owner does not want to lose. It is collected by a large air filtering unit called a baghouse and returned to the mixer for inclusion in the paving mixtures.



HEALTH

DO ASPHALTIC CONCRETE FACILITIES

CAUSE CANCER?

Numerous agencies worldwide have conducted extensive testing on asphaltic cement fumes from paving and roofing applications. The International Agency for Research on Cancer classified asphaltic cement fumes from occupational exposure as Group 2B. This designation is used for substances, mixtures, and exposure circumstances for which there is limited evidence of carcinogenicity in humans. Other items designated as Group 2B include aloe vera (whole leaf extract) and cell phones (radio frequency electromagnetic fields).

The American Conference of Governmental Industrial Hygienists has designated asphalt cement fumes as A4, which are agents not classifiable as a human carcinogen due to lack of data indicating evidence of carcinogenicity.

IF THERE IS NO DANGER OF CANCER,

WHY HAVE THERE BEEN SO MANY STUDIES?

Hundreds of tests have been conducted primarily because of the apparent similarity of asphalt to tar. What the tests have proven is that these are two completely different materials from completely different sources and with completely different health effects. Coal tar does have some harmful health effects. Those same effects have not been found to be associated with asphaltic cement.





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CLEAN AIR

WHAT IS A **BAGHOUSE?**

A baghouse is a large air filtering device that removes particulate matter from the aggregate drying process in an asphaltic concrete production facility. A large fan on the outlet end of the baghouse pulls dust-laden air from the drying drum into the filter unit. Hundreds of long cylindrical cloth bags hang in rows within the filter section. The air is pulled through the bags and dust particles collect on the bags' outer surface. Filtered air is released into the atmosphere through the exhaust stack. Collected dust is periodically removed from the bags and conveyed to the mixer to be added to the asphalt pavement mixture. Baghouses filter out virtually all of the particulates from the air stream (over 99.9%). The Clean Air Act states that asphaltic concrete production facilities cannot emit more than 0.04 grains (grain = 1/7000th of a pound) of particulate matter per dry standard cubic foot of air. Most baghouses routinely emit less than half of the federal allowable particulate matter. Many states have enacted particulate emission standards for asphaltic concrete facilities that are more stringent than the Clean Air Act.

ARE ASPHALTIC CONCRETE FACILITIES **EMISSIONS REGULATED?**

The Clean Air Act of 1990 requires that all stationary emission sources obtain air permits in order to operate, including asphaltic concrete production facilities. An air permit contains the operating conditions that must be met by the facility. Particulate emissions and opacity are regulated on a federal basis, though many state and regional air quality agencies have implemented tighter requirements. Individual states and local authorities regulate other pollutants, including the products of combustion. Facilities must maintain extensive records to demonstrate compliance with those regulations. This includes production and fuel consumption rates from which emission levels can be calculated. Failure to comply with operating permit conditions results in fines and/or facility shut down.

ARE ASPHALTIC CONCRETE **FACILITIES TESTED?**

Federal requirements in the Clean Air Act mandate that all permitted emission sources must be stack tested within 180 days of startup. Many states require testing in as little as 60 days after initial startup. Subsequent testing requirements are determined by individual states and permitting authorities. For example, some states require yearly testing, while others may only require the initial test, as long as permit operating conditions are met.



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WHERE CAN ASPHALTIC CONCRETE FACILITIES BE LOCATED?

While zoning ordinances vary significantly across the U.S., most facilities must be placed on property zoned for industrial usage. In addition, the majority of facilities must obtain special land use permits. Such permits contain specific requirements with which the facility must comply. These mainly include operating hours and noise levels to name a few.

WHAT CAUSES THE ODORS ASSOCIATED WITH THE PRODUCTION OF ASPHALTIC CONCRETE?

The most common odor detected at an asphaltic concrete facility comes from the hydrocarbons driven off the liquid asphalt cement at elevated temperatures. Overheating materials during the drying process is the primary cause. As fuel has become more and more expensive, most owners and operators have become more aware of the cost of overheating materials and have learned to control temperature with greater precision. The fumes, known as "blue smoke," have a characteristic petroleum-type odor. Blue smoke forms as the hydrocarbons condense in the ambient air. Its formation is highly dependent on temperature and the facility configuration. Minimizing opportunities for the fumes to enter the ambient air and lowering mix/storage temperatures decreases odor levels from the facility. Odors are largely eliminated during the production of WMA, because the mix temperature is lower than the boiling point of the hydrocarbons.

A photograph of an asphaltic concrete plant. In the background, several large, grey storage silos with blue horizontal bands are visible. A conveyor system with yellow safety railings runs diagonally across the middle ground. In the foreground, there is a black metal frame structure, possibly part of a truck or a loading station. The sky is blue with some clouds.

PERMITS

WHAT ARE THE DIFFERENT TYPES OF FACILITIES IN USE TODAY?

Modern asphaltic concrete facilities fall into two categories: batch and continuous mix facilities. As the name implies, batch facilities make individual batches of material. All the ingredients for the batch are fed into a mixer. When mixing is complete, the mixer is emptied, most often into a waiting haul truck. Batch facilities usually have smaller hourly production capacities than continuous mix facilities. They are suitable for small production runs or frequent changes in mix type.

Drum mix facilities operate on a continuous basis. The mix is stored in storage silos and discharged into haul trucks as needed. They can be either parallel-flow or counterflow, which is an indication of the material flow versus the airflow within the drum. Material moves in the same direction as the airflow in a parallel-flow drum, whereas the material moves against the airflow in a counterflow drum. Modern drum mix facilities almost exclusively include counterflow drums, because they use less fuel and generate lower hydrocarbon emissions than parallel-flow drums.



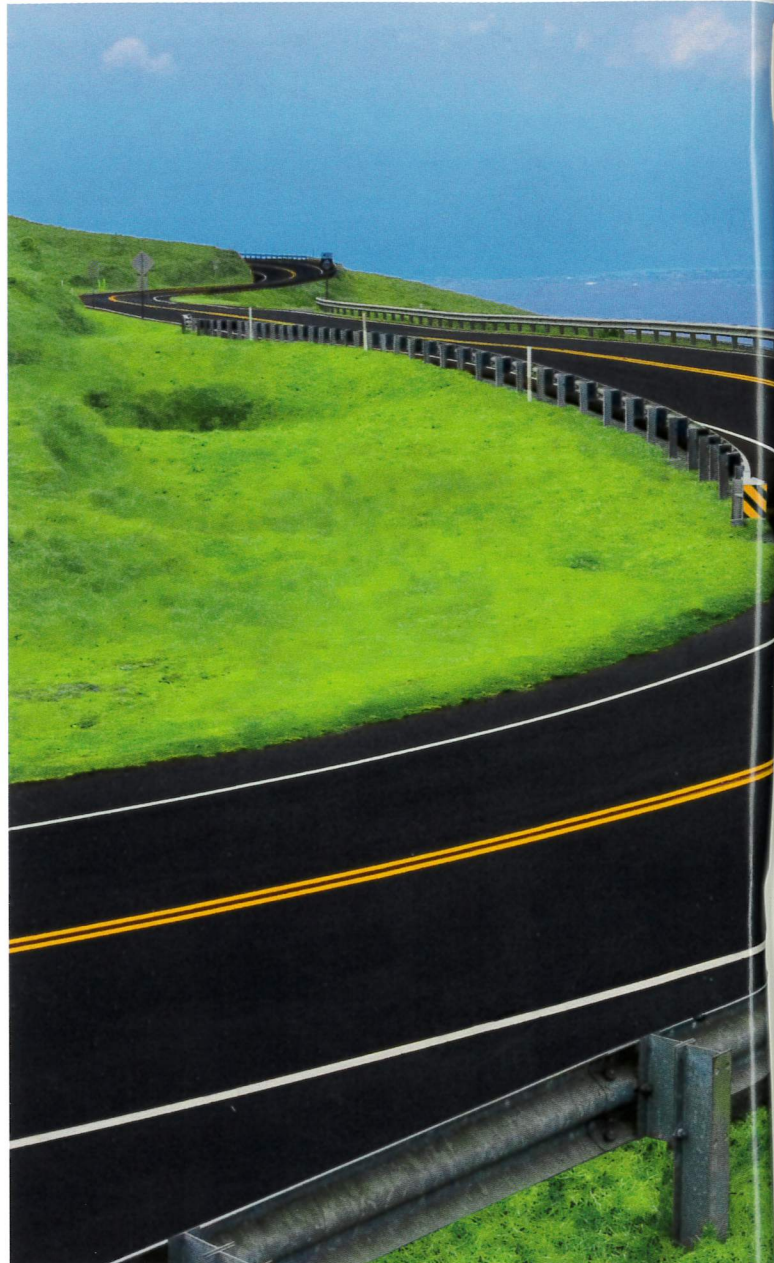
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ARE ALL PAVEMENTS **THE SAME?**

No. Asphalt paving mixtures are designed according to the traffic they will handle. Therefore, an interstate paving mixture will be very different from one used for a residential driveway. Differences may include types and sizes of aggregate, as well as the grade of liquid asphaltic cement selected. Additionally, some paving mixtures may contain various recycled products, while others are comprised entirely of virgin materials.

IS THE BINDER USED IN PAVEMENT **THE SAME AS IN ROOF APPLICATIONS?**

No, though they are both by-products of petroleum refining. Paving asphaltic cement is typically softer and more pliable than roofing asphaltic cement. Also, liquid cement at asphaltic concrete production facilities is not heated to temperatures as high as in roofing applications. That means that emissions and odors produced by paving operations are lower and not the same types of compound as those produced by roofing operations.





PAVEMENT

CAN ASPHALTIC CONCRETE BE USED FOR

ANYTHING OTHER THAN ROADWAYS?

Yes! Asphaltic concrete is used in a variety of applications. Because it is a non-toxic, impermeable material, asphaltic concrete is commonly used to line fish hatchery ponds, commercial water reservoirs, landfills, and industrial retention ponds. It is also used to pave recreational paths (for running & bicycling), golf cart paths, airport runways, and tennis courts. Asphaltic concrete has been used in commercial livestock applications, such as paving feedlots and lining barn and poultry house floors for easy cleaning. Additional uses include creation of sea walls and dikes to manage beach erosion. Specially designed permeable paving mixtures are increasingly being used to manage storm water. These porous pavements allow water to drain through them. Contaminants on the surface are drawn through the mixture where they are filtered through a rock sub-base, thus using natural processes to cleanse the water.

WHAT CAUSES NOISES ASSOCIATED WITH THE

PRODUCTION OF ASPHALTIC CONCRETE?

There are a few common sources of noise emanating from a hot or warm mix facility. Some are derived directly from the mix production components, including the burner and exhaust fan. Others are generated from movement of the product, including trucks and loaders. Recent advancements in asphalt mix production equipment design have drastically reduced sound levels. Astec has worked to reduce sound from the mix process by providing quieter components in a facility. Likewise, some facility owners have initiated on-site quiet operations and practices for movement of the product. It is often possible to participate in conversations using normal speaking tones while adjacent to most facility components at new facilities.



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WHAT HAPPENS

IF THE ASPHALTIC CEMENT SPILLS?

Asphaltic cement is hard at ambient temperatures and liquid only when heated. It is kept hot at an asphaltic concrete production facility so that it can be mixed with the aggregate to form pavement. Should the asphaltic cement spill onto the ground, it will quickly harden because it is no longer being heated. Once completely set, it can be picked up and disposed of. For additional safety, asphalt storage tanks, as well as the facility fuel tanks, are typically set-up within a concrete wall to contain spills should they ever occur.

WHAT EQUIPMENT MAKES UP AN

ASPHALTIC CONCRETE FACILITY?

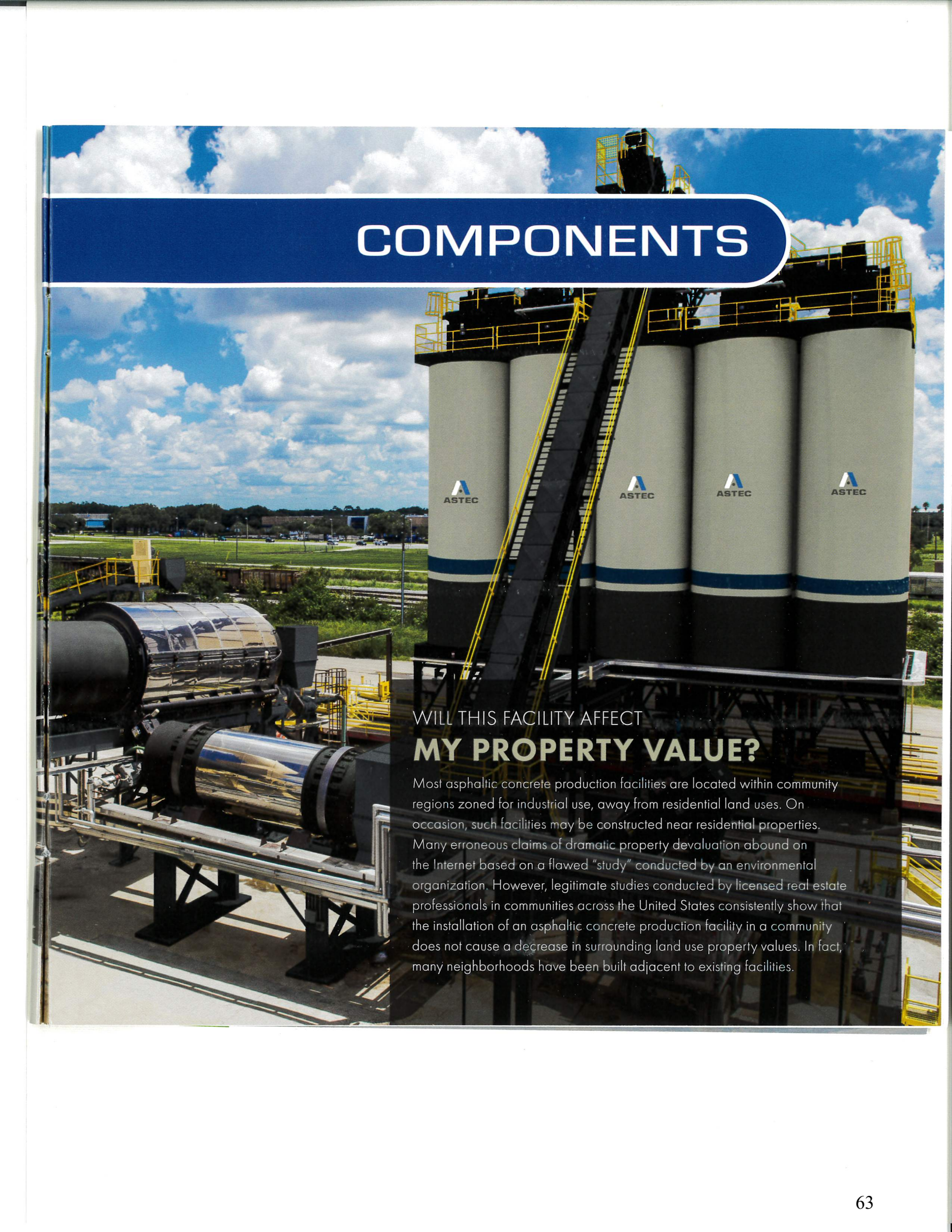
There are several components found at asphaltic concrete production facilities, whether they are a batch or continuous mix plant. Aggregate is separated according to size and fed, usually by a front-end loader, into cold feed bins. These bins are used to meter the virgin aggregate to the dryer. The dryer is used to drive off the surface moisture and heat the aggregate in preparation for mixing with the asphaltic cement. Mixing may occur within a variety of devices, depending on the type of facility. Environmental controls include a baghouse, which is typically preceded by a primary collector such as a cyclone or inertial separator. Dust augers return the collected particulate matter to the mixer. Liquid asphalt cement is stored in heated tanks that are connected via piping to the mixer. Finished mix is held in storage silos, which are typically insulated and heated to maintain product temperature until it is loaded into a haul truck. Mix can often be stored for days before being loaded into haul trucks.

WILL AN ASPHALTIC CONCRETE FACILITY

AFFECT GROUNDWATER?

No. Asphaltic concrete production facilities do not generate industrial wastewater, because water is not required during the production process. Storm water discharge permits and retention ponds may be required in some locations to handle runoff from rainfall. Stack emissions from a facility do not contaminate groundwater.





COMPONENTS

WILL THIS FACILITY AFFECT **MY PROPERTY VALUE?**

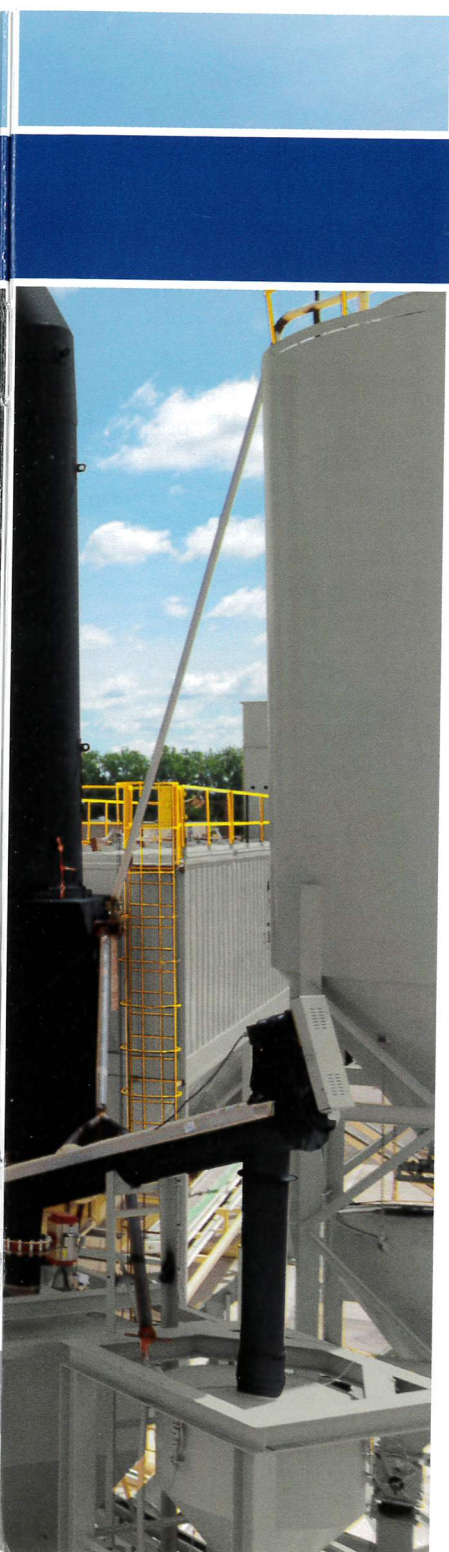
Most asphaltic concrete production facilities are located within community regions zoned for industrial use, away from residential land uses. On occasion, such facilities may be constructed near residential properties. Many erroneous claims of dramatic property devaluation abound on the Internet based on a flawed "study" conducted by an environmental organization. However, legitimate studies conducted by licensed real estate professionals in communities across the United States consistently show that the installation of an asphaltic concrete production facility in a community does not cause a decrease in surrounding land use property values. In fact, many neighborhoods have been built adjacent to existing facilities.



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WHAT ABOUT TRUCK TRAFFIC?

Materials used to produce asphaltic concrete are typically delivered to the production facility via truck. Rail lines are used in some locations. Asphaltic concrete is transported to the construction site via truck. The actual quantity of trucks entering and leaving the facility is dependent on the production requirements for active paving projects. Egress to and from the site falls under the authority of local government agencies. Traffic patterns and flow may be addressed by the land use permits required for most facilities.



PRODUCTION

DO ASPHALTIC CONCRETE FACILITIES

OPERATE CONTINUALLY?

No. Though asphaltic concrete production facilities can operate on a continual basis, mix production is highly dependent on weather conditions and product demand for paving projects. Facilities operate at their highest capacity during the summer, when paving conditions are most favorable. Facilities located in temperate climates may operate year-round, while those located in colder climates shut down during winter months. Routine equipment maintenance is typically scheduled during the shut down. Some facilities may operate at night, as many paving projects on busy thoroughfares must occur when there will be the least commuter impact.

WHAT ARE SOME

BENEFITS OF ASPHALTIC CONCRETE?

There are many benefits to using asphaltic concrete. Road construction and reconditioning projects can be completed faster and at lower cost when paving with asphaltic concrete. Studies show that asphalt pavements have a lower life cycle cost (cost of installation and maintenance over the life of the product) than Portland cement concrete pavement and are engineered to last decades with little to no maintenance. This generates savings to taxpayers for road construction and maintenance projects in a community. Asphaltic concrete pavements are smoother to drive on, which results in greater fuel efficiency, less vehicular wear and tear, and a quieter ride.

MEET THE **NEIGHBORS**

GLOSSARY

AGGREGATE

Inert material such as sand, gravel, crushed stone and slag used as the chief ingredient of asphaltic concrete. Unwashed aggregates will also contain some amount of dust and process fines material.

ASPHALT

Commonly used as a shortened term for asphalt cement, but may also refer to asphalt pavement.

ASPHALT CEMENT

(AC; also known as bitumen.) The binder or "glue" in asphaltic concrete. Commonly abbreviated AC. At ambient temperatures, asphalt cement is a black, sticky, highly-viscous, semi-solid substance.

Asphalt cements used in asphaltic concrete are made by distillation of crude oil and are available in various grades. They are more suited for asphaltic concrete than asphalt made from other materials or asphalt obtained from native deposits in various parts of the world.

Use of coal tar is avoided by the asphaltic concrete industry because its fumes are known to be carcinogenic, posing a health hazard for anyone working with asphaltic concrete. Coal tar and asphalt cement are not the same substance.

ASPHALTIC CONCRETE

A paving mixture comprised of aggregate and asphalt cement. Also called bituminous concrete.

BAGHOUSE

An environmental control device containing filtration media used to remove particulate matter from a gas stream. These devices are used to filter the gas stream from the aggregate drying process at an asphalt mixing plant. The associated exhaust fan provides draft to support the combustion process and evacuate gases from the dryer drum.

BLUE SMOKE

(Also known as asphalt fumes.) Condensed gaseous vapors, comprised predominantly of organic compounds (light ends) generated when asphalt cement is heated. Various methods are used to minimize or eliminate blue smoke.

EMISSIONS

Substances discharged during production operations at an asphaltic concrete facility. The substances may be either gases or particulate. Federal, state, and local environmental codes usually limit the amount of emissions or pollutants that industrial and commercial operations can release into the atmosphere. Accordingly, an asphaltic concrete facility must have provisions to limit specified emissions produced or released.

HOT MIX ASPHALT

Road paving material (asphaltic concrete) produced by mixing hot, dry aggregate and liquid asphalt cement. Basic types of asphaltic concrete are dense-graded and open-graded. There are sub-types within the basic types.

The mixture is made with the ingredients heated to about 300°F, which is the temperature normally used to dry the aggregate. The liquid asphalt cement will adhere to the aggregate only if it is dry. The mix may also include dust or fines from the aggregate, ground rubber, and additives fillers, such as lime. The mixture is maintained close to 300°F until it is applied to the road.

Asphaltic concrete is called by numerous other names, such as asphaltic concrete, asphalt cement concrete, asphalt mix(ture), asphalt paving mix(ture), bituminous concrete, bituminous mix(ture), bituminous paving mix(ture), etc.

HYDROCARBON

Molecules containing hydrogen and carbon atoms arranged in structures that can vary from straight chains to branching chains to rings. The size of the atomic structure determines the properties and behavior of the hydrocarbon. The structure size is a function of the number of carbon atoms present in the molecule. Lighter structures with few carbon atoms are gaseous. Heavier chains with more carbon atoms are predominantly liquids, though some may be semi-solids or solids.

LIQUID ASPHALT CEMENT

Asphalt cement that is heated to a liquid state to make it suitable for mixing with aggregate to make asphaltic concrete. At ambient temperatures, asphalt cement is a semisolid.

PARTICULATE MATTER

(PM) Liquid or solid particles suspended in the atmosphere. PM is a complex mixture of particles, both natural and man-made, that may contain dust, smoke and pollen. Particles are classified by size. PM10 are inhalable particles measuring 10 microns in diameter and smaller. PM2.5 are fine inhalable particles with diameters of 2.5 microns and less. PM10 and PM2.5 are highly regulated because of their ability to cause serious health hazards.

PAVEMENT

A hard, smooth surface that facilitates pedestrian or vehicular travel. The most common pavement materials used in modern roads are asphaltic concrete and concrete. Pavement can also refer to the paving mixture comprising the surface.

RECLAIMED ASPHALT PAVEMENT

(RAP) Asphalt paving material recovered from old road beds either by milling or excavation by ripping. It includes aggregate as well as reusable binding material. RAP produced by milling can be hauled to the asphalt plant and recycled by adding it directly to virgin asphaltic concrete. RAP produced by excavation is usually in the form of large chunks, which must be crushed before it can be used at the asphalt plant.

VOLATILE ORGANIC COMPOUND

(VOC) Hydrocarbons with high vapor pressures and low boiling points that readily vaporize at room temperature. They are highly regulated due to their participation with NOx in the formation of ground-level ozone, or smog. Such compounds typically are not acutely toxic but can cause long-term health issues due to repeated or prolonged exposure.

WARM MIX ASPHALT

(WMA) Pavement material that has been mixed at a lower temperature. Cools more slowly, allowing successful use in lower temperatures.

WMA technologies reduce the viscosity of the asphalt binder with additives (water-based, organic, chemical, or hybrids) so that asphalt aggregates can be coated at lower temperatures.



www.astecindustries.com

*Please contact Astec Engineering at 423.867.4210
for additional information about asphaltic concrete facilities.*

Rev. 6/22

AN ORDINANCE

TO AMEND THE YORK COUNTY CODE OF ORDINANCES, CHAPTER 155, ZONING CODE, SO AS TO PROVIDE FOR "NONMETALLIC MINERAL PRODUCT MANUFACTURING" ("NMPM"); TO PROVIDE FOR REGULATORY PROVISIONS RELATED THERETO; TO AMEND THE DEFINITION AND USE TABLE IN ORDER TO ESTABLISH THE USES AND PROVIDE FOR THE DISTRICTS IN WHICH THEY ARE ALLOWED OR REMOVED; TO CHANGE FROM A PERMITTED USE TO A SPECIAL EXCEPTION USE IN ID; AND TO REMOVE AS A PERMITTED USE IN UD; TO AMEND INDIVIDUAL DISTRICT USE REGULATIONS IN ID BY ADDING SUPPLEMENTAL REGULATIONS IN ORDER TO ADDRESS ITEMS SUCH AS MINIMUM LOT SIZE; ACCESS AND ROUTING PLANS; SEPARATION, SCREENING, DUST REGULATION; PERFORMANCE STANDARDS AGREEMENTS; AND PROOF OF OTHER GOVERNMENTAL REGULATORY COMPLIANCE REQUIREMENTS/PERMITS; TO REMOVE NMPM AS AN ALLOWABLE USE IN UD; TO INVOKE THE PENDING ORDINANCE DOCTRINE; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNTY COUNCIL OF YORK COUNTY, SOUTH CAROLINA:

SECTION 1. Legislative findings.

As an incident to the adoption of this ordinance, the York County Council, as the governing body of York County, South Carolina, has made the following legislative findings:

1.1 The Code of Ordinances of York County, South Carolina, should be amended by amending through amendments to Chapter 155, Zoning Code, in order to clarify the ordinance governing uses which are not set out sufficiently in the Code or which are developing to such a degree or with such impact that additional regulation is needed to safeguard our citizenry and promote orderly prospective treatment of the uses in order to guide development with regard to existing and future zoning needs and promote the public health, safety, convenience, order, appearance, prosperity and general welfare of York County and its citizens.

1.2 Council is empowered to enact ordinances for the implementation and enforcement of powers granted to Council pursuant to Sections 4-9-30 (9), (14), and (17),

S.C. Code Ann., as amended, and to exercise such other powers as may be authorized for counties under S.C. Code Ann. Section 6-29-710, as amended.

1.3 Council finds that the amendment and clarification will, inter alia, guide development and provide for the orderly and subsequent growth in the County; facilitate the creation of a convenient, attractive, and harmonious community; regulate the uses of buildings, structures and land for trade, industry, residence, recreation, agriculture, public activities, and other purposes; and further the public welfare.

1.4 Specifically, Council finds that regulation of nonmetallic mineral product manufacturing will expound upon a zoning use not sufficiently regulated within the existing code of ordinances and will thereby provide a regulation process specific for the NMPM (concrete) industry within York County while safeguarding the interests of the York County citizens and the integrity of the County.

SECTION 2. Code of York County Amended.

Chapter 155, ZONING CODE, is hereby amended in the particulars established in Exhibit A, attached and incorporated herewith by reference.

SECTION 3. Public Hearing Required.

The York County Council shall conduct a public hearing after publishing a notice of the date, time and place of such hearing at least fifteen (15) days in advance of such hearing before final legislative action is taken for the adoption of this ordinance. Additionally, the York County Council hereby invokes the application of the Pending Ordinance Doctrine to this Ordinance.

SECTION 4. Severability.

The provisions of this ordinance are hereby declared to be severable, and if any provision or section of this ordinance is declared to be unconstitutional or unenforceable by the final order of a court of competent jurisdiction, such declaration shall not affect the

constitutionality, legality or enforceability of any other section or provision of this ordinance, which shall be deemed severable, valid, enforceable and effective.

SECTION 5. Repeal of inconsistent sections and ordinances.

All sections of the York County Code of Ordinances and all York County ordinances in conflict with this ordinance are hereby amended to the extent of such conflict.

SECTION 6. Effective date.

Subject to the application of the Pending Ordinance Doctrine, this ordinance shall take effect immediately upon adoption.

Adopted this 21 day of May, 2018.

YORK COUNTY COUNCIL

By: 
J. Britt Blackwell, O.D., Chairman
York County Council

Attest: 
William P. Shanahan, Jr.
County Manager

First Reading: April 16, 2018
Second Reading: May 7, 2018
Public Hearing: May 7, 2018
Third Reading: May 21, 2018

EXHIBIT A

York County Code of Ordinances, Section 155.009, DEFINITIONS is hereby amended by adding the following terms (in alphabetical order within the Code) and definitions, as follows:

NONMETALLIC MINERAL PRODUCT MANUFACTURING (NAICS CODE 32): An industrial facility used for the manufacturing and production of Clay Product and Refractory Manufacturing (NAICS 3271); Glass and Glass Product Manufacturing (NAICS 3272); Cement and Concrete Product Manufacturing (NAICS 3273); Lime and Gypsum Product Manufacturing (NAICS 3274); and Other Nonmetallic Mineral Product Manufacturing (NAICS 3279).

York County Code of Ordinances, Section 155.010, TABLE OF PERMITTED USES AND SPECIAL EXCEPTIONS, Paragraph (F) is hereby amended, to remove uses "Asphalt Manufacturing, Clay Product Manufacturing, Concrete Manufacturing and Production, Enamel Manufacturing and Production, Glass and Glass Production Manufacturing, Stone and Masonry Manufacturing and Production," and Add "Nonmetallic Mineral Product Manufacturing" as follows:

Table of Permitted Uses and Special Exceptions															
Uses	Supplemental Regulations?	AGC	AGCL	BLUD	BLUDP	PC I	PC II	TD	TD II	TD III	TD IV	TD V	TD VI	TD VII	TD VIII
MANUFACTURING															
Nonmetallic mineral product manufacturing	Yes												SE		

The York County Code of Ordinances, Section 155.161, INDUSTRIAL DEVELOPMENT DISTRICT (ID) PERMITTED USES is hereby amended by deleting paragraphs (L) (3), (6), (9), (12), (18), (32), and renumbering subsequent paragraphs:

The York County Code of Ordinances, Section 155.162, INDUSTRIAL DEVELOPMENT DISTRICT (ID) SPECIAL EXCEPTIONS is hereby amended by adding new paragraph (B) (8), as follows:

"(B) (8) Nonmetallic mineral product manufacturing, provided:

- (a) *Minimum lot size.* Minimum lot size is 5 acres.
- (b) *Access and routing plan.*

1. The purpose of the access and routing plan is to avoid unreasonable impacts on residential land uses and to maintain the safe conditions of public roads in the vicinity of the proposed use, which may deteriorate or be damaged by heavy truck traffic associated with industrial uses.

2. The access and routing plan shall include:

(i) All public roads within two (2) miles of any property boundary of the proposed site;

(ii) Access ways to the site, including public rights-of-way, intersections, existing and proposed paving and drainage improvements;

- (iii) State- and federally-designated truck routes; and
- (iv) County roadway classifications for each public road.

3. The access and routing plan shall demonstrate compliance with the following criteria:

(i) Reasonable steps have been taken to avoid regular hauling and transport routes and points of access in residential areas;

(ii) All means of access for heavy trucks must be onto a major road, as defined by York County Zoning Code Section 155.009, unless the Zoning Board of Appeals determines that:

a. The minor road is sufficient to accommodate safe turning movements into and out of the site;

b. The minor road is built to conditions sufficient to withstand the impacts of heavy truck ingress and egress to the site or the applicant commits to necessary upgrades or to repairs, if needed, through a liability agreement;

c. Ingress and egress by heavy truck traffic at the proposed access points will not unreasonably impact residential land uses and areas; and

d. Measures have been included at all intersections where access drives connect with a public right-of-way to limit dirt, rocks, and other debris from collecting on the road surface.

(iii) No minor roads will be used for regular hauling and transport within the 2-mile plan area, unless the ZBA determines that:

a. Regular hauling and transport routes will not unreasonably impact residential land uses or lands zoned for residential uses; and

b. Minor roads in the plan area are built to conditions sufficient to withstand the impacts of heavy truck traffic, based on projected trips to and from the site, or the applicant commits to necessary upgrades to the minor roads or to any repairs attributable to the use, through a liability agreement.

(iv) The applicant has instituted procedures for ensuring drivers of heavy trucks associated with the site are provided with maps indicating the roads within the 2-mile plan area approved for regular hauling and transport.

(v) If the Director of Public Works determines that any road designated for regular hauling and transport is not adequately constructed to meet the weight and volume of heavy truck traffic associated with the proposed use, a special exception must include as a condition the execution of a liability agreement with the County prior to final site plan approval.

(c) *Separation Requirements.*

1. Nonmetallic mineral product manufacturing uses shall be located at least 500 feet from:

(i) Any existing or approved residence, school, day care center, church or similar religious land use, hospital, or public park.

(ii) The following zoning districts: RC-I, RC-II, RD-I, RD-II, PD, and TND; and

(iii) The following overlay zoning districts: Lake Wylie and Catawba River Buffers and AGC and RUD Significant Historical and Architectural Sites Overlay.

2. Separation distances shall be measured from the property line of the manufacturing facility to the nearest property line of the existing land use or the nearest zoning district boundary, as applicable.

(d) *Setbacks.* All elements of the facility, including structures/buildings, equipment, parking areas, and access roads, shall be located at least 125 feet from all property lines; except that access roads may cross the 125-foot setback area and utilities may be located within the 125-foot setback area.

(e) *Screening.*

1. A Type D bufferyard shall be required along all property lines regardless of the adjacent land use.

2. Access roads may cross the bufferyard.

3. Utilities may be located within the bufferyard. Where utilities are located within the required buffer, only the minimum amount of disturbance necessary shall be allowed for installation of the utility. The Zoning Board of Appeals may require supplemental buffering including, but not limited to, additional buffer width, supplemental plantings in other areas of the buffer, or a privacy fence, if the ZBA determines the placement of the utilities in the buffer negatively impacts adjacent property owners.

4. All existing trees within the buffer area shall be preserved, except for reasonable allowances for construction of necessary road crossings and utilities.

5. When located within 1,000 feet of a residential use, the ZBA may require additional screening measures in order to protect nearby residential areas from noise and visual blight.

(f) *Dust reduction measures.* Dust reduction measures shall be employed to minimize on-site and off-site dust nuisance generated by the manufacturing use. These measures may include, but are not limited to:

1. Utilization of stabilized roadways within the site;

2. On-site speed limits to minimize disturbance; and

3. Application of water and other dust palliatives.

(g) *Performance Standards Agreement.* All nonmetallic mineral product manufacturing uses shall comply with the provisions of the Performance Standards Agreement in Appendix D, Exhibit 1. A signed copy of the agreement shall be submitted with the special exception application.

(h) *Proof of other required permit approvals.*

1. In conjunction with the special exception application, the applicant shall submit one complete digital (PDF) copy of all final approvals to operate from other required local, state, and/or federal permitting agencies. All approvals must be demonstrated to be up-to-date and in effect.

2. In cases where final permitting agency approval is not issued without evidence of all necessary local zoning approvals, the applicant shall provide one complete digital (PDF) copy of the application submitted to the permitting agency. Once final approval is received, the applicant shall provide one complete digital (PDF) copy of the permit to County staff prior to the start of manufacturing operations."

The York County Code of Ordinances, Section 155.191, URBAN DEVELOPMENT DISTRICT (UD) PERMITTED USES is hereby amended by deleting paragraphs (Q) (3), (6), (9), (12) (18), (32), and renumbering the subsequent paragraphs, as follows:

Chapter 4 DISTRICT REGULATIONS

§ 4-119 ID-1- Restricted Industrial District Uses.

ID-1 PERMITTED USES (continued)	NAICS CODE	NAICS DESCRIPTION	PARKING SPACES REQUIRED
3. Manufacturing, limited to NAICS codes listed	3112, 3113, 3114, 3115, 3118, 3119, 312, 315, 3162, 3169, 321214, 321219, 3219, 3222, 323, 32513, 3252, 3254, 3256, 3259, 3261, 3262, 327111, 327112, 327113, 3272, 327992, 327993, 327999, 3312,	Grain milling (except 311225-fats, oils); Sugar & confectionery; Fruit & vegetable; Dairy products; Bakeries & tortilla; Other Misc. food; Beverage, tobacco products; Apparel; Footwear; Leather products & allied products; Truss Mfg.; Reconstituted wood products; Other wood products; Converted paper products (except 322299); Printing, related support; Dye & pigment; Resin, plastic, synthetic fibers; Pharmaceutical, medicine; Soap, cleaners; Other chemicals (except 32592-explosives); Plastics; Rubber products (except 32621 - tires); Vitreous plumbing fixtures; China & pottery; Porcelain electrical supply; Glass & glass products; Mineral & earth; Mineral wool; Misc. nonmetallic mineral; Steel products;	1 per employee for maximum shift plus 1 per office and 1 per 200 square feet of sales area

Chapter 4 DISTRICT REGULATIONS

§ 4-120 ID-1 - Restricted Industrial District Regulations.

The following regulations apply to all uses in ID-1 districts:

Minimum lot area	<u>Utility substations and water towers</u> : 10,000 square feet. <u>Other</u> : As specified in conditions, or none.
Minimum street frontage	100 feet, or access as specified in conditions.
Minimum front yard depth:	30 feet from road right-of-way; except gasoline island may be 20 feet from road right-of-way.
Minimum setback from second street frontage:	Side street on corner lot - 10 feet. Rear street on double frontage lot - 30 feet.
Minimum side yard:	<u>Principal structure</u> - 10 feet from interior side lot line. <u>Accessory structure</u> - 6 feet from interior side lot line.
Minimum rear yard:	<u>Principal structure</u> - 15 feet from interior rear lot line. <u>Accessory structure</u> - 6 feet from interior rear lot line.
Minimum setback from any commercial or industrial district	50 feet
Minimum setback from any rural, residential or agricultural district	150 feet, <u>or</u> 75 feet with a 50-foot-wide densely planted buffer maintained at least 6 feet high along the rural, residential or agricultural district line, <u>or</u> as specified in conditions
Maximum structure height:	50 feet to the roof line [not applicable to church spires, belfries, cupolas, domes, utility and communication towers, chimneys, flag poles, antennae]. Manufacturing, processing and assembly plants may exceed 50 feet in height provided setbacks from residential districts shall be increased by four additional feet for every two feet in height over 50 feet.
Outdoor storage:	Wrecked or junk vehicles prohibited. Outdoor storage of materials used in assembly, fabrication or processing is permitted; provided, junk or salvage is limited to 25% of floor area of buildings on same lot. Outdoor storage shall be screened from view from a public road.
Off street parking and loading:	See supplemental regulations, Chapter 5
Signs:	See supplemental regulations, Chapter 5
Supplemental regulations:	See Chapter 5



operating in a particular lawful location when the subsequent disqualifying use or zoning district arrived, and only for so long as that particular adult entertainment establishment continues to lawfully operate in that location.

SECTION 902 - ANIMAL FACILITIES

A. SMALL ANIMAL PRODUCTION FACILITIES

1. The following regulatory information shall be provided for facilities where between ten thousand one (10,001) and two hundred fifty thousand (250,000) pounds of normal production animal live weight will be located on site at any one (1) time:
 - a) A copy of the SCDHEC permit to construct the proposed facility; and
 - b) A copy of the SCDHEC approved Animal Facility Management Plan (AFMP) for the facility; and
 - c) A copy of any waivers approved by SCDHEC related to modifications in the required setbacks or other requirements as established in the SCDHEC regulations for such facilities; and
 - d) Other applicable regulatory permits necessary for the operation of such facilities.
2. The following regulatory information shall be provided for facilities where between two hundred fifty thousand one (250,001) and five hundred thousand (500,000) pounds of normal production animal live weight will be located on site at any one (1) time:
 - a) Items a.—d. above; and
 - b) A copy of the Dead Animal (swine or other) Disposal Plan; and
 - c) Plans and specification for all other manure treatment or storage structures, such as holding tanks or manure storage sheds not included in the AFMP; and
 - d) A copy of the Emergency Plan for the facility.

B. THE RAISING, CARE AND HANDLING OF ANIMALS AND LIVESTOCK.

The raising, care and handling of animals, where allowed by district, must meet the minimum lot size requirements listed in § 205.

C. ANIMAL BOARDING FACILITIES

7. AG3, HC, NC, CC, RCS, TRS, RE1, RE2, OPI, PR1, & RC ZONING DISTRICTS

No outside boarding of animals.

SECTION 903 - ASPHALT, CONCRETE AND AGGREGATE PROCESSING FACILITIES.

Facilities engaged in the processing of aggregates used in the production, demolition or recycling of asphalt and/or concrete products shall be subject to the following conditions.

**A. HOURS OF OPERATION**

Hours of operation shall be governed by the Horry County Noise Ordinance.

B. SEPARATION FROM RESIDENTIAL.

1. All proposed batch production facilities shall be located a minimum of five hundred (500) feet from any residentially used or zoned lot, whether said lot is located within the unincorporated county or a municipal jurisdiction. The distance shall be measured from the parcel line of the proposed site to the residential zoning line or residentially used lot line. The separation distance shall be reduced to three hundred (300) feet if the facility is separated from the residential by an active railroad right-of-way or highway with at least two hundred fifty (250) feet of right-of-way.
 2. All proposed outdoor aggregate processing (i.e., crushing, sorting and recycling) facilities are required to be separated by one thousand (1,000) feet from any residentially used or zoned lot, whether said lot is located within the unincorporated county or a municipal jurisdiction. The distance shall be measured from the parcel line of the proposed site to the residential zoning line or residentially used lot line. The separation distance shall be reduced to five hundred (500) feet if the facility is separated from the residential by an active railroad right-of-way or highway with at least two hundred fifty (250) feet of right-of-way.
-

C. MINIMUM LOT AREA

2.5 acres.

D. MINIMUM SETBACKS

Mixing, batching, crushing and processing equipment shall be a minimum of fifty (50) feet from all property lines. Setbacks may be greater if required by the zoning district in which the facility is being constructed. Setbacks for all other buildings or uses on the property are required to meet the minimums for that zoning district.

E. ENCLOSURE REQUIREMENTS

All asphalt and concrete batch plants under this section shall be located in fully enclosed structures. Aggregate processing (i.e., crushing, sorting and recycling) facilities are not required to be fully enclosed as long as they meet all other requirements of this ordinance.

F. VEHICLE AREAS

All internal vehicle use areas shall be maintained in a dust free condition. All aggregate processing facilities must submit a dust control plan prior to receiving approval.

G. LANDSCAPING/BUFFERING.**1. Roadway Screening.**

The site shall be screened from adjacent roadways to a minimum height of ten (10) feet. This can be accomplished from any combination of walls, berms and/or vegetation whether planted or existing. If screening is composed solely of vegetation the buffer width from the roadway must be a minimum



of twenty-five (25) feet and no less than eighty (80) percent opacity in the winter season. Buffers shall contain landscape materials equal to twice that of the standard supplemental planting requirements of Article V. If the screen contains walls and/or berms a minimum of ten (10) feet in height or the roadway only services adjacent industrial uses then the site only has to meet the landscaping requirements of Article V.

2. Side and rear property lines. All side and rear property lines must be screened according to the requirements of Article V, unless subject to (c) below.
3. Enhanced buffers. Asphalt and concrete batch facilities within one thousand (1,000) feet of a residentially used or zoned property shall be screened through enhanced buffers. The enhanced buffer shall be around the entire work area with openings provided for approved entrances. The site should be designed so that structures and or walls are designed to provide interior site screening in front of the openings provided for access. The enhanced buffer shall consist of one of the following options:
 - a) Buffer one hundred (100) feet in width with twice the landscaping material as required by the supplemental planting in buffer areas. Existing vegetation may be supplemented using a combination of evergreen trees and shrubs to reach eighty (80) percent winter season opacity within three (3) years; or
 - b) A ten-foot wall, berm or combination in addition to the landscape buffer requirements of Article V..

H. TRUCK ROUTES.

1. All such facilities shall submit to the County for approval a map showing a pre-designated route for all transport trucks traveling north, east, south, and west between the facility and the nearest arterial/collector street. The intent of this section is to control the route between the nearest arterial/collector street and the facility, taking into consideration that the routes may be different depending on the travel direction.
2. The route maps shall restrict to the greatest extent possible the routing of transport trucks so as to minimize routes that traverse residential neighborhoods, that unreasonably and adversely impact residential dwelling units, or that damage or degrade public streets from repetitive heavy weights or the spillage of materials from transport trucks. No facility operations shall commence until the county has approved the truck route map as conforming to the requirements of this section. Once the route map is approved by the county, all transport trucks shall travel the approved routes as shown on the route map unless a temporary diversion is necessary to avoid emergency or hazardous conditions along the approved route. The owner or operator shall promptly contact the county in the event of any circumstance necessitating a diversion from the route map.

I. MAINTENANCE OF PUBLIC STREETS.

1. Facilities shall employ measures to limit the tracking, carrying, or depositing of aggregates, fillers, dirt, dust, mud, sludge, or other materials associated with the facility upon any public street or thoroughfare.



2. All transport trucks and equipment leaving a facility shall be completely rinsed of asphalt, concrete, aggregates, fillers, dirt, dust, mud, sludge, or other facility materials prior to leaving the site.
3. All facilities shall provide paved aprons from any paved public or private right-of-ways onto the site for a distance of at least one hundred (100) feet.
4. If, on paved public roadways, there are visible tracks or deposits of aggregates, fillers, dirt, dust, mud, sludge, or an other material associate with the operation of a concrete or asphalt facility along the travel path of vehicles exiting the facility site, all such paved public road(s) shall be swept by the owner or operator at least once each day of operation or more often as reasonably required by the county to remedy and remove the tracking and deposit. All sweeping shall be done by a commercial grade mechanical, vacuum or regenerative air sweeper that uses water for controlling dust. The owner or operator shall keep a daily written log of sweeping activities. The log shall be kept for one month.
5. If accessing off an unpaved road the facility operator will be required to maintain said road to Horry County standards. This will involve, at a minimum, the provision of a water truck and motor grader for all plant locations.

J. STORMWATER.

1. All sites regardless of size will be required to obtain a Horry County stormwater permit.
2. All liquid residues resulting from the cleaning of transport trucks and equipment shall be directed to impervious process holding basins approved by the county.
 - a) Basins shall be designed to hydraulically separate from the stormwater detention/water quality control facilities.
 - b) All liquids from such basins shall be either recycled through the facility or discharged to the sanitary sewer system.
 - c) All residual material from the basins shall be collected and disposed of or recycled, in accordance with applicable laws and regulations.
 - d) After issuance of approval by the county, records evidencing proper disposition of residue materials must be maintained on site.
 - e) The stormwater detention pond and liquid and the holding basins may be combined into a single facility where it can be demonstrated that the facility will meet the discharge and water quality requirements.

SECTION 904 - ATM AND ICE VENDING MACHINES.

A. ATM AND ICE VENDING MACHINES SHALL BE PERMITTED ON INDIVIDUAL COMMERCIAL LOTS WITHOUT A PRINCIPAL STRUCTURE; PROVIDED THAT:

1. The ATM and Ice Vending machine is placed on a permanent foundation and located within a permanent structure improved to resemble a site-built facility. Such facility shall be landscaped in accordance with the standards established within this ordinance. This condition does not apply to accessory use ATM and Ice Vending machines.

1. Property for such easement may be shared between two (2) properties. Example: The property line is the center line of the easement with each property contributing two and one-half (2½) feet towards the easement. In this example, building setbacks will be a minimum of two and one-half (2½) feet from the property line.
 2. The five (5) foot minimum maintenance easement may be contained wholly on one property. In this example, the side yard setback for that property shall be five (5) feet and setback for the adjoining property shall be zero (0).
- G. Rear yard setbacks shall be not less than ten (10) feet.

3:3.17 Townhouses

Due to the unique design features of townhouses, the dimensional requirements of Table 3-4 and Table 3-5 are hereby waived, and the following design requirements are imposed for all such projects:

- A. The minimum lot size for such projects shall be a minimum of one-half (½) acre.
- B. Not more than eight (8) or fewer than two (2) townhouses may be joined together, with approximately the same (but staggered) front line.
- C. Side yard setbacks at the end unit shall be as required for the district in which the project is to be located, with not less than a twenty (20) foot distance between groups of adjoined buildings in the project area.
- D. Rear yard setbacks shall be a minimum of twenty (20) feet.
- E. Minimum lot width shall be eighteen (18) feet.
- F. Sidewalks not less than three (3) feet in width shall be provided along the front property line of each project and building.
- G. Maximum height of buildings shall not exceed thirty-five (35) feet.
- H. Front yard setbacks shall be as prescribed by Table 3-4 and Table 3-5, but may be waived or modified by the Board of Zoning Appeals due to the unique style of such housing.
- I. Rear yards shall be enclosed by a minimum six (6) foot wall or fence. If the rear yard is used for parking, wall or fence configurations may be modified to accommodate access to the parking area. All fences and walls must have a finished side that is facing the adjoining property. The interior side of the fence or wall may be finished as owner deems appropriate. Walls may be brick or masonry. Plain concrete block must be rendered with decorative facing such as stucco, brick veneer, etc. Wood stockade fences (with spaces between the stakes) and unpainted fences are not allowed. Chain link, wire, or other fences that do not create a visible barrier are not allowed.
- J. Rear yards may include one (1) accessory building no greater than 500 square feet in gross floor area.

3:3.18 Manufacturing Facilities

The following performance standards shall be used to ensure that all conditionally permitted manufacturing uses shall produce no injurious or obnoxious conditions related to the operation of such uses sufficient to create a nuisance beyond the premises. The Planning and Zoning Commission or the Planning Official, as applicable, may require additional restrictions based on proximity to schools, churches, residential areas, etc. Furthermore, the Planning and Zoning Commission may require that an engineer certify that the proposed project will not violate the restrictions listed herein.

3:3.18-1 Vibration

No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at any point beyond the lot line; nor shall any vibration produced exceed the following velocity levels, measured with a vibration monitor in inches per second at the nearest:

- A. Residential property line: 0.02
- B. Non-residential property line: 0.10

3:3.18-2 Fire and Explosives

All activities and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazards of fire and explosion, including adequate fire fighting and fire suppression equipment, as prescribed in the applicable building codes.

3:3.18-3 Noise

All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness. In no event shall the sound pressure level of noise radiated continuously from a facility exceed at the lot line the values given in the night time and day time schedules below in any octave band or frequency. Sound pressure level shall be measured with a sound level meter and an octave band analyzer that conforms to American National Standards Institute (ANSI) type 2 standards.

A. Night Time Schedule

Maximum permissible sound pressure levels at the lot line for noise radiated continuously from a facility between the hours of 9 p.m. and 7 a.m.:

Table 3-7 MAXIMUM CONTINUOUS SOUND PRESSURE LEVELS - NIGHT TIME		
Frequency Band (In Cycles per Second)	Sound Pressure Levels (In Decibels)	
	At Non-Residential Lot Line	At Residential Lot Line
20-75	69	65
76-150	60	50
151-300	56	43
301-600	51	38
601-1,200	42	33
1,201-2,400	40	30
2,401-4,800	38	28
4,801-10,000	35	20

B. Day Time Schedule

Maximum permissible sound pressure levels at the lot line for noise radiated from a facility between the hours of 7 a.m. and 9 p.m. shall not exceed the limits of the preceding table except as specified and corrected below:

Table 3-8 MAXIMUM SOUND PRESSURE LEVEL EXCEPTIONS - DAY TIME	
Type of Operation in Character of Noise	Correction in Decibel*
Day time operation only	plus 5
Noise source operates less than 20% of any one-hour period	plus 5
Noise source operates less than 5% of any one-hour period	plus 10
Noise source operates less than 1% of any one-hour period	plus 15
Noise of impulsive character (hammering, etc.)	minus 5
Noise of periodic character (hum, speech, etc.)	minus 5
* Applicable only if these corrections may be applied to the preceding table.	

Noises emanating from construction activities between 7:00 a.m. and 9:00 p.m. shall be exempt from these requirements. Vibration emanating from construction activities between 7:00 a.m. and 9:00 p.m. shall be exempt from these regulations.

3:3.18-4 Air Pollution

The emission of visible smoke, dust, dirt, fly ash, particulate matter from any pipes, vents, or other openings, or from any other source into the air, shall comply with the regulations of the South Carolina Department of Health and Environmental Control (SCDHEC) and the SCDHEC Air Operating Permit. Air pollution emanating from construction activities shall be governed by the SCDHEC Air Construction Permit.

3:3.18-5 Odor

There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive at the property line. Any process which may involve the creation or emission of any such odor shall be provided with both a primary and a secondary safeguard system so that control may be maintained in the event of failure of the primary safeguard system.

3:3.18-6 Glare

There shall be no direct or sky reflected glare, whether from floodlights, high temperature processing, combustion, welding, or otherwise, so as to be visible in any residence.

3:3.18-7 Fumes and Vapors

There shall be no emission of any fumes or vapors of a noxious, toxic, or corrosive nature which can cause damage or irritation to health, animals, vegetation, or to any form of property.

3:3.18-8 Heat, Cold, Dampness, or Movement of Air

Activities which could produce any adverse effect on the temperature, motion, or humidity of the atmosphere beyond the lot line shall not be permitted.

3:3.18-9 Toxic Matter

The measurement of toxic matter shall be at ground level or habitable elevation, and shall be the average of any twenty-four (24) hour sampling period. The release of any airborne toxic matter shall not exceed the quantities permitted for those toxic materials currently listed in *Threshold*

Limit Values as published by SCDHEC. If a toxic substance is not contained in said listing, the applicant shall satisfy the Planning Official that the proposed levels will be safe to the general population.

3:3.18-10 Exterior Illumination

All operations, activities, and uses shall be conducted so as to comply with the performance standards governing exterior illumination prescribed below.

In general, the pattern of light pooling from each light source shall be carefully considered to avoid throwing light onto adjacent properties. Light sources visible in residential or medical areas shall comply with light intensities indicated in Column A, below. Light sources visible in commercial or industrial areas shall comply with light intensities indicated in Column B below.

Table 3-9 MAXIMUM INTENSITY FOR EXTERIOR LIGHTING		
	Column A	Column B
Bare Incandescent Bulbs	5 watts	40 watts
Illuminated Buildings	15 ft. candles	30 ft. candles
Internally Illuminated Signs	150 ft. lamberts	250 ft. lamberts
Externally Illuminated Signs	25 ft. candles	110 ft. candles
Any Other Unshielded Sources, Intrinsic Brightness	50 candela per square centimeter	50 candela per square centimeter

Illumination shall be measured from any point outside the property. Measurements are to be conducted by Illumination Engineering Society of North America (IESNA) standards.

3:3.18-11 Compliance Guarantee

The applicant of a permit for a manufacturing or processing plant which would produce any of the above “objectionable elements” shall acknowledge in writing his understanding of the performance standards applicable to the proposed use, and shall submit with the permit application, an agreement to conform with such standards at all times. Any violation of the agreement shall constitute a violation of this Ordinance and shall be treated accordingly.

3:3.19 Construction and Demolition Landfills

Where conditionally permitted by this Ordinance and consistent with the most current Kershaw County Solid Waste Management Plan, construction and demolition landfills shall meet the following conditions:

- A. A construction and demolition landfill, as defined by Section 44-96-40 of the SC Code of Laws, 1976, as amended, may be located up to, but not closer than 300 feet from any property line.
- B. No material shall be placed in open storage in such a manner that it is capable of being transferred out by wind, water, or other causes.
- C. All materials and activities shall be screened in such fashion as not to be visible from off-site. The provisions of this subsection may be waived by the Planning Official when such facility will be utilized for a period not to exceed ninety (90) days.
- D. A plan showing restoration of the site upon completion of use as a landfill shall accompany the request.



MEMORANDUM

DATE: November 14, 2023

TO: Lancaster County Planning Commission

FROM: Kim Lineberger, President

SUBJECT: Proposed Text Amendment to the current UDO

BACKGROUND

LCI-Lineberger has been operating in Lancaster County since 1995. We employ approximately 80 employees with wages ranging from \$15.00 per hour to over \$90,000.00 per year.

We would like this text amendment to allow us to install an asphalt mixing facility that has the potential to generate over \$7,000,000 of taxable sales per year and will immediately add four jobs and generate up to 50 more jobs over the next 10 years.

The proposed location is already zoned Heavy Industrial and has already been the home of two previous asphalt plants. An asphalt plant was operating on the property when the previous owner, Jim Lineberger, bought the property in 1982 and a replacement was installed in 1983 and was operational till around 1997 when the business closed and the plants were sold.

Currently, there are no asphalt mixing facilities in Lancaster County and we are going to neighboring counties to purchase and pay sales tax.

*ASPHALT PLANT FACTS** (provided by NAPA, National Asphalt Pavement Association)

- Asphalt plants are highly regulated by the EPA and SC DHEC requiring start up inspections and air stack testing as well as yearly inspections and testing.
- In 2002, the EPA officially delisted asphalt plants as a major source of air pollution.
- Composed of approximately 6% asphalt cement (petroleum byproduct) and 94% stone and sand.
- Asphalt is 100% recyclable, and is the most recycled product in the United States. Most SCDOT asphalt mixes contain up to 20% of Recycled Asphalt Pavement (RAP).
- Storage silos and fuel tanks for asphalt mixing are highly regulated to ensure they are well maintained, and redundant protection systems and safeguards are in place to prevent accidental material release.

- Asphalt is a very inert material that is insoluble in water. It does not leach material into the ground.
- From time-to-time, odors may emanate from an asphalt plant. While noticeable, these odors pose no danger to plant personnel or the community in which a plant operates.
- According to a noise study, the noise level of an asphalt plant over flat ground at the distance of 800 feet would generate 54-56 decibels.
 - By comparison:
 - Average equipment with 5hp or less – 50 dB
 - Chain saw – 85 dB
 - Auger Drill Rig – 85 dB
 - Dozer – 80 dB (Already in use on the property)
 - Dump Truck – 84 dB (Already in use on the property)
 - Generator – 82 dB
 - Jackhammer – 85 dB
- According to the World Health Organization’s “Guidelines for Community Noise, 55 dB is a daytime noise level that people normally do not find disturbing or annoying.

GOOD FOR LANCASTER COUNTY

- Sales tax generated from the sale of asphalt.
- More competitive bidding by Lineberger to complete road projects for the county.
- Local company is growing and creating more jobs for the people of Lancaster County increasing economic prosperity for the County, members of the community, and Lineberger Construction.

PROPOSAL: Amend Unified Development Ordinance, adding regulations and definition for Nonmetallic Mineral Product Manufacturing in HI District

APPLICABLE CHAPTER(S): Chapters 5 and 2

APPLICANT: Kim Lineberger, KCH Real Estate LLC

REQUEST: Application by Kim Lineberger on behalf of KCH Real Estate LLC for an amendment to UDO Sec. 5.9 Industry/Wholesale/Storage Uses and Sec. 2.5 Use Table, to add a definition and regulations for Non-Metallic Mineral Product Manufacturing. The intent is to allow reuse and manufacturing of paving materials such as asphalt.

APPLICANT'S INTEREST: *"The current UDO does not provide for nonmetallic mineral product manufacturing. An opportunity exists for development of such facilities in the County that will require extensive capital investment and job creation. The standards proposed governing this newly designated land use activity are consistent with provisions governing similar uses in other jurisdictions." (from the application)*

BACKGROUND: The applicant provided information regarding the M-Pack Relocatable Asphalt Plant, manufactured by Astec. The information included printed materials to explain how the asphalt production equipment works as well as general questions about how the asphalt production equipment works. This report will focus on the proposed use but will also address the other uses listed in the proposed text amendment to the best of staff's ability.

Video of the M-pack Relocatable Asphalt Plant operations are also viewable via Astec's YouTube page (<https://www.youtube.com/@astecindustriesinc.1143>).

DISCLAIMER: Lancaster County has had business with the applicant in the past. No undue influence was reported in the creation of this staff report.

INFO REGARDING "NON-METALLIC MINERAL PRODUCT MANUFACTURING"

What is it? From [statista.com](https://www.statista.com):

Nonmetallic minerals are a special group of chemical elements from which no new product can be generated if they are melted. Nonmetallic minerals are, for example, sand, gravel, limestone, clay, and marble. Such materials lack metallic characteristics like good electric and thermic conductivity, luster, rigor, and malleability; they are, however, essential for many industries. The nonmetallic minerals industry is best known as producers of cement, asphalt, ceramics,

glass, and lime products. Thus, the application range is quite broad, from construction materials to sanitary ware to tableware and decorative products. The transformation of nonmetallic minerals into these products is often an energy-intensive process, which can include several steps, such as heating, grinding, mixing, cutting, shaping, and honing.

Under the North American Industry Classification System (NAICS), the non-metallic mineral product manufacturing field (classified as NAICS 327) is separated into sub-groups based on the material being manufactured and/or recycled.

NAICS 327 includes:

- clay products and refractory manufacturing (NAICS 3271)
- glass and glass products (NAICS 3272)
- cement and concrete products (NAICS 3273)
- lime and gypsum products (NAICS 3274)
- and other nonmetallic mineral products (NAICS 3279).

Note: This system is not referenced in the Lancaster County UDO. These category identification numbers have been inserted into the applicant's proposed text amendment.

How do asphalt plants work? A basic run-down is found in the "How it Works" handout from Astec (provided by the applicant and scanned into the attachments for this report), or via the Civil Engineering school at the University of Memphis (link includes more information and graphics):

Hot-mix asphalt is produced in an asphalt plant where the required types and sizes of aggregate are heated to mixing temperature and blended with asphalt cement in the correct proportions.

Asphalt plants generally fall into two categories: batch plants and drum plants. Batch plants make asphalt one batch (truckload) at a time while drum plants can make asphalt continuously and store it until it is needed.

What are the physical impacts from the use? Manufacturing and industrial uses typically have some kind of impact on the surrounding area. The most popularly regulated nuisances from industrial uses include air, particulate, noise, odor, pollution, and vibration. This is why industrial zones are limited on the zoning map and come with considerable buffering regulations to reduce any negative impacts to surrounding properties.

In the Lancaster County UDO, for example, the definition for the Heavy Industrial (HI) district calls out "industrial, manufacturing, or large-scale utility operations" as being incompatible with residential and commercial areas. The uses included in this district range from racetracks and shooting ranges to landfills, warehousing, and research & development facilities. The use definition focuses on the intensity and outdoor operations.

Heavy Industrial District (HI district definition)

The Heavy Industrial District is established to accommodate those industrial, manufacturing, or large-scale utility operations that, by their nature, may create some nuisance and which are not properly associated with, nor compatible with, residential, commercial, and service establishments. Retailing of manufactured items may be permitted in certain instances when it is conducted on the same building site as the principal use.

INDUSTRY, HEAVY (use definition)

Typically the largest facilities in a community, these structures house complex operations and allow for intense manufacturing and industrial uses that have high impacts to neighboring properties with extensive outdoor activities. (Ordinance No. 2018-1529, passed 8.27.18)

To protect against nuisances, the UDO requires a half-mile separation (2,640 feet) between residential (and some commercial) uses/districts and outdoor shooting ranges (Section 5.5.12.C), restricted¹ industrial uses (Section 5.9.1.C), junkyards (Section 5.9.2.C), and [Class 3 landfills](#) (Section 5.9.4.C).

Known emissions from asphalt plants are listed in the Astec materials, and include carbon monoxide (CO), carbon dioxide (CO₂), water/steam (H₂O), nitrogen oxide (NO_x), sulfur dioxide (SO₂), and various hydrocarbons. Particulate matter (mostly stone dust) and heat are also created. These emissions are monitored by the facility staff and Federal government to ensure that they do not exceed allowable limits. The specific regulations and facility design for each type of use helps determine the number of emissions mitigated and the process for such.

How is the industry regulated in the US? The US Environmental Protection Agency (EPA) has multiple standards that apply to asphalt production, glass manufacturing, cement manufacturing, and the other subsets of nonmetallic mineral product manufacturing. These include air quality (the Clean Air Act of 1990), water quality (effluent), and waste. More information on how the nonmetallic mineral processing sector is regulated by the Federal government is available via the EPA web site.

CURRENT REGULATIONS:

“Nonmetallic mineral product manufacturing” is not defined in the code, so staff looks to the closest use for guidance. In this case, the use is restricted industry. This use was chosen due to the high volume of flammable liquids used to fuel the aggregate dryers.

Definition (Section 10.3):

INDUSTRY, RESTRICTED A facility that involves the use, storage, production or processing of any hazardous materials or substances in quantities subject to the reporting requirements of The Emergency Planning and Community Right-to-Know Act (EPCRA) also known as SARA Title III of 1980 (Sections 311-312, 42 U.S.C. §§ 11021-11022) and/or any facility which uses, stores, produces or

¹ See above for definition of “Industry, Restricted.”

processes dangerous goods and/or hazardous substances that are covered by separate regulations, standards or codes which are classified on the basis of immediate physical or chemical hazards, such as fire, explosion, corrosion and toxicity, and are in sufficient quantities such that accidental release or explosion may affect life, health, property or the environment beyond the immediate perimeter of the facility. These include: flammable gases, flammable liquids, flammable solids (selfreactive and related substances; and desensitized explosives), substances liable to spontaneous combustion, substances that when in contact with water emit flammable gases, oxidizing substances, organic peroxides, toxic substances, radioactive and corrosive substances.

5.9.1 INDUSTRY, RESTRICTED [HI]

A. Purpose

1. The Lancaster County Council finds that it is necessary to set forth the appropriate special requirements by which Industry, Restricted may be established within the unincorporated areas of Lancaster County.
2. Industry, Restricted has serious objectionable operational characteristics, particularly when they are located near residential areas or educational, religious, or recreational uses.
3. The County Council finds that the regulation of these uses is necessary to ensure that potential adverse effects do not contribute to the blighting of surrounding neighborhoods and to protect the quality of life in Lancaster County.

B. Permitted Location and Size

1. Such uses shall be sited on a parcel of not less than 10 acres.
2. Such uses shall be sited only in areas zoned for Heavy Industry.
3. All storage of hazardous materials shall comply with the provisions of the International Fire Code.
4. Exterior storage of hazardous materials not contained in vehicles for transportation, permanent on-site storage vessels, or containers shall be maintained so as to not create environmental hazards that may pose a threat to ground or surface water quality, air quality, wildlife, and/or humans.
5. All exterior storage of hazardous materials shall not exceed a height of 12 feet and will be arranged carefully to provide adequate spacing between incompatible substances as approved by the Fire Marshal.

C. Separation Requirements

1. Such uses shall not be located closer than 2,640 feet (or 1/2 mile) to any of the following:
 - a. LDR, MDR, HDR, PB, NB, INS, UR, RMX, MX, and IMX Districts;
 - b. All Residential uses, all Civic uses, and all Educational/Institutional uses as per the Use Table in Section 2.5.3.
 - c. All essential public facilities, or other similar uses.
2. Such uses shall not be located closer than 1,320 feet (or ¼ mile) to any highway access points (on-ramps/off-ramps), except as required to gain immediate access to the facility from a road.

The waiver of separation requirements allowance in Section 3.1.3 shall not be applicable to this requirement.

3. Such uses shall not be located closer than 500 feet from any floodplain or wetland area and a berm shall be constructed such that any runoff of water or other liquids will not enter the floodplain or wetland area.

4. A 6-foot-high berm shall encompass the entire property where it adjoins with other properties, except on the frontage or address side of the property where it adjoins a road.

5. Such uses shall not be located closer than 600 feet to another Industry, Restricted except where a single 6-foot high berm and 6-foot high chain-link fence separates the properties and the 300-foot setback is maintained from the property line to all structures and/or roadways except necessary inspection wells and access routes to inspection wells on both properties.

6. Such uses shall not be located closer than 300 feet to any Industrial use.

7. Separation from Storage - Warehouse Indoor, Restricted and Wholesaling and Distribution, Restricted shall not be required provided the 300-foot setback is maintained from the property line to all structures and/or roadways except necessary inspection wells and access routes to inspection wells.

D. Required Setbacks

1. Such uses shall maintain a 300-foot setback from the property line to all structures and/or roadways except necessary inspection wells and access routes to inspection wells.

2. Such uses shall maintain a 300-foot setback from roads and sidewalks.

E. Screening

1. A minimum 100-foot buffer area is required along all property lines and public rights-of-way. No materials, processes, or activities, including parking, access roads, or buildings, shall occur in the buffer area. Roads for access to the site may cross the 100-foot area, and monitoring wells may be located within the 100-foot area. All existing trees within the buffer area shall be preserved, except to allow for construction of necessary road crossings and monitoring of wells.

2. A chain link security fence, a minimum of 6 feet in height, shall enclose the entire site. The fence may not be placed inside the 100-foot buffer area.

F. Vehicular Access

Vehicular access to the site shall be provided on a major or minor thoroughfare or on a road improved to necessary industrial capacity as determined by the Administrator.

G. Reclamation Plan Required

Applicant shall file with the Emergency Management, Fire Rescue, and Register of Deeds a reclamation plan for the site facilities and location. The plan shall indicate any anticipated hazardous materials, secondary materials, spent materials or sludges or other products which will require reclamation, the name of the applicant, or other entity approved by Lancaster County Council, as the owner and which shall remain the owner and liable for the site forever, or until Lancaster County Council approval is given to release this requirement.

OTHER JURISDICTIONS

Staff noted that two of the jurisdictions polled have a separation requirement similar to the Lancaster County UDO (but with 500 or 1,000 feet of separation required, versus Lancaster County's 2,640 feet). Staff mapped these options out and the results are attached to this report. This was done for review of the applicant's request specific to the subject property.

- York County, SC: "Non-Metallic Mineral Products" is a Special Exception in industrial Districts. Minimum requirements include lot size (5 acres); access only from major public roadways and via an access/routing plan; located 500 ft from schools, day care centers, religious institutions, residential units, and water bodies; 125 ft setback from all property lines; dust reduction measures employed; reporting requirements to other agencies.
- Greenville County, SC: No specific descriptor of this use, but Heavy Industrial uses only permitted in I-1 district (the "least restrictive zoning district"). Setbacks are 50 ft; where adjacent to residential districts, add a 25 ft buffer.
- Dorchester County, SC: "Nonmetallic mineral products" are not specified. Description is closest to "Industrial uses and processing plants," which falls under the "Manufacturing" use group. Manufacturing is restricted to "I" (Industrial district); with an outdoor storage component, it converts to a Conditional Use. Buffers required include 50' natural buffer with a 15' berm when adjacent to non-industrial properties, or 100' buffer when adjacent to undeveloped properties. Noise (max 90 db), vibration, and noxious emission require buffers from residential areas. Tree surveys required to identify and protect "Grand trees."
- Richland County, SC: "Nonmetallic" mineral products are not listed but Glass, Lime, Gypsum and related production is permitted in M-1 (Manufacturing) and HI (Heavy Industrial) districts, Special Exception in LI (Light Industrial) districts. Outside storage must be completely screened from adjacent roads and residential use/zoned properties.
- Kershaw County, SC: "Non-Metallic Mineral Products- Other" is a Conditional Use in I-1 district. Setbacks from adjacent residential districts is 40 ft. Max height is 15 feet. Buffers required, min width of 30', and "high density screen" design.
- Chester County, SC: NAICS code 327 allowed in ID-1 (Industrial) and ID-3, Special Exception in ID-2. A fifty-foot buffer is required when adjacent to non-industrial uses.
- Fairfield County, SC: "Non-Metallic Mineral Products" is a Conditional Use in I-1 district. Manufacturing uses are restricted to maximum levels of vibration, noise, odor, and glare; hours of operation are restricted.

- Horry County, SC: Minimum 500 ft separation from residential use/districts for batch production, minimum 1,000 ft separation for outdoor aggregate processing (crushing, sorting, recycling); minimum 50 ft setback from all property lines; screened from roadways by minimum ten foot buffers; 100-ft buffers where abutting residential uses/districts.
-

DISCUSSION:

Does the proposal include protections for the neighboring properties?

The text includes a requirement for nonmetallic mineral product manufacturing to be located at least 500 feet from any residential lots, INS and PB districts; at least 500 feet from any lots containing schools, day care centers, churches, public parks, designated historic districts and landmarks; setbacks at least 75 feet from all property lines; and includes additional landscaping/ screening requirements to be planted or maintained in the setback areas. Additionally, there are dust reduction measures in the proposed code to reduce dust nuisance generated by the use.

Does the proposed use create fewer nuisances to justify a reduced separation?

One unique issue to this application is that the applicant plans to purchase a manufacturing process that is relocatable. The use is not one that you would pack up and move daily; the asphalt facility would leave the home location and be installed on site with a project (if permitted) for several months at a time, in order to serve the project with asphalt and/or concrete. That would mean that the subject property and surrounding neighbors would not experience the same level of nuisances as a property adjacent to a permanent asphalt plant.

Another unique issue is that asphalt production is dependent upon certain weather conditions. Per the Astec brochure, asphalt facilities “operate at their highest capacity during the summer, when paving conditions are most favorable.” This would lead the reader to believe that there would be fewer operational days in the winter months.

Even with the advances made by the industry to mitigate negative impacts from production, though, staff has not found a use in the HI districts that potentially produces more nuisances than an asphalt plant.

Is there a need for this type of industry?

The applicant, as well as some developers, believe so. Asphalt and concrete plants are tied into the business of housing and infrastructure, which is currently unable to keep up with demand. This view of the competitive landscape was captured from [MarketResearch.com](https://www.marketresearch.com):

Demand is driven by industrial production and construction spending. Profitability depends on efficient operations, as many products are essentially commodities that compete primarily on price. Large companies have advantages of scale in purchasing and the ability to invest in equipment and technology that improve efficiency. Small companies can compete by offering specialized products, or by serving local markets. Overall, the industry in the US is fragmented: the top 50 companies account for about 45% of industry revenue.

Staff notes that while the request is viewed as beneficial to the construction community, for the surrounding properties, the proposal falls short of existing UDO requirements for similar uses.

STAFF RECOMMENDATION:

The Planning Commission should deliberate based on the facts provided and the potential impact on both the community and surrounding properties.

Notes regarding the text:

- Staff opposes the use of the NAICS in the text amendment. Staff would prefer that the term “nonmetallic mineral product manufacturing” be described with the processes intended (“*facilities that engage in the manufacturing, recycling, storage, processing, resale, or reuse of recovered concrete, cement, and asphalt*”).
- Staff opposes the inclusion of all sub-category manufacturing operations in the proposed text. There are no known requests to implement those types of facilities in the County; until there is, staff prefers that door remains closed.
- Staff notes that there are no provisions in the proposed text to handle storage of materials, pre- or post-mix. This should be addressed before moving forward.
- Staff notes that the proposal is missing a proposed definition for “nonmetallic mineral product manufacturing” for Section 10.3 (Use Definitions). One could be gleaned from a number of sources.

PLANNING COMMISSION RECOMMENDATION: At their November 21, 2023 meeting, the Planning Commission **motion to recommend approval failed on a 5-1 vote**. The Planning Commission noted that changes to the UDO should be included in the current rewrite process.

STAFF CONTACT:

Allison Hardin, Development Services Director
ahardin@lancastrcountysc.net

ATTACHMENTS:

- **Application**
- **Map of HI Zones in Lancaster County**
- **Buffer Maps (4) of Subject Property**
- **“How It Works: Quick Guide to Asphalt Production” by Astec**
- **“Meet the Neighbors: Everything You Wanted to Know About Asphalt Facilities” by Astec**
- **Jurisdictions with specific regulations:**
 - **Chester County Section 4-119**
 - **Kershaw County Section 3:3.18 Manufacturing Facilities**
 - **Horry County Section 903 Asphalt, Concrete and Aggregate Processing Facilities**
 - **York County Ordinance 3418**

Jurisdiction	Min Lot Size	Separation from Residences, etc	Separation from Industrial Uses	Interior Setbacks	Dust Reduction Measures?
Chester County		150 ft	50 ft	10 - 30 ft	None
Horry County	2.5 acres	500 - 1,000 ft		50 ft	Required
Kershaw County		40 ft		30 ft	Required
Lancaster County	10 acres	2,640 ft	300 - 600 ft	300 ft	None
York County	5 acres	500 ft		125 ft	Required
<i>Proposed</i>	<i>6 acres</i>	<i>500 ft</i>	<i>n/a</i>	<i>75 ft</i>	<i>Required</i>

Current Regulations (Industry, Restricted) and Proposed Regulations (Nonmetallic Mineral Product Manufacturing)		
Regulation	Current (All Restricted Industry)	Proposed (NMPM Only)
Min Parcel Size	10 acres	6 acres
Zones Allowed	HI	HI
Storage	Comply with Fire Code	
Exterior storage	Protect water quality, air quality, wildlife, humans	
Exterior storage	Max 12 ft high	
Exterior storage	Adequate spacing between	
Min Separation from Residential, etc	2,640 ft	500 ft
Min Separation from Public Facilities	2,640 ft	500 ft**
Min Setback from Hwy Access Ramps	1,320 ft	
Min Separation from FP/Wetlands	500 ft	
Buffer for FP/Wetlands	Berm required	
Min berm along shared prop lines	6 ft tall	
Min separation to other restricted industry*	600 ft	
Min separation from other industrial uses*	300 ft	
Min internal setbacks	300 ft	75 ft
Min setback from roads, sidewalks	300 ft	
Min screening buffer	100 ft	50 ft
Min fence at edge of screening	6 ft tall (chain link security)	8 ft tall (opaque buffer)
^Can buffer be placed within required setbacks?	No	Yes
Dust Reduction Measures	None	Included

**Exceptions apply*

***Some facilities listed in proposal qualify as public facilities*

Equal or Higher Standards Proposed

Different Standards Proposed

No Comparable Codes Proposed

PROPOSED TEXT AMENDMENT – APPLICANT’S VERSION WITH STAFF NOTES IN RED

Amend Section 5.9 of the UDO to add the following use regulations for "Nonmetallic Mineral Product Manufacturing" as a new category of land use activity:

5.9. Nonmetallic Mineral Product Manufacturing [HI]

- A. Permitted Industrial and Manufacturing Activities: Nonmetallic Mineral Product Manufacturing ~~includes industrial facilities used for the manufacturing and production of clay product and refractory manufacturing (NAICS 3271); glass and glass production manufacturing (NAICS 3272); cement and concrete product manufacturing (NAICS 3273); Lime and gypsum product manufacturing (NAICS 3274); and other nonmetallic mineral product manufacturing (NAICS 3279)~~ as described in the North American Industry Classification System (NAICS) group 3200. This land use activity includes facilities that engage in the recycling, storage, processing, resale, or reuse of recovered materials and are not classified as a Class III Landfill.
- B. Permitted Location and Size
1. Such uses shall be exclusively located in the HI zoning district.
 2. Such uses shall be sited on a parcel(s) of not less than 6 acres.
- C. Separation Requirements
1. A nonmetallic mineral product manufacturing use shall be located at least 500 feet from: ~~(A) Any~~ lots located in the LDR, MDR, HDR, MH, RMX, MX, IMX, BP, and INS zoning districts; and
 2. A nonmetallic mineral product manufacturing use shall be located at least 500 feet from any lots containing residential dwelling units, schools, day care centers, religious facilities, public parks, and designated historic districts and landmarks, whether or not such lots are located in the incorporated or unincorporated area of Lancaster County.
- D. Required Setbacks
- All elements of the nonmetallic mineral product manufacturing facility, including structures, buildings, equipment, parking areas, and access roads, shall be located at least 75 feet from all property lines; except that access roads may cross the 75- foot setback area and utilities may be located within the 75-foot setback area.
- E. Screening
- A minimum 8ft. tall opaque buffer of no less than 50ft in width consisting of 18 trees and 36 shrubs per 100 ~~sq~~ linear feet will be placed between adjoining properties. Buffer can be placed within required setbacks.

F. Vehicular Access

Vehicular access to the site of all nonmetallic mineral product manufacturing uses shall be located on an arterial or major collector road, or on a road improved to necessary industrial capacity as determined by the Administrator.

G. Dust Reduction Measures

Nonmetallic mineral product manufacturing facilities shall employ dust reduction measures to minimize on-site and off-site dust nuisance generated by the manufacturing use. These measures may include, but are not limited to: (A) Utilization of stabilized roadways within the site; (B) On-site speed limits to minimize disturbance; and (C) Application of water and other dust palliatives.

H. Outdoor Storage

1. All materials stored outdoors must follow the separation requirements in Section C of this ordinance.
2. All materials must be contained within a defined area or structure and shall not be allowed to spill out into adjacent areas or the separation buffers.
3. All materials shall be stored and maintained so as to not create environmental hazards that may pose a threat to ground or surface water quality, air quality, wildlife, and/or humans.

Text Amendment Item 2.

Amend the Use Table in Section 2.5.3 of the UDO to add the following use type under Section H:

"Nonmetallic Mineral Product Manufacturing" and providing that such use shall be designated as Permitted with Review (PR) within the HI zoning district, subject to the standards referenced in the newly created land use category referenced in Text Amendment Item 1.

Text Amendment Item 3.

Amend the Definitions, Use Type Section 10.3 of the UDO to add the following new use definition:

Nonmetallic Mineral Product Manufacturing: Uses as described in the North American Industry Classification System (NAICS) group 3200.

Agenda Item Summary

Ordinance # / Resolution #: Ordinance 2024-1889

Contact Person / Sponsor: Dennis Marstall / Administration and Ginny Merck-Dupont / County Attorney

Department: Attorney

Date Requested to be on Agenda: 1/8/2024

Council Action Requested:

Approve Ordinance 2024-1889 that clarifies Capital Project Sales Tax 2 excess funding.

Points to Consider:

In March 2022, County Council adopted an Ordinance (2022-1796 attached) to utilize excess Capital Project Sales Tax 2 funds for projects on the Capital Project Sales Tax 3 list, per a proviso budget amendment adopted by the State Legislature related to the use of excess funds generated by the Capital Project Sales Tax.

The authorizing language from that 2022 ordinance (2022-1796) stated

Section 3. ***Approval of Budget Proviso Projects***

Pursuant to the State Budget Proviso, the Council of Lancaster County hereby approves and specifies that excess collections from the First Reimposed Tax shall be utilized on selected road projects not included in the Second Reimposed Tax as well as certain road projects and pedestrian projects identified in the Second Reimposed Tax as listed on Exhibit 2 which is attached hereto and incorporated herein by reference.

Since the adoption of that Ordinance, there has been some uncertainty as to whether or not that language was directing funds to the Pettus Greenway and the USCL Pedestrian project from both excess CPST2 funds and again from CPST3 funds. There are also questions as to how much total funding would be provided for road projects between the excess funds in Capital Project Sales Tax 2 and project funds in Capital Project Sales Tax 3.

The draft amending ordinance, clarifies that The Lindsay Pettus Greenway will receive \$1.5 million between Capital Project Sales Tax 2 excess funds and Capital Project Sales Tax 3 funds with specific language that states the Greenway Phase 2 funds "*shall be in lieu of and not in addition to funds to be available for those projects*" in Capital Projects Sales Tax 3.

The draft language also states that the USCL Pedestrian master plan would receive \$1 million between Capital Project Sales Tax 2 excess funds and Capital Project Sales Tax 3 funds with specific language that states the Pedestrian Master Plan "*shall be in lieu of and not in addition to funds to be available for those projects*" in Capital Projects Sales Tax 3.

The draft language further clarifies that excess for Capital Project Sales Tax 2 shall be *used for roadway projects shall be in addition to and not in lieu of funds to be available for those projects*. This action clarifies that \$9 million in excess Capital Project Sales Tax 2 Funds are in addition to the \$13.2 million that was originally identified in the Capital Project Sales Tax 3 list of projects for a total of \$22.2 m being directed towards roads between excess CPST2 funds and CPST3 funds.

The language also clarifies that the detention center project will also receive excess CPST 2 funds that are *in addition* and not in lieu of funds from CPST3.

Funding and Liability Factors:

This ordinance clarifies that:

- the Pettus Greenway would receive \$1.5 million total from Capital Project Sales Tax funding
- the USC-L pedestrian master plan would receive \$1 million total from Capital Project Sales tax funding
- the roads program would receive \$13.2 million in funding from Capital Project Sales Tax 3, as well as \$9 million that was committed from Capital Project Sales Tax 2 excess funds.

Recommendation:

Approve the Ordinance.

ATTACHMENTS:

Description	Upload Date	Type
Ordinance 2024-1889	1/4/2024	Ordinance
Exhibit 1 to Ordinance 2024-1889	1/4/2024	Exhibit
Exhibit 2 to Ordinance 2024-1889	1/4/2024	Exhibit
Previously Passed Ordinance 2022-1796	1/4/2024	Backup Material

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

ORDINANCE NO. 2024-1889

AN ORDINANCE

AMENDING AND RESTATING ORDINANCE NO. 2022-1796 SPECIFYING THE PURPOSES FOR WHICH EXCESS CAPITAL PROJECT SALES TAX COLLECTIONS FROM CAPITAL PROJECTS SALES TAX 2 WILL BE UTILIZED PURSUANT TO STATE BUDGET PROVISIO AND THE CAPITAL PROJECT SALES TAX ACT

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings and Determinations.

The Council finds and determines that:

(a) Pursuant to Ordinance No. 943 duly enacted by the Council on August 13, 2008 and a successful referendum held on November 4, 2008, the County imposed a one percent sales and use tax within the County for seven years commencing May 1, 2009 (Capital Projects Sales Tax 1);

(b) Counties are authorized by the Capital Project Sales Tax Act, codified as Sections 4-10-300 to -380, Code of Laws of South Carolina 1976, as amended (the “Enabling Act”), subject to approval by a majority of the votes cast in a referendum, to reimpose countywide a one percent sales and use tax for the purpose of generating funds to pay for certain capital improvements;

(c) The Enabling Act establishes a procedure for reimposing the capital project sales tax including the passage of an enacting ordinance (“Enacting Ordinance”) and the creation of a commission for the purpose of considering proposals for funding capital projects and formulating the referendum question that is to appear on the ballot;

(d) Pursuant to Ordinance No. 2014-1286 duly enacted by the Council on August 11, 2014 and a successful referendum held on November 4, 2014, the County reimposed the one percent sales and use tax within the County for seven years commencing May 1, 2015 (Capital Projects Sales Tax 2);

(e) Pursuant to Ordinance No. 2020-1673 duly enacted by the Council on July 22, 2020 and a successful referendum held on November 3, 2020, the County re-imposed the one percent sales and use tax within the County for seven years commencing May 1, 2022 (Capital Projects Sales Tax 3);

(f) Capital Projects Sales Tax 2 will result in approximately \$23.4 million dollars in excess funds after all the voter approved projects from Capital Projects Sales Tax 2 are completed.

Ordinance 2024-1889

Page 1 of 3

52534149 v1

(g) SC Code 4-1-30(C)(1) provides that Capital Project Sales Tax amounts collected in excess of the required net proceed must first be applied, if necessary, to complete a project for which the tax was imposed. SC Code 4-1-30(C)(2) provides that if funds remain after using the funds to complete projects for which the tax was imposed, and the tax was reimposed, the remaining funds must be used to fund the projects approved by the voters in the referendum to reimpose the tax, in priority order as the projects appear on the enacting ordinance.

(h) The State of South Carolina enacted a budget provision in the current fiscal year budget allowing counties to expend excess capital project sales tax collections, by passage of an ordinance. (113.9 AS-TREAS: Excess Sales Tax Collections) - In the current fiscal year, if a county has capital projects sales tax collections in excess of the amount necessary to complete all projects for which the tax was imposed and the tax has not yet expired, the county may pledge and use the excess collections to fund road improvements, intersection improvements, and pedestrian transportation. However, prior to the expiration of the tax, an eligible county must adopt an ordinance specifying the purposes for which the excess funds will be used.

(i) Pursuant to the budget proviso, the Council of Lancaster County desires to utilize a portion of the excess collections from Capital Projects Sales Tax 2 to fund road improvements, intersection improvements, and pedestrian transportation.

(j) Since the enactment of Ordinance No. 2022-1796, it has come to Council's attention that there are questions regarding the amount of funds to be available for projects related to pedestrian transportation. County Council now desires to clarify its intent regarding the amount of funds to be available for pedestrian transportation, thus requiring this Ordinance amending and restating Ordinance No. 2022-1796.

(k) The County Council desires to utilize a portion of the excess collections from the Capital Projects Sales Tax 2 to fund the Detention Center project pursuant to SC Code 4-1-30.

Section 2. Excess Funds Applied to Projects Listed in Capital Projects Sales Tax 2.

The Council of Lancaster County hereby approves and specifies that excess collections from Capital Projects Sales Tax 2 shall be utilized to complete the county library project(s) listed in the referendum for Capital Projects Sales Tax 2. The expenditures necessary to complete the library project(s) are set forth in Exhibit 1 which is attached hereto and incorporated herein by reference.

Section 3. Approval of Budget Proviso Projects.

Pursuant to the State Budget Proviso, the Council of Lancaster County hereby approves and specifies that excess collections from Capital Projects Sales Tax 2 shall be utilized on selected road projects not included in Capital Projects Sales Tax 3 as well as certain road projects and pedestrian projects identified in Capital Projects Sales Tax 3 as listed on Exhibit 2 which is attached hereto and incorporated herein by reference.

Section 4. Excess Funds Applied to Projects Listed in Capital Projects Sales Tax 3.

The Council of Lancaster County hereby approves and specifies that any excess collections from Capital Projects Sales Tax 2 not utilized to complete projects listed in Exhibit 1 and Exhibit 2 shall be applied to the projects in the Capital Projects Sales Tax 3 in the manner and in the priority established by

Ordinance 2024-1889

Page 2 of 3

52534149 v1

SC Code 4-1-30. The amount of excess collections from Capital Projects Sales Tax 2 to be used for the USC-Lancaster Highway 9 pedestrian improvements and the Lindsay Pettus Greenway, Phase 2 shall be in lieu of and not in addition to funds to be available for those projects. The amount of excess collections from Capital Projects Sales Tax 2 to be used for roadway projects shall be in addition to and not in lieu of funds to be available for those projects. The amount of excess collections from Capital Projects Sales Tax 2 to be used for the Detention Center project shall be in addition to and not in lieu of funds to be available for those projects.

Section 5. Severability.

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

Section 6. Conflicting Provisions.

To the extent this ordinance contains provisions that conflict with provisions contained in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 7. Effective Date.

This ordinance is effective upon Third Reading.

AND IT IS SO ORDAINED, this _____ day of _____, 2024.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

Billy Mosteller, Secretary, County Council

ATTEST:

Sherrie Simpson, Clerk to Council

1st reading:	January 8, 2024
2nd reading:	January 22, 2024
3rd reading:	February 12, 2024
Public Hearing:	February 12, 2024

Approved as to from:

Virginia L. Merck-Dupont, County Attorney

Exhibit 1 for Ordinance 2022 -1796



Cost Estimate Lancaster County Library

24 March 2022

259393

Lancaster County Library

April Williams

Location	Description	Detail	Total
Main	Badge Reader Activation @ Front Door Replacement	IT	12,300.00
Main/Del Webb/Kershaw	Sound in Meeting Rooms	IT	29,400.00
Main/Del Webb/Kershaw	Meeting Room Cameras	IT	56,600.00
Main	Book Drop Awning Lettering	Building	3,000.00
Main	Storage Shelving	Building	300.00
Main	Replacement of all soap dispensers	Building	175.00
Del Webb			
Del Webb	Breakroom-Switch doors & microwave relocation	Building	17,287.00
Del Webb	Book Drop walk way	Building	5,607.00
Del Webb	Awning over book drop	Building	13,545.00
Del Webb	Mechanical Partition for Meeting Room	Building	74,764.00
Del Webb	Lighting in foyer Meeting Room, & restrooms	Building	34,109.00
Kershaw	Additional Shelving	Building	4,000.00
Kershaw	Lighting-in Circ Area & Outside Meeting Room Door	Building	8,306.00

Net Total \$259,393.00

Total	\$259,393.00
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Location	Description	Detail	Total
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Exhibit 2 -- Use of Capital Projects Sales Tax Two Excess Funds

Lancaster County Libraries -- Existing Project Completion

LANCASTER COUNTY Road Proviso List	OWNER	BEGIN	END
Airdale Road	County	End State Maintenance	Dead End
Bill Sweatt Road	County	North Corner Road	State line
East Park Drive	County	SC 903	Cul-de-sac
Ember Lane	County	SC 97	Encore Lane
Emerald Estates Road	County	Sunshine Road	Emerald Circle
Firewood Road	County	SC 522	Cul-de-sac
Grey Fox Subdivision	County	Shiloh Unity Road	N/A
Harris Hill Road	County	US 521	Dead End
Hunters Ridge Subdivision	County	McIlwain Road	N/A
Northfield Drive	County	US 521	Cul-de-sac
Providence Crossing Subdivision	County	Providence Road	N/A
Regent Parkway	County	Harrisburg Road	Bridge
Sedgefield Subdivision	County	McIlwain Road	N/A
Songbird Street	County	Taxahaw Road	N/A
Walnut Creek Parkway	County	US 521	Bridge
Pavement Preservation (various patch/overlay)	County		
Logging Road	County		
Fernwood Road	County		
Cannery Road	County		
Rise Lane	County		
Catawba Ridge Boulevard	County		
Cleveland Street	State		

Pedestrian Access Improvement

USC - Lancaster Highway 9 pedestrian improvements
Lindsay Pettus Greenway, Phase 2

Lancaster County Detention Center

Top Priority on Capital Projects Sales Tax Three List

FILED
OFFICE OF CLERK
OF COURT

2022 MAR 30 AM 10:44

CLERK OF COURT
LANCASTER, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

ORDINANCE NO. 2022-1796

AN ORDINANCE

TO SPECIFYING THE PURPOSES FOR WHICH EXCESS CAPITAL PROJECT SALES TAX COLLECTIONS FROM THE FIRST REIMPOSED CAPITAL PROJECT SALES TAX WILL BE UTILIZED PURSUANT TO STATE BUDGET PROVISIO AND THE CAPITAL PROJECT SALES TAX ACT.

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings and Determinations.

The Council finds and determines that:

(a) Pursuant to Ordinance No. 943 duly enacted by the Council on August 13, 2008 and a successful referendum held on November 4, 2008, the County imposed a one percent sales and use tax within the County for seven years commencing May 1, 2009;

(b) Counties are authorized by the Capital Project Sales Tax Act, codified as Sections 4-10-300 to -380, Code of Laws of South Carolina 1976, as amended (the "Enabling Act"), subject to approval by a majority of the votes cast in a referendum, to reimpose countywide a one percent sales and use tax for the purpose of generating funds to pay for certain capital improvements;

(c) The Enabling Act establishes a procedure for reimposing the capital sales tax including the passage of an enacting ordinance ("Enacting Ordinance") and the creation of a commission for the purpose of considering proposals for funding capital projects and formulating the referendum question that is to appear on the ballot;

(d) Pursuant to Ordinance No. 2014-1286 duly enacted by the Council on August 11, 2014 and a successful referendum held on November 4, 2014, the County re-imposed the one percent sales and use tax within the County for seven years commencing May 1, 2015 (the "First Reimposed Tax");

(e) Pursuant to Ordinance No. 2020-1673 duly enacted by the Council on July 22, 2020 and a successful referendum held on November 3, 2020, the County re-imposed the one percent sales and use tax within the County for seven years commencing May 1, 2022 (the "Second Reimposed Tax");

Ordinance 2022-1796

(f) The First Reimposed Tax will result in approximately \$23.4 million dollars in excess funds after all the voter approved projects from the First Reimposed Tax are completed.

(g) SC Code 4-1-30(C)(1) provides that Capital Project Sales Tax amounts collected in excess of the required net proceed must first be applied, if necessary, to complete a project for which the tax was imposed. SC Code 4-1-30(C)(2) provides that if funds remain after using the funds to completed projects for which the tax was imposed, and the tax was reimposed, the remining funds must be used to fund the projects approved by the voters in the referendum to reimpose the tax, in priority order as the projects appear on the enacting ordinance.

(h) The State of South Carolina enacted a budget provision in the current fiscal year budget allowing Counties to expend excess capital project sales tax collections, by passage of an ordinance. (113.9 AS-TREAS: Excess Sales Tax Collections) - In the current fiscal year, if a county has capital projects sales tax collections in excess of the amount necessary to complete all projects for which the tax was imposed and the tax has not yet expired, the county may pledge and use the excess collections to fund road improvements, intersection improvements, and pedestrian transportation. However, prior to the expiration of the tax, an eligible county must adopt an ordinance specifying the purposes for which the excess funds will be used.

(i) Pursuant to the budget proviso, the Council of Lancaster County desires to utilize a portion of the excess collections from the First Reimposed Tax to fund road improvements, intersection improvements, and pedestrian transportation.

(j) The County Council desires to utilize a portion of the excess collections from the First Reimposed Tax to fund the Detention Center project pursuant to SC Code 4-1-30.

Section 2. Excess Funds Applied to Projects Listed in the First Reimposed Tax

The Council of Lancaster hereby approves and specifies that excess collections from the First Reimposed Tax shall be utilized to complete the county library project(s) listed in the referendum for the First Reimposed Tax. The expenditures necessary to complete the library project(s) are set forth in Exhibit 1 which is incorporated herein by reference.

Section 3. Approval of Budget Proviso Projects

Pursuant to the State Budget Proviso, the Council of Lancaster County hereby approves and specifies that excess collections from the First Reimposed Tax shall be utilized on selected road projects not included in the Second Reimposed Tax as well as certain road projects and pedestrian projects identified in the Second Reimposed Tax as listed on Exhibit 2 which is attached hereto and incorporated herein by reference.

Section 4. Excess Funds Applied to Projects Listed in the Second Reimposed Tax

The Council of Lancaster hereby approves and specifies that any excess collections from the First Reimposed Tax not utilized to complete projects listed in Exhibit 1 and Exhibit 2 shall be applied to the projects in the Second Reimposed Tax in the manner and in the priority established by SC Code 4-1-30.

Section 5. Severability.

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

Section 6. Conflicting Provisions.

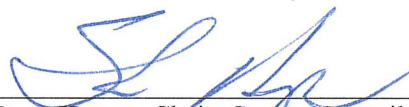
To the extent this ordinance contains provisions that conflict with provisions contained in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 7. Effective Date.

This ordinance is effective upon Third Reading.

AND IT IS SO ORDAINED, this 28th day of March 2022

LANCASTER COUNTY, SOUTH CAROLINA

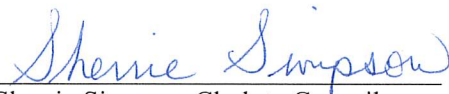


Steve Harper, Chair, County Council



Billy Mosteller, Secretary, County Council

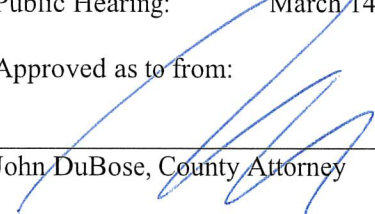
ATTEST:



Sherrie Simpson, Clerk to Council

1st reading: February 28, 2022
2nd reading: March 14, 2022
3rd reading: March 28, 2022
Public Hearing: March 14, 2022

Approved as to from:



John DuBose, County Attorney

Exhibit 1 for Ordinance 2022 -1796



Cost Estimate

Lancaster County Library

24 March 2022

259393

Lancaster County Library

April Williams

Location	Description	Detail	Total
Main	Badge Reader Activation @ Front Door Replacement	IT	12,300.00
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Main/Del Webb/Kershaw	Meeting Room Cameras	IT	56,600.00
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Main	Storage Shelving	Building	300.00
Main	Replacement of all soap dispensers	Building	175.00
Del Webb			
Del Webb	Breakroom-Switch doors & microwave relocation	Building	17,287.00
Del Webb	Book Drop walk way	Building	5,607.00
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Net Total \$259,393.00

Total	\$259,393.00
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Location	Description	Detail	Total
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Exhibit 2 -- Use of Capital Projects Sales Tax Two Excess Funds

Lancaster County Libraries -- Existing Project Completion

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Ember Lane	County	SC 97	Encore Lane
Emerald Estates Road	County	Sunshine Road	Emerald Circle
Firewood Road	County	SC 522	Cul-de-sac
Grey Fox Subdivision	County	Shiloh Unity Road	N/A
Harris Hill Road	County	US 521	Dead End
Hunters Ridge Subdivision	County	McIlwain Road	N/A
Northfield Drive	County	US 521	Cul-de-sac
Providence Crossing Subdivision	County	Providence Road	N/A
Regent Parkway	County	Harrisburg Road	Bridge
Sedgefield Subdivision	County	McIlwain Road	N/A
Songbird Street	County	Taxahaw Road	N/A
Walnut Creek Parkway	County	US 521	Bridge
Pavement Preservation (various patch/overlay)	County		
Logging Road	County		
Fernwood Road	County		
Cannery Road	County		
Rise Lane	County		
Catawba Ridge Boulevard	County		
Cleveland Street	State		

Pedestrian Access Improvement

USC - Lancaster Highway 9 pedestrian improvements
Lindsay Pettus Greenway, Phase 2

Lancaster County Detention Center

Top Priority on Capital Projects Sales Tax Three List

Agenda Item Summary

Ordinance # / Resolution #: N/A

Contact Person / Sponsor: Sherrie Simpson / Clerk to Council / Administration

Department: County Clerk

Date Requested to be on Agenda: 1/8/2024

Council Action Requested:

Whether to appoint Lance Reynolds to the Indian Land Consolidated Fire Commission. He would be filling an initial term would expire on 12/31/2026.

Points to Consider:

Lance Reynolds' application is attached for Council's review and consideration.

Funding and Liability Factors:

N/A

Recommendation:

Approve the appointment.

ATTACHMENTS:

Description	Upload Date	Type
Application from Lance Reynolds for the Indian Land Consolidated Fire Commission	12/11/2023	Backup Material

LANCASTER COUNTY BOARDS & COMMISSIONS
APPLICATION FOR SERVICE



Name Lance Reynolds

County Council District _____

Mailing Address _____

City/Zip Lancaster/29720

Street Address _____ Registered Voter yes ☒ no _____

Tel. Number (home) _____ (work) _____ (other) _____

Email: _____

Occupation Currently I am a stay at home parent Place of employment Most recently, Wells Fargo

Address _____ Normal working hours _____
(most meetings are scheduled after 6:00 pm - lack of attendance can be reason for replacement on a commission)

Name of Board or Commission in which you are interested _____

1st choice Indian Land Fire Department Fee Board 2nd choice _____

3rd choice _____

Reason for interest _____

I would like to take a more active role in providing a voice for citizen concerns, as they apply to assessed fees for fire/emergency services.

Why do you feel you are qualified to serve on these boards? In addition, note education, areas of expertise, skills & interests.
(continue on separate sheet if needed)

As a resident of Lancaster County for the last ten years, I have been witness to unprecedented growth in the area. Growth that places a great strain on our emergency services. In serving on the Fee Board, I would relish the opportunity to ensure the budget is allocated in a manner that would best benefit the Indian Land Fire Department, and the citizens of Indian Land as a whole.

I am a lawyer and have experience in legal writing, research, and statutory review.

Do you presently serve any State, County or Municipal Boards? No If yes, list _____

Have you ever served on a county board? No If yes, list _____

Additional pertinent information _____

Applicant's signature Lance Reynolds

Date October 26, 2023

Receipt of application does not guarantee an appointment. Applicants will be notified of appointments by mail.

Return completed application to Sherrie Simpson, Lancaster County Council Office, P.O. Box 1809, Lancaster, SC 29721
Form Revised 1-20-17

Agenda Item Summary

Ordinance # / Resolution #: Ordinance 2023-1877 / Planning Case Number: RZ-2023-1464 - HOLD UNTIL THE 2-12-2024 COUNCIL MEETING

Contact Person / Sponsor: M. Blaszyk /Planning Department

Department: Planning

Date Requested to be on Agenda: 1/8/2024

Council Action Requested:

Application by Brian Cillian/Greybridge MacMillan LLC and LEH SC MacMillan LLC to rezone 7.286 acres at 1662 MacMillan Park Drive (TM# 0007-00-008.05) from Light Industrial (LI) to Institutional (INS) District in order to convert existing structure to a K-12 private school facility.

Points to Consider:

UPDATE: The covenants and restrictions for this property do not allow a school to be located on the site. The restrictive covenants state that the properties in McMillan Park “may be used for: distribution facility, light industrial, and manufacturing purposes together with related warehousing and office uses, including but not to the exclusion of other permitted uses hereunder the design, manufacture, distribution and sale of wire and cable products.”

SC State Code Section 6-29-1145 states that "If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity...the local planning agency must not issue [a permit for any planning-related action] unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order."

Staff does not have a confirmation that the restrictive covenant has been released from the parcel by any appropriate action or court order. For this reason, staff must recommend denial.

Additional Points to Consider:

The proposed private school is located within an existing industrial park. With its neighbors being Continental Tire and Unique Loom Facility

This site is one of the few contiguous tracts of Light Industrial Zoned land within the Panhandle.

Previous tenant has a Fee-in-lieu Agreement with Lancaster County, this will not be transferred to the current tenant.

The applicant is claiming the site will not cross the 50-trip threshold for a Traffic Impact Analysis. Other uses in this area (daycares, for instance) were required to get a TIA before rezoning, and considering the school will relocate facilities from NC with students following, staff believes that a TIA for this use would be a reasonable request.

Funding and Liability Factors:

Liability 1: the covenants and restrictions do not support the rezoning request to a TK-12 school.

Liability 1a: the Comprehensive Plan does not support the request. If the Council elects to move forward with with the rezoning, a companion action to amend the Comprehensive Plan is required.

Liability 2: the property is one of the last sections of Light Industrial (LI) zoned areas in Indian Land. Staff and the Planning Commission are concerned about losing established LI zoned property in an established industrial park.

Funding 1: the previous tenant has a fee-in-lieu agreement with Lancaster County, and this will not be transferred to the current owner.

Recommendation:

UPDATE: After 1st reading was granted, staff recommends deferral as discussed during the Oct 23 Council meeting. Additional time is needed for the following:

Applicant - to successfully remove the restrictive covenant from the site.

Staff - to put a comp plan amendment on the agenda for the December 19, 2023 meeting.

RECOMMENDATIONS:

Planning Commission recommended unanimous denial during their September Regular Meeting. Concerns that were discussed included traffic generation, having a private school surrounded by industrial uses, the lack of existing Light Industrial zoned land in the Panhandle and how difficult it would be to rezone other land to Light Industrial take its place within the Panhandle.

Staff recommends denial as well.

Agenda Item Summary

Ordinance # / Resolution #: Ordinance 2024-1888 / Planning Case Number: CP-2023-1464 - HOLD UNTIL THE 1-22-2024 COUNCIL MEETING

Contact Person / Sponsor: A. Hardin / Planning

Department: Planning

Date Requested to be on Agenda: 1/8/2024

Council Action Requested:

Approve the application by Lancaster County on behalf of Brian Cillian/Greybridge MacMillan LLC and LEH SC MacMillan LLC to change FLU map/Comprehensive Plan designation of 7.286 acres at 1662 MacMillan Park Drive (TM# 0007-00-008.05) from Employment Center to Neighborhood Mixed-Use allow rezoning from Light Industrial (LI) to Institutional (INS) District in order to convert existing structure to a K-12 private school facility.

Points to Consider:

Companion to RZ-2023-1464.

Alternative: Allow school as a use in the "Special District-Industrial" Economic Center designation.

Issue still being researched: the property is part of a multi-county business park with Chesterfield County; how should Chesterfield County be involved in the conversation?

Funding and Liability Factors:

Loss of FILOT funds.

Recommendation:

Staff recommends denial.

Planning Commission also recommends denial.

Both cite safety concerns and the negative impact of the school on future developments in the park.