



AGENDA

**Council Chambers
300 Wall Street, Fountain Inn, SC 29644**

FORMAL MEETING OF CITY COUNCIL

Thursday, October 10, 2024 at 6 p.m.

Citizens may access the meeting at the following YouTube address:
<https://www.youtube.com/@cityoffountaininn3536>

1. Call to Order
2. Invocation and Pledge of Allegiance
3. Presentation
 - a. Recognition of Timothy "Dreze" Shell
4. Public Forum - Persons wishing to speak may signup 15 minutes prior to the meeting. Signups will be on a first-come, first-served basis. Your remarks will be limited to 3 minutes.
5. Consent Agenda - There will be no discussion of Consent Agenda items unless a Council member so requests in which event the item in question will be considered separately.
 - a. Council Meeting Minutes September 12, 2024
 - b. Special Called Council Meeting Minutes September 25, 2024
6. City Administrator's Report - Shawn M. Bell
 - a. Department Reports
7. Unfinished Business
 - a. First reading of Ordinance AXZ 2024-04 to provide for the annexation of the property described herein to the city limits of the City of Fountain Inn; to establish a zoning classification therefore; to assign the annexed property to a Council Ward; and other related matters (Durbin, Jones and Happy Valley Roads.)

Council may enter executive session to discuss any item on the agenda as permitted by S.C. Code Ann. § 30-4-70.

- b. Barton Hollow developers requested a major change to the Statement of Intent to allow a self-storage facility on Hwy 651 to be allowed within the commercial area.
 - c. Second and Final Reading of Ordinance 2024-8 amending chapter 11 (licenses and business regulations), article II (business license), specifically section 11-37 (delinquent license taxes, partial payments) of the city code of ordinances of the City of Fountain Inn, South Carolina, 1992, as amended ("City Code") regarding business license penalties, and providing for related matters.
- 8. New Business
 - a. First Reading of Ordinance 2024-09 authorizing the execution and delivery of a franchise agreement between the City and []; and providing for related matters.
 - b. First Reading of Ordinance TX-2024-01 to amend appendices A & B of the City of Fountain Inn Code of Ordinances.
- 9. Executive Session -After coming out of executive session, Council may vote on items discussed during executive session.
 - a. The receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims – Parsons Street – SC Code 30-4-70(a)(2).
- 10. Adjourn

Council may enter executive session to discuss any item on the agenda as permitted by S.C. Code Ann. § 30-4-70.



MINUTES FORMAL MEETING OF CITY COUNCIL

Thursday, September 12, 2024 - 6:00 p.m.

1. Call to Order

Mayor McLeer called the meeting to order at 6 p.m.

The following members of City Council were in attendance: GP McLeer, Phil Clemmer, Jason Sanders, John Don, Joey Garrett, and Jay Thomason arrived at 6:02 p.m.

2. Invocation and Pledge of Allegiance

3. Introduce New Employees

Chief Fortenberry introduced Jesse Boice and Jeffrey Breazeale

- a. Jesse Boice, Police**
- Jeffrey Breazeale, Police**
- Nathan Booden, Recreation**
- Evarista Reco, Recreation**
- Taya Steele, Recreation**

4. Public Hearing on Municipal Budget Amendment

No one signed up to speak.

5. Public Forum - Persons wishing to speak may signup 15 minutes prior to the meeting. Signups will be on a first-come, first-served basis. Your remarks will be limited to 3 minutes.

Nancy Garrison spoke in opposition of the Durbin Road annexation.

Ashley Riddle spoke in opposition of the Durbin Road annexation.

Rod Brown spoke in consideration of a memorandum for subdivisions.

Thomas Dobson spoke in opposition of the Durbin Road annexation, specifically the commercial portion.

Douglas Meyers, developer for the Durbin Road property, spoke in favor of the annexation.

- 6. Consent Agenda- There will be no discussion of Consent Agenda items unless a Council member so requests in which event the item in question will be considered separately.**

Motion by Councilman Sanders, seconded by Councilman Garrett to approve the Consent Agenda.

The motion carried unanimously 6/0.

- a. Minutes of the August 8, 2024 Regularly Scheduled Council Meeting**

- b. Corrected Minutes of the July 11, 2024 Regularly Scheduled Council Meeting**

- 7. City Administrator's Report- Shawn M. Bell**

Mr. Bell covered the following items:

Woodside Streetscape project by the end of Oct.

Main Street streetscape secured an easement for electrical needs, out to bid later this year.

Natural gas property will be converted into a parking lot.

The splashpad parking lot is complete.

Farmers Market through Sept 28

Civics Academy on Oct 19

Jeepers Creepers on Oct 26 from 6-9pm

FIFD were called to assist with the Simpsonville missing child this afternoon, highlighted assistance with the Clinton FD, fire station III is fully funded.

FIPD alcohol enforcement of the year, Coffee with a Cop 9/30 and 2nd annual Walk for Domestic Violence Awareness

Recreation- basketball registration, Seniors, 41st annual Aunt Het on Oct 5, 11/1

Younts Center- Up Lift a Gospel Concert

SCDOT light at 385/418, start in February

- a. Department Reports**

- 8. Unfinished Business**

- a. Second and final reading of Ordinance 2024-7 an ordinance to update and amend the FY 2025 budget for the City of Fountain Inn to account for appropriations made by City Council through the fiscal year.**

Motion by Councilman Sanders, second by Councilman Thomason to approve the second and final reading of Ordinance 2024-7, an ordinance to update and amend the FY 2025 budget for the City of Fountain Inn to account for appropriations made by City Council through

the fiscal year.

The motion carried unanimously 6/0.

- b. **First reading of Ordinance AXZ 2024-04 to provide for the annexation of the property described herein to the city limits of the City of Fountain Inn; to establish a zoning classification therefore; to assign the annexed property to a Council Ward; and other related matters (Durbin, Jones and Happy Valley Roads.)**

Motion by Mayor Pro Tem Don, seconded by Councilman Sanders Sanders to enter into discussion for first reading of Ordinance AXZ 2024-04 to provide for the annexation of the property described herein to the city limits of the City of Fountain Inn; to establish a zoning classification therefore; to assign the annexed property to a Council Ward; and other related matters (Durbin, Jones and Happy Valley Roads.).

Discussion held.

Motion by Mayor McLeer, seconded by Councilman Clemmer to the postpone until October meeting first reading of Ordinance AXZ 2024-04 to provide for the annexation of the property described herein to the city limits of the City of Fountain Inn; to establish a zoning classification therefore; to assign the annexed property to a Council Ward; and other related matters (Durbin, Jones and Happy Valley Roads.).

Motion carried 5/1, with Mayor Pro Tem Don voting in opposition.

- c. **Second and final reading of Ordinance AXZ 2024-05 to provide for the annexation of the property described herein to the city limits of the City of Fountain Inn; to establish a zoning classification therefore; to assign the annexed property to a Council Ward; and other related matters (101 Milacron Dr).**

Motion by Councilman Sanders, second by Mayor Pro Tem Don to approve second and final reading of Ordinance AXZ 2024-05 to provide for the annexation of the property described herein to the city limits of the City of Fountain Inn; to establish a zoning classification therefore; to assign the annexed property to a Council Ward; and other related matters (101 Milacron Dr.).

The motion carried unanimously 6/0.

9. New Business

- a. **First and Final reading of Resolution 2024-6, Committing the City of Fountain Inn to providing a local match for a Municipal Association of South Carolina Hometown Economic Development Grant and**

following its procurement policy when securing services and products with grant funds.

Motion by Councilman Thomason, second by Mayor Pro Tem Don to approve the first and final reading of Resolution 2024-6, Committing the City of Fountain Inn to providing a local match for a Municipal Association of South Carolina Hometown Economic Development Grant and following its procurement policy when securing services and products with grant funds.

The motion carried unanimously 6/0.

- b. First Reading of Ordinance 2024-8 amending chapter 11 (licenses and business regulations), article II (business license), specifically section 11-37 (delinquent license taxes, partial payments) of the city code of ordinances of the City of Fountain Inn, South Carolina, 1992, as amended ("City Code") regarding business license penalties, and providing for related matters.**

Motion by Councilman Sanders, second by Councilman Clemmer to approve first reading of Ordinance 2024-8 amending chapter 11 (licenses and business regulations), article II (business license), specifically section 11-37 (delinquent license taxes, partial payments) of the city code of ordinances of the City of Fountain Inn, South Carolina, 1992, as amended ("City Code") regarding business license penalties, and providing for related matters.

The motion carried unanimously 6/0.

- c. Authorizing the City Administrator to execute an agreement with LS3P Associates to provide architectural and engineering services for a new Municipal Complex**

Mr. Slatton addressed Council.

Motion by Mayor McLeer, second by Councilman Sanders to approve to authorize the City Administrator to execute an agreement with LS3P Associates to provide architectural and engineering services for a new Municipal Complex.

The motion carried 4/2, with Councilman Garrett and Councilman Thomason voting in opposition.

- d. Barton Hollow developers requested a major change to the Statement of Intent to allow a self-storage facility on Hwy 651 to be allowed within the commercial area.**

Motion by Mayor Pro Tem Don, seconded by Mayor McLeer to discuss Barton Hollow developers requested a major change to the Statement of Intent to allow a self-storage facility on Hwy 651 to be allowed within the commercial area.

Discussion held.

Mr. Don asked the applicant to speak in order to answer questions from City Council.

Motion by Councilman Garrett, seconded by Mayor Pro Tem Don to postpone the request to the October meeting.

Motion carried 5/1, with Mayor McLeer voting in opposition.

10. Executive Session -After coming out of executive session, Council may vote on items discussed during executive session.

Motion by Mayor Pro Tem Don, seconded by Councilman Clemmer to enter into Executive Session.

The motion carried unanimously 6/0.

No action was taken during Executive Session.

- a. **The receipt of legal advice where the advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege or the position of the public agency in other adversary situations involving the assertion against the agency of a claim—local option sales tax.**
- b. **The receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney- client privilege, settlement of legal claims – Parsons Street – SC Code 30-4-70(a)(2).**
- c. **Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee in the Public Works Department.**
- d. **The receipt of legal advice relating to matters covered by the attorney-client privilege - Habitat for Humanity of Greenville County**

11. Adjourn

Mayor McLeer adjourned the meeting.



MINUTES
200 N. Main Street
Fountain Inn, SC 29644

Wednesday, September 25, 2024 at 5:30 p.m.

1. Call to Order

The following members of City Council were in attendance: GP McLeer arrived at 5:34 p.m, Jay Thomason, Phil Clemmer, Mack Blackstone, Jason Sanders, Joey Garrett, and John Don. arrived at 5:31 p.m.

Councilman Clemmer called the meeting to order at 5:30 p.m. Councilman Thomason made a motion to elect Councilman Clemmer as the presiding officer, Councilman Sanders seconded the motion.

2. Executive Session -After coming out of executive session, Council may vote on items discussed during executive session.

Motion by Councilman Thomason, second by Councilman Garrett to enter into Executive Session.

The motion carried unanimously 7/0.

No action was taken during Executive Session.

- a. Discussion of matters relating to an update on economic development project updates throughout the City of Fountain Inn.**

3. Presentation

- a. INN the Zone Project Update and Proposed Text Amendments**
Presentation given by Jake Petrosky, Stewart Inc.

Discussion held.

4. Adjourn

Mayor McLeer adjourned the meeting.

CITY ADMINISTRATOR REPORT



Agenda Date: October 10, 2024

To: Mayor and City Council

From: Shawn M. Bell, ICMA-CM
City Administrator

Administration

- Woodside Streetscape
 - Electricians are working on getting the newly installed light poles operational
 - Expected completion by the end of October
- Main Street Streetscape
 - Processing an easement for electrical needs
 - Project still estimated to go out to bid in late 2024
- Woodside Connector
 - Bridge beams have been delivered
 - The old path has been removed, and the base for the new path is being constructed
 - Expected completion by the end of October
- Parking Lot revitalizations
 - In the design stage for converting the old Natural Gas/Public Works parcel into a downtown parking lot
- Greenville County Capital Project Sales Tax referendum on November 5th
 - Five intersection improvements/safety projects in the City limits totaling \$18,900,000
 - 48 road repaving/resurfacing projects in the city limits totaling \$14,755,400
 - **\$33,655,400** in projects within the City of Fountain Inn

Community Relations

- Upcoming Events
 - Civics Academy
 - Free one-day course on October 19th from 9:00 a.m. - 4:00 p.m.
 - <https://www.fountaininn.org/416/Civics-Academy>
 - Jeepers Creepers
 - October 26th from 6:00 - 9:00 p.m.
 - <https://www.mainstreetfountaininn.com/jeepers-creepers-cruise-inn>
 - Halloween Trick-or-Treating
 - North Main Street will be closed from Georgia Street to Hellams Street on October 31st from 5:00 - 9:00 p.m.
 - Christmas Inn Our Town

- December 3rd - 19th
- <https://www.mainstreetfountaininn.com/christmas-inn-our-town>

Fire

- Hurricane Helene
 - Storm response and clean-up efforts continue
 - Assistance
 - St. Andrews Fire Department assisted with calls within the Fountain Inn Fire Service Area
 - Hosted Louisiana Task Force 3 (Activities Center) and California Task Force 5 (National Guard Armory)
- Open House on October 12th from 11:00 a.m. to 2:00 p.m.

Human Resources

- Fire
 - Part-Time Firefighter – applications under review
- Natural Gas
 - Gas Tech I-III - Two vacancies; applications under review
- Planning & Development
 - Code Enforcement Officer – One vacancy; offer extended
- Police
 - Patrol Officer - Two vacancies; interviews scheduled & candidates in process
 - Records Technician - One vacancy; candidate(s) in process
 - Dispatch - One vacancy; applications under review
- Public Works
 - Public Works Director - One vacancy; executive search agency engaged
- Recreation
 - Recreation Supervisor – One vacancy; offer extended
 - Recreation Coordinator – One vacancy; offer extended
 - Part-Time Rentals - interviews scheduled

Judicial

- September 2024
 - 166 Total Cases
 - 28 criminal and 138 traffic
 - 126 pending cases
 - 15 cases disposed
- Jury trials are scheduled for October 21st - 25th

Natural Gas

- Gas Supply
 - Deliveries for September 2024
 - Gas volume of 38,440 Dekatherms
 - Gas consumption for September 2024 was 6.1% lower than September 2023 and 8% lower than the September three-year average
- Gas Prices/Rates
 - The price of natural gas for October 2024 settled at \$2.585 per Dekatherm, representing a \$0.655 increase from September's price
- Operations
 - Key Indicators
 - 2,464 feet of new service lines (52) were installed
 - 29,913 feet (608) installed Y-T-D
 - 2,455 feet of new main lines were installed
 - 89,588 feet installed Y-T-D
 - Average of 27.2 hours of training per employee Y-T-D
 - 12,209 active customers
 - Only 12 storm-related calls for service

Planning & Development

- Building & Codes
 - September 2024
 - 23 permits issued with a total valuation of \$9,766,370
 - 350 inspections
 - 20 residential plan reviews and three commercial plan reviews
 - 44 certificates of occupancy issued

Police

- Key Indicators for September 2024
 - 1,539 calls for service (14,449 Y-T-D)
 - Hurricane Helene
 - September 27th - 66
 - September 28th - 99
 - September 29th - 108
 - September 30th - 63
 - Four Day Total - **336**
 - 313 inbound 911 calls
 - 134 citations issued (1,227 Y-T-D)
 - 140 warnings issued (1,873 Y-T-D)

- 32 collisions (281 Y-T-D)
- Upcoming Events
 - Walk for Domestic Violence Awareness on October 12th at 9:00 a.m.
 - *Coffee with a Cop* sponsored by Steam Coffee and Cream (113 South Main Street) on October 28th from 9:00 to 10:30 a.m.

Recreation

- Fall Sports resumed on Monday, October 7th
- Basketball and Wrestling registration began on September 30th
- Golden Strip Tackle Football Playoffs and SCAP Tackle Football All-Stars Playoffs are both upcoming

Chamber of Commerce

- 41st Annual Aunt Het Fall Festival on October 12th from 9:00 a.m. - 5:00 p.m.
- 2024 Sporting Clays Tournament at The Clinton House on November 1st

History Museum

- Annual Low Country Boil/Gala scheduled for October 17th has been **postponed**

Younts Center for Performing Arts

- Disney's Frozen, Jr.
 - October 18th -19th and October 25th - 26th at 7:30 p.m.
 - October 19th - 20th and October 26th - 27th at 3:00 p.m.
- Celebrate! Ignite Theatrical: A Concert of Broadway Music
 - November 22nd at 7:30 p.m.
- A Christmas Carol - The Musical
 - December 6th - 7th and December 13th - 14th at 7:30 p.m.
 - December 7th - 8th and December 14th - 15th at 3:00 p.m.

Assistant City Administrator – September 2024

PROJECT HIGHLIGHTS

- **Debris Removal.** We have entered into a contract with Ashbritt, a debris removal company, and Tetra Tech, a debris monitoring company, to assist with city wide clean up. Ashbritt is establishing a centralized chipping area off Diamond Tip and will commence operations within the next week. The goal is to have 80% of the cities debris processed by Halloween.
- **Main Street, Street Scape.** Still processing the easement for the electrical needs of the streetscape. Estimate that the project will go out to bid late 2024.
- **Woodside Streetscape.** Electricians working on street lights, poles have been installed. Landscaping has been adjusted to better mirror landscaping on Main St. Project is planned to be completed by end of October.
- **Woodside Connector.** Bridge beams have been delivered. Old connector path has been removed and base for the new path is being constructed. Entire project will be completed by end of October.
- **Durbin Creek Sewer Rehabilitation.** Lining is ongoing, project must be completed by July 2026.
- **Parking Lot Revitalization Project.** Have designs for the old utilities complex parking lot. Will add 4 ADA accessible spots and approximately 61 additional spots for the downtown area.
- **Stormwater Model.** The engineering team has developed the watershed map for Fountain Inn for current and future land uses. The Engineering team plans on having a full report by the end of October.
- **Municipal Complex.** Received funding for the Engineering and design of the new municipal complex. Contract is signed and we are working on the programming phase.
- **Fire Station #3.** Initial estimates are over budget, Chief Alexander has further reduced costs for the station. FSA increase has passed the first reading for Greenville County Council.



Police Department *September 2024 Monthly Report*



Calls for Service (Hurricane Helene)

Date	Calls for Service
9/27/2024	66
9/28/2024	99
9/29/2024	108
9/30/2024	63
Total	336



Walk for Domestic Violence Awareness

Fountain Inn Police Department

October 12th | 9 am

200 N Main St.



FOUNTAIN INN

est 1886

contact felisha.miller@fountaininn.org



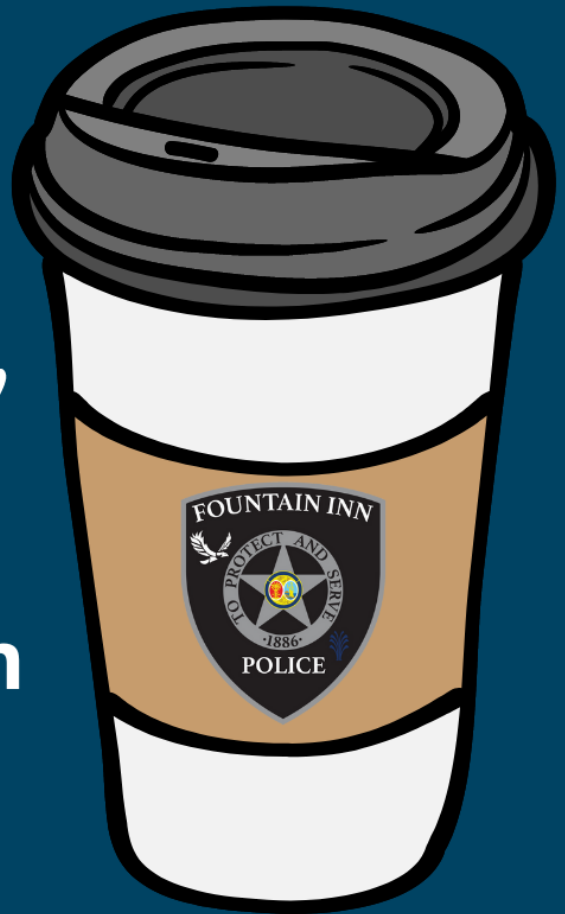
Coffee with a cop

Sponsored by
Steam Coffee and Cream

October 28th

9am to 10:30 am

113 S Main St.

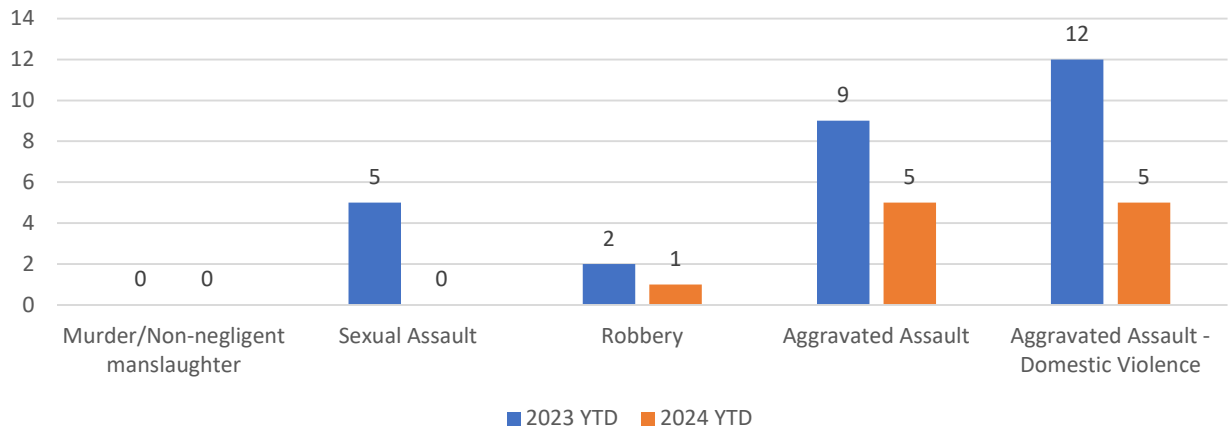




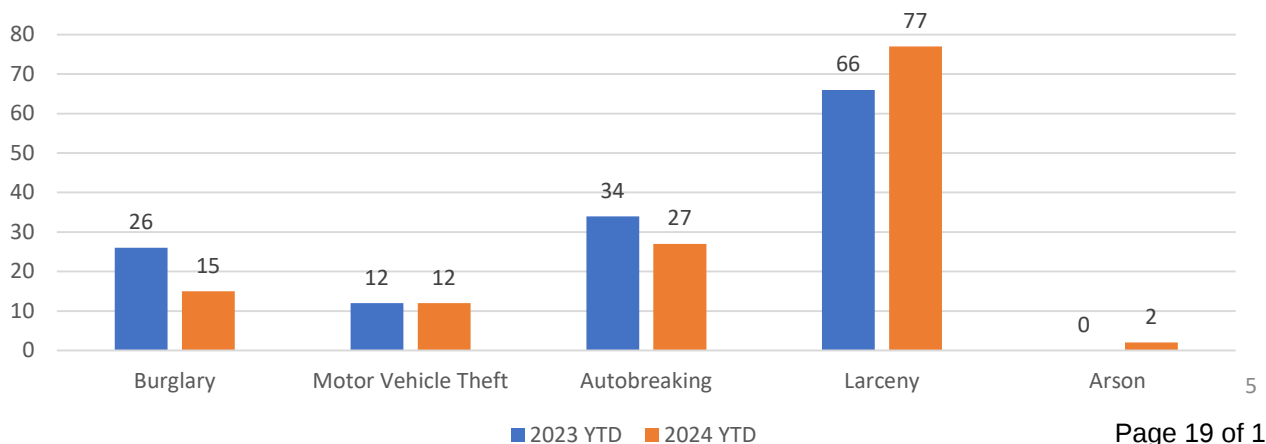
Violent Crime						
Crime Type	Sep 2023	Sep 2024	Difference	2023 YTD	2024 YTD	Difference
Murder/Non-negligent manslaughter	0	0	0	0	0	0
Sexual Assault	1	0	-1	5	0	-5
Robbery	0	0	0	2	1	-1
Aggravated Assault	1	0	-1	9	5	-4
Aggravated Assault - Domestic Violence	3	0	-3	12	5	-7
Total Violent Crime	5	0	-5	28	11	-17
Property Crime						
Crime Type	Sep 2023	Sep 2024	Difference	2023 YTD	2024 YTD	Difference
Burglary	0	0	0	26	15	-11
Motor Vehicle Theft	2	0	-2	12	12	0
Autobreaking	4	1	-3	34	27	-7
Larceny	5	4	-1	66	77	11
Arson	0	0	0	0	2	2
Total Property Crime	11	5	-6	138	133	-5
Total Part I Crime	16	5	-11	166	144	-22

Unfounded Cases Removed / Source: Vconnect

Violent Crime - YTD Comparison



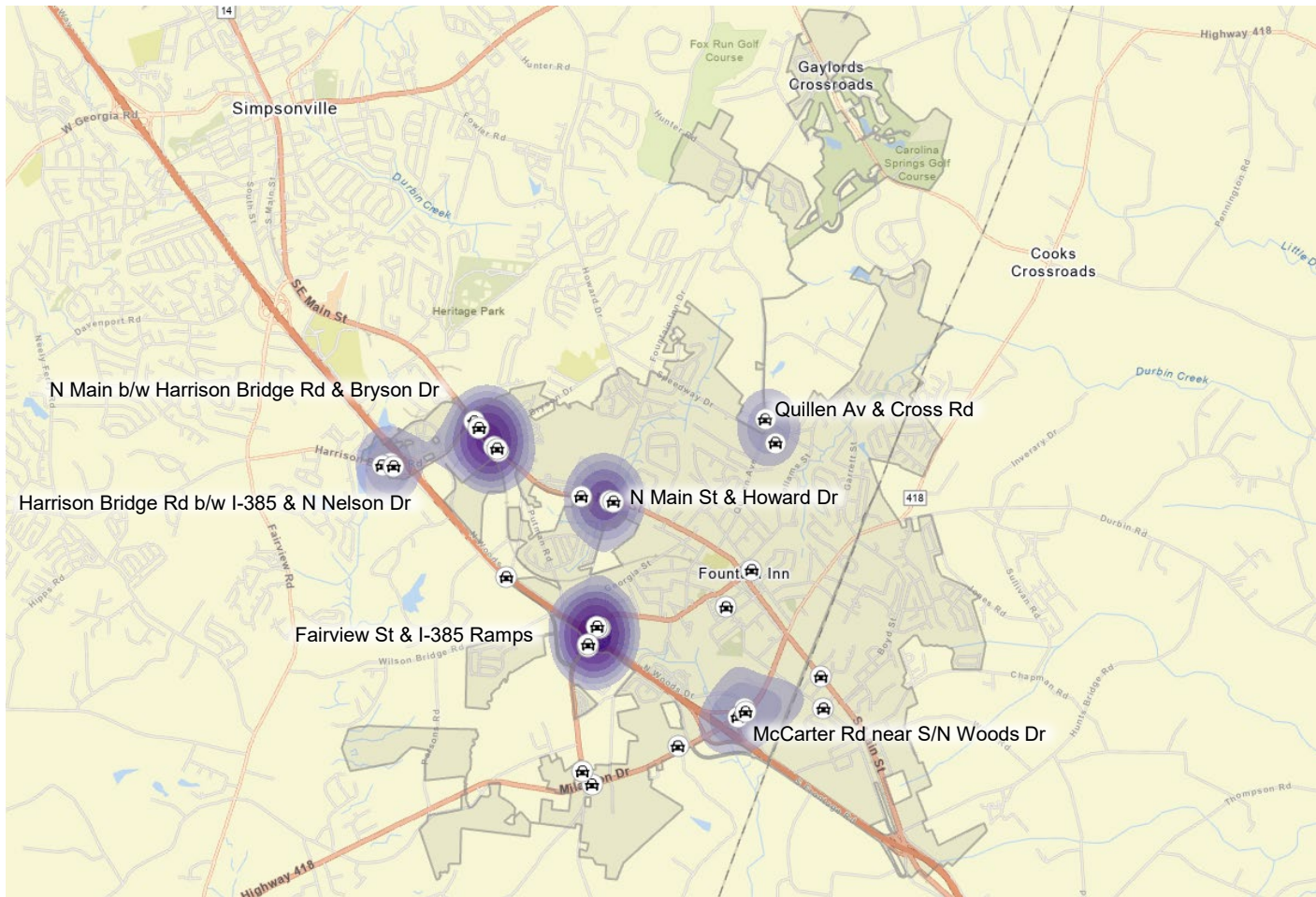
Property Crime - YTD Comparison



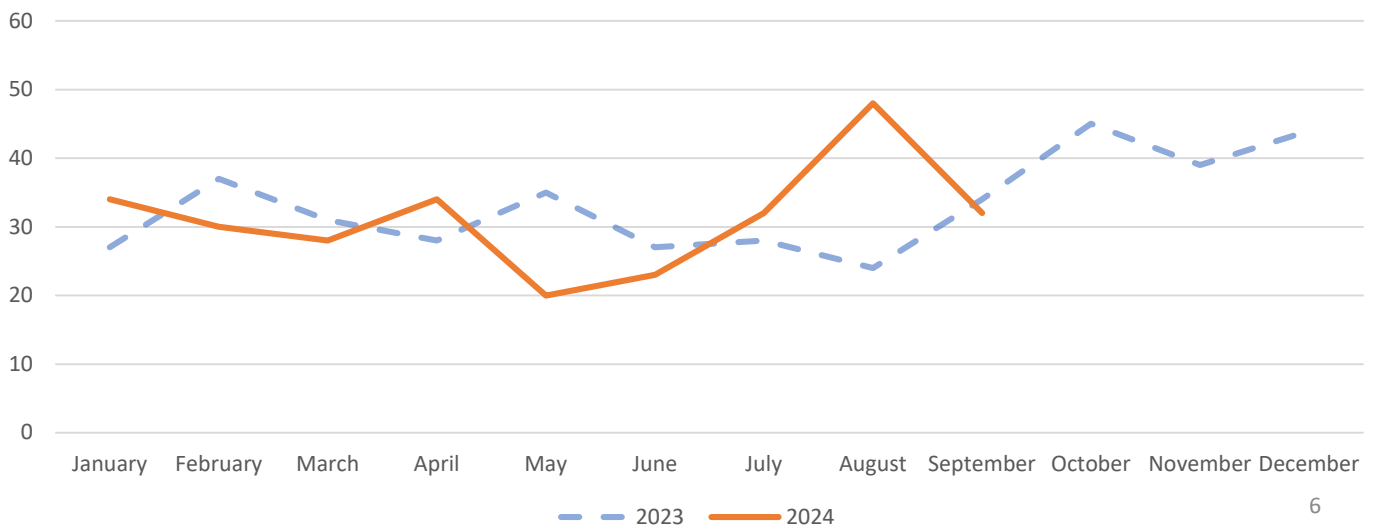


Collision Statistics/Map

Collisions	Sep 2023	Sep 2024	Difference	2023 YTD	2024 YTD	Difference
Count	34	32	-2	271	281	10



Collisions by Month - 2023/2024





Collisions by Day of Week and Hour - September 2024								
Hour	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Grand Total
6 AM					1			1
7 AM				2	1			3
8 AM		1	1					2
11 AM			1				1	2
12 PM				1			2	3
1 PM		1						1
2 PM		1		1				2
3 PM				1	1	1		3
4 PM				2	1			3
5 PM			1	1		1		3
6 PM					1			1
8 PM		1						1
9 PM	1					1		2
10 PM				1	1	1		3
11 PM	1					1		2
Grand Total	2	4	3	9	6	5	3	32

Hot Day for Collisions in September

Wednesdays – 9 collisions

Hot Time Range for Collisions in September

No time range had over 3 collisions

Primary Contributing Factor	Count
Followed Too Closely	13
Failed to Yield Right of Way	8
Distracted / Inattention	2
Under the Influence	1
Driving Too Fast for Conditions	1
Obstruction	1
Grand Total	26

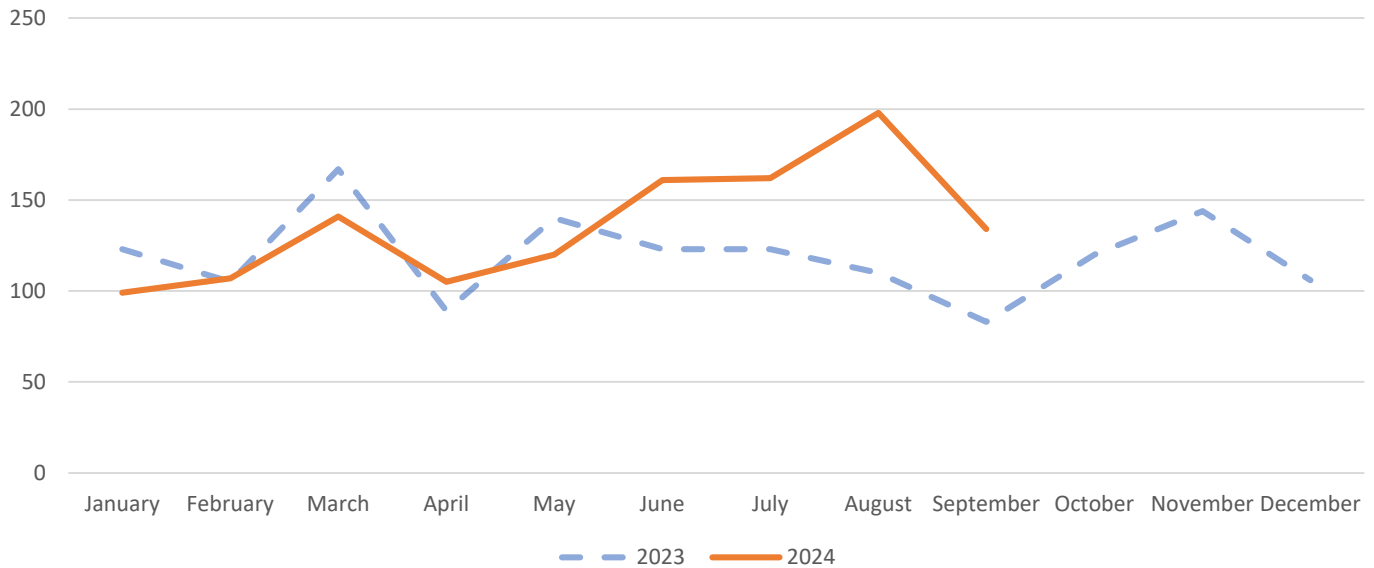
**Does not include 6 private property collisions*



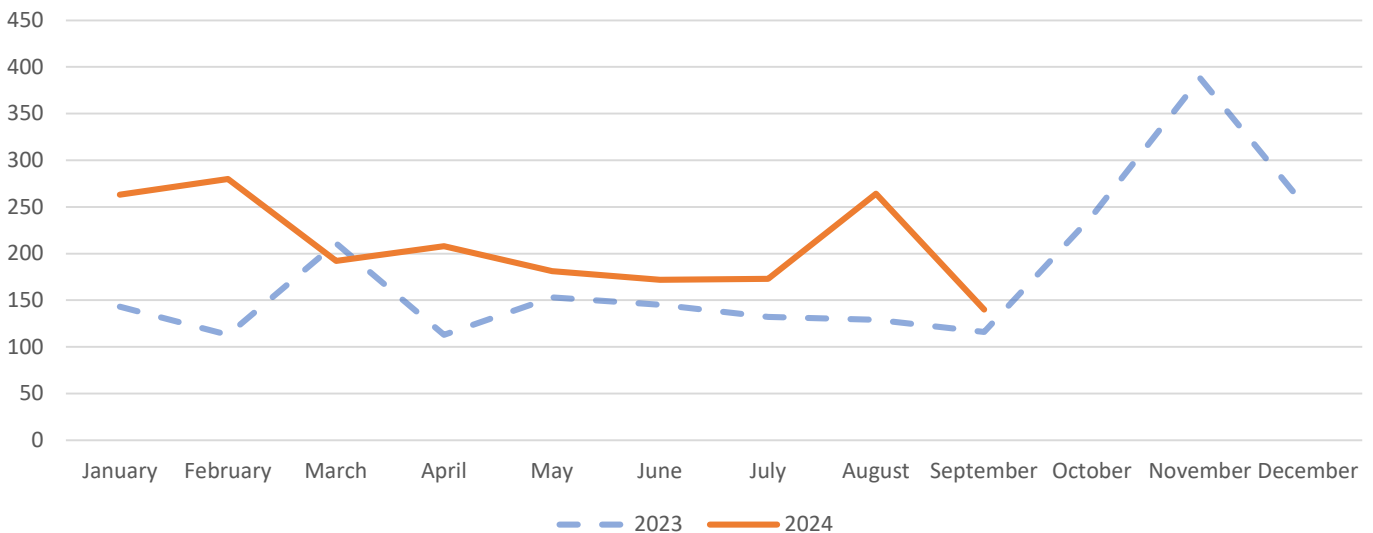
Citation/Warning Statistics

Contact Type	Sep 2023	Sep 2024	Difference	2023 YTD	2024 YTD	Difference
Citations	83	134	51	1,063	1,227	164
Warnings	116	140	24	1,255	1,873	618

Citations by Month - 2023/2024



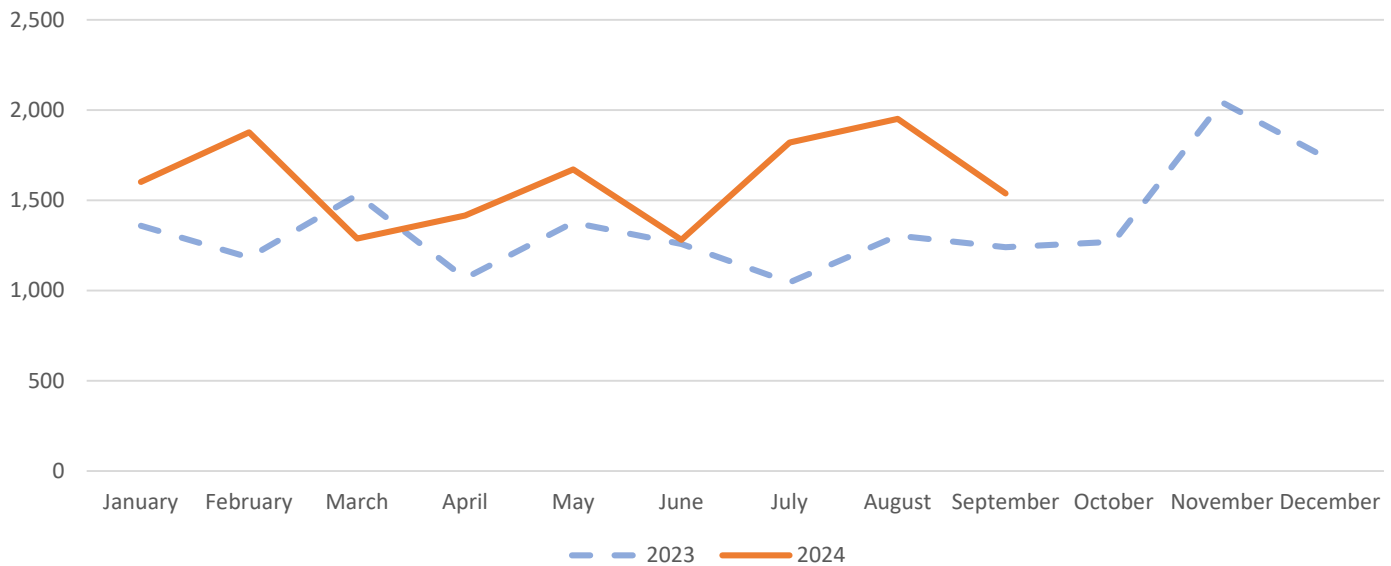
Warnings by Month - 2023/2024





Calls for Service Comparison					
Sep 2023	Sep 2024	Difference	2023 YTD	2024 YTD	Difference
1,240	1,539	299	11,365	14,449	3,084

Calls for Service by Month - 2023/2024



Communications Call Summary Report

September Call Summary				
Call Type		Sep 2023	Sep 2024	% Change
911	Inbound	319	313	-1.9%
	Inbound	1,413	1,411	-0.1%
	Outbound	405	728	79.8%

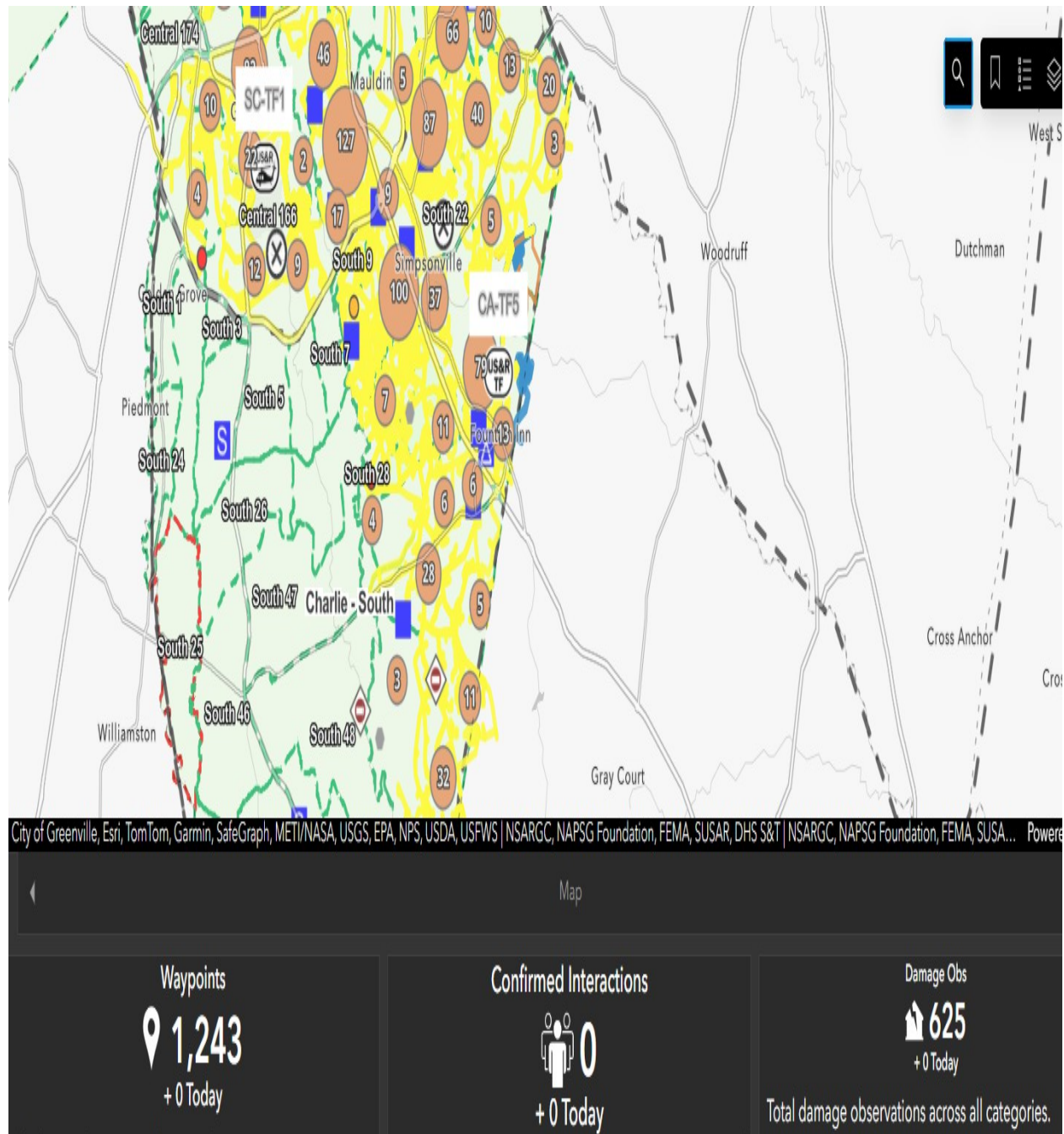
FIRE – FIRE DEPARTMENT SUMMARY

Summary of Monthly Events

- Storm response and clean-up efforts continue.
- Prep for open house Oct 12. This will run in conjunction with Aunt Het

Items from Storm

- Over 300 additional responders were assigned to Greenville County.
- St Andrews Fire Department assisted with calls within our district via FF Mobilization
- Fountain Inn hosted Louisiana Task Force 3 at the Activity Center (22 USAR)
- Fountain Inn hosted California Task Force 5 at the Armory (45 USAR and 16 ATF)
- Community support has been amazing
- Other teams in Greenville County: SCTF4, SCTF3, SCTF2, LATF2, N MYRTLE BEACH FIRE, HORRY COUNTY, HOWE SPRINGS, STATE FIRE, LEXINGTON FIRE, FLORENCE FIRE, MT PLEASANT FIRE, ST JOHNS FIRE































City of Fountain Inn - Human Resources Monthly Report - September 2024

Home Department**	August Headcount	September Hires / Transfers In	September Terms	September Transfers Out	September Headcount	DIVERSITY					
						Asian	Black or African American	Hispanic or Latino	White	Pacific Islander	One or More
000411 / Administration	2	0	0	0	2	0	0	0	2	0	0
000412 / Judicial	5	0	0	0	5	0	0	0	4	1	0
000413 / Council	8	0	0	0	8	0	0	1	7	0	0
000414 / Community Relations	6	0	0	0	6	0	0	0	6	0	0
000416 / Finance	11	0	0	0	11	0	3	0	8	0	0
000417 / Human Resources	2	0	0	0	2	0	0	1	1	0	0
000421 / Police	40	0	1	0	39	0	2	4	32	0	1
000422 / Fire	31	1	1	0	31	0	1	1	29	0	0
000424 / Public Works	3	0	0	0	3	0	1	0	2	0	0
000425 / Planning & Development	3	0	0	0	3	0	0	0	3	0	0
000431 / Parks/Grounds Maintenance	8	0	0	0	8	0	2	0	6	0	0
000432 / Sanitation	9	0	0	0	9	0	3	0	6	0	0
000434 / Sewer	4	0	0	0	4	0	0	0	4	0	0
000451 / Recreation	40	1	1	0	40	0	12	1	27	0	0
000453 / Facilities Maintenance	2	0	0	0	2	0	0	1	1	0	0
000510 / Gas Field	19	0	1	0	18	0	0	1	17	0	0
Totals:	193	2	4	0	191	0	24	10	155	1	1

**Based on Home Departments

FULL TIME 143 / PART TIME 48

Recruitment Status for Open Positions - AS OF 10/8/2024

421 Police: Patrol Officer (2) Vacancies; interviews scheduled & candidate(s) in process

421 Police: Records Technician (1) Vacancy: candidate(s) in process

421/422 Dispatch: Dispatcher (1) Vacancy; applications under review

422 Fire: Part-Time Firefighter; applications under review

424 Public Works Director: (1) Vacancy; executive search agency engaged

425 Planning & Development: Codes Enforcement Officer (1) Vacancy; offer extended

451 Recreation: Recreation Supervisor (1) Vacancy; offer extended

451 Recreation: Recreation Coordinator (1) Vacancy; offer extended

451 Recreation: Part Time Rentals (2+); interviews scheduled

510 Gas Tech I - III: (2) Vacancies; applications under review

SEPTEMBER NEW HIRES	Department	Title
Crenshaw, Rodney	000422	Fire Marshal
Moore, Christopher Michael	000451	Recreation Coordinator

Offers Accepted as of 10/8/2024

422 Firefighters - Starting 10/7, 10/9, 11/18

434 Sewer/Stormwater Supervisor - INTERNAL / C.J. Mason

JUDICIAL DIVISION DEPARTMENT SUMMARY

September Case Status

PERFORMANCE INDICATORS	CRIMINAL	TRAFFIC	TOTALS
CASE TOTALS	28	138	166
TRANSFERRED CASES	7	18	25
DISPOSED CASES	2	13	15
PENDING CASES	19	107	126

DEPARTMENT HIGHLIGHTS

Current Projects:

- Jury trials scheduled for the week of October 21 through 25, 2024.

Fountain Inn Natural Gas

GAS SUPPLY

Gas Volume and Consumption:

- **September Gas Volume:** 38.440 Dths
- **September Consumption:** 6.1% lower than September 2023 and 8.0% lower than the 3-year average for September.

Natural Gas Pricing:

- **October Gas Price:** \$2.585 per Dekatherm
- **Change from September:** Increased by \$0.655 per Dekatherm.
 - Note: This price reflects the commodity cost only. The final "Cost of Gas" includes additional factors such as transportation which affect FING's monthly billing.

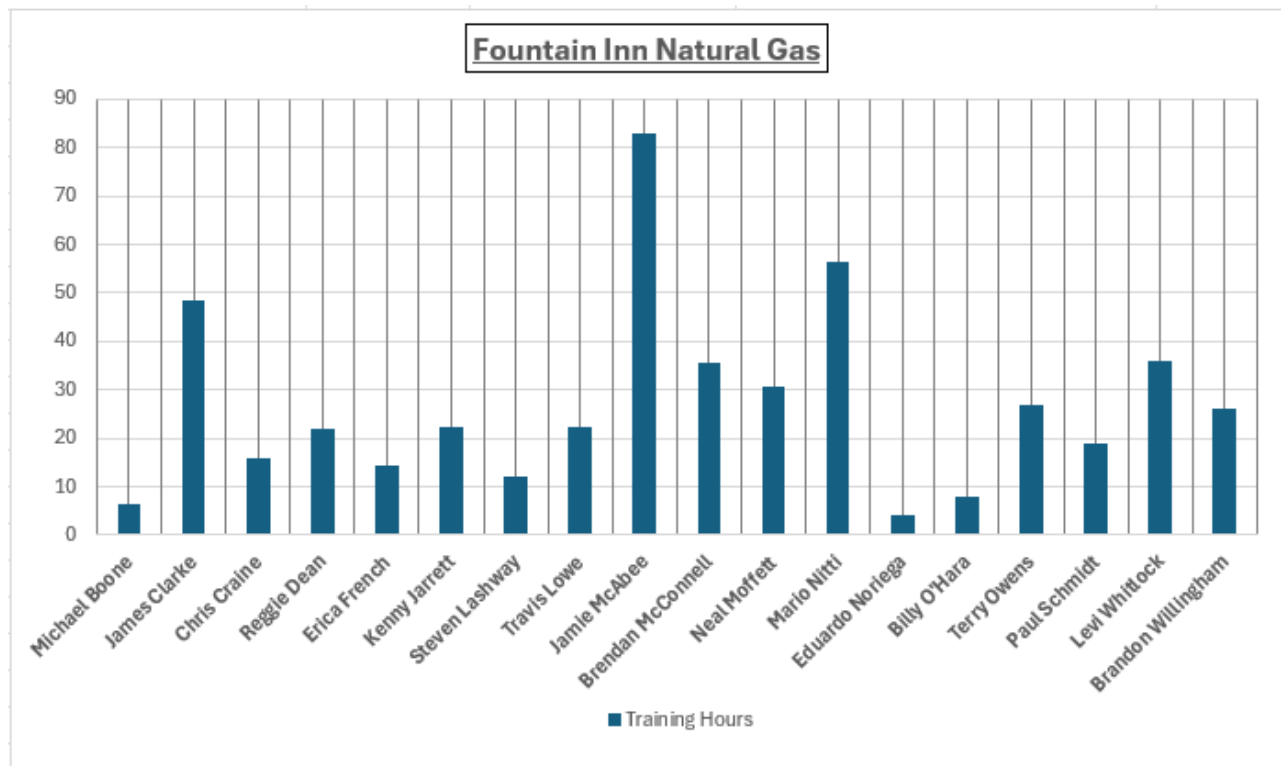
Gas Assets Management Agreement (AMA):

- **Current Agreement:** Managed by BP Energy, expiring on March 31, 2025.
- **Renewal Process:** Six responses received for the RFP for a new asset manager. After an in depth review of all bids received, we have made the determination to continue the excellent business relationship we have with BP Energy and renew our agreement for another 3 years.

GAS OPERATIONS

- **Installation Pace:** We are installing gas mains and services at a record-setting pace, with no signs of slowing down. We currently serve 12,209 active customers. See key indicators below.
- **Employee Training:** Our commitment to employee training remains strong. We are averaging 27.2 hours YTD of training per employee. See the chart below for detailed training hours.
- We have one Gas Tech. position opened, and we hope to fill the position in the coming weeks.
- **Storm Helene Update:** The gas department was fortunate to avoid any significant damage to our facilities, receiving only 12 storm-related calls. We are currently conducting visual inspections of all critical crossings, cross-country lines, and creek crossings to ensure the safety of the system and confirm that no lines have been displaced or exposed.

- **The Clinton Newberry Gas Interconnect Update:** Although the station has been operational for several months, CNN Gas has now completed the installation of new electronic equipment both at the station and in their office. This equipment enables remote monitoring and operation of the station, ensuring that in the event of an emergency, CNN's gas controller can alert us to immediately, open the station and supply gas to FING.



KEY INDICATORS

PERFORMANCE INDICATORS	CURRENT	Y-T-D
NEW MAIN LINES INSTALLED	2.455 ft.	89588 ft.
NEW SERVICE LINES INSTALLED	52 SL; 2,464 ft.	608 SL; 29,913 ft.

SC/NC RESIDENCIAL GAS RATES

- Below are the names and rates of other gas providers in the Carolinas for a comparison. Please note that every company has a completely different rate structure, fixed costs, and other factors that make it challenging to do an exact comparison.

SOUTH CAROLINA/NORTH CAROLINA GAS RATE COMPARISONS					
September 2024					
COMPANY	SERVICE CLASS	METER CHARGE PER MONTH	AVEWRAGE RATE PER THERM	AVG. USAGE THERMS	TOTAL COST PER MONTH
LANCASTER COUNTY, SC	Residential	\$5.00	\$1.12000	7.00	\$12.84
CITY OF SHELBY, NC	Residential	\$8.50	\$0.92240	7.00	\$14.96
CHESTER COUNTY, SC	Residential	\$6.50	\$1.31012	7.00	\$15.67
DOMINION, NC	Residential	\$10.00	\$0.90883	7.00	\$16.36
CITY OF DANVILLE, VA	Residential	\$12.15	\$0.65550	7.00	\$16.74
GREENWOOD CPW, SC	Residential	\$10.00	\$0.97170	7.00	\$16.80
FORT HILL NATURAL GAS, SC	Residential	\$10.00	\$1.00000	7.00	\$17.00
PIEDMONT, SC	Residential	\$10.00	\$1.01863	7.00	\$17.13
YORK NATURAL GAS, SC	Residential	\$9.25	\$1.15005	7.00	\$17.30
FOUNTAIN INN, SC	Residential	\$10.00	\$1.17430	7.00	\$18.22
CITY OF ORANGEBURG, SC	Residential	\$11.50	\$0.97836	7.00	\$18.35
CLINTON-NEWBERRY, SC	Residential	\$12.15	\$0.94250	7.00	\$18.75
PIEDMONT, NC	Residential	\$10.00	\$1.51088	7.00	\$20.58
DOMINION, SC	Residential	\$10.90	\$1.69019	7.00	\$22.73
GREENVILLE UTILITIES, NC	Residential	\$14.00	\$1.32660	7.00	\$23.29
GREER CPW, SC	Residential	\$10.00	n/a	7.00	#VALUE!
CITY OF MONROE, NC	Residential	\$10.00	n/a		#VALUE!
LAURENCE CPW	Residential	\$10.00	n/a		#VALUE!
CITY OF LEXINGTON, NC	Residential	\$10.00	n/a		#VALUE!
PUBLIC SERVICE OF NC	Residential	\$10.00	n/a		#VALUE!

PLANNING & ZONING

Zoning Ordinance & Land Development Regulations Rewrite

A text amendment has been created to help alleviate issues that have arisen concerning the open space development options in the Zoning Ordinance. The amendment was taken before the Planning Commission receiving a vote of 7-0 for approval as written.

Boards & Commissions

Planning Commission (October 3rd)

- TX-2024-01
Request: Text Amendment
Vote: 7-0, for approval

Board of Zoning Appeals

- No applications were submitted, and the meeting was canceled.

BUILDING AND CODES

INSPECTIONS	AUGUST	JULY
ALL CONSTRUCTION	350	501
REINSPECTIONS	3	3
TOTAL INSPECTIONS	350	501
PERMITS ISSUED	23	37
SUBMITTED PERMITS	36	43
NEW SINGLE FAMILY	18	29
NEW MULTI-FAMILY (UNITS)	0	0
NEW COMMERCIAL	1	0
CERTIFICATES OF OCCUPANCY-ISSUED	44	39
REMODEL/ADD. RESIDENTIAL	1	1
REMODEL/ADD. COMMERCIAL	2	2
SIGN/ROOFING/SOLAR/MISC TRADE	14	11
COMMERCIAL PLAN REVIEWS	3	1
RESIDENTIAL PLAN REVIEWS	20	30

CODE COMPLIANCE

BUILDING CODE COMPLAINTS	AUGUST	JULY
VEHICLES/OTHER	7	3
BUILDING – UNSAFE CONDITIONS	3	1
PROPERTY MAINTENANCE	6	5
TOTAL COMPLAINTS	16	9

FINANCIAL SUMMARY

FINANCIAL STATISTICS	AUGUST	JULY
TOTAL VALUATION	\$9,766,370	\$26,067,858
TOTAL PERMIT FEES COLLECTED	\$25,737	\$36,966.18
TOTAL PLAN REVIEW REVENUE	\$12,490	\$17,845

October Report

Sports News

Registration for Basketball and Wrestling - 9/30/24

We will resume the regular season sports schedule starting Monday, October 7th, 2024, for all Fall Sports. Special thank you to our Parks Team for their around the clock support making sure the fields are clear and creating safe spaces to play!

1. Baseball
2. Softball
3. Tackle Football
4. Flag
5. Cheer
6. Volleyball
7. Miracle League

*The entire Golden Strip efforts to support recovery is worth noting, we all were in alignment cancelling games for the week to focus on Family.

Upcoming

Golden Strip Tackle Football Playoffs

SCAP Tackle Football All-Star Playoffs- City of Fountain Inn will be represented in the 8U, 10U, & 12U Divisions.

55+ NEWS

Heather & Sue provided a list of all Senior participants registered at the Activities Center to Administration helping support well checks & drop-ins ensuring the safety and well-being of all residents.

All weekly Senior programs were cancelled, but the Activities Center housed the Shreveport, Louisiana Team for almost a week and they were absolute professionals. We are thankful for their courage, commitment and support!



Oct24 Newsletter.pdf

 FOUNTAIN INN est 1886	REQUEST FOR COUNCIL ACTION City of Fountain Inn, South Carolina To: Mayor and Members of City Council From: Shawn M. Bell, City Administrator	October 10, 2024 Regular City Council Meeting
☒ Ordinance/First Reading ☐ Ordinance/Second Reading ☐ Resolution/First & Final Reading		
Agenda Date Requested: October 10, 2024 Ordinance/Resolution Caption: An Ordinance to Provide for the Annexation of the Property Described Herein to the City Limits of the City of Fountain Inn; to Establish a Zoning Classification; Therefore, to Assign the Annexed Property to a Council Ward and Various Matters Related Thereto. Summary Background: AXZ-2024-04 would annex approximately 58.53 acres on Durbin, Jones & Happy Valley Roads into the City limits of Fountain Inn; zone TMS# 093-00-00-091 (portion), 093-00-00-008 to R-15, Residential and assign the parcel to Council Ward 3. The Planning Commission voted (5-1) in favor of the annexation and zoning of the property on July 25, 2024. Several people spoke during the hearing. Concerns expressed during the hearing were centered around the impact on the schools, existing traffic, existing road conditions and neighboring properties. Impact If Denied: The 58.53-acre tax parcels would remain unzoned in unincorporated Laurens County. Development of the parcel will most likely still take place but to the lesser standards of Laurens County. Impact If Approved: The parcel will be developed to the standards of the R-15, Residential District.		



AGENDA

October 10, 2024

To: City Council
From: Planning Director, Jason Knudsen
Subject: AXZ-2024-04, Proposed Annexation/Rezoning at Durbin Road and Jones Road
Meeting Date: October 10, 2024
Type of Agenda Item: Annexation/Rezoning, 1st Reading
Attachments: Vicinity Map
Aerial Map
Future Land Use Map
Proposed Ordinance

OWNER: Jones Family Limited Partnership and Happy Valley Co., LLC
TAX MAP # 093-00-00-091 (portion), 093-00-00-008
AUTHORIZED REP: Richard A. Jones Jr.
LOCATION: Corner of Durbin Road and Jones Road
CURRENT ZONING: Unzoned (Laurens County)
REQUESTED ZONING: R-15, Residential
SIZE OF PROPERTY: Approximately 58.53 Acres

REQUEST

The City of Fountain Inn has received a signed petition requesting annexation into the city pursuant to South Carolina Code of Laws Section 5-3-10. The applicant had originally requested the parcels of land be rezoned from Unzoned (Laurens County) to PD, Planned Development, within the city. The current request is to rezone the parcels to the R-15, Residential District.

LOCATION & SITE DESCRIPTION

The parcel is located at the southeast corner of Durbin Road and Jones Road. The parcel is currently undeveloped and consists of a mix of open area, woods, and creeks/wetlands.

COMPREHENSIVE PLAN

The City's INNvision Comprehensive Plan identifies the area of this tract of land as Neighborhood Center and Low to Medium Density Residential.

A Neighborhood Center is generally located near concentrations of existing or planned neighborhoods at key intersections. Neighborhood Centers include neighborhood-serving uses such as, small-scale retail or grocery stores, service, and limited office uses; these are typically < 30,000 square feet and may be one-to-two stories high. Uses should be accessible by pedestrian facilities; building, parking, and lighting design should be considered to establish a pedestrian-friendly environment with minimum impacts on existing development. The designation may include a mix of housing types including single-family homes, live/work units or townhomes, house-scaled structures (i.e., duplexes, triplexes, etc.) as part of a planned development.

The Low to Medium Density Residential designation is comprised of older and newer subdivisions, with interconnected streets typically lined with sidewalks and street trees on both sides served by public water and sewer. The density of development in this character area will vary based on the environmental features, but densities in new development should be < 4 dwelling units per acre (gross density). Infill opportunities in this character area may include some isolated areas of attached housing at higher densities. Attached housing could also be allowed as part of planned developments that meet designated standards or go through the Flexible Review District (FRD) process.

PROPOSED ZONING DISTRICT

The residential districts are established as areas in which the principal use of land is for single-family dwellings and for related recreational, religious, and educational facilities normally required to provide an orderly and attractive residential area. The regulations for these districts are intended to discourage any use which, because of its characteristics, would interfere with the development of or be detrimental to the residential nature of the area included in the districts.

PUBLIC HEARING PROCEEDING

A public hearing regarding this petition was conducted on July 25, 2024, before the body of the Fountain Inn Planning Commission. Several people spoke during the hearing. Concerns expressed during the hearing were centered around the impact on the schools, existing traffic, existing road conditions and neighboring properties.

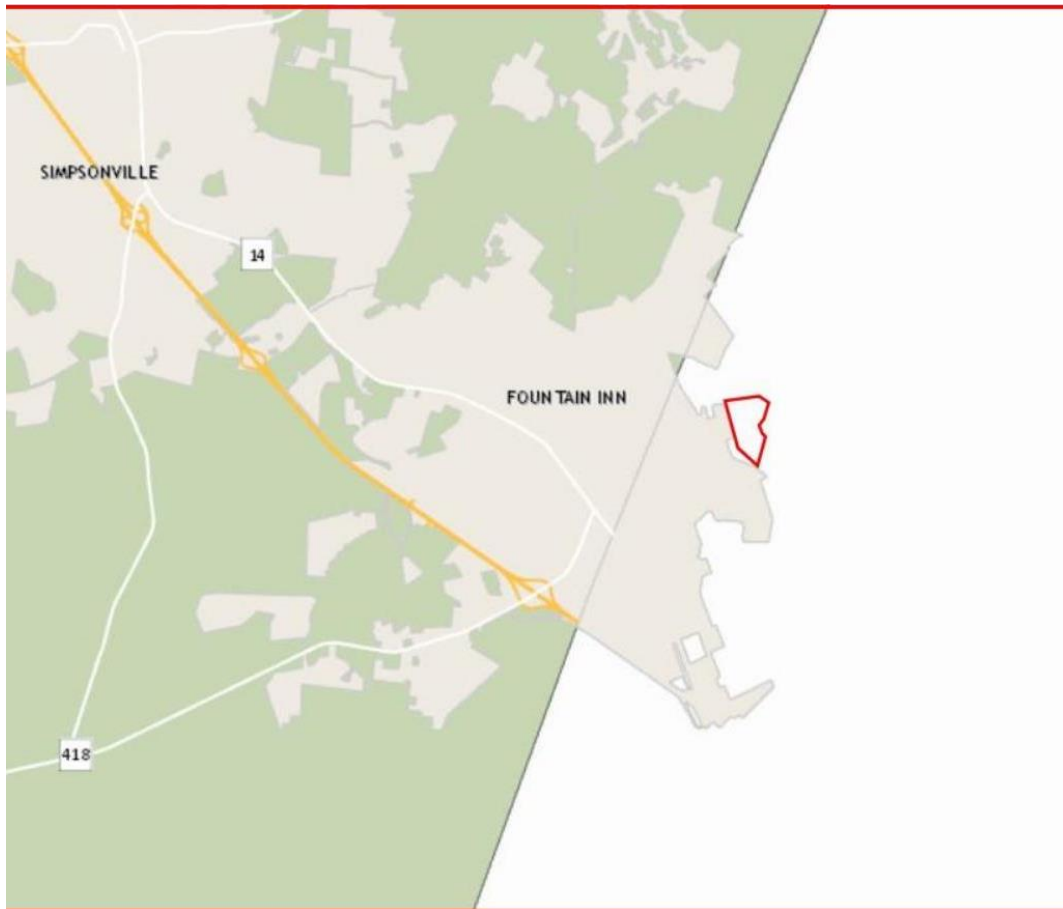
PLANNING COMMISSION REVIEW

The Fountain Inn Planning Commission has reviewed the request to annex and rezone this property to the PD, Planned Development at their July 25, 2024 meeting. By a vote of 5-1, the Planning Commission recommends approval of the requested annexation and zoning for Ordinance AXZ-2024-04.

STAFF COMMENTS

The applicant has removed the commercial portion of the project from the annexation request. With the removal of this element, the requirements for Planned Development are not met. Therefore, the zoning district of R-15 is being requested. If the annexation is approved, the preliminary plat will go before the Fountain Inn Planning Commission for a public hearing and approval.

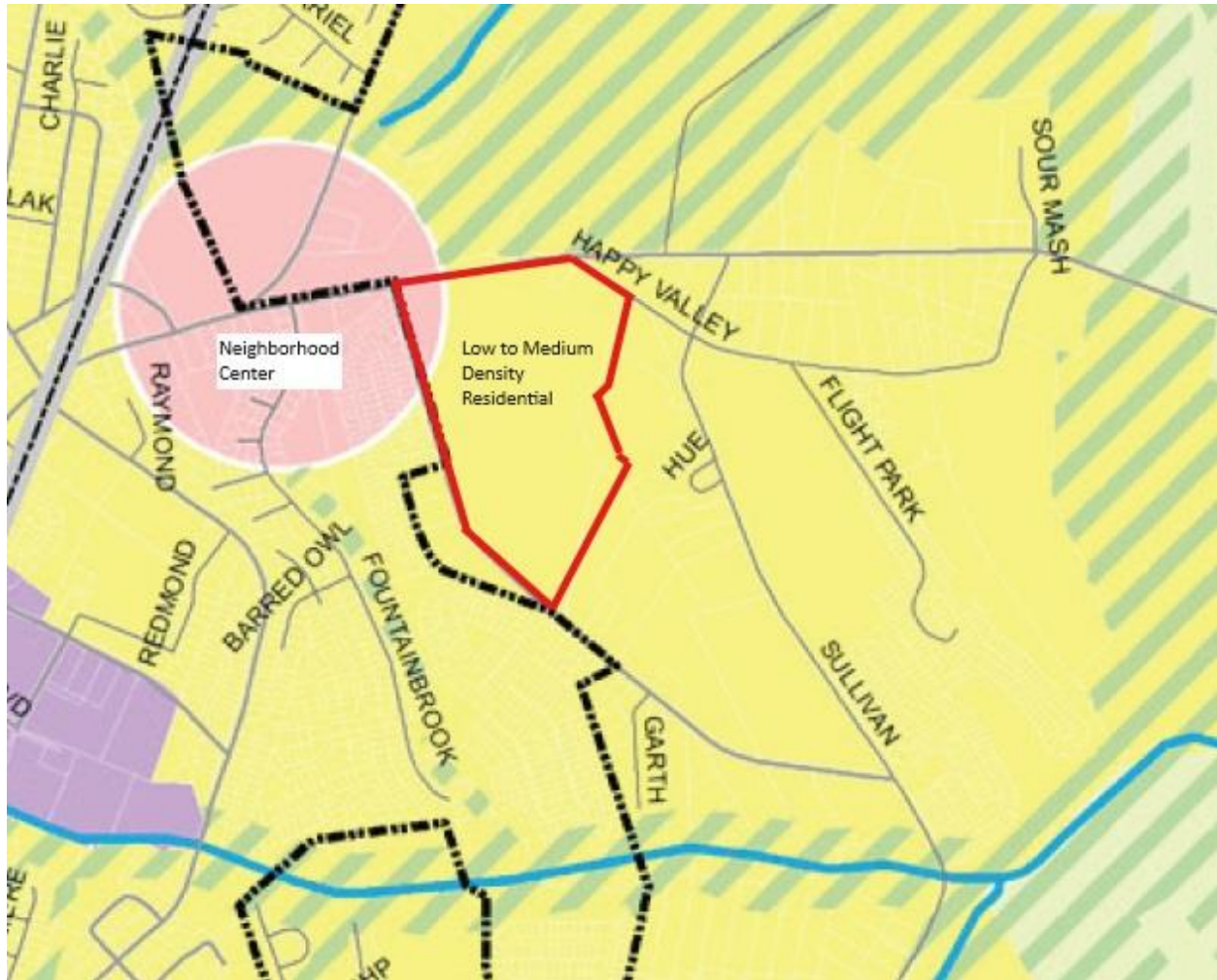
VICINITY MAP



AERIAL MAP



FUTURE LAND USE MAP



ORDINANCE

AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF THE PROPERTY DESCRIBED HEREIN TO THE CITY LIMITS OF THE CITY OF FOUNTAIN INN; TO ESTABLISH A ZONING CLASSIFICATION THEREFOR; TO ASSIGN THE ANNEXED PROPERTY TO A COUNCIL WARD; AND OTHER RELATED MATTERS (DURBIN, JONES & HAPPY VALLEY ROADS).

WHEREAS, Richard A Jones (Jones Family LTD Partnership) has filed a proper petition with the City using the 100 percent petition method concerning those parcels or tracts of land, which property is contiguous to the City limits petitioning for annexation of said property to the City of Fountain Inn under the provisions of South Carolina Code Annotated section 5-3-150(3) and described as follows:

ALL those certain pieces, parcels or tracts of land containing approximately 58.53 acres more or less, situate, lying and being on Durbin Rd., Jones Rd., and Happy Valley Rd. in Laurens County, South Carolina, and described as Tracts 1, 2, 4 & 5 in the following:

SEE EXHIBITS A & B ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE.

LAURENS COUNTY TMS # 0930000091 (portion) & 0930000008 (~58.53-acre)

Tract 1

All of that certain piece, parcel or lot of land situate, lying and being in the County of Laurens, State of South Carolina, having a total area of 2,149,976 square feet or 49.36 acres, more or less, and being shown as Tract 1 on a plat entitled "ALTA/NSPS FOR PULTE HOME COMPANY, LLC", dated May 1st, 2024, prepared by 3D Land Surveying, Inc., and according to said plat, having the following metes and bounds to-wit:

Beginning at a 1/2" rebar set on the southern right-of-way of Happy Valley Road, being the common corner with now or formerly Maxie L. Sullivan Trustee and being 474.23' from the right-of-way of Durbin Road; thence running along the easterly boundary line for the following five (5) courses and distances: 1) S 15°59'10" W for a distance of 634.18' to a found 1" crimp top pipe; 2) S 41°08'50" W for a distance of 275.75' to a found 1" crimp top pipe; 3) S 16°52'35" E for a distance of 378.09' to a found 1" crimp top pipe; 4) S 40°29'21" E for a distance of 66.37' to a found 5/8" rebar; 5) S 11°46'56" W for a distance of 1196.13' to a 1/2" rebar set on the northern right-of-way of Jones Road and being a common corner of Tract 1 and now or formerly Michael & Tammy Sharpes; thence running along the northern right-of-way of Jones Road for the following four (4) courses and distances: 1) with a curve turning to the right with an arc length of 200.66', with a radius of 5696.58', with a chord bearing of N 48°21'11" W, with a chord length of 200.65', to a 1/2" rebar set; 2) N 47°20'38" W for a distance of 540.50' to a 1/2" rebar set; 3) with a curve turning to the right with an arc length of 422.74', with a radius of 785.51', with a chord bearing of N 31°55'35" W, with a chord length of 417.66', to a 1/2" rebar set; 4) N 16°30'32" W for a distance of 736.91' to a 1/2" rebar set being the common corner of Tract 1 and Tract 3; thence leaving the right-of-way for the following two (2) courses and distances: 1) N 73°17'00" E for a distance of 517.11' to a

1/2" rebar set; 2) N 15°17'42" W for a distance of 864.67' to a 1/2" rebar set on the southern right-of-way of Durbin Road; thence running along the southern right-of-way for the following four (4) courses and distances: 1) N 80°15'06" E for a distance of 205.67' to a 1/2" rebar set; 2) N 80°28'21" E for a distance of 256.11' to a 1/2" rebar set; 3) with a curve turning to the right with an arc length of 132.49', with a radius of 1680.02', with a chord bearing of N 81°11'49" E, with a chord length of 132.46', to a 1/2" rebar set; 4) N 84°54'37" E for a distance of 60.73' to a 1/2" rebar set being the common corner of Tract 1 and Tract 2; thence leaving the right-of-way for the following three (3) courses and distances: 1) S 11°31'44" W for a distance of 165.56' to a 1/2" rebar set; 2) S 87°07'07" E for a distance of 100.00' to a 1/2" rebar set; 3) N 31°16'06" E for a distance of 175.00' to a 1/2" rebar set on the southern right-of-way of Happy Valley Road; thence running along the right-of-way for the following two (2) courses and distances: 1) S 58°32'32" E for a distance of 116.74' to a 1/2" rebar set; 2) S 56°40'11" E for a distance of 304.19' to a the POINT OF BEGINNING.

Tract 2

All of that certain piece, parcel or lot of land situate, lying and being in the County of Laurens, State of South Carolina, having a total area of 22,552 square feet or 0.52 acres, more or less, and being shown as Tract 2 on a plat entitled "ALTA/NSPS FOR PULTE HOME COMPANY, LLC", dated May 1st, 2024, prepared by 3D Land Surveying, Inc., and according to said plat, having the following metes and bounds to-wit:

Beginning at a set 1/2" rebar on the southern right-of-way of Happy Valley Road, being a common corner of Tract 2 and Tract 1 and being 420.93' from the common corner of Tract 1 and now or formerly Maxie L. Sullivan Trustee; thence running along the eastern line of Tract 2 S 31°16'06" W for a distance of 175.00' to a set 1/2" rebar; thence running along the southern line of Tract 2 N 87°07'07" W for a distance of 100.00' to a set 1/2" rebar; thence running along the western line of Tract 2 N 11°31'44" E for a distance of 175.00' to a set 1/2" rebar; thence running along the northern line of Tract 2 for the following two (2) courses and distances: 1) N 84°54'07" E for a distance of 112.51' to a set 1/2" rebar; 2) S 58°43'54" E for distance of 53.30' to the POINT OF BEGINNING.

Tract 4

All of that certain piece, parcel or lot of land situate, lying and being in the County of Laurens, State of South Carolina, having a total area of 29,860 square feet or 0.69 acres, more or less, and being shown as Tract 4 on a plat entitled "ALTA/NSPS FOR PULTE HOME COMPANY, LLC", dated May 1st, 2024, prepared by 3D Land Surveying, Inc., and according to said plat, having the following metes and bounds to-wit:

Beginning at a 1/2" rebar set on the northern right-of-way of Durbin Road, being a common corner of Tract 4 and now or formerly Thomas W. Edwards Jr., and being 148', more or less, from the intersection of Durbin Road and Jones Road; thence leaving said right-of-way N 76°07'45" E for a distance of 17.87' to a 1/2" rebar set; thence N

72°19'47" E for a distance of 460.77' to a 1/2" rebar set; thence N 80°31'35" E for a distance of 112.29' to a found 3/4" crimp top pipe bent with nail, being the common corner of Tract 4, now or formerly Thomas W. Edwards Jr. and now or formerly Western Carolina Regional Sewer Authority; thence S 86°49'00" E for a distance of 281.45' to a 1/2" rebar set on the northern right-of-way of Durbin Road; thence following said right-of-way S 80°28'21" W for a distance of 236.48' to a 1/2" rebar set; thence S 80°15'06" W for a distance of 205.97' to a 1/2" rebar set; thence S 79°57'12" W for a distance of 418.37' to the POINT OF BEGINNING.

Tract 5

All of that certain piece, parcel or lot of land situate, lying and being in the County of Laurens, State of South Carolina, having a total area of 113,338 square feet or 2.60 acres, more or less, and being shown as Tract 5 on a plat entitled "ALTA/NSPS FOR PULTE HOME COMPANY, LLC", dated May 1st, 2024, prepared by 3D Land Surveying, Inc., and according to said plat, having the following metes and bounds to-wit:

Beginning at a 1/2" rebar set on the southern right-of-way of Jones Road, being a common corner of Tract 5 and now or formerly Winterbrook Homeowners Association INC., and being 145', more or less, from the intersection of Jones Road and Chinchilla Drive; thence leaving said right-of-way N 67°15'22" W for a distance of 832.82' to a found 5/8" rebar being the common corner of Tract 5, now or formerly Winterbrook Homeowners Association INC., now or formerly Durbin Oaks Homeowners Association INC. and now or formerly Barbara Cambell; thence N 39°57'14" E for a distance of 294.38' to a found 5/8" rebar; thence N 15°51'10" W for a distance of 38.21' to a 1/2" rebar set on the southern right-of-way of Jones Road; thence continuing with said right-of-way with a curve turning to the left with an arc length of 229.37', with a radius of 851.51', with a chord bearing of S 39°37'37" E, with a chord length of 228.68', to a 1/2" rebar set; thence S 47°20'38" E for a distance of 540.50' to a 1/2" rebar set; thence with a curve turning to the left with an arc length of 62.39', with a radius of 5762.58', with a chord bearing of S 47°39'15" E, with a chord length of 62.39', to the POINT OF BEGINNING.

WHEREAS, it appears to the City Council that annexation would be in the best interest of the property owners and the City; and

WHEREAS, the notice and public hearing requirements of South Carolina Code Annotated section 5-3-150(1) have been complied with:

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Fountain Inn, South Carolina, as follows:

Section 1. **ANNEXATION:** That the property herein described is hereby annexed to and becomes a part of the City effective on the date of the passage of this Ordinance.

Section 2. **ZONING CLASSIFICATION:** The property herein described is hereby assigned the zoning classification of R-15, Residential.

Section 3. **DISTRICT ASSIGNMENT:** The within described property shall be assigned to City Council Ward 3.

Section 4. **FLOOD RATE INSURANCE MAPS:** In accordance with the provisions of 44 CFR §64.4, in the event that the newly annexed area was previously located in a community participating in the NFIP Program, pending formal adoption of the amendment to its flood plain management regulations, the City hereby certifies that within the newly annexed area the flood plain management requirements previously applicable in the area remain in force. In the event that the newly annexed area was previously located in a community not participating in the NFIP Program, upon annexation, and pending formal adoption of the amendments to its flood plain management regulations, the City certifies that it shall enforce within the newly annexed area, existing flood insurance policies which shall remain in effect until their date of expiration may be renewed, and new policies may be issued.

Section 5. **AUTHORIZATION.** The Mayor, the City Administrator, and the City Clerk, for and on behalf of the City, acting jointly or individually, are fully empowered and authorized to take such further action as may be reasonably necessary to effect the actions authorized by this Ordinance in accordance with the conditions herein set forth.

Section 6. **EFFECTIVE DATE.** This Ordinance shall be effective upon second and final reading by the City Council.

CITY OF FOUNTAIN INN, SOUTH CAROLINA

George Patrick McLeer, Jr., Mayor

[CITY SEAL]

ATTEST:

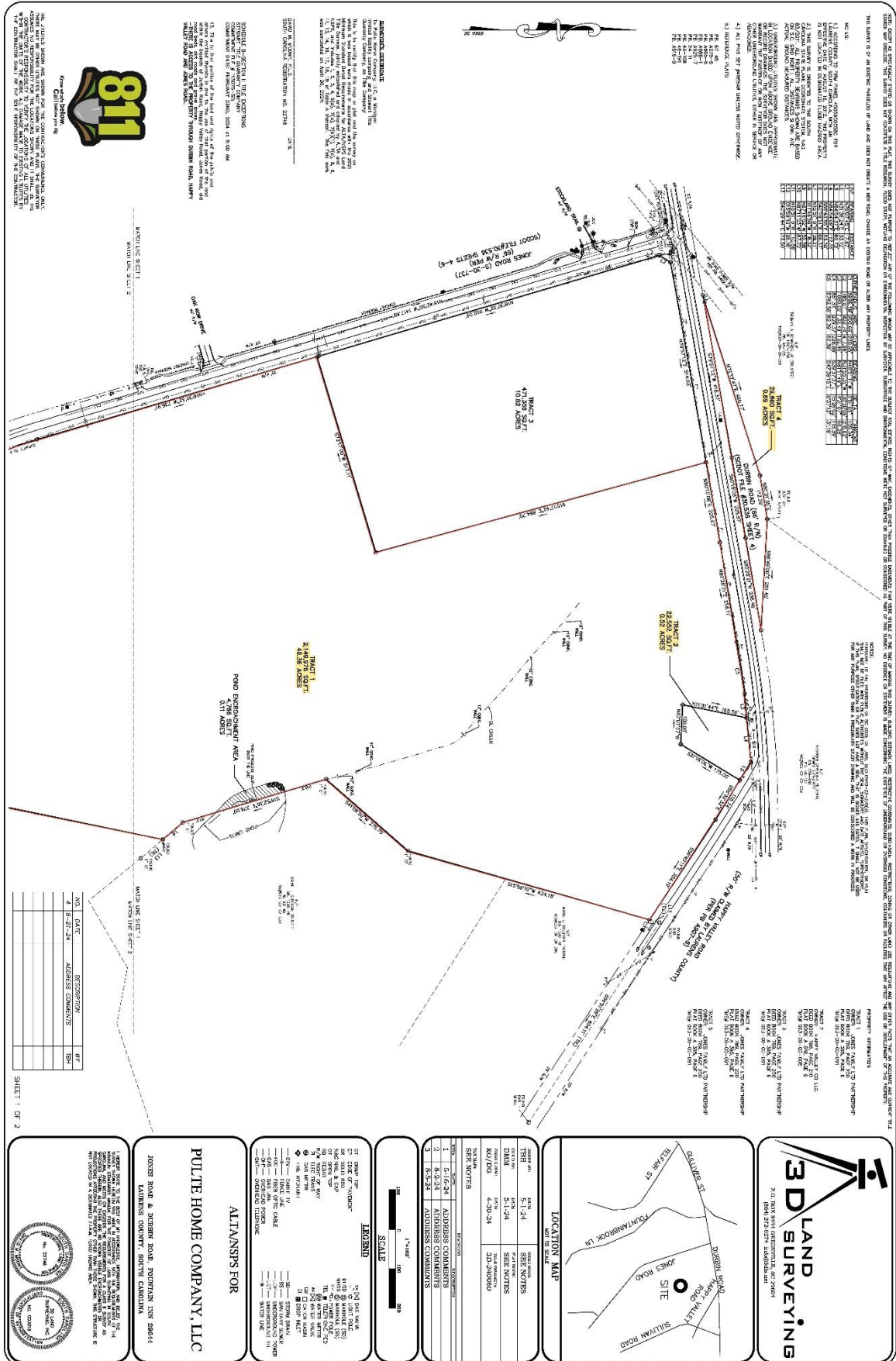
Elizabeth Adams, City Clerk

APPROVED AS TO FORM:

Michael E. Kozlarek, Esq.
King Kozlarek Root Law
LLC

First Reading: October 10, 2024
Second Reading / Final Approval: November 14, 2024

EXHIBIT A DEPICTION OF PROPERTY



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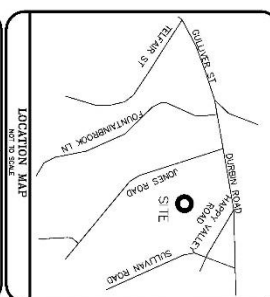
THE JUDICIAL SHOW, WE SHOW FOR THE CONTRACTOR'S CONVICTION ONLY. THERE MAY BE OTHER JUDICIAL NOT SHOWN ON THESE PLATES. THE SURVIVAL ISSUES MAY BE RESPONSIBILITY FOR THE LOCATION SHOWN AND IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION OF ALL JUDICIAL. WE CAN THE LIMITS OF THE WORK. ALL DAMAGE MUST BE EXISTING LIMITS BY THE CONTRACTOR. THAT, BY THE S.D. RESPONSIBILITY OF THE CONTRACTOR.

[illegible]

SHEET 2 OF 2



3D LAND SURVEYING
P.O. BOX 9000 COLUMBIA, SC 29904
(803) 272-0271 info@3dls.com



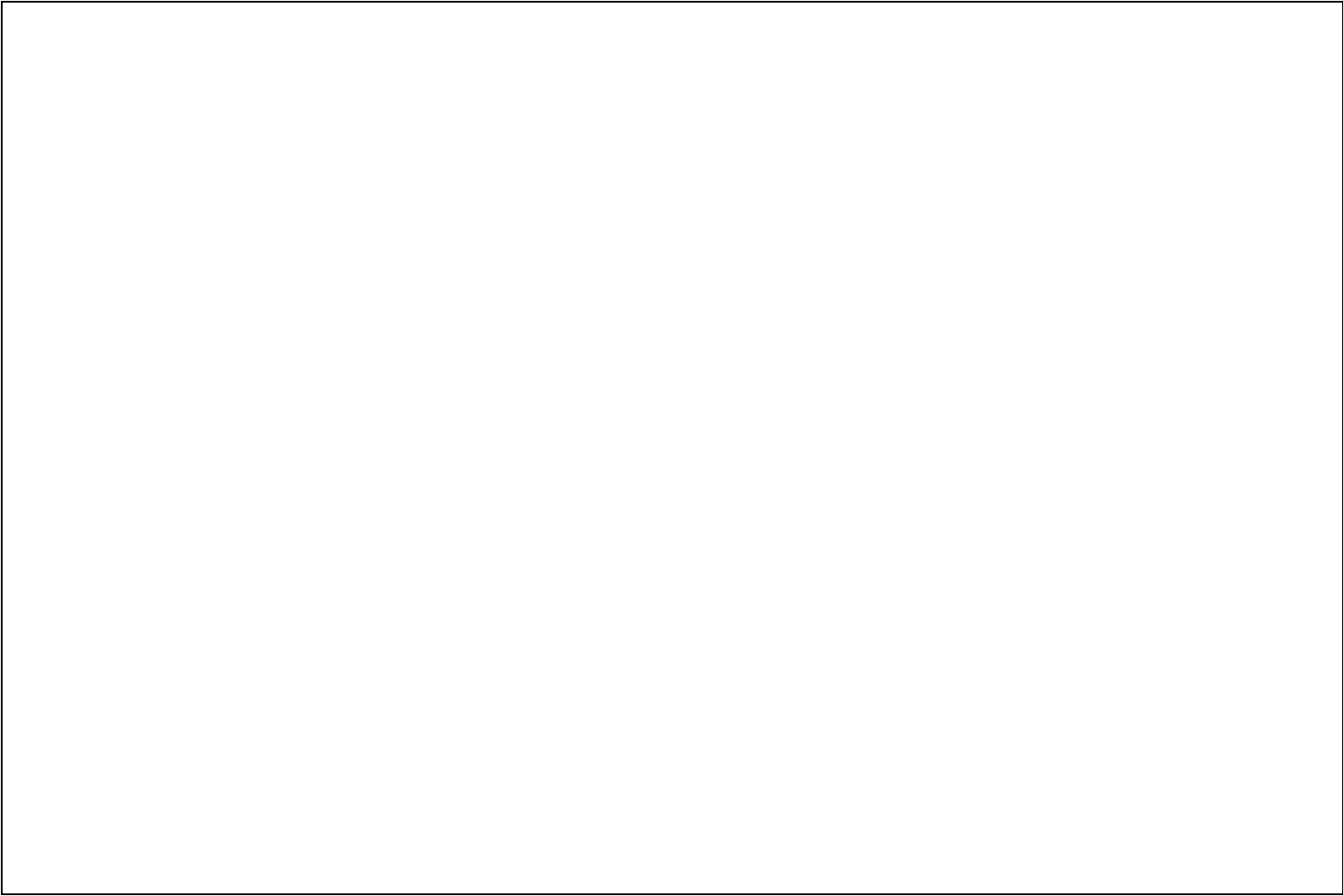
STATION		STATION	
STATION	STATION	STATION	STATION
1	5-16-24	ADDRESS COMMENTS	
2	5-2-24	ADDRESS COMMENTS	
3	5-2-24	ADDRESS COMMENTS	

[illegible]

ALVIN/SPS FOR
PULTE HOME COMPANY, LLC
JONES ROAD & DUREN ROAD, FOUNTAIN NY 20644
LAURENS COUNTY, SOUTH CAROLINA

[illegible]

 FOUNTAIN INN est 1886	REQUEST FOR COUNCIL ACTION City of Fountain Inn, South Carolina To: Mayor and Members of City Council From: Shawn M. Bell, City Administrator	October 10, 2024 Regular City Council Meeting
☒ Ordinance/First Reading ☐ Ordinance/Second Reading ☐ Resolution/First & Final Reading		
Agenda Date Requested: October 10, 2024 Summary Background: The developers of the Barton Hollow PD have requested a major change to the Statement of Intent (SOI). To allow a self-storage facility on HWY 651, it is requested that this use be added as an allowable use within Commercial Area “C”. Since the last council meeting, the developer has revised the following in the SOI: • Greatly reduced the allowable uses permitted within the referenced C-2 district. • The adjacent residential properties will be buffered by a minimum 25’ Type C landscaped buffer. • A 6-foot wall, fence, berm, evergreen screening plant material or a combination thereof shall be provided for screening the adjacent residential properties per Section 5:9.8.3 of the ordinance. • Any stormwater management area will be screened by an evergreen vegetative hedge and fencing, per Section 5:11 of Fountain Inn’s Ordinance. • Any proposed trash enclosure shall be screened with an opaque wall/fencing and will meet screening requirements per Section 5:19.10. Impact If Denied: Commercial Area “C” will be able to establish any permitted use in the C-2 district. Many of these uses are higher intensity than that of a storage facility. Impact If Approved: Barton Hollow will be permitted to build a self-storage facility on HWY 651 and will eliminate less desirable uses currently allowed in the C-2 district.		





AGENDA

October 10, 2024

To: City Council
From: Planning & Development Director, Jason Knudsen
Subject: SP-2024-05, Barton Hollow Major Change
Meeting Date: October 10, 2024
Type of Agenda Item: Major Change to a PD
Attachments: Vicinity Map
Zoning Map
Approved Concept Plan
Revised Statement of Intent
Rendering

OWNER: Tigers & Bears LLC
AUTHORIZED REP: Phillip Day, Falcon South Carolina
LOCATION: 117 HWY 651 (Tax Map # 0562010102801)
CURRENT ZONING: PD (Planned Development)
SIZE OF PROPERTY: Approximately 28.94 Acres (total PD)

REQUEST

The City of Fountain Inn has received an application for a major change to a PD (Planned Development). The applicant desires to amend the Barton Hollow PD and its Statement of Intent (SOI) to add a subsection "b" under Section IX only for an allowable use for Commercial Area "C" (TMS #0562010102801) to allow Self-Service Storage Facility (mini warehouses) as allowed under S-1, Service District Zoning and as defined in Code of Ordinances Appendix A, Article 4.-Definitions.

This includes updating Section IX. 3. Building Setbacks to reduce the front building setback along Highway 651 from 35 ft down to 25 ft and not placing any drive isles or parking within the front setback other than the entrance per SCDOT requirements.

The current SOI allows for all uses permitted within the C-2 district. The attached revised SOI greatly reduces the permitted uses.

The attached revised SOI indicates that commercial area "C" will implement the following landscape requirements:

- The adjacent residential properties will be buffered by a minimum 25' Type C landscaped buffer.
- A 6-foot wall, fence, berm, evergreen screening plant material or a combination thereof shall be provided for screening the adjacent residential properties per Section 5:9.8.3 of the ordinance.
- Any stormwater management area will be screened by an evergreen vegetative hedge and fencing, per Section 5:11 of Fountain Inn's Ordinance.
- Any proposed trash enclosure shall be screened with an opaque wall/fencing and will meet screening requirements per Section 5:19.10.

LOCATION & SITE DESCRIPTION

The PD is located near the northwest corner of Milacron Dr. and Fairview Street Extension. Commercial Area "C" is located at the northern most point of the PD along HWY 651. SCDOT classifies HWY 651 as a secondary road and it's mainly used as a bypass of the four-way stop at Milacron Dr. and Fairview Street Extension.

ZONING DISTRICT

The PD district is established to encourage innovative and creative design of residential and/or commercial developments and to permit a greater amount of flexibility to a developer by removing some of the restrictions of conventional zoning. Ideally, the development should be large scale and incorporate a variety of land uses or land use types. The district is also intended to encourage Developments which provide a full range of residential types to serve the residents of the district.

The regulations should provide a mechanism to evaluate each application on its own merit. It is recognized that some concepts will be more appropriate than others and the approval of an application in one location does not necessarily indicate the development will be applicable in other locations. It should also be emphasized that these provisions are not to be used to circumvent the intent or use of conventional zoning classifications as set forth in this Ordinance.

PUBLIC HEARING PROCEEDING

A public hearing regarding this petition was conducted on August 22, 2024, before the body of the Fountain Inn Planning Commission. There was no public comment.

PLANNING COMMISSION REVIEW

The Fountain Inn Planning Commission has reviewed the request for a major change to the Barton Hollow PD at their August 22, 2024 meeting. By a vote of 7-0, the Planning Commission recommends approval of the requested major change for agenda item SP-2024-05.

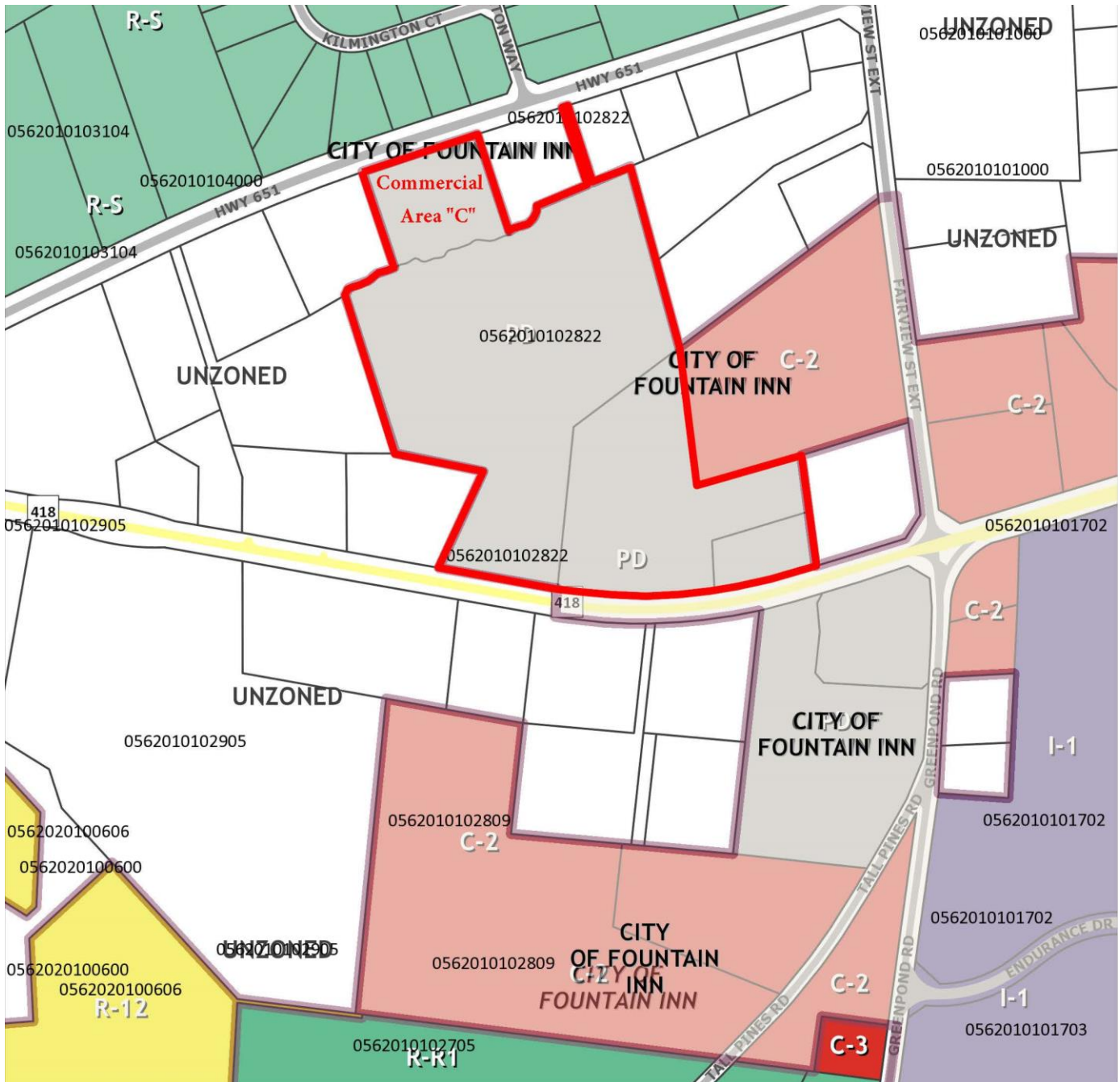
STAFF COMMENTS

The use of a self-storage facility will generate significantly less traffic than most uses currently permitted for area "C". The developer has taken care to minimize negative impacts to the neighboring properties and vehicles traveling along HWY 651. This is accomplished by restricting allowable uses, providing landscaping buffers and using strategic building placement.

VICINITY MAP



ZONING MAP



SITE DATA

TMS #:	0562010102800, 0562010102801, 0562010102815 0562010102820, 0562010102822, 0562010102823		
TOTAL AREA:	±28.94 ACRES		
EXISTING ZONING:	PD, PLANNED DEVELOPMENT		
RESIDENTIAL AREA:	NORTH SIDE ±18.24 ACRES	SOUTH SIDE ±5.71 ACRES	= 23.95 ACRES
COMMERCIAL AREA:	±2.92 ACRES	±2.07 ACRES	= 4.99 ACRES
TOTAL AREA:	±21.16 ACRES	±7.78 ACRES	= 28.94 ACRES
TOTAL UNITS:	105 TH + 12 LOTS	25 LOTS	= 142 TOTAL
	34 - TYPE "A"		
	71 - TYPE "B"		
MINIMUM WIDTH:	30' - TYPE "A"	46'	
	20' - TYPE "B"		
MINIMUM LOT SIZE:	3,300 SF - TYPE "A"	46' X 90' (4,140 SF)	
	2,000 SF - TYPE "B"		
RESIDENTIAL DENSITY:	5.9 UNITS/ACRE		
AMENITY/Common-Open Space/Landscape/Bufferyard Area	9.13 ACRES (50.0%)		
PROPOSED ROADS:	±3,201 LF (±0.61 MI) ALL PRIVATE ROADS	±1,100 LF (±0.21 MI)	
SETBACKS/BUFFERYARD PERIMETER PROPERTY:	15' MINIMUM		
EXISTING ROAD FRONTAGE:			
- HIGHWAY 651	25' MINIMUM		
- MILACRON DR/HWY 418	35' MINIMUM		
- GREENPOND RD	35' MINIMUM		
- TALL PINES RD	35' MINIMUM		
INTERNAL FRONT YARD:	20' MINIMUM		
BETWEEN END UNITS:	15' MINIMUM		
SIDE YARD:	5' MINIMUM (SINGLE FAMILY DETACHED LOTS ONLY)		
REAR YARD:	10' MINIMUM		
NOTE:	- COMMON/OPEN SPACE AREAS NOT TO BE SUBDIVIDED		
SEWER PROVIDER:	METRO SEWER DISTRICT		
WATER PROVIDER:	GREENVILLE WATER		

Residential	Entire Development	This Plan	Cumulative
Permitted Density	5.93 UNITS/ACRE	5.93 UNITS/ACRE	5.93 UNITS/ACRE
Gross Acres	23.95	23.95	23.95
Units Allowed	142	142	142
Units Proposed	142	142	142
Non-Residential	Entire Development	This Plan	Cumulative
Gross Acres	4.99	4.99	4.99
Number of Buildings	TBD	TBD	TBD
Gross Square Feet	TBD	TBD	TBD

- GENERAL NOTES:
- ENGINEER ACKNOWLEDGES THAT THESE ARE SURVEYED BOUNDARIES USING STATE PLANE COORDINATES AND SUCH WILL BE UTILIZED FOR FINAL PLAT.
 - ALL NEW ROADWAYS WITHIN DEVELOPMENT WILL HAVE A 40' (MIN.) PRIVATE R.O.W.
 - PUBLIC WATER IS AVAILABLE ALONG FAIRVIEW ST EXT., GREENPOND RD., AND HIGHWAY 651 PROVIDED BY GREENVILLE WATER SYSTEM.
 - PUBLIC SEWER IS AVAILABLE TO BE BROUGHT TO THE SITE AND PROVIDED BY METRO CONNECTS.
 - ALL CROSSWALKS AND SIDEWALKS TO MEET ADA GUIDELINES (LDR ARTICLE 8.18)
 - A STORMWATER MANAGEMENT AND SEDIMENT REDUCTION PLAN WILL BE PREPARED FOR THIS PROPERTY AND A PERMIT FOR LAND DISTURBING ACTIVITY WILL BE APPLIED FOR THROUGH LAND DEVELOPMENT.
 - ALL ENTRANCES TO MEET ALL SCDDT DESIGN REQUIREMENTS DURING FINAL DESIGN AND PERMITTING.
 - SIGHT TRIANGLES AT ALL INTERNAL AND ACCESS INTERSECTIONS SHOWN PER LDR 8.14.1.



SITE LEGEND

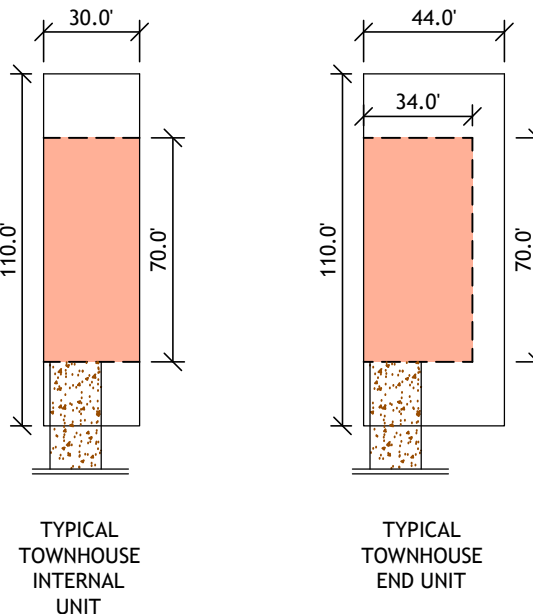
- ASPHALT PAVEMENT
- COMMUNITY AREAS
- GRASS/LANDSCAPED AREAS
- WETLANDS/WATERS OF THE STATE
- NATURAL BUFFERS
- STORMWATER MANAGEMENT AREA
- SINGLE-FAMILY DETACHED LOTS
- COMMERCIAL AREAS
- INDIVIDUAL TOWNHOUSE DRIVEWAY
- SIDEWALK
- SUTERA WASTE DISPOSAL SYSTEM
- CHARGING STATION

LEGEND

- OVERALL PROPERTY BOUNDARY
- PROPOSED PROPERTY LINES
- EXISTING EDGE OF CREEK
- PROPERTY PIN
- EXISTING ROAD RIGHT OF WAY
- EXISTING SANITARY SEWER
- PROPOSED SANITARY SEWER
- EXISTING WATER MAIN
- PROPOSED WATER MAIN
- EXISTING SEWER MH
- PROPOSED SEWER MH
- EXISTING FIRE HYDRANT
- PROPOSED FIRE HYDRANT

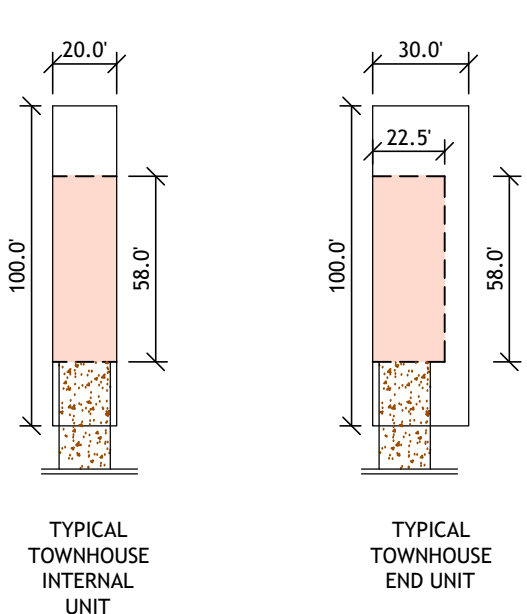
TOWNHOMES "A"

A-1 TO A-34



TOWNHOMES "B"

B-1 TO B-71



LOCATION MAP 1" = 2,000'

PRELIMINARY PLAT

OWNER'S CERTIFICATION

As the owner of this land, as shown on this preliminary plat or its agent, I certify that this drawing was made from an actual survey, and accurately portrays the existing land and its features and the proposed development and improvements thereto.

Date: 7-18-24

[Owner][Agent][Name]: Phillip Day, Member

Signed:

DESIGN PROFESSIONAL CERTIFICATION

It is hereby certified that this preliminary plat was prepared using a survey of the property plats/deeds of records; and further that the proposed subdivision meets all requirements of the City of Fountain Inn Ordinance, as applicable to the property.

By Name: J. Wesley White, PE

Signed:

Registered Professional No. 23827

Address: PO Box 806, Anderson, SC 29622

Telephone No. 864-226-0980

Date: 7-18-24

CERTIFICATE OF PROJECT APPROVAL

All applicable requirements of the City of Fountain Inn Ordinance relative to Project Approval having been fulfilled, approval of this preliminary plat is hereby granted by the Manager or the Subdivision Administrator, subject to further compliance with all provision of said development regulations.

Manager or Subdivision Administrator: _____

Date: _____

Barton Hollow

(PD DEVELOPMENT)

TMS #0562010102800, 0562010102801, 0562010102815
0562010102820, 0562010102822, 0562010102823

Falcon Real Estate Lending, LLC
7 Hindman Dr.
Greenville, SC 29609

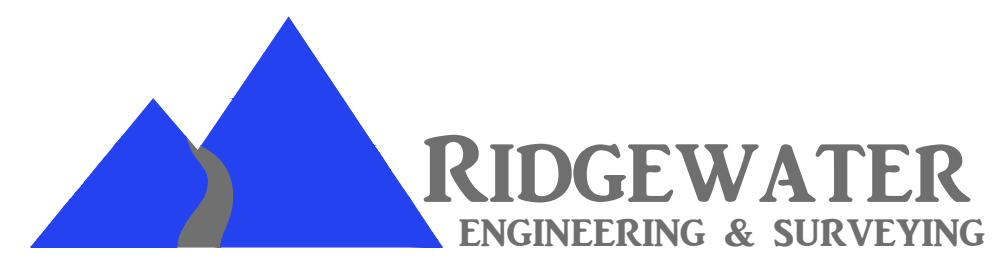
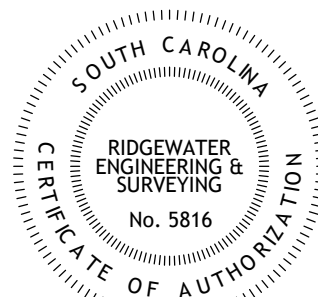
Ridgewater Engineering & Surveying, LLC
P.O. Box 806
Anderson SC 29622

OWNER

ENGINEER OR SURVEYOR

Date: 7-18-24
Drawn By: JWW
Checked: JWW
Job Number: 22212
Revisions: 9

SCALE: 1 in = 100 ft.



This drawing and the design shown thereon are the property of ridgewater engineering & surveying, llc. The reproduction, copying or use of this drawing without written consent is prohibited and any infringement will be subject to legal action.

STATEMENT OF INTENT

(REVISED 10-7-24)

for

Barton Hollow

(FKA The Grove)

(PD Development)

for

APPLICANT

Falcon Real Estate Lending, LLC

7 Hindman Dr.

Greenville, SC 29609

Phillip Day

864.907.6509

phillip@falconsouthcarolina.com

Engineer/Surveyor

Ridgewater Engineering & Surveying, LLC

PO Box 806

Anderson, SC 29622

J. Wesley White, PE

864.226.0980

wesley@ridgewatereng.com

7/18/24

I. PROPERTY DESCRIPTION

The Barton Hollow (project) consists of properties located along at the intersection of Highway 418 and Greenpond Rd. The project area is ±28.94-acres and is made up by six (6) parcels as follows and all zoned PD and in the City of Fountain Inn:

- TMS #0562010102800, TMS #0562010102801, TMS #0562010102815,
TMS #0562010102820, TMS #0562010102822, TMS #0562010102822

Water will be provided by Greenville Water and sewer by the Metro Sewer District.

II. DEVELOPMENT OVERVIEW

The project development plan is to annex parcel 1 above and rezone all four parcels to utilize the Planned Development (PD) zoning classification. The development will consist of 5 new access points with three onto Highway 418 and one each onto Highway 651 and Greenpond Rd. The roads within the community will all be private roads that are constructed to City standards. The private roads serving this development will have rolled curb and gutter. Other infrastructure improvements include public water mains, public sewer mains, storm drainage, and common areas. Common areas may be disturbed and undisturbed open space, walking trails, mail centers, wetlands/waters of the state, amenity areas, and other community gathering areas.

III. PROPERTY OWNERS ASSOCIATION

All amenity/common-open space/landscape/bufferyard areas will be owned and maintained by a newly formed Property Owners Association (POA). All roads are to be turned over to the POA for maintenance and care. The POA will also be responsible for maintenance of entrance monuments, landscaping, & site lighting. All stormwater management areas designed and constructed for the project will be designated/included within common areas and the necessary landscaping/screening will be maintained by the POA. Covenants and Restrictions for the project and governing the POA will be drafted and recorded at the Greenville County Register of Deeds Office along with final plat approvals.

IV. AMENITIES, LANDSCAPING, BUFFERS

The proposed development includes approximately 9.13-acres of amenity/common-open space/landscape/bufferyard area, including natural buffers along existing wetlands/waters of the state onsite, with maximum efforts to preserve existing vegetation/trees around the perimeter property. A minimum 15' building setback has been established along all property sides. There will be a 35' building setback established along existing roads. The open space may consist of disturbed and non-disturbed areas, passive open space, walking trails, and community gathering areas consisting of fire pits, dog parks, tot lot (playground), book exchanges, gardens, and gazebos.

V. INNOVATIVE DESIGN APPROACH

It is the development's intent to incorporate innovative design approaches throughout and in a variety of ways. These may include but are not limited to the Sutera system for trash pickup, solar powered street lights, independent charging stations, homes prewired for charging stations, community gardens/book exchanges/gathering areas, rainwater recapturing through bio-retention/wet ponds.

VI. DENSITY

The overall project will consist of 142 single-family residential units (mix of attached and detached) and ± 4.99 -acres of commercial tracts, leaving ± 9.13 -acres of ammenty/common-open space/landscape/bufferyard areas. The project density will be as follows:

	<u>NORTH SIDE</u>	<u>SOUTH SIDE</u>	
RESIDENTIAL AREA:	± 18.24 ACRES	± 5.71 ACRES	= 23.95 ACRES
COMMERCIAL AREA:	<u>± 2.92 ACRES</u>	<u>± 2.07 ACRES</u>	= <u>4.99 ACRES</u>
TOTAL AREA:	± 21.16 ACRES	± 7.78 ACRES	= 28.94 ACRES
TOTAL UNITS:	105 TH + 12 LOTS +	25 LOTS	= 142 TOTAL UNITS
RESIDENTIAL DENSITY:			= 5.9 UNITS/ACRE

VII. SCHEDULE

Construction on the project to start upon obtaining all infrastructure permits and project schedule is anticipated as follows:

- Residential: Developed out over the next 12 to 36 months.
Commercial: Tract "A" – Developed out over the next 18 to 24 months
Tract "B" – Developed out over the next 6 to 12 months

VIII. PUBLIC UTILITIES

Water and sewer service providers have been contacted regarding the proposed project and preliminary design and service options have been reviewed. The final design and construction will be completed upon approval of rezoning to PD as part of the overall site improvements and will be turned over to the appropriate public utility provider for ownership.

IX. DEVELOPMENT STANDARDS

1. Commercial Area Permitted Uses:
 - a. All uses in accordance with the current C-2, Commercial Zoning and allowed as such.
 - b. Commercial Area "C" to allow additional use of Self-Service Storage Facility (mini warehouses) as allowed under S-1, Service District Zoning and as defined in Code of Ordinances Appendix A, Article 4.-Definitions.

c. Commercial Area "C" would exclude the following uses allowed in C-2 Zoning:

Ambulance service	Feed and seed store	Nightclub
Amusements, commercial	Fireworks sales in a permanent structure	Nursery, flower, plant, or tree
Auction house or store	Fireworks stands	Pawn shop
Automobile garage	Golf, driving range, miniature, or pitch and putt	Pest or insect control business
Automobile parts or accessories	Grocery store	Planned shopping center, according to all conditions outlined in Section 5:6.8
Automobile repairing, excluding body work	Hardware store	Radio broadcasting studio
Automobile sales area	Home occupation, subject to requirements in Article 8	Radio or television repair shop
Automobile service station	Ice skating rink	Record recording studio
Bar	Laundry or cleaning establishment	Recreation building
Battery store or shop	Liquor store	Restaurant
Billiard hall	Loan company	Roller skating rink
Boats, sales or rental	Mattress shop	Self-service laundry and cleaning
Bowling alley	Medical clinic or laboratory	Sporting goods sales
Broadcasting studio, radio or TV	Mission, rescue	Station, bus or railway
Car wash	Motel	Swimming pool, commercial
Cocktail lounge	Motion picture theater	Television broadcasting studio
Collection agency	Motorcycle or motor scooter sales and service	Theater (Indoor)
Drive-in business (Theaters, refreshment stands, restaurants, etc.)	Newspaper establishment	Tire shop (Including retreading or recapping)
Drug store	Newsstand	Used car lot
Farm machinery sales		

d. Commercial Area "C" will address landscaping as follows:

- The adjacent residential properties will be buffered by a minimum 25' Type C landscaped buffer.
- A 6-foot wall, fence, berm, evergreen screening plant material or a combination thereof shall be provided for screening the adjacent residential properties per Section 5:9.8.3 of the ordinance.
- Any stormwater management area will be screened by an evergreen vegetative hedge and fencing, per Section 5:11 of Fountain Inn's Ordinance.
- Any proposed trash enclosure shall be screened with an opaque wall/fencing and will meet screening requirements per Section 5:19.10,

2. Lot Sizes and Density of Development: The minimum lot size is 2,000 SF for the single-family attached residential units. The proposed density for the residential areas is approximately 5.9 units per acre. The smaller lot sizes allow for greater open space/common area.

3. Building Setbacks

All the proposed setbacks for this project are as follows:

- 15' minimum perimeter setback along adjacent properties.
- 25' minimum setback along Highway 651 with no drive isles are parking within other than the entrance per SCDOT
- 35' minimum setback along all existing road frontages of Milacron Dr/Hwy 418, Greenpond Rd, Tall Pines Rd.
- 20' minimum front yard setback from proposed road right-of-way. (For internal private roads)
- 15' minimum spacing between end units (townhouse units).
- 5' minimum side yard setback (single family detached lots).
- 10' minimum rear yard setback.

4. Proposed minimum 40' right-of-way to be dedicated for all private internal roads.

5. Residential Construction and Maintenance: No mobile homes, trailers, campers or tents shall be permitted as permanent dwellings.

6. Public Improvements: No existing sidewalks are located along either Welpine Rd., a state-maintained road. The proposed project should have no impacts to the roads service level.

X. AMENDMENTS

Any changes to the provisions set forth herein must be approved by the City of Fountain Inn's requirements prior to the implementation of such changes.



 FOUNTAIN INN est 1886	REQUEST FOR COUNCIL ACTION City of Fountain Inn, South Carolina To: Mayor and Members of City Council From: Shawn M. Bell, City Administrator	October 10, 2024 Regular City Council Meeting
☐ Ordinance/First Reading ☒ Ordinance/Second Reading ☐ Resolution/First & Final Reading		
Agenda Date Requested: October 10, 2024 Ordinance/Resolution Caption: Ordinance 2024-08 An Ordinance to amend Chapter 11 (Licenses and Business Regulations), Article II (Business Licenses), specifically 11-37 of the City Code of Ordinances of the City of Fountain Inn, South Carolina, 1992, as amended, regarding business license penalties; and providing for related matters. Summary Background: Sec. 11-37(a) of the City’s current Code of Ordinances related to Business Licenses states that <i>penalties shall not be waived</i> and does not allow City Staff to manage business license taxpayer appeals without holding hearings by City Council. Sec. 11-41 provides a process for appeals to City Council or its <i>designee</i>. Ordinance 2024-08 designates the City Administrator as the City’s <i>Hearing Officer</i>. Ordinance 2024-08 also adopts the Municipal Association of South Carolina-provided <i>Procedures and Rules for Business License Tax Assessments and Appeals</i>. Under these procedures and rules, the Hearing Officer’s decisions are quasi-judicial, and taxpayers will have the right to appeal the Hearing Officer’s decision to the Administrative Law Court.		

**CITY OF FOUNTAIN INN, SOUTH CAROLINA
ORDINANCE 2024-[]**

**AMENDING CHAPTER 11 (LICENSES AND BUSINESS REGULATIONS),
ARTICLE II (BUSINESS LICENSES), SPECIFICALLY SECTION 11-37 OF THE
CITY CODE OF ORDINANCES OF THE CITY OF FOUNTAIN INN, SOUTH
CAROLINA, 1992, AS AMENDED, REGARDING BUSINESS LICENSE
PENALTIES; AND PROVIDING FOR RELATED MATTERS.**

WHEREAS, the City Council (“Council”) of the City of Fountain Inn (“City”) finds:

- (a) The Council is authorized and empowered to provide for its internal operation according to South Carolina Constitution Article VIII, section 17, and the Home Rule Act of 1975;
- (b) South Carolina Code Annotated section 5-7-30 and section 6-1-400, provide for the imposition of a business license tax and the imposition for penalties related to a business’ failure to remit such business license tax;
- (c) Article II (Business Licenses) of Chapter 11 (Licenses and Business Regulations), specifically section 11-37, of “The Code of Ordinances of the City of Fountain Inn, South Carolina, 1992” (“City Code”), as authorized by State law, provides, among other things, for the imposition of such penalties; and
- (d) The Council desires to clarify the manner through which such penalties may be imposed and/or relieved by making certain amendments to the City Code, designating the City’s hearing officer, and providing the hearing officer with the power to adopt policies and procedures, the initial copy of which is attached as Exhibit A;

NOW, THEREFORE, the Council ordains:

1. **Amendment.** (a) Section 11-37 (“Delinquent license taxes, partial payment”) is amended, as and if amended, with such items underlined being added to and such items stricken through being removed from, as follows:

(a) For non-payment of all or any part of the correct business license tax, the license official shall impose and collect a late penalty of five percent of the unpaid tax for each month or portion thereof after the due date until paid. Except as provided in subsection (c) of this section, pPenalties shall not be waived. If any business license tax remains unpaid for 60 days after its due date, the license official shall report it to the municipal attorney for appropriate legal action.

(b) Partial payment may be accepted by the license official to toll imposition of penalties on the portion paid; provided, however, no business license shall be issued or renewed until the full amount of the tax due, with penalties, has been paid.

(c) The City Administrator shall serve as the City’s “hearing officer” with respect the City’s business license tax. The City Administrator shall adopt policies and procedures related to the same.

2. **Codification.** The City shall codify the contents of this Ordinance as an update to section 11-37 of Chapter 11, Article II, of the City Code, as and if so amended, online as soon as practicable and in print as part of the City’s next, regular, re-codification.

3. **Reservation of Code Sections.** The remainder of the City Code remains reserved for future use.

4. **Reservation to City.** The City reserves the right to repeal or amend this Ordinance, at any time, from time to time, as often as the City, in its sole discretion, deems appropriate.

5. **Severability.** If any part of this Ordinance is unenforceable for any reason, then the remainder of this Ordinance remains in full force and effect.

6. **Effective Date.** This Ordinance takes effect immediately at second reading.

[ONE SIGNATURE PAGE AND ONE EXHIBIT FOLLOW]
[REMAINDER OF PAGE INTENTIONALLY BLANK]

CITY OF FOUNTAIN INN, SOUTH CAROLINA

George Patrick McLeer, Jr., Mayor

[CITY SEAL]

ATTEST:

Elizabeth Adams, City Clerk

APPROVED AS TO FORM:

Michael E. Kozlarek, Esq.
King Kozlarek Law LLC

First Reading:	September 19, 2024
Second Reading / Final Approval:	October 17, 2024

**PROCEDURES AND RULES FOR
BUSINESS LICENSE TAX ASSESSMENTS AND APPEALS
CITY OF FOUNTAIN INN, SOUTH CAROLINA**

This policy sets forth the procedures and rules for business license tax assessments and appeals (“**Policy**”) within the City of Fountain Inn, South Carolina (“**Municipality**”). This Policy shall be read in conjunction with Sections 6-1-400 through 6-1-420 of the Code of Laws of South Carolina 1976, as amended (“**S.C. Code**”) and the Municipality’s business license program (“**Business License Program**”). In the event of any inconsistency or conflict between the provisions of this Policy, and the Business License Program or the S.C. Code, then the S.C. Code shall control over the Business License Program, and the Business License Program shall control over this Policy, each to the extent of the conflict or inconsistency.

I. Definitions

Business: mean set forth in the Business License Program.

Council: means the City Council of Fountain Inn, South Carolina, as the governing body of the Municipality.

Hearing Officer: means the City Administrator, having been designated by the Municipality to oversee the general adjudication of the hearing in order to ensure compliance with this Policy. As necessary, the Hearing Officer may engage separate legal counsel to assist in the administration of the proceedings of any hearing to be held hereunder.

License Official: means set forth in the Business License Program.

Taxpayer: means an individual, firm, partnership, limited liability partnership, limited liability corporation, corporation, trust, estate, association, or company that is acting, or is authorized to act, on behalf of the Business.

II. Assessment and Appeal Process

1. Notice of Assessment. If a Taxpayer fails or refuses to pay a business license tax by May 1 of any applicable business license tax year or any other applicable due date for the payment of business license taxes, then the License Official may serve notice of an assessment on the Taxpayer by mail or personal service.
2. Adjustment Request. The Taxpayer may request an adjustment in writing with supporting reasons within 30 days of the postmark or personal service of the notice of assessment.
3. Informal Conference. Within 15 days of the Municipality’s receipt of the request to adjust the assessment, an informal conference between the Taxpayer and the License Official must be held.
 - a. Neither the Taxpayer nor the License Official may audio or video record the conference. For purposes of the informal conference, there shall be no right to compulsory disclosure of documents by subpoena.
 - b. The informal conference is not a public hearing and is not open to the public.
 - c. To allow for a fair presentation, the Taxpayer may be accompanied or advised by an attorney, accountant, or other representative. The License Official may be accompanied or advised by an attorney or accountant, or by other staff members of the Municipality.
 - d. The License Official shall preside and determine when the conference is concluded.
 - e. The Taxpayer shall be allowed to present any information or documents then in the possession of the Taxpayer that support the assessment adjustment requested by the Taxpayer.
4. Final Assessment. The Notice of the Final Assessment, including an appeal request, the form of which is attached hereto as Exhibit A, must be issued within 5 days of the informal conference.
 - a. Notice shall be issued to the Taxpayer via mail or personal service.

- b. Notice must include the appeal form.
5. Right to Appeal. The Taxpayer may appeal the final assessment to the Hearing Officer within 30 days after the notice of final assessment is postmarked or personally served.
- a. The Taxpayer may appeal by completing the request for appeal (included with the Notice of Final Assessment), the form of which is attached hereto at Exhibit A.
 - b. The Taxpayer must timely pay at least 80% of the final assessment under protest as a condition of appeal. Failure to pay this amount with the notice of appeal and by the deadline for the filing thereof will result in an automatic denial of the appeal.
6. Hearing. A hearing on the appeal with the Hearing Officer must be held within 30 days of the receipt of the appeal form, unless extended in writing by mutual agreement of the Municipality and the Taxpayer.
- a. The License Official must provide the Taxpayer with written notice of hearing including the time, date, and location of the hearing and the rules of evidence for the hearing set forth in Article III of this Policy.
 - b. The hearing shall be conducted in accordance with Article IV of this Policy.
 - c. During the hearing, the Taxpayer has the right to be represented by counsel, to present testimony and evidence consistent with Article III of this Policy, and to cross-examine witnesses.
 - d. The hearing must be recorded and must be transcribed at the expense of the party so requesting. Nothing herein shall prohibit the parties from agreeing to jointly share transcription or other costs.
 - e. Public disclosure of information as to gross receipts contained in applications for business license constitutes an unreasonable invasion of personal privacy. The Municipality may not share or disclose any information relating to business license tax applications with any third party other than to acknowledge whether a business has paid the taxing jurisdiction's business license tax for a relevant year.
 - f. The hearing shall be open to the public; however, to the extent that information pertaining to gross receipts of a business or other information of a personal nature is being presented, the review shall be conducted in-camera by the Hearing Officer. The review shall be closed to the public and the Hearing Officer will comply with all confidentiality requirements set forth in Title 30, Chapter 4 and Title 6, Chapter 1 of the S.C. Code, and the Business License Program.
7. Decision. The decision on the assessment shall be made by the Hearing Officer.
8. Findings. The decision shall include findings of fact based only upon evidence presented at the hearing.
9. Provision of Written Decision. Following the hearing and decision, the Hearing Officer shall draft a final order of the decision explaining the basis of the decision.
- a. The final written order shall be provided to the Taxpayer via mail or personal service within 14 days of the date of the hearing.
 - b. The written order must include findings of fact and conclusions of law and inform the Taxpayer of the right to appeal to the Administrative Law Court.
10. Further Relief. The Taxpayer has 30 days after the postmark or personal service of the written decision to make and file an appeal to the Administrative Law Court.

III. Rules of Evidence

- 1. Governing Statute. S.C. Code §1-23-330 shall govern questions of evidence. Strict compliance with the South Carolina Rules of Evidence is not required, but the Hearing Officer shall receive only relevant information.
- 2. Objections. Objections to evidence shall be timely made and noted in the record. Whenever evidence is

ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony. If the evidence excluded consists of a document or exhibit, it shall be marked as part of an offer of proof and included in the final record.

IV. Order of Proceedings.

1. Opening Statements. The Hearing Officer shall give a brief opening statement describing the nature of the proceedings. The parties may be given an opportunity to present brief opening statements lasting no more than 5 minutes each.
2. Presentation of the Evidence. Parties shall present their evidence as follows:
 - a. The Municipality, as the taxing jurisdiction, will be the first to present evidence.
 - b. The Municipality shall call its witness(es) with the Taxpayer being allowed to cross-examine in an orderly fashion.
 - c. The Municipality shall have up to 20 minutes to question each witness while the Taxpayer shall have up to 15 minutes to cross-examine the witness.
 - d. When the Municipality rests, the Taxpayer shall call its witness(es) with the Municipality being allowed to cross-examine in an orderly fashion.
 - e. The Taxpayer shall have up to 20 minutes to question each witness while the Municipality shall have up to 15 minutes to cross-examine the witness.
 - f. Each witness shall be sworn or affirmed by the Hearing Officer and be subject to examination.
 - g. All objections to procedure, admission of evidence, or any other matter shall be timely made and stated on the record.
 - h. When all of the parties and witnesses have been heard, the parties may be given the opportunity to present brief final arguments lasting no more than 5 minutes each.
 - i. The Hearing Officer may convene an executive session to receive legal counsel, but deliberation must be conducted in open session.
 - j. The Hearing Officer shall then issue its ruling as to the appeal on the record.
 - k. The Taxpayer shall have the right to appeal the Hearing Officer's decision to the Administrative Law Court as described hereinabove.

- V. Appeals to City.** Absent the adoption of separate or different rules by the Municipality related to direct appeals to Council under the Business License Program, Sections III and IV above governing the rules of evidence and the order of proceedings described above shall apply to any direct appeals Council under the Business License Program, and any references to the Hearing Officer in such section shall apply to the Council *mutatis mutandi*.

EXHIBIT A
NOTICE OF FINAL ASSESSMENT & APPEAL FORM

STATE OF SOUTH CAROLINA	)	
	)	
[COUNTY OF GREENVILLE]	)	NOTICE OF FINAL ASSESSMENT OF
[COUNTY OF LAURENS]	)	BUSINESS LICENSE TAX
	)	
CITY OF FOUNTAIN INN	)	

Date of Original Notice: _____

Business Code: _____

NAICS: _____

Name of Business: _____

Mailing Address: _____

S.S./Fed. ID No.: _____

Last License No.: _____ Year: 20_____

Date of Informal Conference: _____

Section 6-1-410(A) of the Code of Laws of South Carolina 1976, as amended, provides that if a taxpayer fails or refuses to pay a business license tax by May 1 [or other applicable deadline], the taxing jurisdiction may serve notice of assessment of the business license tax due on the taxpayer by mail or personal service. You chose to appeal the original notice of assessment. On the basis of an informal conference held with the License Official on the date noted above, the taxing jurisdiction has determined your final assessment as provided below. **This is your final notice of assessment.**

This assessment may be appealed within 30 days after the date of postmark or personal service of the final assessment by (a) filing the completed appeal form, the form of which is attached hereto, with our business license official, and (b) paying under protest of at least 80% of the business license tax based on the final assessment.

The business named above is hereby assessed the following business license tax and penalties for the license year indicated.

<u>Year</u>	<u>Gross Income</u>	<u>Tax Rate</u>	<u>License Tax</u>	<u>Penalties</u>
20__	_____	_____	_____	_____
20__	_____	_____	_____	_____
20__	_____	_____	_____	_____
Totals				

[Penalties accrue at the rate of 5% per month until payment is made in full.]

Date: _____, 20__

License Official

STATE OF SOUTH CAROLINA	)	
	)	NOTICE OF APPEAL
[COUNTY OF GREENVILLE]	)	
[COUNTY OF LAURENS]	)	
	)	
CITY OF FOUNTAIN INN	)	

Date of Original Notice:_____

Business Code:_____

NAICS:_____

Name of Business:_____

Mailing Address:_____

S.S./Fed. ID No.:_____

Last License No.:_____ Year: 20_____

Date of Informal Conference:_____

The business named above is hereby assessed the following business license tax and penalties for the license year indicated.

<u>Year</u>	<u>Gross Income</u>	<u>Tax Rate</u>	<u>License Tax</u>	<u>Penalties</u>
20__				
20__				
20__				
Totals				

I, the undersigned taxpayer, as the duly authorized representative of the business named above, elects to appeal the business license tax assessment stated above. The reasons for such appeal are provided below (as may be supplemented by such additional written materials or evidence):

By filing this appeal, I represent and understand that: (i) the business is paying under protest the sum of \$_____, which is at least 80% of the business license taxes described above; (ii)(1) a failure to timely remit at least 80% of the business license tax assessment described above or (2) a failure to timely submit this appeal notice within 30 days of the receipt of the notice of final assessment shall result in an automatic rejection of the appeal and constitutes a complete waiver of my right to appeal the business license taxes due to the taxing jurisdiction; (iii) the business has the right to a hearing regarding the requested appeal within 30 days of the timely filing of this appeal; and (iv) the hearing shall be held in accordance with the rules and procedures adopted by the taxing jurisdiction.

Date:_____, 20_____

Taxpayer

 FOUNTAIN INN est 1886	REQUEST FOR COUNCIL ACTION City of Fountain Inn, South Carolina To: Mayor and Members of City Council From: Shawn M. Bell, City Administrator	October 10, 2024 Regular City Council Meeting
☒ Ordinance/First Reading ☐ Ordinance/Second Reading ☐ Resolution/First & Final Reading		
Agenda Date Requested: October 10, 2024 Summary Background: Ripple Fiber has requested that Fountain Inn enter into a Franchise Agreement. This agreement will set procedures, standards, and grant authority for the installation of fiber internet within Fountain Inn rights-of-way. The agreement includes a 5% franchise fee to be paid annually to the city. Impact If Denied: Ripple Fiber would not be granted approval to install fiber internet lines within Fountain Inn Impact If Approved: Ripple Fiber would be permitted to install fiber internet within the city limits. This will allow for competition in the market which can lead to better pricing, improved service quality, and greater innovation. The city will receive a franchise fee of 5% of the gross revenues derived from the Company’s operations in the city limits annually.		



AGENDA

October 10, 2024

To: City Council
From: Planning & Development Director, Jason Knudsen
Subject: Ordinance 2024-09, Cable Franchise Agreement
Meeting Date: October 10, 2024
Type of Agenda Item: Ordinance
Attachments: Proposed Ordinance & Agreement

REQUEST

Ripple Fiber has requested that Fountain Inn enter into a Franchise Agreement. This agreement will set procedures, standards, and grant authority for the installation of fiber internet within Fountain Inn rights-of-way. The agreement includes an annual franchise fee of 5% of the gross revenues derived from the Company's operations within the city.

STAFF COMMENTS

As our city continues to grow, ensuring access to reliable and high-speed internet is critical for both residents and businesses. Having multiple internet service providers (ISPs) in the community fosters competition, which can lead to better pricing, improved service quality, and greater innovation. A diverse ISP market also strengthens the city's economic development efforts by attracting new businesses that require robust digital infrastructure. Additionally, it enhances redundancy and resilience, ensuring that in the event of an outage, there are alternative options available to minimize disruption. Promoting competition among ISPs aligns with the city's goals of fostering economic growth, digital equity, and enhanced quality of life for all residents.

**CITY OF FOUNTAIN INN, SOUTH CAROLINA
ORDINANCE 2024-09**

**AUTHORIZING THE EXECUTION AND DELIVERY OF A
FRANCHISE AGREEMENT BETWEEN THE CITY AND []; AND
PROVIDING FOR RELATED MATTERS.**

WHEREAS, according to South Carolina Code Annotated sections 5-7-30 and 5-7-260, the City is authorized to grant, renew, or extend a franchise by ordinance;

WHEREAS, [], as franchisee (“Franchisee”) seeks to enter into a franchise agreement with the City to allow Franchisee to construct, install, operate, use, maintain, repair, replace, upgrade, and remove certain internet-only facilities in the City owned right-of-way;

WHEREAS, Franchisee is considered an internet-only service provider (not a telecommunications company) according to the definition of “telecommunications company” under South Carolina Code Annotated section 58-9-10(15);

WHEREAS, Franchisee holds a certificate of public convenience and necessity granted by the Public Service Commission of the State of South Carolina;

WHEREAS, the City manages its public rights-of-way on a competitively neutral and nondiscriminatory basis and is entitled to impose a fair and reasonable franchise or consent fee on any entity for the use of the public streets, public rights-of-way, and public property on a nondiscriminatory basis, to provide internet-only (not telecommunications) services unless the entity has an existing contractual, constitutional, statutory, or other right to contract or operate in the public streets, public rights-of-way, and public property;

WHEREAS, pursuant to Section 2-103 of the City of Fountain Inn Code of Ordinances, prior to the introduction of this Ordinance, Franchisee published a notice in three issues of a newspaper having a general circulation in the City stating the nature of the franchise sought and the date on which the application is to be presented to City Council, which was no less than one week after the last published notice;

WHEREAS, the purpose of this franchise is to allow Franchisee the right to install, operate, use, maintain, upgrade, repair, replace and remove certain network facilities for internet-only (not telecommunications) services within and through the City;

WHEREAS, the City desires to enter into the franchise agreement, the substantially final form of which is attached to this Ordinance as Exhibit A, the terms of which are incorporated herein by reference as if set forth verbatim herein (“Franchise Agreement”); and

WHEREAS, the Mayor and City Council find that it is in the best interests of the City to enter into the Franchise Agreement with such modifications as are not materially adverse to the City.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the City of Fountain Inn, that the City Administrator is hereby authorized, empowered, and directed to finalize, execute, acknowledge, and deliver the Franchise Agreement.

Section 1. *Incorporation of Findings.* The City hereby adopts and incorporates the findings contained in the “WHEREAS” clauses above.

Section 2. *General Repealer.* Each order, resolution, ordinance, or part of the same in conflict with this Ordinance, is, to the extent of that conflict, repealed.

Section 3. *Effective Date.* This Ordinance is effective at its approval following second reading.

[ONE SIGNATURE PAGE AND TWO EXHIBITS FOLLOW]
[REMAINDER OF PAGE INTENTIONALLY BLANK]

CITY OF FOUNTAIN INN, SOUTH CAROLINA

George Patrick McLeer, Jr., Mayor

[CITY SEAL]

ATTEST:

Elizabeth Adams, City Clerk

APPROVED AS TO FORM:

Michael E. Kozlarek, Esq.
King Kozlarek Root Law LLC

Publication Dates:

First Reading:

Second Reading / Final Approval:

EXHIBIT A
FORM OF FRANCHISE AGREEMENT

CITY OF FOUNTAIN INN, SOUTH CAROLINA
FRANCHISE AGREEMENT
WITH []

This Franchise Agreement (“Agreement”) is made and entered into as of [] [], 2024 (“Effective Date”), by and between the CITY OF FOUNTAIN INN, a South Carolina municipal corporation (“City” or “Grantor”) and [], a [] [] [limited liability company][corporation], (“[]” or “Grantee”), having its principal office at [].

WHEREAS, GRANTEE is a [] duly organized and existing under the laws of South Carolina;

WHEREAS, GRANTEE desires to use and occupy the streets and public rights-of-way located within the City for the purposes of constructing, installing, operating, using, maintaining, upgrading, repairing, replacing, and removing certain network facilities for internet-only (not telecommunications) services within and through the City;

WHEREAS, pursuant to South Carolina Code Annotated section 5-7-30, GRANTOR has the authority to grant franchises and other authorizations for the use and occupancy of the streets and public rights-of-way;

WHEREAS, [] holds a certificate of public convenience and necessity granted by the Public Service Commission of the State of South Carolina; and

WHEREAS, GRANTOR is agreeable to allowing GRANTEE to use the streets and public rights-of-way, subject to the terms and conditions hereinafter set forth and subject to any and all lawful telecommunications regulatory ordinances that may be adopted by GRANTOR in the future;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, GRANTOR and GRANTEE agree as follows:

Section 1. Grant of Authority.

(a) Subject to the terms of this Agreement, GRANTOR hereby grants to GRANTEE the non-exclusive, non-permanent right to construct, install, maintain, locate, move, operate, place, protect, reconstruct, reinstall, relocate, remove, and replace fiber optic or other cable and related facilities for the provision of internet-only (not telecommunications) service in the public streets and public rights-of-way in the City. GRANTEE shall be solely responsible for obtaining any required consents from State agencies or private parties to the extent that its operations affect State or private property.

(b) GRANTEE acknowledges that this grant of authority is for the benefit of GRANTEE only, and that GRANTEE is not authorized to lease, sublease, assign or otherwise allow other providers to use or occupy the public rights-of-way except in accordance with provisions of this Agreement.

(c) GRANTEE acknowledges that, to the extent allowed by State and Federal law, GRANTOR has the authority to adopt ordinances regulating the use of the public rights-of-way, so long as such ordinances apply equally to all certificated providers of internet-only (not telecommunications) services and are related to using the public streets and public rights-of-way in the City. GRANTEE agrees to be bound by all such future lawful ordinances so long as it operates internet-only (not telecommunications) services or has property or equipment within the public streets or rights-of-way located in the City.

(d) This Agreement is not a grant by GRANTOR of any fee simple or other property interest except as expressly contemplated by this Agreement, is not a grant of a franchise to provide “telecommunications services” as that term is defined in South Carolina Code Annotated section 58-9-10(15), but rather is a franchise to provide internet-only services, and is made subject and subordinate to the prior and continuing right of GRANTOR to use the public streets and public rights-of-way occupied by GRANTEE for the purpose of laying, installing, maintaining, repairing, protecting, replacing, and removing sanitary sewer

infrastructure, water infrastructure, storm water infrastructure, natural gas infrastructure, poles and other equipment for municipal uses and with the right of ingress and egress, along, above, over, across and in said public streets and public rights-of-way.

(e) This Agreement shall be in full force and effect from and after the date of its approval by GRANTOR's governing body; provided, however, that notwithstanding such approval, this Agreement shall not become effective until all required bonds, certificates of insurance, and other instruments required by this Agreement have been filed with, and accepted and approved by GRANTOR, which acceptance and approval shall be in GRANTOR's sole and unfettered discretion.

Section 2. Definitions. For the purpose of this Agreement, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

"Affiliate" means a person or entity that directly, or indirectly, through one or more intermediaries, owns, controls, is owned or controlled by, or is under common ownership or control with another person or entity.

"City" means the City of Fountain Inn, South Carolina, and where appropriate to the context, its officers, agents, employees, and volunteers.

"City Attorney" means the City Attorney or his designee.

"City Council" means the City Council of the City of Fountain Inn.

"City Engineer" means the City Engineer or his designee.

"City Administrator" means the City Administrator or his designee.

"City Property" means and includes all real property owned by the City, including all property held in a proprietary capacity by the City.

"Conduit" means any materials, such as metal or plastic pipe, that protects wire, cable, lines, fiber optic cable, or other technology for the provision of internet-only (not telecommunications) service.

"Duct" means a pipe, tube, channel, or similar item for carrying wires, lines, cables, fiber optic cable, or other technology for the provision of internet-only (not telecommunications) service.

"Facilities" means the plant, equipment, and property, including, but not limited to, the poles, pipes, mains, conduits, ducts, fiber optic and other cables, circuits, and wires, and any other equipment and property used by GRANTEE to provide internet-only (not telecommunications) service.

"Fiber optic or other cable and related facilities" means fiber optic cables or other cables, facilities, conduits, converters, splice boxes, handholds, manholes, vaults, equipment, drains, surface location markers, appurtenances and related facilities located or to be located by GRANTEE in the public streets and public rights-of-way of the City used or useful for the transmission of internet-only services.

"Internet-only services" means the providing or offering for rent, sale, or lease, or in exchange for other value received, the transmittal of signals, including but not limited to, voice, data, image, graphic or video or other programming information, except and excluding cable television service and any other services that might be construed as "telecommunication services," between or among points by wire, lines, cable, fiber optics, circuits, laser or infrared, microwave, radio, satellite, or other facilities, but not including cable television service or any other services that might be construed as "telecommunication services."

"GRANTEE" or "[]" means [], LLC.

"GRANTOR" means the City of Fountain Inn.

"Public streets and public rights-of-way" or "public ways" include the surface of, and the space above and below,

any public street, road, highway, avenue, sidewalk, way, bridge, viaduct, alley or other public right-of-way, including unimproved surfaces, now or hereafter held by GRANTOR for the purpose of public travel, communications, alarm, street lighting, power distribution, water or sewer service or other public use, whether present or future, to the extent of GRANTOR's right, title, interest or authority to grant a franchise to occupy and use such streets and easements for the purpose of providing internet-only (not telecommunications) services.

"Public works project or public improvements" include, without limitation, the construction, realignment, paving or repaving, or other work on any public street or public right-of-way, change of grade or alignment of any public street or public right-of-way, the construction or reconstruction of any water, sanitary sewer, storm sewer, force main, drainage or communications facility of the City.

Section 3. Term of Agreement. The term of this Agreement shall be for an initial term of ten years, commencing on the Effective Date ("Initial Term"). Unless either party gives 90 days written notice of its intention to terminate the Agreement prior to the end of the Initial Term, the Agreement shall thereafter automatically renew for up to three additional five-year terms, for a maximum of 25 years (each, "Renewal Term"); however, such renewal shall not automatically occur if a material, uncured breach has not been remedied and the non-breaching party provides 90 days' written notice prior to the end of a Renewal Term. Upon termination of this Agreement as herein provided, and unless the parties are in active good faith negotiation of a replacement agreement or otherwise agree in writing to an extension, GRANTEE shall be prohibited from further access to the public rights-of-way in the City.

Section 4. Compliance With Applicable Law. GRANTEE shall at all times during the term of this Agreement, including any renewal period, comply with all applicable federal, state, and local laws, ordinances, and regulations. Expressly reserved to GRANTOR is the right to adopt, in addition to the provisions of this Agreement and existing laws, such additional ordinances and regulations as are necessary for the lawful exercise of its police power for the benefit and safety of the public.

Section 5. Construction; Location or Relocation of Facilities. All GRANTEE facilities shall be constructed, installed, and located according to the terms and conditions contained herein, unless otherwise specified by GRANTOR.

5.1. Grantee shall place facilities underground when commercially reasonable and subject to the rights and obligations set forth in Sections 5.8 and 5.9 below. Commercially reasonable means, with respect to any action required to be made, attempted or taken by GRANTEE under this Section 5.1, the level of effort in light of the facts known to GRANTEE at the time a decision is made that: (a) can reasonably be expected to accomplish the desired action without a material increase in costs incurred by GRANTEE; (b) is consistent with industry practices; and (c) takes into consideration the amount of advance notice required to take such action, the duration and type of action, and the competitive environment in which such action occurs.

5.2 Whenever all existing electric utilities, cable facilities or Facilities are located underground within a particular segment of a street or public right-of-way of the City, GRANTEE shall also install its Facilities underground.

5.3. Whenever existing overhead electric utilities, cable facilities or Facilities are relocated underground within a particular segment of a street or public right-of-way of the City, GRANTEE shall relocate its facilities underground within a reasonable amount of time after notification by the City that such facilities must be relocated. Absent extraordinary circumstances or undue hardship as reasonably determined by the City, such relocation shall be made concurrently to minimize the disruption of the public streets and public rights-of-way.

5.4. GRANTEE shall obtain all required permits for the construction or installation of its facilities as required in this Agreement, provided, however, that nothing in this Agreement shall prohibit the City and GRANTEE from agreeing to an alternative plan to review permit and construction procedures, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.

5.5. In the performance and exercise of its rights and obligations under this Agreement, GRANTEE shall not interfere in any manner with the existence and operation of any public street and public or private right-of-way, sanitary sewer infrastructure, water infrastructure, storm water infrastructure, natural gas infrastructure, poles, overhead or underground wires, television cables, public works, facilities of other service providers, or City Property, without the prior approval of the City.

5.6. Except as may be expressly provided herein, nothing in this Agreement shall be construed to abrogate or limit the right of the City to perform any public works or public improvements. If any facilities of GRANTEE interfere with the construction, operation, maintenance, repair or removal of such public works or public improvements, within 90 days after written notice by the City (or such other period of time set forth in Section 5.7 or as may be agreed upon in writing by the City and GRANTEE), GRANTEE shall, at its own expense protect, alter, remove or relocate facilities, as directed by the City Administrator or City Engineer. If GRANTEE fails to so protect, alter, remove, or relocate equipment within such period, the City may break through, remove, alter, or relocate the facilities of GRANTEE without any liability to City, and GRANTEE shall pay to the City the costs incurred in connection with such breaking through, removal, alteration, or relocation. GRANTEE shall also reimburse the City for or bear any additional cost actually incurred by the City as a result of GRANTEE's failure to comply with the City's request to protect, alter or remove equipment under this Agreement. The City may collect such costs, and any reasonable expenses and attorney fees incurred in collecting such costs, as debts owed to the City, by bringing action in any court of competent jurisdiction or exercising the City's rights to draw on bonds or in any other lawful manner, individually or in combination.

5.7. The City retains the right and privilege to cut or move any Facilities located within the public ways or other areas of the City as the City may determine to be necessary, appropriate, or useful in response to any life-threatening emergency. The City will endeavor to provide prior notice to GRANTEE of such emergencies which may impact its Facilities. If City is unable to provide prior notice of the life-threatening emergency as described above, City shall notify GRANTEE within 24 hours of the occurrence of such emergency.

5.8. The facilities of GRANTEE shall be located so as not to interfere with public safety or, to the extent possible, with the convenience of persons using the public streets and public rights-of-way. GRANTEE shall construct, maintain, and locate its system so as not to interfere with the construction, location and maintenance of sewer, water, drainage, electrical, signal, and fiber optic facilities of the City.

5.9. The City shall have the right to specifically designate the location of the facilities of GRANTEE with reference to sewer and water mains, drainage facilities, fiber optic cable, signal poles and lines and similar services, other facilities, such as public telephone utilities, public electric utilities, cable television facilities, and railway, communication, and power lines, in such a manner as to protect the public safety and public and private property. Failure by the City to designate the location of GRANTEE's facilities shall not relieve GRANTEE of its responsibilities in matters of public safety, as provided in this Agreement.

5.10. Except in the cases of emergencies, GRANTEE shall not move, alter, change, or extend any of its system in any public street or public right-of-way unless prior written notice of its intention to do so is given to the City Administrator and permission in writing to do so is granted, or such requirement is waived, by the City Administrator. The City Administrator shall either approve or deny GRANTEE's request to relocate its facilities within five days of receipt of GRANTEE's request. Such permission shall not be unreasonably withheld by the City Administrator City Administrator and shall be conditioned upon compliance with the terms and conditions of this Agreement, with such other terms and conditions as will preserve, protect and promote the safety of the public using the public ways, and as will prevent undue interference with or obstruction of the use of the public ways by the public, the City or by any other public utility, public service corporation or cable operator for their respective purposes and functions. Such work by GRANTEE shall also be coordinated with the City's annual paving program through the Office of the City Engineer.

5.11. GRANTEE shall not open, disturb or obstruct, at any time, any more of the public streets

and public rights-of-way than is reasonably necessary to enable it to proceed in laying or repairing its system. GRANTEE shall not permit any public street or public right-of-way so opened, disturbed, or obstructed by it to remain open, disturbed, or obstructed for a longer period of time than shall be reasonably necessary. In all cases where any public street or public right-of-way is excavated, disturbed, or obstructed by GRANTEE, GRANTEE shall take all precautions necessary or proper for the protection of the public and shall maintain adequate warning signs, barricades, signals, and other devices necessary or proper to adequately give notice, protection, and warning to, the public of the existence of all actual conditions present.

5.12. After the installation, removal, relocation, construction, or maintenance of the fiber optic or other cable and related facilities is completed, GRANTEE shall, at its own cost, repair and return the public streets and public rights-of-way to a minimum of the same or similar condition existing before such installation, removal, relocation, construction, or maintenance, in a manner as may be reasonably specified by the City and to the reasonable satisfaction of the City. GRANTEE shall be responsible for damage to City street pavements, existing utilities, curbs, gutters, and sidewalks due to GRANTEE's installation, construction, maintenance, repair, or removal of its Facilities in the public streets, public rights-of-way, and shall repair, replace, and restore in kind, the said damaged property at its sole expense. Upon failure of GRANTEE to repair, replace and restore said damaged property, in a manner as may be reasonably specified by the City and to the reasonable satisfaction of the City, after 60 days' notice in writing shall have been given by the City, the City may cause such necessary repairs to be made and may collect the costs incurred from GRANTEE, including but not limited to, exercising the City's rights to draw on bonds. The City may collect such costs, and any expenses and attorney fees incurred in collecting such costs, as debts owed to the City, by bringing an action in any court of competent jurisdiction or in any manner allowed by law.

5.13. Neither GRANTEE, nor any person acting on GRANTEE's behalf, shall take any action or permit any action to be done which may impair or damage any City Property more than is reasonably necessary to enable it to install or repair its system, including, but not limited to, any public street, public right-of-way or other property located in, on or adjacent thereto.

5.14. In the event of an unexpected repair or emergency, GRANTEE may commence such repair and emergency response work as required under the circumstances, provided GRANTEE shall notify the City as promptly as possible, before such repair or emergency work is started or as soon thereafter as possible if advance notice is not practicable.

5.15. GRANTEE shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state and local requirements, laws, ordinances, and regulations.

5.16. GRANTEE shall at all times employ a high standard of care and shall install and maintain and use approved methods and devices for preventing failure or accidents which are likely to cause damages, injuries, or nuisances to the public.

5.17. GRANTEE shall obtain all required permits from the City and any other governmental entity having jurisdiction prior to commencing work of any nature and shall comply with all terms and conditions of any such permit. GRANTEE shall furnish detailed plans of the work and other required information prior to issuance of a permit. GRANTEE shall comply with all applicable ordinances and permitting requirements.

A single permit may be issued for multiple excavations to be made in public streets and public rights-of-way. Exceptions to the requirement for a written permit may be allowed in cases of emergencies involving public safety or restoration of service. In the case of emergency excavations made in a public street or public right-of-way without a permit, GRANTEE shall make a report of each such excavation to the City within two working days. Any permit application and inspection related to repair of excavations shall be promptly acted upon by the City so as not to unreasonably delay GRANTEE in efficiently discharging its public service obligation and in any event shall be granted or denied within 30 days from submission and, if denied, accompanied by a written explanation of the reasons the permit was denied and the actions required to cure the denial.

5.18. (a) Promptly after installation, repair or extension of the system or any portion thereof or any pavement cut by GRANTEE in any public way of the City, the incidental trenches or excavations shall be refilled by GRANTEE in a manner acceptable to the City Administrator. Pavement, sidewalks, curbs, gutters or any other portions of public ways damaged, disturbed or destroyed by such work shall be promptly restored and replaced with like materials to their former condition by GRANTEE at its own expense; however, where it is necessary, and if authorized by the City, in order to achieve the former conditions, GRANTEE shall use materials whose type, specification and quantities exceed or are different from those used in the installation, then GRANTEE at its own expense shall provide such different materials. Where a cut or disturbance is made in a section of sidewalk or paving, rather than replacing only the area actually cut, GRANTEE shall replace the full width of the existing sidewalk or appropriate sections of paving as determined by the City Engineer and the full length of the section or sections cut, a section being defined as that area marked by expansion joints or scoring or as determined by the City Engineer. GRANTEE shall maintain, repair, and keep in good condition for a period of one (1) year following such disturbance all portions of public ways disturbed by GRANTEE, provided such maintenance and repair shall be necessary because of defective workmanship or materials supplied by GRANTEE.

(b) All trees, landscaping and grounds removed, damaged, or disturbed as a result of the construction, installation maintenance, repair or replacement of Facilities shall be replaced or restored, as nearly as may be practicable, to the condition existing prior to performance of work. All restoration work within the public ways or other areas shall be done in accordance with landscape plans approved by the City.

5.19. (a) GRANTEE shall promptly remove or correct any obstruction, damage, or defect in any public street or public right-of-way caused by GRANTEE in the installation, operation, maintenance, or extension of GRANTEE's system. Any such obstruction, damage, or defect which is not promptly removed, repaired, or corrected by GRANTEE after 30 days' notice to do so, given by the City to GRANTEE, may be removed or corrected by the City, and the cost thereof shall be charged against GRANTEE and payable on demand. Any expense, cost, or damages incurred for repair, relocation, or replacement to GRANTOR water, sanitary sewer, storm sewer, storm drainage, communication facilities (of whatever kind or nature) or other property resulting from construction or maintenance of GRANTEE shall be borne by GRANTEE and any and all expense and cost incurred in connection therewith by the City shall be fully reimbursed by GRANTEE to the City.

(b) If weather or other conditions do not permit the complete restoration required by this Section, GRANTEE shall temporarily restore the affected property. Such temporary restoration shall be at GRANTEE's sole expense and GRANTEE shall only be required to make reasonable, temporary restorations based on the conditions. GRANTEE shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(c) GRANTEE or other person acting on its behalf shall use suitable barricades, flags, flaggers, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property and shall comply with all federal, state, and local laws and regulations, including, but not limited to, the flagging requirements of the South Carolina Department of Transportation.

5.20. Except in the case of the City's negligence or intentional or willful misconduct, the City, its officers, agents, or employees, shall not be liable for any damage to or loss of any of GRANTEE's internet-only (not telecommunications) services or Facilities within the public ways or any other areas of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work or activity or lack of any activity of any kind by or on behalf of the City.

5.21. GRANTEE shall cooperate with the City in coordinating its construction activities as follows:

(a) GRANTEE shall provide the City with a schedule of its proposed construction activities prior to commencing any expansion of its backbone system;

(b) Upon request, GRANTEE shall meet with the City and other users of the public ways to

coordinate construction in the public ways; and

(c) All construction locations, activities and schedules shall be coordinated, as directed by the City Engineer, to minimize public inconvenience, disruption, or damages. GRANTEE shall submit a written construction schedule to the City Engineer at least ten (10) working days before commencing any work in or about the public streets and public rights-of-way. GRANTEE shall further notify the City Engineer not less than five (5) working days in advance of such excavation or work and shall comply with the provisions of the South Carolina Underground Facility Damage Prevention Act, South Carolina Title 58, Chapter 36.

Section 6. Mapping. (a) GRANTEE shall maintain an accurate map of its Facilities in the City. GRANTEE shall provide the City with “as built” drawings and an accurate map or maps showing the location of its facilities, including pole lines and conduit lines and any other facilities requested by the City, to include a digitized map(s) in both printed and electronic form. GRANTEE shall, upon request, provide updated maps annually of Facilities in the City.

(b) If any of the requested information of GRANTEE in this Agreement is considered proprietary, confidential, or a trade secret, GRANTEE will notify the City of this opinion, and the City will keep such information confidential to the extent permitted by the South Carolina Freedom of Information Act (South Carolina Code Title 30 Chapter 4) or other any successor statute or law. As for new installations, after the Effective Date, GRANTEE shall submit the proposed Mapping of its plans for new construction to the City prior to any construction. As-built drawings of any new construction of facilities shall be furnished to the City within 60 days of completion of such construction. All as-built maps and drawings shall be drawn to scale and reference to a physical City benchmark to the extent the physical benchmark is in reasonable proximity to GRANTEE new installation. All mapping shall be provided in a format compatible to the City’s present and future mapping systems. Alternatively, GRANTEE will pay for the cost of making the mapping compatible.

(c) Prior to its installation of any Facilities in the public streets and public rights-of-way and after GRANTEE provides the City with its proposed plans for the Facilities, the City may in its reasonable discretion designate certain locations to be excluded from use by GRANTEE for its Facilities, including, but not limited to, ornamental or similar specially designed streets lights or other facilities or locations which, in the reasonable judgment of the City Engineer, do not have electrical service adequate for or appropriate for GRANTEE’s facilities or cannot safely bear the weight or wind loading thereof, or any other facility or location that in the reasonable judgment of the City Engineer is incompatible with the proposed Facilities or would be rendered unsafe or unstable by the installation. The City Engineer may further exclude certain other facilities that have been designated or planned for other use or are not otherwise proprietary, legal, or other limitations or restrictions as may be reasonably determined by the City. In the event such exclusions conflict with reasonable requirements of GRANTEE, the City will cooperate in good faith with GRANTEE to attempt to find suitable alternatives, if available, provided that the City shall not be required to incur financial costs nor require the City to acquire new locations for GRANTEE. GRANTEE shall, prior to any excavation or installation within the public streets and public rights-of-way, provide sufficient notification and joint installation opportunity on a shared cost basis to potential users of the public streets and public rights-of-way as may be provided for by a separate City policy. Such notification and adopted policies shall be designed to maximize co-location of providers to minimize the disturbance to the public streets and public rights-of-way and maximize its useable capacity.

Section 7. Insurance Requirements. At all times during the term of this Agreement and any renewal period, GRANTEE shall, at its expense, maintain the following insurance policies. Any required insurance shall be in a form and with an insurance company authorized to do business in South Carolina and have a rating of no less than A-VII by A.M. Best Co.

(a) *Commercial General Liability.* Commercial General Liability insurance coverage on an occurrence basis insuring against all claims, loss, cost, damage, expense, or liability from loss of life or damage or injury to persons or property arising out of any of the work or activity under or by virtue of this Agreement. The minimum limit of liability for such coverage shall be \$2,000,000 combined single limit for any one occurrence. However, the parties acknowledge that GRANTEE may meet the policy limit in this section by combination of GRANTEE’s General Commercial Liability Policy and GRANTEE’s Umbrella or Excess Liability Policy.

(b) *Contractual Liability.* Broad form Contractual Liability insurance, including the indemnification obligations of GRANTEE set forth in this Agreement.

(c) *Workers' Compensation.* Workers' Compensation insurance covering GRANTEE's statutory obligation under the laws of South Carolina and Employer's Liability insurance for all its employees engaged in work under this Agreement.

(d) *Automobile Liability.* Automobile Liability insurance having minimum limits of liability of \$1,000,000 combined single limit applicable to owned or non-owned vehicles used in the performance of any work under this Agreement.

(e) *Pollution Liability Insurance.* GRANTEE shall maintain during the life of this Agreement Pollution Liability Insurance in the amount of \$1,000,000 for each occurrence. Coverage shall be provided for bodily injury and property damage resulting from pollutants which are discharged suddenly and accidentally. Such insurance shall also provide coverage for cleanup costs.

(f) *Umbrella Coverage.* The insurance coverages and amounts set forth in this Section may be met by an umbrella liability policy following the form of the underlying primary coverage in a minimum amount of 5,000,000.

(g) Prior to commencing construction pursuant to this Agreement or within 10 days after the granting of the franchise contemplated by this Agreement, whichever is sooner, GRANTEE shall provide the City with a memorandum certificate or certificates of insurance, showing the type, amount, effective dates, and date of expiration of the policies, and thereafter prior to the expiration of any such policy or change in the amount or conditions, of coverage. Such certificate or certificates and evidence of insurance shall include the City, its officers, agents, and employees as additional insureds. GRANTEE shall obtain a written obligation on the part of each insurance company to notify GRANTEE at least 30 days before cancellation or a material change of any such insurance. Upon receipt of such notice from GRANTEE's insurance company, GRANTEE will immediately notify the City of any of the required coverages that are not replaced.

Section 8. Surety.

(a) Within 10 days after the Effective Date, and prior to the commencement of any construction by GRANTEE, GRANTEE shall furnish and file with the City an irrevocable bond, in a form and by a surety authorized to do business in South Carolina, in the amount of \$50,000 securing its faithful performance of the terms and conditions of this Agreement. GRANTEE shall maintain such bond for the duration of this Agreement, unless otherwise agreed to in writing by the City. Failure to maintain the bond shall be deemed a material default by GRANTEE of this Agreement.

The bond shall guarantee GRANTEE's faithful performance of the terms and conditions of this Agreement, including, but not limited to: (1) the timely completion of construction; (2) compliance with applicable plans, permits, technical codes and standards; (3) proper location of the facilities as specified by the City; (4) restoration of the public ways and other property affected by the construction as required by this Agreement; (5) the submission of "as-built" drawings after completion of the work as required by this Agreement; (6) timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work; and (7) the payment by GRANTEE of all lawful liens, taxes, damages, claims, costs or expenses which the City has been compelled to pay or has incurred by reason of any act or default of GRANTEE under this Agreement and all other payments due the City from GRANTEE pursuant to this Agreement.

(b) Whenever the City determines that GRANTEE has violated one or more terms, conditions, or provisions of this Agreement for which relief is available against the bond, a written notice shall be given to GRANTEE. The written notice shall describe in reasonable detail the violation so as to afford GRANTEE an opportunity to remedy the violation. GRANTEE shall have 30 days subsequent to receipt of the notice in which to correct the violation before the City may make demand upon the bond. Failure to maintain the bond shall be a material default under this Agreement.

(c) Such bond shall be in addition to any performance, defect bond, or other surety required by the City in connection with the issuance of any construction or any successor ordinance.

Section 9. Indemnification. GRANTEE agrees to indemnify, defend and hold harmless the City, its officers, employees and agents from and against all claims, demands, losses, damages, liabilities, fines, and penalties, and all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorney's fees and costs of defense (collectively, the losses), arising out of any breach by GRANTEE of the terms and conditions of this Agreement, except to the extent proximately caused by the negligence or willful misconduct of the City, its officers, employees and agents. In addition, GRANTEE shall protect, indemnify, and hold harmless the City, its officers, agents, and employees, from any and all demands for fees, claims, suits, actions, causes of action, or judgments based on the alleged infringement or violation of any patent, invention, article, arrangement, or other apparatus that may be used in the performance of any work or activity arising out of the use of any Telecommunication facilities or the provision of Telecommunication service, except to the extent proximately caused by the negligence or willful misconduct of the City, its officers, employees or agents.

The City is a governmental entity and political subdivision of the State of South Carolina and enjoys sovereign immunity, as well as the imposition of duties and protections afforded by the South Carolina Tort Claims Act. Although the City cannot, by law, hold harmless and indemnify any contracting party, subject to the application of the aforementioned laws and to the limits of its insurance, the City agrees that GRANTEE shall not be liable from and against all claims, liabilities, penalties, fines, costs, damages, losses, causes of action, suits, demands, judgments and expenses (including, court costs and attorney's fees) of any nature, kind or description of any acts of negligence by the City, or its employees and agents, related to the City's breach of the terms and conditions of this Agreement.

Section 10. Hazardous Substances. In its performance of this Agreement, GRANTEE shall not transport, dispose of, or release any hazardous substance, material, or waste, except as necessary in performance of its work under this Agreement, and in any event GRANTEE shall comply with all federal, state, and local laws, rules, regulations, and ordinances controlling air, water, noise, solid wastes, and other pollution, and relating to the storage, transport, release, or disposal of hazardous material, substances, or waste. Regardless of the City's acquiescence, GRANTEE shall indemnify and hold the City, its officers, agents, employees, and volunteers harmless from all costs, claims, damages, causes of action, liabilities, fines, or penalties, including reasonable attorney's fees, resulting from GRANTEE's violation of this section and agrees to reimburse City for all costs and expenses incurred by the City in eliminating or remedying such violations. GRANTEE also agrees to reimburse the City and hold the City, its officers, agents, employees, and volunteers harmless from any and all costs, expenses, attorney's fees and all penalties or civil judgments obtained against any of them as a result of GRANTEE's use or release of any hazardous substance or waste onto the ground, or into the water or air from, near or upon the City's premises. For purposes of this Section, the following definitions shall apply:

"Hazardous Substances" means asbestos and any and all pollutants, dangerous substances, toxic substances, hazardous wastes, hazardous materials and hazardous substances as referenced or defined in, or pursuant to, any federal, state, local or other applicable environmental law, statute, ordinance, rule, order, regulation or standard in effect on the date hereof including, without limitation, the Resource Conservation and Recovery Act (42 U.S.C. 6901, *et seq.*), as amended, the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136, *et seq.*), as amended, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601, *et seq.*), as amended, and the Toxic Substances Control Act (15 U.S.C. 2601, *et seq.*), as amended.

As used in this Section, "release" includes the placing, releasing, depositing, spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping of any substance.

Section 11. Fees

(a) In consideration of the grant of authority to utilize the streets and public places of the City for the provision of Internet-only (not telecommunications) service, and in accordance with applicable law and ordinances, GRANTEE shall pay such franchise fees, business license taxes, and administrative fees as are presently permitted by Article 20 of Chapter 9 of Title 58 of the 1976 Code of Laws of South Carolina, as enacted in 1999, and as may be enacted and imposed by the City. GRANTEE shall also pay all such ad valorem

taxes, service fees, sales taxes, or other taxes and fees as may now or hereafter be lawfully imposed on other businesses within the City. Provided, however, that in the event that Article 20 of Chapter 9 of Title 58 of the 1976 Code of Laws of South Carolina, as enacted in 1999, or other laws governing franchise fees, business license taxes and/or other fees with respect to Internet-only (not telecommunications) service shall be substantially modified by subsequent legislation or court decision, the provisions herein contained shall be brought into conformity with the changes in the applicable law by appropriate amendment to this ordinance. If the limitations on the amount of franchise fees, administrative fees, and business license taxes on Internet-only (not telecommunications) service providers presently contained in said statute shall be removed or modified, the City will be free, by amendment to this ordinance, to impose such fair, reasonable, competitively neutral, and non-discriminatory fees and taxes as may then be permitted by that statute or by such applicable law as may then govern; GRANTEE will be free to challenge any fee structure not in compliance with applicable law.

(b) For the use of the public streets and public rights-of-way to provide Internet-only (not telecommunications) service, GRANTEE shall pay to the City a franchise fee of 5% of the gross revenues derived from the Company's operations in the same manner and time as provided in the City Code.

(c) Interest will be charged on any late payment at the maximum rate permitted under state law, or if there is no such rate, the interest will be 1.5% per month a payment is late.

Section 12. General provisions.

(a) *Authority.* GRANTEE warrants and represents that it has obtained all necessary and appropriate authority and approval from all applicable federal and state agencies or authorities to provide all Facilities and services it intends to provide within the City, and upon request by the City will provide evidence of such authority.

(b) *Other remedies.* Nothing in this Agreement shall be construed as waiving or limiting any rights or remedies that the City or GRANTEE may have at law or in equity, for enforcement of this Agreement.

(c) *Severability.* If any section, subsection, sentence, clause, phrase, or other portion of this Agreement, or its application to any person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

(d) *Nonenforcement.* Neither party shall be excused from complying with any of the provisions of this Agreement by any failure of the other party, upon any one or more occasions, to insist upon strict performance of this Agreement or to seek the other party's compliance with any one or more of such terms or conditions of this Agreement.

(e) *Conflicts of law.* If there is a conflict between the provisions of this Agreement and any law, whether federal, state, or City, including all future laws and ordinances, the law and conflicting Agreement provision will, to the extent reasonably possible, be construed so as to be consistent with each other and if such construction is not reasonably possible, the conflicting provision of this Agreement shall be deemed superseded by such law and have no effect, notwithstanding the contract clause of the United States Constitution.

(f) *Controlling law and venue.* By virtue of entering into this Agreement, GRANTEE agrees and submits itself to a court of competent jurisdiction in the City, South Carolina or in the United States District Court for the District of South Carolina, and further agrees that this Agreement is controlled by the laws of South Carolina or any applicable federal laws and that all claims, disputes and other matters shall be decided only by such court according to the laws of South Carolina or any applicable federal laws or by any regulatory body with jurisdiction, including the Federal Communications Commission.

(g) *Captions.* The section captions and headings in this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(h) *Nondiscrimination.* During the performance of this Agreement, GRANTEE agrees that it will not discriminate against any employee or applicant for employment on the basis of race, religion, color, sex,

handicap, or national origin. GRANTEE agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. GRANTEE, in all solicitations or advertisements for employees placed by or on behalf of GRANTEE, will state that GRANTEE is an equal opportunity employer. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements herein.

(i) *Notices.* (a) Notices given pursuant to this Agreement shall be in writing and addressed as follows:

To the City:	City Administrator 200 N Main Street Fountain Inn, South Carolina 29644
With a Copy to:	Michael E. Kozlarek City Attorney King Kozlarek Root Law LLC P.O. Box 565 Greenville, South Carolina 29602-0565
To GRANTEE:	[]
With a Copy to:	[]

Either party may change the address at which it will receive notices by providing written notice of the change to the other party.

(j) *Assignment.* GRANTEE may assign or transfer this Agreement or any interest therein with the City's written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, this Agreement may be assigned by GRANTEE without City's written consent to any entity that purchases substantially all of the assets or ownership interests of the GRANTEE; any entity that results from a merger, consolidation, or restructuring of the GRANTEE; or, any entity that assumes control of the GRANTEE. Upon such assignment by [], the successor entity assuming the Agreement shall execute a written document that the successor entity shall fully perform the obligations of [] under this Agreement and shall be entitled to all of []'s rights herein ("Assignment and Assumption Agreement"). [] shall provide City with a copy of the executed Assignment and Assumption Agreement.

[ONE SIGNATURE PAGE FOLLOWS]
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IN WITNESS WHEREOF, the parties have duly executed this Agreement.

 FOUNTAIN INN est 1886	REQUEST FOR COUNCIL ACTION City of Fountain Inn, South Carolina To: Mayor and Members of City Council From: Shawn M. Bell, City Administrator	October 10, 2024 Regular City Council Meeting
☒ Ordinance/First Reading ☐ Ordinance/Second Reading ☐ Resolution/First & Final Reading		
Agenda Date Requested: October 10, 2024 Summary Background: Most of the new residential development has been utilizing the open space option permitted by the Zoning Ordinance. As these developments have gone for review via the Planning Commission and Council, it has become apparent that the end results do not meet the intent of this option. Working with the consultants at Stewart, Inc., the attached ordinance proposes changes to remove the second open space option, increase the percentage of open space from 15% to 40%, encourage amenities, and reduce the density allowed per acre. Careful consideration should be given to further restrictions as they may disincentivize the use of the option and push development to a traditional subdivision design. For those developments choosing traditional subdivision design, the attached ordinance proposes an open space requirement of 15%. This will help to reduce the harsh impact of mass grading and potentially create areas for amenities. Impact If Denied: Developers will be able to choose between the two current open space options for residential development. Impact If Approved: There will only be one open space option with an increased open space requirement of 40% that encourages amenities and reduces the density allowed per acre. For those developments choosing traditional subdivision design, 15% open space will be required.		

AGENDA

October 10, 2024

To: City Council
From: Planning & Development Director, Jason Knudsen
Subject: TX-2024-01, Zoning Ordinance Text Amendment
Meeting Date: October 10, 2024
Type of Agenda Item: Text Amendment to the Zoning Ordinance
Attachments: Proposed Ordinance

REQUEST

While reviewing current ordinances, the City has identified an immediate need to amend sections of the Zoning Ordinance and Land Development Regulations as they pertain to open space development. These requested changes are outlined below.

Appendix A Zoning

- Article 7
 - 7:16:2 – Remove the statement that the developer will be able to build the same number of homes.
 - 7:16:2.3-2.4 - Delete reference to Open Space Residential Development Option #1 (only 1 option now)
 - 7:16:2.5-2 – Correct title of section. Should read Setbacks, not Minimum Lot Width
 - 7:16:2.5-5 – Remove reference to Option #2 (only 1 option now)
 - 7:16:2.5-6
 - Remove reference to Option #2 (only 1 option now). Add the requirement that 50% of open space is developable. This was in Option #1 but not Option #2.
 - Add allowance for recreational structures (i.e. shelters or playgrounds)
 - Add accessibility requirement: At least 50% of the required common open space shall be accessible and have at least 50 feet of frontage on at least one public street within the development.
 - Changed to allow for amenities such as swimming pools and clubhouses in open space calculation.
 - Table 7.1 – Reduce overall gross density allowance for Open Space Residential Option by zoning district. Overall density is reduced by about a third.
 - Table 7.2 – Remove Option #1 and make corrections in table heading. Increase open space requirement from 15 and 30% to 40%.

Appendix B Land Development Regulations

- Article 9
 - Add 9.8 Minimum Open Space Requirements
 - Add requirements for all subdivisions with over 10 lots and an overall density of greater than 1 dwelling unit per acre to provide 15% open space.
 - Included in this section are basic requirements for the open space.

PUBLIC HEARING PROCEEDING

A public hearing regarding this petition was conducted on October 3, 2024, before the body of the Fountain Inn Planning Commission. Comments were given by 2 people expressing concern that the new restrictions may push developers to not use the open space option.

PLANNING COMMISSION REVIEW

The Fountain Inn Planning Commission has reviewed this request at their October 3, 2024, meeting. By a vote of 7-0, the Planning Commission recommends approval of the requested text amendment for Ordinance TX-2024-01.

STAFF COMMENTS

Most of the new residential development has been utilizing the open space option permitted by the Zoning Ordinance. As these developments have gone for review via the Planning Commission and Council, it has become apparent that the end results do not meet the intent of this option.

Working with the consultants at Stewart, Inc., the attached ordinance proposes changes to remove the second open space option, increase the percentage of open space from 15% to 40%, encourage amenities, and reduce the density allowed per acre. Careful consideration should be given to further restrictions as they may disincentivize the use of the option and push development to a traditional subdivision design.

For those developments choosing traditional subdivision design, the attached ordinance proposes an open space requirement of 15%. This will help to reduce the harsh impact of mass grading and potentially create areas for amenities.

ZONING ORDINANCE PROPOSED CHANGES

~~7:16:2.3. Open Space Development Options. Two open space development options are available for developers to choose from. The requirements for each of the two options are listed herein.~~

~~7:16:2.4. Open Space Residential Development, Option #1:~~

~~7:16:2.4-1. Minimum Areas. The minimum tract area for an open space residential development shall be two acres. The minimum area shall consist of contiguous parcels, not divided by an existing public or private road or a recreational or navigable body of water.~~

~~7:16:2.4-2. Minimum Lot Width. No structure shall be erected within 25 feet from any external lot line of any open space residential development, however, where land uses within an open space residential development are the same as uses permitted in the adjoining properties outside the open space residential development, a lesser setback that is consistent with the zoning on the adjoining properties may be permitted. Front setbacks from existing roads will be consistent with the requirements outlined in the appropriate zoning district and listed in Section 7:3, Table 7.4.~~

~~7:16:2.4-3. Permitted Uses:~~

~~Single-Family Detached Dwellings~~

~~Single-Family Zero Lot Line Dwellings~~

~~Single-Family Attached Dwellings~~

~~7:16:2.4-4. Single-Family Attached. Single-family attached dwellings are permitted subject to the following requirements:~~

~~A. — A maximum of 15 percent of the total number of dwelling units may be single-family attached (duplex, triplex and quadraplex). Any attached unit must be a townhouse and excludes condominiums.~~

~~B. Attached units must be contained within the subdivision and not part of any exterior lot except in those areas where exterior lots are adjacent to land zoned for commercial, office or multifamily development.~~

~~C. Attached units may be a duplex, triplex, or quadruplex and shall not exceed more than four attached units per structure.~~

~~D. Attached units shall not be located on preexisting platted lots within a subdivision.~~

~~7:16:2.4-5. Permitted Density. The overall number of dwellings allowed in an open space development under Option #1 may be found in Table 7.1.~~

~~7:16:2.4-6. Required Open Space. In an open space development under Option #1, a minimum percentage of the total acreage must be designated as open space. The required open space in may include both developable and undevelopable land, as defined in Article 4, Definitions. Of that land dedicated for open space in the R-M, R-6, R-7.5, R-10, R-12, and R-15 districts, a minimum of 50 percent of the total open space must be considered developable land, as defined in Article 4, Definitions.~~

~~Not more than 20 percent of the required common open space may be used for active recreation; playgrounds, and multi-use ball fields. With the exception of paved walking paths, the active recreation areas used to meet the common open space requirements may not contain impervious surfaces.~~

~~Land dedicated as open space shall be of meaningful proportions and dimensions so as to be consistent with the purpose and intent of this section. The open space shall be contiguous to the extent practicable. Land dedicated to open space shall not include land dedicated for uses such as community swimming pool(s), clubhouse(s), and similar uses. Recreational lakes or ponds used for storm water management may be included in the land designated as open space. Fenced detention or retention areas used for storm water management shall not be included in the calculation of required open space.~~

7:16:2.5. Open Space Residential Development, [Option #2 Requirements](#).

7:16:2.5-1. Minimum Areas. The minimum tract area for an open space residential development shall be five acres. The minimum area shall consist of contiguous parcels, not divided by an existing public or private road or a recreational or navigable body of water.

7:16:2.5-2. [Minimum Lot Width Setbacks](#). No structure shall be erected within 25 feet from any external lot line of any open space residential development, however, where land uses within an open space residential development are the same as uses permitted in the adjoining properties outside the open space residential development, a lesser setback that is consistent with the zoning on the adjoining properties may be permitted. Front setbacks will be consistent with the requirements outlined in the appropriate zoning district and listed in Section 7:3, Table 7.4.

7:16:2.5-3. Permitted Uses.

Single-Family Detached Dwellings

Single-Family Zero Lot Line Dwellings

Single-Family Attached Dwellings

7:16:2.5-4. Single-Family Attached. Single-family attached dwellings are permitted subject to the following requirements:

- A. A maximum of 20 percent of the total number of dwelling units may be single-family attached (duplex, triplex and quadraplex). Any attached unit must be a townhouse and excludes condominiums.
- B. Attached units must be contained within the subdivision and not part of any exterior lot except in those areas where exterior lots are adjacent to land zoned for commercial, office or multifamily development.
- C. Attached units may be a duplex, triplex, or quadraplex and shall not exceed more than four attached units per structure.
- D. Attached units shall not be located on preexisting platted lots within a subdivision.

7:16:2.5-5. Permitted Density. The overall number of dwellings allowed in an Open Space Development ~~under Option #2~~ may be found in Table 7.1.

7:16:2.5-6. Required Common Open Space. In a ~~common~~ open space development ~~under Option #2~~, a minimum percentage of the total acreage must be designated as open space. The required open space ~~in~~ may include both developable and undevelopable land, as defined in Article 4, Definitions. Of that land dedicated for open space in the R-M, R-6, R-7.5, R-10, R-12, and R-15 districts, a minimum of 50 percent of the total open space must be considered developable land, as defined in Article 4, Definitions.

Not more than 50 percent of the required common open space may be used for active recreation, including uses such as playgrounds, golf courses, multi-use ball fields, pickleball courts, community swimming pools, clubhouses and similar uses.

~~Not more than 50 percent of the required common open space may be used for active recreation; playgrounds, golf courses, and multi-use ball fields. With the exception of paved walking paths, the active~~ Recreation areas (passive or active) used to meet the common open space requirements may not contain more than 5% impervious surfaces (e.g. paved walking paths, decks, and recreational structures including shelters, concrete pads, etc.).

Land dedicated as common open space shall be of meaningful proportions and dimensions so as to be consistent with the purpose and intent of this section. The common open space shall be contiguous to the extent practicable. At least 50% of the required common open space shall be accessible and have at least 50 feet of frontage on at least one public street within the development.

~~Land dedicated to common open space shall not include land dedicated for uses such as community swimming pool(s), clubhouse(s), and similar uses.~~ Recreational lakes or ponds used for storm water management may be included in the land designated as common open space. Fenced detention or retention areas used for storm water management shall not be included in the calculation of required common open space.

Table 7.1 Proposed Changes

Table 7.1 Minimum Lot Area/Permitted Densities for Single-Family Residential			
		Density Based Residential	
District	Conventional Development	Open Space Development Option #1	Open Space Development Option #2
	Minimum Lot Size	Units/Acre	Units/Acre
R-7.5	7,500	5.8 per acre	5.8 <u>3.5</u> per acre
R-10	10,000	4.4 per acre	4.4 <u>3</u> per acre
R-12	12,000	3.6 per acre	3.6 <u>2.5</u> per acre
R-15	15,000	2.9 per acre	2.9 <u>2</u> per acre
R-M	7,500	N/A	N/A
R-MHP	2 acres	N/A	N/A

Table 7.2 Proposed Changes

Table 7.2 Open Space Residential Development Options								
	Required Common Open Space <u>Zoning Districts</u>							Single-Family Detached = S-FD Single-Family Attached = S-FA
	R- M	R- 7.5	R- 10	R- 12	R- 15	Min. Tract Area	Min. Lot Area	Unit Types Permitted
Option #1	15%	15%	15%	15%	15%	2 acres	N	S-FD and S-FA 15% of total units
Option #2 <u>Required Common Open Space</u>	30% <u>40%</u>	30% <u>40%</u>	30% <u>40%</u>	30% <u>40%</u>	30% <u>40%</u>	5 acres	N	S-FD and S-FA 20% of total units

Land Development Proposed Changes

9.8 Minimum Open Space Requirements

All subdivision developments with over 10 lots and an overall density of greater than 1 dwelling unit per acre shall provide 15% of the total acreage to be set aside as permanent open space. The required open space may include both developable and undevelopable land, as defined in Appendix A, Article 4.

No more than 50 percent of the required common open space may be used for active recreation, including uses such as playgrounds, golf courses, multi-use ball fields, pickleball courts, community swimming pools, clubhouses and similar uses.

Recreation areas (passive or active) used to meet the common open space requirements may not contain more than 5% impervious surfaces (e.g. paved walking paths, decks and recreational structures including shelters, concrete pads, etc.).

Land dedicated as open space shall be of meaningful proportions and dimensions so as to be consistent with the purpose and intent of this section. The open space shall be contiguous to the extent practicable. At least 50% of the required common open space shall be accessible and have at least 50 feet of frontage on at least one public street within the development. Recreational lakes or ponds used for stormwater management may be included in the land designated as open space. Fenced detention or retention areas used for stormwater management shall not be included in the calculation for required open space.

Open Space Ownership, Dedication, and Management.

- A. *Ownership of open space.* The owner and developer, or subdivider, shall select land dedicated for open space purposes and type of ownership. Type of ownership may include, but is not necessarily limited to, the following:
1. Other public jurisdictions or agencies, subject to their acceptance.
 2. Non-profit or quasi-public organizations committed to the protection and conservation of open space, subject to their acceptance.
 3. Homeowner or cooperative associations or organizations; or
 4. Shared, undivided interest by all property owners within the subdivision.

CITY OF FOUNTAIN INN, SOUTH CAROLINA

**AN ORDINANCE TO AMEND APPENDICES A & B OF THE CITY OF
FOUNTAIN INN CODE OF ORDINANCES**

WHEREAS, the Fountain Inn City Council reviews the city ordinances at various times to make necessary improvements and/or changes; and,

WHEREAS, City of Fountain Inn has determined that amendments to its code of ordinances are needed to reduce the number of options, and increase standards, for open space development; and,

WHEREAS, the City of Fountain Inn finds that these revisions will increase the quality of open space developments and better meet the intent of open space development; and,

WHEREAS, the City of Fountain Inn Code of Ordinances may be amended from time to time as circumstances and the best interests of the community have required; and,

WHEREAS, the City of Fountain Inn Planning Commission recommended approval of the text amendments contained herein at a public hearing on September 26, 2024 after due notice for the purpose of considering the proposed amendments to the City of Fountain Code of Ordinances.

WHEREAS, the Mayor and City Council, after considering all of the facts and circumstances surrounding the proposed amendments to the City of Fountain Inn Code of Ordinances, do hereby find that the amendments as set forth herein are in the best interests of the City of Fountain Inn.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FOUNTAIN INN, SOUTH CAROLINA, AS FOLLOWS:

NOTE: *Language in section 1 of this ordinance that is ~~struck through~~ is language proposed to be deleted, underlined language is language proposed to be added, language that is not ~~struck through~~ or underlined is not to be changed, and *** represents sections of the Code of Ordinances that have been skipped and remain unchanged.*

SECTION 1. That the City of Fountain Inn Code of Ordinances is hereby amended as follows:

Appendix A, Zoning

Article 7, General Provisions

Section 7:16, Residential Density and Dimensional Standards

7:16:2, Open Space Residential Development

7:16:2.1. Intent. An open space residential development is a residential subdivision in which dwellings are situated on the most developable portion of the site in exchange for the preservation of substantial amounts of open space for recreational, environmental, and ecological reasons. The purpose of open space development is to provide a method of land development that permits variation in lot sizes without an increase in the overall density of population or development. This allows the subdivision of land into lots of varying sizes which will provide home buyers a choice of lot sizes according to their needs, while at the same time, preserving open space, tree cover, scenic vistas, natural drainage ways, and outstanding natural topography. Such measures prevent soil erosion and flooding by allowing development to occur according to the nature of the terrain; provide larger open areas with greater utility for rest and recreation; and encourage the development of more attractive and economical site design.

The developer, ~~while still building the same number of homes,~~ is able to provide a more economical product to the consumer by reducing the overall cost of required sewer, roads, and other infrastructure. Open space development facilitates the economical and efficient provision of public services as well. The resultant subdivision benefits from the open, recreational space and by the placement of houses in a manner more conducive to better social interactions among neighbors.

~~7:16:2.3. Open Space Development Options. Two open space development options are available for developers to choose from. The requirements for each of the two options are listed herein.~~

~~7:16:2.4. Open Space Residential Development, Option #1.~~

~~7:16:2.4.1. Minimum Areas. The minimum tract area for an open space residential development shall be two acres. The minimum area shall consist of contiguous parcels, not divided by an existing public or private road or a recreational or navigable body of water.~~

~~7:16:2.4.2. Minimum Lot Width. No structure shall be erected within 25 feet from any external lot line of any open space residential development, however, where land uses within an open space residential development are the same as uses permitted in the adjoining properties outside the open space residential development, a lesser setback that is consistent with the zoning on the adjoining properties may be permitted. Front setbacks from existing roads will be consistent with the requirements outlined in the appropriate zoning district and listed in Section 7:3, Table 7.4.~~

~~7:16:2.4.3. Permitted Uses.~~

~~Single Family Detached Dwellings~~

Single Family Zero Lot Line Dwellings

Single Family Attached Dwellings

~~7:16:2.4 4. Single Family Attached. Single family attached dwellings are permitted subject to the following requirements:~~

~~A. A maximum of 15 percent of the total number of dwelling units may be single family attached (duplex, triplex and quadraplex). Any attached unit must be a townhouse and excludes condominiums.~~

~~B. Attached units must be contained within the subdivision and not part of any exterior lot except in those areas where exterior lots are adjacent to land zoned for commercial, office or multifamily development.~~

~~C. Attached units may be a duplex, triplex, or quadraplex and shall not exceed more than four attached units per structure.~~

~~D. Attached units shall not be located on preexisting platted lots within a subdivision.~~

~~7:16:2.4 5. Permitted Density. The overall number of dwellings allowed in an open space development under Option #1 may be found in Table 7.1.~~

~~7:16:2.4 6. Required Open Space. In an open space development under Option #1, a minimum percentage of the total acreage must be designated as open space. The required open space in may include both developable and undevelopable land, as defined in Article 4, Definitions. Of that land dedicated for open space in the R-M, R-6, R-7.5, R-10, R-12, and R-15 districts, a minimum of 50 percent of the total open space must be considered developable land, as defined in Article 4, Definitions.~~

~~Not more than 20 percent of the required common open space may be used for active recreation; playgrounds, and multi-use ball fields. With the exception of paved walking paths, the active recreation areas used to meet the common open space requirements may not contain impervious surfaces.~~

~~Land dedicated as open space shall be of meaningful proportions and dimensions so as to be consistent with the purpose and intent of this section. The open space shall be contiguous to the extent practicable. Land dedicated to open space shall not include land dedicated for uses such as community swimming pool(s), clubhouse(s), and similar uses. Recreational lakes or ponds used for storm water management may be included in the land designated as open space. Fenced detention or retention areas used for storm water management shall not be included in the calculation of required open space.~~

7:16:2.5. Open Space Residential Development, ~~Option #2~~ Requirements.

7:16:2.5-2. ~~Minimum Lot Width Setbacks.~~ No structure shall be erected within 25 feet from any external lot line of any open space residential development, however, where land uses within an open space residential development are the same as uses permitted in the adjoining properties outside the open space residential development, a lesser setback that is consistent with the zoning on the adjoining properties may be permitted. Front setbacks will be consistent with the requirements outlined in the appropriate zoning district and listed in Section 7:3, Table 7.4.

7:16:2.5-5. *Permitted Density.* The overall number of dwellings allowed in an Open Space Development ~~under Option #2~~ may be found in Table 7.1.

7:16:2.5-6. *Required Common Open Space.* In an ~~common~~ open space development ~~under Option #2~~, a minimum percentage of the total acreage must be designated as open space. The required open space in may include both developable and undevelopable land, as defined in Article 4, Definitions. Of that land dedicated for open space in the R-M, R-6, R-7.5, R-10, R-12, and R-15 districts, a minimum of 50 percent of the total open space must be considered developable land, as defined in Article 4, Definitions.

Not more than 50 percent of the required common open space may be used for active recreation; playgrounds, golf courses, and multi-use ball fields. With the exception of paved walking paths, and recreational structures (i.e. shelters or playgrounds) the active recreation areas used to meet the common open space requirements may not contain impervious surfaces.

At least 50% of the required common open space shall be accessible and have at least 50 feet of frontage on at least one public street within the development.

Land dedicated as common open space shall be of meaningful proportions and dimensions so as to be consistent with the purpose and intent of this section. The common open space shall be contiguous to the extent practicable. Land dedicated to common open space ~~shall not~~ may include land dedicated for uses such as community swimming pool(s), clubhouse(s), and similar uses. Recreational lakes or ponds used for storm water management may be included in the land designated as

common open space. Fenced detention or retention areas used for storm water management shall not be included in the calculation of required common open space.

7:16:2.6. *Minimum Lot Area/Permitted Densities for Single-Family Residential.* The minimum lot area for conventional zoning, and densities (units/acre) provided for in each open space development option may be found in the following table. All densities are based on the total number of dwelling units divided by the total number of acres (both developed land and undeveloped land).

Table 7.1 Minimum Lot Area/Permitted Densities for Single-Family Residential			
		Density-Based Residential	
District	Conventional Development	Open Space Development Option #1	Open Space Development Option #2
	Minimum Lot Size	Units/Acre	Units/Acre
R-7.5	7,500	5.8 per acre	5.83.5 per acre
R-10	10,000	4.4 per acre	4.43 per acre
R-12	12,000	3.6 per acre	3.62.5 per acre
R-15	15,000	2.9 per acre	2.92 per acre
R-M	7,500	N/A	N/A
R-MHP	2 acres	N/A	N/A

Table 7.2 Open Space Residential Development Options								
	Required Common Open Space Zoning Districts							Single-Family Detached = S-FD Single-Family Attached = S-FA
	R-M	R-7.5	R-10	R-12	R-15	Min. Tract Area	Min. Lot Area	Unit Types Permitted
Option #1	15%	15%	15%	15%	15%	2 acres	N	S-FD and S-FA 15% of total units
Option #2 <u>Required Common Open Space</u>	430%	430%	430%	430%	430%	5 acres	N	S-FD and S-FA 20% of total units

Appendix B, Land Development Regulations

Section 2

Article 9, General Subdivision Design Standards

9.8, Minimum Open Space Requirements

All subdivision developments with over 10 lots and an overall density of greater than 1 dwelling unit per acre shall provide 15% of the total acreage to be set aside as permanent open space. The required open space may include both developable and undevelopable land, as defined in Appendix A, Article 4.

Not more than 50 percent of the required common open space may be used for active recreation, like playgrounds and multi-use ball fields. With the exception of paved walking paths and recreational structures (i.e. shelters or playgrounds), the active recreation areas used to meet the common open space requirements may not contain impervious surfaces.

Land dedicated as open space shall be of meaningful proportions and dimensions so as to be consistent with the purpose and intent of this section. The open space shall be contiguous to the extent practicable. Land dedicated to open space may include land dedicated for uses such as community swimming pools, clubhouses, and similar uses. Recreational lakes or ponds used for stormwater management may be included in the the land designated as open space. Fenced detention or retention areas used for stormwater management shall not be included in the calculation for required open space.

Open Space Ownership, Dedication, and Management.

A. Ownership of open space. The owner and developer, or subdivider, shall select land dedicated for open space purposes and type of ownership. Type of ownership may include, but is not necessarily limited to, the following:

1. Other public jurisdictions or agencies, subject to their acceptance;
2. Non-profit or quasi-public organizations committed to the protection and conservation of open space, subject to their acceptance;
3. Homeowner or cooperative associations or organizations; or

4. Shared, undivided interest by all property owners within the subdivision.

SECTION 2. CODIFICATION. The City shall codify the contents of this Ordinance, online as soon as practicable and in print as part of the City's next, regular, re-codification of the City Code as and if next codified.

SECTION 3. RESERVATION TO CITY. The City reserves the right to repeal or amend this Ordinance, at any time, from time to time, as often as the City, in its sole discretion, deems appropriate.

SECTION 4. SEVERABILITY. If any part of this Ordinances is unenforceable for any reason, then the remainder of this Ordinance remains in full force and effect.

SECTION 5. PENDING ORDINANCE DOCTRINE; Effective Date. The "Pending Ordinance Doctrine," as described and applied by the South Carolina Supreme Court in *Sherman vs. Reavis*, 273 S.C. 542, 257 S.E.2d 735 (1979), and as adopted and applied by South Carolina courts in other decisions, is adopted and declared to be in full force and effect in the City with respect to application of any City planning, zoning, and development matters, including the matters contained in this Ordinance. As a result, this Ordinance shall be deemed to be applicable at and after first reading.

CITY OF FOUNTAIN INN, SOUTH CAROLINA

George Patrick McLeer, Jr., Mayor

[CITY SEAL]

ATTEST:

Elizabeth Adams, City Clerk

APPROVED AS TO FORM:

Michael E. Kozlarek,
Esq.
King Kozlarek Root
Law LLC

First Reading: October 10, 2024
Second Reading / Final Approval: November 14, 2024

OPEN SPACE RESIDENTIAL TEXT AMENDMENT

CITY COUNCIL
OCTOBER 10, 2024

INN *the* **ZONE**

Zoning Code Update • Fountain Inn, SC





Issues with current ordinance

- No open space requirement for base districts
- Relatively low open space requirement and high density allowance (based on district)
 - 15% open space is not enough, should be 30-40%
 - Overall density should be reduced significantly
- Limited Open Space Design Criteria

Benefits of Open Space / Conservation Subdivisions

- + Balances private property rights with environmental and open space goals
- + Can protect aspects of rural character and natural resources (views, mature forest, wildlife habitat)
- + Can also provide flexibility to meet housing demand



Conventional Subdivision

Open Space /
Conservation Subdivision

	Fountain Inn	Greenville County	Laurens County	Simpsonville	Mauldin	Travelers Rest	Greer
Base Open Space Requirement	15% (all zoning districts – after amendment)	N/A	N/A	30% (R-E) 25% (R-Low, R-Med) 20% (R-High)	200 sq ft per dwelling unit	N/A	Very steep slopes are protected as open space
Open space option	40% (all zoning districts)	30% (R-15 zoning district)	30% (20% Natural, 10% Common)	N/A	30% (R-15 zoning district)	25%	30%
Density w/ open space option	Less than base district density (reduced to 2 DUA for R-15)	Same as base district	Same as base district	No open space option, just R-E	Same as base district (2.9 DUA for R-15)	Same as base district for R-12 and larger; density bonus offered for higher density zoning districts	Can exceed base district density
Minimum lot size w/ open space option	No minimum	No minimum	10,890 sq ft	16,000 sq ft for R-E (Note: No development in this district, rezonings always requested)	No minimum	No minimum	3,500 sq ft (attached housing)

Add Open Space Requirement for Base Zoning Districts

- + Add open space requirement for all new residential (15% for all subdivisions > 10 lots and 1 DUA)

Improve Open Space Residential Option

- + Reduce # of options from 2 to 1
- + Increase open space requirements (i.e. minimum of 40%)
- + Lower overall max density (i.e. R-15 change from 2.9 DUA to 2 DUA)
- + Revise allowances and standards

Table 7.1 Minimum Lot Area/Permitted Densities for Single-Family Residential			
		Density-Based Residential	
District	Conventional Development	Open Space Development Option #1	Open Space Development Option #2
	Minimum Lot Size	Units/Acre	Units/Acre
R-7.5	7,500	5.8 per acre	5.8 3.5 per acre
R-10	10,000	4.4 per acre	4.4 3 per acre
R-12	12,000	3.6 per acre	3.6 2.5 per acre
R-15	15,000	2.9 per acre	2.9 2 per acre
R-M	7,500	N/A	N/A
R-MHP	2 acres	N/A	N/A

Council Discussion

- + Supportive of initiating open space requirement of 15% for base residential districts.
- + Support for not allowing attached housing in R15 and R12
- + Edits suggested that will be incorporated in the rewrite (deed restricted open space, public utility easements should be undevelopable)
- + Discussion / concern about lot size.
 - + *Staff noted that slightly larger lot size (i.e. 10k vs. 7.5k) does not equal protection of rural character or home value*
 - + *Discussed setting a floor for lot size for some areas (i.e. 10,000 average lot size for R15)*
 - + *If this is done then open space percent may need to be reduced (i.e. 30% instead of 40%)*

Planning Commission

- + Supportive of draft amendment as originally proposed





Conventional Subdivision

15k sqft lots

Some Open Space



Open Space Subdivision With Amendment

40% Open Space

No Minimum Lot Size



Open Space Subdivision With 10k lots size floor

30% Open Space

Minimum Lot Size of 10k