Department of Planning and Development

Memorandum # 23-032

To: Planning Commission
From: Tommy Paradise, Director
Reference: Development Code Rewrite
Date: October 10, 2023

City council has reviewed the draft Development Code and held a public hearing on the ordinance. Section 6-29-760 of the South Carolina Code of Laws states in part, "No change in or departure from the text or maps as recommended by the local planning commission may be made pursuant to the hearing unless the change or departure <u>be first submitted to the planning commission for review and recommendation."</u> (emphasis added) So, Council is referring the comments back to the Planning Commission to review and provide a recommendation.

<u>Recommended Staff Change</u>
Staff would recommend amending Section 18.8.5 Major Waivers to read, The BZA is authorized to grant a major waiver from the standards of this Article. <u>The BZA is authorized to grant a major waiver from the standards of this Article for provisions contained in Chapters 1,2,7, 8, 9, 10, 11, 12, 13, 14, 16, 17, and 19 only. Any deviation from chapters 3, 4, 5, 6, 9, 15,18 shall conform to the variance procedure.</u> (underlined in additional wording). This was inadvertently missed in the first review.

<u>City Council Study Session</u>
On August 14th, City Council conducted a study session and as a result are looking at making the following changes to the ordinance. These changes include underlines (additions) and strike (deletions). City Council is required to receive a recommendation from the Planning Commission prior to making these changes.

1) Section 3.4.2.2 refers to the limitation on reconstruction of a nonconforming building, but places no amount that would trigger this limitation. There was discussion about possibly 50%. Staff would make the following recommendation on amending 3.4.1.2 and possibly adding a 3.4.1.3.

   The permitted reconstruction of a nonconforming structure <u>that has been damaged by less than 50% of the appraised value as determined by the county tax assessor's office in which the property sits,</u> is allowed. ~~if a permit is issued within six months from the time of damage or notice of wear and shall be completed within 12 months of issuance of the building permit for the nonconforming structure.~~ ~~Otherwise, a~~ <u>A</u> nonconforming structure shall not be rebuilt, altered, or repaired following accidental damage <u>if the repair exceeds 50% of the appraised value as determined by the county tax assessor's office in which the property sits.</u>

~~except in conformity of these regulations.~~ Nothing in this section prevents normal maintenance and repairs of a nonconforming structure.

3. Alteration or Additions. Alterations and/or additions to a nonconforming building or structure may be permitted as long as the alterations and/or additions do not increase the nonconformity of the building or structure to the building setback line, height limitations, yard, or other provisions regulating the size and placement of buildings and structures for the district in which the nonconforming building or structure is located.

2) Council considered changing 4.12.1 Residential R-14 -Large Lot Single Family District to read Residential R-14 (1/3 Acre) -Large Lot Single Family District

3) Pawnshops in the DTMU1 is a conditional use, there was discussion on if this should be allowed in DTMU1. Staff would recommend amending Table 5-1 to prohibit pawnshops in the DTMU1 district.

4) Council discussed allowing food trucks on the common areas in residential communities. If Council wishes to make this change, staff would make the following changes:

Amend Table 5.1 to allow food trucks as a conditional use in residential districts.

Amend Section 5.4.2.b. Maximum Number of Trucks per Property:

1. For ~~commercially zoned~~ parcels less than ¼ acre, up to two food trucks are permitted on the property at the same time.

2. ~~Commercially zoned properties~~ Properties between ¼ and ½ acre in size are permitted up to three food trucks at the same time.

3. For ~~commercially zoned~~ parcels over ½ acre in size, a maximum of four food trucks is permitted on the property at the same time, except for City-sponsored special events.

Amend 5.4.2.c.i Food Trucks are permitted on commercially, or ~~and~~ industrially zoned ~~properties only~~ parcels and in residentially zoned areas if located in common areas with the property owner's permission.

Amend Section 5.4.2.c.ix Food trucks shall be parked a minimum of 50 feet from any residential zoning district except where the food truck is operating on a common area of the residential district.

Amend Section 5.4.2.d.i In private spaces, hours of operation for food truck ~~in commercially and industrially zoned properties~~ shall be no earlier than 7 a.m. and no later than 10 p.m.

Amend Section 5.4.2.g.i ~~Food trucks are permitted on commercially and industrially zoned properties.~~

5) Also discussed was to allow chain link fencing that is not black vinyl clad. If so, staff would propose the following recommendation:

   Amend 6.3.5.2.a ~~Black vinyl clad~~ chain link

6) Council discussed the possibility of the Planning Director having the authority to allow alternative to the architectural requirement found in 6.5 for the DTMU1 district. I reached our consultant, Robert Barber, FAICP with Orion Plannnng+Design and discussed the option with him. Mr. Barber recommended against staff having the authority and recommended alternative compliance to be determined by the Planning Commission. If it is the Planning Commission's desire, staff would recommend adding a section 6.5.10 which would state:

   Alternative Compliance. The provisions of this section are not intended to prohibit an alternative design or material not specifically prescribed, provided that any such alternative complies with the intent of the provision of this section and is objectively shown through an officially published case study to be the equivalent or better of that prescribed in quality, appearance, strength, effectiveness, and durability. Alternative compliance shall be evaluated by the planning commission and approved or denied based on the demonstrated merits of proposed compliance.

   The above wording added as section 6.5.10 would only apply to the DTMU1 district. If Council wishes for similar alternative to be available in DTMU2 staff would recommended adding a section 6.6.6 with the same wording.

City Council Public Hearing

On September 11th, City Council held a public hearing for the proposed development code. The following are the comments received from the Home Builders Association of Aiken and Augusta Region. Staff has included responses and recommendations in blue.

4.12 subsection 1, 2, 3, 4: R-14 R-10, R-7 and R-5 (pg. 22-25)

As an option - consider allowing up to a 20% reduction in lot area (reduction in the minimum sq. footage of the lot). If the developer/builder elects to reduce the lot area by up to 20%, the common area/greenspace in the development shall be increased by the same square footage removed from the lot area. If lot area is reduced, allow the impervious area of the lot to increase to 50%. Still keep the max density and min lot widths the same per zoning district. Many buyers do not want large yards to take care of.

Allows developer/builder additional flexibility in lot layout.

Could reduce the infrastructure the city takes ownership of if the developed portion of a tract of land is more condense.

Ability to decrease lot area works well with infill development and could help preserve additional buffers and greenspace within the development.

Staff Comments: Staff would recommend not making these changes at this time. The purpose of the new development code is the streamline the process and make the code easier to understand. This may cause some confusion with developers in how to design. It will also be difficult for staff to track because of different rules for different subdivisions. The Homebuilder's Association also recommended the development of a Planned Residential district. This type of district would accommodate the changes that are requested above, but would provide better oversite by the city since it would be similar to a Planned Development without the commercial requirement.

4.12.3 R-7 (pg. 24)

Consider allowing townhome and single-family-attached a minimum 20ft lot width. Or as an alternate consider 50% of those townhome or single-family-attached lots to be reduced to 20ft in width, the remaining 50% must be 24ft or wider.

We have numerous townhouses plans with widths less than 24 ft, which would allow for flexibility in design.

Staff Comments: This item was thoroughly discussed by the Planning Commission and the Planning Commission recommended widths of not less than 24 ft. In reviewing alternatives Council should be aware of unintended consequences. An example of an unintended consequence would be parking. A parking space is 9 ft. by 18 ft. A 20 ft. wide townhome (lot) with two parking spaces in front would have an 18ft. wide pad and a 2-foot strip of grass in front of the home.

Article 7

Table 7.2 Plant Material specifications (pg. 97)

Keep allowances for large trees to be 2" min cal and small trees min 1" min caliper. Keep the current min height requirements the same as well (8' & 6')

Increasing to 3" and 2" will add approximately $200 to $300 per tree for the large trees and $150 to $200 per tree for the small.

Typical lot requires 1 street or subdivision tree, three large landscape trees and two small landscape trees which is a total increased cost of $1400 range. This is builder cost. Then a % profit added to that for the buyer and then the buyer pays for over the life of the mortgage.

The larger the tree is when it's planted, the longer it takes to adjust and start growing. A 2 "tree will generally be the same size as a 3" tree in 3 to 4 years and has a higher survivability rate.

Nothing stops a developer/builder from upsizing the trees to a larger size if they or the buyer wants the larger tree. However, buyers rarely request larger or more trees, they typically prefer to spend their money on upgrades inside the house.

Staff Comments: This issue was thoroughly discussed in both the Steering Committee and Planning Commission. Both bodies recommended increasing the size. Roy Kibler is the City Horticulturist and has the following comments on the question:

1) The reasons for moving to a 3" caliper street tree is to have a clear trunk for 5ft so there is no sidewalk inference. Street trees with lower limbs are protruding into the sidewalk and make it difficult to walk on the sidewalk without hitting tree branches.
2) Tree specifications such as this require the tree to stay another year or so at the nursery to allow it to have a 3" caliper and have a good quality structural tree canopy with a clear tree trunk.
3) With the 2" caliper trees that are currently being planted they have not been growing in caliper size very rapidly as there is no tree maintenance taking place by the developer, builder or landscape installer during the maintenance period.
4) A 3" caliper tree in 3-4 years planted correctly could reach a caliper of 5-7" with the proper care.
5) One other option would require the planting strip to be a 10 ft planting strip which was originally requested for the street trees and then a 2" caliper tree could remain as the tree branches would not be interfering with the sidewalks.
6) With the Maintenance Guarantee of 2 years the trees are not maintained by the developer and such that the poor-quality trees that are being planted are causing problems with the sidewalks and homeowners using them.

7) It appears as the developers are ultimately responsible for the street trees yet they are passing the cost of the street trees onto the builder who then passes it on to the homeowner. My professional recommendation would be to plant all the street trees up front so that there is tree quality consistency and the developer bears the cost of the street trees and therefore would have an interest in caring for the trees during the maintenance guarantee period.

7.3.3.1.b Preparation of the landscape plan (pg. 97-98)

Also allow the civil engineer to prepare the landscape plan. This is common practice.

Staff Comments: This issue was also discussed in the Steering Committee and Planning Commission which provided the recommendation in the draft. According to Roy Kibler, City Horticulturist, the civil engineer is not a landscape architect and many times are suggesting trees in the wrong location.

7.6 Street Trees (pg. 106)

The heading for subsection 7.6.2 mentions subdivision trees but there is no further allowance for subdivision tree. Keep the allowance for subdivision trees. Or simplify (delete "street" and "subdivision") the language to require one large tree per 40 ft of frontage to be planted between the front of the house and the street.

Allow the requirement of planting of the tree(s) in the paragraph above be a requirement of the final CO of the house, not the developer/final plat and not to a Performance or Maintenance Warranty period or LOC.

We do not typically include the landscaping in the homeowner warranty because it is up to them to run the irrigation properly and keep the plants alive.

Removing the trees from city responsibility and city ownership lowers city liability and expense.

Staff Comments: Council heard a lot of discussion about street trees. Prior to staff providing comments staff discussed the matter with members of council regarding the policy issues concerning street trees and if they would like to continue with street trees, where the City would maintain control but includes recurring maintenance cost and liability. As an alternative, would the City like to move the required trees to the private property and be the responsibility of the

homeowner, where the City would not have control and the property owner could maintain or remove the tree as they desire. Based on information received from the members, the consensus was to move forward with the alternative approach with the trees on private property.

Staff would recommend that an approved tree be required to be planted on the private property within 10-feet of the front property line of each single-family detached home. This tree would be required for the certificate of occupancy and would be owned and maintained by the home owner. The owner would also have the option of removing the tree if they desired. A maintenance guarantee would not be required by the developer and the city would not have any responsibility for the tree.

If the Planning Commission would like to recommend keeping street trees, staff would suggest all trees be required to be street trees located in the street right-of-way and eliminate the option of subdivision trees on private property. Staff would recommend that the City take over the maintenance of the trees when the street right-of-way is conveyed to the City, same as the utility maintenance. The 24-month maintenance guarantee on the trees could be called to replace trees that die during the maintenance period. Subdivision trees, as currently allowed, are on the homeowner's private property. Since this tree is not on public property and privately owned it is already difficult to have these trees replaced.

Article 9

9.6.5.6 Subdivision entrance signs (pg. 145)

Under e.ii and e.iii remove the word "monument"

Monument in the current code is only defined by one picture and monument in the proposed code is not defined at all. Removing the reference to "monument" gives us flexibility in the design of the sign. Keep all other size and material requirements in place.

Staff Comments: Monument signs are required for subdivision in the current development code and this wording was transferred to the draft document. The requirement for monument type signs is a typical requirement for subdivision entrances. Staff does recognize that there are subdivision signs existing that are not the monument type and these signs fit within the character of the community. Staff would recommend deleting the monument signage for subdivision signage.

Article 13.

13.3.2 Protection and the increase in buffer width (pg. 184)

The proposed code would now require a 50ft undeveloped buffer and cannot be subdivided.

Current city requirements are 25ft buffer and DHEC 30ft buffer up to 45ft buffer for impaired streams. So, there are already more stringent requirements by state law for streams/wetlands and waterways needing additional protection.

Taking of property

Implementing this increase in buffer width would be an additional hardship to developing infill projects.

Consider keeping regs as they are or allow the additional 25ft to be disturbed and replanted as part of the development process and included in the lot but place it in a "No Build" or "Setback" zone.

Staff Comments: Numerous cities and counties in SC have established riparian or stream buffers that are 50 feet or more (including Aiken County, Richland County (100'), Greenville County, Anderson County (up to 100'), Lexington County) to name a few. This was taking into consideration by those communities and found to be protective and required. The SCDHEC buffers mentioned by the Home Builders Association are temporary buffers, they are construction buffers (considered to be a BMP) only protect streams during construction activities. True buffers, such as the current North Augusta City buffer, is a permanent buffer and the area must remain undisturbed during and after construction (except as currently allowed provided by city council). So, to compare the SCDHEC requirements and the current or proposed buffers, is a mistake. These are two completely different types or uses of the term "buffers".

13.6.1- Detention Pond screening (pg. 187}

Remove the proposed requirement for screening a detention pond. Leave this decision up to the developer to decide if spending the money to screen the detention pond is beneficial to the development or not.

Staff Comments: Detention ponds are typically deeded to the City who is thereafter responsible for the maintenance and aesthetics of the ponds. By having the developer screen the ponds it prevents future

complaints about the pond, thereby saving the City the expense of screening the pond in the future.

Article 16.

16.8.2 - Preliminary approval (pg. 221)

Continue with the current practice that the staff report doesn't have a recommendation, but rather how the project fits within the development code or where it doesn't. You do hire staff for their professional expertise, but this opens the door for personal opinions to override whether the project meets the rules or not.

Staff Comments: This wording is in the current development code and was transferred to the draft code. The question was discussed in depth at the Planning Commission and the Planning Commission indicated their desire to receive recommendations.

16.8.5 Guarantees (pg. 222}

Consider allowing surety bonds from a bonding company with a rating of B+ or higher as an alternate to Letters of Credit.

Letters of Credit require large amount of money to be tied up and counted against the developer's balance sheet. Banks don't like them because they're not part of the loanable balance sheet available to bank lending.

Staff Comments: Staff reached out to the City Attorney, Kelly Zier, and advised he would suggest remaining with the Letters of Credit. Staff also reached out to other jurisdictions and they recommended staying with a Letter of Credit.

A bond is with an insurance company that may want to adjust the claim for less than the amount the City is requiring, leaving the City paying the difference or not pay. A Letter of Credit has the cash on hand in a bank that the City can go against without dealing with an insurance adjuster.

Department of Planning and Development

Memorandum # 23-033

To: Planning Commission
From: Tommy Paradise, Director
Reference: Capital Improvement Program & Impact Fee Ordinance
Date: October 11, 2023

In the fall of 2022, City Council conducted a joint meeting with the Planning Commission where a presentation concerning impact fees was given by staff. During the past year there has been ongoing discussion and research conducted by staff relating to this issue. In order to begin the process S. C. Code of Laws §6-1-950 states:

(A) The governing body of a governmental entity begins the process for adoption of an ordinance imposing an impact fee by enacting a resolution directing the local planning commission to conduct the studies and to recommend an impact fee ordinance, developed in accordance with the requirements of this article. Under no circumstances may the governing body of a governmental entity impose an impact fee for any public facility which has been paid for entirely by the developer.

(B) Upon receipt of the resolution enacted pursuant to subsection (A), the local planning commission shall develop, within the time designated in the resolution, and make recommendations to the governmental entity for a capital improvements plan and impact fees by service unit. The local planning commission shall prepare and adopt its recommendations in the same manner and using the same procedures as those used for developing recommendations for a comprehensive plan as provided in Article 3, Chapter 29, Title 6, except as otherwise provided in this article. The commission shall review and update the capital improvements plan and impact fees in the same manner and on the same review cycle as the governmental entity's comprehensive plan or elements of it.

A resolution to begin the impact fee process is on City Council's agenda for Monday, October 16th.

In anticipation of this resolution being approved by City Council, on the Planning Commission's agenda for the Wednesday, October 18th meeting is to authorize the Planning Director to develop and advertise a Request for Proposals (RFP). The hiring of a qualified and experienced consultant is the next step in the process for the Planning Commission and staff to obtain the technical information that will be required for an ordinance.

In addition, a Capital Improvement Plan (CIP) is required before an impact fee can be approved. The City of North Augusta currently does not have a CIP. Therefore, the RFP is proposed to include development of both the CIP and Impact Fee.

Staff would recommend that a selection committee of staff member review the submitted RFP's and recommend the selected firm to City Council to approve the contract and appropriate the funding for the RFP