



CITY OF SPARTANBURG

SOUTH CAROLINA

CITY COUNCIL AGENDA

City Council Meeting
City Council Chambers
145 West Broad Street
Spartanburg, SC 29306
Monday, November 12, 2018
5:30 p.m.

- I. **Moment of Silence**
- II. **Pledge of Allegiance**
- III. **Approval of the Minutes of the October 22, 2018 and the November 5, 2018 City Council Meetings**
- IV. **Approval of the Agenda of the November 12, 2018 City Council Meeting**
- V. **Swearing In of City Council District 4 Councilmember**
 - A. **The Honorable Jamie Fulmer – City Council District 4
Oath of Office Administered by Ms. Susu Johnson
Assisted by Ms. Katherine Fulmer
James Fulmer
Ben Fulmer
MacLean Fulmer**
- VI. **Public Comment**

*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VII. **RFP Bids for a Comprehensive Operational Analysis for Public Transit
Presenter: Dennis Locke, Finance Director**
- VIII. **Ordinance**
 - A. **Authorizing the City of Spartanburg South Carolina, to
Execute and Deliver an Equipment Lease Purchase
Agreement in an Amount Not Exceeding \$2,700,000
Between the City and the Lessor Thereof to Defray the
Cost of Acquiring Certain Equipment; and Other
Matters Relating Thereto (First Reading)
Presenter: Dennis Locke, Finance Director**

As required by the Americans with Disabilities Act, the City of Spartanburg will provide interpretive services for the City Council Meetings. Requests must be made to the Communications & Marketing Office (596-2020) 24 hours in advance of the meeting. This is a Public Meeting and notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act.

IX. Public Hearing

- A. Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance and Comprehensive Plan Land Use Element, BY Amending Section 206, Changes to District Boundaries, Specifically Parcel #6-21-15-010.00; Located on 116 Kensington Drive; Which is Zoned R-15, with a Land Use Designation of Single Family Residential District to Zone R-12, with a Land Use Designation of General Residential District and Providing for Severability and an Effective Date (First Reading)
Presenter: Natalia Rosario, Planner III**

X. Consent Agenda

- A. To Provide Certification of a Portion of Spartan Mill as a Textile Mill Site Under the South Carolina Textiles Communities Revitalization Act (Second Reading)
Presenter: Martin Livingston
Neighborhood Services Director**
- B. Authorizing and Approving a Franchise Agreement Between Piedmont Natural Gas Company, Inc., and the City of Spartanburg for a Period of Ten (10) Years Providing for a One Percent (1%) Payment Increase by Piedmont Natural Gas Company, Inc. From Four Percent (4%) to Five Percent (5%) (Second Reading)
Presenter: Chris Story, City Manager**

- XI. Rail Yard Park Improvements Update
Presenter: Mitch Kennedy, Community Services Director**

- XII. Approval to Purchase Personal Escape Rescue Harness and Required Training
Presenter: Ronald Hunter, Lt. SART**

- XIII. Approval of Consultants for the 2019-2023 Consolidated Plan / 2019 Annual Action Plan, and Housing Market Study
Presenter: Martin Livingston, Neighborhood Services Director**

- XIV. Ordinance Authorizing the City Manager to Execute an Agreement for the Sale of 170 Arch Street, Block Map Sheet 7-11-08, Parcel 158.00 (First Reading)
Presenter: Martin Livingston, Neighborhood Services Director**

XV. Authorizing the City Manager to Execute an Agreement for the Donation and Sale of 904 Lucerne Drive, Block Map Sheet 7-20-04, Parcel 033.00 (First Reading)

Presenter: Martin Livingston, Neighborhood Services Director

XVI. City Council Updates

XVII. Executive Sessions

- A. Executive Session Pursuant to Section 30-4-70 (a) (5) of the South Carolina Code to Discuss Matters Relating to Encouraging a New Investment Downtown**
- B. Executive Session Pursuant to Section 3-4-40(2) Concerning a Personnel Matter Related to the City Attorney Position**

Council may take action on matters discussed in Executive Session after exiting Executive Session.

XVIII. Adjournment

** Non-Agenda Items*

City Code Sec. 2-57. Citizen Appearance. Any citizen of the City of Spartanburg may speak at a regular meeting on any matter pertaining to City Services and operations germane to items within the purview and authority of City Council, except personnel matters, by signing a Citizen's Appearance form prior to the meeting stating the subject and purpose for speaking. No item considered by Council within the past twelve (12) months may be added as an agenda item other than by decision of City Council. The forms may be obtained from the Clerk and maintained by the same. Each person who gives notice may speak at the designated time and will be limited to a two (2) minute presentation.

**Agenda Items*

City Code Sec. 2-56. Addressing Council, Comments or Remarks to Council on Agenda Items Not Requiring Public Hearing. On agenda items not requiring a Public Hearing, please provide to the City Clerk prior to the opening of the meeting, your desire to speak on an agenda item. Remarks shall be limited to five (5) minutes and total remarks on any agenda item shall not exceed twenty (20) minutes.



**City Council Meeting
City Council Chambers
145 West Broad Street
Spartanburg, SC 29306
Monday, October 22, 2018
5:30 p.m.**

**(These minutes are subject to approval at the
November 12, 2018 City Council meeting.)**

City Council met this date with the following Councilmembers present: Mayor Junie White, Mayor pro tem Jerome Rice, Councilmembers Erica Brown, Sterling Anderson, Alan Jenkins, Max Hyde, and Ruth Littlejohn. City Manager Chris Story and Interim City Attorney Larry Flynn were also in attendance. Notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act. All City Council meetings are recorded for a complete transcript.

- I. Moment of Silence - observed**
- II. Pledge of Allegiance - recited**
- III. Approval of the Minutes of the October 8, 2018 City Council Meeting –**
Councilmember Jenkins made a motion to approve the minutes as received. Councilmember Littlejohn seconded the motion, which carried unanimously 7 to 0.
- IV. Approval of the Agenda of the October 22, 2018 City Council Meeting –**
Mayor pro tem Rice made a motion to approve the agenda as received. Councilmember Brown seconded the motion, which carried unanimously 7 to 0.
- V. Public Comment - None**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. Update from the Downtown Development Partnership**
Presenter: Jansen Tidmore, Executive Vice President, Chamber of Commerce
Mr. Tidmore updated Council on the success of the Downtown Development Partnership. Complete details of the report can be found at <http://www.cityofspartanburg.org/city-council>
Council received the report as information.
- VII. Presentation of Spartanburg Racial Equity Index**
Presenter: Dr. Kathleen Brady, Vice Chancellor of USC Upstate and Director of USC Upstate’s Metropolitan Studies Institute
Dr. Brady presented highlights of her study entitled, “Spartanburg Racial Equity Index”.

Complete details of the report can be found at <http://www.cityofspartanburg.org/city-council>
Council received the report as information.

VIII. Resolutions

A. Endorsing the City of Spartanburg’s Membership and Participation in The Government Alliance on Race and Equity
Presenter: Chris Story, City Manager

Mr. Story presented the item to Council as follows:

“The upcoming agenda includes two items related to the challenging but vitally important topic of racial equity.

The first is a presentation by Dr. Kathleen Brady, Vice Chancellor of USC Upstate and Director of USC Upstate’s Metropolitan Studies Institute (you will recall Dr. Brady from her time with us at Council’s retreat this past spring). Dr. Brady recently compiled the attached, a first of its kind report entitled Spartanburg Racial Equity Index. Dr. Brady will present an overview of this report.

After the Equity Index overview, I will make a very brief presentation about the Government Alliance on Race and Equity (“GARE”), a national collaborative of cities seeking to accelerate progress on racial equity. A two page overview of GARE follows Dr. Brady’s report in your packet. I will recommend your approval of a resolution endorsing our membership in GARE. 93 cities have joined GARE for 32 states. We would be the first from South Carolina to do so. Joining GARE does not formally obligate us to any specific activities or changes – it simply provides us with tools and resources to move forward faster in ways that are consistent with what I understand to be our values.”

Councilmember Brown made a motion to approve the resolution as presented. Mayor pro tem Rice seconded the motion, which carried unanimously 7 to 0.

B. Authorizing the City Manager to Appropriate Funds to the Aden Warehouse Corporation, Such Funds to be Used to Acquire and Remediate the Property Located at 300 Aden Street, Block Map Sheet 7-11-08, Parcel 147.00
Presenter: Martin Livingston, Neighborhood Services Director

Mr. Livingston presented the item to Council as follows:

“Staff is requesting approval to enter into an agreement with the Aden Warehouse Corporation to purchase, cleanup, and make available for sale and development 300 Aden Street in partnership with the Northside Development Corporation (NDC). The Aden Warehouses Corporation is an entity of the Northside Development Corporation and the City of Spartanburg. The NDC and City staff have learned that the warehouses at 300 Aden Street is currently available for failure to pay property taxes due. Staff is requesting approval to partner with the Northside Development Corporation to enter into a Voluntary Cleanup Contract (VCC) with the South Carolina Department of Health and Environmental Control

(SC-DHEC), purchase the property, cleanup the site, and make the property available for development.

The NDC and City will partner and share the cost of the activities associated with cleaning up the site. Estimated cost for all activities is expected to be the following:

Phase I Assessment	1,600.00
Purchase of Property	57,000.00
Limited demolition/cleanup	250,000.00
Miscellaneous cost/insurance/testing	2,500.00
TOTAL COST	311,100.00

ACTION REQUESTED: Staff is requesting approval to provide the Aden Warehouses Corporation funding to purchase, cleanup the site, and make available for sale and development the property located at 300 Aden Street.

BUDGET AND FINANCIAL DATA: \$ 156,000.00.”
Mayor pro tem Rice made a motion to approve the resolution as presented. Councilmember Littlejohn seconded the motion, which carried unanimously 7 to 0.

IX. Ordinances

A. To Provide Certification of a Portion of Spartan Mill as a Textile Mill Site Under the South Carolina Textiles Communities Revitalization Act (First Reading)

Presenter: Martin Livingston
Neighborhood Services Director

Mr. Livingston presented the item to Council as follows:
“Staff is requesting approval to certify the property located in the Northside community at the southwest corner of Howard Street and College Street as eligible for the textile mill certification. The certification would allow developers to seek Textile Mill Credit for a potential development on the site.

ACTION REQUESTED: Staff is requesting approval of the ordinance certifying the Partans LLC site as eligible for the Textile Mill certification.”

Mayor pro tem Rice made a motion to approve the ordinance as presented on first reading. Councilmember Jenkins seconded the motion, which carried unanimously 7 to 0.

B. Authorizing and Approving a Franchise Agreement Between Piedmont Natural Gas Company, Inc., and the City of Spartanburg for a Period of Ten (10) Years Providing for a One Percent (1%) Payment Increase by Piedmont Natural Gas Company, Inc. From Four Percent (4%) to Five Percent (5%) (First Reading)

Presenter: Chris Story, City Manager

“Our franchise agreement with Piedmont Natural Gas (“PNG”) is expiring and is due for renewal. The agreement enables PNG to utilize and run their pipes and other equipment through city streets and rights-of-way. PNG pays a franchise fee for those rights.

The only difference between the prior agreement and the enclosed proposed agreement is that the franchise fee has been adjusted from 4% of gross receipts to 5% of gross receipts which would place our arrangement in line with similar arrangements with other larger municipalities in PNG’s service territory including Greenville and Anderson, SC.”

Mayor White made a motion to approve the ordinance as presented on first reading. Councilmember Littlejohn seconded the motion, which carried unanimously 7 to 0.

X. Other Business

A. Award of Construction Services for Dr. T. K. Gregg Community Center Project

Presenter: David Cook, Construction Project Manager

Mr. Cook presented the item to Council as follows:

“The City solicited Request for Qualifications for pre-construction consulting services for the purpose of presenting a budget with an option by the City to execute a Guarantee Maximum Price contract. Working with City Staff and McMillan Pazdan Smith Architecture, Harper General Contractors has provided the city with a Value Engineered cost for the project.

Harper General Contractors Spartanburg S C \$11,907,857.00

After many meetings, staff is recommending award of the contract to Harper General Contractors. Harper General Contractors has indicated that it intends to award 15.3% of the contract total to MWBE subcontractors.

ACTION REQUESTED: Authorization for the City Manager to sign a contract with Harper General Contractors for the construction of the new Dr. T. K. Gregg Community Center Project.

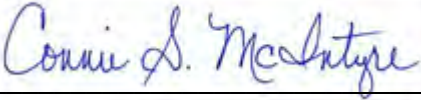
BUDGET AND FINANCIAL DATA: City Funding - \$ 11,907,857.00 in accordance with the financing plan approved by City Council on 8.27.18.”

Councilmember Brown made a motion to approve the award of construction as presented. Councilmember Littlejohn seconded the motion, which carried unanimously 7 to 0.

XI. City Council Updates - Each Councilmember gave updates on their activities since the last council meeting.

XII. Adjournment – *Mayor pro tem Rice made a motion to adjourn the meeting.*

Councilmember Littlejohn seconded the motion, which carried unanimously 7 to 0. The meeting adjourned at 6:49 p.m.

A handwritten signature in blue ink that reads "Connie S. McIntyre". The signature is written in a cursive style and is contained within a thin black rectangular border.

Connie S. McIntyre, City Clerk



**Special City Council Meeting
City Manager's Conference Room
145 West Broad Street
Spartanburg, SC 29306
Monday, November 5, 2018
5:30 p.m.**

**(These minutes are subject to approval at the
November 12, 2018 City Council meeting.)**

City Council met this date with the following Councilmembers present: Mayor Junie White, Mayor pro tem Jerome Rice (arrived at 5:48 p.m.), Councilmembers Erica Brown, Sterling Anderson, Alan Jenkins, Max Hyde, and Ruth Littlejohn. City Manager Chris Story and Interim City Attorney Larry Flynn were also in attendance. Notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act. All City Council meetings are recorded for a complete transcript.

- I. Call to Order – Mayor White called the meeting to order.**
- II. Approval of the Minutes of the October 29, 2018 Special City Council Meeting and Approval of the Minutes of the October 30, 2018 Special City Council Meeting – Councilmember Jenkins made a motion to approve the minutes as received. Councilmember Brown seconded the motion, which carried unanimously 7 to 0.**
- III. Executive Session Pursuant to Section 3-4-40(2) Concerning a Personnel Matter Related to the City Attorney Search**

Council may take action on matters discussed in Executive Session after exiting Executive Session.

Councilmember Jenkins made a motion to adjourn to Executive Session for the reason stated. Councilmember Brown seconded the motion, which carried unanimously 7 to 0. Council adjourned to Executive Session at 5:36 p.m.

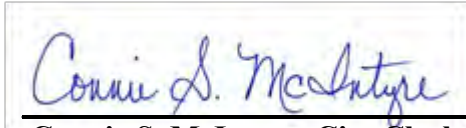
*Council reconvened to regular session at 7:35 p.m.
Mayor White stated that discussion was held with no decisions made.*

Councilmember Anderson made a motion to extend an offer of employment for the position of City Attorney to Robert P. Coler, and to authorize Interim City Attorney Larry Flynn and City Manager Chris Story to negotiate the terms of employment with Mr. Coler, with the understanding that said negotiated terms would be brought back to Council for final approval. Mayor pro tem Rice seconded the motion,

which carried 5 to 2. Councilmember Jenkins and Councilmember Littlejohn voted against the motion.

IV. Adjournment –

Councilmember Jenkins made a motion to adjourn the meeting. Councilmember Brown seconded the motion, which carried unanimously 7 to 0. The meeting adjourned at 7:48 p.m.



Connie S. McIntyre, City Clerk



REQUEST FOR CITY COUNCIL ACTION

TO: Chris Story, City Manager
FROM: Dennis R. Locke, Finance Director
SUBJECT: RFP bids for a Comprehensive Operational Analysis for Public Transit
DATE: November 6, 2018

The City issued a RFP to receive bids for a Comprehensive Operational Analysis (COA) for our Public Transit System. We are seeking to redesign our transit system to maximize the effectiveness of the bus system within our current budgetary constraints. We seek to redesign routes to improve efficiency with the emphasis on providing the highest level of service possible for the City's transit dependent population. Our priority is providing pathways to self-sufficiency and financial stability for our low income population.

We received three responses to our RFP:

AECOM – Greenville, SC	\$119,892	Project hours	898
NelsonNygaard – Boston, Massachusetts	\$134,138	Project hours	824
Four Square ITP – Rockville, Maryland	\$ 74,900	Project hours	510

Our committee conducted interviews with each company after thoroughly reviewing their proposals. Our Committee included Dr. Philip Stone who is a daily rider of the bus system. The evaluation criteria in the RFP with the weight factors are below:

Professional Qualifications & Experience	30%
Project Approach	25%
Past Performance	20%
Cost	20%
Conformance to RFP	5%

The unanimous recommendation of the committee was to award the contract to AECOM. Their presentation, experience, and approach to our project was clearly the best for the City.

Source of Funds for Project

F.T.A. – Grant	\$80,000
City Funds	\$20,000
SPATS	<u>\$20,000</u>
	\$120,000



REQUEST FOR CITY COUNCIL ACTION

TO: Chris Story, City Manager
FROM: Dennis R. Locke, Finance Director
SUBJECT: Capital Lease Financing
DATE: November 7, 2018

BACKGROUND:

As part of our ongoing efforts to equip staff with the resources they need at the lowest possible cost over the long term, the City is committed to maintaining an annual equipment replacement schedule. Funds are appropriated through the annual budget into the equipment replacement fund from which these purchases are then made throughout the year.

Due in part to very low interest rates in recent years, staff had determined that the City could strengthen its financial position by bundling and leasing the major purchases within a master lease. This mechanism spreads the cost of these purchases over several years. The proposed action is to authorize this year's lease program.

ACTION REQUESTED:

Staff is recommending the replacement of 13 Police Vehicles, 1 Fire Vehicle, 6 vehicles and 9 various pieces of equipment for Public Services, 2 Vehicle Business License Code Enforcement, 2 Vehicle Property Maintenance, 1 Vehicle Engineering and Air Pak's for all fire fighters (56)

It is staff's recommendation that we use a capital lease to finance these purchases. If approved, we would accept bids from various financial institutions. The source of repayment would be the Equipment Replacement Fund

BUDGET AND FINANCIAL DATA:

The total will not exceed \$2,650,000 inclusive of closing costs. This amount may be reduced pending final review of acquisition specifications.

ORDINANCE NO. _____

AUTHORIZING THE CITY OF SPARTANBURG, SOUTH CAROLINA, TO EXECUTE AND DELIVER AN EQUIPMENT LEASE PURCHASE AGREEMENT IN AN AMOUNT NOT EXCEEDING \$2,700,000 BETWEEN THE CITY AND THE LESSOR THEREOF TO DEFRAY THE COST OF ACQUIRING CERTAIN EQUIPMENT; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED BY THE MAYOR AND MEMBERS OF COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA, IN COUNCIL ASSEMBLED, AS FOLLOWS:

SECTION 1. Findings and Determinations. The City Council (the “Council”) of the City of Spartanburg, South Carolina (the “City”), hereby finds and determines:

(a) The City is an incorporated municipality located in Spartanburg County, South Carolina, and as such possesses all powers granted to municipalities by the Constitution and the laws of this State.

(b) Section 5-7-40 of the Code of Laws of South Carolina, 1976, as amended (the “S.C. Code”), empowers all municipalities to own and possess real and personal property and such municipalities may lease any such property.

(c) The City desires to enter into a lease-purchase agreement (the “Lease Agreement”) with a bank or other financial institution selected by the City Manager for the purpose of financing the acquisition of equipment (the “Equipment”) to replace the equipment set forth on Exhibit A hereto.

(d) The Lease Agreement will not constitute a “financing agreement” and the Equipment will not constitute an “asset” as such terms are defined in Section 11-27-110 of the S.C. Code. Thus, the amount of the Lease Agreement will not be included when calculating the City’s constitutional debt limit under Article X, Section 14 of the Constitution of the State of South Carolina.

(e) The Lease Agreement will be subject to annual appropriation by the Council.

(f) It is in the best interest of the City to acquire the Equipment by entering into the Lease Agreement. The Lease Agreement will enable the City to purchase the Equipment which will provide services necessary or useful to the operations of the City government.

SECTION 2. Approval of Lease-Purchase Financing; Authorization to Determine Certain Matters Relating to the Lease-Purchase Financing. The Equipment shall be acquired pursuant to a lease-purchase financing which is hereby approved in a principal amount of not exceeding \$2,700,000. The Finance Director of the City is authorized to distribute a Request for Proposals for the lease-purchase financing to various banks and other financial institutions in the City and other areas as he shall determine, in such form as he may determine to be appropriate.

Without further authorization, the Council hereby authorizes the City Manager to: (a) determine the payment schedule under the Lease Agreement; (b) determine the date and time for receipt of bids under the Request for Proposals; (c) award the sale of the lease-purchase financing to the bidder (the "Bidder") who submits the proposal determined to be the most advantageous to the City in accordance with the terms of the Request for Proposals; and (d) make changes to the quantity, cost or description of the Equipment.

SECTION 3. Approval of Lease Agreement. Without further authorization, the City Manager is authorized to approve the form, terms and provisions of the Lease Agreement proposed by the Bidder. The City Manager is hereby authorized, empowered and directed to execute, acknowledge and deliver the Lease Agreement in the name and on behalf of the City. The Lease Agreement is to be in the form as shall be approved by the City Manager, the City Manager's execution thereof to constitute conclusive evidence of such approval.

SECTION 4. Execution of Documents; Written Procedures. The Mayor, Mayor Pro Tempore, City Manager, Finance Director, City Attorney and Municipal Clerk are fully empowered and authorized to take such further action and to execute and deliver such additional documents as may be reasonably requested by the Bidder to effect the delivery of the Lease Agreement, including any project fund or acquisition fund agreement, or any payment or draw request thereunder, in accordance with the terms and conditions therein set forth, and the transactions contemplated hereby and thereby, and the action of such officers in executing and delivering any of such documents, in such form as the Mayor or City Manager shall approve, is hereby fully authorized. In addition, the City Manager and the Finance Director are further authorized to adopt written procedures on behalf of the City to ensure the City's compliance with federal tax matters relating to the Lease Agreement.

SECTION 5. Federal Tax Covenant. The City, as lessee, agrees and covenants that it will not take any action which will, or fail to take any action which failure will, cause interest components of the payments to be made under the Lease Agreement to become includable in the gross income of the Bidder or its successors or assignees for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original issuance of the Lease Agreement, and that it will comply with all applicable provisions of Section 103 and Sections 141 through 150 of the Code and any regulations promulgated thereunder, to maintain the exclusion from gross income for federal income tax purposes of the interest portion of the payments to be made under the Lease Agreement; and to that end the City shall:

- (a) comply with the applicable provisions of Section 103 and Sections 141 through 150 of the Code and any regulations promulgated thereunder so long as the Lease Agreement is outstanding;
- (b) establish such funds, make such calculations and pay such amounts in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States; and
- (c) make such reports of such information at the times and places required by the Code.

The City will timely file Form 8038-G in accordance with the applicable regulations of the Internal Revenue Service.

The City will designate the Lease Agreement as a “qualified tax-exempt obligation” for purposes of Section 265 of the Code relating to the ability of financial institutions to deduct from income for federal income tax purposes interest expense that is allocable to carrying and acquiring tax-exempt obligations.

This Ordinance shall constitute the City’s declaration of official intent pursuant to Treasury Regulation §1.150-2 to reimburse the City from a portion of the proceeds of the Lease Agreement for expenditures it anticipates incurring in the amount of approximately \$150,000 with respect to the Equipment prior to the execution and delivery of the Lease Agreement (the “Expenditures”). The source of funds for the Expenditures with respect to the Equipment will be the City’s general fund.

SECTION 6. Filings with Central Repository. In compliance with Section 11-1-85 of the S.C. Code, the City covenants that it will file or cause to be filed with a central repository for further availability in the secondary bond market when requested: (a) a copy of the annual audit of the City within thirty (30) days of the City’s receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the City, adversely affects more than five (5%) of the City’s revenue or its tax base.

SECTION 7. Severability. All ordinances, orders, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the execution of the Lease Agreement are, to the extent of such conflict, hereby repealed.

SECTION 8. Actions of the City’s Finance Director and City Manager undertaken in furtherance of the lease-purchase financing authorized hereby, including, but not limited to, the distribution of a Request for Proposals prior to the date of enactment of this Ordinance, are hereby ratified and approved.

SECTION 9. Effective Date. This Ordinance shall be effective upon its enactment.

[Execution Page Follows]

DONE AND RATIFIED this 10th day of December, 2018.

CITY OF SPARTANBURG, SOUTH
CAROLINA

MAYOR

(SEAL)

ATTEST:

CITY CLERK

Date of First Reading: November 12, 2018
Date of Second Reading: December 10, 2018

[Execution Page]

EXHIBIT A

List of Equipment

[see attached]

**Equipment Replacement Fund
Vehicle & Rolling Stock / Equipment Requests
To Be Financed thru Capital Financing
FY 2018 - 2019**

<u>Department / Division</u>	<u>Vehicle / Equip. Number</u>	<u>Model Year</u>	<u>Model or Manufacturer</u>	<u>Description</u>	<u>Estimated Cost FY 2018 - 2019</u>
Finance	Veh# 490 *	2005	Dodge	Status SXT Sedan	28,000
Finance	Veh# 610	2008	Chevrolet	Impala	<u>28,000</u>
					56,000
Property Maintenance Insp.	Veh# 182 *	1999	Ford	Tarsus	28,000
Property Maintenance Insp.	Veh# 237 *	2008	Ford	F-150 Truck	<u>28,000</u>
					56,000
Engineering	Veh# 63	2002	Ford	Tarsus	<u>28,000</u>
Building Maintenance	Veh# 622	2007	Chevrolet	Trailblazer	<u>25,000</u>
Police / Transport	Veh# 763	2011	Ford	E-350 Econoline Van	38,000
Police / Patrol	Veh# 741	2010	Ford	Crown Vic	60,000
Police / Patrol	Veh# 742	2010	Ford	Crown Vic	60,000
Police / Patrol	Veh# 744	2010	Chevrolet	Impala	60,000
Police / Patrol	Veh# 745	2010	Chevrolet	Impala	60,000
Police / Patrol	Veh# 757	2011	Dodge	Charger Sedan	60,500
Police / Patrol	Veh# 758	2011	Dodge	Charger Sedan	60,500
Police / Patrol	Veh# 759	2011	Dodge	Charger Sedan	60,500
Police / Patrol	Veh# 760	2011	Dodge	Charger Sedan	60,500
Police / Investigations	Veh# 746	2010	Chevrolet	Impala	39,000
Police / Investigations	Veh# 747	2010	Chevrolet	Impala	39,000
Police / Investigations	Veh# 748	2010	Chevrolet	Impala	39,000
Police / Investigations	Veh# 749	2010	Chevrolet	Impala	<u>39,000</u>
					676,000
Fire	N/A	2008	Municipal Emergency Services	10 - AP-75 2.2 Air Pak	<u>533,656</u>
Ground Maintenance	Equip# 36	2002	Carlton	Stump Grinder	45,000
Ground Maintenance	Veh# 43	2002	New Holland	Flail Mower Tractor	39,000
Ground Maintenance	Equip# 565	2007	Jacobsen	Groom Master Lawn Equipment	18,000
Ground Maintenance	Veh# 567	2007	John Deere	Gator TX, Lawn Equipment	22,000
Ground Maintenance	Veh# 568	2007	Kubota	Front Deck Mower	28,000
Ground Maintenance	Veh# 570	2008	Ford	F-350 Pick Up Truck	70,000
Ground Maintenance	Veh# 581	2011	Tennant	S30 Rider Sweeper	<u>100,000</u>
					322,000
Traffic Engineering	Veh# 428	2007	Chevrolet	Trail Blazer	<u>32,000</u>
Street Maintenance	Veh# 42	1995	Ford	F-800 Dump Truck	110,000
Street Maintenance	Veh# 101	1997	Ford	F-800 Dump Truck	<u>110,000</u>
					220,000
Fleet Maintenance	Veh# 25	1992	Ford	F-350 Pickup Truck	<u>45,000</u>
Solid Waste	Equip# 46	1999	John Deere	5210 Tractor	42,000
Solid Waste	Veh# 804	2004	Ford	F-750 Leaf Truck	112,000
Solid Waste	Veh# 807	2005	International	Rear Steer Knuckleboom Loader	174,000
Solid Waste	Veh# 846	2011	Mack	Automizer Sider Loader Sanitation Truck	<u>290,000</u>
					618,000
				GRAND TOTAL	\$ 2,611,656.00

* These vehicles have already been replaced, but the department is requested that the department fleet be increased.

Consolidated Ten Year Projections FY 2018 - 2019

10/29/2018



REQUEST FOR COUNCIL ACTION

TO: Chris Story, City Manager

FROM: Natalia Rosario, Planner III.

SUBJECT: Rezoning of property located at 116 Kensington Drive, Kevin Clark, Owner and Contractor.

DATE: November 12, 2018

SUMMARY: On October 18, 2018, the Planning Commission held a public hearing and reviewed a rezoning request submitted by Kevin Clark, Owner and Contractor to rezone Parcel #6-21-15-010.00 located on 116 Kensington Drive, that is currently zoned R-15 (Single Family Residential District) to zone R-12 (General Residential District) in order to allow for the parcel to be split into three properties and for the construction of a single-family home on each property. The original request for this meeting was to rezone the property to Zone R-6 (General Residential District) which would have allowed the Owner to split the parcel into five properties and build five single-family homes. After receiving a lot of feedback from adjacent and nearby property owners, Mr. Clark amended his request on Staff's advisement to request a rezoning to the zoning category of R-12 (General Residential). This zoning category would only allow him to split the property into three lots, instead of the two oversized R-15 lots that he would be able to achieve today.

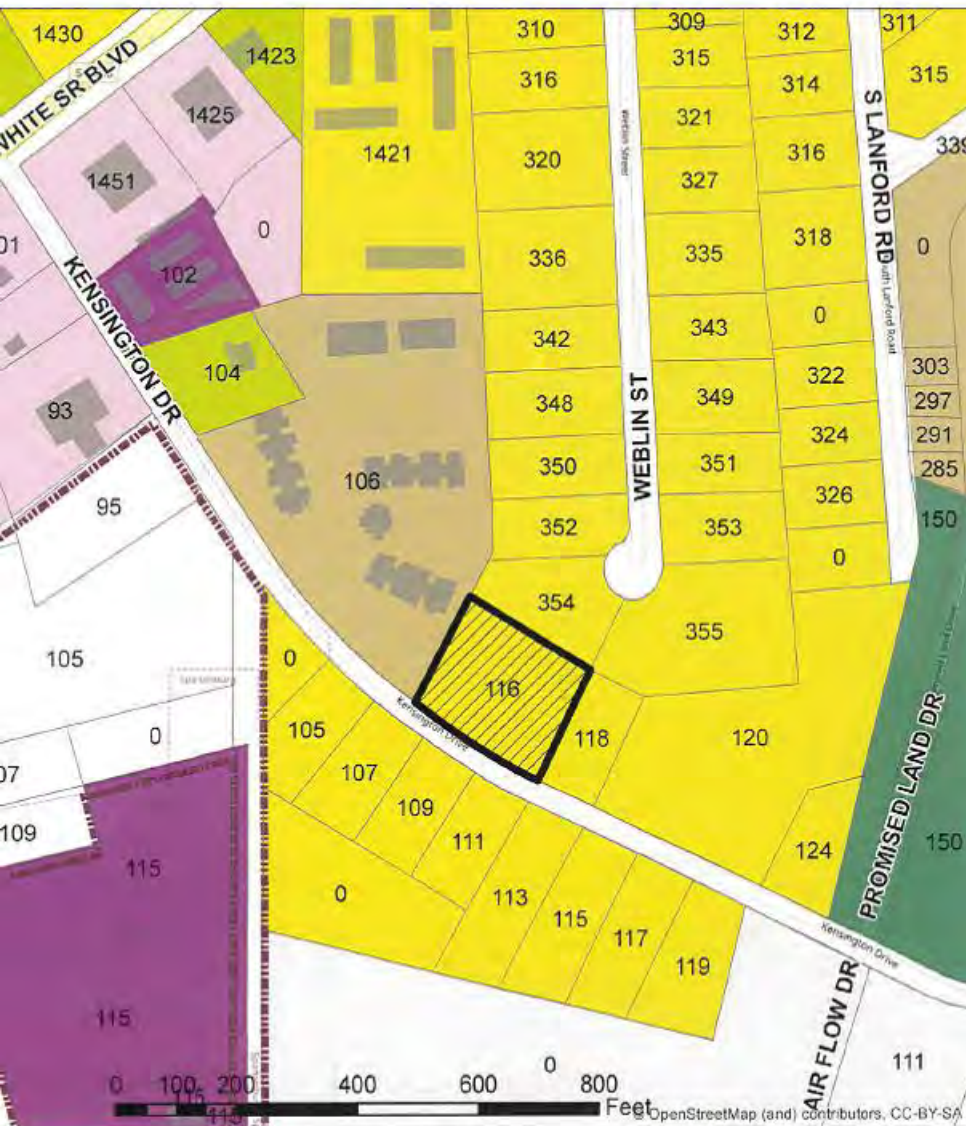
The 2004 Comprehensive Plan calls for this area to remain in low density residential, very similar to how the character of the neighborhood exists today. The proposed rezoning does not increase density or type of construction, (single family homes only).

The Planning Commission held a public hearing on the proposal on October 18, 2018. After consideration of the staff report, public comments, and the criteria set forth in the City of Spartanburg Zoning Ordinance and 2004 City Comprehensive Plan, the Planning Commission voted to recommend approval of the request to City Council for the rezoning of the parcel from R-15 to R-12.

PLANNING COMMISSION RECOMMENDATION: The request was endorsed by the Planning Commission on October 18, 2018 by a vote of 5 to 1, with Mr. Kinard in opposition. Staff's recommendation concerning this application is explained in detail in the attached staff report to the Planning Commission.

ADDITIONAL INFORMATION: Minutes from the October 18, 2018 Planning Commission Meeting and Staff Report with attachments are included. In addition, enclosed is a proposed Ordinance in the event that Council approves the rezoning request.

BUDGET AND FINANCE DATA: N/A



- Legend**
- 116 Kensington Drive
 - Parcels
 - Streets
- Overlay Zones**
- Overlay Zone**
- HD
 - LW
 - PDD
 - SFD
- Zoning Categories**
- Base Zone**
- DT-3: Sub-urban District
 - DT-4: General Urban District
 - DT-5: Urban Center District
 - DT-6: Urban Core District
 - B-1: Neighborhood Shopping District
 - B-3: General Business District
 - B-4: Heavy Commercial District
 - GID: General Institutional District
 - Civic/Landmark District
 - I-1: Light Industrial District
 - I-2: Heavy Industrial District
 - LC: Limited Commercial District
 - LOD: Limited Office District
 - R-6: General Residential District
 - R-8: General Residential District
 - R-12: General Residential District
 - R-15: Single Family Residential



City of Spartanburg
 Planning Commission
 116 Kensington Drive
 October 18th, 2018, 5:30 PM
 City Council Chambers
 145 W. Broad Street

OpenStreetMap (and) contributors, CC-BY-SA

AN ORDINANCE

ORDINANCE TO AMEND THE CITY OF SPARTANBURG, SOUTH CAROLINA ZONING ORDINANCE AND COMPREHENSIVE PLAN LAND USE ELEMENT, BY AMENDING SECTION 206, CHANGES TO DISTRICT BOUNDARIES, SPECIFICALLY PARCEL #6-21-15-010.00; LOCATED ON 116 KENSINGTON DRIVE; WHICH IS ZONED R-15, WITH A LAND USE DESIGNATION OF SINGLE FAMILY RESIDENTIAL DISTRICT TO ZONE R-12, WITH A LAND USE DESIGNATION OF GENERAL RESIDENTIAL DISTRICT AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Spartanburg now finds that, upon further review, it is in the public interest that the land use designation for the parcel identified on the Official Zoning Map of the City of Spartanburg, South Carolina, dated August 6, 1973, as amended, by changing the zone of Lot 010.00 as shown on Spartanburg County Block Map Sheet 6-21-15, from Zone R-15, Single Family Residential District to Zone R-12, General Residential District; and

WHEREAS, this zoning change would be compatible with surrounding land uses and neighborhood character, would not be detrimental to the public health, safety and welfare, and, further, would be in conformance with the Comprehensive Plan; and

WHEREAS, the Planning Commission held a public hearing on October 18, 2018, at which time a presentation was made by staff and an opportunity was given for the public to comment on the rezoning request; and

WHEREAS, the Planning Commission, after consideration of the staff report, public comments, and the criteria set forth in Section 605 of the Zoning Ordinance, subsequently voted at that meeting to recommend to City Council that the rezoning request be approved as recommended by City Staff.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Members of Council of the City of Spartanburg, South Carolina, in Council assembled:

Section 1. Amendment. That the official zoning map of the City of Spartanburg, as referenced by Section 206 of the Zoning Ordinance, be, and the same hereby amended as follows:

- The Lot currently identified as 010.00 as shown on Spartanburg County Block Map Sheet 6-21-15, shall be now designated as R-12, General Residential District.

(continued)

Section 2. Severability. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. Effective Date. This Ordinance shall be effective upon its adoption by the City Council of the City of Spartanburg, South Carolina.

DONE AND RATIFIED THIS _____ DAY OF _____, 2018.

Junie L. White, Mayor

ATTEST:

Connie S. McIntyre, City Clerk

APPROVED AS TO FORM:

Larry Flynn, Interim City Attorney

___/___/___ (First Reading)

___/___/___ (Second Reading)

***Spartanburg City Planning Commission Meeting Minutes
Thursday, October 18, 2018***

***City Hall Council Chambers
Spartanburg, South Carolina***

The City Planning Commission met in City Hall Council Chambers on Thursday, October 18, 2018 at 5:30 P.M. The following City Planning Commissioners attended this meeting: Jared Wilson, Howard Kinard, Bob Pitts, Dr. Phillip Stone, Reed Cunningham and William "Luke" Quillen. Mike Epps was absent. Representing the Planning Department were Natalia Rosario, Planner III. and Julie Roland, Administrative Assistant. City Manager, Chris Story and Council Member Sterling Anderson also attended the meeting.

Roll Call

Mr. Wilson, the Chair, stated that notice of this meeting was posted and provided to the media 24 hours in advance as required by the Freedom of Information Act.

Mr. Wilson noted that six Planning Commissioners were present, constituting a quorum; and he went over the rules and procedures for conducting a public hearing.

Mr. Wilson explained the general flow of how tonight's meeting would be conducted for all of the members of the audience that were present.

Mr. Wilson informed the Board Members he was informed that an amendment needed to be made to the Agenda for tonight's meeting; regarding the rezoning request had been revised from R-15 to Zone R-12 instead of R-6; and he asked if he had a motion.

Dr. Stone moved approval of the amendment and he was seconded by Mr. Cantrell. The motion was unanimously approved by a vote of 6 to 0.

Dr. Stone made a motion to approve the agenda as was amended; and he was seconded by Mr. Wilson. The motion was unanimously approved by a vote of 6 to 0.

Disposition of the Minutes from the July 19, 2018 meeting of the Spartanburg City Planning Commission.

Mr. Wilson moved the Minutes from the July 19, 2018 Meeting be approved as presented; and he was seconded by Mr. Kinard. The minutes were unanimously approved by a vote of 6 to 0.

Old Business – None.

New Business

- 1. Rezoning Request – The Planning Department has received a request to consider amending the City of Spartanburg, South Carolina Zoning Ordinance and Comprehensive Plan Land Use Element, by amending Section 206, changes to District Boundaries, of one property, Specifically Parcel #6-21-15-010.00 located on 116 Kensington Drive, that was currently zoned R-15 (Single Family Residential District) to zone R-12: General Residential District in order to split the parcel into three residential lots in order to construct three single family homes. Kevin Clark, Property Owner.**

Ms. Natalia Rosario, Senior Planner came forward and was sworn, and she submitted the meeting packets the Board Members had previously received via email, as well as tonight's presentation, and slides into evidence as Exhibit A. Ms. Rosario explained the original request was to rezone the proposed parcel to zone R-6 which would have allowed the petitioner to split the parcel into five parcels and build upon each of those a single family home; but that after hearing feedback from adjacent and nearby property owners, Mr. Clark had amended his request to rezone the property to R-12, which would only allow him to split the property into three lots and build three single family homes instead of five. She further explained the current R-15 zoning of the property would already allow the petitioner to split the parcel into two oversized lots that would allow him to build two homes on the property. Ms. Rosario said there had been some comments from nearby residents wanting to know what the actual construction would look like; and that was not something the ordinance factored in to a rezoning request. She said there were not design

guidelines for this area concerning single family residential homes or any other type of construction. Her recommendation regarding that was if this request moved forward, that the applicant might discuss that with the nearby residents. A slide was shown of the location map, proposed property, aerial view, and surrounding properties. Ms. Rosario also showed a slide that depicted the 400' area radius the Planning Department used to send out certified and regular mail letters to adjacent and abutting property owners. She said the applicant was present.

Planning Commission Questions for Staff:

There were no questions for Staff at this time.

Mr. Kevin Clark of 282 Noble Creek Road, Woodruff, SC came forward and he was sworn. He explained to the Board Members he had purchased the property in order to be able to build anywhere from 1200 to 1500 square foot homes, which he thought was the size of most of the homes in the area. Mr. Clark said he originally wanted to rezone the parcel to build five homes; and he thought he would be welcomed here for wanting to build homes; and after he found out there were a lot of concerns; that was when he decided to revise the petition to rezoning to R-12; and split the parcel into three parcels and only build three homes. He explained the proposed homes would be three bedrooms, two baths, with two car garages. The homes would have hardwood floors, ceramic tile and granite counter tops. Mr. Clark explained to the Planning Commissioners again he had no idea any of this would be an issue. He thought that building new homes in an older neighborhood would be welcomed.

Planning Commission Questions:

- Dr. Stone asked Mr. Clark about the acreage of the property as it was right now.
- Mr. Clark said it was 1.26 acres.
- Mr. Cunningham asked Mr. Clark if he was a home builder or developer.
- Mr. Clark explained he was a contractor; and he tried to build homes that would blend in to whatever neighborhood in which he was building.
- Mr. Cunningham asked had he done this in other areas. Mr. Clark explained he had; and he had built a lot of homes in the Greenville area; but since he lived in Spartanburg County, he decided he would like to build some homes in Spartanburg.
- Mr. Wilson asked the petitioner if this request moved forward about his timeline.
- Mr. Clark said he would probably build the first home within six months; and then he would do the other two at the same time, probably within another six months.
- Mr. Kinard asked if the plan was to sell the homes.
- Mr. Clark said yes.
- Mr. Kinard asked would the access to the homes be off of Kensington Drive.
- Mr. Clark said yes; and he explained the homeowner would drive off of Kensington directly into their driveway that would lead directly to the garage.
- Mr. Kinard asked would they be separate units or townhomes.
- Mr. Clark explained they would be separate single family homes; and he would divide the three parcels up as equally as he could; and they would all have about the same sized yards in order that they would all have plenty of room with a nice sized yard. He also said he had heard from some concerned residents regarding problems with water runoff; and the way the lay of the land was and buffer in the rear of the property; that nothing would be disturbed; and he did not feel water runoff would be an issue with the proposed three homes. Mr. Clark said on the back of the natural topography sloped away from Kensington Drive.
- Ms. Rosario explained the natural topography of the whole area kind of went towards Weblin Street.

- Mr. Pitts asked was there multi-family housing to the left of the property.
- Mr. Clark said yes; there were a lot of apartments.
- Ms. Rosario said there was Timberlane Apartments, and were probably over two hundred apartment units.
- Mr. Kinard asked was there a house on the proposed property.
- Mr. Clark said there had originally been a house on the property, but it had been torn down years ago.
- Mr. Kinard said then it had been vacant for a while now.
- Mr. Clark said that was correct.
- Mr. Kinard asked Staff how long the property had been vacant.
- Ms. Rosario said she was not exactly sure; but she knew it had been at least a couple of years.

Mr. Wilson asked if there were any more Board Member questions for Staff at this time.

There were no more questions at this time.

Ms. Rosario came forward again and showed a slide of the location map that depicted the zoning of proposed parcel and of the surrounding area; and also a slide of page 40 from the City's Zoning Ordinance that showed the Table of Area and Dimensional Requirements regarding the different zones. She explained the current zone of the property R-15 had a minimum lot square area of 15,000 sq. ft.; and the proposed zone R-12 had a minimum lot square area of 12,000 sq. ft.; and she said if the lot was split into three parcels it would still maintain about 15,500 to 16,000 sq. ft. of lot area. The minimum lot size per dwelling unit in Zone R-15 was 15,000 sq. ft.; and was 10,000 sq. ft. in the R-12 zone. Ms. Rosario explained what that meant was since none of these properties would exceed 20,000 sq. ft., there could only be one residential home built per lot. Regarding the setbacks and maximum building coverage, in zone R-15 the maximum building coverage was 25% of the total lot; and in R-12 the maximum building coverage was 35%; and that meant in R-12 zone there could be ten percent more house on the property. Regarding the front setback line in R-15 was 40' as opposed to 35' front setback in R-12. She explained the rear setback was 30' in R-12; and the interior side was a 10', so at minimum the houses would be about twenty feet from one another on their side, if they were that wide. She showed a slide of a drawing which she explained was a rough sketch of the buildable area that a home could be built. She said the maximum building height would be no more than 35' in the City of Spartanburg. Ms. Rosario then went over the analysis of required findings and report the Planning Commissioners had previously received in their meeting packets that included the following list of criteria for the Planning Commission to consider when reviewing a rezoning request and Staff's analysis of those criteria as follows:

1. *Consistency (or lack thereof) with the Comprehensive Plan* – The 2004 Comprehensive Plan calls for this area to remain in low density residential, very similar to how the character of the neighborhood exists today. Ms. Rosario said the proposed rezoning did not increase the density in terms of allowing for multi-family.
2. *Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood* – Surrounding parcels to the East and West are zoned R-15: Single Family Residential, with an R-6: General Residential District zoned property to the immediate north. Other parcels further north on Kensington Drive, and along John B. White Sr. Boulevard are zoned Limited Office District, General Business, and Neighborhood Commercial.
3. *Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment* – The property is suitable for the use of a single family home in the R-12 zoning district. The minimum lot area for SFH in this zoning district is 12,000 square feet – each lot will have anywhere from 15,500 to 16,500 square feet, which is the minimum required by the R-15 zone. In the R-12 district only one residential unit is permitted per every 10,000 square feet, so only one unit (no duplex or multifamily) is permitted on each lot. The R-15 zoning district requires a front lot line length of 90 feet, which would only allow for two houses to be built after splitting the properties. Ms. Rosario explained essentially what they were looking at here was

instead of a ninety foot wide lot line; they would be looking at an eighty foot wide lot line; which would allow for the construction of one additional house.

4. *Marketability of the property affected by the amendment for uses permitted by the district applicable to the properties at the time of the proposed amendment* – The rezoning of the property to R-12 will increase the marketability of the property, as it has sat vacant since the demolition of the previous single family home on this lot. Staff has received inquiries regarding multi-family developments on this property, which is not permitted under R-15 or R-12, and would not be appropriate considering the character of the surrounding single family homes. After developing the properties with homes, this property will increase in value, pay higher property tax, and add three homes to Kensington Drive.
5. *Availability of sewer, water and storm water facilities generally suitable and adequate for the proposed use* – Both water and sanitary sewer services are available to this site. Please note that the slope of this area runs off towards the north of the property and other surrounding properties, towards Weblin Drive. She said for the record, there was no requirement for a single family construction to retain or detain any water on the property; she said that came into play for multi-family and commercial developments. She felt something that would help regarding this was the petitioner had said something about not disturbing the buffer area and not tearing up the rear, allowing the water to continue to run off as it does today into the grass.

Staff's Analysis & Recommendation:

Staff is of the opinion that the proposed zone change from R-15: Single Family Residential District to R-12: General Residential District will be a beneficial and appropriate use for the area. Therefore Staff recommends approval of the proposed zone change from R-15 to R-12.

Ms. Rosario said for the record they did have two written public comments received in opposition of this request; the first was from Suzanne Proctor who lived at 354 Weblin Street whose property backed up to the proposed property on the side which was included in the Planning Commissioners Meeting Packets they had previously received, which she entered in to evidence as Exhibit A; and the other was from Bonnie Carter who lived at 105 Kensington Drive, which she entered into evidence as Exhibit B; both in protest of the request. Ms. Carter's concern was with the value of her property being affected.

Planning Commission Questions/Comments:

- Mr. Quillen asked Ms. Rosario if she would read Ms. Proctor's written letter.
- Ms. Rosario read the letter from Ms. Proctor to the Board Members and audience.
- Dr. Stone said one of the main differences between the R-15/R-12 districts besides the general square footage requirements which it sounded like the petitioner was actually going to meet, was the street frontage which was 90' vs. 80'. Dr. Stone said other than that there did not appear to be much difference between the two zones; and they were both pretty restrictive zones.
- Ms. Rosario said that was correct; and that R-12 was only slightly more flexible in that if you had a large enough lot, you could potentially do an accessory dwelling unit.
- Mr. Kinard asked Ms. Rosario if a bufferyard was only required regarding multi-family and commercial.
- Ms. Rosario said that was correct; and she said there would not be a requirement for Mr. Clark, but there was a pretty strong existing buffer already there.
- Mr. Kinard said he thought that bufferyard backed up to the property of the lady who had submitted the letter.
- Ms. Rosario said that was correct.
- Mr. Kinard referenced the slide again and asked if those were telephone or power poles on the property.

- Ms. Rosario explained there were several poles on the property that provided services to the area.
- Mr. Kinard asked about curb cuts; and there would need to be three separate entrances.
- Ms. Rosario explained that was correct.
- Mr. Cunningham said Ms. Proctor had referenced 106 Kensington Drive; and he said that was not her lot was it.
- Ms. Rosario said it was not; it was an apartment; and Mrs. Proctor's lot was 354 Weblin Street.

Mr. Wilson asked if there were any more Planning Commissioner questions for Ms. Rosario at this time. There were no other questions at this time.

Mr. Wilson opened the public hearing and asked anyone who wished to speak to come forward and state their name and address for the record.

- Ms. Billi Willauer of 124 Kensington Drive came forward and said she was the President of the Kensington Drive Neighborhood Association and said the Association had requested her to ask that the request be tabled at tonight's meeting and rescheduled at a future date, due to the fact that some of them had not been notified at all which she said were the two adjacent property owners; and also since the request was now changed, this was the first they had heard about it, and had not had time to understand what the change meant.
- Mr. Kinard asked Ms. Willauer if she was talking about the change from R-6 to the R-12.
- Ms. Willauer said yes.
- Ms. Rosario said the original letter had gone out 15 days ahead of time to the property owners and there was not enough time to notify the property owners since the request had just recently been amended.
- Mr. Kinard said the R-6 zoning would have allowed the parcel to be split into five properties, with five single family homes; and the R-12 would allow three properties with three single family homes; and he asked Staff whether that was correct.
- Ms. Rosario said that was correct.
- Ms. Willauer said the original request letter was what the residents had received; but that Michael Hamlin that lived at 118 Kensington had not received his certified mail letter and that Donna Coggins who lived at 107 Kensington had not received anything from the City.
- Mr. Kinard asked were those sent out certified.
- Ms. Rosario had her copies of the certified and regular mail letters that had been sent out regarding the request and said she had record of the certified mail letter that went out to Mr. Hamlin at 118 Kensington Drive; and the regular mail letter that was sent to 107 Kensington Drive.
- Mr. Kinard asked Ms. Willauer if those two residents she had spoken of were not available to attend the meeting.
- Ms. Willauer said Mr. Hamlin had a prior commitment and he was a single parent and was unable to get here; and she said the resident at 107 Kensington Drive was present if they wished to speak to that resident.
- Mr. Kinard asked to see Staff's letters that went out.
- Ms. Rosario showed Mr. Kinard the list of names and addresses that Staff had sent the certified and regular mail letters to.
- Dr. Stone said he really did not think a motion to table right now was in order, since they were in the public hearing portion.
- Mr. Kinard said what they had to go off of what had been provided by City Staff; and they showed the letters had been sent out.

- Dr. Stone said R-12 was a considerably more restrictive zone than the original R-6; and this was a very minimal change from one to the other.
- Ms. Willauer said they were not aware of what the rules were regarding the change; and she felt the people needed time to learn about what was going on.
- Mr. Cunningham asked Ms. Willauer if the people that did not come tonight; did they not come because of the confusion or what.
- Ms. Willauer said they did not come because they had a prior commitments.
- Mr. Wilson said for the record just so everyone present understood that the original request was for the property to be rezoned from R-15 to R-6 which if passed would have split the property in to five lots and the ability to build five homes; and now the request had been changed to Zone R-12 which would only allow the property be split into three lots with three homes being built.
- Mr. Kinard asked Ms. Rosario what was the precedent regarding a rezoning request if there was a change in the petition.
- Ms. Rosario said the applicant could amend the request at any time; and the reason why they wanted to amend out loud was so that everyone present tonight would realize that an amendment had been made before the case was presented. She explained that happened relatively frequently when there was a change Staff did not just stop everything and push it back to another date unless it was something drastic that would really change the proposal; then at that time Staff would stop and re-notice, etc.
- Mr. David Jacobs of 355 Weblin Street came forward and said his address was at the corner; and there was definitely a water run-off problem. He said they had developed lakes in their yard, and underneath his house stayed very moist. He felt if three more homes were added it would cause an even bigger problem. Mr. Jacobs felt two new homes would be enough as opposed to three. He said his last concern was regarding price range; and he asked Mr. Clark what was the price range he planned to build on the lots.
- Mr. Clark said he planned to build nice homes that ranged between \$180,000.00 to \$200,000.00 on the three lots.
- Ms. Rosario said just as a pointed of order that all questions needed to be addressed to the Board during the public hearing portion of the meeting.
- Mr. Wilson, the Chair explained to everyone to address any questions to the Board Members, and after everyone had a chance to voice their concerns, the Board Members would bring the applicant back up to address those concerns.
- Mr. Jacobs continued his concerns regarding the request; and he said for a lot and house to be that small; he would not pay that price for it in that neighborhood. He said they also had a lot of cut through of young adults through the area.
- Mr. Wilson asked Mr. Jacobs would he not think since the lot was not occupied it may lend itself to more cut through traffic as opposed if there were some homes on the property.
- Mr. Jacobs said he was glad he wanted to build some homes; and he was glad he was not planning on doing any rental properties. He said his last questions was would it be a slab home, or modular or pre-fab home or would it be a stick-built home.
- Mr. Cunningham asked Mr. Jacobs where the runoff came from that was disturbing his property.
- Mr. Jacobs referenced a slide of the properties and said it was coming from 116 Kensington Drive.
- Mr. Cunningham asked did 118 and 120 Kensington Drive not contribute to his water problems.
- Mr. Jacobs did not feel that the properties at 118 and 120 Kensington Drive contributed to his water problems.

- Mary Haymond came forward and said she and her husband lived at 111 Kensington Drive that was right across the street from the proposed property. She said her first inclination that someone had purchased the property was that all of a sudden a lot of beautiful pine trees were cut down; and the trees were still laying there. Ms. Haymond described their neighborhood and how the neighbors felt about where they lived for the applicant; and she informed him the neighborhood would feel a lot better if he would only build two homes as the current zoning allowed as opposed to three homes.
- Ms. Willauer of 124 Kensington Drive that spoke earlier came forward again and said they were all concerned with the value of their homes being affected; she explained that Ms. Suzanne Proctor had also wanted her to relay that she had a lot of problem with water run-off at her house as well, and that her basement had to be refurbished several times because of water runoff, and she mentioned a picture Ms. Rosario had where you could not see the slope so much if you were viewing it from the front side; but if you walked to the back side there was a nice slope. She said she did not know what they could do to address that issue. She also spoke about sewer backup problems from houses that were on down the hill on that same side; and she said the City had to send a sewer pumping truck out to address the issue a couple of times a year at 118 and 120 Kensington Drive. She said it was not a plumbing problem, and that it was on the sewer side of the City. Ms. Willauer said they were not opposed to a couple of homes being built there and she thought it was a wonderful idea. They want the homes to fit in with the neighborhood and don't want them to cause any more problems than what there already was in the neighborhood. All of the run-off problems started when they had built the Timberlane Apartments; which also added a lot of traffic to the area. There was also the Promised Land located in the area. She said the sewer and the runoff were the big issues.
- A lady that said she lived at 355 Weblin came forward and said she concurred that two houses would be more appropriate than three or five houses. She also had sewer problems, water under the house, and mold and mildew problems. She said it had not been an issue until the last couple of years. She has lived there for fourteen years. She said she has called the police a lot of times regarding people shooting firecrackers and guns in the area.
- Mr. Haymond of 111 Kensington Drive came forward and said his wife had already spoke, but he felt any new homes should be built according to the existing code in the area; and if the code said they could only build two homes, that is what he felt they should build. He felt the zoning was there for protection of homeowners.
- A lady that said she lived at 119 Kensington Drive came forward and said she was also representing her in-laws that lived at 117 Kensington Drive. She was not opposed to having two new single family dwellings, but she felt that three could be too many. She was concerned about having a little space between her and the next proposed property owner.
- Councilmember Sterling Anderson came forward and thanked the Planning Commissioners and Staff for what they did for the City. He also thanked all of the members of the neighborhood for coming out and voicing their concerns. He said he was glad that the Chair pointed out and explained the request had been originally to build five new homes, and now it had been amended to three homes. Mr. Anderson said this was a very nice neighborhood, and they had seen encroachments, etc. from commercial developers as well as multifamily. He said he was relying on the fact that the petitioner was a licensed contractor and home builder in the state of S.C. and would have to comply with all the restrictions the City would put on a builder in the City. He said they were glad to have new homes in the City. Mr. Anderson said he rode out by the property today and there was a lot of trees that had been torn down. He said perhaps the contractor would be willing to put up a fence as a barrier as well. He concluded his statement by saying he was a little surprised that the request had been amended and it was not re-notice and the property owners were not notified of the change.
- Mrs. Haymond of 111 Kensington Drive that spoke earlier came forward again and said that Mr. Hamlin that lived right across the street from the property had told her and Ms. Willauer when they were going door to door trying to inform people about the request; had acted very surprised and concerned that a meeting was being held; and said he did not receive anything in the mail; and she said he was one of the people who supposedly received a certified mail letter.

- Dr. Stone said he sometimes received a certified mail letter card in his box and it might take him a week to go and pick up the letter.
- Mr. Kinard said as Councilmember Anderson had mentioned; regarding a change in the request not being re-noticed and letters sent back out; he asked Staff about that.
- Ms. Rosario said from her experience on this Board and other Boards Staff would periodically receive verbal amendments right before a meeting.
- City Manager Chris Story came forward and explained the principal that mattered the most in this case was the change moved for the better regarding the request. He said if there had been a change that would take the application in a more intense direction they would definitely have re-advertised and property owners re-noticed.
- Dr. Stone asked Ms. Rosario if this request was approved at tonight's meeting, would it be re-advertised and re-noticed to property owners before it went for another Public Hearing and First Reading of Ordinance by City Council.
- Ms. Rosario said it would be re-advertised; and that normally in the property owner letter they indicated if the request was approved, when it would go to City Council; but in this case if it would make the homeowners feel better, they would re-notice all the letters again.
- Mrs. Roland said if the request was approved tonight; it would go for another Public Hearing and First Reading of Ordinance at the November 12th City Council Meeting; and if it was approved at that meeting it would then go for a Second Reading on November 26, 2018.
- Mr. Wilson, the Chair informed everyone in the audience that regardless of what happened at tonight's meeting if it were to be approved, that it would need to go before City Council twice. He also informed everyone it if was not approved tonight, the applicant would have two weeks in which to file an appeal and take the request directly to City Council.
- Mr. Cunningham asked Staff about one of the slides of the property that had a sign on it; and asked Staff if the sign had been posted regarding tonight's meeting.
- Ms. Rosario explained that it did; and if the request was approved at tonight's meeting, the sign would be changed out to reflect the City Council Meeting Date and time.

Mr. Wilson asked was there anyone else who wished to speak regarding the request to come forward. No one else came forward. Mr. Wilson closed the public hearing; and asked the applicant to come forward again.

Board Questions:

- Mr. Wilson asked the Applicant if the request was approved tonight; would the proposed homes be built slabs on grade, or would they be crawl spaces.
- Mr. Clark said they would be crawl spaces.
- Mr. Wilson asked the Applicant if the homes would be stick built construction.
- Mr. Clark said yes.
- Dr. Stone asked the Applicant if he was planning on hiring a licensed contractor to build the homes.
- Mr. Clark said yes.
- Mr. Cunningham said Mr. Clark had mentioned earlier the homes would be comparable or similar to the ones in the area; and he asked him if he knew the average square feet of the homes in that neighborhood or in particular the house next door.
- Mr. Clark said he was told by the real estate agent he had dealt with that the homes next door had about 1400 square feet. He said in his opinion none of the homes in the area looked to over 1600 square feet. Mr. Clark then talked about the trees on the property; that those were pretty big trees that would need to come down regarding safety issues. He certainly understands everyone's

concerns; and he wanted to be a good neighbor. He did not plan to build any homes that would stick out, and would be comparable to the area.

- Dr. Stone asked the Applicant if he had any consideration of which way he would orient the homes to the street.
- Mr. Clark said the homes would be more long than they would be wide; with him going with the three homes; they would still have the garage coming right off Kensington; and they would still be built the same way. He really did not think bad neighbors would be able to afford the homes.
- Mr. Pitts asked about the number of bedrooms.
- Mr. Clark said they would be three bedrooms; and now that he had cut it down to three homes, he may even build a bonus room over the garage.
- Mr. Wilson asked would his intent be to provide fenced in yards at this point.
- Mr. Clark said that was not his intent with reducing the number of homes to three. Originally, he would have considered that with five homes.

Mr. Wilson asked were there any other Board Questions for the Applicant. There were no more.

Board Comments/Deliberation:

- Mr. Kinard said he would give his thoughts on the request and considering the incredible turn out from the neighborhood, and it was very clear that they were all proud and concerned about the neighborhood. He said he was somewhat concerned about the density regarding how these homes would be placed; and he said he would be inclined to go one way if this request was affecting the marketability of the property; and as it stood he could build two homes with the current zoning. He said looking at the surrounding properties that three single family homes on the one lot would not be in conformity with the surrounding area.
- Mr. Quillen asked the Chair if he could ask a question of Staff.
- Mr. Wilson said he could.
- Mr. Quillen asked Staff what would have been Staff's Recommendation if the request had stayed at the R-6 zone.
- Ms. Rosario explained with their being five new homes proposed in the City, she would have recommended approval; but after receiving early comment from the neighbors, she decided it would be better to go with the R-12 zone and with the three homes.
- Mr. Wilson said in his opinion after going through all of the concerns that had been brought up; he thought with a lot of the problems they had with people walking through yards, and bad activity that he thought that lots with single family homes would help to reduce some of those problems. He said regarding the stormwater and sewer back up regarding two homes versus three that he did not see there would be that much difference. He emphasized with the neighbors and concerns with the traffic problems, but he did not see there would be much difference between the two homes versus the three homes either. He said with the lot widths that had been mentioned 90' versus 80' was not that much different. He said a vacant unmanaged lot did not favor for a neighborhood versus an owner occupied single family home.
- Dr. Stone said he always listened when a lot of neighbors came in to a meeting; but he was very much in agreement with the Chair.
- Mr. Wilson said they understood the concerns and with the points that had been made the City had followed the requirements regarding a meeting; and that sometimes if a certified letter was sent out sometimes it did take a few days to go to the post office box and pick the letter up; but the property was posted two weeks in advance of the meeting.
- Mr. Cunningham said he agreed that the notification had been sufficient and the fact that they were going to a lower density would be better. He said some of the concerns that were listed he was not

sure was related to the development that was proposed. He assumed things like sewer capacity was there but he does understand their concerns

- Mr. Pitts agreed; and felt it would be a completion of the neighborhood rather than a distraction.

Dr. Stone moved approval of the request as submitted; and he was seconded by Mr. Wilson. The motion was approved by a vote of 5 to 1, with Mr. Kinard in opposition.

Ms. Rosario explained for the record again; there would be another Public Hearing and First Reading of Ordinance held by the Mayor and City Council on Monday, November 12, 2018 at 5:30 P.M., and the request would be re-advertised for that meeting; all property owners would be re-noticed and a new sign would be posted on the property. She further explained if the request received approval at that meeting, there would be a Second and Final reading on Monday, November 26, 2018.

Site and Landscape Plans Approved (information purposes only) since the July 19, 2018 Meeting.

- Terminix – 102 Warbirds Blvd.

City Council Updates (FYI) Since Last Mtg. of Planning Commission on July 19, 2018 Meeting.

Ms. Rosario went over the updates that were listed on the Agenda.

Staff Announcements

- Ms. Roland updated the Board Members on the Continuing Education Training that would be held and hosted tomorrow on Friday, October 19, 2018 in the City Hall Basement Training Room.
- Ms. Roland congratulated the new City Manager on his new Title since their last meeting.
- City Manager Chris Story informed the Board Members at the next Design Review Board Meeting that would be held on Tuesday, November 6, 2018, there would be an informational item included on the meeting Agenda where a Representative from the SCDOT would be there to give an updates on what the new restrictions were regarding allowable plant material in the right-of-way which would affect street edge treatment in the City that would be developed in the right-of-way; and he thought it might be of interest to the Planning Commissioners.

The meeting adjourned at 7:05 P.M.

Respectfully Submitted

Jared Wilson, Chair

Minutes by Julie Roland, Administrative Assistant



MEMORANDUM

TO: Chris Story, City Manager

FROM: Mitch Kennedy, Director, Community Services

SUBJECT: Rail Yard Park Improvements

DATE: November 8, 2018

In 2016 City Council passed a Resolution to authorize an agreement with Partners For Active Living (PAL) for the development of a park (today known as the “Rail Yard Park”) on The Mary Black Foundation Rail Trail. At that time, the City recognized the Rail Trail as a significant recreational asset, and the park would be a major enhancement to the recreational amenity located in the core of our City. The agreement notes that PAL would lead all development efforts and the City would ultimately own and maintain those improvements.

To date, PAL has been very successful in their development of the Rail Yard Park with substantial public/private support, and assistance from the City. The original development plan for the park was presented in phases, and the first phase of those improvements have been completed.

City Staff and PAL would like to update City Council on the second phase of improvements before proceeding to development.



REQUEST FOR CITY COUNCIL ACTION

TO: Chris Story, City Manager
THRU: Marion Blackwell, Fire Chief
FROM: Ronald Hunter, Lt. SART
SUBJECT: Approval to Purchase Personal Escape Rescue Harness and Required Training
DATE: 11/06/2018

BACKGROUND: Over the past two years, the Fire Department has researched best practices and submitted an application with a prepared bid specification to purchase (76) NFPA 1983, 2017 Edition Personal Escape Rescue Harness(s). The Fire Department has been awarded a FEMA (AFG) Grant to cover the purchase of equipment, cost of training for personnel, cost of contracted certified/qualified trainers, and applicable taxes. The purpose of the purchase is to provide exit safeguards to fire suppression personnel if conditions deteriorated in multi-story commercial and/or residential structures. Responders will have a conventional method to self-rescuing themselves from eminent harm. The document was prepared by the Spartanburg (FD) Advanced Rescue Team. The grant application was reviewed and approved by Chief Blackwell.

The Escape Harness equipment and training bid was prepared utilizing the current City of Spartanburg's Procurement Policy.

This purchase is a "Sole Source" purchase due to the grant requirement of vendor provided training for all equipment purchased with grant funds. At the time of the grant award, the provider was the only vendor supplying both the equipment and approved training.

Company	Amount
East Coast Rescue Solutions Equipment Purchase with Certified Trainers	\$56,832
Cost of Training Personnel	\$23,755
Taxes	\$2,964
Total	\$83,551

ACTION REQUESTED: The Fire Department requests approval to purchase (76) Personal Escape Rescue Harnesses and Required Training from East Coast Rescue Solution.

BUDGET AND FINANCIAL DATA: The Equipment and training is funded by FEMA AFG Grant \$75,956 and City of Spartanburg 10% match \$7,595 with the approval of the City Manager.

Note: The \$7,595 is accounted for within the current fiscal year Fire Department Budget.



REQUEST FOR CITY COUNCIL ACTION

TO: Chris Story, City Manager

FROM: Martin Livingston, Neighborhood Services Director

SUBJECT: Approval of Consultants for the 2019-2023 Consolidated Plan / 2019 Annual Action Plan, and Housing Market Study

DATE: November 12, 2018

BACKGROUND:

The U.S. Department of Housing and Urban Development (HUD) provides us with two recurring annual grants, the Community Development Block Grant (CDBG) and HOME Partnership Funding, to address low and moderate income neighborhoods in the City and affordable housing priorities. HUD attempts to ensure that cities utilize those programs strategically by requiring that the annual use of the funds be aligned with an Annual Action Plan which is in turn aligned with a five year Consolidated Plan.

Staff is requesting approval for the City Manager to enter into an agreement with Civitas, LLC to prepare the Fiscal Year 2019-2023 Consolidated Plan, Fiscal year 2019 Annual Action Plan, and Spartanburg Housing Market Study. This Strategic Planning document determines by survey, public hearings, and consultations with neighborhood residents and partner organizations the needs of the community and develops a five year plan for addressing those needs. The Consolidated Plan and Annual Action Plan is a requirement of HUD for the City to continue to receive Community Development Block Grant (CDBG) and HOME Partnership Funding. Both documents focus on eligible low and moderate income neighborhoods in the City and affordable housing priorities for the use of CDBG and HOME funds. A Consolidated Plan is not a Comprehensive Plan. A Comprehensive Plan is much larger in scope and is a function of the City's strategic vision of its development and zoning priorities over a ten year period.

The City received two (2) proposals which were reviewed by a committee of City staff to determine the consultants that best fits the Spartanburg's needs. Staff recommends that the City Manager enter into an agreement with Civitas, LLC to deliver the services.

CONSULTANTS	LOCATION	AMOUNT
Civitas, LLC	Mount Pleasant, SC	\$35,400.00
BAE Urban Economics	Washington DC	\$50,480.00

ACTION REQUESTED: Staff is requesting approval for the City Manager to enter into an agreement with Civitas, LLC to prepare the Fiscal Year 2019-2023 Consolidated Plan, 2019 Annual Action Plan, and Spartanburg Housing Market Study.

BUDGET AND FINANCIAL DATA: Community Development Block Grant (CDBG) Funds
\$35,400.00.



City of Spartanburg
Procurement & Risk Division
PO Box 1749
145 W Broad Street
Spartanburg, SC 29304
Phone: 864-596-2790
Fax: 864-596-2365
www.cityofspartanburg.org

NOTICE OF INTENT TO AWARD

Five Year Consolidated Plan
 Tuesday, October 23, 2018
 no later than 3 PM

The following vendors submitted responses to the above solicitation:

Vendor	City	State
Civitas LLC	Mount Pleasant	SC
Bae urban Economics	Washington	DC

Responses were evaluated according to the criteria stated in the solicitation. We announce our intent to award a contract to:

Winning Vendor's Name	City	State

We would like to thank each vendor for your time and efforts in preparing a response to this solicitation.

We invite you to contact the Procurement Officer if you would like additional information or have any questions about the evaluation process. Vendors are reminded that any protests of this decision must be submitted to the Procurement Officer within five days after the issuance of this notice. The protest must be in writing, clearly identify the solicitation, and detail the nature of the protest.

The successful vendor is instructed not to begin work, purchase materials, or enter into subcontracts relating to the project until both the recipient and the City sign the contract.

We appreciate your interest in doing business with the City of Spartanburg.

Sincerely,

Carl F. Wright
 Procurement & Risk Manager



REQUEST FOR CITY COUNCIL ACTION

TO: Chris Story, City Manager
FROM: Martin Livingston, Neighborhood Services Director
SUBJECT: Due Diligence and Sale of Property – 170 Arch Street
DATE: November 12, 2018

BACKGROUND:

Staff is requesting approval for the City Manager to enter into an agreement for the sale of the Star Mill - 170 Arch Street (TMS: 7-11-08-158.00) located in the Northside community, subject to the completion of due diligence on the property. The property is in very poor condition. BF Holdings, LLC will inspect the property, prepare development estimates, and develop a concept for development prior to entering into a development agreement with the City of Spartanburg to improve the property. The City of Spartanburg received an assignment of the property from the Forfeited Land Commission (FLC) in 2016.

ACTION REQUESTED: Staff is requesting approval for the City Manager to enter into an agreement that will allow BF Holdings to complete due diligence at 170 Arch Street, subject to a development agreement.

BUDGET AND FINANCIAL DATA: Not applicable.

ORDINANCE
AUTHORIZING THE CITY MANAGER
TO EXECUTE AN AGREEMENT FOR THE SALE OF
170 ARCH STREET, BLOCK MAP SHEET 7-11-08, PARCEL 158.00.

BE IT ORDAINED by the Mayor and Members of Council of the City of Spartanburg, South Carolina, in Council assembled:

Section 1. Approve and authorize the City manager to enter into a development agreement and option for the sale of 170 Arch Street, Block Map Sheet 7-11-08, Parcel 158.00.

Section 2. The City of Spartanburg will enter into an option with BF Holdings, LLC for the sale and development of the property.

Section 3. BF Holdings, LLC will complete its due diligence to determine the feasibility and development concept within one (1) year of approval of the option to sell.

Section 4. The City Manager is authorized to sign necessary documents to execute this transaction.

Section 5. This Ordinance shall become effective upon the date of enactment.

DONE AND RATIFIED this ____ day of November, 2018.

MAYOR

ATTEST:

CITY CLERK

___ / ___ / ___ 1st Reading

___ / ___ / ___ 2nd Reading

AGREEMENT OF PURCHASE AND SALE

by and between

THE CITY OF SPARTANBURG
a South Carolina Municipality
("Seller")

and

BF HOLDINGS, LLC
a South Carolina Limited Liability Company
("Purchaser")

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE (“Agreement”) dated as of October 19, 2018, between THE CITY OF SPARTANBURG, having an address at 145 West Broad Street, Spartanburg, SC 29306 (the “Seller”) and BF HOLDINGS, LLC and or its Assigns having an address at 701 Sugar Mill Road, Greer, SC 29650 (the “Purchaser”):

WITNESSETH:

WHEREAS, Seller has agreed to sell to Purchaser approximately 1.5 acres bearing the following Tax Map Number: 7-11-08-158.00 locate in the City of Spartanburg, Spartanburg County, South Carolina.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

ARTICLE I DEFINITIONS; RULES OF CONSTRUCTION

1.1 Definitions. The following terms shall have the indicated meanings:

“Authorizations” shall mean all licenses, permits and approvals required by any governmental or quasi-governmental agency, body or officer for the ownership, operation and use of the Property or any part thereof, including, without limitation, all elevator and pool licenses required to operate the Property in its current manner.

“Closing” shall mean the closing of the purchase and sale of the Property pursuant to this Agreement. The Closing shall take place on or before the Closing Date.

“Closing Date” The sales contemplated under Agreement would close, subject to extension as provided herein, thereafter, provided that all approvals, permits, and designs are finalized and approved by the City of Spartanburg, South Carolina and any and all other governmental agencies with jurisdiction but Closing Date will not extend beyond FORTY FIVE (45) calendar days from the end of the Due Diligence Period.

“Governmental Body” means any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign.

“Permitted Title Exceptions” shall mean:

1. Applicable zoning ordinances.
2. Ad valorem tax liability for the year of closing and future years.

“Property” shall mean the real property and improvements thereon of approximately 1.5 acres bearing Tax Parcel Number: 7-11-08-158.00 located in Spartanburg County, South Carolina, such real property being more fully described in Exhibit A attached hereto.

“Purchase Price” shall mean One Hundred and No/100 (\$100.00) Dollars, payable in the manner described in this Agreement.

1.2 Rules of Construction. The following rules shall apply to the construction and interpretation of this Agreement:

(a) Singular words shall connote the plural number as well as the singular and vice versa, and the masculine shall include the feminine and the neuter.

(b) All references herein to particular articles, sections, subsections, clauses or exhibits are references to articles, sections, subsections, clauses or exhibits of this Agreement.

(c) The headings contained herein are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

(d) Each party hereto and its counsel, if any, have reviewed and revised (or requested revisions of) this Agreement, and therefore any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement or any exhibits hereto.

ARTICLE II PURCHASE AND SALE; DEPOSIT; PAYMENT OF PURCHASE PRICE

2.1 Purchase and Sale. The Seller agrees to sell and the Purchaser agrees to purchase the Property for the Purchase Price and in accordance with the other terms and conditions set forth herein.

2.2 Deposit. Ten and 00/100 Dollars (\$10.00).

2.3 Due Diligence. Purchaser shall have a period of THREE HUNDRED AND SIXTY (360) days from the date this Agreement is fully executed by the Seller and the Purchaser to examine the Property and the title to the Property, and to conduct such tests and investigations as Purchaser deems necessary, including, but not limited to, environmental site assessments of the Property to determine whether or not the Property is satisfactory to Purchaser, in its sole discretion, provided. Purchaser may terminate this Agreement at any time during the due diligence period for any reason whatsoever by delivering written notice to that effect to Seller.

2.4 Title Review. Within THREE HUNDRED AND SIXTY (360) days from the date of this Agreement, the Purchaser shall examine title to the Property, and shall notify the Seller of any defects in title other than the Permitted Title Exceptions that the Purchaser is willing to accept. Within ten (10) days after such notification, the Seller shall notify the Purchaser whether the Seller is willing to cure such defects; the Seller's failure to so notify the Purchaser shall be deemed to be the Seller's refusal to cure all such defects. If the Seller is willing to cure such defects, the Seller shall act promptly and diligently to cure such defects at its

expense. If such defects consist of deeds to secure debt, mechanics' liens, tax liens or other liens or charges in a fixed sum, the Seller shall pay and/or discharge such defects at Closing. If the Seller is unwilling or unable to cure any other such defects by Closing, the Purchaser shall elect (a) to waive such defects and proceed to Closing without any abatement in the Purchase Price or (b) to terminate this Agreement. The Seller shall not, after the date of this Agreement, subject the Property to any liens, encumbrances, covenants, conditions, restrictions, easements or other title matters or seek any zoning changes or take any other action which may affect or modify the status of title without the Purchaser's prior written consent, which consent shall not be unreasonably withheld or delayed.

2.5 Payment of Purchase Price. The Purchase Price shall be paid at Closing.

ARTICLE III SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS

In order to induce Purchaser to enter into this Agreement and to purchase the Property, in addition to warranties, representations, covenants, and undertakings contained elsewhere in this Agreement, Seller hereby makes the following representations, warranties and covenants, each of which is material and is relied upon by Purchaser:

3.1 Authority of Seller. Seller has the right, power and authority to enter into this Agreement and to sell the Property in accordance with the terms and conditions hereof. This Agreement, when executed and delivered by Seller, will be a valid and binding obligation of Seller in accordance with its terms.

3.2 No Special Taxes. The Property is not subject to special taxes or assessments for roadway, sewer, or water improvements or other public improvements.

3.3 Options; Leases. No options or other contracts have been granted or entered into which are still outstanding and which give any other party a right to purchase any interest in the Property or any part thereof. There are no leases in effect with respect to all or any part of the Property.

3.4 Condemnation Proceedings. Intentionally Omitted

3.5 Mechanic's Liens. No payments for work, materials, or improvements furnished to the Property will be due or owing at Closing and no mechanics lien, materialmans lien, or other similar lien shall be of record against the Property at the time of Closing.

3.6 Pending Litigation. There is no claim, litigation, or other proceeding, the probable outcome of which will have a material adverse effect on the value of the Property or its intended use pending or threatened before any court, commission, or other body or authority, and, further, Seller has not received written notification of any asserted failure of Seller or the Property to comply with applicable laws (whether statutory or not) or any rule, regulation, order, ordinance, judgment or decree of any federal, municipal or other governmental authority; provided, however, that this representation shall not apply to liability claims for which there is

adequate and sufficient liability insurance.

3.7 Flood Conditions. Intentionally Omitted

3.8 Hazardous Substances. Seller has obtained both Phase I and Phase II assessments studies and will provide to purchaser. Any further investigations relating to Hazardous substances or environment issues will be the Purchaser's responsibility.

3.9 No Defaults. Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will:

- (a) Conflict with, or result in a breach of, the terms, conditions, or provisions of, or constitute a default under, any agreement or instrument to which Seller or any predecessor of Seller is a party, or;
- (b) Violate any restriction to which Seller is subject, or;
- (c) Constitute a violation of any applicable code, resolution, law, statute, regulation, ordinance, rule, judgment, decree, or order, or;
- (d) Result in the acceleration of any mortgage or note pertaining to the Property or the cancellation of any contract or lease pertaining to the Property, or;
- (e) Result in the creation of any lien, charge or encumbrance upon any of the properties or assets to be sold or assigned to Purchaser pursuant to the provisions of this Agreement.

3.10 Utilities. Public sewer, public water facilities, natural gas, and electric power (collectively the "Utilities") are available to the Property. The Utilities reach the property line of the Property through valid public or private easements or rights-of-way to which Purchaser shall have access.

3.11 Title. Seller represents a good marketable and insurable fee simple title to the Property (at standard rates), by special warranty deed, free and clear of all liens and encumbrances.

3.12 Further Acts of Seller. On or before the Closing, Seller will do, make, execute and deliver all such additional and further acts, deeds, instruments and documents as may be reasonably required by Purchaser's title insurance company completely to vest in and assure to Purchaser full rights in or to the Property.

3.13 Brokerage Commission. The Seller and Purchaser both warrant that no real estate brokers are involved in procuring this Agreement.

ARTICLE IV
PURCHASER'S REPRESENTATIONS, WARRANTIES AND COVENANTS

The Purchaser hereby makes the following representations, warranties and covenants with respect to the Property:

4.1 Organization and Power. Purchaser is a limited liability company, duly organized, and is validly existing and in good standing under the laws of the State of South Carolina, and has all corporate power and all governmental licenses, authorizations, consents and approvals to carry on its business as now conducted and to enter into and perform its obligations under this Agreement and any document or instrument required to be executed and delivered on behalf of the Purchaser hereunder.

4.2 Authorization and Execution. This Agreement has been duly authorized by all necessary action on the part of the Purchaser, has been duly executed and delivered by the Purchaser, (and assuming that this Agreement constitutes a valid and binding obligation of Seller) constitutes the valid and binding agreement of the Purchaser and is enforceable in accordance with its terms (except as enforcement may be limited by (and subject to) the provisions of the United States Bankruptcy Code and other applicable laws which affect the rights and remedies of creditors generally). There is no other person or entity whose consent is required in connection with the Purchaser's performance of its obligations hereunder.

4.3 Noncontravention. The execution and delivery of this Agreement and the performance by the Purchaser of its obligations hereunder do not and will not contravene, or constitute a default under, any provisions of applicable law or regulation, or any agreement, judgment, injunction, order, decree or other instrument binding upon the Purchaser or result in the creation of any lien or other encumbrance on any asset of the Purchaser.

ARTICLE V
CONDITIONS AND ADDITIONAL COVENANTS

5.1 Purchaser's Conditions. The Purchaser's obligations hereunder are subject to the satisfaction of the following conditions precedent and the compliance by the Seller with the following covenants:

(a) Seller's Deliveries. The Seller shall have delivered to the Escrow Agent or the Purchaser, as the case may be, on or before the date of Closing, all of the documents called for by Section 6.2 hereof.

(b) Representations, Warranties and Covenants; Obligations of Seller. All of the Seller's representations and warranties made in this Agreement shall be true and correct as of the date hereof and as of the date of Closing as if then made in all material respects, and the Seller shall have performed all of its covenants and other obligations under this Agreement.

(c) Title to Property. The Seller is and shall at the Closing be the sole owner of the Property and shall hold good, fee simple, marketable, insurable at normal rates title to the

Property, free and clear of all liens, encumbrances, restrictions and conditions, except the Permitted Title Exceptions.

(d) Seller's Cooperation. Within FIVE (5) days following execution of this Agreement, Seller shall provide to Purchaser copies of all engineering reports, soil test reports, surveys, grading plans, permits, title insurance policies, lease agreements and other similar types of documents or agreements affecting the Property, if available, for Purchaser's inspection. In addition, Seller will permit Purchaser to have access to the Property in order to make all reasonable inspections it may desire. Purchaser agrees to indemnify and hold Seller harmless from any and all costs, injuries, damages, expenses or claims incurred in relation to the inspections performed by the Purchaser.

(e) Leases. If the Property or any portion thereof is subject to existing lease agreements, such lease agreements shall be terminated, at Seller's sole cost, as of the date of Closing. Seller must disclose to Purchaser any existing leases agreements within FIFTEEN (15) days of the execution of this Agreement of Purchase and Sale.

(f) Zoning. In the event that the Property must be rezoned, or any use permits must be obtained, in order for the Property to be developed for the Purchaser's intended use, the final approval of the necessary zoning amendments and/or use permits must be obtained from the appropriate Governmental Body. Purchaser responsible for any rezoning request and expenses for the same. The Due Diligence Period provided for in Section 2.3 of this Agreement shall be extended as a result of any application for rezoning or a use permit as set forth in that section.

(g) Moratorium on Development. No moratorium or proceeding shall be pending or threatened (i) affecting the availability at regular rates and connection fees of sewer, water, electric, gas, telephone or other utilities intended to serve the Property; (ii) affecting building permits or other municipal approvals required in connection with the development and construction of Purchaser's proposed improvements (if any) for the Property; or (iii) voiding or suspending any of the items described in (i) or (ii) above, which may have been issued to Purchaser.

(h) Environmental Study. The Purchaser may contract with a licensed environmental engineer to confirm that the Property is free from environmental contamination (the "Environmental Assessments"). Such right includes a Phase I and Phase II study and should the results of the Phase I produce findings that in the engineer's opinion suggests further study, then Purchaser may conduct a Phase II study. If the results of any Environmental Assessment produce negative findings, then the Purchaser may terminate this Agreement by giving written notice thereof to Seller, in which event this Agreement shall terminate and Escrow Agent shall immediately return the Earnest Money to the Purchaser as full liquidated damages.

(i) Tax Credits. It is the understanding of the parties that the renovation of the Property will qualify for the South Carolina Abandoned Building Tax Credits, the South Carolina Textile Mill Tax Credits and property tax incentives pursuant to the SC Bailey Bill Statute for 5 years. Additionally, the parties understand that investment in the Property may result in additional federal tax credits to investors as a result of the Property being located in a

designated Opportunity Zone. Seller agrees to cooperate with the Purchaser in all reasonable respects in order to assist with these various credits; including issuing necessary ordinances and/or certifications. Failure of the Purchaser to obtain any one or more of these credits on or before Closing (after diligently seeking the same) shall be deemed a failure of a Purchaser Closing condition.

(j) Development Agreement. The Purchaser agrees to enter into a development agreement prior to closing subject to City of Spartanburg City Council approval for the development of the Property. The initial intent of the Property will be office space. Other uses may be considered subject to the parties agreeing and will be enforced with the development agreement.

ARTICLE VI CLOSING

6.1 Closing. Closing shall be held in the offices of the Escrow Agent, or at a location that is mutually acceptable to the parties, on the Closing Date. The parties agree that Closing may be transacted by mail.

6.2 Seller's Deliveries. At Closing, the Seller shall deliver to Purchaser all of the following instruments, each of which shall have been duly executed and, where applicable, acknowledged on behalf of the Seller:

(a) A General Warranty Deed conveying fee simple title to the Property free and clear of all liens, encumbrances, and leases, except for Permitted Title Exceptions.

(b) A Closing Statement setting forth all financial matters related to the Closing.

(c) Any affidavits of title, possession, or other matters which may be required by a title insurance company insuring Purchaser's title to the Property, a FIRPTA Certificate, a Tax Proration Agreement, any environmental affidavits and indemnity agreements required by the closing attorney, a gap indemnity agreement, and other normal closing certificates and affidavits.

6.3 Purchaser's Deliveries. At Closing, the Purchaser shall pay or deliver to the Seller the following:

(a) The Purchase Price.

(b) A Closing Statement.

(c) A Tax Proration Agreement.

6.4 Mutual Deliveries. At Closing, the Purchaser and the Seller shall mutually execute and deliver each to the other such other and further documents as may be reasonably required by either party hereto or their respective counsel.

6.5 Closing Costs. Except as is otherwise provided in this Agreement, each party hereto shall pay its own legal fees and expenses.

6.6 Property Taxes. Purchaser is responsible for all taxes as of midnight of the day of the closing.

ARTICLE VII TERMINATION RIGHTS

7.1 Termination by Purchaser. If, prior to Closing, the Seller defaults in performing any of its obligations under this Agreement, and the Seller fails to cure any such matter within TEN (10) business days after notice thereof from the Purchaser, the Purchaser, at its option, may elect to terminate this Agreement whereupon the Escrow Agent shall return the Deposit to Purchaser; which is Purchaser's sole remedy.

7.2 Termination by Seller. If, prior to Closing, the Purchaser defaults in performing any of its obligations under this Agreement (including its obligation to purchase the Property), and the Purchaser fails to cure any such default within TEN (10) business days after notice (with no cure period for failure to close the purchase of the Property) thereof from the Seller, then the Seller may terminate this Agreement and retain the Deposit as Seller's sole remedy.

ARTICLE VIII MISCELLANEOUS PROVISIONS

8.1 Completeness; Modification. This Agreement constitutes the entire agreement between the parties hereto with respect to the transactions contemplated hereby and supersedes all prior discussions, understandings, agreements and negotiations between the parties hereto. Only a written instrument duly executed by the parties hereto may modify this Agreement.

8.2 Assignments. The Purchaser shall have the right to assign this Agreement to any affiliate without the prior written consent of the Seller. Seller may not assign its rights under this Agreement.

8.3 Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

8.4 Days. If any action is required to be performed, or if any notice, consent or other communication is given, on a day that is a Saturday or Sunday or a legal holiday in the jurisdiction in which the action is required to be performed or in which is located the intended recipient of such notice, consent or other communication, such performance shall be deemed to be required, and such notice, consent or other communication shall be deemed to be given, on the first business day following such Saturday, Sunday or legal holiday. Unless otherwise

specified herein, all references herein to a “day” or “days” shall refer to calendar days and not business days.

8.5 Governing Law. This Agreement and all documents referred to herein shall be governed by and construed and interpreted in accordance with the laws of the State of South Carolina.

8.6 Counterparts. To facilitate execution, this Agreement may be executed in as many counterparts as may be required. It shall not be necessary that the signature on behalf of both parties hereto appear on each counterpart hereof. All counterparts hereof shall collectively constitute a single agreement.

8.7 Severability. If any term, covenant or condition of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to other persons or circumstances, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

8.8 Costs. Except as otherwise expressly provided herein, each party hereto shall be responsible for its own costs in connection with this Agreement and the transactions contemplated hereby, including without limitation fees of attorneys, engineers and accountants.

8.9 Escrow Agent.

(a) The Escrow Agent shall hold the Deposit in escrow in a separate segregated bank account (or as otherwise agreed in writing by the Seller and the Purchaser) until the Closing or sooner termination hereof and shall pay over or apply such proceeds in accordance with the terms of this Section.

(b) If for any reason Closing does not occur and either party makes a written demand upon the Escrow Agent for payment or delivery of the Deposit, the Escrow Agent shall give written notice to the other party of such demand. If the Escrow Agent does not receive a written objection from the other party to the proposed payment within TEN (10) business days after the giving of such notice, the Escrow Agent is hereby authorized to make such payment. If the Escrow Agent does receive such written objection within such TEN (10)-day period or if for any other reason the Escrow Agent in good faith shall elect not to make such payment, the Escrow Agent shall continue to hold the Deposit until otherwise directed by written instructions from the parties hereto or a final judgment of a court of competent jurisdiction, which by lapse of time or otherwise, shall no longer be or shall not be subject to appeal or reversal. The Escrow Agent shall, however, have the right at any time to file a suit with a court of competent jurisdiction and to deliver or pay the Deposit to such court (or an officer thereof). The Escrow Agent shall give written notice of such deposit to the Seller and the Purchaser. Upon such deposit, the Escrow Agent shall be relieved of and discharged from all further obligations and responsibilities hereunder.

(c) The parties acknowledge that the Escrow Agent is acting at their request and convenience and solely as a stakeholder, that the Escrow Agent shall not be deemed to be the agent of either of the parties and that the Escrow Agent shall not be liable to either of the parties for any act or omission on its part unless taken or suffered in bad faith, in willful disregard of this contract or involving gross negligence. The Seller and the Purchaser hereby jointly and severally indemnify and hold the Escrow Agent harmless from and against all liabilities, costs, claims and expenses (including reasonable attorneys' fees) incurred in connection with the performance by the Escrow Agent of its duties hereunder, except with respect to actions or omissions taken or suffered by the Escrow Agent in bad faith, in willful disregard of this Agreement or involving gross negligence on the part of the Escrow Agent.

(d) The Escrow Agent may seek the advice of legal counsel in the event of any dispute or question as to the construction of any of the provisions of this Section 8.9 of this Agreement or its duties hereunder, and it shall incur no liability and shall be fully protected in respect of any action taken, omitted or suffered by it in good faith in accordance with the advice of such counsel.

(e) The Escrow Agent may resign at any time upon THIRTY (30) days prior written notice. In the case of Escrow Agent's resignation, the Escrow Agent's only duty, until a successor escrow agent shall have been appointed jointly by the Seller and the Purchaser and shall have accepted such appointment, shall be to hold and dispose of the Deposit in accordance with the provisions contained in this Agreement (but without regard to any notices, requests, instructions or demands received by the Escrow Agent from the Seller and/or the Purchaser after its notice of resignation shall have been given, unless the same shall be a direction by both the Seller and the Purchaser that the entire balance of the Deposit be delivered out of escrow).

8.10 Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be delivered by hand, sent prepaid by Federal Express (or a comparable overnight delivery service) or sent by the United States mail, certified, postage prepaid, return receipt requested, at the addresses and with such copies as designated below:

If to the Seller: The City of Spartanburg
145 West Broad Street
Spartanburg, SC 29306
Attention: Martin L. Livingston, Jr.
Phone: (864) 580-5323
Email: mlivingston@cityofspartanburg.org

If to the Purchaser: BF Holdings, LLC
701 Sugar Mill Road
Greer, SC 29650
Attention: James Bakker
Phone: (843) 813-5557
Email: james.bakker@att.net

With a copy to:

Steve Querin
220 North Church St., Suite 4
Spartanburg, South Carolina 29306
Phone: (864) 582-8121
Email: squerin@jshwlaw.com

or to such other address as the intended recipient may have specified in a notice to the other party. Any party hereto may change its address or designate different or other persons or entities to receive copies by notifying the other party and the Escrow Agent in a manner described in this Section. Any notice, request, demand or other communication delivered or sent in the manner aforesaid shall be deemed given or made (as the case may be) when actually delivered, if delivered by hand, one (1) day after sending, if sent by overnight delivery service, or three (3) days after sending, if sent by certified mail. The respective attorney of each party may give notices on behalf of that party under this Agreement with the same effect as though such notices were given by the respective party.

8.11 Incorporation by Reference. All of the exhibits attached hereto are by this reference incorporated herein and made a part hereof.

8.12 Further Assurances. The Seller and the Purchaser each covenant and agree to sign, execute and deliver, or cause to be signed, executed and delivered, and to do or make, or cause to be done or made, upon the written request of the other party, any and all agreements, instruments, papers, deeds, acts or things, supplemental, confirmatory or otherwise, as may be reasonably required by either party hereto for the purpose of or in connection with consummating the transactions described herein.

8.13 Time of Essence. Time is of the essence with respect to every provision hereof.

8.14 Survival. The provisions of this Article VIII shall survive the Closing or earlier termination of this Agreement.

8.15 Section 1031 Exchange. In the event that Purchaser elects to effectuate a Section 1031 exchange in connection with the purchase of the Property contemplated in this Contract, the other Seller agrees to cooperate with the Purchaser to enable it to accomplish such exchange, so long as the cooperating party shall not be put to any additional expense or liability on account of the same.

8.16 Expiration. This Agreement, when executed by one of the parties and submitted to the other, will constitute an offer, which shall be deemed to expire if not accepted by the other party (evidenced by full execution of this Agreement) not later than five (5) days after execution and submittal of this Agreement by one party and submitted to the other party.

IN WITNESS WHEREOF, the Seller and the Purchaser have caused this Agreement to be executed in their names by their respective duly-authorized representatives.

SELLER: THE CITY OF SPARTANBURG

By: _____
Its: _____

Witness

Witness

PURCHASER:

BF HOLDINGS, LLC and or its Assigns

By: _____
James Bakker, Managing Member

Witness

Witness

EXHIBIT A
PROPERTY





REQUEST FOR CITY COUNCIL ACTION

TO: Chris Story, City Manager
FROM: Martin Livingston, Neighborhood Services Director
SUBJECT: Purchase and Disposition of Property – 904 Lucerne Drive
DATE: November 12, 2018

BACKGROUND:

Staff is requesting approval to receive as a donation and then sell to an eligible buyer 904 Lucerne Drive. The City will receive as a donation the property located at 904 Lucerne Drive. The property will be sold to an eligible affordable or workforce housing individual or family. The property will be included in the City's Pilot Homebuyer Purchase Rehabilitation Program.

ACTION REQUESTED: Staff is requesting approval for the purchase and sale of the 904 Lucerne Drive for the Pilot Homebuyer Purchase Rehabilitation Program.

BUDGET AND FINANCIAL DATA: \$25,005.00 in General Funds will remain on deposit at Carolina Foothills Federal Credit Union.

ORDINANCE
AUTHORIZING THE CITY MANAGER
TO EXECUTE AN AGREEMENT FOR THE DONATION AND SALE OF
904 LUCERNE DRIVE, BLOCK MAP SHEET 7-20-04, PARCEL 033.00.

BE IT ORDAINED by the Mayor and Members of Council of the City of Spartanburg, South Carolina, in Council assembled:

Section 1. Approve and authorize the City manager to enter into an agreement to receive as a donation the property located at 904 Lucerne Drive, Block Map Sheet 7-20-04, Parcel 033.00.

Section 2. Approve and authorize the City manager to enter into an agreement to sell the property to an eligible affordable or workforce eligible homebuyer.

Section 3. Approve and authorize the City manager to enter into an agreement with the Carolina Foothills Federal Credit Union to create a City-wide Homebuyer Purchase Rehabilitation Program for eligible homebuyers.

Section 4. The City Manager is authorized to sign necessary documents to execute this transaction.

Section 5. This Ordinance shall become effective upon the date of enactment.

DONE AND RATIFIED this ____ day of November, 2018.

MAYOR

ATTEST:

CITY CLERK

___ / ___ / ___ 1st Reading

___ / ___ / ___ 2nd Reading



CARROLWOOD LN

SCOTTSWOOD DR

LUCERNE DR

RAMBLEWOOD RD

173 ft

0

14 112 110 108 106 104 102 804 803
113 111 109 101 900 805
12 104 103 105 902 807
0 106 107 904 906 809
108 104 105 908 903 901
105 102 910 909 905 907
914 912 911 909 905 907
914 912 911 913 909 907 905 903 901 809 807 805