We Are Columbia

Call to Order

The meeting was called to order at 10:11 AM by Mayor Stephen K. Benjamin

ORDINANCE - SECOND READING

1. Ordinance No.: 2016-095 - Authorizing the City Manager to execute a Partial Release of Right of Reverter by the City of Columbia to allow for the transfer of 0.870 acre (37,893 SF) of the SC State Fairgrounds Property Identified as Richland County TMS #11207-03-01 along Rosewood Drive and Bluff Road (SC Hwy. 48) to Richland County for Sidewalk Improvements

Upon a motion by Howard E. Duvall and seconded by Sam Davis, Council voted [Unanimous] to Second Reading Approval Ordinance No.: 2016-095 - Authorizing the City Manager to execute a Partial Release of Right of Reverter by the City of Columbia to allow for the transfer of 0.870 acre (37,893 SF) of the SC State Fairgrounds Property Identified as Richland County TMS #11207-03-01 along Rosewood Drive and Bluff Road (SC Hwy. 48) to Richland County for Sidewalk Improvements.

2. Ordinance No.: 2016-065 - Granting encroachment to Judy H. Tighe for installation and maintenance of a slag parking area and two stone knee walls within the right of way area of the 1700 block of Bannockburn Drive adjacent to her property located at 1729 Bannockburn Drive, Richland County TMS#13911-08-02

Upon a motion by Howard E. Duvall and seconded by Sam Davis, Council voted [Unanimous] to Second Reading Approval Ordinance No.: 2016-065 - Granting encroachment to Judy H. Tighe for installation and maintenance of a slag parking area and two stone knee walls within the right of way area of the 1700 block of Bannockburn Drive adjacent to her property located at 1729 Bannockburn Drive, Richland County TMS#13911-08-02.

3. Ordinance No.: 2016-102 - Authorizing consumption of beer and wine beverages only at the 2017 Famously Hot New Year Event

Upon a motion by Howard E. Duvall and seconded by Sam Davis, Council voted [Unanimous] to Second Reading Approval Ordinance No.: 2016-102 - Authorizing consumption of beer and wine beverages only at the 2017 Famously Hot New Year Event.

4. Ordinance No.: 2016-111 - Adopting Amendments to the Commercial Revolving Loan Fund ("CRLF") Code

Upon a motion by Howard E. Duvall and seconded by Sam Davis, Council voted [Unanimous] to Second Reading Approval Ordinance No.: 2016-111 - Adopting Amendments to the Commercial Revolving Loan Fund ("CRLF") Code.

5. Ordinance No.: 2016-113 - Authorizing the City Manager to execute a Termination of Restriction to Beach Canalside, LLC

Upon a motion by Howard E. Duvall and seconded by Sam Davis, Council voted [Unanimous] to Second Reading Approval Ordinance No.: 2016-113 - Authorizing the City Manager to execute a Termination of Restriction to Beach Canalside, LLC.

Motion to: Adjourn the meeting.

Upon a motion by Edward H. McDowell and seconded by Sam Davis, Council voted [Unanimous] to Adopt .

Respectfully submitted by:

____

City Clerk

We Are Columbia

MEETING DATE: **November 8, 2016**

DEPARTMENT: **Legal**

FROM: ***Shari Ardis, Legal Administrator***

SUBJECT: **Ordinance No.: 2016-095 - Authorizing the City Manager to execute a Partial Release of Right of Reverter by the City of Columbia to allow for the transfer of 0.870 acre (37,893 SF) of the SC State Fairgrounds Property Identified as Richland County TMS #11207-03-01 along Rosewood Drive and Bluff Road (SC Hwy. 48) to Richland County for Sidewalk Improvements**

FINANCIAL IMPACT:

ATTACHMENTS:

- **#a:** 2016-095 pt rls ROR Fairgrounds-Bluff and Rosewood (PDF)

RESULT:	**APPROVED ON SECOND READNG [UNANIMOUS]**
MOVER:	Howard E. Duvall, Councilman - At Large
SECONDER:	Sam Davis, Councilman - District I
AYES:	Stephen K. Benjamin, Sam Davis, Howard E. Duvall, Edward H. McDowell
ABSENT:	Tameika Isaac Devine, Moe Baddourah

HISTORY:

11/01/16	**City Council**	**APPROVED ON FIRST READING**

ORDINANCE NO.: 2016-095

Authorizing the City Manager to execute a Partial Release of Right of Reverter by the City of Columbia to allow for the transfer of 0.870 acre (37,893 SF) of the SC State Fairgrounds Property Identified as Richland County TMS# 11207-03-01 along Rosewood Drive and Bluff Road (SC Hwy. 48) to Richland County for Sidewalk Improvements

BE IT ORDAINED by the Mayor and City Council of the City of Columbia, South Carolina this ___ day of ________________, 2016, that the City Manager is authorized to execute the attached Partial Release of Right of Reverter, or on a form to be approved by the City Attorney, on behalf of the City of Columbia for the release of 0.870 acre (37,893 SF) of the subject property from the right of reverter to allow for Richland County to acquire the said property and construct sidewalk improvements thereon.

Reference is made to the right-of-way drawing for Tract No. 12 prepared for the Richland County Transportation Penny Program, SC Route 48 (Bluff Road) Widening Phase 1, by Davis & Floyd, dated March 23, 2016, last revised March 31, 2016. A copy of said drawing being attached hereto and made a part hereof as Exhibit "A".

Requested by:

Assistant City Manager Gentry

____
Mayor

Approved by:

____
City Manager

Approved as to form:

Joanne J Lisowski
Senior Assistant City Attorney

ATTEST:

____
City Clerk

Introduced:
Final Reading:

Last revised: 10/3/2016
1617090745

ATTORNEY CERTIFICATION

I, ______________________________, an attorney licensed to practice in the state of South Carolina, do hereby certify that I supervised the execution of the Partial Release of Right of Reverter for property identified as Richland County TMS#11207-03-01 with the City of Columbia as Releasor.

____ SC Bar No.: ___________

STATE OF SOUTH CAROLINA)
) PARTIAL RELEASE OF RIGHT OF REVERTER
COUNTY OF RICHLAND) Deed Book 382, Page 206

WHEREAS, the STATE AGRICULTURAL & MECHANICAL SOCIETY OF SOUTH CAROLINA is the owner of a tract of land in Columbia, South Carolina containing approximately one hundred (100) acres, identified as Richland County tax map number 11207-03-01, conveyed to it by the City of Columbia, South Carolina by deed dated March 4, 1964 and recorded on March 26, 1964 in the office of the Register of Deeds for Richland County in Deed Book 382 at Page 206; and,

WHEREAS, the aforesaid deed contains a right of reverter to occur upon the happening of certain events, which have not happened; and,

WHEREAS, RICHLAND COUNTY, SOUTH CAROLINA ("Richland County") is constructing certain improvements adjacent to the property of the State Agricultural & Mechanical Society of South Carolina along Rosewood Drive and Bluff Road (SC Hwy. 48), and in connection therewith desires to acquire 0.870 acre (37,893 square feet), more or less, from the State Agricultural & Mechanical Society of South Carolina to include such area within the improvements being constructed; and,

WHEREAS, Richland County has requested that the City of Columbia, South Carolina release the herein-described property from the aforesaid right of reverter, which the City of Columbia has agreed to under Ordinance No. 2016-095 approved on _____________, 2016.

NOW, THEREFORE, for and in consideration of One Dollar, each to the other paid and other considerations, the City of Columbia does hereby release from its right of reverter as provided for in the aforesaid deed dated March 4, 1964 and recorded on March 26, 1964 in the office of the Register of Deeds for Richland County in Deed Book 382 at Page 206, the following described property:

> All that certain parcel of land containing 0.870 acre (37,893 square feet), more or less, and all improvements thereon, if any, and being more fully shown as the Area of Acquisition from Tract No. 12 on right-of-way drawing prepared for the Richland County Transportation Penny Program by Davis & Floyd, dated March 23, 2016, last revised March 31, 2016 and being attached hereto and made a part hereof as Exhibit "A".

The property herein released is along Tract 12 and the new northeastern right-of-way boundary of Bluff Road with a relocated centerline between approximately survey stations 48+64.31 and 63+76.43 as more particularly shown on plans prepared for the Richland County Transportation Penny Program for S.C. Route 48 (Bluff Rd.) Widening – Phase I, prepared by Parrish & Partners, dated March 17, 2016 and more particularly shown on plan sheet D7, last revised March 31, 2016, plan sheet D8, last revised May 16, 2016 and plan sheet D9, last revised May 16, 2016, which are on file in the office of the Richland County Planning Department.

The right of reverter as contained in Deed Book 382 at Page 266 shall otherwise remain in full force and effect as it pertains to all other property described in the aforesaid Deed, not previously released from said Deed.

Witness the hand and seal of the undersigned this _______ day of ____________________, 2016.

WITNESSES: CITY OF COLUMBIA

____

By:___________________________________

Name: Teresa B. Wilson

Title: City Manager

____

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGEMENT
COUNTY OF RICHLAND)

The foregoing instrument was acknowledged before me this ___ day of ________________, 2016 by Teresa B. Wilson, City Manager of the City of Columbia, South Carolina.

____

Notary Public for South Carolina
My Commission Expires: ________________

APPROVED AS TO FORM

____

Legal Department, City of Columbia, SC

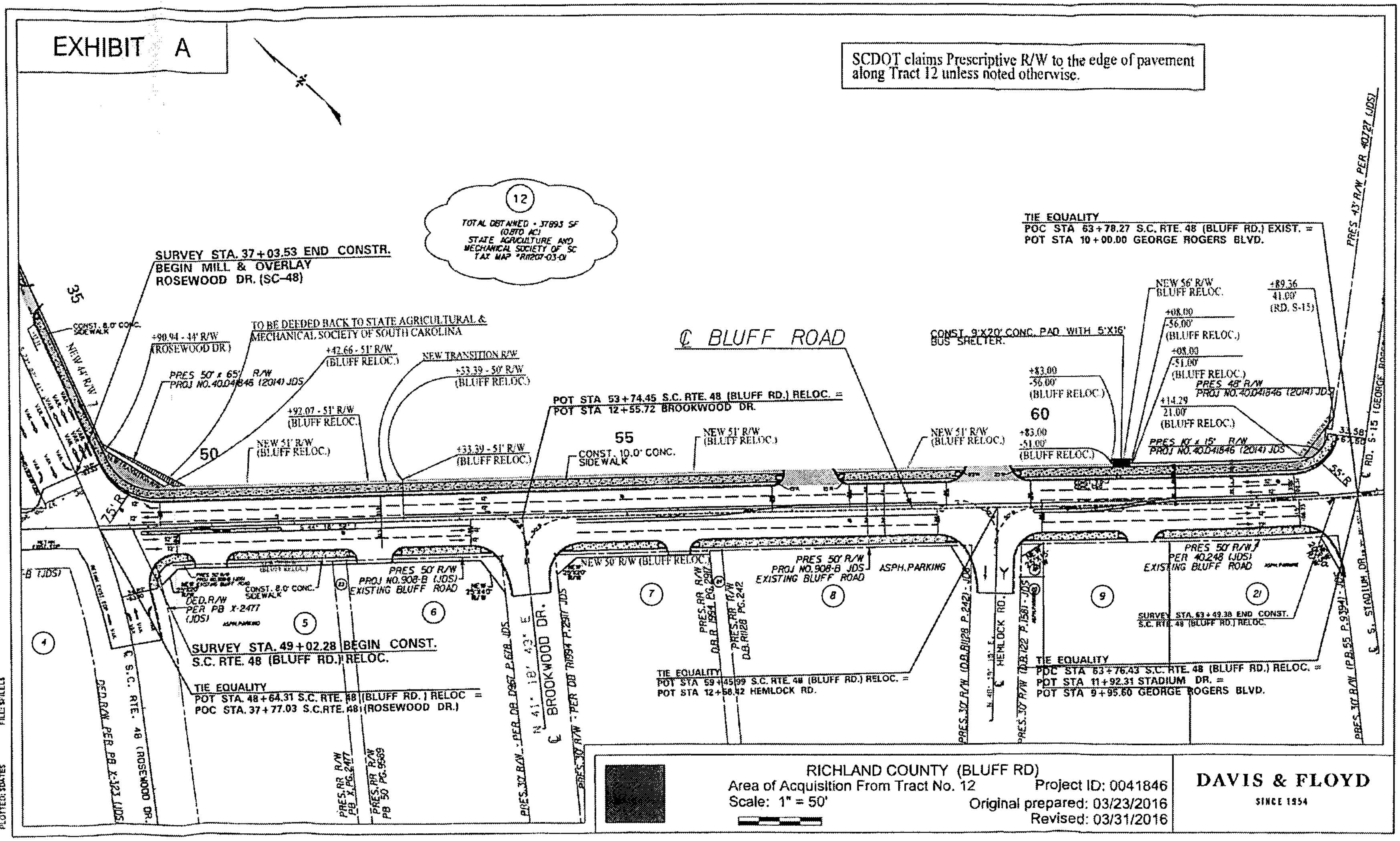


EXHIBIT A
SCDOT claims Prescriptive R/W to the edge of pavement along Tract 12 unless noted otherwise.
TOTAL OBTAINED = 37893 SF (0.870 AC) STATE AGRICULTURE AND MECHANICAL SOCIETY OF SC TAX MAP #R11207-03-01
SURVEY STA. 37+03.53 END CONSTR.
BEGIN MILL & OVERLAY
ROSEWOOD DR. (SC-48)
TO BE DEEDED BACK TO STATE AGRICULTURAL & MECHANICAL SOCIETY OF SOUTH CAROLINA
℄ BLUFF ROAD
POT STA 53+74.45 S.C. RTE. 48 (BLUFF RD.) RELOC. =
POT STA 12+55.72 BROOKWOOD DR.
CONST. 10.0' CONC. SIDEWALK
CONST. 9'X20' CONC. PAD WITH 5'X16' BUS SHELTER.
TIE EQUALITY
POC STA 63+78.27 S.C. RTE. 48 (BLUFF RD.) EXIST. =
POT STA 10+00.00 GEORGE ROGERS BLVD.
SURVEY STA. 49+02.28 BEGIN CONST.
S.C. RTE. 48 (BLUFF RD.) RELOC.
TIE EQUALITY
POT STA. 48+64.31 S.C. RTE. 48 (BLUFF RD.) RELOC =
POC STA. 37+77.03 S.C.RTE. 48 (ROSEWOOD DR.)
TIE EQUALITY
POT STA 59+45.99 S.C. RTE. 48 (BLUFF RD.) RELOC. =
POT STA 12+58.42 HEMLOCK RD.
TIE EQUALITY
POC STA 63+76.43 S.C. RTE. 48 (BLUFF RD.) RELOC. =
POT STA 11+92.31 STADIUM DR. =
POT STA 9+95.60 GEORGE ROGERS BLVD.
SURVEY STA. 63+49.38 END CONST. S.C. RTE. 48 (BLUFF RD.) RELOC.
℄ BROOKWOOD DR.
HEMLOCK RD.
℄ S.C. RTE. 48 (ROSEWOOD DR.)
℄ S. STADIUM DR.
PRES 50' R/W PROJ NO.908-B (JDS) EXISTING BLUFF ROAD
ASPH.PARKING
RICHLAND COUNTY (BLUFF RD)
Area of Acquisition From Tract No. 12
Scale: 1" = 50'
Project ID: 0041846
Original prepared: 03/23/2016
Revised: 03/31/2016
DAVIS & FLOYD
SINCE 1954

We Are Columbia

MEETING DATE: **November 8, 2016**

DEPARTMENT: **Legal**

FROM: ***Shari Ardis, Legal Administrator***

SUBJECT: **Ordinance No.: 2016-065 - Granting encroachment to Judy H. Tighe for installation and maintenance of a slag parking area and two stone knee walls within the right of way area of the 1700 block of Bannockburn Drive adjacent to her property located at 1729 Bannockburn Drive, Richland County TMS#13911-08-02**

FINANCIAL IMPACT:

ATTACHMENTS:

- **#a:** 2016-065 encroach 1729 Bannockburn (PDF)

RESULT:	**APPROVED ON SECOND READNG [UNANIMOUS]**
MOVER:	Howard E. Duvall, Councilman - At Large
SECONDER:	Sam Davis, Councilman - District I
AYES:	Stephen K. Benjamin, Sam Davis, Howard E. Duvall, Edward H. McDowell
ABSENT:	Tameika Isaac Devine, Moe Baddourah

HISTORY:

11/01/16	**City Council**	**APPROVED ON FIRST READING**

ORDINANCE NO.: 2016-065

Granting encroachment to Judy H. Tighe for installation and maintenance of a slag parking area and two stone knee walls within the right of way area of the 1700 block of Bannockburn Drive adjacent to her property located at 1729 Bannockburn Drive, Richland County TMS#13911-08-02

WHEREAS, Judy H. Tighe (hereinafter "Grantee") desires to use a portion of the right of way area of the 1700 block of Bannockburn Drive adjacent to her property located at 1729 Bannockburn Drive, Richland County TMS#13911-08-02 for installation and maintenance of slag parking area approximately fifty-five (55') feet in length and twelve (12') feet in width and two (2) stone knee walls approximately twenty-four (24") inches in height, twelve (12") inches in width and twenty-five (25') feet in length, as shown on the attached drawings; and,

WHEREAS, it appears that the encroachment will not interfere with the use of the medians or street for traffic, utility locations or other uses within the foreseeable future; NOW, THEREFORE,

BE IT ORDAINED by the Mayor and City Council of the City of Columbia, South Carolina, this ___ day of ____________, 2016, that the Grantee is hereby granted the right to use a portion of the right of way area of the 1700 block of Bannockburn Drive adjacent to her property located at 1729 Bannockburn Drive, Richland County TMS#13911-08-02 for installation and maintenance of slag parking area approximately fifty-five (55') feet in length and twelve (12') feet in width and two (2) stone knee walls approximately twenty-four (24") inches in height, twelve (12") inches in width and twenty-five (25') feet in length, as shown on the attached drawings.

ALL WORK SHALL COMPLY with the requirements of The City of Columbia and South Carolina Department of Transportation now in existence or hereafter enacted. The materials and type of finish to be used are to be approved by the City Engineer prior to installation. Any damage to the street or sidewalk caused by construction shall be repaired to the satisfaction of the City Manager. Improvements within the encroachment shall be maintained by the grantee at no cost to the City in a manner approved by the City Manager.

PROVIDED FURTHER that the privilege granted hereby is subject to the Grantee complying with the following conditions, restrictions or limitations:

1. No item, including landscaping, shall be placed, planted or allowed to grow such that it creates a visual impediment to persons safely entering or exiting the driveway or to persons safely walking along the sidewalk. The City reserves the right to remove or cut any item located within the right of way which it deems to be a safety hazard.
2. All trees shall be protected.
3. Grantee is responsible for all costs and repair of the improvements within the right of way area should the City have to dig in the area or remove any part thereof for maintenance to City water and or sewer lines.
4. Obstructions of more than be four (4') feet in height are prohibited within the sight-visibility triangle.
5. Forestry and Beautification shall be provided access to trees within the right of way for maintenance purposes.
6. All trees shall be protected and no large tree roots shall be removed from any existing trees.
7. South Carolina Department of Transportation encroachment permit is required.

PROVIDED FURTHER that the privilege granted hereby may be modified or terminated by Columbia City Council at any time without notice to the Grantee, his successors and assigns.

PROVIDED FURTHER that a certificate of insurance be issued as evidence of general liability insurance with at least the minimum amount of $600,000.00 for personal injury and property damage and naming the City as an insured, be provided to and filed annually with the City Clerk by Grantee, his successors and assigns, as required by Chapter 11, Licenses, Permits, Business Regulations, Article III, Contractors, Sec. 11-71, 1998 Code of Ordinances of the City of Columbia, South Carolina.

BE IT FURTHER ORDAINED that Grantee, in consideration of the above privilege, shall at his expense provide for protection and relocation of all utilities that might be within this area to the satisfaction of the City Manager.

Requested by:

Assistant City Manager Gentry

____
Mayor

Approved by:

____
City Manager

Approved as to form:

Jeanne J Lisowski
Senior Assistant City Attorney

ATTEST:

____
City Clerk

Introduced:
Final Reading:

CITY COUNCIL
ENCROACHMENT SUMMARY
2016-065

1700 BLOCK OF BANNOCKBURN DRIVE
ADJACENT TO 1729 BANNOCKBURN DRIVE
PARKING AREA AND STONE WALLS

Subject Property:	Right-of-way adjacent to 1729 Bannockburn Drive, TMS#13911-08-02
Council District:	4
Proposal:	The applicant is requesting an encroachment for installation and maintenance of a slag parking area and two stone walls
Applicant:	Judy H. Tighe
Staff Recommendation:	Recommend approval with staff comments.

Detail:	The applicant is requesting an encroachment for the installation and maintenance of a slag parking area approximately fifty-five (55’) feet in length and twelve (12’) feet in width and two (2) stone walls each measuring approximately twenty-four (24”) inches in height, twelve (12”) inches in width, twenty-five (25’) feet in length, as shown on the attached drawing; Should council grant this request, staff would ask that the following conditions be imposed. 1. No item, including landscaping, shall be placed, planted or allowed to grow such that it creates a visual impediment to persons safely entering or exiting the driveway or to persons safely walking along the sidewalk. The City reserves the right to remove or cut any item located within the right of way which it deems to be a safety hazard. 2. Grantee is responsible for all costs and repair of the improvements within the right of way area should the City have to dig in the area or remove any part thereof for maintenance to City water and or sewer lines. 3. South Carolina Department of Transportation encroachment permit is required.

CITY AGENCY COMMENTS FOR ENCROACHMENT	
Forestry	Recommend approval.
Streets	Recommend approval
Utilities and Engineering	Recommend approval.
Traffic Engineering	Recommend approval.
Planning	Recommend approval.
Land Development	Recommend approval.
Fire	Recommend approval.

REQUEST FOR A PERMANENT RESIDENTIAL OR CHURCH DIRECTIONAL SIGNS ENCROACHMENT ORDINANCE

For a continuing encroachment on any type of property in which the City has an interest (i.e., rights of way, tree zone, sidewalk, streets), the person or enti[ty] is required to have an encroachment ordinance enacted by City Council permitting the encroachment. Encroachment ordinances are required for but n[ot] limited to: irrigation systems; landscaping; fencing; walls; pavers; walkways; outdoor dining items (chairs, tables, umbrellas, etc.); awnings; bollards an[d] directional signs (i.e., churches) *Business signs are **NOT** permitted via an encroachment.* *An encroachment must comply with all existing City codes, rul[es] and regulations, the Americans with Disabilities Act, if applicable, and is subject to review and approval by City staff. Enactment of the encroachme[nt] ordinance by a majority vote of City Council, which is a discretionary legislative act, is also required. In order to obtain an encroachment ordinance from th[e] City of Columbia, it will be necessary for the City of Columbia to be named as an additional insured on your homeowners' policy with limits being increased t[o] $600,000 as required by Sec. 11-71. It is recommended that you contact your insurance provider to determine if it will name the City of Columbia as a[n] additional insured prior to submitting your request for an encroachment ordinance. If you have any questions concerning these requirements, please contact Chip Timmons with Risk Management.*

Please complete and submit this form along with any attachment(s) to Shari Ardis by e-mail at slardis@columbiasc.net ; fax at 803-737-4250; **or** mail to Shari Ardis, Legal Department, POB 147 Columbia, SC 29217, for preparation of an encroachment ordinance. Copies to City departments should be directed to the contact person for that department as shown below and not through the Legal Department. Chip Timmons with Risk Management (733-8306 or catimmons@columbiasc.net) should be contacted regarding the insurance requirements.

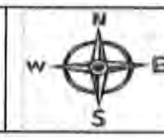
Date: 7-08-2016 Property Owner: JUDY H. TIGHE
Applicant's Name if different from Property Owner: Same
Contact Information: Telephone Number: 803.782.8686 Fax Number: ____
Mailing address: 1729 BANNOCKBURN DR. E-mail address: JUDYTIGHE103@GMAIL.COM
Encroachment Location (Address): 1729 BANNOCKBURN DR. 29206
(If corner lot, include name and block number of side street, i.e., 1737 Main Street and 1100 block of Laurel Street)
Tax Map Number for Encroachment Location: R13911-08-02

==

Encroachment type: ✓ Wall ___ Fence ___ Columns ___ Steps ___ Irrigation System ✓ Landscaping ___ Driveway ___ Pavers
___ Walkway/Side walk ___ Underground Utilities ✓ other
If Other - specify: SLAG PARKING AREA
Dimensions (height/width/length): [24"h x 12"w x 25'l] 2 walls
SLAG PARKING 12' X 55'
(i.e., 6'x42' wooden privacy fence; two 12"x4' concrete step; two 12"x12" x24" brick columns; 4'x15' brick paver walkway)
Construction material: BLOCK, STONE, SLAG
Please provide photographs and drawing or site plan ***drawn to scale*** - no larger than 8-1/2 x 11.

==

____ **Church Directional Signs** (Must provide picture or drawing of proposed signs that reflect dimensions)

Location(s) signs are to be placed (i.e. Northeast corner of Main Street) ____	

All work shall comply with the requirements of The City of Columbia and South Carolina Department of Transportation now in existence or hereafter enacted. The materials and type of finish to be used are to be approved by the City Engineer prior to installation. Any damage to the street or sidewalk caused by construction shall be repaired to the satisfaction of the City Manager. Improvements within the encroachment shall be maintained by the grantee at no cost to the City in a manner approved by the City Manager.

The proposed ordinance will be sent to the requesting party and City offices for review and approval. Johnathan Chambers will compile the recommendations and forward them to the City Clerk for scheduling before City Council. This process may take from 30-90 days.

CONTACT	DEPARTMENT	PHONE	FAX	E-MAIL
Johnathan Chambers	Development Services (Land Development)	803-545-3333	803-343-8779	jechambers@columbiasc.net
John Fellows	Development Services (Planning)	803-545-3222	803-733-8647	jsfellows@columbiasc.net
Brian Cook	Development Services (Zoning)	803-545-3332	803-733-8647	kbcook@columbiasc.net
Jerry Thompson	Development Services (Building Inspections)	803-545-3420	803-733-8699	jlthompson@columbiasc.net
Fanessa Pinckney	Development Services (Permits)	803-545-3420	803-733-8699	fcpinckney@columbiasc.net
Amy Moore	Development Services (Historic Preservation)	803-545-3222	803-733-8647	aemoore@columbiasc.net
Robert Harkins	Development Services (Plans Review)	803-545-3420	803-733-8647	rlharkins@columbiasc.net
Denny Daniels	Utilities & Engineering (Construction Management)	803-545-3400	803-988-8199	jddaniels@columbiasc.net
Robert Anderson	Public Works (Administration)	803-545-3780	803-733-8648	raanderson@columbiasc.net
Robert Sweat	Public Works (Street Division)	803-545-3790	803-545-3785	rgsweatt@columbiasc.net
David Brewer	Public Works (Traffic Engineering)	803-545-3850	803-733-8648	ddbrewer@columbiasc.net
Sara Hollar	Public Works (Forestry & Beautification)	803-545-3860	803-733-8648	sehollar@columbiasc.net
John Hooks	Public Works (Solid Waste)	803-545-3800	803-733-8648	jphooks@columbiasc.net
Chip Timmons	Risk Management	803-733-8306	803-733-8245	catimmons@columbiasc.net
David Koon	Fire Department	803-545-3701	803-401-8839	cfdgkoon@columbiasc.net
John David Spade	Parking Services	803-545-3070	803-733-8523	spade@columbiasc.net

City of Columbia

1729 Bannockburn Drive - Encroachment Application

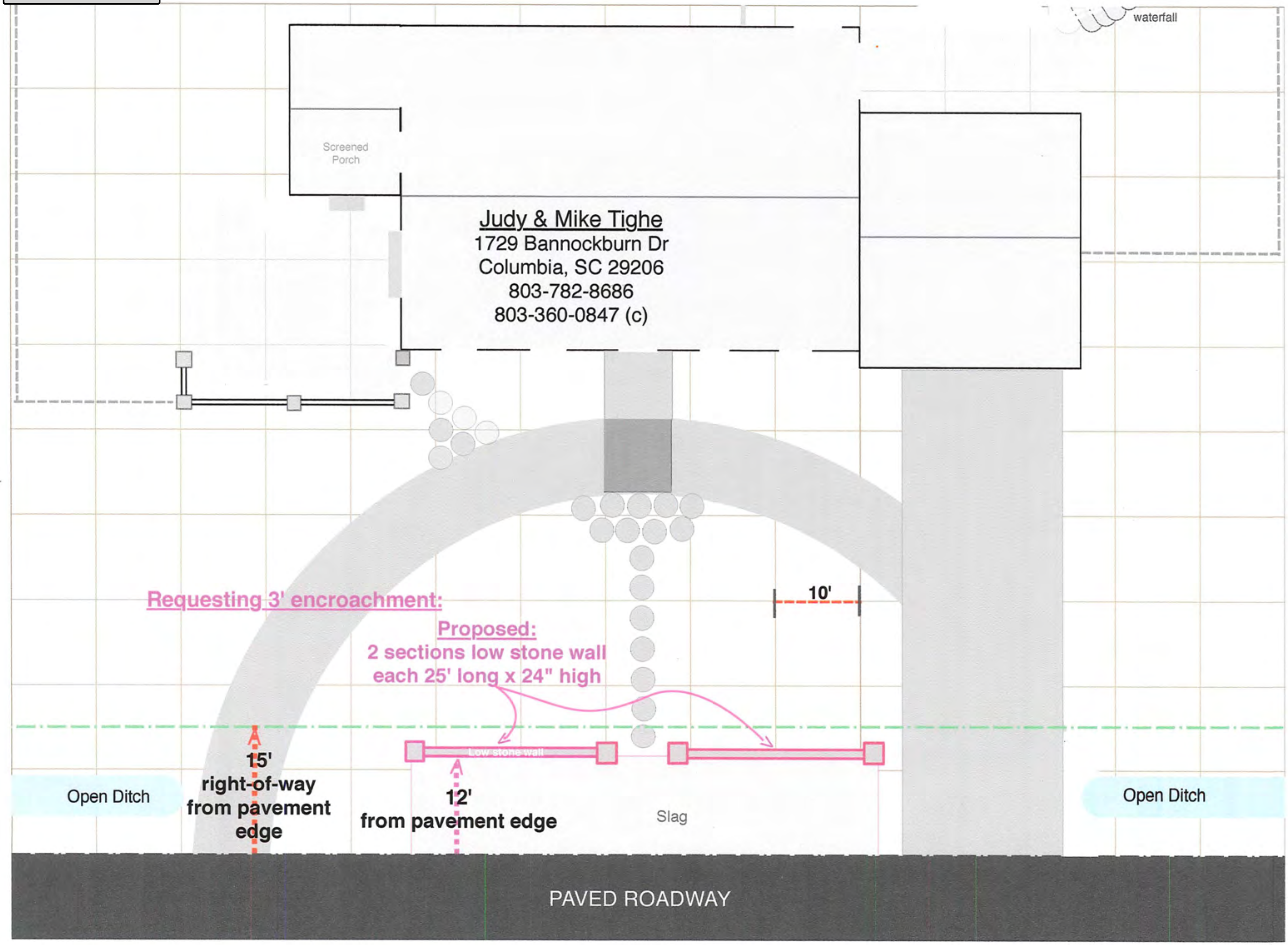
Monday, July 18, 2016

CITY OF COLUMBIA GIS DATA DISCLAIMER

The City of Columbia GIS data represented on this map or plan is the product of compilation, as produced by others. It is provided for informational purposes only and the City of Columbia makes no representation as to its accuracy. Its use without field verification is at the sole risk of the user.

We Are Columbia

Bannockburn Dr
Bannockburn Dr



waterfall
Screened Porch
Judy & Mike Tighe
1729 Bannockburn Dr
Columbia, SC 29206
803-782-8686
803-360-0847 (c)
10'
Requesting 3' encroachment:
Proposed:
2 sections low stone wall
each 25' long x 24" high
Low stone wall
15'
right-of-way
from pavement
edge
12'
from pavement edge
Slag
Open Ditch
Open Ditch
PAVED ROADWAY

The wall we will construct is like this one; however, it will be set 12 feet back from the edge of the road to provide parking out of the roadway.

Judy Tighe
1729 Bannockburn Drive
Columbia, SC 29206
803-782-8686

We Are Columbia

MEETING DATE:	**November 8, 2016**
DEPARTMENT:	**Legal**
FROM:	***Shari Ardis, Legal Administrator***
SUBJECT:	**Ordinance No.: 2016-102 - Authorizing consumption of beer and wine beverages only at the 2017 Famously Hot New Year Event**
FINANCIAL IMPACT:	

ATTACHMENTS:

- **#a:** 2016-102 Famously Hot New Year Event (PDF)

RESULT:	**APPROVED ON SECOND READNG [UNANIMOUS]**
MOVER:	Howard E. Duvall, Councilman - At Large
SECONDER:	Sam Davis, Councilman - District I
AYES:	Stephen K. Benjamin, Sam Davis, Howard E. Duvall, Edward H. McDowell
ABSENT:	Tameika Isaac Devine, Moe Baddourah

HISTORY:

11/01/16	**City Council**	**APPROVED ON FIRST READING**

ORDINANCE NO.: 2016-102

Authorizing consumption of beer and wine beverages only at the 2017 Famously Hot New Year Event

WHEREAS, the City ("Sponsor") is sponsoring the 2017 Famously Hot New Year Event in the 1200 block of Main Street between Lady Street and Gervais Street and the 1100 and 1200 blocks of Gervais Street between Assembly Street and Sumter Street from 6:30 p.m. Saturday, December 31, 2016 until 1:00 a.m. Sunday, January 1, 2017; and,

WHEREAS, Sponsor has requested permission for the temporary closing and use of the 900 block of South Main Street from Pendleton Street and College Street from 9:00 a.m. Saturday December 31, 2016 until 2:00 a.m. Sunday, January 1, 2017 and the 1100 and 1200 blocks of Pendleton Street from 11:30 p.m. Saturday December 31, 2016 until 12:30 a.m. Sunday, January 1, 2017 for set up and staging of equipment and a fireworks show; the 1200 block of Gervais Street between Main Street and Sumter Street from 8:00 a.m. Friday, December 30, 2016, until 9:00 a.m. Sunday, January 1, 2017; for set up, staging and clean-up of the event; and the 1100 and 1200 blocks of Gervais Street between Assembly Street and Sumter Street from 7:00 a.m. Saturday, December 31, 2016 until 9:00 a.m. Sunday, January 1, 2017; the half block area of the 1200 block of Main Street south of the entrance to the NBSC parking garage to allow for ingress and egress into the parking garage from 7:00 a.m. Saturday, December 31, 2016 until 9:00 a.m. Sunday, January 1, 2017; the remainder of the 1200 block of Main Street between Lady Street and Gervais Street from 4:00 p.m. Saturday, December 31, 2016 until 8:00 a.m., Sunday, January 1, 2017; for an event to be held from 6:30 p.m. Saturday, December 31, 2016 until 1:00 a.m., Sunday, January 1, 2017, and for patrons to consume beer and wine beverages only during the event hours of 6:30 p.m. Saturday, December 31, 2016 until 12:30 a.m. Sunday, January 1, 2017; and for crowd control and overflow; and,

WHEREAS, it has been determined that such an event would be in the public interest; NOW, THEREFORE,

BE IT ORDAINED by the Mayor and Council this ___ day of ____________, 2016, that the sale of beer and wine beverages only is authorized between the hours of 6:30 p.m. Saturday, December 31, 2016 and 12:30 a.m. Sunday, January 1, 2017; and,

BE IT FURTHER ORDAINED that all vendors be restricted to stationary location; and,

BE IT FURTHER ORDAINED that possession and consumption of alcoholic liquors or alcoholic beverages other than beer and/or wine beverages within the event area is prohibited; and,

BE IT FURTHER ORDAINED that VIP tents or VIP areas for the possession and consumption of alcoholic liquors or alcoholic beverages, other than beer or wine beverages, within the event area are prohibited; and,

BE IT FURTHER ORDAINED that VIP areas for the possession and consumption of alcoholic liquors or alcoholic beverages, including beer or wine beverages, shall be allowed within an enclosed building adjacent to but outside of the event area. Beer and wine beverages shall not be carried from the event area into the VIP area. Alcoholic liquors or alcoholic beverages, including beer or wine beverages shall not be carried from the VIP area into the event area. Sponsor shall have a person posted at the entrance and exit of the VIP area to enforce the prohibition of transporting these beverages from one area to the other; and,

BE IT FURTHER ORDAINED that the Mayor and Council hereby repeal the restriction of outdoor possession and consumption of beer and wine beverages only, all outdoor musical performances and use of sound-amplifying devices ending by 10:00 p.m. only for this City of Columbia sponsored New Year Eve's event; and,

BE IT FURTHER ORDAINED that only pedestrian traffic will be allowed within the area. All other traffic, including, but not limited to, automobiles, trucks, motorcycles, mopeds, bicycles, skate boards, and horses, except police horses, is prohibited. All pets shall be prohibited. Coolers, glass bottles, breakable glasses and/or cups, large bags and backpacks shall be prohibited; and, BE IT FURTHER ORDAINED that during the designated time the closed portion of the 1200 block of Main Street between Lady Street and Gervais Street and the 1100 and 1200 blocks of Gervais Street between Assembly Street and Sumter Street with the exception of the parking areas, adjacent off-street parking areas and other areas posted as to not allow alcoholic beverages, shall be declared to be a Public Park and provisions of Chapter 15, Parks and Recreation, Sec. 15-1, 15-2 and 15-3, Code of Ordinances of the City of Columbia, South Carolina are in effect. Pursuant to Chapter 14, Offenses and Miscellaneous Provisions, Article IV, Offenses Against the Public Peace and Order, Sec. 14-99, 1998 Code of Ordinances of the City of Columbia, South Carolina, the 1200 block of Main Street between Lady Street and Gervais Street and the 1100 and 1200 blocks of Gervais Street between Assembly Street and Sumter Street with the exception of the parking areas, adjacent off-street parking areas and any other areas posted as to not allow alcoholic beverages, is deemed to be the site of a public festival at which beer and wine beverages only may be consumed and the prohibition against possession or consumption of alcoholic beverages set forth in Sec. 14-99 shall not apply. Possession and consumption of beer and wine beverages only shall be permitted only in plastic cups, plastic or aluminum bottles or aluminum cans provided by vendors within the areas designated.

PROVIDED, FURTHER, that the event organizer shall provide the names and cell phone numbers of a least two contact persons who can receive complaints during the event, including any set up and breakdown times. The cell phones shall remain on at all times during the event and during any set up and breakdown time.

PROVIDED, FURTHER, that failure of the event organizer to strictly comply with the time frames and other requirements and responsibilities set forth in this resolution may result in a denial of subsequent requests to allow the event.

PROVIDED, HOWEVER, that no solicitation or transactions be made in violation of Sec. 14-32, 1998 Code of Ordinances of the City of Columbia, South Carolina.

Requested by:

Mayor Benjamin

Mayor

Approved by:

ATTEST:

City Manager

Approved as to form:

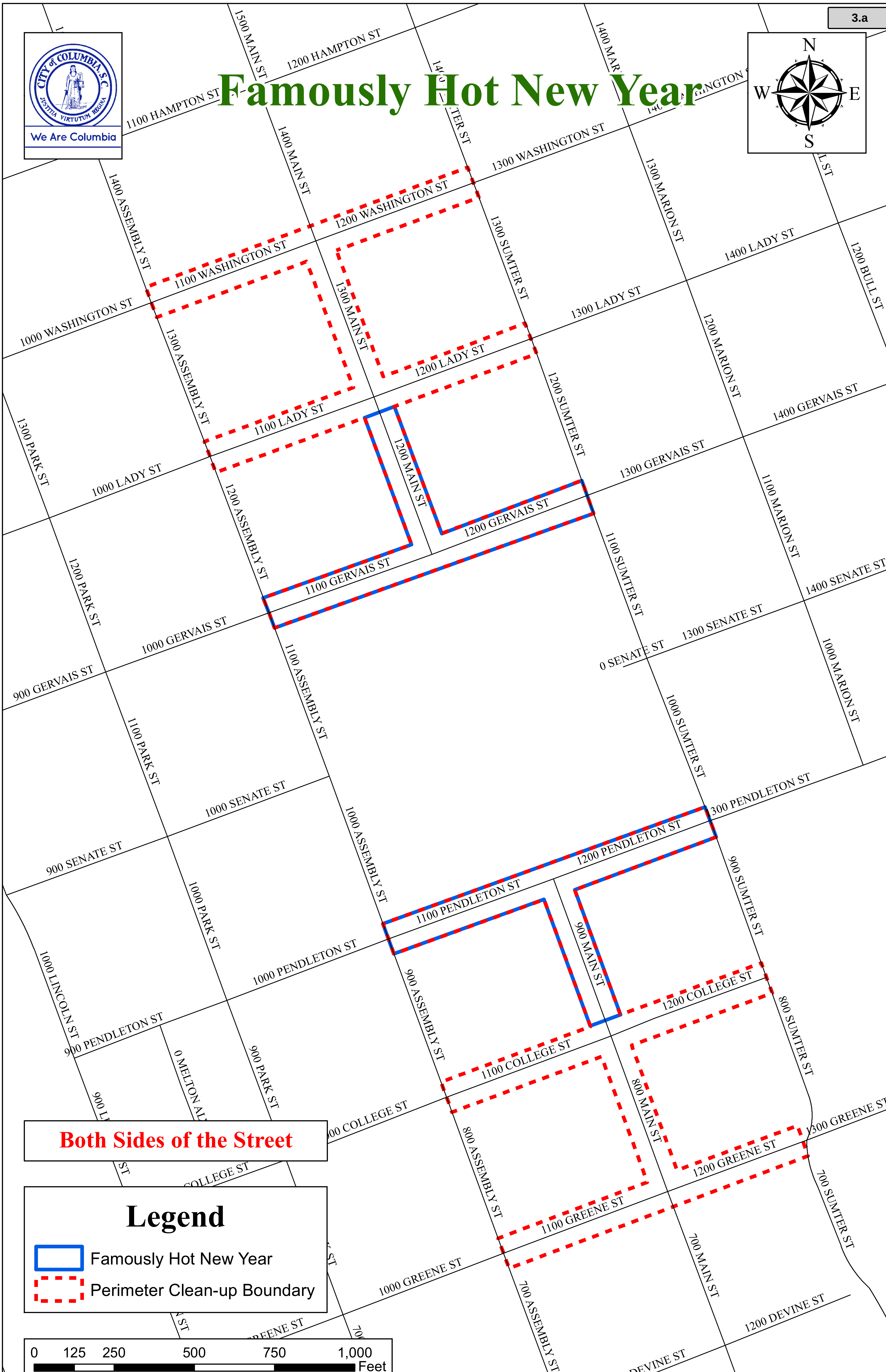
City Clerk

City Attorney

Introduced:
Final Reading:

LEGAL DEPARTMENT DRAFT

Last revised: 10/13/2016
1617100807



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We Are Columbia

MEETING DATE: **November 8, 2016**

DEPARTMENT: **Office of Business Opportunities**

FROM: ***Tina Herbert,***

SUBJECT: **Ordinance No.: 2016-111 - Adopting Amendments to the Commercial Revolving Loan Fund ("CRLF") Code**

PRESENTER: **Paul Featheringill**

FINANCIAL IMPACT:

BUSINESS PROGRAM: **Small Business Enterprise**

CLEAN WATER 2020?: **No**

STRATEGIC GOALS: **Business Growth & Investment**

ATTACHMENTS:

- **#a:** Revision memo 10.2016 (PDF)
- #b: 2016-111 adopt amendments to CRLF Code (PDF)

RESULT:	**APPROVED ON SECOND READNG [UNANIMOUS]**
MOVER:	Howard E. Duvall, Councilman - At Large
SECONDER:	Sam Davis, Councilman - District I
AYES:	Stephen K. Benjamin, Sam Davis, Howard E. Duvall, Edward H. McDowell
ABSENT:	Tameika Isaac Devine, Moe Baddourah

HISTORY:

11/01/16	**City Council**	**APPROVED ON FIRST READING**

We Are Columbia

Office of Business Opportunities

1225 Lady Street, Columbia, South Carolina 29203 • Phone: 803-545-3950 • Fax: 803-255-8912

To: Erika Moore

From: Paul Featheringill, Business Loan Officer

CC: Tina Herbert, Executive Director

Date: October 19, 2016

Re: Proposed Changes to the Commercial Revolving Loan Fund (CRLF) Code

The following revisions are proposed for consideration by City Council to the Commercial Revolving Loan Fund (CRLF) Code. These revisions are being proposed to provide greater consistency in the terms of the individual funds as well as to provide a better use of the limited funds available to lend through the CRLF.

Section 8.7.4: Limits
Remove the $100,000 limit on non-EDA funded loans. All loans, regardless of funding source, will have a maximum amount of $200,000.

Section 8.9.2: Application Procedures
Add the requirement of a signed bank turn-down letter demonstrating that credit is not otherwise available on terms and conditions that permit the completion of the project to be financed. This requirement will be for all loans applications greater than $50,000, regardless of funding source.

Section 8.19.2: Commercial Development Block Grant (CDBG) Funds
The maximum loan amount is changed to $200,000.

Section 8.19.4: Commercial Development Block Grant (CDBG) Funds
Add the requirement of a signed bank turn-down letter demonstrating that credit is not otherwise available on terms and conditions that permit the completion of the project to be financed. This requirement will be for all loans applications greater than $50,000.

Section 8.20.2: Columbia Economic Renaissance Fund (CERF)
The maximum loan amount changed to $200,000.

Section 8.20.4: Columbia Economic Renaissance Fund (CERF)
Add the requirement of a signed bank turn-down letter demonstrating that credit is not otherwise available on terms and conditions that permit the completion of the project to be financed. This requirement will be for all loans applications greater than $50,000.

ORDINANCE NO.: 2016-111

Adopting Amendments to the Commercial Revolving Loan Fund ("CRLF") Code

BE IT ORDAINED by the Mayor and Council this ___ day of _________, 2016, that the attached amendment to the Commercial Revolving Loan Fund Code is hereby adopted.

Requested by:

Assistant City Manager Gentry

Mayor

Approved by:

City Manager

Approved as to form:

Jeanne J. Lisowski

Senior Assistant City Attorney

ATTEST:

City Clerk

Introduced:
Final Reading:

Last revised: 10/19/2016
1617100872

COMMERCIAL REVOLVING LOAN FUND

8.1 PURPOSE

The City of Columbia, through economic development projects financed by the Commercial Revolving Loan Fund, seeks to improve the number and caliber of job opportunities, as well as to retain existing jobs within the City of Columbia. The City of Columbia seeks to foster entrepreneurship, innovation and productivity through investments in infrastructure development, capacity building, and business development in order to attract private capital investment and higher-skill, higher-wage jobs. Additionally, the City of Columbia seeks the revitalization of commercial corridors throughout the City.

This code provision applies to all of the City of Columbia's commercial revolving loan funds, including those funds capitalized with federal, state and local dollars, unless a fund is otherwise provided for under another section of this code.

Interest payments and fees may be utilized to defray the ongoing administrative costs of operating the CRLF. Principal and any interest not used for administrative expenses will revolve into the CRLF for relending. The City will comply with any and all federal regulations and caps regarding administrative expenses.

8.2 DEFINITIONS

1. *Commercial Revolving Loan Fund Committee of the City of Columbia (CRLF Committee).* Seven (7) member committee appointed by City Council to review and approve/disapprove loan applications

2. *CRLF*: Commercial Revolving Loan Fund

3. *CRLF Staff.* The staff of the City of Columbia

4. *Economic Development Administration (EDA).* A department of the United States Department of Commerce providing revolving loan funds to the City of Columbia

5. *Equity.* Total grants and private dollars brought to a project by a borrower from any source other than the City of Columbia.

6. *Minority Business.* A minority-owned business is a business which reflects 51% minority ownership and in control of management decisions. Minority refers to any individual of a race other than Caucasian (white)

7. *Participating lender*. Banks and other institutional lenders who, in the regular course of business, make commercial loans

8. *Private commitment*. A commitment of funds needed for a project obtained from a bank, other lending institution, or legitimate private source

9. *Private to public dollar leveraging ratio*. The amount of private dollar investment, either through private commitment and/or a participating lender in a project in relation to the amount of public funds invested

10. *Small Business*. A small business is a start-up or expanding business which has 50 or fewer employees.

11. *Target Area*. From time to time the City may target a specific geographical area, census tract, corridor, or business type for funding. Such a designation will be considered a target area

12. *Total Project Cost*. Total direct costs incurred to carry out a project

13. *United States Department of Housing and Urban Development (HUD)*. The Federal Agency that administers the Community Development Block Grant (CDBG) and any other federal funds awarded to the City Of Columbia

14. *Woman-owned business*. A business which reflects 51% female ownership and in control of management decisions is considered a women-owned business

8.3 TYPES OF LOANS

Commercial revolving loans may take the form of:

1. *Participation loans* made in conjunction with loans made by other public or private financial lending institutions, with subordination features, also known as gap financing;

2. *Commercial loans* with a minimum equity investment as determined by the funding source. (Equity investments can come from the owner, private and/or non-bank investors, grants, or other sources of equity.);

3. *Loans under $10,000* which may not require bank participation or private equity investment.

4. All loan types may offer special financing techniques, including moratoriums on interest and/or principal repayments for a specified period of time.

8.4 USE OF LOAN FUNDS

1. Loans may be made to small businesses for the purpose of financing building construction, conversions, expansions, acquisition of land, buildings, machinery, equipment, supplies and materials or in particular cases of supplying working capital where it is deemed necessary by the staff and CRLF Committee.

2. Interest payments and fees may be utilized to defray the ongoing administrative costs of operating the CRLF. Principal and any interest not used for administrative expenses will revolve into the CRLF for relending. The City will comply with any and all federal regulations and caps regarding administrative expenses.

8. 5 ELIGIBILE APPLICANTS

1. The applicant must fit the definition of small business as defined by the City of Columbia - fifty (50) employees or less.

2. The business must be located within the corporate limits of the City of Columbia.

3. Applicants must agree to provide all information and business records requested pertaining to the loan or business during the application process or the term of the loan must be made available to the city. (Personal financial statements shall remain confidential.)

4. All principals or owners must agree to provide personal guarantees.

5. Applicants who have been in default on previous loans with the City of Columbia are not eligible for additional funding.

6. Minimum credit score. The City requires the applicant to have a minimum credit score of 600 to be eligible to apply for a commercial loan.

7. In order for a current loan recipient to be eligible for an additional loan, the applicant must meet the following conditions:

a. Minimum 50% equity requirement
b. Previous loan must either be paid off or have been in repayment for at least 2 years and be current with no late payments or defaults
c. Business must be in an identified target area of the City of Columbia
d. Business is unable to get all of the financing needed for the project from a private financial institution or other private source

8.6 INELIGIBLE ACTIVITIES

Commercial revolving loan funds cannot be used for the activities listed below. City staff may reject applications for ineligible activities.

1. The direct or indirect refinancing of any pre-existing debt or subsidizing interest payments on an existing loan.

2. Funds for payment, distribution, or as a loan to owners, partners or shareholders of the applicant's business, except as ordinary compensation for services rendered.

3. Acquisition of an equity position in a private business,

4. Loan guarantees (a promise by one party to assume the debt obligation of a borrower if the borrower defaults on a loan).

5. The relocation of a business within the City of Columbia presently located outside of the Columbia commuting area.

6. Where the purpose of the loan is to finance the acquisition, construction, improvement or operation of real property which is to be held for speculative real estate ventures.

7. Where the purpose of the loan is to finance the creation, dissemination, or distribution of material deemed patently repugnant by commonly recognized community standards of decency or which has the effect of denying anyone their constitutionally guaranteed rights.

8. Where the effect of the granting of the loan would be to encourage a monopoly or be inconsistent with accepted practices of the American system of free competitive enterprise.

9. Where the applicant's business may not operate totally within the laws of the City of Columbia and the State of South Carolina.

10. Other activities prohibited by specific funding sources. See sections 8.18.1(c) for additional ineligible uses of EDA funds.

11. If City Staff determines that an application is ineligible for funding, a letter will be sent to the applicant within fourteen (14) business days of receipt. City Staff will notify the CRLF Committee of all applications that have been determined to be ineligible.

8. 7 FEES, INTEREST, TERMS AND LIMITS

1. Fees

Application Fee

A. A loan application fee of $100, plus identifiable direct third-party charges (credit reports,), shall be collected at time of application to defer processing expenses.

Origination Fee

A loan servicing fee of up to one percent (1%) shall be added to the cost of the CRLF loan. Fees shall be predicated on local market conditions and commensurate to risk to the CRLF.

2. Interest

A. Unless otherwise dictated by the funding source, (see sections EDA - 8.19.4; CDBG – 8.20.4; CERF – 8.21.4) the interest rate to be charged on City of Columbia CRLF loans shall be set at one percent (1%) below the current money center prime rate quoted in the Wall Street Journal. This rate will change from time to time with changes in the prime rate. These changes will be reflected in the City's rate of interest on the last day of the month in which the change in prime rate occurs.

B. In no event shall the interest rate charged be less than three percent (3%) annually nor shall it be greater than the maximum interest allowed under state law. Adjustable interest rates and balloon/call provisions may be utilized.

3. Terms

Terms for repayment of loans may vary, but standard terms for repayment shall be as follows:

A. Equipment: 7 to 10 years;
B. Land and building: up to 25 years
C. Inventory: up to 3 years
D. Working Capital: up to 2 years
E. Leasehold Improvements: up to 25 years
F. All loans will have five (5) year balloon/call features

4. Limits

The city's maximum loan shall not exceed $200,000 ~~for EDA funded loans and $100,000 for loans from all other funding sources.~~

The CRLF committee reserves the right to adjust the fees, interest, terms and limits when deemed necessary to carry out the goals of the commercial revolving loan fund program, however all federal requirements for lending programs must be met.

8.8 LOAN REVIEW COMMITTEE

The CRLF Committee shall consist of seven (7) members who shall assume responsibility for final approval of loan applications. The CRLF committee will be comprised of (1) one attorney with business or corporate expertise, (2) a licensed commercial contractor, (3-4) two small business persons (of which one may represent a small business development agency or a non-profit business), (5) a local bank representative, (6) an Assistant City Manager with the City of Columbia and (7) the Community Development Director with the City of Columbia. Individuals for these positions will be appointed by city council for two (2) year terms. City staff/administration members on the committee must not be the direct or indirect supervisor of the city staff presenting loans for approval.

The CRLF Committee is authorized to do the following:

1. Approve/deny all loan requests;
2. Approve/deny loan modifications recommended by staff;
3. Approve/deny subordination requests that would change the City's collateral position on an active loan;
4. Approve/deny referrals for legal action on defaulted loans;
5. Review policies and procedures which apply to CRLF funds; and
6. Review quarterly portfolio reports provided by staff.

In determining whether a loan request should be approved or denied, the CRLF committee is to consider the underwriting guidelines established under Section 8.10.

Only the CRLF committee can reverse its decisions to approve or deny loan requests, modifications, and referrals for legal action.

The CRLF committee is a public body and is subject to the Freedom of Information Act. Any scheduled meeting convening a quorum of the membership, whether corporal or by electronic means (including a telephone conference) is subject to FOIA.

8.9 APPLICATION PROCEDURES

1. An application form and all required supporting documentation must be submitted prior to a loan request being analyzed by City staff.

2. Loan Applications must include the following to be considered complete:
   a. Business Financial statements for the past three (3) years and interim statements for the current year submitted by an applicant showing the applicable date of the information given, and signed and certified by the applicant or his accountant. The COC may require an audited statement.
   b. Personal financial statements for all principals of the business.

c. Federal Tax Returns for the past three (3) years and interim statements for the current year must be submitted for all existing businesses.
d. If an Applicant does not have three (3) years of tax returns or financial statements, the COC shall require personal tax returns of the principals in the business
e. Three most recent months of bank statements for the business or for start-up businesses with no bank history, three most recent months of statements for all principals of the business.
f. A detailed projection of earnings for the next three (3) years must be submitted by the applicant.
g. Incorporation documentation for incorporated businesses.
h. Verification of current number of employees.
i. All loan requests of more than $50,000 require a signed bank turn-down letter indicating that credit is not available on terms and conditions that permit the completion of the project to be financed.

3. After a completed application has been submitted, the loan officer will review the file to ensure it meets all minimum underwriting criteria and present to the CRLF committee for approval within sixty (60) days.

4. Applicants are required to attend CRLF committee meetings when their application is being reviewed.

5. Applicants will be informed of their approval/denial status within seven (7) business days of the committee's decision.

8.10 UNDERWRITING CRITERIA (CONSIDERATION AND REVIEW OF APPLICATIONS)

Before submitting an Application Package to the CRLF Committee, City staff will review the package for the following underwriting criteria.

1. Adequate assurances are given that the loan can be repaid pursuant to proper terms and conditions based on review of financial statements and analysis of cash flow.

2. Adequate assurance that the loan is to accomplish an improvement which is warranted in light of current market conditions and an analysis of past performance and future projections.

3. The applicant must obtain a minimum private commitment of 10% (or higher as required by the applicable funding source-CDBG section 8.20.3; EDA section 8.19.3; CERF section 8.21.3) of the total project costs, where required. City of Columbia grants cannot be used to meet an applicant's minimum equity investment.

4. Each loan must create or retain one job per $35,000 borrowed. Each applicant must certify that all jobs to be created will be filled as proposed in the loan application and/or all jobs being retained would be lost to the business within two (2) years without public support.

5. The applicant's credit, capacity and collateral is adequate.
   a. Borrowers should have a debt coverage ratio of 1.0-1.15 and above.
   b. Applicants must show evidence of adequate and acceptable collateral sufficient to provide a legitimate secondary repayment source through the life of the loan.

      i. Collateral should have a maximum loan to value ratio of:
         (a) 50-75% for inventory, equipment and receivables and
         (b) 80% for real estate
         (c) The ratio for the loan value to the collateral needed shall be determined by staff.
      ii. The City may take a subordinate position to other lenders.
      iii. Collateral is required on all loans above $10,000. Loans under $10,000 may be approved with proper personal guarantees (and UCCs if applicable) to satisfy collateral requirements.
      iv. Any subordination agreements occurring after loan closing may be executed by City staff unless the result would change the City's position to a lesser position, in which case loan committee approval is required. The CRLF Committee will be notified of any subordination executed.

6. The business data provided by the application shows the business as solvent, efficient and or profitable.

7. The applicant demonstrates adequate funding to complete the proposed improvement project.

8. The proposed improvements meet any applicable federal guidelines. It is the responsibility of city staff to ensure that all improvements funded with federal funds meet the appropriate federal guidelines prior to awarding funds.

9. No conflicts of interest or perceived conflicts of interest exist preventing award.

10. Preference will be shown to applicants included in one or more of the following classifications:

    a. minority-owned small businesses;
    b. women-owned small-businesses;
    c. commercial and/or business activities which have a significant economic benefit;
    d. acquisition and renovation of older buildings in a target area;
    e. businesses involving new technology; and
    f. applicants with high job and private to public dollar leveraging ratios

After staff's analysis the underwriting criteria, all eligible completed Application Packages shall be submitted to the loan review committee for consideration.

8.11 LOAN CLOSING REQUIREMENTS AND MONITORING

1. Personal guarantees are required on all loans in addition to any other collateral requirements determined by the CRLF committee.
2. The City shall record UCC's for equipment, furniture and fixtures financed and/or used as collateral.
3. City staff should insure that all loans are protected through adequate insurance coverage.

   A. Key man insurance (an insurance policy taken out by a business to compensate that business for financial losses that would arise from the death or extended incapacity of an important member of the business) may be required under the following circumstances:
      1. The business is a sole proprietorship with no succession plan.
      2. The loan amount is greater than $50,000.
      3. There is no real estate used as collateral for the loan.

4. It is the responsibility of the City staff to collect financial statements and tax documents throughout the life of the loan as well as to inspect all collateral. It is the responsibility of the borrower to provide all requested information as part of the terms of the loan.
5. The city CRLF staff shall have the right to inspect, at reasonable hours, any facilities, equipment, premises, books, and records pertaining to the processing of a loan application or in the administration of a loan granted to the business under this program.
6. The City staff is to monitor job creation and/or retention for three (3) years from the closing date of a loan.

8.12 REPORTING

A semi-annual report will be completed in July and January of every year and presented to City Council as public record of the performance and management of the fund.

8.13 DELINQUENCY AND DEFAULT

Delinquency is defined as:
A. past due – up to 30 days late,
B. seriously delinquent – from 30 to 90 days late; and
C. Default – over 90 days late.

1. Past due loans will be monitored by the Loan Servicing Agent, if applicable, and/or City staff and borrowers will be contacted to collect payment.
2. If a borrower should become seriously delinquent, the following actions may be taken, with the approval of the CRLF Committee:
   a. to postpone, defer or otherwise modify the loan terms for a specified work-out period;
   b. cancel all or a portion of the debt in consideration of borrower's transfer of collateral to the lender in lieu of foreclosure.
3. Loans more than 90 days past due are in default. In cases where it is determined that funds cannot be collected, foreclosure action may be initiated with the approval of the CRLF committee. Should the CRLF committee decide to recommend legal action, case files should be transferred to the legal department who will take appropriate action in conjunction with the private lenders or the city manager who may specify other possible action.

8.14 LOAN SERVICING

1. Subsequent to approval and commitment, CRLF staff will coordinate loan closing with the private lender, borrower, and closing attorney. A document file will be established by CRLF staff when the loan is booked in by accounting. Receipt of post-closing documentation and periodic submission of financial statements will be monitored by CRLF staff. Borrower will be responsible for full compliance with terms, provisions and conditions contained within the loan documents.

   CRLF loans will be of three (3) types with regards to servicing responsibilities:
   a. A joint loan made in concert with a private lender (lead lender) where the lead lender services the loan and periodically remits to the city its participant's share of monies collected.
   b. A separate city loan funded by CRLF and underwritten in concert with and related to the loan of the leads lender but independently evidenced and secured. In this instance, the city's loan will be serviced by the lead lender or a loan servicing agent selected by the city.
   c. All loans not serviced by the lead lender or a loan servicing agent selected by the City will be serviced by City staff.

8.15 INSPECTION OF PREMISES AND RECORDS

1. Subsequent to approval and commitment, city staff will coordinate loan closing with the private lender where applicable, borrower and closing attorney. Receipt of post- closing documentation and periodic submission of financial statements will be monitored by City staff. Borrower will be responsible for full compliance with terms, provisions and conditions contained with the loan documents.

2. The City staff, or its servicing agent, shall have the right to inspect at reasonable hours any facilities, equipment, premises, books, and records pertaining to the processing of a loan granted to the business under this program.

8.16 PRIVACY PROTECTION POLICY

City staff collects sensitive information from businesses and individuals and must comply with city and federal privacy regulations. All loan files must secure to maximize maintenance of privacy. In the event of a Freedom of Information Request, personal financial information and trade secrets may not be publicly disclosed.

8.17 PORTFOLIO GOALS AND PERFORMANCE

1. The CRLF as a whole should create or retain one job per $15,000 borrowed.

2. Working capital loans shall be initially limited to thirty percent (30%) of the total Commercial Revolving Loan Fund Program's portfolio

3. A goal of 40% minority participation in the initial CRLF was established at the request of EDA. The City of Columbia will continue to commit to this goal with all loan funds governed by this code. The percentage may be determined by the amount of funds committed.

4. A goal of 35% women-owned businesses participation shall also apply.

5. Loans for start-up businesses shall be limited to thirty percent (30%) of the total Commercial Revolving Loan Fund Program's portfolio

8.18 ECONOMIC DEVELOPMENT ADMINISTRATION (EDA) FUNDS THROUGH THE DEPARTMENT OF COMMERCE

1. Specific EDA RLF Requirements

a. Use of Capital. The City must use RLF Capital for the purpose of making loans that are consistent with an approved Revolving Loan Fund Plan (RLF) or such other purposes approved by the EDA. To ensure that grant funds are used as intended, each loan agreement must clearly state the purpose of each loan. (See 13 C.F.R. § 307.17(a).)

b. Bank Participation. This fund requires bank participation. A letter of credit must be submitted with the loan application.

c. Restriction on Use of RLF Capital. In addition to City of Columbia ineligible uses, RLF Capital shall not be used to:

i. Provide for borrowers' required equity contributions under other Federal Agencies' loan programs;

ii. Enable borrowers to acquire an interest in a business, either through the purchase of stock or through the acquisition of assets, unless sufficient justification is provided in the loan documentation. Sufficient justification may include acquiring a business to save it from imminent closure or to acquire a business to facilitate a significant expansion or increase in investment with a significant increase in jobs. The potential economic benefits must be clearly consistent with the strategic objective of the RLF;

iii. Provide RLF loans to a borrower for the purpose of investing in interest bearing accounts, certificates of deposit or any investments unrelated to the RLF;

iv. Refinance existing debt, unless the City sufficiently documents in the loans documentation a "sound economic justification" for the refinancing (e.g. the refinancing will support additional capital investment intended to increase business activities).

2. Loan Amount. The maximum loan amount is $200,000.

3. Private Commitment Requirement for each loan. RLF awards cannot exceed 50% of the total project cost (a minimum of 50% of the total project cost required to be from other non-RLF sources). The RLF loans funded by EDA encourage a 4 to 1 private to public match.

4. Interest Rates. The minimum interest rate the City may charge pursuant to EDA guidelines is four (4) percentage points below the lesser of the current Money Center Prime Interest Rate quoted in the Wall Street Journal or the maximum interest rate allowable under state law. In no event shall the interest rate be less than the lesser of four (4) percentage points or seventy-five percent (75%) of the prime interest rate quoted in the Wall Street Journal.

5. Leveraging of RLF Portfolio. RLF loans must be used to leverage private investment of at least two dollars for every dollar of such RLF loans. This leveraging requirement applies to the RLF portfolio as a whole rather than to individual loans and is effective for the duration of the RLF's operation. To be classified as leveraged, private investment must be made within twelve (12) months prior to approval of an RLF loan, as part of the same business development project, and may include:

a. capital invested by the borrower or others;

b. Financing from private entities; or

c. the non-guaranteed portion and ninety (90) percent of the guaranteed portions of US Small Business Administration's 7 (a) loans and 504 Debenture loans.

6. A goal of 40% minority participation in the initial CRLF was established at the request of EDA. The City of Columbia will continue to commit to this goal with all loan funds governed by this code. The percentage may be determined by the amount of funds committed.

8.19 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS

The City of Columbia may from time to time allocate additional Community Development Block Grant (CDBG) dollars for revolving loan fund use.

1. Specific CDBG requirements

A. Eligible activity: All projects must be an eligible activity per HUD regulations (Title 24 Section 570.201-202). Examples of eligible activities include, but are not limited to: acquisition, code enforcement, commercial rehabilitation, technical assistance, planning, micro-enterprise development, and special economic development.

B. National Objective: All projects must also meet one of HUD's national objectives: (a) benefit to low/moderate income persons, (b) eliminate/prevent slum or blight, or (c) urgent community need. If a project is located within a designated empowerment zone or eligible census tract there is a presumption of meeting the low/moderate income benefit standard.

C. Public Benefit: If a project is designated as special economic development, in addition to being an eligible activity meeting a national objective, it must also meet HUD's public benefit standards.

2. The maximum loan amount shall be $~~1~~200,000. The CRLF committee may adjust this limit in keeping with the requirements of the funding source.

3. A minimum equity investment of 10% by the borrower is required.

4. All loan requests of more than $50,000 require a signed bank turn-down letter indicating that credit is not available on terms and conditions that permit the completion of the project to be financed.

~~4~~5. Interest Rate: See Section 8.7(2).

8.20 COLUMBIA ECONOMIC RENAISSANCE FUND (CERF).

1. Specific CERF requirements: This fund is capitalized with general fund dollars. Bank participation is not required, however it is encouraged.

A. Eligible applicants and uses: Developers, including City of Columbia development corporations and businesses owners are eligible to apply for funding based on the eligible activities listed below:

i. Developers and development corporations: property acquisition and pre-construction costs.

ii. Business owners: property acquisition, construction, business expansion, and other activities related to economic development.

2. The maximum loan shall be $2~~1~~00,000 for any one project. However the CRLF committee may adjust this limit based on available funding.

3. A minimum equity investment of 10% by the borrower is required.

4. All loan requests of more than $50,000 require a signed bank turn-down letter indicating that credit is not available on terms and conditions that permit the completion of the project to be financed.

5. Interest Rate: See Section 8.7(2).

A. Loans may have an interest only component.

6. Development and rehabilitation projects must be complete within two (2) years of closing.

8.21 CONFLICT OF INTEREST

1. Any interested parties, including City officials, OBO employees, commercial revolving loan fund committee members and any other parties that advise, approve, recommend or otherwise participate in business decisions of the commercial revolving loan fund committee, may not receive any direct or indirect financial or personal benefits in connection with the approval and awarding of a loan. These financial interests may include employment, as an employee or through contractual services, stock ownership, a creditor or debtor relationship or prospective employment, with the organization selected or to be selected for an award.

2. An interested party may not use their position for a purpose that constitutes or presents the appearance of personal or organizational conflicts of interest or of personal gain. An appearance of impairment of objectivity could result from an organizational conflict where, because of other activities or relationships with other persons or entities, a person is unable or potentially unable to render impartial assistance or advice.

3. When a conflict of interest or perceived conflict of interest arises the following safeguards will be implemented to assure that the integrity of the loan award decision is not compromised.

a. Any staff or committee member aware of any conflict of interest, or perceived conflict of interest, has a duty to disclose the conflict to the CRLF chair and/OBO director. Such conflict of interest shall be disclosed in writing and presented to city staff for dissemination to the CRLF and the City Manager.

b. Failure to disclose a conflict of interest can result in removal from the CRLF Committee. Committee members that fail to disclose a conflict of interest resulting in a determination of conflict of interest from the federal funding source and a requirement that the funds be repaid may be liable for any funds awarded under the code that are deemed ineligible or must be returned to any agency as a result of the conflict

c. When a conflict of interest or perceived conflict of interest arises, the commercial revolving loan committee may not loan funds to an interested party.

d. If an interested party has, or has had a business relationship with a CRLF loan applicant within a year of the application, they will not be permitted to participate in the loan application review and must recuse themselves from the decision-making process when the loan is funded with City or CDBG dollars.

e. If the City of Columbia has a financial interest, either directly or indirectly in an applicant's project, any CRLF committee members who are city employees must recuse themselves from the decision-making process to avoid any appearance of organizational conflict of interest.

4. A business in which a city employee has an ownership interest is eligible to apply for commercial revolving loan funds, so long as none of the conflicts of interest above, or designated by federal guidelines, apply.

5. The City and the CRLF committee members must comply with all additional federal conflict of interest provisions that may apply.

APPROVED AS TO FORM

Legal Department City of Columbia, SC

We Are Columbia

MEETING DATE: **November 8, 2016**

DEPARTMENT: **Legal**

FROM: ***Shari Ardis, Legal Administrator***

SUBJECT: **Ordinance No.: 2016-113 - Authorizing the City Manager to execute a Termination of Restriction to Beach Canalside, LLC**

FINANCIAL IMPACT:

ATTACHMENTS:

- **#a:** 2016-113 Canalside Termination of Restriction (PDF)

RESULT:	**APPROVED ON SECOND READNG [UNANIMOUS]**
MOVER:	Howard E. Duvall, Councilman - At Large
SECONDER:	Sam Davis, Councilman - District I
AYES:	Stephen K. Benjamin, Sam Davis, Howard E. Duvall, Edward H. McDowell
ABSENT:	Tameika Isaac Devine, Moe Baddourah

HISTORY:

11/01/16	**City Council**	**APPROVED ON FIRST READING**

ORDINANCE NO.: 2016-113

Authorizing the City Manager to execute a Termination of Restriction to Beach Canalside, LLC

BE IT ORDAINED by the Mayor and Council this ___ day of __________, 2016, that the City Manager is authorized to execute the attached Termination of Restriction of the No Build Restriction to Beach Canalside, LLC, excluding the obligations of Beach Equity Investments, LLC under the Contract of Sale to preserve a designated portion of the CCI wall, or on a form approved by the City Attorney.

Requested by:

Assistant City Manager Gentry

Mayor

Approved by:

City Manager

Approved as to form:

Jeanne J. Lacinski

Senior Assistant City Attorney

ATTEST:

City Clerk

Introduced:
Final Reading:

LEGAL DEPARTMENT DRAFT

Last revised: 10/28/2016
1617100927

ATTORNEY CERTIFICATION

I, ____________________________, an attorney licensed to practice in the State of South Carolina do hereby certify that I supervised the execution of the Termination of Restriction by the City of Columbia this _____ day of ________________________, 2016.

____________________________________ State Bar Number: _________________

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

TERMINATION OF RESTRICTION
(Ordinance No.: 2016-1113)

This Termination of Restriction is made by the City of Columbia (hereinafter "City") this ___ day of ___________, 2016; and,

WHEREAS, on July 19, 2005, the City and Beach Equity Investments, LLC ("Beach") entered into a Contract for Sale of land on Hampton, Williams and Blanding Streets in Columbia, SC (the "Contract") containing the obligations of the purchaser and seller in the transaction; and,

WHEREAS, by Deed and Restriction (the "Deed") from the City to Beach Canalside, LLC, ("Canalside") dated April 19, 2006, and recorded April 19, 2006, in Book 1174, Page 1472 in the Office of the Register of Deeds for Richland County, the City conveyed certain property to Canalside, with a portion of the said property subject to a No Build Restriction (as designated in said Deed) and described therein as a "No Build Area"; and,

WHEREAS, the City has determined that the No Build Restriction is unnecessary and wishes to terminate the said No Build Restriction;

NOW, THEREFORE, for and in consideration of the sum of Five and No/100 ($5.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City hereby declares that the No Building Restriction as set forth in the Deed is hereby terminated and is considered null and void. However, all those obligations of Purchaser under the Contract, including but not limited to Purchaser's obligation under paragraph IX to preserve a designated portion of the CCI wall, shall continue.

IN WITNESS WHEREOF, the undersigned party has executed this Termination of Restriction, under seal, the date and year first above written.

WITNESSES:

____

____

CITY OF COLUMBIA

BY: ________________________________
Teresa B. Wilson
ITS: City Manager

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

ACKNOWLEDGMENT

I, the undersigned notary public for the State of South Carolina, do hereby certify that Teresa B. Wilson, the City Manager of the City of Columbia, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this ___ day of ___________________, 2016.

____
Notary Public for South Carolina
Print Notary Name: ____________________
My Commission Expires: ________________