

# Lancaster County Council Infrastructure and Regulation Committee

Tuesday, August 11, 2015

**County Council Conference Room  
Council Administration Building  
100 N. Main Street  
Lancaster, SC 29720**

1. **Call to Order – Committee Chair Larry Honeycutt** **3:00 p.m.**
2. **Approval of the agenda** *[deletions and additions of non-substantive matters]*
3. **Minutes of the July 14, 2015 meeting – pgs. 2-3**
4. **Citizens Comments**
5. **Discussion / Action Items**
  - a. Large Sports Complex Bond Funding Study update. *Hal Hiott – pgs. 4-6*
  - b. Reconsideration of road status in Bent Creek development – adopted by Ordinance 2014-1284. *Steve Willis and Robert Stiegele – pgs. 7-8*
  - c. LARS Update. *Sally Sherrin – pgs. 9-10*
  - d. Sun City Road dedication - *John Weaver – pgs. 11-19*
    1. 0860-R2014 A Resolution to express the concern of Lancaster County Council that certain infrastructure improvements within Sun City Carolina Lakes may be of inferior design and construction and in violation of the December, 2005 Development Agreement. *Jeff Catoe, Joshua Vann, Cisco Garcia*
    2. Potential Infrastructure Concerns – *Peter Gertler – pgs. 20-30*
  - e. Avondale Development Agreement. *John Weaver and Penelope Karagounis – pgs. 31-59*
6. **Executive Session**
  - a. Contractual Matter regarding the Avondale Development Agreement SC Code §30-4-70(2)
7. **Adjournment**

***Anyone requiring special services to attend this meeting should contact 285-1565 at least 24 hours in advance of this meeting.***

***Lancaster County Council Infrastructure and Regulation Committee agendas are posted at the Lancaster County Administration Building and are available on the Website: [www.mylancaster.org](http://www.mylancaster.org)***

Lancaster County Council Infrastructure and Regulation Committee Agenda

August 11, 2015

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MINUTES OF THE LANCASTER COUNTY COUNCIL INFRASTRUCTURE AND  
REGULATION COMMITTEE  
COUNTY ADMINISTRATION BUILDING  
COUNCIL CONFERENCE ROOM  
101 N. MAIN STREET, LANCASTER

Members of the Lancaster County Council Infrastructure and Regulation Committee

Larry Honeycutt, Committee Chairman – District 4  
Larry McCullough, Council Member – District 1  
Jack Estridge, Council Member – District 6

Tuesday, July 14, 2015

The Committee Members present were Larry Honeycutt and Larry McCullough. Jack Estridge was absent. Also present was Bob Bundy, Steve Willis, John Weaver, Virginia Burgess and other staff members. A quorum of the Lancaster County Council Infrastructure and Regulation Committee was present for the meeting.

The following press was notified of the meeting by e-mail or by fax in accordance with the Freedom of Information Act: Lancaster News, Kershaw News Era, The Rock Hill Herald, Fort Mill Times, Cable News 2, Channel 9 and the local Government Channel. The agenda was also posted in the lobby of the County Administration Building the required length of time and on the county website.

**Approval of Agenda**

MOTION to approve the agenda was made by Larry McCullough, SECONDED by Larry Honeycutt. Passed 2-0

**Minutes of the June 9, 2015 meeting**

MOTION was made by Larry McCullough to approve the minutes of the June 9, 2015 meeting. SECONDED by Larry Honeycutt. Passed 2-0.

**Citizen Comments**

There were no citizen comments.

**Discussion/Action**

***Large sports complex bond funding study***

Hal Hiott, Recreation Director, explained that Clemson has a PRT Department that does this type of study on the regular basis. He said that they would come and stay about a week to meet with Council, the Administrator, Recreation staff and citizens to get a feel for what we need. Mr. Hiott said that the costs given by the Clemson Extension was \$9800 for what we need and then another \$3,000 or more for an Economic Impact Study. Mr. Hiott did explain

**DRAFT**



LANCASTER COUNTY COUNCIL INFRASTRUCTURE AND REGULATION  
COMMITTEE

July 14, 2015

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that he has also checked with USC Lancaster. USC operates a Hospitality Management Program that is oriented towards hotel and restaurant operations as opposed to parks.

Larry McCullough, Committee Member, recommended that Mr. Hiott put together a committee and come up with steps and timelines for this project. Mr. Honeycutt said that Mr. Hiott should set up his committee and come back to the next Infrastructure and Regulation Committee meeting and present his estimated time frames. Mr. Honeycutt said that they would plan for all of this information to come to Council sometime in September.

***Ordinance to amend Multi-County Park Agreement between Lancaster County and Chesterfield County***

John Weaver, County Attorney, explained that this Ordinance would allow the non-host County to approve the addition of property to the multi-county park (MCP) in the host county by Resolution instead of the necessity for a three reading Ordinance process as is required at present. The Ordinance also would approve Lancaster County's agreement as the non-host county for Chesterfield County to add two parcels to the MCP in that county.

Larry McCullough made a MOTION to proceed to Council with this issue. SECONDED by Larry Honeycutt. Passed 2-0.

**Adjournment**

There being no further business, the Committee adjourned.

Larry McCullough made a MOTION to adjourn. SECONDED by Larry Honeycutt. Passed 2-0.

Respectfully Submitted:

Approved by Committee Chair

Virginia C. Burgess  
Deputy Clerk to Council

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Larry Honeycutt, Committee Chair



August 6, 2015

Memo to: I and R committee  
From: Hal Hiott, Director LCPR  
RE: Clemson study and questions

I have provided some handouts with the questions asked to Mr. Bob Brookover and his answers. This gives us a time frame, how they do the process and information about the economic impact.

I have also met with Brian Trimnal. He is very passionate about this project and has agreed to serve as Chairman of the study Committee. The Commission meets tonight, Tuesday, August 11<sup>th</sup> and we will discuss individuals that we will ask to serve on this committee to make this project a success. The Commission would definitely like to see a council member on this Committee.

Thanks for your consideration.

A handwritten signature in purple ink, appearing to read "Hiott", followed by a long horizontal line.

Hal Hiott, Director, LCPR



## Hal Hiott

---

**From:** Robert Brookover IV <bob@clemson.edu>  
**Sent:** Monday, July 20, 2015 11:25 AM  
**To:** Hal Hiott  
**Subject:** Re: Study

Looking forward to it!

Bob Brookover, Ph.D.  
Senior Lecturer and Coordinator of Undergraduate Programs and Outreach  
263 Lehotsky Hall  
Clemson, SC 29634  
864-656-2231  
[bob@clemson.edu](mailto:bob@clemson.edu)

On Jul 20, 2015, at 10:27 AM, Hal Hiott <[hhiott@lancastercountysc.net](mailto:hhiott@lancastercountysc.net)> wrote:

Sounds great! I'll be in touch once officially approved. Looks like approval will be made 1st meeting in September. Thanks Hal

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

**From:** Robert Brookover IV <[bob@clemson.edu](mailto:bob@clemson.edu)>  
**Date:** 07/20/2015 10:03 AM (GMT-05:00)  
**To:** Hal Hiott <[hhiott@lancastercountysc.net](mailto:hhiott@lancastercountysc.net)>  
**Subject:** Re: Study

Hal,

Sounds good. Here are the answers to your questions:

- 1) I think we should shoot for sometime in October/early November. You all will need some time to get organized on your end and make the invites for public input, organize focus groups, etc.
  - 2) The way we do the process, we present and hand the report to you on the final morning. So, if we come in on a Tuesday afternoon we would have some meetings that evening, focus groups most of the day on Wednesday, public input Wednesday night, a couple of focus groups on Thursday morning, then we hole up, analyze data, write the report on Thursday afternoon/evening, and present on Friday morning.
  - 3) As far as economic impact goes, I should be able to have those numbers to you with the report on Friday morning. I can set up the tables and multipliers in advance and it shouldn't take long to come up with the expenditure profile based on the type of facilities we are recommending. Let me know if that all makes sense.
- Bob

Bob Brookover, Ph.D.

Senior Lecturer and Coordinator of Undergraduate Programs and Outreach  
263 Lehotsky Hall  
Clemson, SC 29634  
864-656-2231  
[bob@clemson.edu](mailto:bob@clemson.edu)

On Jul 20, 2015, at 9:38 AM, Hal Hiott <[hhiott@lancastrcountysc.net](mailto:hhiott@lancastrcountysc.net)> wrote:

Hey Bob, I presented the plan to Council Committee and there are just a few questions they have.

1. Time frame: Once they approve the money and say do the study how soon could it be done?  
**They are going to take to full Council for approval first meeting in September. The money is there and already budgeted.**
2. How soon will a formal written report be in their hands?
3. They were in agreement that they would want the economic impact study done also. What kind of time frame on that?

Excited to move forward!

Thanks, Hal

## Agenda Item Summary

|                                 |   |
|---------------------------------|---|
| Ordinance # / Resolution#:      | Discussion/ Action Item   |
| Contact Person / Sponsor:       | Steve Willis/ Robert Stiegele                                       |
| Department:                     | Admin/ TDON Development, Inc.                                       |
| Date Requested to be on Agenda: | I&R Committee – August 11, 2015<br>County Council – August 24, 2015 |

**Issue for Consideration:**

Reconsideration of road status in Bent Creek development – adopted by Ordinance 2014-1284.

**Points to Consider:**

Section 4.04(A)(2)(b) states that the developer and County shall work to remove Twelve Mile Creek Road from the county road system. This action must be taken by way of a court action.

The residents on the road are contesting this action.

TDON remains committed to private roads but it appears this may be unlikely.

**Funding and Liability Factors:**

N/A

**Council Options:**

At this point we need to return Ordinance 2014-1284 to the I&R Committee for further discussions.

**Staff Recommendation:**

Review options with the I&R Committee. We could proceed with the court action but would face a court fight from the residents.

The residents have asked that the existing dirt Twelve Mile Creek Road remain open to serve just them. I am opposed to such.

We may partner with TDON to have the new Twelve Mile Creek Road remain in the county road system. It would be paved and on a new alignment but such would be at the full discretion of Council and not require a court action.

**Committee Recommendation:**

N/A at this time.



Developer to construct the subject left turn lane, and (ii) a left turn lane on Jim Wilson Road into the Bent Creek development. These road improvements shall be incorporated into the final site plan prior to County approval and the Developer is responsible for all costs of the road improvements.

(2) Developer agrees, in accordance with the traffic impact analysis and in accordance with the requirements of the South Carolina Department of Transportation, to either: (i) design, permit and construct a right turn lane on Jim Wilson Road turning north on U.S. 521 (the "Right Turn Lane"); or (ii) in lieu of designing, permitting and constructing the Right Turn Lane, pay an amount to the County representing the estimated cost for designing, permitting and constructing the Right Turn Lane, as specified in this item (b)(2) (the "Turn Lane Payment"). The County must notify Developer, not later than twelve (12) months from the date of approval by Council of Ordinance No. 2014-1284, whether the County requires the Developer to either build the Right Turn Lane or make the Turn Lane Payment in the amount of Eighty Thousand Dollars and No/100 (\$80,000.00). If the County notifies the Developer to build the Right Turn Lane, then Developer must complete the design, permitting and construction of the Right Turn Lane not later than twelve (12) months from the date of the County's written notice to the Developer of this election, however such twelve (12) month period may be extended if the Developer demonstrates that circumstances beyond Developer's control have prevented Developer from completing construction of the Right Turn Lane within the prescribed time. If the County provides written notice to the Developer within this twelve (12) month period, of its election for the Developer to make the Turn Lane Payment, then Developer shall make the Turn Lane Payment to the County within thirty (30) days of the date of such notice to the Developer. County shall use the Turn Lane Payment monies for traffic improvements in the vicinity of the Bent Creek development. Developer's obligation pursuant to this item (b)(2) is fulfilled the earlier of either the Developer's completion of the Right Turn Lane or the payment of the Turn Lane Payment to the County.

(c) Developer and County acknowledge that the traffic impact analysis for the Bent Creek development indicates that no traffic signalization is needed as a result of the Bent Creek development.

(2)(a) Developer is responsible for all construction and maintenance, and the costs thereof, associated with the roads within the Property. Developer may transfer the ownership of the roads and its obligations for the roads to a homeowners' or property owners' association or similar organization, provided, that the transfer is for perpetual maintenance.

(b) In addition to meeting any other applicable requirement in the UDO, Developer and County agree to the removal from the County road system of Twelve Mile Creek Road from its intersection with Twelve Mile Creek to its intersection with Henry Harris Road. Developer and County agree to undertake appropriate legal measures to provide for the removal of Twelve Mile Creek Road from the County road system and the Developer is responsible for all costs of the removal.

(3) Developer agrees to maintain the landscaping at the entrances on Jim Wilson Road and Henry Harris Road to the Property and to obtain any necessary easements therefore from the South Carolina Department of Transportation. Developer's obligation to maintain the landscaping is limited to mowing and planting of grass, trimming and planting of shrubs, trees and other vegetation, and maintenance and operation of any associated irrigation system. County agrees to cooperate with Developer in obtaining an easement or other related approvals.

*Luc*





P.O. Box 1296  
Lancaster, SC 29721

TEL : (803) 285-6956  
FAX : (803) 285-6958

**Memo To:** Infrastructure and Regulation Committee  
Of Lancaster County Council

**Memo From:** Sally P. Sherrin  
Executive Director

A handwritten signature in blue ink, appearing to be "SPS", is written over the name "Sally P. Sherrin".

**Re:** Information Updates

**Date:** July 24, 2015

Please accept this memo as an update regarding FTA funding related to the urbanized areas of Lancaster County.

Currently Lancaster County Council on Aging receives FTA funding through SC Department of Transportation for Rural Services (Section 5311) and State funds called State Mass Transit Funds (SMTF) for services in the large urbanized areas of Lancaster County. With these funds and the required matching funds, Lancaster County Council on Aging provides the LARS demand response services to residents of Lancaster County.

By FTA regulation, rural funding cannot be used to pick up residents residing in large urban areas and conversely, large urban funding cannot be used to pick up residents that reside in rural areas.

1. The funds designated for the now urbanized areas of Lancaster County are designated to CATS (Charlotte Area Transit System) via their FTA allocation of large urban funding.

Large Urban Funding (Section 5307) can be utilized for fixed route services for the urbanized areas of Lancaster and York Counties will soon be made available from CATS. CATS has requested that another entity be designated as the recipient for these funds. RFATS has offered to be the designated recipient of these funds (RFATS is the Rock Hill-Fort Mill Area Transportation Study, an intergovernmental transportation planning organization for eastern York County as well as the panhandle of Lancaster County, South Carolina.)

Lancaster County Council on Aging, Inc. supports the designation of RFATS as the direct recipient of the large urban funding for York and Lancaster Counties

*Lancaster County Council on Aging*  
309 South Plantation  
Lancaster, SC 29720

(Lancaster County Council on Aging Board of Directors action on this matter will be on the agenda for September 2015).

2. There is an additional allocation of funds for the Elderly and Disabled (Section 5310) funding that will soon be made available from CATS that can be used for demand response services in the large urbanized areas of Lancaster County. These funds are currently very small; however it is reasonable to expect that they will increase in the upcoming years.

LARS is operated on a zone type service. Indian Land residents can be picked up only on Friday. If the Elderly and Disabled funds from CATS do increase, it has been suggested that the Indian Land area of Lancaster pilot demand response services five days per week instead of one day per week to better gauge the demand for service that exists in the Indian Land zone.



## Agenda Item Summary

**Ordinance # / Resolution#:** Discussion

**Contact Person / Sponsor:** John Weaver



**Department:** County Attorney

**Date Requested to be on Agenda:** August 11, 2015

**Committee:** I&R Committee

### **Issue for Consideration:**

Part A: Whether or not there is an agreement between Lancaster County and Pulte Home Corporation sufficient to protect the county's long term financial interests in the undertaking of the ownership of the Sun City roads, all as outlined in Pulte's counsel's letter of July 6, 2015?

Part B: Whether or not the information provided to this Committee by a third party with interest in the Sun City infrastructure is relevant to either Part A or relevant to other matters involving the long term financial interests of the county or its citizens and residents?

**Points to Consider:** Discussions and points of view, documents, photographs plus other sundry information will be presented to the Committee from all interested parties so as to provide a complete picture and understanding of the issues for the Committee and Council, all provided so as to promote a well-reasoned decision by Council

**Funding and Liability Factors:** Unknown

### **Council Options:**

1. Council can approve the Agreement with Pulte regarding the roads "as is."
2. Council can request that Pulte pay the cost to camera all storm pipe within road right-of-way or pay the cost from county general fund dollars.
3. Council may consider other options that arise from discussion occurring during the I&R Committee meeting or during Council's consideration of the subjects.

**Recommendation:** None until a full discussion by all interested parties has been made.

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

) DEVELOPMENT AGREEMENT

) SUN CITY CAROLINA LAKES

This DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into as of the 7<sup>th</sup> day of December, 2005, by and among PULTE HOME CORPORATION ("Pulte"), a Michigan corporation with a divisional office in Charlotte, North Carolina, CAROLINA LAKES GOLF CLUB, LLC ("Golf Course Owner"), a North Carolina limited liability company, REAL ESTATE DEVELOPMENT PARTNERS, LLC, a North Carolina limited liability company ("Commercial Property Owner") (collectively, Pulte, Golf Course Owner and Commercial Property Owner are sometimes referred to as the "Developer") and the COUNTY OF LANCASTER (the "County"), a political subdivision of the State of South Carolina.

### RECITALS

WHEREAS, Pulte desires to develop certain real property owned by Pulte, consisting of approximately 976 acres of land, more or less, located in the County and known as the Sun City Carolina Lakes development;

WHEREAS, Golf Course Owner desires to develop certain real property owned by Golf Course Owner and acquired from Pulte, consisting of approximately 225 acres of land, more or less, located in the County and within the area known as the Sun City Carolina Lakes development (the "Golf Course");

WHEREAS, Commercial Property Owner desires to develop certain real property owned by Commercial Property Owner and acquired from Pulte, consisting of approximately 25 acres of land, more or less, located in the County and within the area known as the Sun City Carolina Lakes development (the "Commercial Property");

WHEREAS, County has previously approved the development of Pulte's, Golf Course Owner's and Commercial Property Owner's property as a Planned Development District and referred to as PDD-18;

WHEREAS, Developer and County have determined that it is in the best interests of the County and Developer to enter into this Agreement to set forth the terms and conditions of the development in order to more fully protect the Developer's development rights, thereby providing certainty and predictability to the Developer of those rights and providing certainty and predictability to the County on the scope and terms of the development;

WHEREAS, the Developer desires to obtain from the County in connection with the development, and the County is willing to provide, assurances: (1) that the property will be appropriately zoned for the duration of this Agreement; (2) that upon receipt of its development and construction permits it may proceed with the planned development and construction; and (3) that the development rights will be vested for the duration of this Agreement.

December 16, 2005

COLUMBIA 831458v12

2006000836

AFFIDAVIT  
RECORDING FEES

\$34.00

PRESENTED & RECORDED:

01-20-2006 01:45 PM

JOHN LANE  
REGISTER OF DEEDS  
LANCASTER COUNTY, SC  
By: CANDICE KIRKLEY DEPUTY

BK: DEED 318

PG. 101 120



processing applications, issuing development permits, issuing building permits, reviewing plans, conducting inspections or similar type processing costs.

**Section 4.08. Infrastructure and Services.** The Parties recognize that the majority of the direct costs associated with the Development of the Property will be borne by Pulte, and many necessary infrastructure improvements and services will be provided by the Pulte or other governmental or quasi-governmental entities, and not by the County. The Parties acknowledge that, for purposes of this section 4.08, references to the responsible party hereunder are not intended to and shall not modify: (i) any of the Golf Course Agreements, including, but not limited to, any provisions making the Golf Course Owner responsible for any improvements to the Golf Course and maintenance thereof; and (ii) the Commercial Property Agreement, including, but not limited to, any provisions making the Commercial Property Owner responsible for any improvements to the Commercial Property and maintenance thereof. For clarification, the Parties make specific note of and acknowledge the following:

**(A) Roads.** (1) Pulte is responsible for the construction of all roads, both public and private, within the Property (other than any private road within the Golf Course to be constructed by Golf Course Owner consistent with the Golf Course Agreements and any public or private road within the Commercial Property to be constructed by Commercial Property Owner consistent with the Commercial Property Agreement) including but not limited to any necessary entrance and intersection improvements as required by the South Carolina Department of Transportation to U.S. 521 and Van Wyck Road related to the development of the Property. A portion of the costs of the public roads will be paid from the proceeds of the issuance of revenue bonds issued for the Sun City Carolina Lakes Improvement District, and to the extent that the revenue bond proceeds are insufficient, Pulte is responsible for any additional costs of the public roads within the Property including any necessary entrance and intersection improvements as required by the South Carolina Department of Transportation to U.S. 521 and Van Wyck Road related to the development of the Property. The public road improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

(2) County agrees to accept the dedication of the public roads to the County road system but only if, at the time of acceptance, the public roads meet or exceed County standards and requirements. After acceptance of the public roads into the County road system, Pulte agrees to continue to be responsible for the maintenance of the landscaping in the right-of-way and any medians of the public roads within the Property. Pulte may transfer its maintenance obligation to a homeowners' association established for the Sun City Carolina Lakes development.

(3) County acknowledges that Pulte may develop restricted access communities within the Property. Construction and maintenance of all roads within restricted access communities is the responsibility of the Pulte. Pulte may transfer its maintenance obligation to a homeowners' association established for the Sun City Carolina Lakes development.

(4) Pulte agrees to obtain an easement from the South Carolina Department of Transportation to maintain the landscaping in the median and right-of-way at the entrances to the Property on U.S. 521 and on Van Wyck Road. Pulte's obligation to maintain the landscaping in the median and right-of-way is limited to mowing and planting of grass, trimming and planting of shrubs, trees and other vegetation, and maintenance and operation of any associated irrigation system. County agrees to cooperate with Pulte in obtaining an easement or other related

Recd  
1/20/06  
B318  
Pg 101-128  
(P11)



STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

RESOLUTION NO. 0860-R2014

**A RESOLUTION**

**TO EXPRESS THE CONCERN OF LANCASTER COUNTY COUNCIL THAT CERTAIN INFRASTRUCTURE IMPROVEMENTS WITHIN SUN CITY CAROLINA LAKES MAY BE OF INFERIOR DESIGN AND CONSTRUCTION AND IN VIOLATION OF THE DECEMBER, 2005 DEVELOPMENT AGREEMENT.**

**WHEREAS**, on various dates in December, 2005, officials of Pulte Home Corporation, Carolina Lakes Golf Club, LLC, Real Estate Development Partners, LLC and the County of Lancaster, South Carolina did execute and enter into a Development Agreement for that area known as Sun City Carolina Lakes said agreement being recorded in the office of the Lancaster County Register of Deeds on January, 20, 2006 in Deed Book 318, Pages 101-128; and

**WHEREAS**, contained within the Agreement on page 11, Section 4.08(A)(2) is the provision that, "County agrees to accept the dedication of the public roads to the county road system but only if, at the time of acceptance, the public roads meet or exceed County standards and requirements"; and

**WHEREAS**, pursuant to Section 3.01 and 3.04 of the agreement, the Developer's rights and obligations became vested throughout the development of the project pursuant to the County's standards and requirements existing as of the date(s) of Agreement's execution; and

**WHEREAS**, both Lancaster County staff and independent engineers have made a visual inspection of various roads within Sun City Carolina Lakes that have not been previously accepted into the county road system. The inspections have created concerns and reservations that these roads do not meet county road standards. Those concerns have been expressed to Pulte over the past several months; and

**WHEREAS**, Lancaster County has asserted its responsibility and right to inspect the underlying foundation of these roads or, alternatively, have Pulte to provide engineering proof and certification to Lancaster County that the roads meet county standards. As of the date of this Resolution, Pulte has both denied access for Lancaster County's testing and has refused to provide the requested certification; and

**WHEREAS**, Lancaster County Council finds such a continued course by Pulte to be unacceptable and contrary to the intent and requirements of the Development Agreement.

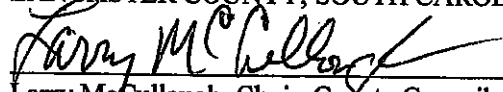
**NOW, THEREFORE, BE IT RESOLVED** by Lancaster County Council that this Resolution shall serve as notice to Pulte and the general public that unless Lancaster County staff and its engineers are provided access and unlimited road testing authority from Pulte on all remaining roads within Sun City Carolina Lakes that have yet to be accepted into the County roads system that, in that event, Lancaster County will exercise its rights pursuant to the 2005 Development Agreement and will not accept into the County road system any further roads within the boundaries of Sun City Carolina Lakes.

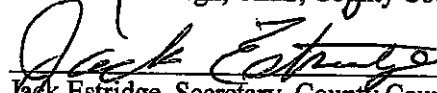
**AND IT IS SO RESOLVED**

Adopted this 8th day of December, 2014.


[SEAL]

LANCASTER COUNTY, SOUTH CAROLINA

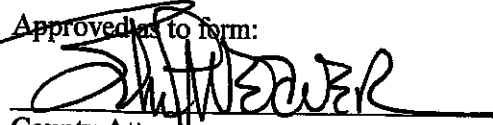
  
Larry McCullough, Chair, County Council

  
Jack Estridge, Secretary, County Council

Attest:

  
Debbie C. Hardin, Clerk to Council

Approved as to form:

  
County Attorney

# MORTON & GETTYS

ATTORNEYS AT LAW

JAMES M. MORTON

JOHN P. GETTYS, JR. \*

MICHAEL B. SMITH †

JOSHUA B. VANN

ELIZABETH SMITH OWEN

J. RICHARDS MCCRAE, III

MICHAEL K. HATCH ‡

MELISSA G. CASSELL §

JOHN MARK SHIFLET

JOSEPH L. RAAD ¶

Certified Civil Court Mediator \*  
Certified Family Court Mediator †  
Certified Specialist in Estate Planning  
and Probate Law ‡

Licensed in SC & NC §  
Licensed in SC, GA, FL & NC ¶

SENT VIA UNITED STATES MAIL, FIRST CLASS

July 6, 2015

Lancaster County  
Attn: John L. Weaver, County Attorney  
Post Office Box 1809  
Lancaster, SC 29721

**RE: Carolina Lakes Sun City Road Dedications; Pulte Home Corporation  
("Pulte")**

Dear John:

I hope this Letter finds you well. In response to your email of June 27<sup>th</sup>, we do not see the need for another agreement or contract between Pulte and Lancaster County with respect to road dedications within Sun City, as the road dedication process is already contractually addressed in the development agreement for Sun City (and, by incorporation, the UDO as it existed as of the time of the adoption of the development agreement).

However, Pulte continues as willing to address as many of the County's concerns as possible in light of the content of the development agreement, and responds to the Items raised in your letter of May 7, 2015 as follows (with the below numbers corresponding to the numbered issues within your letter):

1. Pulte agrees to submit to Lancaster County all independent third party compaction tests per Pod prior to the final top coat of asphalt being applied;
2. Pulte agrees to cause the soils engineer for each Pod to submit to Lancaster County copies of the field reports on all proof rolls (curb, subgrade, stone base);
3. Pulte agrees to submit to Lancaster County all density test results on stone base and intermediate asphalt course prior to final top coat of asphalt application;
4. Pulte does not agree to camera all storm pipe within road rights-of-way and/or have a Lancaster County representative present while storm pipe is videoed (as doing such would entail substantial cost to Pulte not required by the development agreement for Sun City);
5. Pulte requests that Lancaster County re-mark the referenced, as there are no signs of distress following topcoating of the road; and,

**ROCK HILL OFFICE**

Fountain Park Place  
331 E Main Street, Suite 300  
Post Office Box 707  
Rock Hill, SC 29731  
office 803.366.3388  
fax 803.324.3768

**YORK OFFICE**


616 E Liberty Street  
York, SC 29745  
office 803.684.9604  
fax 803.684.4932



6. Pulte agrees to continue to follow other policies and procedures relevant to road acceptance as noted in the UDO (as in effect at the time of the adoption of the development agreement).

Please understand that Pulte may take additional actions, beyond those required under the development agreement, to ensure the roads within Sun City are ready for dedication when Pulte deems such additional actions to be necessary (by way of illustration, Pulte has in the past run a camera through numerous storm drain lines within road right-of-way areas when it has deemed it necessary, although not required by the development agreement). However, Pulte cannot agree to a blanket requirement to perform measures not required by the development agreement when those measures would entail additional cost to Pulte not required by the existing agreement of the parties, under which Pulte has the right to dedicate Sun City roads to Lancaster County in accordance with the development agreement and the UDO in effect at the time of the adoption of the development agreement. Pulte stands ready and willing to honor its contractual obligations with respect to dedications of Sun City roads, and to take the actions enumerated above. Please contact me should you have any questions or concerns regarding this letter. With kind regards, I remain

Sincerely,



Joshua B. Vann

cc: Pulte Home Corporation  
Attn: Cisco Garcia and Brett Manery  
(via e-mail only; w/o enclosures)

# MORTON & GETTYS

ATTORNEYS AT LAW

JAMES M. MORTON

JOHN P. GETTYS, JR. \*

MICHAEL B. SMITH †

JOSHUA B. VANN

ELIZABETH SMITH OWEN

J. RICHARDS MCCRAE, III

MICHAEL K. HATCH ‡

MELISSA G. CASSELL §

JOHN MARK SHIFLET

JOSEPH L. RAAD ¶

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Certified Family Court Mediator †

Certified Specialist in Estate Planning  
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SENT VIA UNITED STATES MAIL, FIRST CLASS

July 6, 2015

Lancaster County  
Attn: John L. Weaver, County Attorney  
Post Office Box 1809  
Lancaster, SC 29721

**RE: Carolina Lakes Sun City Road Dedications; Pulte Home Corporation  
("Pulte")**

Dear John:

I hope this Letter finds you well. In response to your email of June 27<sup>th</sup>, we do not see the need for another agreement or contract between Pulte and Lancaster County with respect to road dedications within Sun City, as the road dedication process is already contractually addressed in the development agreement for Sun City (and, by incorporation, the UDO as it existed as of the time of the adoption of the development agreement).

However, Pulte continues as willing to address as many of the County's concerns as possible in light of the content of the development agreement, and responds to the items raised in your letter of May 7, 2015 as follows (with the below numbers corresponding to the numbered issues within your letter):

1. Pulte agrees to submit to Lancaster County all independent third party compaction tests per Pod prior to the final top coat of asphalt being applied;
2. Pulte agrees to cause the soils engineer for each Pod to submit to Lancaster County copies of the field reports on all proof rolls (curb, subgrade, stone base);
3. Pulte agrees to submit to Lancaster County all density test results on stone base and intermediate asphalt course prior to final top coat of asphalt application;
4. Pulte does not agree to camera all storm pipe within road rights-of-way and/or have a Lancaster County representative present while storm pipe is videoed (as doing such would entail substantial cost to Pulte not required by the development agreement for Sun City);
5. Pulte requests that Lancaster County re-mark the referenced, as there are no signs of distress following topcoating of the road; and,

6. Pulte agrees to continue to follow other policies and procedures relevant to road acceptance as noted in the UDO (as in effect at the time of the adoption of the development agreement).

Please understand that Pulte may take additional actions, beyond those required under the development agreement, to ensure the roads within Sun City are ready for dedication when Pulte deems such additional actions to be necessary (by way of illustration, Pulte has in the past run a camera through numerous storm drain lines within road right-of-way areas when it has deemed it necessary, although not required by the development agreement). However, Pulte cannot agree to a blanket requirement to perform measures not required by the development agreement when those measures would entail additional cost to Pulte not required by the existing agreement of the parties, under which Pulte has the right to dedicate Sun City roads to Lancaster County in accordance with the development agreement and the UDO in effect at the time of the adoption of the development agreement. Pulte stands ready and willing to honor its contractual obligations with respect to dedications of Sun City roads, and to take the actions enumerated above. Please contact me should you have any questions or concerns regarding this letter. With kind regards, I remain

Sincerely,



---

Joshua B. Vann

cc: Pulte Home Corporation  
Attn: Cisco Garcia and Brett Manery  
(via e-mail only; w/o enclosures)

# Background Briefing

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**To:** Lancaster County Council - Infrastructure and Regulation Committee

**RE:** Sun City Carolina Lakes Roads & Storm Water System

Members of the Committee:

Sun City Carolina Lakes, built under PDD #18, is rapidly approaching completion. At the current rate of sales, the project will be sold out around January 2016.

It is my understanding that the Infrastructure & Regulation Committee will be discussing the subject of roads relative to Sun City Carolina Lakes. To assist the committee in understanding all factors, I am submitting this briefing containing my observations and conclusions based on my first hand knowledge and experiences. Supporting details follow in Sections II and III. Most significant statements are sourced in footnotes, and additional information is available upon request.

Submitted by:

Peter Gertler  
6277-600 Carolina Commons  
Indian Land, SC 29707

## ***Sections Following:***

1. Conclusions
2. Sun City Carolina Lakes – Facts and Figures
3. History
  - a. Development
  - b. Parties-in-Interest
  - c. Soil Collapse – aka Sinkholes, listing areas previously repaired, by pod, by street.

## **I. My Observations and Conclusions**

There is a long history of soil collapses in Sun City Carolina Lakes, extending back to at least 2008. These collapses have occurred under both County right-of-way and Sun City Home Owners Association property, sometimes simultaneously.

The problem with “roads” at Sun City is much more a problem with construction and management of the soil underneath them than of the road surfaces themselves.

The storm water collection and control system – consisting of grading, ground cover, yard inlets and catch basins, pipes, and outfalls - plays a major role in management of water which in turn is the primary enemy of stable soil in the Piedmont. That storm water system knows nothing of the boundaries of ownership or responsibility for collapses. Lancaster County and Sun City are now entwined in this issue forever into the future.

The County has few to no records of inspections of neighborhoods, either during construction or upon acceptance of the roads. Many repairs have been performed by Pulte over a period of several years without formal notification to the County. The causes of the failures are unknown. The County has virtually no records of these repairs and thus no data upon which to base projections of the future.

The history of prior repairs that we do now know about suggests that some neighborhoods are more prone to collapses than others<sup>1</sup>. Since the soils of the entire development were basically the same, the next logical variable in question is which contractor actually performed the site development construction and what level of quality control he employed.

The recent dispute between Lancaster County and Pulte over future acceptance of roads began primarily from observations of Pod V and Sun City Boulevard. These are only the tip of a long-submerged iceberg that is now coming into full view.

Although no one can predict the future, the most reliable predictor is the trend line of the past. As the roads, the storm water control system, and the millions of cubic yards of fill that lie under the roads have continued to age, soil collapses have appeared with increasing frequency. There is no empirical evidence to suggest that trend will reverse in the future. Given that trend, owners will slowly and inevitably experience steadily decreasing serviceability and both the owners and the County will encounter steadily increasing costs.

Finally, a critically important factor that both Lancaster County and the Sun City owners should fully understand is any potential for currently undisclosed future liabilities for non-compliance with the requirements of the EPA's National Pollutant Discharge Elimination System (NPDES). It is my understanding that Pulte holds the permit(s) for

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<sup>1</sup> See table at the end of this document



Sun City under this program. SC DHEC<sup>2</sup> has advised me that it is essential that the Sun City owners obtain an independent assessment of compliance with every sentence in the regulations before any permits are assigned to the Association. I have not been able to ascertain the implications of these permits to Lancaster County, particularly with its recent designation as an MS4.


Following is a single example of a responsibility agreement for maintenance of parts of the storm water control system, Pod N, at Sun City. Note that Pulte agreed to own and maintain the pond until DHEC is notified in writing of a transfer of ownership and responsibility.

### **Permanent Pond Maintenance and Responsibility Agreement**

I accept responsibility for ownership and proper maintenance of the plunge pools and level spreaders on the Carolina Lakes Pod N site per the approved maintenance plan. I will complete any necessary repairs and/or preventive maintenance procedures in a timely manner to ensure proper functioning of the plunge pools and level spreaders as a stormwater management device.

It is my understanding that the maintenance plan may be amended/revised at any time by the Department (DHEC), and I will abide by any prescribed changes.

I will continue to own and maintain the pond until the Department (DHEC) is notified in writing of a transfer in ownership and maintenance responsibility. The notification will include a date for the transfer of responsibility and a letter of acceptance from the new owner.



Signature

FOR DAVID CUSHING, VP LAND  
Printed Name  
PULTE HOMES  
11121 CARMEL COMMONS BLVD, SUITE 450  
Charlotte NC 28226  
Address

<sup>2</sup> Jill Stewart, SC DHEC, Storm Water, Non-coastal

## II. Sun City Carolina Lakes – A Description

| Quantity           | Descriptor  |
|--------------------|---|
| 1,563 Acres        | Area of development approved in PDD #18, Ordinance 631, as amended by ordinance 691. It is about 2 miles long by about 1.7 miles wide, half the area of the city of Lancaster <sup>3</sup> .  |
| 1,304 Acres        | Area of development actually developed for housing, amenities, and common open space of the Sun City Carolina Lakes Community Association <sup>4</sup> . The difference between the gross number is the golf course, the library, and the shopping center |
| 338.381 Acres      | Number of acres reported in Lancaster Assessor records as owned by Sun City Carolina Lakes as common open space as of 7/21/2015 <sup>5</sup>  |
| 42                 | Number of distinct neighborhoods defined and approved   |
| 59                 | Number of subdivisions defined on filed plats and approved  |
| 3,164 <sup>6</sup> | Number of dwelling units shown on approved final plats  |
| 2,908 <sup>7</sup> | Number of dwelling units sold, built, and closed as of 7/21/15  |
| 3,029              | Approximate number of dwelling units sold, under contract as of August 1, 2015  |
| 130                | Approximate number of dwelling units yet to sell as of August 1, 2015. <sup>8</sup>   |
| 21                 | Dwelling units sold per month, average last seven months  |
| Jan/Feb 2016       | Estimated last unit sold  |
| April/May 2016     | Estimated last unit closed  |
| 162                | Number of streets defined on filed/approved plats   |
| 28.14 <sup>9</sup> | Miles of streets on filed/approved plats.   |
| 16.754             | Miles of roads designated as “public right of way” recorded in deeds from Pulte to Lancaster County as of 8/1/2015  |
| 2.61               | Miles of roads designated as “private” recorded in deeds from Pulte to Sun City Carolina Lakes Community Association  |
| 8.826              | Miles of roads designated as “public right of way” not yet recorded in deeds from Pulte to Lancaster County <sup>10 11</sup>  |

<sup>3</sup> Acreages and other geographic data source: Lancaster County Register and Assessor

<sup>4</sup> The legal corporation that holds title to the land and amenities on behalf of member owners. It is governed by a board of directors controlled by Pulte’s declarant, Jon Cherry.

<sup>5</sup> Is known to contain error of unknown magnitude. Source: Lancaster County Assessor Office

<sup>6</sup> There are known errors on the plats which must be reconciled

<sup>7</sup> Source: Planning Department, Register’s Office of Lancaster County

<sup>8</sup> About 25 of these are already built

<sup>9</sup> Source: filed plats. There are known errors in the street names table and street lengths on at least two or three of the plats The plats were sealed by ESP Associates and the attestations signed by ESP and Pulte Home Corporation.

<sup>10</sup> There is no recorded deed for Del Webb Boulevard, yet that street was supposedly accepted by the county in 2008.

<sup>11</sup> Since all streets have been designed, constructed, and plats filed, this represents the lengths of streets in dispute.

| Quantity | Descriptor   |
|----------|--|
| 8.68     | Lineal miles of retaining walls installed to create level ground upon which to build dwelling units  |
| 183      | Number of retaining walls installed to create level ground upon which to build dwelling units  |
| 39       | Number of sub-divisions out of 59 containing retaining walls constructed to create level ground upon which to build dwelling units   |
| 50       | Number of storm water quality pollution protection permits/files issued by SC DHEC to Pulte to develop subdivisions. These are only the ones owners were able to locate through FOIA requests. <sup>12</sup> |
| Unknown  | Any descriptors of size, dimensions, or layout of Storm Water Control System as built. <sup>13</sup>   |

### III. History

#### A. Development

Development began in 2005 after approval of the PDD and acquisition of the property.

After filing the Development Agreement on January 20, 2006, Pulte began actual construction in Spring 2006 with the filing of the first plats on May 16, 2006.

Pulte made their first request to transfer some roads of Sun City in the early summer of 2008. Lancaster County initially refused to accept them, but changed their position shortly thereafter after re-reading the Development Agreement.<sup>14</sup> In a meeting between Steve Willis, Jeff Catoe, and executives of Pulte on August 22, 2008, Pulte made a formal request to transfer the roads of Pods A-F plus Del Webb Boulevard with some exceptions.<sup>15</sup>

In several conversations with Mr. Catoe over several months, the writer learned that the County DPW does not inspect the underlying construction of the roads or the storm water collection system either during or after construction is completed. Instead, DPW has relied on “proof rolls” and/or soil reports provided by the developer. For comparison of this practice, the writer conducted conversations and documented the construction and acceptance practices of Lancaster County Water & Sewer District for its facilities<sup>16</sup>. Then through formal and informal interviews with contractors and various retired construction and inspection experts living in Sun City Carolina Lakes, the writer learned that the above practices of Lancaster County fall far short of practices in other communities, counties, and states. Mr. Catoe is incapable of performing these controls and inspections because he has no personnel qualified to do so and because he has no funds to pay for those capabilities.

<sup>12</sup> FOIA requests to DHEC can be very difficult to define in a way they can find them.

<sup>13</sup> As of July 25, 2014, Lancaster County DPW is in possession of only \_\_\_\_ sealed, signed “as built” for the system. Based on \_\_\_\_

<sup>14</sup> Source: Fort Mill Times, August 5, 2008

<sup>15</sup> Source: Letter between Pulte and Steve Willis, available on request.

<sup>16</sup> Report of this analysis in Appendix \_\_\_\_

The earliest dated deed of transfer of roads was filed 2/2/11, 2 ½ years after the first request. That deed did NOT include the aforementioned A-F Pods. Mr. Willis, in an email response dated August 15, 2014 asking why this is the case, explained:

"I checked and there is no question we accepted those roads but that was during a time we did not have the robust process we have in place now for accepting roads. At the time it was pretty much just add them to the list at Public Works following presentation at a Council meeting. We are working with Pulte to go back and get the deeds and plats completed for those early sections so we will have consistent documentation for all Sun City roads."

Since 2/2/11, warranty deeds to Lancaster County have been recorded for 61 of the 162 streets in the development. A quitclaim deed for 27 of the 28 streets requested for transfer to the County back in August 2008 was filed 10/29/14. One (Del Webb Boulevard) is in limbo. Twenty five (25) of the streets are private and will not be deeded. There are no deeds for the remaining thirty (30) public streets which represent the streets on hold under Resolution 860.

## **B. Parties-in-Interest**

**Lancaster County:** established the Planned Development District and agreed to the Development Agreement which was based on Pulte drafts<sup>17</sup>. The Development Agreement requires the County to accept the streets designated public right of way into the county road system.

**Pulte Home Corporation** – the developer of Sun City Carolina Lakes

**Declarant:** the legal party – also Pulte Home Corporation - that established Sun City Carolina Lakes as a deed-restricted development. As Pulte sub-divided the project into subdivisions, it transferred ownership and responsibility of the subdivision to individual home buyers (owner plots), or the SCCL CA (common areas), or Lancaster County (public right of way). Pulte delegates its corporate authority to its local officer, currently Mr. Jon Cherry, President of the Charlotte Division of Pulte.

**South Carolina Department of Health and Environmental Control.** Holds control over the development and ongoing operation of any aspect of storm water management within the development under the EPA's National Pollution Discharge Elimination System (NPDES). Affects BOTH Lancaster County and SCCL CA in perpetuity.<sup>18</sup>

The SCCL CA, controlled by Pulte, hired a corporation, **FirstService Residential**<sup>19</sup> to act as its property manager, designating its on-site person as "Executive Director".

Finally, there are currently approximately **5,200 residents**, 97% of whom are owners.<sup>20</sup>

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<sup>17</sup> Source: Rudy Carter, then chairman of the Lancaster County Council

<sup>18</sup> First level responsibility for enforcement will shift with the emergence of the MS4

<sup>19</sup> Officers originally based in New Jersey, now Charlotte

<sup>20</sup> Estimate based on samples

When the project began, the interests of the Declarant, the interests of Lancaster County, and the interests of owners were highly aligned: build and operate a high quality, beautiful community and sell houses and pay taxes. Now that the project is over 95% sold, the interests of the owners and the interests of the Declarant are increasingly in conflict. The majority of the board of directors, consisting of four Pulte employees who report to and are evaluated by Jon Cherry, find themselves in a significant and growing conflict of interests: their fiduciary obligation to act in the interests of the owners versus their dependency upon Mr. Cherry for their continued employment. This conflict would be illegal in most states where Associations are subject to regulation, but not in South Carolina.

As will be shown, the interests of Lancaster County with respect to the roads are now highly aligned with interests of Association owners who will eventually inherit the remediation of many sinkholes on common area property.

### **C. Soil Collapse, a.k.a. as “Sinkholes”**

The question of the quality of road construction is really a question of proper soil preparation and construction practices.

#### **The Underlying Soil**

It is helpful to understand the conditions the developer was facing as development was begun in 2006.

Turnbull, Sigmon Design was engaged as the original professional engineer to design the development. They completed an “Engineers Report” that was included in “Appendix A” of the Prospectus of the \$20,000,000 bond offering for the Sun City Carolina Lakes Improvement District Assessment Revenue Bonds dated February 1, 2006<sup>21</sup>. Turnbull Sigmon’s report includes the analysis of “S&ME, Inc., ...the geotechnical engineering firm engaged to conduct the soil borings and prepare a report on the subsurface soil conditions for the subject properties.” Section II, Subsection B, titled “Soil Conditions” contains four descriptions and cautions about the soils that “...will require additional efforts during site development.” Following are those paragraphs, cut and pasted from the prospectus:

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<sup>21</sup> Available through Lancaster County



## **B. SOIL CONDITIONS**

S&ME, Inc. is the geotechnical engineering firm retained to conduct the soil boring tests and prepare a report on the subsurface soil conditions for the subject Property.

According to S&ME's report the soil conditions encountered at the subject Property are typical of those soils in the Piedmont Physiographic Province of South Carolina. In general according to S&ME's findings, the subsurface conditions are suitable for shallow foundation support of the proposed residential structures. However, certain soil conditions were observed that will require additional efforts during general site development. These soil conditions are as follows:

- Medium to high plasticity soils were encountered throughout the site. These medium to high plasticity soils have a moderate potential for shrinking or swelling and can cause building and/or pavement distress. In areas where these soils are located beneath structures and pavements additional evaluation will be required.
- Alluvial soils were encountered in borings located along and adjacent to the existing creeks, streams and drainage features for the subject Property. Alluvial and soft sediment soils are anticipated within the existing pond areas that will be drained and developed. Depending on the site grading, building and pavement locations, undercutting and/or "bridging" of these soils should be anticipated.
- Difficult excavation is anticipated within areas of proposed cut and utility excavation, where partially weathered rock and auger refusal were encountered. The extent of difficult excavation is contingent upon proposed excavation depth and location of the main sanitary sewer trunklines that will gravity feed to the on-site sanitary sewer lift station (see Section IV entitled "Project Infrastructure").
- Soft and very loose near-surface residual soils were encountered throughout the site. These soils were encountered at depths ranging from 2 to 4 feet and are anticipated near areas that are currently cultivated or have been previously cultivated. Additional site preparation during construction will be required depending on final grades.

For further information or clarification pertaining to the subsurface conditions encountered and soil boring locations, it is recommended that the original geotechnical report be reviewed.

(End of paste)

During late 2013 and most of 2014, a group of owners banded together to form an informal owners independent<sup>22</sup> study team. They initially identified 18 cases of improper water management, as witnessed by dirt running into the storm water control system and/or into the lakes and streams. Since some of these soil collapses occurred on property owned by both the SCCL CA and Lancaster County, the team began reporting their findings to Jeff Catoe and the Lancaster County Administrator.

In early October 2014, more and more Sun City owners began to publicly voice their concerns about the issue, especially as the holes became bigger and more frequent. Currently, multiple parties<sup>23</sup> have their hand in this issue, with multiple differing communications about the cases.

Mr. Catoe informed the writer that the County has no permitting process in order to open a street. He also said that over the years he has had occasional calls from Brett Manery, Pulte VP Land Development, informing him (Catoe) of street openings being made by Pulte, but that he had kept no record of them. The County has no record of what streets were opened, for what reason, what problem was found, or what was done. A detail list of now found previous road repairs that the team was able to identify is included below.

Detailed example reports about the specifics of a just few of these soil collapses are available.

A list of all currently known cases of soil erosion or collapse, (without respect for which party may be responsible), is still in process as of the date of this submission.

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<sup>22</sup> Independent: not authorized by or having any connection with the Declarant or the Home Owners Association which is controlled by the Declarant.

<sup>23</sup> FirstService Residential: Jessica Shipman, Vernon Kline, Brett Lindsay, Greg Franks. Pulte: unknown. Sun City Carolina Lakes Community Association chartered Property & Grounds Committee – Jim Abel. Sun City Carolina Lakes Home Owners Advisory Council, Bob Kiener chair.

**Evidence of Previous Road Repairs**  
**(S) Near Storm drains, (O) other locations**

| Code | Pod     | Address   | Description  |
|------|---------|---|--|
| S    | A       | 5010 Grandview                                    | 7' x 12' near catch basin  |
| S    | B       | 10450 Bethpage                                    | 22' patch full width of road   |
| S    | C       | Grandparents park                                 | 2' x 2' patch by drain   |
| S    | C villa | 32028 Cormorant Ct                                | 15' x road width   |
| S    | C villa | 29008 Eagle Ln                                    | 15' x road width   |
| S    | I       | 39605 Rosebay                                     | 20' x 5' patch by drain  |
| S    | J       | 36139 Whatsonia                                   | 4' x 9' patch by drain   |
| S    | K       | 41071 Calla Lily St                               | 3' x 8' patch by drain   |
| S    | L       | 41114 Calla Lily St                               | Large patch that goes between 2 drains<br>on opposite sides of the street. |
| S    | L       | 41081 Calla Lily St                               | 3' x 8' patch by drain   |
| S    | L       | Mimosa Ct   | 3' x 8' patch by drain   |
| S    | M       | 49113 Gladiolus                                   | 2' x 2' patch by drain   |
| S    | N       | 52535 Winchester                                  | 8' x 6' patch by drain   |
| S    | T       | 4020 Badlands                                     | 3' x 10' patch by drain  |
| S    | T/U     | River Bend Blvd between Yellowstone &<br>Yosemite | 200' collapse, road closed for 3 days 2012                                 |
| O    | M       | Daffodil - west end                               | 100' x road width ?????  |
| O    | A       | Corner Grandview & Azalea                         | 7' x 22' patch at curb   |
| O    | A       | Corner Grandview & Azalea                         | 3' x 4' patch at curb  |
| O    | C villa | Royal Tern  | 4' x 4' center of road   |
| O    | C villa | 29009 Eagle Ln                                    | 2' x 12' center of road  |
| O    | C villa | 28109 Song Sparrow                                | 3' x 3' and 3' x 6' patches at side of road                                |
| O    | E       | 17586 Hawks View                                  | 4' x 9' edge of road patch   |
| O    | GH      | 56119 Finches                                     | 6' x 6' patch edge of road   |
| O    | GH      | 56119 Finches                                     | 4' x 5' patch center of road   |
| O    | GH      | 56119 Finches                                     | 10' x 12' patch center of road   |
| O    | I       | 39605 Rosebay                                     | 10' x 12' patch by driveway, yard appears<br>to have been affected         |
| O    | N       | 55483 Derringer                                   | 4' x 10' patch at curb   |
| O    | N       | 52559 Winchester                                  | 20' x road width   |
| O    | N       | 52538 Winchester                                  | 4' x 10' patch at curb   |
| O    | N       | 52526 Winchester                                  | 70' x road width   |
| E    |         | -----NO repairs found-----                        |  |
| F    |         | -----NO repairs found-----                        |  |
| R    |         | -----NO repairs found-----                        |  |
| S    |         | -----NO repairs found-----                        |  |
| W    |         | -----NO repairs found-----                        |  |
| X    |         | -----NO repairs found-----                        |  |






Peter Gertler retired from a career of 16 years of service to Sears in a variety of manager and director assignments, followed by 20 years at Deloitte Consulting, the last 15 as a Management Consulting Partner. During his years with Deloitte, he served as lead consulting client service partner at Shopko, Federated Department Stores, McKesson, Long's, and Albertsons. From 1995 to 2000, he led

Deloitte's West Region Consumer practice, growing partners from 2 to 7, clients from 2 to 20, and services delivered to clients five fold. Upon his retirement from Deloitte, he started his own firm, The Really Valuable Consulting Company, focused on helping senior executives of products and services firms work through difficult short and long term situations.

Peter is an expert in products and services companies. He has specific experience in sales strategies, marketing, merchandising, and corporate governance. He has led projects in corporate strategy, market pricing strategy, corporate bankruptcy and reorganization, acquisition due diligence, sales and merchandising organization and work restructuring, IT strategy, IT reorganization, and merger integration. His recent projects included assisting the CEO, Board of Directors, and general partners of an AMLAW 100 law firm completely redefine the firm strategy and their go to market processes and organization. He has also assisted a global management consulting company refine their service set and HR strategy, and advised a retail chain on repositioning its store and product profile. He has also worked with outside directors, helping them establish Board, CEO and Senior Officer Evaluation processes. He worked with the partners of a regional accounting firm to help them identify and quantify their Human Resource strategy, and recently assisted the partners of a general contractor refine their market position, pricing, hiring, and margin positioning.

Peter holds a BS from and completed MBA coursework at Lehigh University. He is a Certified Management Consultant and a Certified Systems Professional. Among Peter's other clients have been The Associated Merchandising Company, DTTI, Macy's, Supermarkets General, Creditors of Best Catalog, Wilentz, Goldman & Spitzer, Mercer Management Consulting, Kilpatrick Stockton, Akin, Gump, Strauss, Hauer & Feld, Crazy Eddie, Maison Blanche, Phillips-Van Heusen, PTC, Levi Strauss & Co, Kearney-O'Banion, The Food Marketing Institute, and The National Retail Federation.

## Agenda Item Summary

Ordinance # / Resolution#: N/A Avondale Development Agreement/PDD-27  
Contact Person / Sponsor: John Weaver   
Department: County Attorney  
Date Requested to be on Agenda: August 11, 2015  
Committee: I&R

**Issue for Consideration:** Whether or not it is appropriate to enter into a Development Agreement with Sinicori Builders, LLC regarding the construction of a residential subdivision in the Indian Land section of Lancaster County to be known as Avondale.

**Points to Consider:** The related Preliminary Master Plan and the revised Development Agreement and the related Preliminary Master Plan accompany this Item Summary. The proposed subdivision is located on the southern side of Harrisburg Road near the intersection of Calvin Hall Road. It is anticipated that Calvin Hall Road will be realigned so that vehicle traffic entering/exiting the development will have access at a variety of locations along both Calvin Hall Road and Harrisburg Road. Several points of interest in the Development Agreement include:

1. A school payment of \$500.00 per unit. (Section 4.01A)
2. A public safety payment of \$1,000.00 per unit. (Section 4.01B)
3. A dedication of 4 acres to the county for its use identified as Village "A". (Section 4.01C)
4. Reimbursement to the County for its unreimbursed actual costs of up to \$10,000.00. (Section 4.02)
5. All roads within Avondale will remain private with the county having no maintenance responsibilities.

There are several issues that impact the Development Agreement as presented and that will be in place prior to Council's consideration:

1. The developer has requested and the county has agreed that it is reasonable that the property identified as Village A will not be utilized by the county for a recycle/trash collection facility.
2. It is likely that a recently prepared wetlands delineation survey will necessitate a reduction in the number of single family detached houses from 400 down to 365 and a reduction of town homes/multi-family units from 200 down to 165. The final number will be established prior to the county's final consideration of the ordinance and the school payment and the public safety payment will be adjusted accordingly.

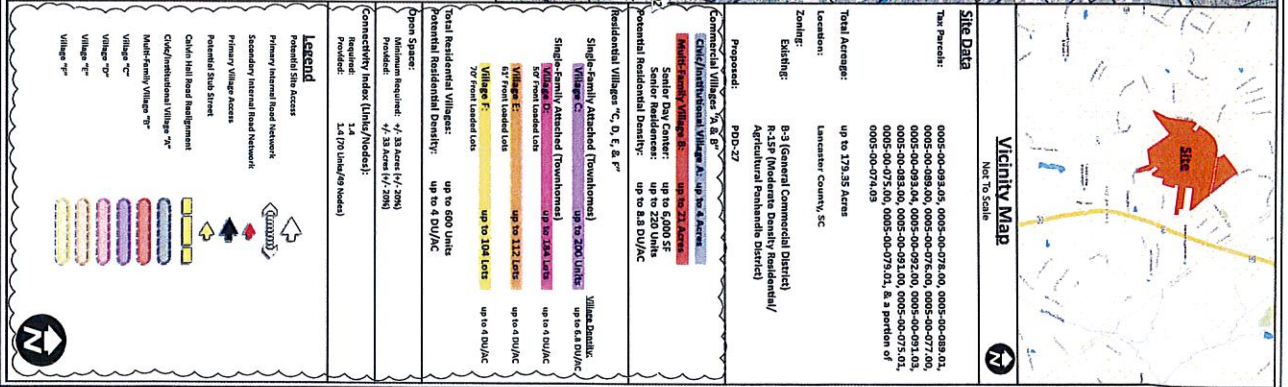
**Funding and Liability Factors:** N/A

**Council Options:**

1. Approve the Development Agreement terms and the anticipated changes noted above.
2. Reject the Development Agreement.
3. Recommend additional terms and conditions as deemed appropriate, if any.

**Recommendation:** #1 and #3.







------(Space above this line for recording use)-----

STATE OF SOUTH CAROLINA            )  
  )  
COUNTY OF LANCASTER                )       **DEVELOPMENT AGREEMENT**  
  )  
  )       **AVONDALE DEVELOPMENT**

This **DEVELOPMENT AGREEMENT** (the “Agreement”) is made and entered into as of the \_\_ day of ~~September~~October, 2015 (“Agreement Date”), by and between **SINACORI BUILDERS, LLC** (“Developer”), a North Carolina limited liability company, and the **COUNTY OF LANCASTER** (the “County”), a body politic and corporate, a political subdivision of the State of South Carolina.

**RECITALS**

**WHEREAS**, Developer has obtained the right to acquire certain real property consisting of approximately 188.97 acres, more or less, located between Calvin Hall Road and Harrisburg Road in the Indian Land section of the County and known as the Avondale development.

**WHEREAS**, Developer has submitted an application to the County requesting that the property comprising the Avondale development be rezoned to Planned Development District.

**WHEREAS**, Developer and County have determined that it is in the best interests of the County and Developer to enter into this Agreement to set forth the terms and conditions of the development in order to more fully protect the Developer’s development rights, thereby providing certainty and predictability to the Developer of those rights and providing certainty and predictability to the County on the scope and terms of the development.

**WHEREAS**, the Developer desires to obtain from the County in connection with the development, and the County is willing to provide, assurances: (1) that the property will be appropriately zoned for the duration of this Agreement; (2) that upon receipt of its development and construction permits it may proceed with the planned development and construction; and (3) that the development rights will be vested for the duration of this Agreement.

**WHEREAS**, in connection with the proposed development, Developer and County recognize that the scope and term of the planned development under this Agreement accomplish

the statutory aims of comprehensive, orderly planning and development within the County, thus providing benefits to the citizens of the County and providing public benefits through, among other things, the donation of funds or financing of those public facilities and services described and identified in this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing and the terms and conditions set forth in this Agreement, the receipt and sufficiency of such consideration being acknowledged by the parties, and pursuant to the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 to -160, Code of Laws of South Carolina 1976, as amended (the “Act”) and the Development Agreement Ordinance for Lancaster County, South Carolina (“Ordinance No. 663”), the parties to this Agreement, intending to be legally bound to a development agreement in accordance with the Act and Ordinance No. 663, agree as follows:

## **ARTICLE I**

### **GENERAL**

**Section 1.01. Incorporation.** The above recitals are incorporated in this Agreement as if the recitals were set out in this Agreement in its entirety. The findings contained in the Act are incorporated into this Agreement as if they were set out in this Agreement in its entirety.

**Section 1.02. Definitions.** (A) As used in this Agreement:

(1) “Act” means the South Carolina Local Government Development Agreement Act, codified as Sections §§ 6-31-10 to -160, Code of Laws of South Carolina 1976, as amended.

(2) “Agreement” means this Development Agreement.

(2A) “Agreement Date” means the date of this Agreement as set forth above.

(3) “County” means the County of Lancaster, a body politic and corporate, a political subdivision of the State of South Carolina.

(4) “County Council” means the governing body of the County.

(5) “Developer” means Sinacori Builders, LLC, a North Carolina limited liability company, and its successors in title to the Property who undertake Development of the Property or who are transferred Development Rights.

(6) “Development Rights” means the right of the Developer to develop all or part of the Property in accordance with this Agreement.

(7) Reserved.

(8) “Laws and Land Development Regulations” means the County’s applicable rules and regulations governing development of real property as set forth on Exhibit E hereto. A copy of the Laws and Land Development Regulations, as of the Agreement Date, is on file in the County Planning Department.

(9) “Ordinance No. 663” means Ordinance No. 663 of the County which is cited as the Development Agreement Ordinance for Lancaster County, South Carolina.

(10) “Ordinance No. 2015-\_\_\_” or “PDD-27” means Ordinance No. 2015-\_\_\_ of the County zoning the Property Planned Development District.

(11) “Ordinance No. 2015-\_\_\_\_” means Ordinance No. 2015-\_\_\_\_ of the County approving this Agreement.

(12) “Parties” means County and Developer.

(13) Reserved.

(14) “Property” means the land, and any improvements thereon, described in Section 1.04.

(15) “Sinacori Related Entity” means (i) an entity that is owned or controlled by Developer, or is owned or controlled by any entity that owns at least a fifty percent (50%) membership interest in Developer; and (ii) any entity that is the successor in interest to Developer via merger or operation of law.

(16) “UDO” means Ordinance No. 309, as amended, as of the Agreement Date and which is cited as the Unified Development Ordinance of Lancaster County. The UDO includes Ordinance No. 328, as amended, as of the Agreement Date and which is cited as the Land Development Regulations of Lancaster County.

(B) Unless the context clearly indicates otherwise, terms not otherwise defined in this Agreement have the meanings set forth in the Act and Ordinance No. 663.

**Section 1.03. Parties.** The parties to this Agreement are County and Developer.

**Section 1.04. Property.** This Agreement applies to the land described in Exhibit A, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety. The Property is generally known as the Avondale development.

*[Is the list of properties in Exhibit A correct?]*

**Section 1.05. Zoning.** The Property is zoned Planned Development District pursuant to Ordinance No. 2015-\_\_\_\_.

**Section 1.06. Permitted Uses.** (A) PDD-27 provides for the development uses on the Property, including population densities, building intensities and height.

(B) All lots for the Development must meet all of the standards contained in this Agreement and if no specific standard is contained in this Agreement, then the standards contained in PDD-27 apply and if no specific standard is contained in PDD-27, then the standards contained in the UDO apply.

**Section 1.07. Development Schedule.** (A) The estimated development schedule for the Property is set forth on Exhibit C, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.

(B) County and Developer acknowledge that the development schedule is an estimate. The failure of the Developer to meet a commencement or completion date does not, in and of itself, constitute a material breach of this Agreement, but must be judged based on the totality of the circumstances. The development schedule is a planning and forecasting tool only. County and Developer acknowledge that actual development is likely to take place at a different pace than set forth in the development schedule because of future market forces.

(C) County agrees that if Developer requests an adjustment to the development schedule, including commencement dates and interim completion dates, then the dates must be modified if



the Developer is able to demonstrate and establish that there is good cause to modify those dates. “Good cause” includes, but is not limited to, changes in market conditions.

(D) Periodic adjustments to the development schedule do not require a formal amendment to this Agreement and are not considered a major modification. To adjust the development schedule, the Developer shall submit a proposed adjustment to the Clerk to Council who shall forward copies of the proposed adjustment to each member of County Council. The proposed adjustment must be accompanied by an explanation and justification. The proposed adjustment is effective sixty (60) days from receipt by the Clerk to Council unless the County Council has disapproved the proposed adjustment by passage of a resolution to that effect within the sixty (60) day period.

**Section 1.08. Relationship of Parties.** This Agreement creates a contractual relationship among the Parties. This Agreement is not intended to create, and does not create, the relationship of partnership, joint venture, or any other relationship wherein any one of the parties may be held responsible for the acts of any other party. This Agreement is not intended to create, and does not create, a relationship whereby any one of the parties may be rendered liable in any manner for the debts or obligations of any other party, to any person or entity whatsoever, whether the debt or obligation arises under this Agreement or outside of this Agreement.

**Section 1.09. Benefits and Burdens.** (A) The Parties agree that the burdens of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interests to the Parties to this Agreement.

(B) Except for the owners and lessees of completed residences on individual lots who are the end users and not developers thereof and the owners and lessees of individual lots, who are not developers and who intend to build a residence on the lot for the owner or lessee to occupy, any purchaser or other successor in title is responsible for performance of Developer’s obligations pursuant to this Agreement as to the portion of the Property so transferred. Developer must give notice to the County of the transfer of property to a developer in the manner prescribed in Section 3.05.

(C) Developer acknowledges and agrees that it (i) is responsible for the development of the Property when Developer acquires title to or development rights for the Property, and (ii) will develop the Property in accordance with the terms and conditions of this Agreement. It is the express intention of the Parties that the obligations of this Agreement are intended to run with the Property. If the Property is sold, either in whole or in part, and the Developer’s obligations are transferred to a purchaser or successor in title to the Property as provided herein and in Section 3.05 below, Developer shall be relieved of any further liability for the performance of Developer’s obligations as provided in this Agreement as it relates to the portion of the Property sold if the Developer is then current with its obligations pursuant to this Agreement.

**Section 1.10. Term.** The term of this Agreement commences on the Agreement Date and terminates five (5) years thereafter.

**Section 1.11. Required Information.** Ordinance No. 663 requires a development agreement to include certain information. Exhibit D contains the required information or



identifies where the information may be found in this Agreement. Exhibit D is incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

**Section 2.01. Representations and Warranties of County.** (A) The County represents that it finds the development permitted by this Agreement is consistent with the County's comprehensive plan and land development regulations.

(B) The County represents that it has approved this Agreement by adoption of Ordinance No. 2015-\_\_\_\_\_ in accordance with the procedural requirements of the Act, Ordinance No. 663 and any other applicable state law.

(C) The County represents that prior to the final reading of Ordinance No. 2015-\_\_\_\_\_ that at least two public hearings were held after publication of the required notice and the publication of a notice of intent to consider a proposed development agreement.

**Section 2.02. Representations and Warranties of Developer.** (A) Developer represents that the number of acres of highland contained in the Property is twenty-five (25) or more, the same being approximately one hundred and seventy-seven (177) acres.

(B) Developer represents that, as of the Agreement Date, it has contractual rights to acquire the Property and that, following acquisition, Developer shall be the only legal and equitable owner of the Property.

(C) Developer represents and warrants that the execution, delivery and performance by the individual or entity signing this Agreement on behalf of the Developer has been duly authorized and approved by all requisite action on the part of Developer.

## ARTICLE III

### DEVELOPMENT RIGHTS

**Section 3.01. Vested Right to Develop.** (A) County agrees that the Developer, upon receipt of its development permits as identified in Section 3.04, may proceed to develop the Property according to the terms and conditions of this Agreement. The right of Developer to develop the Property as set forth in this Agreement is deemed vested with Developer for the term of this Agreement when the Developer has complied with all of the requirements of Section 5.19.

(B) County agrees that the specific Laws and Land Development Regulations in force as of the Agreement Date as set forth in Exhibit E to this Agreement, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety, shall govern all aspects of the development of the Property, according to the terms and standards as stated in this Agreement, for the term of this Agreement.

(C) The Developer has a vested right to proceed with the development of the Property in accordance with the zoning classification set forth in PDD-27, the UDO and the terms of this Agreement when the Developer has complied with all of the requirements of Section 5.19.

(D) Except as may be otherwise provided for in this Agreement, the Act or Ordinance No. 663, no future changes or amendments to the Laws and Land Development Regulations shall apply to the Property, and no other local land development legislative enactments shall apply to the development, the Property, or this Agreement which have a direct or indirect adverse effect on the ability of the Developer to develop the Property in accordance with the Laws and Land Development Regulations.

(E)(1) To the extent that this Agreement may contain zoning and development standards which conflict with existing zoning and development standards, including zoning and development standards contained in PDD-27 and the UDO, the standards contained in this Agreement supersede all other standards and this Agreement is deemed controlling.

(2) To the extent that PDD-27 may contain zoning and development standards which conflict with zoning and development standards in the UDO, the standards contained in PDD-27 supersede all other standards and PDD-27 is deemed controlling except as provided in subsection (E)(1).

(F) For purposes of Subsection (D) of this Section 3.01 and Section 3.03(A)(3), the Laws and Land Development Regulations are anticipated to be amended subsequent to the Agreement Date to provide for requirements and standards applicable to storm water runoff conveyance systems and drainage improvements. The anticipated amendments are expected to include, but not be limited to, minimum standards for the design and sizing of storm drainage piping systems and access easements. These amendments to the Laws and Land Development Regulations will apply to the Property.

~~**Section 3.01A. Connectivity.** Notwithstanding the provisions of Sections 2.1.5.6(i), 13.7.10.3 and 13.7.9.1 of the UDO, all relating to connectivity, links and nodes, Developer and County agree that the Developer is not required to provide a stubbed out street for any adjacent undeveloped parcel or a parcel used for a single family home that contains a minimum of five (5) acres, except that a stubbed out street shall be provided to that parcel identified as Tax Map No. \_\_\_\_\_. Further, due to inherent constraints associated with the Property, including, without limitation, topographic and environmental constraints, Developer and County agree that the subdivision shall have a connectivity index of not less than 1.2.~~

~~*[Are any changes needed for this Section 3.01A? Does anything need to be added concerning sidewalks?]*~~

**Section 3.02. Effect on Vested Rights Act and County Ordinance No. 673.** The Parties agree that vested rights conferred upon Developer in this Agreement are not affected by the provisions of the Vested Rights Act, codified as Sections 6-29-1510 to -1560, Code of Laws of South Carolina 1976, as amended, or the provisions of Ordinance No. 673, the County's ordinance relating to the Vested Rights Act.

**Section 3.03. Applicability of Subsequently Adopted Laws and Land Development Regulations.** (A) County may apply laws adopted after the execution of this Agreement to the development of the Property only if the County Council holds a public hearing and determines:

(1) the laws are not in conflict with the laws governing this Agreement and do not prevent the development set forth in this Agreement and "laws" which prevent development

include, but are not limited to, a moratorium, or any other similar restriction that curtails the rate at which development can occur on the Property;

(2) the laws are essential to the public health, safety, or welfare and the laws expressly state that they apply to the development that is subject to this Agreement;

(3) the laws are specifically anticipated and provided for in this Agreement;

(4) that substantial changes have occurred in pertinent conditions existing at the time this Agreement was approved which changes, if not addressed by County, would pose a serious threat to the public health, safety, or welfare; or

(5) that this Agreement was based on substantially and materially inaccurate information supplied by the Developer that materially affected the terms and provisions of this Agreement.

(B) Developer agrees to comply with any county-wide building, housing, electrical, plumbing, fire and gas codes adopted by County Council after the Agreement Date and in force at the time plans for buildings are submitted to the County for review. Nothing in this Agreement is intended to supersede or contravene the requirements of any building, housing, electrical, plumbing, fire or gas code adopted by County Council.

**Section 3.04. Development Permits.** (A) Developer agrees to obtain all local development permits for the development of the Property. Local development permits, approvals and processes, some of which may have been obtained or complied with as of the Agreement Date, include, but are not limited to:

(1) Development Review Committee process;

(2) Preliminary plan approval;

(3) Final plat approval;

(4) Zoning permits;

(5) Building permits; and

(6) Sign permits.

(B) The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions.

**Section 3.05. Transfer of Development Rights.** Developer may, at its sole discretion, transfer its Development Rights to other developers. The transferring Developer must give notice to the County of the transfer of any Development Rights. The notice to the County must include the identity and address of the transferring Developer, the identity and address of the acquiring Developer, the acquiring Developer's contact person, the location and number of acres of the Property associated with the transfer and the number of residential units subject to the transfer, and, if applicable, the amount of non-residential development subject to the transfer. If the acquiring Developer is an entity, then, at the request of the County, the acquiring Developer shall provide the County the opportunity to view a listing of the names and addresses of the entity's officers and owners. Any Developer acquiring Development Rights is required to file with the County an acknowledgment of this Agreement and the transfer of Development Rights is effective only when the County receives a commitment from the acquiring Developer to be bound by it. This provision does not apply to the purchaser or other successor in title to the Developer who is the owner or lessee of a completed residence and is the end user and not the



developer thereof or who is the owner or lessee of an individual lot, who is not a developer and who intends to build a residence on the lot for the owner or lessee to occupy.

## ARTICLE IV

### DEDICATIONS AND FEES AND RELATED AGREEMENTS

**Section 4.01. Purpose of Article.** The Parties understand and agree that Development of the Property imposes certain burdens and costs on the County, including those for certain services and infrastructure improvements. Eventually, *ad valorem* taxes collected from the property may meet or exceed the burdens and costs placed upon the County, but certain initial costs and capital expenditures are now required that are not to be funded by any increase in taxes paid by existing residents of the County. The purpose of this article is to identify the matters agreed upon to be provided by the Developer to mitigate such burdens and costs.

**Section 4.01A. School Payments.** Developer agrees to pay to the County for the benefit of the Lancaster County School District ~~FIVE~~ FOUR HUNDRED THOUSAND AND NO/100 DOLLARS (~~\$500,000.00~~400,000.00) upon the earlier of either February 1, 2017 or the closing on the sale of any portion of the Avondale development to an individual or entity other than a Sinacori Related Entity (the “School Payment”). Developer acknowledges and agrees that County is responsible only for the remittance of the School Payment to the Lancaster County School District and that the County has no other obligation or responsibility for the School Payment. As used in this section, “Developer” means Sinacori Builders, LLC, a North Carolina limited liability company, and does not include its successors or assigns but does include a Sinacori Related Entity that holds title to the Property.

*[Subject to confirmation of the number of residential units.]*

**Section 4.01B. Funds for Public Safety.** Developer agrees to pay County ~~ONE-~~ EIGHT HUNDRED THOUSAND AND NO/100 DOLLARS (~~\$1,000,000.00~~800,000.00) upon the earlier of either February 1, 2017, or the closing on the sale of any portion of the Avondale development to an individual or entity other than a Sinacori Related Entity (the “Public Safety Payment”). Upon receipt of the Public Safety Payment, the monies must be accounted for separate and distinct from other monies of the County. The Public Safety Payment must be used for non-recurring purposes for law enforcement, fire and emergency medical service in the panhandle area of the County. The determination of the specific uses for the Public Safety Payment is at the discretion of the County Council. As used in this section, “Developer” means Sinacori Builders, LLC, a North Carolina limited liability company, and does not include its successors or assigns but does include a Sinacori Related Entity that holds title to the Property.

*[Subject to confirmation of the number of residential units.]*

**Section 4.01C. Dedication of Institutional Land.** Developer shall dedicate four (4) acres of land identified on the Master Plan, in Village A, as a flex public civic/institutional/park and recreation site to be dedicated to the County for the use and enjoyment by the citizens (“Institutional Land”). The Master Plan is contained in Exhibit F, attached hereto and



incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety. This Institutional Land is intended to be developed by the County or its designee as a public civic/institutional/park and recreation site and is being provided by Developer in lieu of providing commercial development as provided in Section 13.12.1.11.d\* of the UDO. County and Developer acknowledge that whether the Institutional Land is ultimately developed by the County or its designee is dependent on the availability of funding to pay for the development of the Institutional Land and that the decision to develop the Institutional Land is a discretionary decision for County Council. If it is determined that the Institutional Land will be conveyed to the County, then Developer agrees that the property will be conveyed free of any encumbrances and by way of general warranty deed conveying marketable and insurable title to the County.

**Section 4.02. Payment of Costs.** Upon submission of appropriate documentation of the expenditure, Developer agrees to reimburse the County, not later than January 31, 2016, for the County's reasonable unreimbursed actual costs related to this Agreement. The foregoing cost reimbursement is capped at ten thousand dollars (\$10,000.00) and is limited to County payments to third-party vendors and service providers that have not been otherwise reimbursed from the fee paid by Developer pursuant to Section 10 of Ordinance No. 663.

**Section 4.03. Other Charges or Fees.** (A) Nothing in this Agreement shall be construed as relieving Developer from the payment of any fees or charges in effect at the time of collection as may be assessed by entities other than the County.

(B) Developer is subject to the payment of any and all present or future fees enacted by the County that are of County-wide application and that relate to the County's costs of processing applications, issuing development permits, reviewing plans, conducting inspections or similar type processing costs.

**Section 4.04. Infrastructure and Services.** The Parties recognize that the majority of the direct costs associated with the Development of the Property will be borne by Developer, and many necessary infrastructure improvements and services will be provided by Developer or other governmental or quasi-governmental entities, and not by the County. For clarification, the Parties make specific note of and acknowledge the following:

**(A) Roads.** (1)(a) Developer is responsible for the construction and costs of all roads, whether for public or private use, within the Property including but not limited to any necessary entrance and intersection improvements as required by the South Carolina Department of Transportation related to the development of the Property. All roads must be constructed in accordance with the County's road standards. The road improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

(b) Developer shall cause to be prepared a traffic impact analysis conducted and sealed by a licensed South Carolina professional engineer. Any road improvements, which are determined to be necessary, based on the results of the traffic impact analysis, shall be incorporated into the final site plan prior to County approval and the Developer is responsible for all costs of the road improvements. The traffic impact analysis shall be reviewed by the County and in conjunction with the South Carolina Department of Transportation. If a County-level traffic planner is not available to review the traffic impact analysis at the time of submittal, the

County may choose to hire a third-party consultant to assist in this review. The cost of the traffic impact analysis, including any additional reviews requested by the County, shall be paid by the Developer. Improvements set forth in the traffic impact analysis may be installed based on a phasing study prepared by a licensed South Carolina professional engineer at the expense of Developer. The installation of new traffic signals or improvements to existing traffic signals shall be based on warrant studies conducted by a licensed South Carolina professional engineer at established specific times and at the expense of Developer.

(c) If a signalized intersection is required by the traffic impact analysis, or additional poles are required at an existing signalized intersection, a mast-arm traffic signal shall be installed. At a minimum, the standard metal mast-arm poles used by Duke Energy Corporation shall be installed. Complete cost of the installation of the mast-arm traffic signal shall be paid by Developer. Developer shall furnish a financial guarantee, acceptable to the County in its discretion, to cover future repairs and replacement of the mast-arm traffic signal. Developer may transfer its obligation for future repairs and replacement for the mast-arm traffic signal to a homeowners' or property owners' association, or similar organization.

(2) Developer is responsible for all construction and maintenance, and the costs thereof, associated with the roads within the Property. Developer may transfer the ownership of the roads and its obligations for the roads to a homeowners' or property owners' association, or similar organization.

(3) Developer agrees to maintain the landscaping at the entrance to the Property and obtain any necessary easements therefor from the South Carolina Department of Transportation. Developer's obligation to maintain the landscaping is limited to mowing and planting of grass, trimming and planting of shrubs, trees and other vegetation, and maintenance and operation of any associated irrigation system. County agrees to cooperate with Developer in obtaining an easement or other related approvals. Developer may transfer its maintenance obligation to a homeowners' or property owners' association, or similar organization.

(4) County is not responsible for any construction, maintenance, or costs associated with the roads within the Property. Developer acknowledges that County will not accept the roads within the Property into the County road system for any purpose, including, but not limited to, maintenance. Developer shall provide to County, prior to final plat approval, documentation that a homeowners' or property owners' association, or similar organization is responsible for the perpetual maintenance of the roads within the Property.

**(B) Potable Water.** Potable water will be supplied to the Property by the Lancaster County Water and Sewer District. Developer will construct, or cause to be constructed, all necessary water service infrastructure within the Property and the water service infrastructure will be maintained by the provider. County is not responsible for any construction, treatment, maintenance, or costs associated with water service or water service infrastructure to or within the Property. The water service infrastructure is expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development. Developer acknowledges that County has no authority or responsibility for providing potable water services in the County and that the Lancaster County Water and Sewer District is a governmental entity separate and distinct from the County.

**(C) Sewage Treatment and Disposal.** Sewage treatment and disposal will be provided by the Lancaster County Water and Sewer District. Developer will construct, or cause to be constructed, all necessary sewer service infrastructure within the Property and the sewer service

infrastructure will be maintained by the provider. County is not responsible for any construction, treatment, maintenance, or costs associated with sewer service or sewer service infrastructure. Sewer service infrastructure is expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development. Developer acknowledges that County has no authority or responsibility for providing sewage treatment and disposal services in the County and that the Lancaster County Water and Sewer District is a governmental entity separate and distinct from the County.

**(D) Storm Water Management.** Developer will construct or cause to be constructed all storm water runoff conveyance systems and drainage improvements within the Property required by the development of the Property. All inlets, piping within a system, associated swales or other conveyance system shall be designed for a minimum twenty-five (25) year storm event. Individual culvert crossing shall be designed for a minimum twenty-five (25) year storm event. Developer agrees to construct or cause to be constructed permanent water quantity and water quality systems and improvements in accordance with best management practices. The applicable requirements and standards shall be the more stringent of either the requirements and standards contained in the Laws and Land Development Regulations as may be modified pursuant to Section 3.01(F) or the requirements and standards set by the South Carolina Department of Health and Environmental Control (DHEC) or its successor agency. All storm water systems and improvements will be maintained by Developer or a homeowners' association. County is not responsible for any construction, maintenance or costs associated with the storm water runoff and drainage for the Property. Storm water management improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

**(E) Solid Waste Collection.** The County shall provide solid waste collection to the Property on the same basis as is provided to other residents and businesses within the County. It is understood and acknowledged that the County does not presently provide solid waste disposal for single, multi-family or commercial developments. Residential units shall be served by a private waste hauling company.

**(F) Law Enforcement Protection.** The County shall provide law enforcement protection services to the Property on the same basis as is provided to other residents and businesses within the County.

**(G) Recycling Services.** The County shall provide recycling services to the Property on the same basis as is provided to other residents and businesses within the County.

**(H) Emergency Medical Services (EMS).** Emergency medical services shall be provided by the County to the Property on the same basis as is provided to other residents and businesses within the County.

**(I) Fire Services.** The Property is located in the Pleasant Valley Fire Protection District and fire services will be provided by the Pleasant Valley Fire Department, or successor entities.

**(J) Library Service.** The County shall provide library services on the same basis as is provided to other residents within the County.

**(K) School Services.** Public school services are now provided by the Lancaster County School District. Developer acknowledges that County has no authority or responsibility for providing public school services in the County.

**(L) Parks and Recreation.** The County shall provide parks and recreation services on the same basis as is provided to other residents within the County.



**Section 4.05. Reserved.**

**Section 4.05A. Final Plat Approval.** Notwithstanding any other provision of this Agreement, PDD-27 or the UDO, Developer agrees that prior to seeking final plat approval: (i) all water and sewer infrastructure for the area that is the subject of the final plat shall be installed by the Developer and subsequently tested, inspected, and found to be in acceptable condition by the applicable water or sewer provider, and (ii) the appropriate permits from the South Carolina Department of Health and Environmental Control (DHEC), or its successor agency, have been obtained by the Developer for storm water management and the Developer shall provide proof that DHEC has issued the appropriate permits.

**Section 4.06. Reserved.**

~~*[Does a provision for an undisturbed buffer need to be included? For example, something similar to this: "Developer agrees to provide an undisturbed buffer at least forty feet (40') in width on the portion of the perimeter of the Property that is not adjacent to a road, except that the undisturbed buffer area may be disturbed as necessary to provide access points and utilities." It may be more appropriate to address buffer issues in the PDD-27 ordinance.]*~~

**ARTICLE V**

**MISCELLANEOUS**

**Section 5.01. Notices.** Any notice, election, demand, request or other communication to be provided under this Agreement shall be in writing and shall be effective (i) when delivered to the party named below, (ii) when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, or (iii) when deposited in Federal Express (or any other reputable national "next day" delivery service) addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

To the County:       County of Lancaster  
                              Attn: County Administrator  
                              101 N. Main St. (29720)  
                              P.O. Box 1809 (29721)  
                              Lancaster, SC

With Copy to:       County of Lancaster  
                              Attn: County Attorney  
                              101 N. Main St. (29720)  
                              P.O. Box 1809 (29721)  
                              Lancaster, SC



And to Developer: Sinacori Builders, LLC  
Attn: Russ Sinacori  
P.O. Box 471785  
Charlotte, NC 28247

With Copy to: Sinacori Builders, LLC  
Attn: John H. Carmichael  
Robinson Bradshaw & Hinson, P.A.  
101 North Tryon Street, Suite 1900  
Charlotte, North Carolina 28246

**Section 5.02. Amendments.** (A) This Agreement may be amended or cancelled by mutual consent of the parties to the Agreement. An amendment to this Agreement must be in writing. No statement, action or agreement made after the Agreement Date shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom the change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

(B) An amendment to this Agreement must be processed and considered in the same manner as set forth in Ordinance No. 663 for a proposed development agreement. Any amendment to this Agreement constitutes a major modification and the major modification may occur only after public notice and a public hearing by the County Council.

(C) This Agreement must be modified or suspended as may be necessary to comply with any state or federal laws or regulations enacted after the Agreement Date which prevents or precludes compliance with one or more of the provisions of this Agreement but only to the extent necessary to effectuate compliance with the state or federal law.

**Section 5.03. Periodic Review.** At least every twelve (12) months, the Chief Zoning Officer for the County or the designee of the Chief Zoning Officer for the County, or the successor to Chief Zoning Officer for the County, must review compliance with this Agreement by the Developer. At the time of review the Developer must demonstrate good faith compliance with the terms of the Agreement.

**Section 5.04. Breach of Agreement.** (A) If, as a result of the periodic review provided in Section 5.03 of this Agreement or at any other time, the Chief Zoning Officer for the County finds and determines that the Developer has committed a material breach of the terms or conditions of this Agreement, the Chief Zoning Officer for the County shall serve notice in writing, within a reasonable time after making the finding and determination of a material breach, upon the Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Developer a reasonable time in which to cure the material breach.

(B) If the Developer fails to cure the material breach within a reasonable time and is not proceeding expeditiously and with diligence to cure the breach, then the County Council may unilaterally terminate or modify this Agreement. Prior to terminating or modifying this Agreement as provided in this section, the County Council must first give the Developer the opportunity (i) to rebut the finding and determination, or (ii) to consent to amend the Agreement to meet the concerns of the County Council with respect to the findings and determinations.

**Section 5.05. Enforcement.** The Parties shall each have the right to enforce the terms, provisions and conditions of this Agreement, if not cured within the applicable cure period, by any remedy available at law or in equity, including specific performance, and the right to recover attorney's fees and costs associated with enforcement.

**Section 5.06. No Third Party Beneficiary.** The provisions of this Agreement may be enforced only by the Parties. No other persons shall have any rights hereunder.

**Section 5.07. Recording of Agreement.** The Parties agree that Developer shall record this Agreement with the County Register of Deeds within fourteen (14) days of the date of execution of this Agreement.

**Section 5.08. Administration of Agreement.** County is the only local government that is a party to this Agreement and the County is responsible for the Agreement's administration.

**Section 5.09. Effect of Annexation and Incorporation.** The Parties agree that this Agreement remains in effect if the Property is, in whole or in part, included in a newly-incorporated municipality or is annexed into a municipality. The Parties acknowledge that upon incorporation or annexation the application and duration of this Agreement is controlled by Section 6-31-110 of the Act. County reserves the right to enter into an agreement with the newly-incorporated municipality or the annexing municipality for the administration and enforcement of this Agreement after the date of incorporation or annexation.

**Section 5.10. Estoppel Certificate.** Any of the Parties may, at any time, and from time to time, deliver written notice to the other party requesting the party to certify in writing (i) that this Agreement is in full force and effect, (ii) that this Agreement has not been amended or modified, or if so amended, identifying the amendments, (iii) whether, to the knowledge of the party, the requesting party is in default or claimed default in the performance of its obligation under this Agreement, and, if so, describing the nature and amount, if any, of any such default or claimed default, and (iv) whether, to the knowledge of the party, any event has occurred or failed to occur which, with the passage of time or the giving of notice, or both, would constitute a default and, if so, specifying each such event.

**Section 5.11. Entire Agreement.** This Agreement sets forth, and incorporates by reference all of the agreements, conditions, and understandings among the Parties relative to the Property and its Development and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among the Parties relative to the matters addressed in this Agreement other than as set forth or as referred to in this Agreement.

**Section 5.12. Covenant to Sign other Documents.** County and Developer acknowledge that consummation of the transactions contemplated by this Agreement may require the execution contemporaneously with the execution of this Agreement and thereafter of certain documents in addition to this Agreement and County and Developer agree to cooperate with the execution thereof.

**Section 5.13. Construction of Agreement.** The Parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

**Section 5.14. Assignment.** Unless otherwise provided in this Agreement, the rights, obligations, duties and responsibilities devolved by this Agreement on or to the Developer are assignable to any other person, firm, corporation or entity except that the assignment must conform to the requirements of Section 1.09 and Section 3.05. County may assign its rights, obligations, duties and responsibilities devolved by this Agreement on or to the County to any other person, firm, corporation, or entity.

**Section 5.15. Governing Law; Jurisdiction; and Venue.** (A) This Agreement is governed by the laws of the State of South Carolina.

(B) The Parties agree that jurisdiction and venue for disputes relating to this Agreement is the Sixth (6<sup>th</sup>) Judicial Circuit of the State of South Carolina.

**Section 5.16. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

**Section 5.17. Eminent Domain.** Nothing contained in this Agreement shall limit, impair or restrict the County's right and power of eminent domain under the laws of the State of South Carolina.

**Section 5.18. Severability.** If any provision in this Agreement or the application of any provision of this Agreement is held invalid, the invalidity shall apply only to the invalid provision, and the remaining provisions of this Agreement, and the application of this Agreement or any other provision of this Agreement, shall remain in full force and effect. However, if the invalid provision would prevent or materially impair Developer's right or ability to complete performance of this Agreement, the Parties agree to use their best efforts to renegotiate that provision in order for Developer to complete performance of this Agreement.

**Section 5.19. When Agreement takes Effect.** This Agreement is dated as of the Agreement Date and takes effect when (i) the County and Developer have each executed the Agreement, and (ii) the Developer has delivered to the County Administrator clocked-in copies, with book and page numbers, of the recorded deeds conveying the Property to Developer. If the County Administrator has not received clocked-in copies of the deeds conveying the Property to



Developer by 5:00 p.m., \_\_\_\_\_, Friday, April 29, 2016, then this Agreement is automatically terminated without further action of either the County or Developer. The obligation of the Developer pursuant to Section 4.02 is effective on the date the last Party to sign this Agreement executes this Agreement and the obligations imposed on Developer pursuant to Section 4.02 survives the termination of this Agreement pursuant to this Section.

SIGNATURES FOLLOW ON NEXT PAGE.

**IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date below found.**

WITNESSES:

DEVELOPER:

SINACORI BUILDERS, LLC,  
a North Carolina Limited Liability Company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Sinacori Builders, LLC, by its duly authorized officer/s sign, seal and as its act and deed deliver the within written instrument and that (s)he with the other witness above subscribed, witnessed the execution thereof.

\_\_\_\_\_  
First Witness Signs Again Here

Seal

SWORN to before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public Signs AS NOTARY  
Notary Public for the State of \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

COUNTY SIGNATURES FOLLOW ON NEXT PAGE.

WITNESSES:

COUNTY:

COUNTY OF LANCASTER,  
SOUTH CAROLINA

\_\_\_\_\_  
By: \_\_\_\_\_  
Bob Bundy, Chair, County Council

\_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_  
Steve Harper, Secretary, County Council

\_\_\_\_\_  
Date: \_\_\_\_\_

STATE OF SOUTH CAROLINA   )  
  )  
COUNTY OF LANCASTER       )

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named County of Lancaster by its duly authorized officer/s sign, seal and as its act and deed deliver the within written instrument and that (s)he with the other witness above subscribed, witnessed the execution thereof.

Seal

\_\_\_\_\_  
First Witness Signs Again Here

SWORN to before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public Signs AS NOTARY  
Notary Public for the State of South Carolina  
My Commission Expires: \_\_\_\_\_



**Exhibit A**  
**Property Description**

**Avondale Development**

Tax Map No. 1 – 0005-00-077.00  
Tax Map No. 2 – 0005-00-076.00  
Tax Map No. 3 – 0005-00-075.01  
Tax Map No. 4 – 0005-00-075.00  
Tax Map No. 5 – a portion of 0005-00-074.03  
Tax Map No. 6 – 0005-00-093.04  
Tax Map No. 7 – 0005-00-093.05  
Tax Map No. 8 – 0005-00-092.00  
Tax Map No. 9 – 0005-00-091.03  
Tax Map No. 10 – 0005-00-091.00  
Tax Map No. 11 – ~~0005-00-090.00~~ Tax Map No. 12 – 0005-00-089.00  
Tax Map No. ~~13~~ 12 – 0005-00-089.01  
Tax Map No. ~~14~~ 13 – 0005-00-083.00  
Tax Map No. ~~15~~ 14 – 0005-00-079.01  
Tax Map No. ~~16~~ 15 – 0005-00-078.00

*[Is the above list correct?]*

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**Exhibit B**

THIS EXHIBIT IS INTENTIONALLY LEFT BLANK.

**Exhibit C**  
**Development Schedule**

|   | <u>Begin</u>                               | <u>End</u>                      |
|---|--|---------------------------------|
| Engineering and Permitting<br>2016                    | <del>October</del> <u>November</u> 1, 2015 | <del>April</del> <u>June</u> 1, |
| Phased Land Development                               | <del>May</del> <u>July</u> 1, 2016         | February 1, 2020                |
| Home Construction Starts                              | January 1, 2017                            | November 1, 2022                |
| Year 1 Home Closings – Approx. 85 per year            | April 30, 2017                             | March 31, 2018                  |
| Year 2 Home Closings – Approx. 85 per year            | April 30, 2018                             | March 1, 2019                   |
| Year 3 Home Closings – Approx. 85 per year            | April 30, 2019                             | March 1, 2020                   |
| Year 4 Home Closings – Approx. 85 per year            | April 30, 2020                             | March 1, 2021                   |
| Year 5 Home Closings – Approx. 85 per year            | April 30, 2021                             | March 1, 2022                   |
| <del>Year 5 Home Closings – Approx. 85 per year</del> | <del>April 30, 2022</del>                  | <del>March 1, 2023</del>        |

*~~[What is the development schedule for the non-residential uses, if any?]  
[Conform to reflect adjustment to density for Village B.]~~*

This Development Schedule is an estimate. The provisions of Section 1.07 of this Agreement apply to this exhibit.

NOTE: County and Developer acknowledge that development of the Property is limited to ( ) residential units. eight hundred (800) residential units, comprising: Up to 400 single-family detached units, up to 200 multi-family townhomes, and up to 200 multi-family senior residences, as further described in the PDD-27, see Sections 7, 8 and 11, and the Master Plan. Commercial development shall be allowed as an accessory use within the senior residences facilities only.

*~~[Need current maximum number of residential units. Any limits on non-residential development?]~~*

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### **Exhibit D Required Information**

The Act and Ordinance No. 663 require a development agreement to include certain information. The following information is provided in conformance with the Act and Ordinance No. 663.

(A) *a legal description of the property subject to the agreement and the names of the property's legal and equitable owners.* The legal description of the Property is set forth in Exhibit A. As of the Agreement Date, Developer has contractual rights to acquire the Property and, following acquisition, Developer shall be the only legal and equitable owner of the Property. As of the Agreement Date, the legal owners of the Property are Hawfield Trust (Tax Map No. 0005-00-077.00); Hawfield Group LLC (Tax Map No. 0005-00-076.00); Withers (Tax Map No. 0005-00-075.01); Withers (Tax Map No. 0005-00-075.00); Moore (portion of Tax Map No. 0005-00-074.03); Hood (Tax Map No. 0005-00-093.04); Devinney (Tax Map No. 0005-00-093.05); Hudson (Tax Map No. 0005-00-092.00); Patterson, Alan (Tax Map No. 0005-00-091.03); Smith (Tax Map No. 0005-00-091.00); ~~Gallap (Tax Map No. 0005-00-090.00)~~; Harvell (Tax Map No. 0005-00-089.00); Harvell (Tax Map No. 0005-00-089.01); Patterson, Carl (Tax Map No. 0005-00-083.00); Blakely (Tax Map No. 0005-00-079.01); and Owsley (Tax Map No. 0005-00-078.00).

(B) *the duration of the agreement which must comply with Code Section 6-31-40.* See Section 1.10.

(C) *a representation by the developer of the number of acres of highland contained in the property subject to the agreement.* See Section 2.02.

(D) *the then current zoning of the property and a statement, if applicable, of any proposed re-zoning of the property.* See Section 1.05.

(E) *the development uses that would be permitted on the property pursuant to the agreement, including population densities, building intensities and height.* See Section 1.06.

(F) *a description of the public facilities that will service the development, including who provides the facilities, the date any new facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development construction timeline for those facilities. If the agreement provides that the County shall provide certain public facilities, the agreement shall provide that the delivery date of the public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer.* See Article IV.

(G) *a description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the agreement.* See Section 4.01C. Developer also agrees to comply with all applicable environmental laws.

(H) *a description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions. See Section 3.04.*

(I) *a finding that the development permitted or proposed is consistent, or will be consistent by the time of execution of the agreement, with the County's comprehensive plan and land development regulations. See Section 2.01(A).*

(J) *a description, where appropriate, of any provisions for the preservation and restoration of historic structures. Developer agrees to comply with all laws applicable to the preservation and restoration of historic structures within the Property.*

(K) *a development schedule including commencement dates and interim completion dates at no greater than five year intervals. See Section 1.07 and Exhibit C.*

(L) *if more than one local government is made party to the agreement, a provision stating which local government is responsible for the overall administration of the agreement. See Section 5.08.*

(M) *a listing of the laws and land development regulations that will apply to the development of the property subject to the agreement, including citation to specific ordinance numbers or portions of the County Code of Ordinances or both. See Section 3.01(B) and Exhibit E.*

(N) *a provision, consistent with Code Section 6-31-80, addressing the circumstances under which laws and land development regulations adopted subsequent to the execution of the agreement apply to the property subject to the agreement. See Section 3.03.*

(O) *a provision stating whether the agreement continues to apply to the property or portions of it that are annexed into a municipality or included in a newly-incorporated area and, if so, that the provisions of Code Section 6-31-110 apply. See Section 5.09.*

(P) *a provision relating to the amendment, cancellation, modification or suspension of the agreement. See Section 5.02.*

(Q) *a provision for periodic review, consistent with the provisions of Section 8 of Ordinance No. 663. See Section 5.03.*

(R) *a provision addressing the effects of a material breach of the agreement, consistent with the provisions of Section 9 of Ordinance No. 663. See Section 5.04.*

(S) *a provision that the developer, within fourteen days after the County enters into the agreement, will record the agreement with the County Register of Deeds. See Section 5.07.*

(T) *a provision that the burdens of the agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement. See Section 1.09(A).*

(U) *a provision addressing the conditions and procedures by which the agreement may be assigned. See Sections 1.09(B) and (C), Section 3.05 and Section 5.14.*

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**Exhibit E**  
**Laws and Land Development Regulations**

1. Ordinance No. 2015-\_\_\_\_, zoning the Property Planned Development District.
2. Ordinance No. 2015-\_\_\_\_\_, approving this Development Agreement.
3. The Development Agreement Ordinance for Lancaster County, South Carolina: Ordinance No. 663.
4. Unified Development Ordinance of Lancaster County (UDO): Ordinance No. 309, as amended as of the Agreement Date. The UDO includes Ordinance No. 328, as amended, as of the Agreement Date and which is cited as the Land Development Regulations of Lancaster County. A copy of the UDO is filed in the County Planning Department.
5. Land Development Regulations of Lancaster County: See Unified Development Ordinance of Lancaster County.
6. Article V, Chapter 26, Lancaster County Code of Ordinances, Road Construction Standards.

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**Exhibit F**  
**Rezoning Master Plan**

*[Is this exhibit necessary?]*

| Comparison Details  |  |
|---------------------|--|
| Title               | pdfDocs compareDocs Comparison Results |
| Date & Time         | 8/4/2015 2:18:25 PM                    |
| Comparison Time     | 1.00 seconds                           |
| compareDocs version | v4.0.3.1                               |

| Sources           |   |
|-------------------|---|
| Original Document | [#1214556] [v2] Development Agreement -- Avondale |
| Modified Document | [#1214556] [v5] Development Agreement -- Avondale |

Comparison Statistics

| Word Rendering Set Markup Options |                   |
|-----------------------------------|-------------------|
| Name                              | Standard          |
| <u>Insertions</u>                 |                   |
| <del>Deletions</del>              |                   |
| <u>Moves / Moves</u>              |                   |
| Inserted cells                    |                   |
| Deleted cells                     |                   |
| Merged cells                      |                   |
| Formatting                        | Color only.       |
| Changed lines                     | Mark left border. |
| Comments color                    | By Author.        |
| Balloons                          | False             |

| compareDocs Settings Used           | Category | Option Selected |
|-------------------------------------|----------|-----------------|
| Open Comparison Report after Saving | General  | Always          |
| Report Type                         | Word     | Formatting      |
| Character Level                     | Word     | False           |
| Include Headers / Footers           | Word     | True            |
| Include Footnotes / Endnotes        | Word     | True            |
| Include List Numbers                | Word     | True            |
| Include Tables                      | Word     | True            |
| Include Field Codes                 | Word     | True            |
| Include Moves                       | Word     | True            |
| Show Track Changes Toolbar          | Word     | False           |
| Show Reviewing Pane                 | Word     | False           |
| Update Automatic Links at Open      | Word     | False           |
| Summary Report                      | Word     | End             |
| Include Change Detail Report        | Word     | Separate        |
| Document View                       | Word     | Print           |
| Remove Personal Information         | Word     | False           |
| Flatten Field Codes                 | Word     | True            |