



Customer Service  
(803) 909-7200

Building & Codes Division  
(803) 909-7200

Planning Division  
(803) 909-7220

Zoning Division  
(803) 909-7230

Administration  
(803) 909-7240

MEMORANDUM

TO: York County Council  
York County Planning Commission

FROM: Audra Miller, Planning Director

RE: Proposed Revisions to the Initiation of Amendment and Planning Commission Report Codes

DATE: June 20, 2016

Per County Council request and direction, the Planning and Development Services Department (Department) has prepared the attached revisions to the Initiation of Amendment and Planning Commission Report code provisions, in conjunction with the revisions to the Traffic Impact Analysis (TIA). The County Council requested this Department to strengthen the TIA requirements, including making TIAs mandatory for all projects. As a result of revising the TIA ordinance, the Initiation of Amendment and Planning Commission Report requirements need to be revised as well.

The following is a tentative adoption schedule:

- June 20, 2016: Council First Reading
- July 11, 2016 Planning Commission Recommendation
- July 18, 2016: Council Second Reading with Public Hearing
- August 15, 2016: Council Third Reading

The following is a summary of draft recommendations created by Planning & Development Services. The attached proposed changes have been reviewed by the Office of County Attorney. **Staff recommends approval of the proposed draft ordinance changes.**

CHAPTER 155: Zoning Code

1. Definitions

- a. The definition of Site Plan has been amended to include proposed detention basins, existing and proposed easements, and existing and proposed water and sewer utility lines.

2. Initiation of Amendment

- a. A site plan and TIA has been added to the list of required amendment (rezoning) application items;
- b. The paragraph addressing the authority for the Planning and Development Services Department to require additional items for site plan approval has been moved from §155.572 to §155.571; and
- c. A provision that precludes an application for amendment (rezoning) from being presenting to the Planning Commission until the Department deems the application complete has been added.

3. *Planning Commission Report*

- a. A provision has been added requiring the Planning Commission to identify the reason(s) they did not adopt the Department's recommended traffic improvements as part of the Planning Commission's recommendation for a rezoning application.

Staff is recommending the proposed revisions take effect September 1, 2016. Staff is making this recommendation to allow this Department to update applications and the website, educate the public, Planning Commission, and staff on the new requirements, and align with the implementation of the TIA ordinance revisions.

Thank you for your attention to this matter and please contact me at [audra.miller@yorkcountygov.com](mailto:audra.miller@yorkcountygov.com) or 803-909-7173 with input or questions.

AN ORDINANCE

*TO AMEND THE CODE OF THE COUNTY OF YORK, SOUTH CAROLINA, CHAPTER 155, ENTITLED ZONING CODE, SECTIONS 155.009, DEFINITIONS; 155.571, INITIATION OF AMENDMENT, SUBSECTIONS (B), (C) AND (D); AND 155.572, PLANNING COMMISSION REPORT, SUBSECTION (B); IN ORDER TO AMEND THE DEFINITION OF SITE PLAN; REQUIRE A SITE PLAN AND TRAFFIC IMPACT ANALYSIS BE SUBMITTED FOR ALL APPLICATIONS FOR AMENDMENT (REZONING); TO PRECLUDE THE PLANNING COMMISSION FROM CONSIDERING APPLICATION FOR AMENDMENT (REZONING) UNTIL AN APPLICATION IS COMPLETE; TO ADD TRAFFIC IMPACT FACTORS AS A CONSIDERATION FOR THE PLANNING COMMISSION REPORT; TO PROVIDE FOR A PUBLIC HEARING; TO TAKE EFFECT SEPTEMBER 1, 2016; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.*

BE IT ORDAINED AND ENACTED BY THE COUNTY COUNCIL OF YORK COUNTY, SOUTH CAROLINA:

**SECTION 1. Legislative findings.**

As an incident to the adoption of this ordinance, the York County Council, as the governing body of York County, South Carolina, has made the following legislative findings:

1.1 Council is empowered to enact ordinances for the implementation and enforcement of powers granted to Council pursuant to Sections 4-9-30 (9), (14), and (17), S.C. Code Ann., as amended and to exercise such other powers as may be authorized for counties under Sections 6-29-710 et seq., S.C. Code Ann., as amended.

1.2 Council finds that this ordinance will:

(A) Ensure applicants for amendments to the zoning code (rezonings) fully identify potential impacts to the County's transportation network by requiring the submission of site plans and traffic impact analyses with all applications;

(B) Assist the Planning Commission in reviewing and making recommendations regarding applications for amendment to the zoning code (rezonings);

(C) Assist the County Council in reviewing and making decisions on applications for amendments to the zoning code (rezonings); and

(D) Promote the public health, safety, order, and general welfare.

**SECTION 2. Code of York County Amended.**

**GENERAL PROVISIONS**

## **Chapter 155, Section 155.009 DEFINITIONS**

**Chapter 155, Section 155.009, within the York County Code of Ordinances, is hereby amended by revising the definition of site plan to now read as follows:**

“**SITE PLAN.** A scale drawing showing the relationship between the lot lines and their uses, buildings or structures, existing or proposed on a lot, including such details as parking areas, access points, landscaped area, building areas, setbacks from lot lines, building heights, floor areas, densities, septic tank tile fields or existing and proposed water and sewer utility lines, utility lines ~~and currents~~, proposed detention basins, existing or proposed easements, or a special or particular use.”

## **AMENDMENTS**

### **Chapter 155, Section 155.571 INITIATION OF AMENDMENT**

**Chapter 155, Section 155.571, within the York County Code of Ordinances, is hereby amended to now read as follows:**

“ (A) Proposed changes or amendments to this chapter may be initiated by the York County Council, the York County Planning Commission or the property owner/agent (with notarized approval by the property owner) of the property proposed to be rezoned.

(B) Before an amendment application can be accepted by the zoning department, the following information is required, including, but not limited to:

(1) Original application (facsimile and copies are not acceptable);  
(2) Applicant’s and recorded property owner’s signature must be on the application, or an original notarized statement authorizing an agent to request the amendment on their behalf must be provided;

(3) Survey of the lot(s) of record (deeds will be accepted where a survey has not been performed);

(4) Required fee;

(5) Deed of the lot(s) of record-;

(6) A site plan, as defined in the definitions section of this Chapter; and

(7) Traffic Impact Analysis as identified in §154.037 of the York County Code.

(C) The Planning and Development Services Department may establish additional requirements for site plan approval, and in special cases, may waive a particular requirement, if,

in the Department's opinion, the inclusion of the requirement is not essential to the proper assessment of the project.

(D) The application for rezoning shall not be presented to the Planning Commission until the application is deemed complete by the Planning and Development Services Department. An application is not considered complete until the Department has reviewed and approved the traffic impact analysis.

(E) Under no condition will the fees or any part thereof be refunded for failure of the amendment to be adopted; provided, however, 100% of the fee will be returned if the request is withdrawn prior to the posting and advertisement of the public hearing or 50% of the fee will be returned if the proposal is withdrawn prior to the announced public hearing. The fee is required even in instances in which the amendment is initiated by the York County Council. The County Council must designate at the time of initiation the person(s) or agent(s) who will be responsible for paying the fee; if no person(s) or agent(s) is designated, the fee will not be required. When the County Council proposes an amendment which would change the zoning of a particular tract(s) or parcel(s) of land, then following the initiation of the amendment, the zoning department will notify the owner of the property by written notice by registered or certified mail, requiring a return receipt, deposited in the United States mail, properly stamped, certified and addressed to the owner of the property. The letter will be dated and mailed at least 21 days prior to the Council meeting at which the public hearing of the zoning amendment or change will be considered. If the addressee of any required notice under this section fails or refuses to accept or sign a return receipt for the notice, or the notice is returned undelivered, the notice may be served by regular mail, deposited in the United States mail, properly stamped, to the address used by the addressee for tax purposes, or the notice may be served in any manner permitted under Rule 4 of the South Carolina Rules of Civil Procedure, and an affidavit of the official required to give the notice, setting forth the time and manner of service of the notice, will be conclusive evidence of the giving of the notice under this section.

(F) Notice of the public hearing regarding any amendment will be advertised at least 15 days prior to the public hearing in a newspaper of general circulation in York County. Notice will be given by adequately posting the properties affected, with at least one notice being visible from each public thoroughfare that abuts the property, at least 15 days prior to the public hearing.

(G) Once notice is posted on the subject property or properties by county staff, the property owner or applicant is responsible for maintaining the sign(s) prior to the public hearing. If the sign or signs are removed, become damaged and unreadable, or not visible from each street(s)

that abuts the property once posted by county staff for the advertised public hearing date, the public hearing may be postponed upon motion and affirmative vote of the County Council to postpone, at which time the public hearing must be re-advertised.

(H) *Written Notification policy.* The Planning and Development Services Department shall maintain written notification policy that may be amended from time to time. This policy may include additional notice requirements that exceed minimum South Carolina statutory requirements.

(I) All notice provisions require substantial compliance.”

### **Chapter 155, Section 155.572 PLANNING COMMISSION REPORT**

**Chapter 155, Section 155.572 within the York County Code of Ordinances, is hereby amended to now read as follows:**

“ (A) The Planning Commission will prepare a report and make recommendations on any proposed amendment, stating its findings and its evaluation of the request.

(B) In making its report, the Commission will consider the following factors:

(1) The relationship of the request to the Official Land Use and Development Plan;

(2) Whether the request violates or supports the plan;

(3) Whether the uses permitted by the proposed change would be appropriate in the area concerned;

(4) Whether adequate public school facilities, ~~roads~~ and other public services exist or can be provided to serve the needs of the development likely to take place as a result of the change, and the consequence of the change;

(5) Staff recommendations regarding mitigation for traffic impacts caused by the development. If the Commission does not adopt the staff recommendations, the Commission shall identify the reasons why the Commission rejected staff’s recommendations;

~~(56)~~ Whether the proposed change is in accord with any existing or proposed plans for providing a public water supply and sanitary sewer to the area; and,

~~(67)~~ The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the county and any special circumstances which may make a substantial part of the vacant land unavailable for development.

~~(7) The zoning department may establish additional requirements for site plan approval, and in special cases, may waive a particular requirement if, in the department's opinion, the inclusion of that requirement is not essential to a proper assessment of the project."~~

**SECTION 3. Public Hearing Required.**

The York County Council shall conduct a public hearing after publishing a notice of the date, time and place of such hearing at least fifteen (15) days in advance of such hearing before final legislative action is taken for the adoption of this ordinance. Additionally, the York County Council hereby invokes the Pending Ordinance Doctrine, which shall apply to this ordinance after publication of the public hearing notice.

**SECTION 4. Severability.**

The provisions of this ordinance are hereby declared to be severable, and if any provision or section of this ordinance is declared to be unconstitutional or unenforceable by the final order of a court of competent jurisdiction, such declaration shall not affect the constitutionality, legality, or enforceability of any other section or provision of this ordinance, which shall be deemed severable, valid, enforceable, and effective.

**SECTION 5. Repeal of inconsistent sections and ordinances.**

All sections of the York County Code of Ordinances and all York County ordinances in conflict with this ordinance are hereby amended to the extent of such conflict.

**SECTION 6. Effective date.**

This ordinance shall take effect September 1, 2016.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2016.

YORK COUNTY COUNCIL

By: \_\_\_\_\_  
J. Britt Blackwell, O.D., Chairman  
York County Council

Attest: \_\_\_\_\_  
William P. Shanahan, Jr.  
County Manager

1<sup>st</sup> Reading: \_\_\_\_\_

2<sup>nd</sup> Reading: \_\_\_\_\_

Public Hearing: \_\_\_\_\_

3<sup>rd</sup> Reading: \_\_\_\_\_

DRAFT



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**MEMORANDUM**

**To: York County Council  
Mr. William Shanahan, County Manager**

**From: Ms. Audra Miller, Planning Director**

**CC: Mr. Steve Allen, Planning Manager  
Mr. Eddie Moore, Development Services Director**

**Re: Planning Commission vote and recommendations – TIA Revisions**

**Date: July 12, 2016**

The Planning and Development Services Department (Department) presented the proposed TIA, Subdivision, and Zoning Code Ordinance Revisions (Revisions) to the Planning Commission at their July 11, 2016, meeting for review and recommendation(s). Planning Commission members present were: Walter Heinsohn, Bill Hargrove, William Hopper, Tommy Robbins, Larry Barnett, Carmen Miller, and James Darby. The following summarizes the Planning Commission’s vote and recommendations, if any.

**TIA Revisions (Chapter 154: Definitions (§154.004) and Streets (§154.037))**

Approved as presented: 7-0

**Zoning Code Revisions (Chapter 155: Definitions (§155.009), Initiation of Amendment (§155.571), and Planning Commission Report (§155.572))**

Approved with the following recommendations: 7/0

- Provide a review time for staff of 20 days on TIAs;
- Clarify 155.572 (A)(5) to note the staff recommendations are based on the recommendations contained in the TIA, which is prepared by a qualified traffic/transportation engineer.

**Subdivision Code Revisions (Chapter 154: Plat Approval Process (§154.029) and Preliminary Plat Application and Supporting Data (Requirements))**

There was discussion regarding the following topics:

- Modifying 154.029(D) to remove the “shall not approve” to “consider a preliminary plat”
- Removing 154.029(D)(5) as connectivity is an arbitrary requirement

The discussion topics were not included in the motion to recommend approval, and the PC recommended 6/1 (Hargrove) to recommend approval as presented by staff.