



MEMORANDUM

TO: York County Council
York County Planning Commission

FROM: Eddie Moore, Development Services Manager *EM*

RE: **PROPOSED CHANGES TO ABANDONED CEMETERIES OVERLAY AND INFORMATION
REQUIRED ON COMMERCIAL SITE PLANS, PRELIMINARY PLATS, AND FINAL PLATS**

DATE: May 9, 2016

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

Planning & Development Services has been working to improve the County’s ordinances and appreciates your assistance as we work through these important items. We will be continuing to identify items to be addressed in the County’s ordinances and listening to feedback from elected and appointed officials, members of the development community, residents, and other stakeholders to continue to improve the County’s ordinances to better address the needs of the public.

Councilmember Henderson requested staff review the Abandoned Cemeteries Overlay ordinance and present revisions to strengthen this section. The proposed revisions are in response to this request.

The requirement to include conditions of rezonings, variances, or special exceptions on site plans, preliminary plats, and final plats is being proposed by staff in order to better track and enforce conditions and provide notice to purchasers of property of conditions that may potentially impact their development plans.

The following is a tentative adoption schedule:

- May 9, 2016: Planning Commission Recommendation
- May 16, 2016: Council First Reading
- June 6, 2016: Council Second Reading with Public Hearing
- June 20, 2016: Council Third Reading

During the April 14, 2016, Quarterly Development Community Workshop, staff presented the proposed changes, and there were no major concerns and responses raised during the workshop.

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 and York County Culture and Heritage staff. Staff recommends approval of the proposed draft ordinance changes.

CHAPTER 155: ZONING CODE

1. *Abandoned Cemeteries Overlay:*
 - a. With assistance from the York County Culture and Heritage staff, the Purpose and Administration sections of the Overlay were revised for clarification purposes.

2. *Information required on commercial site plans (abandoned cemeteries):*
 - a. The location of any known abandoned cemeteries and adequate public pedestrian access will need to be provided on commercial site plans.
 - b. A minimum 10-foot undisturbed buffer from the perimeter of any known abandoned cemeteries is required.
 - c. If any known abandoned cemeteries do not exist on property proposed to be developed, a note is required on the commercial site plan. The developer or property owner must confirm this through a title search of the property and a review of the historic survey of York County maintained by the York County Culture and Heritage staff.
3. *Information required on commercial site plans (approved rezonings, variances, or special exceptions):*
 - a. As applicable, the rezoning case number, approved zoning district, and conditions of rezoning, shall be noted on commercial site plans. Additionally if a variance or special exception has been granted, commercial site plans shall include a reference noting the variance or special exception granted, including conditions, if any.

CHAPTER 154: SUBDIVISION CODE

1. *Supporting data for preliminary and final plats of subdivision:*
 - a. The location of any known abandoned cemeteries and adequate public pedestrian access will need to be provided on preliminary and final plats of subdivision.
 - b. A minimum 10-foot undisturbed buffer from the perimeter of any known abandoned cemeteries is required.
 - c. If any known abandoned cemeteries do not exist on property proposed to be developed, a note is required on preliminary and final plats of subdivisions. The developer or property owner must confirm this through a title search of the property and a review of the historic survey of York County maintained by the York County Culture and Heritage staff.
2. *Information required on preliminary and final plats of subdivision (approved rezonings, variances, or special exceptions):*
 - a. As applicable, the rezoning case number, approved zoning district, and conditions of rezoning, shall be noted on preliminary and final plats of subdivisions. Additionally if a variance or special exception has been granted, preliminary and final plats of subdivisions shall include a reference noting the variance or special exception granted, including conditions, if any.

Thank you for your attention to this matter and please contact me at eddie.moore@yorkcountygov.com or 803-909-7234 with input or questions.

AN ORDINANCE

TO AMEND THE CODE OF THE COUNTY OF YORK, SOUTH CAROLINA, CHAPTER 154, ENTITLED SUBDIVISION CODE, SECTION 154.030, PRELIMINARY PLAT APPLICATION AND SUPPORTING DATA (REQUIREMENTS), SUBSECTIONS (B)(2)(L), (B)(2)(M), AND (B)(5)(H); SECTION 154.035 FINAL PLAT APPLICATION AND SUPPORTING DATA (REQUIREMENTS), SUBSECTIONS (B)(13) AND (B)(23); CHAPTER 155, ENTITLED ZONING CODE, SECTION 155.255, ABANDONED CEMETERIES OVERLAY, PURPOSE; SECTION 155.256(B), ABANDONED CEMETERIES OVERLAY, ADMINISTRATION; SECTION 155.594, APPLICATION FOR ZONING COMPLIANCE, SUBSECTIONS (B)(45), (B)(46), AND (B)(47); IN ORDER TO REQUIRE VERIFICATION DURING THE REVIEW AND APPROVAL PROCESS OF PRELIMINARY PLATS OF SUBDIVISION, FINAL PLATS OF SUBDIVISION, AND COMMERCIAL SITE PLANS THAT A PROPERTY DOES NOT CONTAIN ABANDONED CEMETERIES ON THE OFFICIAL LIST DEVELOPED BY THE YORK COUNTY CULTURAL AND HERITAGE COMMISSION THROUGH THE HISTORIC SURVEY OF YORK COUNTY; ESTABLISH A MINIMUM TEN (10) FOOT UNDISTURBED BUFFER AROUND THE PERIMETER OF ANY KNOWN ABANDONED CEMETERIES AS PART OF PRELIMINARY PLATS OF SUBDIVISION, FINAL PLATS OF SUBDIVISION, AND COMMERCIAL SITE PLANS REVIEW AND APPROVAL; REQUIRE PUBLIC PEDESTRIAN ACCESS TO KNOWN ABANDONED CEMETERIES; AMEND THE REQUIREMENTS FOR THE KEEPING OF THE OFFICIAL LIST OF ABANDONED CEMETERIES; PROVIDE CASE NUMBERS AND CONDITIONS OF APPROVAL OF REZONINGS, SPECIAL EXCEPTIONS, AND VARIANCES ON PRELIMINARY PLATS OF SUBDIVISION, FINAL PLATS OF SUBDIVISION, AND COMMERCIAL SITE PLANS; TO PROVIDE FOR A PUBLIC HEARING; 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) 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. and 6-29-1110 et seq., S.C. Code Ann., as amended.

1.2 Council finds that this ordinance will:

(A) Ensure that the York County Cultural and Heritage Commission staff will be contacted as part of preliminary subdivision plat, final subdivision plat, and commercial site plan

review and approval processes to identify any known abandoned cemeteries through the historic survey of York County;

(B) Clarify the York County Cultural and Heritage Commission is not responsible to maintain abandoned cemeteries;

(C) Amend the requirements for preliminary and final plats and commercial site plans by:

(i.) Establishing a minimum ten (10) foot undisturbed buffer from the perimeter of any known abandoned cemeteries and public pedestrian access as part of preliminary subdivision plat, final subdivision plat, and commercial site plan review and approval processes

(ii) Providing case numbers and conditions of approval of rezonings, special exceptions, and variances on preliminary plats, final plats, and commercial site plans; and

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

SECTION 2. Code of York County Amended.

SUBDIVISION CODE

PLAT APPROVAL PROCESS

Chapter 154, Section 154.030 PRELIMINARY PLAT APPLICATION AND SUPPORTING DATA (REQUIREMENTS).

Chapter 154, Section 154.030(B)(2)(l) within the York County Code of Ordinances is hereby added to read as follows:

“ (l) Location of any known abandoned cemeteries as defined in Section 155.256(A). Adequate and unobstructed public access (pedestrian) will be provided to these areas and access will be shown on the preliminary plat. A minimum ten (10) foot undisturbed buffer from the perimeter of any known abandoned cemeteries is required. If abandoned cemeteries do not exist on the property, provide the following statement: “The developer or property owner has confirmed through a title search and a review of the historic survey of York County maintained by the York County Cultural and Heritage Commission staff that no known abandoned cemeteries exist on the property.””

Chapter 154, Section 154.030(B)(2)(m) within the York County Code of Ordinances is hereby added to read as follows:

“ (m) As applicable, the rezoning case number, approved zoning district, and conditions of rezoning, shall be noted on the preliminary plat. Additionally if a variance or special exception

has been granted, the preliminary plat shall include a reference noting the variance or special exception granted, including conditions, if any.”

Chapter 154, Section 154.030(B)(5)(h) within the York County Code of Ordinances is hereby added to read as follows:

“ (h) If no known abandoned cemeteries, as defined in Section 155.256(A) exist on the property, provide the following statement: “The developer or property owner has confirmed through a title search and a review of the historic survey of York County maintained by the York County Cultural and Heritage Commission staff that no known abandoned cemeteries exist on the property.””

Chapter 154, Section 154.035 FINAL PLAT APPLICATION AND SUPPORTING DATA (REQUIREMENTS).

Chapter 154, Section 154.035(B)(13) within the York County Code of Ordinances is hereby amended to now read as follows:

“ (13) ~~Burial sites;~~ Location of any known abandoned cemeteries as defined in Section 155.256(A). Adequate and unobstructed public access (pedestrian) will be provided to these areas and access will be shown on the final plat. A minimum ten (10) foot undisturbed buffer from the perimeter of any known abandoned cemeteries is required. If abandoned cemeteries do not exist on the property, provide the following statement: “The developer or property owner has confirmed through a title search and a review of the historic survey of York County maintained by the York County Cultural and Heritage Commission staff that no known abandoned cemeteries exist on the property.””

Chapter 154, Section 154.035(B)(23) within the York County Code of Ordinances is hereby added to read as follows:

“ (23) As applicable, the rezoning case number, approved zoning district, and conditions of rezoning, shall be noted on the final plat. Additionally if a variance or special exception has been granted, the final plat shall include a reference noting the variance or special exception granted, including conditions, if any.”

ZONING CODE

ABANDONED CEMETERIES OVERLAY

Chapter 155, Section 255 PURPOSE.

Chapter 155, Section 155.255 within the York County Code of Ordinances is hereby amended to now read as follows:

“ The regulations set forth in this section are to ~~maintain and~~ protect all abandoned cemeteries in York County. that have been identified by tThe York County Cultural and Heritage Commission maintains an official inventory of all known abandoned cemeteries in York County and may update the inventory from time to time based on information or data provided to the Commission~~to be artistically and historically significant to the history of York County.~~”

Chapter 155, Section 256 ADMINISTRATION.

Chapter 155, Section 155.256(B) within the York County Code of Ordinances is hereby amended to now read as follows:

“ (A) Abandoned cemeteries will consist of the area formally used (having had no recorded burial within the cemetery for a period of 20 years) for the burial of the deceased, including head stones, cemetery fencing, cemetery walls and cemetery stones. An abandoned cemetery may include historical markers, statuaries, significant trees, artistic carvings and other features identified through the historic survey of York County.

(B) The official list, map and field survey of known abandoned cemeteries will be housed with and maintained by the York County Cultural and Heritage Commission. ~~A copy will be housed in the planning and development services department.~~ The official list and map may be modified from time to time by official action of the Cultural and Heritage Commission.”

ADMINISTRATION

Chapter 155, Section 155.594(B) APPLICATION FOR ZONING COMPLIANCE.

Chapter 155, Sections 155.594(B)(45) is moved to (47), and new Sections 155.594(B)(45) and (46) are added. Sections 155.594(B)(45), (46), and (47) within the York County Code of Ordinances now read as follows:

“ (45) Location of any known abandoned cemeteries as defined in Section 155.256(A). Adequate and unobstructed public access (pedestrian) will be provided to these areas and indicated on the commercial site plan. A minimum ten (10) foot undisturbed buffer from the perimeter of any known abandoned cemeteries is required. If abandoned cemeteries do not exist on the property, provide the following statement: “The developer or property owner has confirmed through a title search and a review of the historic survey of York County maintained by the York County Cultural and Heritage Commission staff that no known abandoned cemeteries exist on the property;

(46) As applicable, the rezoning case number, approved zoning district, and conditions of rezoning, shall be noted on the commercial site plan. Additionally if a variance or special exception has been granted, the commercial site plan shall include a reference noting the variance or special exception granted, including conditions, if any;

(4547) The zoning department may establish additional requirements, including the submission of legal affidavits stating an applicant’s and/or property owner’s intent to comply with applicable codes, for site plan approval, and in special cases, may waive a particular requirement if, in its 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.

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 immediately upon adoption.

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

1st Reading: _____

2nd Reading: _____

Public Hearing: _____

3rd Reading: _____