

ORDINANCE NO. 2023-06

TOWN OF BLUFFTON, SOUTH CAROLINA

AN ORDINANCE AMENDING THE TOWN OF BLUFFTON'S MUNICIPAL CODE OF ORDINANCES, CHAPTER 6, BUSINESSES AND BUSINESS REGULATIONS OF THE CODE OF ORDINANCES OF THE TOWN OF BLUFFTON, SOUTH CAROLINA, BY AUTHORIZING, ESTABLISHING, AND ADDING ARTICLE VI. THE ECONOMIC DEVELOPMENT INCENTIVES PROGRAM

WHEREAS, the Town of Bluffton desires to encourage private investment in the incentive areas of the Town of Bluffton; and,

WHEREAS, the Town is duly empowered to enact ordinances, not inconsistent with the laws or Constitution of the State of South Carolina, 1895, as amended, exercising its powers related to the expenditure of public funds for public purposes and those other powers incident to, and necessary for the accomplishment of, the Town's express authorization to levy certain taxes and fees; and,

WHEREAS, through the adoption of the Town's 2022 Comprehensive Plan and 2022-24 Strategic Plan (the "Plans"), the Council established as a matter of policy the need to cultivate a strong local economy through five key objectives. These objectives include working to, spur local entrepreneurship and innovation, attract new businesses and employers to Bluffton, diversify the Town's tax base, improve workforce development to attract and retain employees and continue to promote tourism and hospitality; and,

WHEREAS, through the adoption of the Comprehensive Plan the Council has identified place types including Town Center nodes and Village nodes throughout Town. Supporting the targeted nodes the Town identified critical corridors and the properties that would have direct connections to these corridors, including Bluffton Parkway west of Bluffton Road, Buckwalter Parkway north of Bluffton Parkway, and South Carolina Highway 170 between South Carolina Highway 46 and U.S. Route 278, the "Incentive Area" as shown in Exhibit A; and,

WHEREAS, Town Council has determined that the "Incentive Area" are areas of focus that indicate where redevelopment and infill development would be beneficial to the Town at large; and

WHEREAS, the Council has determined, and reaffirms the determination, that the development of the Incentive Area would bring about positive economic, social, and cultural impacts within the Town, and greatly enhance the quality of life of the Town's citizens; and,

WHEREAS, the Council has further determined in the Plans that the Town should offer certain incentives (as further defined herein the ("Incentives")) to encourage private investment and recruit both small businesses and new employers to the Incentive Areas; and,

WHEREAS, the Incentives to be offered by the Town, the types of businesses to which the Incentives are offered, and the manner in which they are offered are calculated to accomplish the following Goals (the "Goals"):

- (i) To promote the redevelopment of existing buildings and infill development within the Incentive Areas;
- (ii) To support the establishment of the categories of new businesses that the Council determines will significantly increase the overall commercial activity within the Town, provide the Town's residents with sufficient options within the Town rather than having to travel elsewhere; encourage tourists and those who reside in surrounding communities to make use of businesses within the Town; and increase property values within the Town as a whole; and
- (iii) To develop the Incentive Areas into commercial spaces that match the Town's sense of place and contributes to the Council's overall priorities established within our Comprehensive and Strategic Plans; and
- (iv) To support the development of affordable housing to encourage relocation of professionals working in one of the professions supported by the incentivized developments; and,

WHEREAS, while the Incentives may benefit the Incentive Recipients (as defined herein), the primary beneficiary of the Incentives will be the Town and its citizens who shall realize the following benefits (the "Benefits"):

- (i) Increased property values within the Incentive Areas and the Town as a whole;
- (ii) Increased revenue from property taxes, business license fees, and permit fees;
- (iii) Increased tourism and commercial activity within the Town as a whole; and
- (iv) Meeting needs of the community residents by encouraging growth within targeted sectors to provide adequate services to Town residents; and
- (v) Assist in providing access to a variety of affordable housing options; and,

WHEREAS, the Incentives, as provided for in an Incentive Agreement (as defined herein), shall be structured in such a way that the value of the Benefits to the Town will exceed the value to the Incentive Recipients; and,

WHEREAS, the financial benefit of the Incentives to the Incentive Recipients will only be realized at such time as certain Benchmarks (as defined herein) are met or continue to be met. Should all the Benchmarks be accomplished, the Town believes that there is a high probability that the Benefits will be realized by the Town and that the value of the Benefits will exceed the value public funds expended on the Incentives.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BLUFFTON, SOUTH CAROLINA, in accordance with the foregoing, the Town hereby amends the Code of Ordinances for the Town of Bluffton as follows:

Section 1. AMENDMENT The Town of Bluffton hereby amends the Code of Ordinances for the Town of Bluffton, South Carolina, by adopting and incorporating amendments by creating Article VI within Chapter 6 - Businesses and Business Regulations, for the purposes discussed above and included in Exhibit 1, titled "Economic Development Incentive Program."

Section 3. If any section, subsection, sentence, clause or phrase of the Economic Development Incentive Program or this Ordinance is, for any reason, held or determined to be invalid, such decision shall not affect the validity of the remaining portions of the Economic Development Incentive Program and/or this Ordinance.

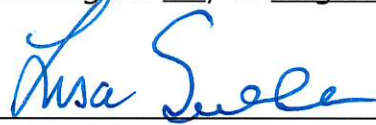
Section 4. Nothing in this Ordinance or in the Economic Development Incentive Program hereby enacted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause of causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 5. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this ordinance are hereby repealed to the extent of the conflict or inconsistency.

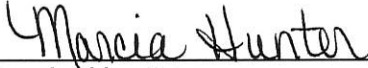
Section 6. ORDINANCE IN FULL FORCE AND EFFECT. This entire Ordinance shall take full force and effect upon adoption.

DONE, RATIFIED AND ENACTED this 12th, of September 2023.

This Ordinance was read and passed at first reading on 8th, of August 2023.

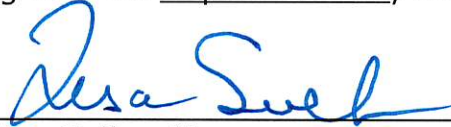


Lisa Sulka, Mayor
Town of Bluffton, South Carolina

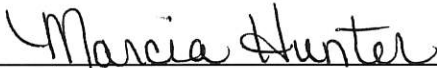


Marcia Hunter
Town Clerk, Town of Bluffton, South Carolina

This Ordinance was passed at second reading held on September 12, 2023.



Lisa Sulka, Mayor
Town of Bluffton, South Carolina



Marcia Hunter
Town Clerk, Town of Bluffton, South Carolina



Exhibit 1

Article VI. Economic Development Incentive Program

Sec. 6-140 - Title.

This article shall be titled "Economic Development Incentive Program."

Sec. 6-141 - Findings.

Subject to the realization of certain Benefits (as defined in Section 142), the Economic Development Incentive Program is enacted by the Council to meet its Goals (as defined in Section 142).

Sec. 6-142 - Definitions.

As used in this Article, unless the context shall otherwise require, the following terms shall have the following respective meanings:

Benefits means the value to the Town of providing the Incentives, which generally includes:

- (i) increased property values within the Incentive Area and the Town as a whole;
- (ii) increased revenue from property taxes, business license fees, and permit fees;
- (iii) increased tourism and commercial activity within the Town as a whole; and
- (iv) the improvement of the character of the Town by rehabilitating existing buildings and promoting the construction of infill development; and
- (v) meeting the needs of the community residents by encouraging growth within specific sectors to provide adequate services to Town residents.

Development shall mean the activity of improving a real property to the extent of adding value to the tax base through real property improvements, and the creation of employment opportunities.

Goals shall mean the objectives of the Town in offering the Incentives, which are as follows:

- (i) to promote the redevelopment of existing buildings and infill development within the Incentive Area;
- (ii) to support the establishment of the categories of new businesses that the Council determines will significantly increase the overall commercial activity within the Town, provide the Town's residents with restaurant and retail options within the Town rather than having to travel elsewhere; encourage tourists and those who reside in surrounding communities to make use of businesses within the Town; and increase property values within the Town as a whole; and
- (iii) meeting needs of the community residents by encouraging growth within specific sectors to provide adequate services to Town residents.

Incentive shall mean a grant of any inducement having monetary value by the Town that is offered to a person, firm, or corporation to pursue a Development that encourages private investment and/or the creation/retention of Jobs. The Incentive may also include grants from other entities that the Town may be able to obtain.

Incentive Areas shall mean the particular areas in which the Council has determined that the revitalization and redevelopment thereof is essential to preserving and improving the economy, society and culture of the Town and enhancing the quality of life of the citizens thereof. The Incentive Areas shall include the highlighted areas and corridors, and properties having direct access as indicated on the map

submitted along with this Ordinance as Exhibit A, and other areas that may be defined by Town Council at a later date.

Incentive Recipient shall mean the private parties receiving the incentives from the Town.

Job shall mean each new

- (i) full-time position or
- (ii) each full-time equivalent position that is created as a direct result of the ongoing operation of a Development. For the purposes of calculating the number of Jobs created by a Development, only those employed at businesses directly associated with the Development at positions permanently located within the Incentive Area shall be considered.

Sec. 143 - Authorization.

(a) *Authorization to Grant Incentives.* The Council, at its discretion and on a case-by-case basis, but subject to the general eligibility criteria provided for in Section 145 herein, may enter into an Incentive Agreement (as defined herein) and to the extent permitted by law with a person, firm, or corporation providing for Incentives in order to encourage and support the development of real property within the Incentive Area.

(b) *Incentive Agreements.* Incentives shall only be provided to an Incentive Recipient after an Incentive Agreement has been entered into between the Town and such person, firm or corporation, which agreement shall set forth:

- (i) the particulars of the Development;
- (ii) the Incentives to be provided; and
- (iii) sufficient assurances that the Benefits will accrue to the Town and the Goals will be met by the Development (an "Incentive Agreement"). Pending the approval by the Council of any Incentive Agreement, and subject to the provisions of in Section 146 herein, the Town Manager of the Town is authorized to discuss the provisions of this Economic Development Incentive Program, aid in the completion of any Proposal (as defined herein) and, subject to the final approval by the Council, negotiate with the potential Incentive Recipient on behalf of the Town. Each Incentive Agreement shall be approved by Council by ordinance. Council is authorized to provide incentives in any amounts and for any period of time within the thresholds provided for herein or within the time periods and thresholds provided for in any applicable statutory authorization.

Sec. 144 - Authorized Incentives.

(a) *Multiple Incentives.* The Council may provide to an Incentive Recipient any combination of Incentives provided for herein; provided, however, that the total amount of Incentives given to a Development must be in keeping with the Goals, and the value of the Benefits accruing to the Town (and its citizens) must be greater than the financial value of the Incentives to an Incentive Recipient.

(b) *Incentives of the Town.* All direct Incentives of the Town shall be granted in the form of a grant calculated based on reimbursements and refunds of fees and taxes that have been duly paid to the Town. No upfront abatements of fees or taxes shall be permitted. Where Incentives continue for a period of more than one year, such Incentives may be graduated to increase or decrease year-to-year as the Council sees fit, but subject to monitoring by the Town to ensure compliance with the terms of any Incentive Agreement. The Council may, at its discretion and on a case-by-case basis, enter into an Incentive Agreement to reimburse or give a refund to any person, firm or corporation in form of a grant the following fees and taxes up to the amounts and percentages provided for herein:

- (2) Up to 50 percent of the Town's planning, building permit fees, and other review fees collected by the Town;
- (3) Up to 50 percent of the business license fees collected by the Town for as many as five years;
- (4) Up to 100 percent of BJWSA's capacity fees; pending funds being available through the Town's water and sewer credits;
- (5) Affordable housing projects may qualify for fee waivers as outlined in the Town's adopted Fee Schedule; and
- (6) Such other Incentives that the Council, at its discretion on a case-by-case basis, determines are appropriate given the amount or type of investment made by the Incentive Recipient in the investment area.

(c) *State incentive programs.* The state programs that may be considered by Council to be included within any package of Incentives or as a stand-alone set of Incentives for in-town projects located outside of the development area, include the following:

- (1) Property tax credits authorized by the provisions of the South Carolina Abandoned Buildings Revitalization Act, codified at S.C. Code Ann. §§ 12-67-100 et seq. (collectively, the "Abandoned Building Act"). Incentive Recipients requesting consideration of the Abandoned Building Act by Council shall submit an Abandoned Building Act Application in a form to be provided by the Town.
- (2) The South Carolina real property tax credit for the installation of a fire sprinkler system, codified at S.C. Code Ann. § 12-6-3622.

Sec. 6-145 - Eligibility criteria.

(a) *Incentive Area eligibility criteria.* Except for those Incentives discussed in Section 6-144(c) above as authorized by the State and which are intended by the terms of this Economic Development Incentive Program to be applied Town-wide, in order for a Development to be eligible to receive Incentives, the Council must determine that the Development meets, or upon completion will meet, each of the following criteria:

- (1) The Development is consistent with the Town of Bluffton Comprehensive Plan (as may be amended) and the Town of Bluffton Strategic Plan (as may be amended) (together, the "Plans") as well as the Goals.
- (2) Absent the provision of Incentives, the Development would be unlikely to occur or unlikely to occur at the level or scale contemplated by the developer.
- (3) The Development must be located within the Incentive Area, as defined in Section 6-142 and shown on Exhibit A.

(4) The Development must have a minimum threshold investment of \$500,000 (as applicable to the Incentive Area, the "Minimum Investment"). The Minimum Investment may be comprised of any combination of

- (i) real property acquisition costs,
- (ii) the costs of physical improvements to real property, or
- (iii) the costs of capital improvements to Town infrastructure.

The Minimum Investment may be calculated based upon investment in a single property or the cumulative investment in multiple properties, each within the Incentive Area. Where multiple uses or businesses are to be located within a single Development as separate businesses, the Council may, at its discretion on a case-by-case basis, allocate appropriate portions of the total investment in the development to such separate business in order to allow such business to meet the Minimum Investment eligibility requirement. In order to meet the threshold for the Minimum Investment, a Development may be given a credit towards the Minimum Investment of \$50,000.00 for each Job (as defined herein) that will be created by the Development.

(5) The intended use of the Development must be for one or more of the following business purposes:

- (i) healthcare, dental, home health, pharmaceutical retail, and similar ancillary uses;
- (ii) child care services;
- (iii) affordable housing developments (separately or part of a larger project);
- (iv) mixed use commercial and similar flex-use space;
- (v) corporate headquarters; and
- (vi) other uses, as may be determined by the Council, that are consistent with the Goals, and the Plans.

(b) *Specific criteria.* The Council may, at its discretion and on a case-by-case basis, include within Incentive Agreement any other eligibility criteria that must be met upon completion of a Development in order to ensure that the Goals are met, and that the Development provides Benefits to the Town (and its citizens) in amounts that warrant the implementation of incentives.

Sec. 6-146 - Administration and terms of delivery.

(a) *Application for Incentives.* Except where an applicant seeks only Incentives authorized by the state Incentive programs listed in 6-Section 144(c), in order to be eligible for Incentives, a person, firm or corporation must submit to the Town Manager a proposed set of Incentives for a Development (a "Proposal"), in a format approved by the Town. The Proposal must include a sufficient description of the Development, to include, without limitation, the following information:

- (i) identification of the property or properties on which the Development is to be located and any acquisition costs thereof;
- (ii) the estimated start date and completion date for any work to be performed with respect to the Development;
- (iii) a list of any physical improvements that are to be made with respect to the Development, including a good-faith estimate of the costs thereof;
- (iv) the then-current value of the property on which the Development is to be located and a good-faith estimate of the value of the property upon completion of the improvements thereto;
- (v) a good-faith estimate of the number of Jobs that the Development is projected to create, including an estimate of the date upon which the estimated number of Jobs will have been created;

- (vi) a statement affirming that, based upon any acquisition costs for the on which the Development is to be located, along with good-faith estimates for the costs of physical improvements and the number of Jobs created, the Development will meet or exceed the Minimum Investment;
- (vii) a good-faith estimate of other revenue for the Town that will be created as a direct result of the Development, including anticipated business license fees, additional property tax revenue, capital improvements to Town-owned infrastructure and utilities revenue; and
- (viii) any other additional information that the Incentive Recipient or the Town Manager deems may be necessary and, helpful for the Council to evaluate and give due consideration to the Proposal.

(b) *Determination of Incentive amounts.* The amount of Incentives granted to a Development shall be based upon the amount of the capital investment in the Development, the amount of new revenue for the Town directly created by the Development and the number of new Jobs that will be directly created by the Development. The amount of Incentives granted to a Development shall in no case exceed the value of the direct and indirect Benefits of the Development to the Town. These amounts shall be expressly included within any Incentive Agreement.

(c) *Certification, commencement and continuation of Incentives.*

(1) No Incentive shall commence or be given until such time as the Development has been issued a certificate of occupancy and/or a business license as well as a certificate that all terms and Benchmarks included within the applicable Incentive Agreement, including without limitation Benchmarks for capital investment, property valuation, and Job creation (the "Benchmarks"), have been fully achieved or otherwise completed.

(2) Where Benchmarks, such as the number of Jobs created, are to be met continuously over a period of time, the Incentive Recipient shall provide to the Town, on an annual basis, sufficient proof that the Development has continuously achieved or otherwise complied with such Benchmarks.

(3) If, at any time after completion of a Development or at any time within the period of time during which a Development is granted Incentives, a Development fails to achieve or otherwise comply with a Benchmark, the Council may, at its discretion and on a case-by-case basis:

- (i) declare the Incentive Agreement null and void and refuse to grant any future Incentives; or
- (ii) decrease the amount of Incentives based upon the actual direct and indirect Benefits of the Development to the Town and its citizens.

Sec. 6-147 - Administration of Incentives and Incentive Agreements.

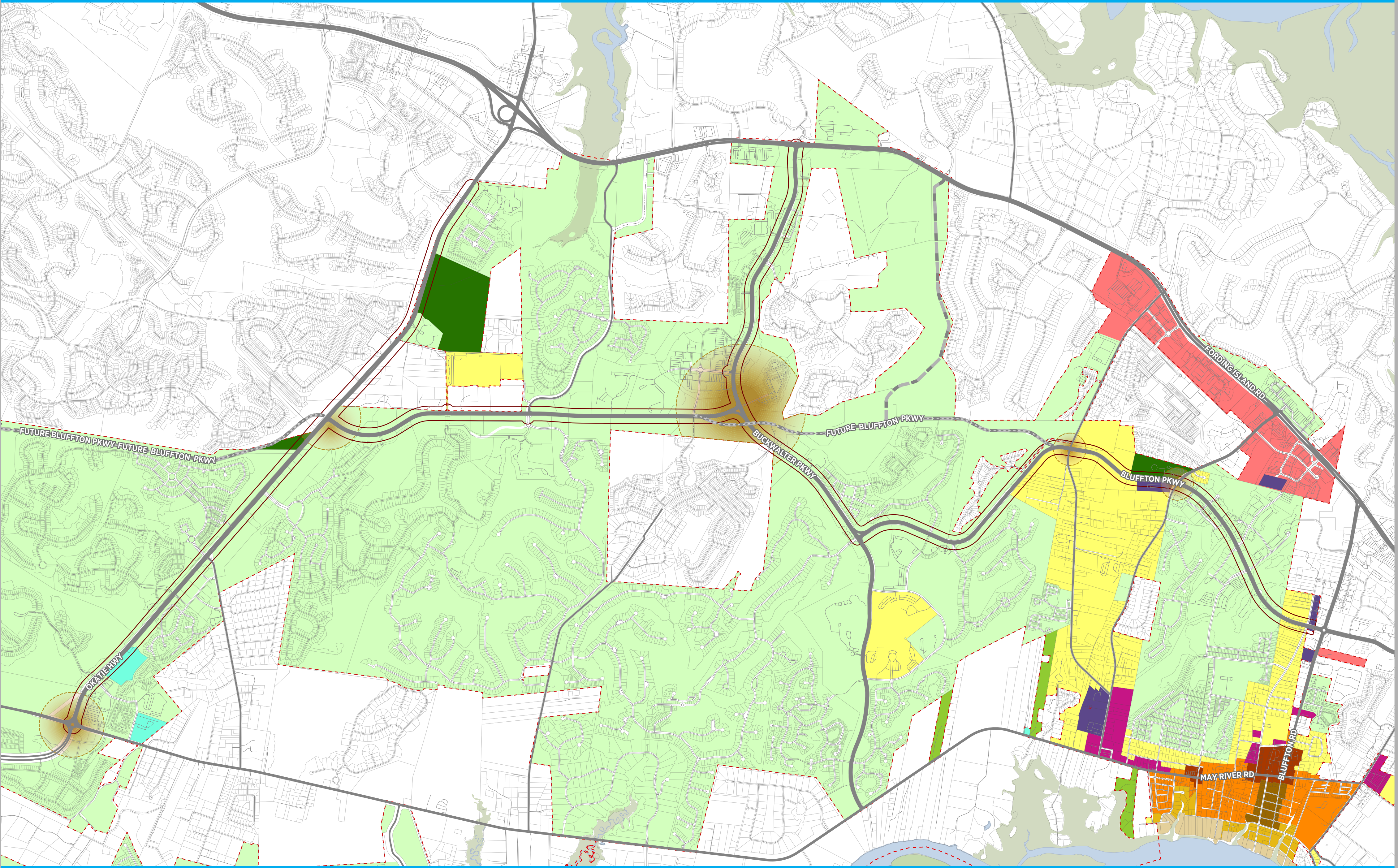
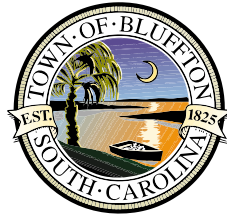
(a) The administration of the application process, specifically including the drafting of any Proposal, and continuous monitoring of Developments pursuant to applicable Incentive Agreements shall be the responsibility of the Town Manager and any person designated to oversee such process by the Town Manager.

Sec. 6-148 – 6-159 – Reserved.

EXHIBIT A

Incentive Area Map

Economic Development Incentive Areas



Legend

Incentive Areas

Town of Bluffton Limits

Zoning

AGRICULTURE

GENERAL MIXED USE

LIGHT INDUSTRIAL

NEIGHBORHOOD CENTER-HD

NEIGHBORHOOD CONSERVATION-HD

NEIGHBORHOOD CORE

NEIGHBORHOOD CORE-HD

NEIGHBORHOOD GENERAL-HD

PLANNED UNIT DEVELOPMENT

PRESERVE

RESIDENTIAL GENERAL

RIVERFRONT EDGE-HD

RURAL MIXED USE

0 0.5 1 1.5 2 Miles

Updated: 9/5/2023

Map Prepared By:
Diego Farias

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This map was created by the Town of Bluffton and is solely intended to be used as a graphical representation for the Town of Bluffton. The maps and data distributed by the Town of Bluffton are derived from a variety of public and private sector sources considered to be dependable, but the accuracy, completeness, and currency thereof are not guaranteed. The Town of Bluffton makes no warranties, expressed or implied, as to the accuracy, completeness, currency, reliability, or suitability for any particular purpose of information or data contained in or generated from the Town of Bluffton GIS.

Recommended Motion

Consideration of an Ordinance to Amend Chapter 6 of the Code of Ordinances by Authorizing, Establishing, and Adding Section VI, The Economic Development Incentives Program - Chris Forster, Assistant Town Manager

"I make a motion to approve second and final reading of an Ordinance to Amend Chapter 6 of the Code of Ordinances by Authorizing, Establishing, and Adding Section VI, The Economic Development Incentives Program."