



Town of Hilton Head Island
Planning Commission Special Meeting
Wednesday, August 19, 2020 – 9:00 a.m.
AGENDA

This meeting is being conducted virtually in accordance with Town Council Emergency Ordinance 2020-13 and can be viewed live on the Town's Public Meeting Facebook Page at <https://www.facebook.com/townofhiltonheadislandmeetings/>. Following the meeting, the video record will be made available on the Town's website at <https://www.hiltonheadislandsc.gov/>.

1. **Call to Order**
2. **FOIA Compliance** – Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.
3. **Recognition of Outgoing Planning Commissioner Caroline McVitty**
4. **Swearing in Ceremony for New Commissioner Stephen Alfred** – *Performed by Stephen Ryan, Staff Attorney*
5. **Roll Call**
6. **Approval of Agenda**
7. **Approval of Minutes**
 - a. Special Meeting of July 15, 2020
8. **Citizen Comments**
9. **Unfinished Business**
10. **New Business**
 - a. **Public Hearing**
Workforce Housing LMO Amendments – The Town of Hilton Head Island is proposing to amend Chapters 2, 3, 4, 5, and 10 of the Land Management Ordinance (LMO) to add and revise the following sections:

Section 16-2-103.G.2.b: add conversion of any structure to Mixed-Use that includes Workforce Housing as a Minor Development Plan approval; Section 16-3-104 paragraphs E, F, and G: add Workforce Housing as a Permitted Subject to Use-Specific Conditions use in the RM-4, RM-8, and RM-12 zoning districts and add a footnote regarding density related to workforce housing; Section 16-3-105 paragraphs B, G, J, and L: change Mixed-Use from a Permitted use to a Permitted Subject to Use-Specific Conditions use in the CR, MF, NC, and RD zoning districts and add a footnote for development converting nonresidential square footage to residential use; Section 16-3-105.C: add Mixed-Use, Multifamily, and Workforce Housing as Permitted Subject to Use-

Specific Conditions uses and establish a maximum density for residential uses in the CC zoning district, add a footnote regarding density related to workforce housing, add a footnote for development converting nonresidential square footage to residential use, and add a footnote related to parking requirements for Mixed-Use development; Section 16-3-105 paragraphs D, F, I, M, and O: change Mixed-Use from a Permitted use to a Permitted Subject to Use-Specific Conditions use and add Workforce Housing as a Permitted Subject to Use-Specific Conditions use in the LC, MS, MV, SPC, and WMU zoning districts, add a footnote regarding density related to workforce housing, add a footnote for development converting nonresidential square footage to residential use, and add a footnote related to parking requirements for Mixed-Use development; Section 16-3-105.H: add Mixed-Use, Multifamily, and Workforce Housing as Permitted Subject to Use-Specific Conditions uses and establish a maximum density for residential uses in the MED zoning district, add a footnote regarding density related to workforce housing, add a footnote for development converting nonresidential square footage to residential use, and add a footnote related to parking requirements for Mixed-Use development; Section 16-3-105.K: add Mixed-Use and Workforce Housing as Permitted Subject to Use-Specific Conditions uses in the PD-1 zoning district, add a footnote regarding density related to workforce housing, and add a footnote for development converting nonresidential square footage to residential use; Section 16-3-105.N: add Mixed-Use and Workforce Housing as Permitted Subject to Use-Specific Conditions uses in the S zoning district, add a footnote regarding density related to workforce housing, add a footnote for development converting nonresidential square footage to residential use, and add a footnote related to parking requirements for Mixed-Use development; Table 16-4-102.A.6: change or add Multifamily, Mixed-Use, and Workforce Housing as Permitted Subject to Use-Specific Conditions uses in certain zoning districts; Section 16-4-102.B.1.a: add use-specific conditions for Mixed-Use development; Section 16-4-102.B.1.b: add a use-specific condition for Multifamily development in the CC zoning district; New Section 16-4-102.B.1.d: create use-specific conditions for Workforce Housing development; New Section 16-4-105: create Workforce Housing Program including provisions for density, unit standards, income and employment regulations, occupancy and eligibility requirements, sale and resale prices, and rental rates; Table 16-5-107.D.1: add parking requirements for Workforce Housing and a footnote regarding parking requirements for Mixed-Use and Multifamily development containing Workforce Housing; New Section 16-10-102.B.1: add commercial conversion to the rules of measurement including minimum unit sizes; Section 16-10-103.A: add Workforce Housing to the description and use type, and create a definition under residential uses; Table 16-10-104: add abbreviations for Area Median Income (AMI), Certificate of Eligibility (COE), U.S. Department of Housing and Urban Development (HUD), and Workforce Housing (WFH); and Section 16-10-105: add definitions for Area Median Income, Density Bonus, Household, and Household Income. *Presented by Jayme Lopko*

11. Staff Reports

a. Update on CIP – *Presented by Scott Liggett*

b. Update on Our Plan – Staff will present the second of two information sessions on Our Plan. The second session will provide a closer look at the Core Values, Parks and Recreation, and Our Priority Investment (CIP) chapters. Staff will also provide an update on its adoption and timeline. *Presented by Taylor Ladd*

12. Commission Business

a. Committee Assignments

13. Adjournment

Public comments concerning agenda items can be submitted electronically via the Town's Virtual Town Hall public comment portal at <https://hiltonheadislandsc.gov/opentownhall/>. The portal will close at **Noon** the day prior to the scheduled meeting. Citizens may also call (843) 341-4684 to sign up for public comment participation during the meeting by phone. The public comment period will close at **Noon** the day prior to the scheduled meeting. All comments will be provided to the Commission for review and made part of the official record.

Please note that a quorum of Town Council may result if four (4) or more of their members attend this meeting.



Town of Hilton Head Island
Planning Commission Special Meeting
July 15, 2020 at 9:00 a.m. Virtual Meeting
MEETING MINUTES

Present from the Commission: Chairman Peter Kristian, Vice Chairman Lavon Stevens, Leslie McGowan, Mark O'Neil, Alan Perry, Michael Scanlon, Todd Theodore

Absent from the Commission: None

Present from Town Council: Tamara Becker

Present from Town Staff: Shawn Colin, Director of Community Development; Anne Cyran, Senior Planner; Nicole Dixon, Development Review Administrator; Joheida Fister, Deputy Fire Chief-Administration/Fire Marshal; Taylor Ladd, Senior Planner; Teri Lewis, Deputy Director of Community Development; Rene Phillips, Website Administrator; Jennifer Ray, Deputy Director of Community Development; Stephen Ryan, Staff Attorney; Brad Tadlock, Fire Chief; Eileen Wilson, Senior Administrative Assistant; Teresa Haley, Senior Administrative Assistant

1. Call to Order

Chairman Kristian called the meeting to order at 9:05 a.m.

2. FOIA Compliance – Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the Town of Hilton Head Island requirements.

3. Swearing in Ceremony for New and Reappointed Commissioners

Stephen Ryan, Staff Attorney, performed the swearing in ceremony for reappointed Commissioners Peter Kristian, Lavon Stevens, and Alan Perry.

4. Roll Call – See as noted above.

5. Approval of Agenda

Chairman Kristian asked for a motion to approve the agenda. Vice Chairman Stevens moved to approve. Commissioner Scanlon seconded. By way of roll call, the motion passed with a vote of 7-0-0.

6. Approval of Minutes

a. Meeting of February 19, 2020

Chairman Kristian asked for a motion to approve the minutes of the February 19, 2020 meeting. Vice Chairman Stevens moved to approve. Commissioner Scanlon seconded. By way of roll call, the motion passed with a vote of 7-0-0.

7. Citizen Comments

Public comments concerning agenda items were to be submitted electronically via the Town's Open Town Hall portal. The portal closed at noon yesterday and all comments were provided to the Commission. Citizens were provided the option to sign up for public comment participation by phone during the meeting. The public comment period closed at noon yesterday and one member of the public requested to participate by phone.

8. Unfinished Business – None

9. New Business

a. Election of Officers for July 1, 2020 – June 30, 2021 term

Commissioner McGowan made a motion to nominate and elect Peter Kristian to serve as Chairman for the new term. Commissioner Theodore seconded. There were no additional nominations for the office of Chairman and Mr. Kristian accepted the nomination. By way of roll call, the motion to elect Peter Kristian as Chairman passed with a vote of 7-0-0.

Commissioner Perry made a motion to nominate and elect Lavon Stevens to serve as Vice Chairman for the new term. Commissioner McGowan seconded. There were no additional nominations for the office of Vice Chairman and Mr. Stevens accepted the nomination. By way of roll call, the motion to elect Lavon Stevens as Vice Chairman passed with a vote of 7-0-0.

Commissioner Scanlon made a motion to appoint Teresa Haley to serve as Secretary for the new term. Commissioner Perry seconded. By way of roll call, the motion passed with a vote of 7-0-0.

b. Public Hearing

STDV-001236-2020 – Request from the Town of Hilton Head Island to rename the ocean side portion of Firethorn Lane to Firethorn Way. The modification will result in a new address number and street name for five properties: 31 Firethorn Lane (R550 015 00A 0024 0000); 32 Firethorn Lane (R550 015 00A 0023 0000); 33 Firethorn Lane (R550 015 00A 0025 0000); 34 Firethorn Lane (R550 015 00A 023A 0000); and 37 Firethorn Lane (R550 015 00A 0029 0000). The modification will result in a new address number for two properties: 24 Firethorn Lane (R550 018 000 0168 0000); and 26 Firethorn Lane (R550 018 000 0167 0000).

Chairman Kristian asked Chief Tadlock to present the application. Chief Tadlock presented the application as described in the Commission's agenda package. Staff recommends the Planning Commission approve the application to modify a portion of Firethorn Lane to Firethorn Way based on the review criterion outlined in Land Management Ordinance Section 16-2-103.O.4 and enclosed in the Staff Report.

Chairman Kristian opened the hearing for public comments and none were received at this time.

The Commission made brief inquiries regarding the application and neighborhood input. Following the brief discussion, Chairman Kristian asked for a motion.

Commissioner Scanlon moved to recommend the Planning Commission approve the application to modify a portion of Firethorn Lane to Firethorn Way based on the review criterion outlined in Land Management Ordinance Section 16-2-103.O.4 and enclosed in the Staff Report. Vice Chairman Stevens seconded. By way of roll call, the motion passed with a vote of 7-0-0.

c. Public Hearing

ZA-001245-2020 – Request from the Town of Hilton Head Island, on behalf of ArborNature, LLC, to amend the Official Zoning Map for the property located at 76 Leg O' Mutton Road, Parcel ID R510 008 000 0275 0000. The approved uses and density are EITHER a Wholesale Landscape Nursery and Landscape Contractor's Office with Page 2 of 2 Outside Storage at up to 6,000 square feet per net acre on 2.18 acres of the site and Residential at 8 units per net acre on the remaining 4.33 acres of the site OR Residential at 8 units per net acre for the entire site. The request is to change the allowed uses and density to EITHER a Wholesale Landscape Nursery and Landscape Contractors Office with Outside Storage at up to 6,000 square feet per net acre, Without any Tree Grinding or Logging for the entire site OR Residential at 8 units per net acre for the entire site. The subject property would remain in the PD-1 (Planned Development Mixed-Use) Zoning District, in the Indigo Run Master Plan.

Chairman Kristian asked Curtis Coltrane, Town Attorney, to address his July 8, 2020 letter to the Planning Commission attached hereto as Exhibit B. Chairman Kristian then opened the meeting for public comments. Chester Williams, legal representative of ArborNature, LLC, addressed the Commission regarding the two letters attached hereto as Exhibit A and Exhibit C.

Chairman Kristian asked Ms. Dixon to present the application. Ms. Dixon presented the application as described in the Commission's agenda package. Staff recommends that the Planning Commission find this application to be consistent with the Town's Comprehensive Plan and does serve to carry out the purposes of the LMO, based on those Findings of Facts and Conclusions of Law as determined by the LMO Official and enclosed in the Staff Report. Staff recommends that the Planning Commission recommend approval of this application to Town Council with the following conditions:

- Grinding is prohibited on this site
- Logging or storage of logs is prohibited on this site
- Tree or log length trailer trucks carrying logs are prohibited from entering this site
- Dropping of logs is prohibited on this site

The Commission made comments and inquiries regarding the application. Following the brief discussion, Chairman Kristian asked for a motion.

Commissioner Scanlon moved to recommend that the Planning Commission find this application to be consistent with the Town's Comprehensive Plan and does serve to carry out the purposes of the LMO, based on those Findings of Facts and Conclusions of Law as determined by the LMO Official and enclosed in the Staff Report. Staff recommends that the Planning Commission recommend approval of this application to Town Council with the following conditions:

- Grinding is prohibited on this site
- Logging or storage of logs is prohibited on this site
- Tree or log length trailer trucks carrying logs are prohibited from entering this site
- Dropping of logs is prohibited on this site

Commissioner Theodore seconded. By way of roll call, the motion passed with a vote of 7-0-0.

10. Staff Report

- a. **Update on Our Plan** – Staff will present the first of two information sessions about Our Plan. The first segment will cover the Our Plan contents, and an overview of the first two sections: Our Purpose and Process, and the Our Community section covering the elements. Staff will also provide an update on the expected adoption steps and timeline. This presentation is intended to provide the Planning Commission and the public with an overview of what to expect when the draft of Our Plan starts the adoption process in August.

Ms. Ladd presented update. The Commission made remarks regarding the process and commended Ms. Ladd, the Our Plan Development Team, and work groups for their work on the Our Plan. Ms. Ladd outlined the next steps and upcoming meeting schedule to forward the Our Plan to Town Council for adoption. Ms. Ladd is scheduled to present a second information session at the next Planning Commission meeting.

11. Adjournment

The meeting was adjourned at 10:44 a.m.

Submitted by: Teresa Haley, Secretary

Approved: [DATE]

DRAFT

Exhibit A

LAW OFFICE OF
THOMAS C. TAYLOR, LLC

ADMITTED TO THE UNITED STATES
SUPREME COURT BAR

ADMITTED IN SOUTH CAROLINA,
COLORADO AND GEORGIA

CERTIFIED SC CIRCUIT
COURT MEDIATOR

22 BOW CIRCLE
SUITE A
HILTON HEAD ISLAND, SC 29928

TELEPHONE 843-785-5050

TELECOPIER 843-785-5030

www.thomastaylorlaw.com • tom@thomastaylorlaw.com

MAILING ADDRESS
P.O. BOX 5550
HILTON HEAD ISLAND, SC
29938

June 30, 2020

Via Hand Delivery and U.S. Postal Service First Class Mail

Hon. T. Peter Kristian
Chairman, Town of Hilton Head Island Planning Commission
One Town Center Court
Hilton Head Island, South Carolina 29928

**Re: Public Hearing requirement and virtual meetings; Zoning Map Amendment
Application ZA-001245-2020**

Dear Chairman Kristian:

I represent ArborNature, LLC, which is a party to a Settlement Agreement reached with the Town as a result of on-going litigation about the use of ArborNature's Leg O'Mutton Road tract, and unanimously approved by the Town Council on June 20, 2017. Among other things, that Settlement Agreement requires that the Town rezone ArborNature's property located at 76 Leg O'Mutton Road. Under applicable South Carolina state law and the Town's Land Management Ordinance, a public hearing must be held by the Planning Commission prior to making a recommendation to the Town Council on the proposed rezoning, and according to the public notice published in The Island Packet on Sunday, June 28, 2020, the Town intends to fulfill that public hearing requirement via a "virtual" meeting of the Planning Commission that has been slated for July 15, 2020 at 9:00 a.m.

I write today to advise you, your fellow Planning Commission members, the Town staff, and Town Manager Steve Riley, that I believe the virtual meeting format under which the July 15, 2020 meeting is to be held, does not provide a legally acceptable public hearing for any "action items" requiring a public hearing and thus, I believe any action taken by the Planning Commission on an item requiring a public hearing in the setting of a "virtual" meeting is either void or voidable. For that reason, I strongly urge you and your fellow Planning Commission members to delay any formal action on items that require a public hearing under the LMO or South Carolina statutory law, until such time as we can all return to actual public meetings that allow all members of the public to be physically present at a required public hearing.

Hon. T. Peter Kristian

Chairman, Town of Hilton Head Island Planning Commission

Re: Public Hearing requirement and virtual meetings; Zoning Map Amendment

Application ZA-001245-2020

June 30, 2020 ▪ Page 2

I have reviewed the South Carolina statutes and case law with an eye toward evaluating whether a required public hearing can be sufficiently held during a videoconference or other type of “virtual” meeting of a public body, and I do not believe it can be. My analysis begins first with the South Carolina Freedom of Information Act, S.C. Code Annot. Section 30-4-10 et. seq., which specifically does authorize public bodies such as the Planning Commission, to meet via videoconferencing. *See, SC Code Section 30-4-20 (d)*, which says “Meeting” means the convening of a quorum of the constituent membership of a public body, whether corporal or by means of electronic equipment, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power. However, neither the Freedom of Information Act nor the Administrative Procedures Act at S.C. Code Annot. 1-23-10 et. seq. address the interplay of a required public hearing with an electronic meeting, and neither specifically defines the requirements of a “public hearing” in either an actual (physical) or videoconferencing or other type of “virtual” meeting. Thus, we must analyze the normal requirements of a “public hearing” and evaluate whether those requirements can be met via a videoconferencing or other type of “virtual” meeting.

When a public hearing has been required as a part of the implementation process for a rezoning, the implicit intention of the requirement is to allow for (and, indeed, to solicit) true input from the general public. Unless we are willing to admit that “public hearing” requirements are simply window dressing to appease the general public into believing that the Planning Commission (or other public body) actually seeks public involvement in the legislative process, then we must treat the public hearing requirements as vesting in the public certain “due process” rights to provide input in a meaningful manner. (Due process rights normally attach when an individual’s property rights are at stake. *See, Brown v. Air Pollution Control Board*, 37 Ill. 2d 450, 454(1967), “[A] proceeding which could affect one’s property rights is governed by the fundamental principles and requirements of due process of law.”)

Although “due process” is an elusive concept, it is generally accepted as embodying the differing rules of fair play required in the particular set of circumstances. When applied to public hearings, the concept of due process often raises issues of the extent of the public’s right to participate in the legislative meeting during the “public hearing,” *i.e.*, should members of the public, for example, be allowed to question or cross examine Planning Commission members, witnesses, or staff. But one thing should be clear: where there is a requirement of a “public hearing,” due process requires that the administrative or legislative body ensure that the general public has a meaningful opportunity to be heard. In the extraordinary circumstances of the Covid-19 outbreak, where the Planning Commission is meeting via videoconferencing, ***it is patently obvious and the Commission should take notice of the fact that the general public can not have guaranteed access to the “public hearing” forum, because not everyone has either the electronic (computer) access necessary to participate in the meeting, not everyone has the connectivity (internet and/or high speed access) required to participate in the meeting, and not everyone has the sophistication (human know how) to use the videoconferencing applications being used by the Planning Commission and Town, to facilitate the electronic meeting. It is simply unfair to***

Hon. T. Peter Kristian
Chairman, Town of Hilton Head Island Planning Commission
Re: Public Hearing requirement and virtual meetings; Zoning Map Amendment
Application ZA-001245-2020
June 30, 2020 ▪ Page 3

mandate that members of the general public be required to have computer abilities, a computer and high-speed internet access, to participate in a required public hearing. It is--in point of fact--not a true public hearing because under all accepted societal norms, we know certain sections of our population who may want to participate will be excluded from having the ability to provide public input. While I acknowledge that this is not the intent of the Planning Commission nor the Town staff, and that the Planning Commission is simply dealing with the public safety requirements of “social distancing,” the result of the action will be same: some members of the public will be excluded from a meaningful opportunity to provide public input through a required public hearing. And that will put in legal jeopardy any rezoning adopted through the videoconferencing or other “virtual” procedure when a public hearing is required. On behalf of ArborNature, LLC, I do not want the company to be exposed to a claim months or years down the line, that the rezoning of its Leg O’Mutton Road tract was not properly adopted because of the lack of a true public hearing.

I realize the Town has tried to ameliorate the problem of some people not having appropriate internet access by adding a provision for members of the public to “call in” and reserve a time to then call in on July 15, 2020 by phone and make a “public comment” during the virtual meeting, but this still leaves some people who may not have ready access to a phone unable to participate. And while that percentage of people may be smaller than those without high-speed internet access and a computer, the result is the same: undoubtedly some people will not be able to exercise their right to provide “public input” in the method the law requires, at an open, public forum.

For these reasons, I respectfully ask that the Planning Commission delay voting on any “action items” that require public hearings, including Zoning Map Amendment Application ZA-001245-2020, so that everyone can be sure the actions of the Planning Commission are not successfully challenged months or years down the line, after businesses and individuals have spent substantial money and invested substantial time in reliance upon the actions of this public body that were arguably taken in derogation of the public hearing requirements. Thank you for your consideration.

As a final matter, I respectfully ask that this letter be made a part of the public records and/or public comment received regarding the July 15, 2020 meeting of the Town of Hilton Head Island Planning Commission. Please contact me if you have any questions. Thank you again.

Cordially yours,



Thomas C. Taylor

TCT/dpt

cc: Town Manager Steve Riley via e-mail attachment
Mr. Shawn Colin, Planning Department via e-mail attachment

Curtis L. Coltrane
E-Mail: curtis@coltraneandwilkins.com
Certified Circuit Court Mediator
Certified Circuit Court Arbitrator
Certified Federal Court Mediator

Curtis L. Coltrane*
John W. Wilkins
*Also Member Virginia Bar

July 8, 2020

Mr. Peter Kristian, Chairman
TOWN OF HILTON HEAD ISLAND PLANNING COMMISSION
One Town Center Court
Hilton Head Island, SC 29928

Re: Electronic Public Hearings
Our File: THH-19-027

Dear Peter:

A question has been raised about the ability of the Planning Commission to hold electronic “public hearings.” This question surfaced with respect to a pending rezoning of the “Arbor Nature” parcel on Leg O’ Mutton Road.

So long as the Town’s Emergency Declaration and Emergency Ordinance 2020-13, which allows for electronic public meetings and public hearings by Town Council and the Town’s Boards and Commissions, remain in effect, a public hearing by electronic means is valid.¹

With respect to rezonings, the local government zoning and planning act [S. C. Code Ann. § 6-29-310, *et seq.* (Supp. 2019)] does require a public hearing, but the local government zoning and planning act does not specify any particular form or any particular rules for the conduct of a public hearing.

With respect to a public hearing related to a rezoning, S. C. Code Ann. § 6-29-760

¹ S. C. Code § 5-7-250(d)(Supp. 2019), authorizes municipal governments to adopt Emergency Ordinances.

Mr. Peter Kristian
July 8, 2020
Page 2 of 3

(A)(Supp. 2019), reads, in relevant part:

Before enacting or amending any zoning regulations or maps, the governing authority or the planning commission, if authorized by the governing authority, shall hold a public hearing on it, which must be advertised and conducted according to lawfully prescribed procedures.²

The Town's Emergency Ordinance 2020-13 has been lawfully enacted, and it prescribes the procedures for an electronic public hearing. Under the plain language of S. C. Code Ann. § 6-29-760 (A)(Supp. 2019), a public hearing conducted under those lawfully enacted procedures meets the requirements of S. C. Code Ann. § 6-29-760 (A)(Supp. 2019).

The South Carolina Freedom of Information Act contemplates that public meetings can be held by electronic means. Any such meeting must still be open to the public, and the notice requirements of the Freedom of Information Act apply to electronic meetings and public hearings.³

In connection with this question, the Town's Emergency Ordinance 2020-13 reads, in material parts:

In Section 1:

The Governing Body, boards, committees or commissions are hereby authorized to conduct public meetings and public hearings exclusively in electronic form, provided the medium for such meeting, whether telephonic, broadcast video, computer based, or other electronic media, or any combination of these, and the conduct of the electronic meeting, allows for the following standards and practices to be met:

In Section 1(g):

² Advertising for the public hearing is still being done according to the requirements of the Land Management Ordinance.

³ The South Carolina Freedom of Information Act [S. C. Code Ann. § 30-4-10, et. seq. (2019), defines "meeting" as follows:

"Meeting" means the convening of a quorum of the constituent membership of a public body, *whether corporal or by means of electronic equipment*, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power. (my emphasis).

Mr. Peter Kristian
July 8, 2020
Page 3 of 3

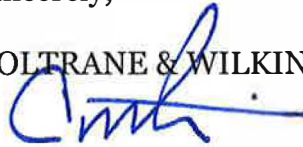
With respect to any electronic meeting or Public Hearing, any public comment periods provided for by local ordinance, Ordinance, policy, or bylaws are hereby suspended. For the purpose of any meeting or Public Hearing of the Town Council, If the electronic meeting platform has sufficient capability to allow members of the public to submit comments, either in written form or by voice, during the meeting or Public Hearing, then Council will allow public comment in which ever form the capabilities of the electronic meeting platform allow. In the event that the electronic meeting platform does not have sufficient capability to allow members of the public to submit comments, either in written form or by voice, during the meeting, the complete agenda package for the meeting or Public Hearing shall be posted on the Town's web page one week prior to the date and time of the meeting, and members of the public may submit their comments via email up to two hours prior to the Public Hearings. Any comments submitted by the public shall be made a part of the record.

So long as the notice/advertising requirements for a public hearing are met, and so long as the public can observe the public hearing and comment during the hearing, which the Town's electronic meeting platform allows, then the requirements of the Freedom of Information Act, and the requirements of S. C. Code Ann. § 6-29-760 (A)(Supp. 2019), and Emergency Ordinance 2020-13 all will have been complied with, and any electronic public hearing conducted by electronic means is valid.

Once you and the members of the Planning Commission have had an opportunity to review this correspondence, please let me know if you have any questions about it. I am,

Sincerely,

COLTRANE & WILKINS, LLC



Curtis L. Coltrane

CLC/asw

cc: Stephen G. Riley
Joshua A. Gruber
Shawn Colin

Exhibit C

LAW OFFICE OF
THOMAS C. TAYLOR, LLC

ADMITTED TO THE UNITED STATES
SUPREME COURT BAR

ADMITTED IN SOUTH CAROLINA,
COLORADO AND GEORGIA

CERTIFIED SC CIRCUIT
COURT MEDIATOR

22 BOW CIRCLE
SUITE A
HILTON HEAD ISLAND, SC 29928

TELEPHONE 843-785-5050

TELECOPIER 843-785-5030

www.thomastaylorlaw.com • tom@thomastaylorlaw.com

MAILING ADDRESS
P.O. BOX 5550
HILTON HEAD ISLAND, SC
29938



July 10, 2020

Via U.S. Postal Service First Class Mail and Email to: PKristian@hhppoa.com

Hon. T. Peter Kristian
Chairman, Town of Hilton Head Island Planning Commission
One Town Center Court
Hilton Head Island, South Carolina 29928

**Re: Public Hearing requirement and virtual meetings; Zoning Map Amendment
Application ZA-001245-2020**

Dear Chairman Kristian:

I am writing today in follow up to my earlier letter of June 30, 2020 wherein I, on behalf of ArborNature, LLC, advised you that it is my legal opinion that a “virtual” public hearing as proposed for the July 15, 2020 Planning Commission hearing, on the proposed ArborNature/Adam Congrove rezoning, does not meet the legal requirements in South Carolina for a bona fide public hearing. When I did not receive any response from you, I today contacted both Curtis Coltrane, the Town’s legal counsel, and Town Manager Steve Riley, to further discuss my concerns.

This letter will confirm that notwithstanding my protestations to you, Mr. Riley, and Mr. Coltrane to the contrary, the Town Staff and the Planning Commission are apparently intent on moving forward with a public hearing on July 15, 2020 on the ArborNature rezoning application filed by the Town, and that mandatory public hearing will be held “virtually.” While ArborNature, and both Chet Williams (who also represents ArborNature) and I all want the Settlement Agreement to be fully implemented as soon as possible, and thus desire the expeditious approval of the ArborNature rezoning application, we continue to have grave misgivings about moving forward in this “virtual” format, which we believe opens the door for a legal challenge to the rezoning months or years down the line. Thus, please accept this letter as our notice to the Town and the Planning Commission that we, on behalf of our client, ArborNature, LLC, continue to object to proceeding with the ArborNature rezoning application with a “virtual” public hearing, and that we are relying upon the Town Staff’s and the Planning Commission’s intention and decision to move forward with the application and the “virtual” public hearing as being legally correct. Should anyone later challenge the propriety or legality of the scheduled “virtual” public hearing, ArborNature will defend the actions as having been taken in reliance upon the representations of the Town, its legal counsel, and the Planning Commission that the “virtual” public hearing met the requisite standards of South Carolina and the Town of Hilton Head’s controlling statutes and ordinances.

Exhibit C

Hon. T. Peter Kristian

Chairman, Town of Hilton Head Island Planning Commission

Re: Public Hearing requirement and virtual meetings; Zoning Map Amendment
Application ZA-001245-2020

July 10, 2020

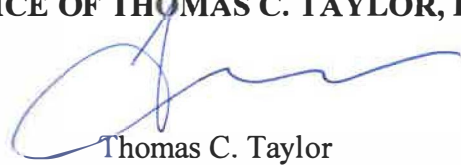
Page 2

As a final matter, I respectfully ask that this letter and my letter to you of June 30, 2020 both be made a part of the record of the Planning Commission's July 15, 2020 meeting and the "virtual" public hearing on the ArborNature rezoning application to be held at that meeting.

Please contact me if you have any questions. Thank you again.

Cordially yours,

LAW OFFICE OF THOMAS C. TAYLOR, LLC



Thomas C. Taylor

TCT/dpt

cc: Mr. Adam Congrove
Town Manager Steve Riley, via e-mail attachment
Mr. Shawn Colin, Planning Department, via e-mail attachment
Curtis Coltrane, Esq., via e-mail attachment
Chester C. Williams, Esq., via e-mail attachment



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Planning Commission
VIA: Shawn Colin, *AICP, Director of Community Development*
VIA: Jennifer Ray, *ASLA, Deputy Director of Community Development*
FROM: Jayme Lopko, *AICP, Senior Planner*
CC: Teri Lewis, *AICP, Deputy Director of Community Development*
DATE: August 11, 2020
SUBJECT: Workforce Housing LMO Amendments

Recommendation: Staff recommends the Planning Commission review the proposed Workforce Housing (WFH) Land Management Ordinance (LMO) amendments and forward a recommendation of approval to Town Council.

On August 11, 2020, the LMO Committee voted unanimously to send the proposed WFH LMO amendments to the Planning Commission for approval with following changes:

- Consider permitting WFH on properties between William Hilton Parkway and Pembroke Drive as well as properties along Gardner Drive and Leg O’Mutton Road.
- Consider updating the purpose statement, for zoning districts where WFH will be permitted, to include a reference to residential or WFH use in the district.

On February 6, 2020, the LMO Committee met to review the WFH LMO amendments. The Committee raised several questions and requested additional information from Town staff, which was provided at their August 11, 2020 meeting.

Summary: Approval by Town Council will put in place incentives to encourage the development of WFH and allow staff to begin review and approval of WFH projects under the newly created Workforce Housing Program.

Background: Workforce availability, with a focus on workforce housing and transportation, was identified as a key priority of Town Council. The Public Planning Committee (PPC), a subcommittee of Town Council, hosted a series of stakeholder input sessions to discuss specific needs and goals for affordable workforce housing on Hilton Head Island and to develop a backdrop for moving forward on these issues. Through these meetings it became evident that affordable workforce housing should be viewed as a critical element of the Town’s infrastructure. Town Council held a workshop with staff and the public to begin developing preliminary policy direction related to affordable housing and transportation and to inform a scope of work used to hire a consultant to focus on options for Hilton Head Island.

In August of 2018, the Town hired consultant Lisa Sturtevant & Associates, LLC (LSA) to prepare a Workforce Housing Strategic Plan with goals, objectives, and policies for workforce housing. The final Workforce Housing Strategic Plan from LSA contained eight key recommendations for

the Town of Hilton Head Island to consider. Staff, working with LSA, the community, and Town Council, utilized the recommendations from the Workforce Housing Strategic Plan, gathered further information, and evaluated and responded to each recommendation.

At their November 5, 2019 meeting, Town Council accepted the Workforce Housing Strategic Plan and approved a policy framework for a workforce housing program focused on the following four key elements:

- Develop incentives and programs which promote Commercial Conversion.
- Develop a “Sliding Scale” Density Bonus program linking the amount of workforce units to the amount of the bonus.
- Develop criteria and conditions under which unrestricted Town-owned real estate may be used to facilitate the development of workforce housing.
- Evaluate the development of, and participation in, a regional housing trust in coordination with the Southern Lowcountry Regional Board (SoLoCo).

Town Council requested that staff continue to work with the Public Planning Committee (PPC) to develop a workforce housing policy to address the four key elements including the development of criteria and conditions of where to target the program. At the December 11, 2019 PPC meeting, staff worked with the Committee to develop criteria to identify areas of the island to target for workforce housing initiatives. The following were identified as priority areas for workforce housing: Palmetto Bay/Arrow Road/Pope Avenue area, Squire Pope/Gum Tree Road area, and Opportunity Zone/Main Street area.

A Workforce Housing Policy, which is detailed in Attachment A, was developed that included: incentives and programs which promote Commercial Conversion, a “Sliding Scale” Density Bonus program linking the amount of workforce units to the amount of the bonus, and criteria and conditions where incentives and programs will be applied.

The proposed LMO Amendments that would implement this policy are detailed in Attachment B.

Attachment

- A. Workforce Housing Policy
- B. Workforce Housing LMO Amendments
- C. Location Map

Workforce Housing Policy

Workforce Housing

Workforce Housing (WFH) is defined as housing that is affordable at 60-100% of the Area Median Income (AMI) for Beaufort County.

Workforce Housing Program

To create the Workforce Housing Program, amendments will be made to the Land Management Ordinance (LMO) to detail the specifics of the program. Noncompliance with any of the requirements of this Section will be considered a violation of the LMO and will be subject to code enforcement action by the Town.

Workforce housing will be created as a new use in the LMO and will be permitted with conditions in certain base zoning districts (RM-4, RM-8, RM-12, SPC, CC, MS, WMU, S, MV, LC, MED, and PD-1). Mixed-use is an existing use in the LMO that will be expanded to be permitted with conditions in more areas (CR, SPC, CC, MS, WMU, S, MF, MV, NC, LC, RD, MED, and PD-1). Both uses will be permitted with conditions to ensure compliance with the regulations of the Workforce Housing Program.

Workforce Housing and Mixed-Use, associated with a workforce housing development, will be permitted with conditions in the PD-1 District; however, will be restricted to locations where a Town-approved Master Plan or associated text states the use is permitted. For these uses to be permitted in any PD-1 District, a Zoning Map Amendment (ZMA) will be required to amend the Master Plan to permit the use and assign density.

Existing legally platted and developed single family subdivisions and individual multifamily units will not be eligible to participate in the Workforce Housing Program.

Density Bonus

The WFH Program offers a density bonus up to 100% above the base residential density. For every two bonus units permitted, at least one must be a workforce housing unit. If only one bonus unit is proposed, it must be a workforce housing unit. The maximum density permitted in any workforce housing development is 24 units per acre.

Density for commercial conversion will be based on minimum unit sizes and the existing building envelope. Commercial conversion incentives for developments that include at least 20% workforce housing units will be a reduction in minimum unit size by 30% and the ability to use micro-efficiency and studio units in 50% of the development. The net result will permit an increase in the number of units within the same building envelope.

Minimum Unit Sizes

Unit Type	Market-Rate Conversion Minimum Unit Size	Workforce Housing Conversion Minimum Unit Size
Micro Efficiency	NA	280 square feet
Studio	NA	400 square feet
1-bedroom	800 square feet	560 square feet
2-bedroom	1,075 square feet	750 square feet
3-bedroom	1,330 square feet	930 square feet

Workforce Housing Agreement

Developers will be required to enter into a Workforce Housing Agreement with the Town that will be recorded with Beaufort County and tied to the parcel(s) of land where workforce housing is proposed. This agreement will contain information about the development including: the number of workforce housing units, square footage of the units, the number of bedrooms in the units, the location of the units in the development, terms and conditions of affordability, and a provision requiring owners of rental units to submit a sworn affidavit certifying their rental rates.

Affordability Period

Owner-occupied and rental workforce housing units will be required to remain in the program for a minimum of 30 years from the date of initial certificate of occupancy.

Standards for Workforce Housing Units

Workforce housing units will be similar to market-rate units in type of ownership, location throughout the development, range of number of bedrooms, and exterior appearance.

Restrictive Covenants

Workforce housing units will be required to record restrictive covenants that will stay with the parcel(s) as long as it remains in the program. The covenants will include the minimum program affordability period of 30 years from the initial certificate of occupancy, provisions that the household must meet current income and employment eligibility regulations outlined in the WFH Program, and a restriction that prohibits the rental of a unit for less than 90 days.

Income and Employment Regulations

To apply for participation in the WFH Program, households will be required to obtain a Certificate of Eligibility for compliance with the eligibility regulations of the WFH Program. An eligible household will be required to meet income requirements and must have at least one person who is employed in the Town of Hilton Head Island. Employment, as well as income, will

be submitted to the Town or its designee. At recertification, households must have at least one person who is employed ten months out of each calendar year on the Island.

Occupancy and Eligibility Requirements

Any person or household who purchases or rents a workforce housing unit must occupy the unit as their sole residence. Households must meet the income requirements of 60-80% AMI for rental units and 80-100% AMI for owner-occupied units.

Workforce Housing Sale & Resale Price

The initial sale and resale price of any workforce housing unit that is still in the WFH Program based on the affordability period, will be limited based on HUD's annual household income limits. Units will be allowed to build equity based on an inflation factor, based on Consumer Product Index, and when sold can include customary closing costs as well as salesperson commissions and costs related to capital improvements made to the unit.

Workforce Housing Rental Rates

Workforce housing maximum rental rates will be based on 80% of HUD's AMI for Beaufort County, multiplied by 30% and divided by 12. Rental units will be leased with consistent rent throughout the lease. The maximum rent will be determined at initial application and will be recertified during renewal of a lease.

Parking Requirements

The parking requirements for Workforce Housing and Mixed-Use development containing WFH will be determined by developer submitted parking data.

Rules of Measurement

If an existing structure is converted to a mixed-use development under the WFH Program, the permitted density will be determined by using the existing gross floor area. The number of units will not be limited; however, there will be a minimum size for each type of unit.

Definitions

Definitions for Area Median Income, Density Bonus, Household, Household Income, and Workforce Housing will be added.

Attachment B

Workforce Housing LMO Amendments

Chapter 16-2: Administration

Section 16-2-103.G.2.b Development Plan Review (Minor or Major)

2. Applicability

b. Minor or Major Development Plans

There are two types of Development Plans: Minor and Major.

- i. Approval of a Minor Development Plan is required for the following types of development, provided the development does not involve any wetland alteration:
 01. Accessory uses and structures;
 02. Temporary uses and structures, including temporary construction storage and staging; and
 03. Any other development that does not involve construction of a new building or addition, such as parking lot changes, new pools or decks, recreation fields or courts, or changes in general site design.
 04. Any structure(s) that are converted to mixed-use and include workforce housing.
- ii. Approval of a Major Development Plan is required for all other development subject to Development Plan Review.

Chapter 16-3: Zoning Districts

Section 16-3-104. Residential Base Zoning Districts

Section 16-3-104.E Low to Moderate Density Residential (RM-4) District, Section 16-3-104.F Moderate Density Residential (RM-8) District, and Section 16-3-104.G Moderate to High Density Residential (RM-12) District

2. Allowable Principal Uses			
USE CLASSIFICATION/TYPE		USE-SPECIFIC CONDITIONS	MINIMUM NUMBER OF OFF-STREET PARKING SPACES
Residential Uses			
<u>Workforce Housing</u>	PC	<u>Sec 16-4-102.B.1.d</u>	<u>See Sec. 16-5-107.D.2</u>
3. Development Form Standards			
MAX. DENSITY (PER NET ACRE)		LOT COVERAGE	
Residential ²			
TABLE NOTES: P = Permitted by Right; PC = Permitted Subject to Use-Specific Conditions; SE = Allowed as a Special Exception; du = <i>dwelling units</i> ; sf = square feet; GFA = <i>gross floor area</i> in square feet; ft = feet; n/a = not applicable <u>2. Density for development that includes Workforce Housing shall be determined based on Sec. 16-4-105.A.</u>			

Attachment B

Workforce Housing LMO Amendments

Section 16-3-105. Mixed-Use and Business Districts

Section 16-3-105.B Coligny Resort (CR) District, Section 16-3-105.G Marshfront (MF) District, Section 16-3-105.J Neighborhood Commercial (NC) District, and Section 16-3-105.L Resort Development (RD) District

2. Allowable Principal Uses				
USE CLASSIFICATION/TYPE		USE-SPECIFIC CONDITIONS	MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
Residential Uses				
<i>Mixed-Use</i>	PC	<u>Sec. 16-4-102.B.1.a</u>	Residential	1.125 per du
			Nonresidential	1 per 650 GFA
3. Development Form Standards				
MAX. DENSITY (PER NET ACRE)			LOT COVERAGE	
Residential ²				
TABLE NOTES: P = Permitted by Right; PC = Permitted Subject to Use-Specific Conditions; SE = Allowed as a Special Exception; du = <i>dwelling units</i> ; sf = square feet; GFA = <i>gross floor area</i> in square feet; ft = feet; n/a = not applicable <u>2. For development that converts nonresidential square footage to residential use refer to Sec. 16-10-102.B.1.</u>				

Section 16-3-105.C Community Commercial (CC) District

2. Allowable Principal Uses				
USE CLASSIFICATION/TYPE		USE-SPECIFIC CONDITIONS	MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
Residential Uses				
<i>Mixed-Use</i> ⁴	PC	<u>Sec. 16-4-102.B.1.a</u>	<u>Residential</u>	<u>1.125 per du</u>
			<u>Nonresidential</u>	<u>1 per 650 GFA</u>
<i>Multifamily</i>	PC	<u>Sec. 16-4-102.B.1.b</u>	<u>1 bedroom</u>	<u>1.4 per du</u>
			<u>2 bedrooms</u>	<u>1.7 per du</u>
			<u>3 or more bedrooms</u>	<u>2.0 per du</u>
<i>Workforce Housing</i>	PC	<u>Sec 16-4-102.B.1.d</u>	<u>See Sec. 16-5-107.D.2</u>	
3. Development Form Standards				
MAX. DENSITY (PER NET ACRE)			LOT COVERAGE	
Residential ^{2,3}			<u>4 du</u>	
TABLE NOTES: P = Permitted by Right; PC = Permitted Subject to Use-Specific Conditions; SE = Allowed as a Special Exception; du = <i>dwelling units</i> ; sf = square feet; GFA = <i>gross floor area</i> in square feet; ft = feet; n/a = not applicable <u>2. Density for development that includes Mixed-Use or Workforce Housing shall be determined based on Sec. 16-4-105.A.</u> <u>3. For development that converts nonresidential square footage to residential use refer to Sec. 16-10-102.B.1.</u> <u>4 The minimum number of off-street parking spaces for mixed-use or multifamily development that contains workforce housing shall be calculated based on Section 16-5-107.D.2.</u>				

Attachment B

Workforce Housing LMO Amendments

Section 16-3-105.D Light Commercial (LC) District, Section 16-3-105.F Main Street (MS) District, Section 16-3-105.M and Sea Pines Circle (SPC) District

2. Allowable Principal Uses				
USE CLASSIFICATION/TYPE		USE-SPECIFIC CONDITIONS	MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
Residential Uses				
<i>Mixed-Use</i> ⁴	PC	<u>Sec. 16-4-102.B.1.a</u>	Residential	1.125 per du
			Nonresidential	1 per 650 GFA
<u>Workforce Housing</u>	PC	<u>Sec 16-4-102.B.1.d</u>	<u>See Sec. 16-5-107.D.2</u>	
3. Development Form Standards				
MAX. DENSITY (PER NET ACRE)			LOT COVERAGE	
Residential ^{2,3}				
TABLE NOTES: P = Permitted by Right; PC = Permitted Subject to Use-Specific Conditions; SE = Allowed as a Special Exception; du = dwelling units ; sf = square feet; GFA = gross floor area in square feet; ft = feet; n/a = not applicable <u>2. Density for development that includes Mixed-Use or Workforce Housing shall be determined based on Sec. 16-4-105.A.</u> <u>3. For development that converts nonresidential square footage to residential use refer to Sec. 16-10-102.B.1.</u> <u>4. The minimum number of off-street parking spaces for mixed-use development that contains workforce housing shall be calculated based on Section 16-5-107.D.2.</u>				

Section 16-3-105.H Medical (MED) District

2. Allowable Principal Uses				
USE CLASSIFICATION/TYPE		USE-SPECIFIC CONDITIONS	MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
Residential Uses				
<i>Mixed-Use</i> ⁴	PC	<u>Sec. 16-4-102.B.1.a</u>	<u>Residential</u>	<u>1.125 per du</u>
			<u>Nonresidential</u>	<u>1 per 650 GFA</u>
<i>Multifamily</i>	PC	<u>Sec. 16-4-102.B.1.b</u>	<u>1 bedroom</u>	<u>1.4 per du</u>
			<u>2 bedrooms</u>	<u>1.7 per du</u>
			<u>3 or more bedrooms</u>	<u>2.0 per du</u>
<u>Workforce Housing</u>	PC	<u>Sec 16-4-102.B.1.d</u>	<u>See Sec. 16-5-107.D.2</u>	
3. Development Form Standards				
MAX. DENSITY (PER NET ACRE)			LOT COVERAGE	
<u>Residential</u> ^{2,3}	<u>6 du</u>			

Attachment B

Workforce Housing LMO Amendments

TABLE NOTES:
P = Permitted by Right; PC = Permitted Subject to Use-Specific Conditions; SE = Allowed as a Special Exception; du = **dwelling units**; sf = square feet; GFA = **gross floor area** in square feet; ft = feet; n/a = not applicable
2. Density for development that includes Mixed-Use or Workforce Housing shall be determined based on Sec. 16-4-105.A.
3. For development that converts nonresidential square footage to residential use refer to Sec. 16-10-102.B.1.
4. The minimum number of off-street parking spaces for mixed-use or multifamily development that contains workforce housing shall be calculated based on Section 16-5-107.D.2.

Section 16-3-105.I Mitchelville (MV) District

2. Allowable Principal Uses				
USE CLASSIFICATION/TYPE		USE-SPECIFIC CONDITIONS	MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
Residential Uses				
<u>Mixed-Use</u> ³	PC	<u>Sec. 16-4-102.B.1.a</u>	Residential	1.125 per du
			Nonresidential	1 per 650 GFA
<u>Workforce Housing</u>	PC	<u>Sec 16-4-102.B.1.d</u>	<u>See Sec. 16-5-107.D.2</u>	

3. Development Form Standards				
MAX. DENSITY (PER NET ACRE)			LOT COVERAGE	
Residential ^{1,2}				

TABLE NOTES:
P = Permitted by Right; PC = Permitted Subject to Use-Specific Conditions; SE = Allowed as a Special Exception; du = **dwelling units**; sf = square feet; GFA = **gross floor area** in square feet; ft = feet; n/a = not applicable
1. Density for development that includes Mixed-Use or Workforce Housing shall be determined based on Sec. 16-4-105.A.
2. For development that converts nonresidential square footage to residential use refer to Sec. 16-10-102.B.1.
3. The minimum number of off-street parking spaces for mixed-use development that contains workforce housing shall be calculated based on Section 16-5-107.D.2.

Section 16-3-105.K Planned Development Mixed Use (PD-1) District

3. Principal Uses Restricted by Master Plan				
The Master Plans and associated text, as approved and amended by the Town, establish general permitted uses for the respective PUDs, except as may be modified by an overlay zoning district. Undesignated areas on these Master Plans shall be considered as <i>open space</i> . The following uses are restricted to locations where a Town-approved Master Plan or associated text specifically states such uses are permitted. In addition, the use-specific conditions referenced below shall apply to any new such use or change to the site for any existing such use.				
USE CLASSIFICATION/TYPE		USE-SPECIFIC CONDITIONS	MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
Residential Uses				
<u>Mixed-Use</u>	PC	<u>Sec. 16-4-102.B.1.a</u>	<u>See Sec. 16-5-107.D.2</u>	
<u>Workforce Housing</u>	PC	<u>Sec 16-4-102.B.1.d</u>	<u>See Sec. 16-5-107.D.2</u>	

Attachment B

Workforce Housing LMO Amendments

4. Development Area Densities				
MAX. DENSITY (PER NET ACRE)			LOT COVERAGE	
Residential ^{1,2}				

TABLE NOTES:
P = Permitted by Right; PC = Permitted Subject to Use-Specific Conditions; SE = Allowed as a Special Exception; du = **dwelling units**; sf = square feet; GFA = **gross floor area** in square feet; ft = feet; n/a = not applicable
1. Density for development that includes Mixed-Use or Workforce Housing shall be determined based on Sec. 16-4-105.A.
2. For development that converts nonresidential square footage to residential use refer to Sec. 16-10-102.B.1.

Section 16-3-105.O Waterfront Mixed-Use (WMU) District

2. Allowable Principal Uses				
USE CLASSIFICATION/TYPE		USE-SPECIFIC CONDITIONS	MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
Residential Uses				
<i>Mixed-Use</i> ⁵	PC	<u>Sec. 16-4-102.B.1.a</u>	Residential	1.125 per du
			Nonresidential	1 per 650 GFA
<i>Workforce Housing</i>	PC	<u>Sec 16-4-102.B.1.d</u>	<u>See Sec. 16-5-107.D.2</u>	

3. Development Form Standards				
MAX. DENSITY (PER NET ACRE)			LOT COVERAGE	
Residential ^{3,4}				

TABLE NOTES:
P = Permitted by Right; PC = Permitted Subject to Use-Specific Conditions; SE = Allowed as a Special Exception; du = **dwelling units**; sf = square feet; GFA = **gross floor area** in square feet; ft = feet; n/a = not applicable
3. Density for development that includes Mixed-Use or Workforce Housing shall be determined based on Sec. 16-4-105.A.
4. For development that converts nonresidential square footage to residential use refer to Sec. 16-10-102.B.1.
5. The minimum number of off-street parking spaces for mixed-use development that contains workforce housing shall be calculated based on Section 16-5-107.D.2.

Section 16-3-105.N Stoney (S) District

2. Allowable Principal Uses				
USE CLASSIFICATION/TYPE		USE-SPECIFIC CONDITIONS	MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
Residential Uses				
<i>Mixed-Use</i> ⁴	PC	<u>Sec. 16-4-102.B.1.a</u>	Residential	1.125 per du
			Nonresidential	1 per 650 GFA
<i>Workforce Housing</i>	PC	<u>Sec 16-4-102.B.1.d</u>	<u>See Sec. 16-5-107.D.2</u>	

Attachment B

Workforce Housing LMO Amendments

3. Development Form Standards			
MAX. DENSITY (PER NET ACRE)			LOT COVERAGE
Residential ^{2,3}			

TABLE NOTES:
P = Permitted by Right; PC = Permitted Subject to Use-Specific Conditions; SE = Allowed as a Special Exception; du = *dwelling units*; sf = square feet; GFA = *gross floor area* in square feet; ft = feet; n/a = not applicable
2. Density for development that includes Mixed-Use or Workforce Housing shall be determined based on Sec. 16-4-105.A.
3. For development that converts nonresidential square footage to residential use refer to Sec. 16-10-102.B.1.
4. The minimum number of off-street parking spaces for mixed-use development that contains workforce housing shall be calculated based on Section 16-5-107.D.2.

Chapter 16-4: Use Standards

TABLE 16-4-102.A.6: PRINCIPAL USE TABLE																				
P = Permitted by Right PC = Permitted Subject to Use-Specific Conditions																				
SE = Allowed as a Special Exception Blank Cell = Prohibited																				
USE CLASSIFICATION/ USE TYPE	SPECIAL DISTRICTS		RESIDENTIAL DISTRICTS					MIXED-USE AND BUSINESS DISTRICTS										USE-SPECIFIC CONDITIONS		
	CON	PR	RSF-3	RSF-5	RSF-6	RM-4	RM-8	RM-12	CR	SP	CC	MS	WMUS	MF	MV	NC	LC		RD	MED
RESIDENTIAL USES																				
Mixed-Use									PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	Sec. 16-4-102.B.1.a
Multifamily						P	P	P	PC	P	PC	P	P	P	P	P	P	P	P	Sec. 16-4-102.B.1.b
<u>Workforce Housing</u>						PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	<u>Sec 16-4-102.B.1.d</u>

B. Use-Specific Conditions for Principal Uses

1. Residential Uses

Section 16-4-102.B.1.a

a. Mixed-Use

- i. Mixed-use development shall designate separate parking spaces for use by the residential units. The parking spaces designated for residential use shall not be included as part of a shared parking plan.
- ii. In the CR District, there shall be no dwelling units located on the first floor of any mixed-use development unless there are commercial services uses located between the street and the proposed dwelling units.

Attachment B

Workforce Housing LMO Amendments

- iii. The density for the redevelopment/conversion of an existing nonresidential structure to mixed-use shall be based on the existing gross floor area and minimum unit sizes as described in Sec. 16-10-102.B.1.
- iv. Mixed-use development that includes workforce housing shall comply with the Workforce Housing Program as outlined in Sec. 16-4-105.

Section 16-4-102.B.1.b

b. Multifamily

- i. In the CR District, there shall be no dwelling units located on the first floor of any multifamily development unless there are commercial services uses located between the street and the proposed dwelling units.
- ii. Multifamily use in the CC District shall only be permitted as part of a commercial conversion per Sec. 16-10-102.B.1.

Section 16-4-102.B.1.d

d. Workforce Housing

- i. Any development that includes workforce housing shall comply with the Workforce Housing Program as outlined in Sec. 16-4-105.
- ii. Workforce housing may be permitted in the PD-1 District through a Zoning Map Amendment in accordance with Sec. 16-2-103.C.
- iii. Lots within an existing legally platted and developed major single family subdivision are not eligible to participate in the WFH Program.
- iv. Individual units within a multifamily development are not eligible to participate in the WFH Program.
- v. In the MS District, properties developed for WFH shall not be permitted on properties located on the south side of U.S. Route 278 (William Hilton Parkway) or properties currently utilized as a school or fire station.
- vi. In the S District, properties developed for WFH shall not have vehicular access to U.S. Route 278 (William Hilton Parkway).
- vii. In the WMU District, properties developed for WFH shall not have vehicular access to Marshland Road.
- viii. In the LC District, properties developed for WFH shall not have vehicular access to U.S. Route 278 (William Hilton Parkway) between Wexford Drive and Singleton Beach Road.
- ix. In the RM-4 District, properties developed for WFH shall not have vehicular access to Jonesville Road, Spanish Wells Road, or Marshland Road.

Attachment B

Workforce Housing LMO Amendments

- x. In the RM-8 District, properties developed for WFH shall not have vehicular access to Point Comfort Road, Spanish Wells Road, or U.S. Route 278 (William Hilton Parkway).

Section 16-4-105. Workforce Housing (WFH) Program

A. Workforce Housing Density

All Units:

1. The WFH Program offers a density bonus up to 100% above the base residential density standards. This program requires a minimum 25% density bonus above the base residential density to participate.
2. For every two bonus units permitted, at least one must be a workforce housing unit. If only one bonus unit is proposed, it must be a workforce housing unit.
3. After applying all incentives, the maximum density permitted in any workforce housing development is 24 units per acre.
4. Commercial conversion projects that include at least 20% workforce housing units will be eligible for incentives, as described in Sec. 16-10-102B.1, including:
 - a. A reduction in minimum unit sizes by 30% and;
 - b. Up to 50% of the units in the development may be micro-efficiency and/or studio units.

B. Standards for Workforce Housing Units

All Units:

1. For development that contains both market-rate and workforce housing units, the workforce units shall be mixed with, and not clustered together or segregated in any way from, market-rate units. If the development contains a phasing plan, the phasing plan shall provide for the development of workforce units concurrently with the market-rate units.
2. The workforce housing units shall include a range of unit sizes, based on the number of bedrooms, which are comparable to units in the overall development.
3. The exterior appearance of workforce housing units must be compatible and comparable with the rest of the units in the development by providing similar architectural style and similar exterior building materials, finishes, and quality of construction.
4. Prior to the issuance of a building permit for any units in a workforce housing development, the applicant shall execute any and all documents required by the Town, including, without limitation, restrictive covenants, deed restrictions, and related instruments to ensure affordability of workforce housing units in accordance with this Section.

Attachment B

Workforce Housing LMO Amendments

Owner-occupied Units:

1. Developers shall enter into a Workforce Housing Agreement with the Town of Hilton Head Island, or its designee. Following execution of the agreement by all parties, the completed Workforce Housing Agreement, or memorandum thereof, shall be recorded and the conditions therefrom filed and recorded on the parcel or parcels designated for the construction of workforce housing units. The Workforce Housing Agreement shall be binding to all future owners and successors in interest. The agreement shall be in a form reviewed and approved by the Administrator.
 - a. The agreement, at a minimum, shall establish the number of workforce housing units including their square footage, number of bedrooms, and location within the development. The agreement will also include terms and conditions of affordability, resale provisions, and other standards as set forth in Sec. 16-4-105.
 - b. Owner-occupied workforce housing units that are provided under Sec. 16-4-105 are subject to a Workforce Housing Agreement and shall remain as workforce housing for a minimum of 30 years from the date of initial certificate of occupancy.
 - c. A certificate of occupancy will not be issued until complete certified and recorded copies of the Workforce Housing Agreement have been provided to the Town.
2. Restrictive covenants for workforce housing units subject to the provisions of Sec. 16-4-105 shall be filed that require compliance with the following:
 - a. Owner-occupied workforce housing units shall only be sold to households earning 80 to 100% of the most recently published HUD area median income (AMI) for Beaufort County.
 - b. Owner-occupied workforce housing units shall remain in the WFH Program for a minimum of 30 years from the date of the initial certificate of occupancy.
 - c. Prior to the sale of an owner-occupied workforce housing unit, the Town, or its designee, shall be notified of the owner's intent to place the unit for sale and a Certificate of Eligibility (COE) shall be submitted by the potential buyer.

Rental Units:

1. The Town will not issue a certificate of occupancy for any building that contains both market-rate and workforce housing rental units unless the development has complied with the workforce housing provisions as outlined in this Section.
2. The designation of a rental workforce housing unit is not required to stay with the same unit over the 30 year affordability period so long as the minimum number and type of workforce units are provided within the development.
3. Developers shall enter into a Workforce Housing Agreement with the Town of Hilton Head Island, or its designee. Following execution of the agreement by all parties, the completed Workforce Housing Agreement, or memorandum thereof, shall be

Attachment B

Workforce Housing LMO Amendments

- recorded and the conditions therefrom filed and recorded on the parcel or parcels designated for the construction of workforce housing units. The Workforce Housing Agreement shall be binding to all future owners and successors in interest. The agreement shall be in a form reviewed and approved by the Administrator.
- a. The agreement, at a minimum, shall establish the number of workforce housing units including their square footage, number of bedrooms, and location within the development. The agreement will also include terms and conditions of affordability, rental rate provisions, and other standards as set forth in Sec. 16-4-105.
 - b. The agreement shall include a provision requiring the owner(s) of rental workforce housing units to submit annually a sworn affidavit to the Town, or its designee, certifying that the rental rate(s) meets the requirements of Sec. 16-4-105.F.
 - c. Rental workforce housing units that are provided under Sec. 16-4-105 are subject to a Workforce Housing Agreement and shall remain as workforce housing for a minimum of 30 years from the date of initial certificate of occupancy.
 - d. A certificate of occupancy will not be issued until complete certified and recorded copies of the Workforce Housing Agreement have been provided to the Town.
4. Restrictive covenants for workforce housing units subject to the provisions of Sec. 16-4-105 shall be filed that require compliance with the following:
- a. Rental workforce housing units shall only be rented to households earning 60 to 80% of the most recently published HUD AMI for Beaufort County.
 - b. Rental workforce housing units shall remain in the WFH Program for a minimum of 30 years from the date of the initial certificate of occupancy.
 - c. Rental workforce housing units shall not be occupied for a period less than 90 days.

C. Workforce Housing Income and Employment Regulations

All Units

1. Eligible households shall meet the income requirements of this Section and have at least one person who is employed by a lawfully licensed business located within the Town of Hilton Head Island.

Owner-occupied Units:

1. The eligibility of a household for a potential owner-occupied workforce housing unit shall be determined upon submittal of a Certificate of Eligibility (COE) to the Town, or its designee, verifying that the applicable income and employment regulations of this Section are met.

Attachment B

Workforce Housing LMO Amendments

2. Per Sec. 16-8-102, failure to submit the required documentation prior to change in ownership shall constitute a violation of the restrictive covenants, the conditions of the certificate of occupancy, and this Section, and is subject to code enforcement action by the Town per Sec. 16-8-106.
3. Failure to submit the required documentation prior to change in ownership shall be considered a breach of the restrictive covenants, conditions, and restrictions set forth in the Section and the Town shall be entitled to seek such remedies as may be available by law.

Rental Units:

1. The property owner, or their designee, of a workforce housing unit shall upon lease renewal, but not less than annually, submit a COE to the Town, or its designee, verifying that the applicable income and employment regulations of this Section are met by all households occupying said workforce housing unit(s).
2. Upon lease renewal, eligible households shall include at least one person that is employed ten out of twelve months each year by a lawfully licensed business located within the Town of Hilton Head Island.
3. Per Sec. 16-8-102, failure to submit the required verification shall constitute a violation of the restrictive covenants, the conditions of the certificate of occupancy, and this Section, and is subject to code enforcement action by the Town per Sec. 16-8-106.
4. Failure to submit the required verification shall be considered a breach of the restrictive covenants, conditions, and restrictions set forth in the Section and the Town shall be entitled to seek such remedies as may be available by law.

D. Occupancy and Eligibility Requirements

Owner-occupied Units:

1. The household shall occupy the workforce housing unit as their sole residence.
 - a. If at any time the household no longer occupies the unit as their sole residence, the unit shall be sold.
2. Eligible households shall have an annual household income between 80 and 100% of the most recently published HUD AMI for Beaufort County.
3. Households must be eligible to purchase workforce housing units and obtain the appropriate COE from the Town, or its designee. A sales contract may not be executed before the household receives the COE.

Rental Units:

1. The household shall occupy the workforce housing unit as their sole residence.
2. Eligible households shall have an annual household income between 60 and 80% of the most recently published HUD AMI for Beaufort County.

Attachment B

Workforce Housing LMO Amendments

3. Households must be eligible to rent workforce housing units and obtain the appropriate COE from the Town, or its designee. A rental agreement may not be executed before the household receives the COE.
 - a. A COE must be renewed prior to the anniversary of a lease renewal. A lease shall not be renewed unless the entire development meets the eligibility requirements outlined in this Section.
 - b. The owner of the rental unit(s) shall be required to submit a sworn affidavit on an annual basis to the Town or its designee, certifying that the workforce housing unit rental rate(s) meets the requirements of Sec. 16-4-105.F.1.
 - c. Per Sec. 16-8-102, occupancy of a rental unit not consistent with this Section shall constitute a violation and is subject to code enforcement action by the Town per Sec. 16-8-106.
 - d. Occupancy of a rental unit not consistent with this Section shall be considered a breach of the restrictive covenants, conditions, and restrictions set forth in the Section and the Town shall be entitled to seek such remedies as may be available by law.

E. Workforce Housing Sale & Resale Price

Owner-occupied Units:

1. The initial sale price of a workforce housing unit shall be determined by the most recently published HUD annual household income limits.
2. The workforce housing unit may be subject to a homeowners association (HOA). HOA dues for workforce housing units shall be a maximum of 75% of the HOA dues owed by market-rate unit owners.
3. The resale price of a workforce housing unit shall not exceed the initial purchase price paid by the owner of the unit with the following exceptions:
 - a. Customary closing costs and costs of sale;
 - b. Costs of real estate commissions paid by the seller if a licensed real estate salesperson is employed;
 - c. Consideration of permanent capital improvements installed by the seller; and
 - d. An inflation factor, based on Consumer Product Index, to be applied to the initial sale price of the unit.
4. All restrictions affecting the workforce housing unit shall be recorded in the deed at the time of initial sale or conveyance and in any future sales or conveyances of the unit.
5. Resale of workforce housing units shall be limited by deed restriction to a purchaser who meets the requirements of 16-4-105.D during the affordability period of the unit.

Attachment B

Workforce Housing LMO Amendments

F. Workforce Housing Rental Rates

Rental Units:

1. Maximum monthly rental rates for workforce housing shall be calculated using 80% of the most recently published HUD AMI for Beaufort County, multiplying by 30% and dividing by 12.
2. Rental rates shall remain consistent throughout the term of the lease.

Chapter 16-5: Development and Design Standards

Section 16-5-107. Parking and Loading Standards

D. Parking Space Requirements

1. Minimum Number of Parking Spaces

TABLE 16-5-107.D.1: MINIMUM NUMBER OF PARKING SPACES		
USE CATEGORY/USE TYPE	MINIMUM NUMBER OF PARKING SPACES ^{1,2,3,4}	
	CR DISTRICT	ALL OTHER DISTRICTS
RESIDENTIAL USES		
<u><i>Workforce Housing*</i></u>	<u>See Sec. 16-5-107.D.2</u>	<u>See Sec. 16-5-107.D.2</u>

*This includes Mixed-Use and Multifamily development containing workforce housing units.

Chapter 10: Definitions, Interpretation and Measurement

Section 16-10-102. – Rules of Measurement

B. Density

1. Commercial Conversion

For conversion of non-residential square footage (commercial conversion) to residential or mixed-use development, density shall be based on the existing gross floor area and the minimum unit sizes established below:

Attachment B

Workforce Housing LMO Amendments

Minimum Unit Sizes

<u>Unit Type</u>	<u>Market-Rate Conversion Minimum Unit Size</u>	<u>Workforce Housing Conversion Minimum Unit Size</u>
<u>Micro Efficiency</u>	<u>NA</u>	<u>280 square feet</u>
<u>Studio</u>	<u>NA</u>	<u>400 square feet</u>
<u>1-bedroom</u>	<u>800 square feet</u>	<u>560 square feet</u>
<u>2-bedroom</u>	<u>1,075 square feet</u>	<u>750 square feet</u>
<u>3-bedroom</u>	<u>1,330 square feet</u>	<u>930 square feet</u>

- 2. Density**
- 3. Gross Floor Area**
- 4. Net Acre**

Section 16-10-103. - Use Classifications, Use Types, and Definitions

A. Residential Uses

1. Description

The Residential Uses classification is primarily characterized by the residential occupancy of a dwelling unit by a household. Such household living uses include single-family dwellings and multifamily dwellings (triplexes and other multifamily development, including townhouse development). The Residential Uses classification also includes group living uses (the residential occupancy of a group of living units by persons who do not constitute a single-family), as well as recreational vehicle (RV) parks (providing spaces for overnight accommodation of people in a recreational vehicle), and workforce housing. Accessory uses commonly associated with Residential Uses are recreational activities, raising of pets, hobbies, parking of the occupants' vehicles, and administrative offices in multifamily, group living, ~~and~~ recreational vehicle (RV) parks, and workforce housing developments. Home occupations are accessory uses that are subject to additional regulations (see Sec. 16-4-103.E.3, Home Occupation).

2. Use Types and Definitions

Mixed-Use

Development that includes two or more different uses, which shall include multifamily or workforce housing use and one or more of the Office uses, as described in Sec. 16-10-103.F or one or more of the Commercial Services uses, as described in Sec. 16-10-103.G or some combination thereof. Such uses should be functionally integrated and share vehicular use areas, ingress/egress, and pedestrian access.

Workforce Housing

Housing that is affordable at 60-100% of the Area Median Income (AMI) for Beaufort County.

Attachment B

Workforce Housing LMO Amendments

Section 16-10-104. – Table of Abbreviations

TABLE 16-10-104: ABBREVIATIONS	
ABBREVIATION	COMPLETE TERM
ac	Acre
AADT	Annual Average Daily Traffic
ACI	Adjusted Caliper Inches
ADA	Americans with Disabilities Act
ADT	Average daily trips
ANSI	American National Standards Institute
AASHTO	American Association of State Highway and Transportation Officials
<u>AMI</u>	<u>Area Median Income</u>
BFE	Base flood elevation
BMP	Best management practice
<u>COE</u>	<u>Certificate of Eligibility</u>
DBH	Diameter at breast height
DRB	Design Review Board
CIP	Capital Improvements Program
DHEC	South Carolina Department of Health and Environmental Control
du	Dwelling unit(s)
EV	Electric vehicle
FAA	Federal Aviation Administration
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Maps
ft	Feet
GFA	Gross floor area
HHI	Hilton Head Island
<u>HUD</u>	<u>U.S. Department of Housing and Urban Development</u>
IBC	International Building Code
IESNA	Illuminating Engineering Society of North America
ITE	Institute of Transportation Engineers
LMO	Land Management Ordinance
LOS	Level of service
MSL	Mean sea level
NAD	North American Datum
NAVD	North American Vertical Datum
NPDES	National Pollutant Discharge Elimination System
OCRM	(DHEC) Office of Ocean and Coastal Resource Management
PD	Planned development
PSD	Public Service District
PUD	Planned unit development

Attachment B

Workforce Housing LMO Amendments

TABLE 16-10-104: ABBREVIATIONS	
ABBREVIATION	COMPLETE TERM
SC	South Carolina
S.C. Code of Laws	Code of Laws of South Carolina
SCDOT	South Carolina Department of Transportation
sf	Square feet
USACOE	United States Army Corps of Engineers
WEC	Wind energy conversion
WFH	<u>Workforce Housing</u>

Section 16-10-105. - General Definitions

Area Median Income (AMI)

The median income level for Beaufort County, as established and defined in the annual schedule published by the Secretary of the U.S. Department of Housing and Urban Development, (HUD), adjusted for household size.

Density Bonus

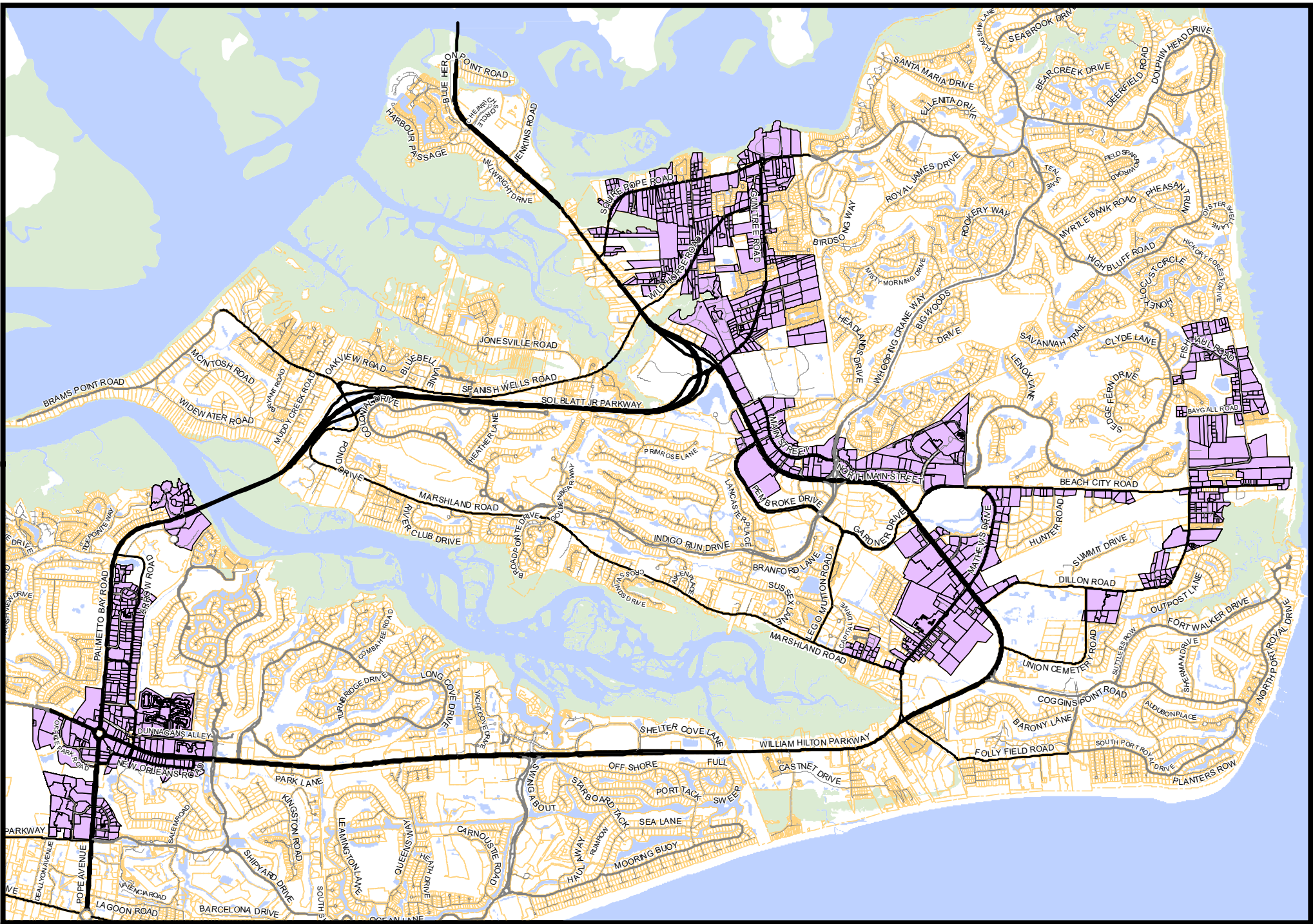
An increase in the number of units permitted on the site in order to provide an incentive for the construction of workforce housing.

Household

One or more people who occupy (live in) the same dwelling.

Household Income

The aggregate total of income earned by every member of a household.



Town of Hilton Head Island

Workforce Housing Location Map



TOWN OF HILTON HEAD ISLAND
 ONE TRINITY CENTER DRIVE
 HILTON HEAD ISLAND, S.C. 29928
 PHONE: 843.781.4600
 FACSIMILE: 843.781.4601
 WWW.HILTONHEADISLANDSC.COM



This information is provided for informational purposes only and is not intended to be used as a legal document. It is provided as a service to the public and is not a guarantee of any kind. The Town of Hilton Head Island makes no representation or warranty of any kind regarding the accuracy or completeness of this information. The Town of Hilton Head Island is not responsible for any errors or omissions in this information. The Town of Hilton Head Island is not responsible for any damages or losses resulting from the use of this information.

Planning Commission Subcommittees

Effective July 30, 2020

Land Management Ordinance Committee

Leslie McGowan, *Chair*

Todd Theodore, *Vice Chair*

Michael Scanlon

Vacancy

Staff Support: Teri Lewis, Deputy Director of Community Development
Teresa Haley, Senior Administrative Assistant

Comprehensive Plan Committee

Michael Scanlon, *Chair*

Alan Perry, *Vice Chair*

Peter Kristian, *Ex-officio*

Mark O'Neil

Staff Support: Anne Cyran, Senior Planner
Taylor Ladd, Senior Planner

Rules of Procedure Committee

Alan Perry, *Chair*

Lavon Stevens, *Vice Chair*

Stephen Alfred

Staff Support: Teresa Haley, Senior Administrative Assistant

Capital Improvement Projects Committee

Todd Theodore, *Chair*

Leslie McGowan, *Vice Chair*

Steven Alfred

Mark O'Neil

Staff Support: Karen Knox, Senior Administrative Assistant

Gullah-Geechee Land & Cultural Preservation Task Force

Lavon Stevens, *Chairman*, Planning Commission Member

Ibrihim Abdul-Malik, Gullah-Geechee/Native Island Culture Organization

Martha Davis, Native Islander

Shani Green, Native Islander

Caroline McVitty, Attorney

Palmer E. Simmons, Native Islander

Todd Theodore, Planning Commission Member/Landscape Planner

Theresa White, Gullah-Geechee/Native Island Culture Organization

Joyce Wright, Gullah-Geechee/Native Island Culture Organization

Non-Voting Member: Marc Grant, Town Council

Staff Support: Sheryse DuBose, Historic Neighborhoods Preservation Administrator

Nominating Committee

The Chairperson appoints this Committee, with confirmation by the Commission, no later than the first Commission meeting in June each year. The Committee typically meets in June to recommend a slate of officers for the coming year, and report their recommendation to the Commission at the election in June.

Staff Support: Anne Cyran, Senior Planner