



Town of Hilton Head Island
Planning Commission
LMO Rewrite Committee Meeting
March 22, 2012
1:00 p.m.
Benjamin M. Racusin Council Chambers

AGENDA

As a Courtesy to Others Please Turn Off All Cell Phones and Pagers during the Meeting.

- 1. Call to Order**
- 2. Freedom of Information Act Compliance**
Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.
- 3. Approval of the Agenda**
- 4. Approval of the Minutes** – January 31, 2012 meeting
- 5. New Business**
 - a. Update on Consultant Work for Economic Evaluation of Coligny Project – Shawn Colin
 - b. Review of and Discussion on Code Assessment and Annotated Outline – Teri Lewis
- 6. Adjournment**

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

TOWN OF HILTON HEAD ISLAND
Planning Commission
LMO REWRITE COMMITTEE MEETING

January 31, 2012 Minutes

1:30p.m. – Benjamin M. Racusin Council Chambers

DRAFT

Committee Members Present: Chairman Tom Crews, Vice Chairman Gail Quick, David Ames, David Bachelder, Irv Campbell, Chris Darnell, Jim Gant, Walter Nester, Councilwoman Kim Likins, *Ex-Officio*; and Charles Cousins, *Ex-Officio*

Committee Members Absent: None

Planning Commissioners Present: Loretta Warden, Jack Docherty, Terry Ennis, Bryan Hughes and Tom Lennox

Town Council Members Present: Mayor Drew Laughlin, Lee Edwards, Bill Ferguson and Bill Harkins

Town Staff Present: Jill Foster, Deputy Director of Community Development
Teri Lewis, LMO Official
Shawn Colin, Comprehensive Planning Division Manager
Brian Hulbert, Staff Attorney
Kathleen Carlin, Administrative Assistant

1) CALL TO ORDER

Chairman Crews called the meeting to order at 1:30p.m.

2) FREEDOM OF INFORMATION ACT

Public notification of this meeting has been published, posted and mailed in compliance with the Freedom of Information Act and Town of Hilton Head Island requirements.

3) APPROVAL OF THE AGENDA

The agenda was approved as presented by general consent.

4) APPROVAL OF THE MINUTES

The minutes of the November 17, 2011 meeting were approved as presented by general consent.

5) NEW BUSINESS

A. Introduction of Consultant Team for LMO Rewrite Project

Chairman Tom Crews presented opening comments regarding the committee's kick off meeting with the Clarion team. Chairman Crews then requested that Mr. Craig Richardson, with Clarion Associates, introduce the Clarion team members. Mr. Richardson stated that the Clarion team is led by Clarion Associates and is assisted by Opticos Design and Ward Edwards. Mr. Craig Richardson and Mr. Stephen Sizemore are present representing Clarion Associates. Mr. Stefan

Pellegrini is present representing Opticos Design, and Mr. Alan Ward is present representing Ward Edwards. Mr. Richardson stated that Clarion Associates has South Carolina national code drafting experience, and they are experts in designing user-friendly codes. Clarion Associates are national leaders on zoning best practices (hybrid, form-based, and sustainable codes.) Representative projects on a local level include Beaufort County Form Based Code (in association with Opticos Design.)

Mr. Stefan Pellegrini introduced himself and presented a brief review of Opticos Design. Opticos Design is a national leader in form-based codes. Mr. Pellegrini stated that Opticos Design is experienced in design standards and walkable places.

B. Review of Schedule and Scope of LMO Rewrite Project

Mr. Richardson presented the review schedule and scope of the LMO Rewrite Project. The first part of the process (Task 1) began in January 2012 and is now complete. The Clarion team has reviewed the LMO Rewrite Committee's Report, the Comprehensive Plan, and Vision 2025. The Clarion team has completed a series of interviews with staff and stakeholders (such as neighborhood associations, advisory boards, developers, and business owners.) The kick-off meetings began on Monday, January 30th with a public forum conducted by the Clarion team.

Mr. Richardson presented an overview of the Work Program, which is divided into four tasks. The consultant and the committee discussed the objectives of Task 1 and Task 2 in depth. The consultant and the committee touched on the objectives of Task 3 and Task 4. Task 3 and Task 4 objectives will be covered in greater detail at a later time.

Task 1: Project Initiation and Scoping. Task 1 included the Clarion team's review of the ordinances and background documents, creation of the LMO Rewrite project website, interviews with staff and stakeholders, reconnaissance of the town, and scheduling of this week's kick-off meetings.

The committee discussed the objectives of Task 1 with the consultant. The committee stated the importance of receiving as much public input as possible throughout the entire process. The committee and the consultant discussed the project website. Keeping the public fully informed and engaged in the process is crucial to its success. The website is a key part of public notification (keeping the public informed of all status updates, notification of public meetings, e-mail notifications of activity.)

Task 2: Code Assessment. Code assessment is the initial review and analysis of the current LMO. The consultant has developed a synthesis of stakeholders' comments regarding problems and concerns with the current LMO, receipt of input from the committee, and receipt of comments from the public. Diagnosis includes providing and discussing best practices options for the LMO Rewrite Committee's project goals, assessing appropriate form-based district options in targeted areas, and discussing options for LMO zoning framework. During this part of the project, the Clarion team will produce a code assessment that identifies needed amendments to the LMO. The consultants plan to have this part of the process completed by the end of March. This process involves the preparation of a code assessment by the Clarion team that identifies ways the LMO needs to be rewritten to implement town plans and policies and responds to citizen comments expressed during the public forum.

The committee discussed the goals and schedule for completion of Task 2 with the consultant. Mr. Richardson stated that the Clarion team plans meet with the LMO Rewrite Committee on March 29th to review the code assessment. He stated that following this meeting, the code will be presented to a joint meeting of the Planning Commission/Town Council.

The committee and the consultant discussed the committee's meeting schedule. Mr. David Ames stated that he is concerned that the committee will not have adequate time to review the code assessment. He asked if the code assessment could be sent to the committee in parts. Mr. Richardson stated that the committee would need the benefit of the entire code assessment at one time for it to be effective. The committee asked that Mr. Richardson provide the code assessment to the committee two weeks in advance of the meeting on March 29th. The committee then discussed the possibility of meeting on March 22nd to discuss the code assessment as a committee in order to be able to provide cohesive comments at the meeting on March 29th.

Task 3: Draft LMO The consultants will prepare the draft LMO based on input and direction given on the Code Assessment. The draft LMO will be presented in two installments:

(1) Procedures/administration/zoning districts/uses; and (2) Development standards/definitions. The consultant plans to meet with the LMO Rewrite Committee and Planning Commission/Town Council on each installment. The consultant also plans a public forum as part of each of the installments.

Task 4: Public Hearing Draft of LMO The consultant will prepare the public hearing draft of the LMO based on public input and direction received from the committee, Planning Commission and Town Council. The consultant will prepare the draft zoning map; and will begin the public meeting and hearing process to adopt the revised LMO.

The committee discussed the consultant's objectives and meeting schedule for Task 3 and Task 4. The committee stated that they may need additional face-to-face meeting time with the consultant especially during their review of Task 3 (LMO Modules.) Each portion of the rewritten LMO will be included within one of two separate LMO installments. The committee stated that the discussion on Task 3 will probably be very lengthy. The committee and the consultant discussed the possibility of arranging a meeting by teleconference if needed.

The committee and the consultant briefly discussed the objectives of Task 4. With regard to overall completeness of the draft LMO, the committee stated that they will need a method of comparing the project goals against the finished draft of the LMO. The committee wants to be certain that all project goals are included and that nothing has been missed.

C. Committee Input and Direction about Project Goals

The consultant and the committee discussed several of the major project goals that are to be addressed by the code assessment and drafts of the new LMO. The group's discussion included the need to update, clarify and streamline review procedures, modify zone districts and uses, encourage redevelopment in targeted areas, and address nonconformities. The group also reviewed design standards on targeted issues and areas. The main discussion focused on questions concerning the committee's identification and prioritization of revitalization and reinvestment zones.

Vice Chairman Quick responded to the consultant's questions by stating why the committee members are struggling to answer some of the questions (about the identification and prioritization of revitalization and reinvestment zones.) The LMO Rewrite Committee has been placed in a difficult position due to Town Council's directive to identify and prioritize revitalization and reinvestment zones. This is a land use planning function and is not under the

jurisdiction of the LMO. Therefore, the LMO Rewrite Committee has backed into land use planning without the benefit of a comprehensive land use plan, research or data to support it. The land use plan should have been put in place first and then the LMO rewritten to support that plan. The committee stated their overall agreement with the comments presented by Vice Chairman Quick.

Following final comments by the committee, Chairman Crews requested public comments from the audience. Statements from the following were received for the record: Mrs. Anne Coffin, with the League of Women Voters, Planning Commissioner Tom Lennox, and Councilman Bill Ferguson. Following public comments, the staff presented statements regarding committee meetings in March. Ms. Teri Lewis stated the next committee meeting will be held on Thursday, March 22nd. The committee will meet with the consultant on Thursday, March 29th to discuss the code assessment. Both meetings will begin at 1:00pm.

6. **ADJOURNMENT**

Following final comments, the meeting was adjourned at 2:40pm.

Submitted by:

Approved by:

Kathleen Carlin
Administrative Assistant

Tom Crews
Chairman

Town of **HILTON HEAD ISLAND**

Land Management Ordinance Rewrite Code Assessment

March 2012



CLARION



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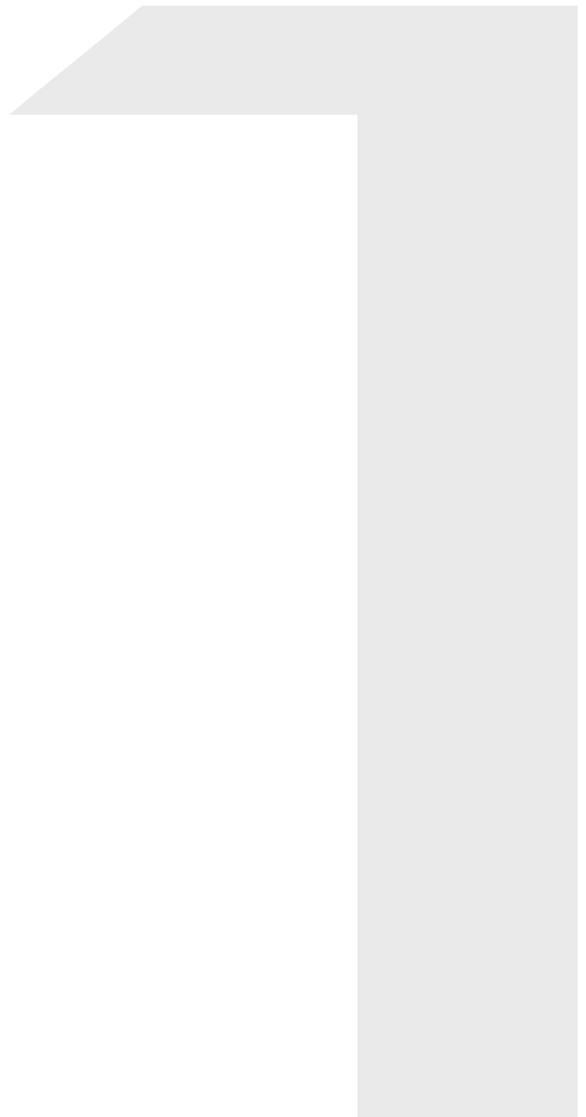
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PART 1: INTRODUCTION

- 1.1 PROJECT DESCRIPTION**
- 1.2 WORK PROGRAM AND SCHEDULE**
- 1.3 REPORT ORGANIZATION**



Part 1: Introduction

1.1 PROJECT DESCRIPTION

The Town of Hilton Head Island is a South Carolina island community that has developed over the past 55 years into one of the world's premier resort destinations—principally due to a conscious decision by developers of the PUD communities making up much of the island to blend development with, and take advantage of, the island's unique and substantial natural assets. The result is a community where marshlands, tidal creeks, beaches, and maritime forests so vital to the natural environment are preserved and protected, where homes and buildings are tucked among and beneath the tops of live oaks, and where there are no bright streetlights or neon signs.

After the Town of Hilton Head Island officially incorporated in 1983, it adopted a Land Management Ordinance (LMO) to address substantial development pressures in a way that preserves the community's established high-quality character. The 1987 LMO, as rewritten in 1998 to comply with State planning legislation, has long been considered a leading example of how a community can balance growth and development with preservation and protection of the natural environment—and in ways that both provide a high quality of life for residents and visitors and promote economic growth.



As with most development codes, however, growth, years of amendments, and the changing economy have diminished the LMO's effectiveness in meeting the community's evolving vision for its future. That vision, documented in the 2010 Comprehensive Plan and Vision 2025, focuses on the sustainable goals of:

- Preserving and protecting Hilton Head Island's unique natural beauty, environmental resources, and sense of place;
- Continuing to promote the high-quality design that created such a livable community; and
- Encouraging the revitalization and investment needed to broaden and deepen the island's economy.

When the town decided to initiate the process of rewriting the LMO, the Town Council established the Land Management Ordinance Rewrite Committee (LMO Rewrite Committee) and charged it with two main objectives:

- Simplify the town's land development regulations and reorganize the LMO into a format that is more user-friendly and easier to understand and apply; and
- Encourage reinvestment to revitalize existing development and encourage investment in new development consistent with the town's core values.

The LMO Rewrite Committee undertook this task in April 2011 and in September 2011 issued a LMO Rewrite Committee Report recommending goals for the rewrite project. The eight goals are to:

- Improve User-Friendliness;
- Update, Clarify, and Streamline Review Procedures;
- Modify and Consolidate Zone Districts and Encourage More Use Mixing;
- Encourage Redevelopment in Targeted Areas;
- Address Nonconformities;
- Revise Development and Design Standards Related to Targeted Issues and Areas;
- Modify Natural Resource Regulations ; and
- Revise Planned Unit Development (PUD) Regulations.

In January 2012, the town retained a team led by Clarion Associates, working in association with Opticos Design and Ward Edwards, to assist the town in rewriting the LMO.



1.2 WORK PROGRAM AND SCHEDULE

1.2.1 WORK PROGRAM

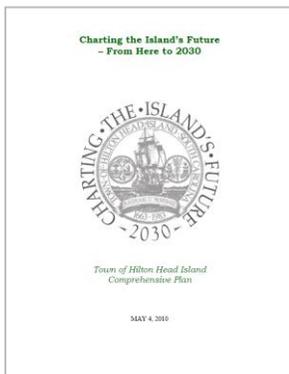
The work program for the project involves four main tasks.

Task 1, Project Initiation and Scoping, involved the necessary but important steps of project start-up:

- The Clarion team's review and evaluation of the town's key planning and regulatory documents—including the current LMO, the 2010 Comprehensive Plan, the Mayor's Task Force for the Future Vision 2025 Report, the LMO Rewrite Committee Report, the procedures manual, the non-residential building and site development permitting process prepared by the town staff and administrative rules and interpretations of the current ordinances;
- Meetings and interviews with staff and stakeholders;
- A half-day of staff-led reconnaissance of the town to see how development issues are playing out; and
- A kick-off meeting with the LMO Rewrite Committee and a second meeting with the general public to gain their input on how the current LMO works and to receive their comments on the eight goals identified in the LMO Rewrite Committee Report.

Work Program Tasks

- Task 1: Project Initiation and Scoping
- Task 2: Code Assessment
- Task 3: Draft LMO
- Task 4: Public Hearing Draft of LMO



This task was completed in late January, 2012.

Task 2, Code Assessment (the current task), serves as a basis to:

- Confirm and/or refine the project goals identified by the LMO Rewrite Committee that were confirmed by the Town Council for the rewrite;

- Explore the specific options and best practices available to the town to achieve those goals. This will include, where appropriate, national best practices that might be considered for incorporation into the new LMO, as well as specific suggestions or options the Clarion team believes are most appropriate for the town to achieve the different project goals; and
- Discuss the most appropriate zoning framework for the revised LMO.

The Code Assessment concludes by providing an annotated outline of the structure and sections of the revised LMO, if the project goals identified by the LMO Rewrite Committee are addressed.

The LMO Rewrite Committee Report identifies eight project goals for the LMO rewrite. There were no suggestions for refinement of these goals during the interviews or kick-off meetings during Task 1.

The Code Assessment has been made available to the public in mid-March, 2012. The Clarion team will have meetings with the public, the LMO Rewrite Committee, and the Planning Commission/Town Council in late March to receive input on the Code Assessment. Ultimately, direction will be received from the Town Council about any refinements that need to be made to the suggestions in the Code Assessment and the annotated outline. The Code Assessment will then provide a framework for the LMO rewrite (the diagnosis), and a road map (the annotated outline) for the actual drafting of the revised LMO.

After direction is given on the Code Assessment, the code drafting will begin in Task 3, Draft LMO. Because the draft LMO includes a substantial amount of new information, it is difficult for any review body, or the public, to digest in a single review or meeting. Consequently, the drafting of the LMO is divided into two manageable installments consisting of: (1) procedures/zone districts; and (2) development and design standards. The template for the revised LMO will be based on, and consistent with, the annotated outline and any other directions provided to the Clarion team by the Town Council. After each draft installment is completed, the Clarion team convenes and conducts meetings to receive comments and input on the draft installments from the LMO Rewrite Committee and a joint meeting of the Planning Commission/Town Council. After completion of the second installment, a public forum on the draft LMO will also be conducted.

After completion of Task 3, the draft LMO is revised, as appropriate, and a public hearing draft is prepared in Task 4, Public Hearing Draft of LMO. At this stage, the LMO is ready for work sessions, public hearings, and adoption.

1.2.2 SCHEDULE

This project began in January 2012 and Task 1, Project Initiation and Scoping, was completed in late January 2012. This Code Assessment will be considered by the LMO Rewrite Committee and the public at a joint meeting of the Planning Commission/Town Council in late March, 2012. The drafting stage will be conducted over the summer and is expected to be completed in August.

1.3 REPORT ORGANIZATION

The Code Assessment is organized into three main sections: Section I: Introduction; Section 2: Diagnosis; and Section 3: Annotated Outline. There is also an appendix to the document (Section 4).

1.3.1 INTRODUCTION

This Introduction contains three subsections:

- Project Description, provides a description of the project and its anticipated results;
- Work Program and Schedule, outlines the work program and schedule for the project; and
- Report Organization, explains how the Code Assessment is organized.

LMO Rewrite Project Goals

1. Improve User-Friendliness
2. Update, Clarify, and Streamline Review Procedures
3. Modify and Consolidate Zone Districts and Encourage More Use Mixing
4. Encourage Redevelopment in Targeted Areas
5. Address Nonconformities
6. Revise Development and Design Standards Related to Targeted Issues and Areas
7. Modify Natural Resource Regulations
8. Revise Planned Unit Development (PUD) Regulations

1.3.2 DIAGNOSIS

As discussed earlier, the diagnosis serves as a basis to frame community discussion about the overriding goals for the LMO rewrite, in light of the LMO Rewrite Committee Report policies, other community input and preferences, and modern best practices in development regulation. The diagnosis identifies eight goals for the code rewrite, discusses, where appropriate, different regulatory options for achieving these goals, then suggests solutions for the LMO rewrite to achieve the goals. The eight goals are listed to the right and discussed in detail in Part 2 of the Code Assessment.

1.3.3 ANNOTATED OUTLINE

The annotated outline provides town officials, staff, the LMO Rewrite Committee, the Planning Commission, the Town Council, and citizens with a general understanding of the proposed structure of the LMO rewrite if the project goals identified by the LMO Rewrite Committee are addressed. More specifically, the annotated outline sets out a proposed structure for the LMO rewrite and provides commentary explaining the purpose and scope of each chapter and section.

1.3.4 APPENDICES

The Appendices to this Code Assessment consists of supporting information related to the diagnosis. They are identified below:

- Appendix 4.1: Example of Administrative Adjustment Procedure;
- Appendix 4.2: Santa Cruz's Approach to Accessory Dwelling Units (ADUs);
- Appendix 4.3: Example of Performance-Based Buffer Standards;
- Appendix 4.4: Example of Canopy Retention Standards and Specimen Tree Standards;
- Appendix 4.5: Example of a Zone District Format.

PART 2: DIAGNOSIS

- 2.1 IMPROVE USER-FRIENDLINESS**
 - 2.2 UPDATE, CLARIFY, AND STREAMLINE REVIEW PROCEDURES**
 - 2.3 MODIFY AND CONSOLIDATE ZONE DISTRICTS AND ENCOURAGE MORE USE MIXING**
 - 2.4 ENCOURAGE REDEVELOPMENT IN TARGETED AREAS**
 - 2.5 ADDRESS NONCONFORMITIES**
 - 2.6 REVISE DESIGN STANDARDS RELATED TO TARGETED ISSUES AND AREAS**
 - 2.7 MODIFY NATURAL RESOURCE REGULATIONS**
 - 2.8 REVISE PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS**
- 

Part 2: Diagnosis

The LMO rewrite project is the first comprehensive rewrite of the town's LMO since 1998, even though a number of targeted revisions have been made over the years. As discussed in Section 1, Introduction, eight goals are identified for the project. These goals were initially identified by the LMO Rewrite Committee and confirmed by Town Council. They were again reconfirmed during Task 1, Project Initiation and Scoping. The eight goals are to:

- Improve User-Friendliness
- Update, Clarify, and Streamline Review Procedures
- Modify and Consolidate Zone Districts and Encourage More Use Mixing
- Encourage Redevelopment in Targeted Areas
- Address Nonconformities
- Revise Development and Design Standards Related to Targeted Issues and Areas
- Modify Natural Resource Regulations
- Revise Planned Unit Development (PUD) Regulations

This Part 2 provides a detailed overview of these eight project goals and discusses how they can be achieved through different strategies and tools in the LMO rewrite. This is followed in Part 3 by an annotated outline that describes the potential structure and contents of the revised LMO if the eight goals are addressed. In some cases, a discussion of alternative means of addressing these goals is provided, along with recommendations for the best solution based on our understanding of the town and best practices nationwide.

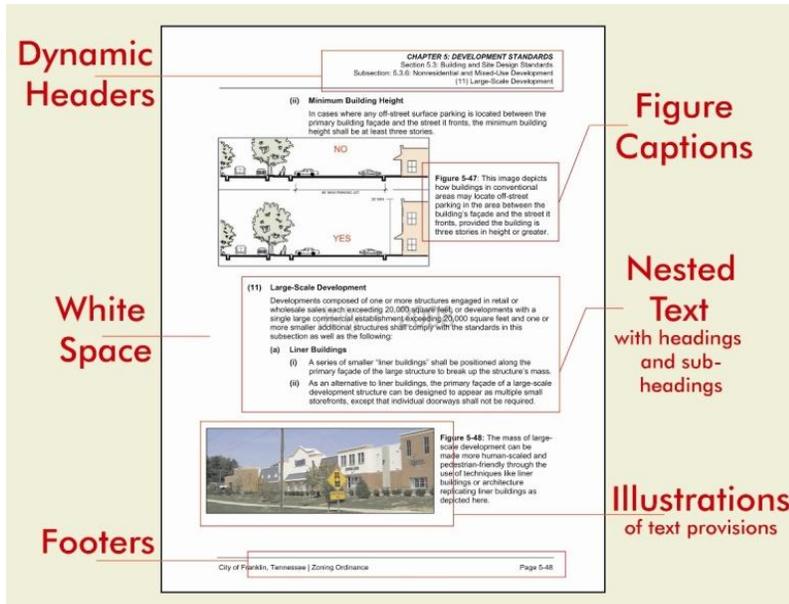
2.1 IMPROVE USER-FRIENDLINESS

The first goal identified by the LMO Rewrite Committee and reconfirmed in stakeholder interviews and in the kick-off meetings with the public is that the current LMO is difficult to use and understand. It has general language and review standards for some type of permits that are difficult to understand, has conflicting terminology, and includes some discrepancies between the language in the code and actual development review practice.

A user-friendly code is one that is easy to use, relies on an intuitive organization, and allows a reader to locate desired information quickly. User-friendly codes also use plain English, precise language and standards, and provide examples or illustrations of complex provisions. They are organized and presented in a logical way that helps readers understand how different pieces of information relate to one another. The current LMO applies some of these techniques, but could be improved in all of these areas.

Ways to Make the LMO More User-Friendly

1. Structural Reorganization of Code Chapters
2. Integrate More Graphics and Illustrations
3. Use More Summary Tables and Flow Charts
4. Clarify Code Language Wherever Possible
5. Refine and Update Definitions
6. Add an Administrative Manual



Example of a modern development code page with illustrations.

The current LMO is organized fairly well. Even though some development standards are found in the procedural chapters and tree protection regulations are found in several different places, the current LMO generally has a series of discrete chapters, with procedural, zone district, and development standards chapters either consolidated, or beside each other, which makes it easy to locate information in the LMO. For example, in the current LMO, the procedures chapters are Chapter 2: Administrative Authorities and Chapter 3: Development Review Procedures; the zone district chapter is Chapter 4: Zoning

District Regulations; the development and design standards are found in Chapters 5: Design and Performance Standards, natural resource protection standards are found in Chapter 6: Natural Resource Protection; and the nonconformity provisions and definitions are consolidated into separate chapters at the end of the document. This approach is consistent with many modern codes. Further, the current LMO takes advantage of summary tables and relies on text numbering and formatting techniques that help readers orient themselves in the text.

There is, as noted above, room for improvement. For example:

- There are instances where standards are found in multiple locations. For example, the mitigation standards for tree protections are found in Chapter 3, Article 4 (Tree Protection) and again in Sec. 16-8-106 (Tree Protection Violation).
- The current LMO has a limited number of graphics and illustrations and there is little integration of graphics with photos to illustrate code concepts. This makes standards and concepts in the LMO more difficult for stakeholders to understand.
- While the LMO does use some tables, such as those included for the parking standards, buffer standards, and sign standards, others could be added to make the document more user-friendly.
- In places, the code language used for some of the review standards is so general it provides no direction regarding specific policy direction on community development goals.
- Many definitions could be refined and modernized. Some terms are not defined at all.
- Finally, the LMO would benefit from taking all application content requirements out of the LMO and moving them to an administrative manual.

Each of these issues is discussed below.

2.1.1 REORGANIZE THE LMO'S STRUCTURE

Relative to other development codes we have reviewed, the town's current LMO is fairly well-organized. As summarized earlier, the LMO generally consolidates into the same or adjacent articles the rules governing procedures, zone districts, and development standards. Additionally, definitions are consolidated in the last chapter

they are established. We also recommend increasing the number and type of graphics to help illustrate preferred development concepts, such as parking space dimensions, parking lot landscaping, and other landscaping and screening requirements.

We also suggest the LMO rewrite be supplemented with photographs, illustrations, and three dimensional graphics illustrating the desired development form in the districts.

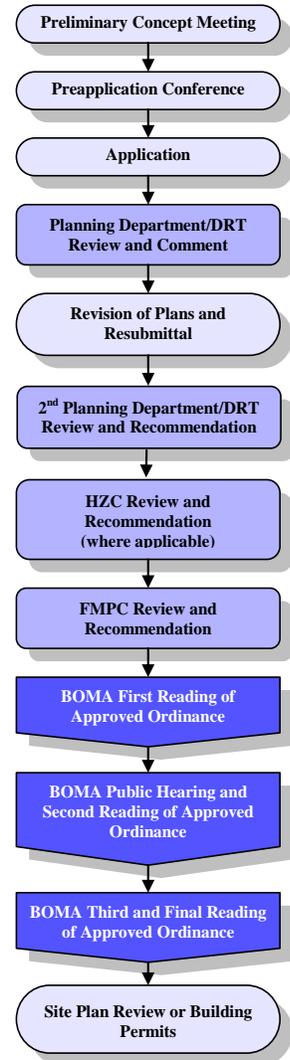
2.1.3 USE MORE TABLES AND FLOW CHARTS

Based on our experience in other communities, we have found summary tables very helpful in presenting information succinctly and eliminating repetition or inconsistent terminology.

For example, a summary use table reduces the number of pages required to convey the same information. Cross-references in summary tables may also be used to direct a user to supplemental regulations that apply to specific uses. While the current LMO uses some basic flow charts and summary tables (e.g., the permitted use table in Section 16-4-1204, parking standards in Section 16-5-1209, and buffer standards in Section 16-5-806), there are many other standards that would benefit from inclusion within a summary table.

We show in Appendix 4.5, Example of a Zone District Format, a proposed new structure for the zone districts that integrates the district purpose and intent statement, photographs of the desired district character, lot patterns, the dimensional and other relevant development parameters, the allowed uses, and the parking standards.

Finally, flowcharts are becoming commonplace in modern development regulations because of their ease of use and their power to convey complex procedural relationships. The current flowcharts are somewhat simplistic, and could be improved.



Example of a procedural flowchart used in another community's code.

2.1.4 CLARIFY CODE LANGUAGE

Codes are more user-friendly when the code language is precise and clearly written. Standards that are unclear invite different interpretation or application and create uncertainty for development applicants as well as staff, review boards and the public. Development standards should clearly incorporate the community's planning and development goals. If unclear or uncertain, unnecessary debate and conflict may occur over the standards applied to an individual project. Where possible and appropriate, development standards should establish measurable standards or thresholds of compliance, but also allow sufficient flexibility to address unique sites or changes in consumer preferences.

There are several places in the LMO where standards could be clarified. For example, the Corridor Overlay District simply requires that "improvements shall be ... reviewed for aesthetic functionality and compatibility with the Island character." This standard could invite different interpretation for different stakeholders and create uncertainty for users. The LMO also makes other references to "island character" in Section 16-5-1305, Sign Standards, and Section 16-5-810,

Buffer Standards. The Buffer Standards article is also general about “structural elements” in buffers and the standards that govern them. Section 16-5-805 lists examples of structural elements, but whether or not structural elements will be required is based on “adjacent existing or zoned land uses” and is left to the discretion of the Administrator. Another article that could benefit from more precise writing is Article XII, Parking and Loading Standards. For example, Section 16-5-1207, Parking Area Design, simply requires parking facilities to have “appropriate plant material to minimize noise, glare, and other nuisances as well as to enhance the environment and ecology of the site and surrounding area.” However, “appropriate plant material” is not defined or clarified in the article.

Predictability is a key hallmark of a user-friendly code, and is vital to the town’s economic development efforts. The LMO rewrite should use plain English and have precise language and standards.

2.1.5 REFINE AND UPDATE DEFINITIONS

Some of the stakeholders indicated that some of the definitions used in the current LMO are in need of revision, modernization, and clarification. In addition, there are many uses not addressed at all that generate a number of questions for town staff.

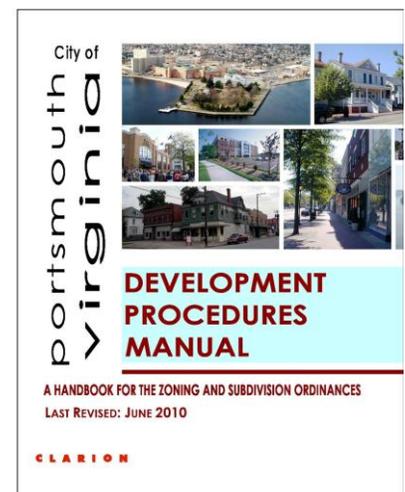
Further review of the LMO indicates it would benefit from a refinement and modernization of its definitions, as well as the addition of definitions where uses or terms are not defined. Many of the uses currently in the LMO are not defined. Examples include health club, government facilities, warehouse, community service, religious institution, indoor recreation and indoor entertainment, outdoor recreation and outdoor entertainment, dance studio, and community theater, just to name a few. Other uses, such as liquor stores, auto sales, gas sales, and adult entertainment, are addressed through development standards in the LMO, but are not defined. All use types used in the LMO need to be defined to help provide clarity.

To address these concerns, as the uses are refined and the districts consolidated in the rewrite, we will ensure all uses are defined. Additionally, we will add and modernize other definitions, where appropriate. Finally, we will also supplement the definitions with an abbreviation glossary.

2.1.6 ADD AN ADMINISTRATIVE MANUAL

The current LMO, like many older development codes, contains many pages filled with technical submittal requirements. They add greatly to the bulk of the code and interrupt the flow of substantive provisions. Not every technical land use requirement need be included in a community’s development code. It is common for codes to refer to manuals containing those requirements, standards, specifications, and practices that are too detailed to include in the LMO—that is, where their inclusion would “clutter” the code to such an extent that it becomes very difficult to understand and apply.

Review procedures in the current LMO include lists of application submission requirements for many of the required plans, such as those found in Chapter 3, Development Review Procedures. We recommend these be relocated to an administrative manual, as can other detailed procedural requirements the town has such as those prescribing the specific form of



An Administrative Manual prepared for another jurisdiction.

applications, the amount of application fees, and schedules depicting the specific dates of application review steps. The manual can also include summary or explanatory information on how to use the LMO or most effectively participate in application review processes, as well as checklists to better ensure applicants address required issues up front.

Importantly, these detailed requirements are typically subject to frequent minor modifications and corrections as practices evolve and new technology becomes available. If they are included in an adopted code, the code must be amended every time such requirements change, no matter how small. Including them in an administrative manual referenced by the LMO avoids both cluttering the code and the need to go through an involved code amendment every time a minor modification or correction is needed.

2.2 UPDATE, CLARIFY, AND STREAMLINE REVIEW PROCEDURES

If development regulations are to effectively help achieve the community's planning and development goals, they must include an efficient process for reviewing development proposals. A review process is efficient if the general framework for reviewing and approving development proposals is not redundant, review procedures and standards provide a reasonable degree of certainty, and the review procedure for each type of approval is streamlined to the greatest extent possible without sacrificing assurance that development decisions support the community's planning and development goals.

Stripping the development review framework of redundancy involves ensuring that the individual types of permits achieve different and discrete procedural and substantive objectives. Too much overlap makes a code cumbersome and overly complex.

Certainty is provided primarily by establishing clear review procedures and definite and understandable development review standards, and balancing discretionary and more administrative review procedures.

Streamlining is achieved in a combination of ways, including consolidating development permitting and approval procedures so the applicant has fewer permits or approvals to obtain, reducing the number of review steps where possible, and allowing administrative rather than discretionary decision-making where community planning and development goals and policies are not sacrificed.

Recognizing that the town's development review procedures were too complex to accommodate the island's current redevelopment needs, the LMO Rewrite Committee, town staff, and volunteer citizens conducted a seven-month effort in 2011 to simplify the town's commercial permitting process. They started by identifying project goals of increasing predictability, enhancing flexibility, minimizing code interpretation subjectivity, streamlining procedures, and making the process user-friendly. Identified strategies included:

- Establishing staff advocates for applicants;
- Adopting a how-to-make-it work approach to application review;
- Reducing the number of reviews;
- Reducing the number of times applicants must appear before boards;
- Minimizing the number of special exceptions;
- Reducing application review times;
- Eliminating subjectivity in code interpretation;

- Allowing submittal of building permit applications during site plan review;
- Consolidating forms and eliminating unneeded information submittals;
- Improving communication with applicants;
- Avoiding technical language; and
- Automating submittals and application tracking.

Because many of these strategies involved administratively-determined procedures (rather than procedures prescribed by the LMO), the town has been able to implement a new, simpler, and much more effective and efficient commercial construction permitting process. The next step is to ensure that the LMO facilitates the new permitting process and helps expand streamlining to other development review procedures.

All of the goals and most of the strategies applicable to the effort to streamline the commercial permitting process also apply to the development review procedures in the LMO. In addition, the LMO Rewrite Committee identified several additional procedural streamlining strategies to consider as part of the LMO rewrite project:

- Relocate regulations pertaining to establishment and updates of the comprehensive plan out of the LMO;
- Delegate review of minor exterior changes within the Corridor Overlay District from the Design Review Board to town staff; and
- Consider an expedited process for posting sureties for completion of development improvements.

Table 2.2.A below summarizes the current LMO's development review procedures, listing ordinance amendment procedures first, then procedures for review of proposed development (from the most general to the most specific), then development-related procedures that do not actually affect the amount or type of development, and finally those procedures intended to provide relief from development decisions.

TABLE 2.2.A: TOWN'S CURRENT DEVELOPMENT REVIEW PROCEDURES

R = RECOMMENDATION D = DECISION A = APPEAL <> = PUBLIC HEARING

PROCEDURE	REVIEW AND DECISION-MAKING AUTHORITIES				
	ADMINISTRATOR	DESIGN REVIEW BOARD	PLANNING COMMISSION	BOARD OF ZONING APPEALS	TOWN COUNCIL
ORDINANCE AMENDMENTS					
Text Amendment	R		<R>		D
Map Amendment (Rezoning)	R		<R>		D
Redevelopment Floating Zone (Rezoning)	R		<R>		D
PUD Designation/Master Plan Review	R		<R>		D
PUD Master Plan Amendment (Major)	R		<R>		D
DEVELOPMENT APPROVALS AND PERMITS					
PUD Master Plan Amendment (Minor)	D			<A>	
Subdivision Review	D		A		
Special Exception Review	R			<D>	
Public Project Review	R		<D>		
Development Plan Review	D		A		
Abbreviated Development Plan Review	D			<A>	
Corridor Overlay District Review	R	D			
Tree Protection Approval	D			<A>	
Wetlands Alteration Approval	D			<A>	

TABLE 2.2.A: TOWN'S CURRENT DEVELOPMENT REVIEW PROCEDURES

R = RECOMMENDATION D = DECISION A = APPEAL <> = PUBLIC HEARING

PROCEDURE	REVIEW AND DECISION-MAKING AUTHORITIES				
	ADMINISTRATOR	DESIGN REVIEW BOARD	PLANNING COMMISSION	BOARD OF ZONING APPEALS	TOWN COUNCIL
Traffic Impact Analysis Approval	R		D		
Sign Permit	Sign area ≤ 40 sf	D	<A>		
	Sign area > 40 sf	R	D		
OTHER DEVELOPMENT-RELATED PROCEDURES					
Development Surety	D			<A>	
Certificate of Compliance	D			<A>	
Development Name Approval	D		A		
Street/Vehicular Access Easement Name Approval	R		D		
RELIEF PROCEDURES					
Written Interpretation	D			<A>	
Variance	R			<D>	
Appeal of Administrative Decision	R			<D>	
Planning Emergency Permitting	D			<A>	

Table 2.2.B below summarizes development review procedures suggested for the LMO rewrite. Suggested changes from the current LMO are described in more detail in the sections that follow Table 2.2.B.

TABLE 2.2.B: SUGGESTED DEVELOPMENT REVIEW PROCEDURES

R = RECOMMENDATION D = DECISION A = APPEAL <> = PUBLIC HEARING

PROCEDURE	REVIEW AND DECISION-MAKING AUTHORITIES				
	ADMINISTRATOR	DESIGN REVIEW BOARD	PLANNING COMMISSION	BOARD OF ZONING APPEALS	TOWN COUNCIL
ORDINANCE AMENDMENTS					
Text Amendment	R		<R>		D
Map Amendment (Rezoning)	R		<R>		D
PUD Designation/Master Plan Review	R		<R>		D
DEVELOPMENT APPROVALS AND PERMITS					
PUD Master Plan Amendment (Minor)	D			<A>	
Subdivision Review	D		A		
Special Exception Review	R			<D>	
Public Project Review	R		<D>		
Development Plan Review	Standard	D	A		
	Abbreviated	D	A		
Corridor Overlay District Review	Minor [NEW]	D	<A>		
	Major	R	D		
Tree Removal Permit	D		A		
Wetlands Alteration Permit	D		A		
Sign Permit	Minor	D	<A>		
	Major	R	D		
OTHER DEVELOPMENT-RELATED PROCEDURES					
Development Surety	D			<A>	
Certificate of Compliance	D			<A>	
Development Name Approval	D		A		
Street/Vehicular Access Easement Name Approval			D		
RELIEF PROCEDURES					

TABLE 2.2.B: SUGGESTED DEVELOPMENT REVIEW PROCEDURES

R = RECOMMENDATION D = DECISION A = APPEAL <> = PUBLIC HEARING

PROCEDURE		REVIEW AND DECISION-MAKING AUTHORITIES				
		ADMINISTRATOR	DESIGN REVIEW BOARD	PLANNING COMMISSION	BOARD OF ZONING APPEALS	TOWN COUNCIL
Written Interpretation	Zoning regulation	D			<A>	
	Subdivision/ land development regulation	D		A		
Administrative Adjustment [NEW]		D			<A>	
Variance	Zoning regulation	R			<D>	
	Subdivision/land development regulation	R		D		
Administrative Appeal	Zoning decision or interpretation	R			<D>	
	Subdivision/land development decision or interpretation	R		D		
	Minor Corridor Overlay District Review; Minor Sign Permit	R	<D>			
Planning Emergency Permitting		D			<A>	

2.2.1 REDUCE THE NUMBER OF SPECIAL EXCEPTIONS

Special exceptions are land uses whose appropriateness in a particular zone district depends on their specific location, intensity, and/or design, and where special discretionary review of these factors is needed to ensure the use will be developed in a way that is compatible with its surroundings and the intended character of the district. As such, special exceptions provide the flexibility to allow in a district those land uses whose appropriateness is "borderline" and cannot be adequately ensured through generally applicable district regulations or through use-specific standards. Where a use's appropriateness in a district can be addressed through use-specific standards, however, there is no need for the extra review and uncertainty inherent in the Special Exception Review procedure.

The use table in Sec. 16-4-1204 of the current LMO identifies 34 land uses as a special exception in at least one zone district. For some of these, special exception designation is appropriate. For example, major utility facilities, like electrical substations, are allowed in a number of districts to ensure they can be located to meet electric service demands, yet are allowed only as special exceptions to ensure the potential adverse impacts on surrounding uses and the character of the district are appropriately mitigated. Some of the uses currently designated as special exceptions, however, have only relatively minor potential impacts on surrounding development-impacts that can be adequately addressed by district standards and use-specific standards.

The LMO Rewrite Committee recognized this when it recommended that the LMO rewrite reduce the number of special exceptions. The committee specifically questioned whether outdoor recreation uses should continue to be allowed only as special exceptions in only two districts (Central Forest Beach and Resort Development). Other special exception uses that might be considered for possible re-designation to permitted uses subject to use-specific standards in at least some districts include community parks (in mixed-use and commercial districts), indoor recreation/entertainment (in mixed-use and commercial districts), commercial parking (in commercial districts), hotels and interval occupancy (in the Central Forest Beach and Resort Development districts), and gas sales (in at least one commercial district).

In the LMO rewrite, we will work with town staff to identify those current special exceptions that could be allowed as permitted uses subject to use-specific standards

in certain zone districts, and to add the necessary use-specific standards, as appropriate.

2.2.2 DELEGATE SOME CORRIDOR OVERLAY DISTRICT REVIEW AUTHORITY TO STAFF

As noted above, one of the LMO Rewrite Committee's goals calls for delegating authority to approve minor exterior changes within the Corridor Overlay District from the Design Review Board to town staff. The Corridor Overlay District covers most of the land developed or zoned for commercial and tourist-related uses. Requiring the owners of such uses to go through a potentially lengthy and uncertain review process before the Design Review Board every time they propose minor alterations to their buildings or other site elements may discourage the owners from initiating just the types of renovation and refurbishing needed to maintain or enhance the attractiveness of existing development and its contribution to the town's economy. Delegating review of such minor changes from the Design Review Board to town staff would significantly shorten the review time for minor exterior changes and should reduce the uncertainty applicants experience—and thus facilitate renovation and refurbishing of the town's commercial properties.

As identified by the LMO Rewrite Committee, one of the concerns about delegating such authority to the staff relates to subjecting proposed minor changes to a single staff member as opposed to a group decision by the seven-member Design Review Board, where individual opinions may be moderated into more of a consensus decision. Such concerns can be addressed by providing more specific and objective standards to guide staff decisions.¹ Although it would be difficult to develop objective standards for all the design issues typically reviewed by the Design Review Board, it is feasible to develop objective standards and specific criteria for staff decisions about the appropriateness of minor changes to buildings and site elements, as well as certain minor changes to major building and site elements.

We recommend that the town split the current Corridor Overlay District review procedure to include separate reviews of "minor" and "major" applications, with minor applications defined as including prescribed changes to minor building and site elements (e.g., railings, awnings, shutters, exterior lighting, fences and walls, utility lines, dumpster enclosures) as well as prescribed minor changes to certain major building or site elements (e.g., colors and materials of siding and roofs). The town could also use the faster review inherent in such delegation as an incentive for developers to propose certain design elements. For example, the LMO might allow staff review of minor additions and accessory structures that use the same exterior material and/or color as the site's principal building, or staff review of cloth awnings (as opposed to plastic or metal awnings). In such cases, additions or accessory structures using other materials or colors, or awnings made of non-cloth materials, would be required to go through the full Design Review Board review.

We also suggest that the town consider going even further-by allowing staff the authority to review and decide on multi-family accessory structures and nonresidential buildings with less than 3,000 square feet of floor area.

¹ Town staff currently has a checklist that the town's urban design professional uses for the review of applications, subject to Corridor Overlay District review.

2.2.3 CLARIFY THE RELATIONSHIP BETWEEN TREE PROTECTION AND WETLANDS ALTERATION APPROVAL PROCEDURES AND THE DEVELOPMENT PLAN REVIEW PROCEDURE

The current LMO consolidates compliance review for nearly all aspects of development into the Development Plan Review procedure—including review of plans and other information for compliance with the LMO's tree and wetlands protection standards in Chapter 6. But unlike with all other aspects of development, the LMO requires applicants for Development Plan Review to submit separate applications for Tree Protection Approval and Wetlands Alteration Approval. Although applications for Tree Protection Approval and Wetlands Alteration Approval could be reviewed concurrently with an application for Development Plan Review, it may be confusing to developers to single out these aspects of development for separate applications. Furthermore, whereas decisions on Development Plan Review applications are appealable to the Planning Commission, decisions on applications for Tree Protection Approval and Wetlands Alteration Approval are appealable to the Board of Zoning Appeals. If a development proposal is denied due to alleged noncompliance with tree protection standards and/or wetlands alteration standards as well as alleged noncompliance with some other standards (e.g., access and circulation standards), where does the applicant file an appeal—with the Planning Commission, with the Board of Zoning Appeals, or both?

The apparent reason for establishing separate Tree Protection Approval and Wetlands Alteration Approval applications is to address development activities exempt from Development Plan Review (e.g., public projects, single-family homes, agriculture) and any non-development activity involving the removal, destruction, or damage of any tree or an alternation to a wetland. For each of those cases, however, the review procedures for Tree Protection Approval and Wetlands Alteration Approval set forth an abbreviated "approval letter" requirement.

The current Tree Protection Approval and Wetlands Alteration Approval procedures could be modified to merely apply the current "approval letter" review to development exempt from Development Plan Review and non-development activity, with the Development Plan Review procedure modified to clarify that it incorporates review for compliance with tree protection and wetlands alteration standards. Doing so removes any confusion Development Plan Review applicants might have about having to file additional applications for Tree Protection Approval and Wetlands Alteration Approval. It also eliminates the apparent conflict regarding appeals of Development Plan Review decisions based on noncompliance with tree protection or wetlands alteration standards—even if the separate applications relating to tree protection and wetlands alteration remain appealable to the Board of Zoning Appeals.

For these reasons, we recommend that the town consider:

- Changing the Tree Protection Approval procedure to a Tree Removal Permit procedure that applies the current abbreviated "approval letter" process to the removal, destruction, or damage of any tree not associated with development activity authorized by an approved Development Plan;
- Changing the Wetlands Alteration Approval procedure to a Wetlands Alteration Permit procedure that applies the current abbreviated "approval letter" process to any alterations to a wetland not associated with development activity authorized by an approved Development Plan; and

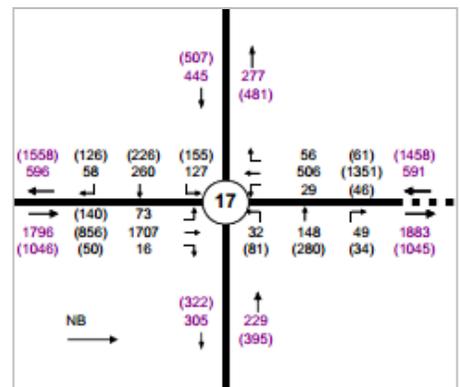
- Modifying the Development Plan Review procedure to make clear that it includes review for compliance with the LMO's tree protection and wetlands alteration standards.²

If the town agrees with this recommendation, appeals should go to the Planning Commission.

2.2.4 INCORPORATE THE TRAFFIC IMPACT ANALYSIS REVIEW INTO THE DEVELOPMENT PLAN REVIEW PROCEDURE

Article XIII of Chapter 3 of the LMO sets out a procedure for the submittal and review of a traffic impact analysis for certain developments. It requires a traffic impact analysis for any development subject to the Development Plan Review procedure that would generate more than a specified threshold of peak hour trips. Where a traffic impact analysis is required, approval of the analysis by the town staff (if the analysis calls for no or minimal traffic mitigation) or the Planning Commission (in other instances) is a prerequisite to staff approval of a development plan.

Traffic impact analysis is largely a technical exercise done in accordance with generally accepted transportation planning criteria and standards. Review of traffic impact analyses is therefore very appropriate as a staff function, and need not take up time the Planning Commission could be devoting to substantive policy issues. The current standards for when a traffic mitigation plan is required and what measures it might include are very specific, and do not leave much room for discretionary review by the Planning Commission. Furthermore, requiring Planning Commission review of certain traffic impact analyses puts on hold the submittal, or at least the review and approval, of a development plan for the development for which the analysis was prepared. Given the technical nature of traffic impact analyses and their review, such a delay seems unnecessary.



For these reasons, we recommend that all traffic impact analyses be subject to staff approval and that review of traffic impact analyses be incorporated into the Development Plan Review procedure rather than exist as a separate procedure. Doing so would significantly streamline the development review process for those developments where traffic mitigation is needed, without any loss in the quality of review.

Article XIII also includes provisions requiring improvements called for by any traffic mitigation plan included in a traffic impact analysis. We recommend that those provisions be relocated to the LMO's development standards pertaining to access and circulation.

² The current Development Plan Review procedure generally identifies those aspects of development to which it pertains through its submittal requirements—i.e., its requirements for a landscape plan, site lighting plan, stormwater management plans, etc. (as well as for applications for Tree Protection Approval and Wetlands Alteration Approval). As described in Section 2.1.6 (Add an Administrative Manual), we recommend that detailed submittal requirements such as Sec. 16-3-304's list of contents of a landscape plan be relocated to an administrative manual. The Development Plan Review procedure, however, could continue to more generally identify the types of plans or information to be reviewed, which would include tree protection and wetlands alteration. We also suggest that the Public Project Review procedure—the review procedure comparable to the Development Plan Review procedure that is applicable to proposals to develop public buildings and facilities—similarly identify the types of plans or information to be reviewed, and include tree protection and wetlands alteration.

Article XIII also includes provisions requiring town staff to prepare annual traffic monitoring and evaluation reports for all signalized intersections in the town, and to submit such reports to the Planning Commission and Town Council for review and public comment. Such an activity is not a development review procedure; nor is it directly related to a traffic impact analysis required as part of development review. As such, it seems an inappropriate procedure for the LMO and we recommend that it be relocated elsewhere among the town's internal regulations and procedures.

2.2.5 DEFINE PROCEDURES FOR APPEALS TO THE PLANNING COMMISSION AND DESIGN REVIEW BOARD

The current LMO provides that staff decisions on applications for Development Plan Review, Subdivision Review, Development Name Approval, , and Traffic Impact Analysis Approval may be appealed to the Planning Commission. It also provides that staff decisions on applications of certain signs (including signs with a sign face area of 40 square feet or less) may be appealed to the Design Review Board. If the town concurs with our recommendation that staff be allowed to approve prescribed minor changes within the Corridor Overlay District, we suggest such staff decisions be appealable to the Design Review Board.

Although the LMO includes a procedure for appeals of administrative zoning decisions to the Board of Zoning Appeals, it does not include procedures for appeals to the Planning Commission and Design Review Board, and the provisions identifying the right to appeal to those boards only specify a filing deadline. The LMO is silent on who may appeal, where appeals must be filed, whether a public hearing is involved, what hearing notice is required, what decisions are authorized, or what criteria govern the decisions. Although the South Carolina Code of Laws answers some of these questions,³ applicants cannot rely on the LMO to provide them guidance on this important step in the development process.

We recommend that procedures for appeals to the Planning Commission and Design Review Board be incorporated with the administrative appeal procedure if they are similar enough with that procedure to do so; if they are not, they should be added as separate procedures.

2.2.6 ADD AN ADMINISTRATIVE ADJUSTMENT PROCEDURE

Many communities use an administrative adjustment procedure to authorize town staff to approve minor deviations from certain dimensional or numerical standards based on specific criteria. The procedure is intended to provide relief where application of the dimensional or numerical standard creates practical difficulties in allowing development that otherwise advances the intent of the deviated standard. We recommend that such a procedure be added to the LMO.

The procedure would specifically identify those dimensional and numerical standards from which a deviation may be allowed and specify the maximum extent of deviation (most commonly by percentage). Standards for which administrative adjustments are commonly authorized include various lot dimensions, setbacks, height limits, yard encroachments, number of off-street parking spaces, fence height, lighting fixture height and illumination levels, and dimensions and planting rates/spacing for buffers and other landscaped areas. The extent of allowable deviation is typically limited to ten or 15 percent, though higher percentages might be allowed in certain districts or for certain types of development where greater flexibility may be needed to encourage redevelopment or achieve community goals. The following table includes

³ S.C. Code Ann. § 6-29-80 address appeals to the Design Review Board (board of architectural review). S.C. Code Ann. § 6-29-1150(C) address appeals to the Planning Commission.

a list of standards the town might want to consider eligible for administrative adjustments.

STANDARD	MAXIMUM ALLOWABLE EXTENT OF ADJUSTMENT
Minimum lot coverage and minimum setbacks	15%
Maximum height	15%
Maximum setback/buffer encroachment	15%
Minimum required number of off-street parking spaces, loading, or stacking spaces	15%
Maximum number of off-street parking spaces	15%
Minimum planting rate	15%
Minimum adjacent use buffer width	15%
Minimum adjacent street buffer width	15%
Maximum fence height	1 ft
Maximum light levels	10%
Distance Separation of One-Way Access Points	N/A

Criteria for approving an administrative adjustment typically require that the deviation not undermine the intent of the standard being deviated and impose no greater impacts on adjacent properties than would occur through strict compliance with the subject standard. For example, an administrative adjustment limited to allow a 15 percent reduction in the required minimum number of parking spaces could be used to shift the location of a parking area the few feet necessary to preserve an existing large tree or provide a low-impact stormwater management measure instead of a pipe or catch basin.

An example of an administrative adjustment procedure adopted by another coastal community is included as Appendix 4.1, Example of Administrative Adjustment Procedure.

2.2.7 EXPAND USE OF THE ABBREVIATED DEVELOPMENT PLAN REVIEW

An efficient development review process is one that provides fast-track review of applications that typically do not involve complex compliance issues or review by multiple agencies. The current LMO includes what it calls an Abbreviated Development Plan Review procedure, where staff review and decision takes place in less than five working days. The current LMO limits use of this review procedure to proposals for two to five dwelling units on a single parcel. We suggest that the town consider expanding use of the Abbreviated Development Plan Review procedure to include the review of accessory and temporary uses and structures. Review of such developments is typically straightforward and feasible within the shorter timeframe. The town also has a practice that is not codified in the LMO of providing an expedited Redevelopment Plan Review of horizontal work (e.g., parking lots), for development other than single-family properties. We also suggest this review process be incorporated into the Abbreviated Development Plan Review Procedure.

The town might also consider expanding this shortened review procedure to encourage certain preferred types of development, such as minor additions or alterations within targeted redevelopment areas. Doing so might encourage the renovation and refurbishment of some of the town's older commercial developments.

2.2.8 MODIFY TREATMENT OF MINOR PUD MASTER AMENDMENTS

Sec. 16-3-107 authorizes staff approval of certain minor amendments to PUD master plans, including changes resulting in reduced density and change from multifamily to single-family use (and vice-versa if site-specific density is not increased). Minor

amendments also include changes in major infrastructure features (e.g., roads, water, sewer, storm drainage) deemed beneficial to residents of the area covered by the master plan—provided the relevant property owners association is notified of the proposed change and does not object to it.

Master plans are typically considered concept plans that establish the general parameters and relationships between the major components of a large unified development proposal. Development of each phase or component of the PUD subsequently occurs through review of more detailed plans during a site plan or subdivision review procedure, with one criterion for approval being consistency with the master plan. Many development codes include provisions describing the extent of deviations from the master plan that these subsequent plans are allowed to propose and still be considered consistent with the master plan. Such allowable deviations typically include reductions in density, minor relocations of buildings and other site features, limited changes in use, etc.

State zoning enabling legislation expressly states that amendments to a planned development district constitute zoning ordinance amendments that must be authorized by an ordinance of the governing authority. It is therefore important that these deviations be treated in the context of consistency with the master plan, and not in a way that could be construed as amendments to the PUD. By singling out a procedure for staff allowance of deviations from a master plan approved in conjunction with approval of a PUD, and in identifying it as a minor master plan amendment, the LMO may create some confusion about the legal status of the procedure. We recommend that Sec. 16-3-107 be modified to include standards that address the extent of deviations for the master plan that are allowable in subsequently reviewed applications for Development Plan Review and Subdivision Review, and that such standards be as objective as possible.

2.2.9 CONSOLIDATE APPLICATION CHECK-IN CONFERENCE AND APPLICATION COMPLETENESS DETERMINATION PROCEDURES

Sec. 16-3-104 of the current LMO requires most applicants to hold a check-in conference with town staff at which the staff reviews the applicant's application submittal and determines whether it meets applicable submittal requirements. Sec. 16-3-108 requires the Administrator to review an application submittal to confirm whether it includes all required items, and if it does not, to notify the applicant of the deficiencies and give him or her a chance to complete the application. These seem to be redundant steps that unnecessarily consume the applicant's and staff's time and resources. For that reason, we recommend that the check-in conference be consolidated into the application completeness determination process.

2.2.10 CONSIDER ADDING NEIGHBORHOOD MEETINGS TO THE STANDARD REVIEW PROCEDURES

An increasing number of local governments throughout the country use neighborhood meetings to provide an opportunity for a prospective applicant to meet with neighbors of a proposed development site and (1) inform them about the development proposal, (2) hear their concerns, and (3) attempt to resolve any concerns in an



Neighborhood meetings give adjacent landowners the opportunity to hear about and comment on a development proposal before an application is submitted.

informal setting. Even if concerns cannot be resolved, both the developer and neighbors usually come out of the meeting better informed of the other's perspectives and better prepared to focus on the most important issues during the application review process.

The requirements and timing for neighborhood meetings vary from community to community. Some communities make neighborhood meetings optional, using the development code to establish when they are held, how notice is given, and how they are conducted. Other communities require neighborhood meetings for certain major development applications, but make them optional for other applications.

In most jurisdictions, neighborhood meetings are required before any town review of the development proposal. In others, they are required after initial staff review of the proposal, but before full and complete staff review of the development application.

We suggest the most appropriate time to conduct a neighborhood meeting is before the application is submitted. At this time, the developer has an informed idea of how code requirements and restrictions will affect the development proposal, but has not committed substantial resources towards detailed plans and designs. Under these circumstances, both the developer and neighbors are more likely to come to the neighborhood meeting without hardened positions about the proposal. Consequently, an honest and good faith discussion about development issues related to the proposal can still usually occur between the developer and interested neighbors.

We suggest the town consider adding a neighborhood meeting requirement for major developments to the standard review procedures in the LMO, and if one is included, having it establish procedures for how the neighborhood meeting is conducted. Such procedures typically require the developer to:

- Provide written notice of the meeting to surrounding property owners and affected neighborhood organizations within a reasonable period of time before the meeting;
- Hold the meeting at a location convenient to neighbors;
- Explain the development proposal, provide neighbors an opportunity to ask questions, make comments, and voice concerns, and encourage informal resolution of any outstanding issues; and
- Prepare a written summary of the neighborhood meeting, to be made part of the application.

We recommend that town staff have no role in neighborhood meetings (or at most, a role limited to advising attendees about applicable LMO provisions and procedures). The purpose of the neighborhood meeting is to allow the prospective applicant and neighbors to understand each other's perspectives regarding the development proposal and hopefully to mutually agree to resolutions of some concerns.

If a requirement for neighborhood meetings is included in the LMO rewrite, we suggest it apply to the following types of development approval:

- Rezoning;
- PUDs; and
- Special Exceptions.

We recommend that the LMO encourage (but not require) neighborhood meetings for all other development applications.

2.3 MODIFY AND CONSOLIDATE ZONE DISTRICTS AND ENCOURAGE MORE USE MIXING

The heart or foundation of a development code is its zone districts, allowable uses, and related regulations. Currently the LMO consists of 24 base zone districts and eight overlay districts. They are set-down in Table 2.3: Town's Current Zone District Structure.

TABLE 2.3: TOWN'S CURRENT ZONE DISTRICT STRUCTURE	
CONSERVATION AND RECREATION DISTRICTS	
	CON Conservation District
	PR Parks and Recreation District
RESIDENTIAL DISTRICTS	
	RS-2 Residential Single-Family District (2 units/acre)
	RS-3 Residential Single-Family District (3 units/acre)
	RS-4 Residential Single-Family District (4 units/acre)
	RS-5 Residential Single-Family District (5 units/acre)
	RS-6 Residential Single-Family District (6 units/acre)
	RM-4 Low to Moderate Density Residential District (4 to 8 units per acre)
	RM-8 Residential Moderate Density District (8 units/acre)
	RM-12 Moderate to High Density Residential District (12 units/acre)
BUSINESS DISTRICTS	
	OL Office/Institutional Low Intensity District
	OM Office/Institutional Moderate Intensity District
	NC Neighborhood Commercial District
	CC Commercial Center District
	CCW Coligny Commercial Walking District
	DCW Dunnagans Commercial Walking District
	RD Resort Development District
	CFB Central Forest Beach District
	IL Light Industrial/Commercial Distribution District
	OCIL Office/Light Commercial/Light Industrial District
MIXED USE DISTRICTS	
	PD-1 Planned Development Mixed Use District
	SMU Stoney Mixed Use District
	WMU Water Front Mixed Use District
	MMU Marsh Front Mixed Use District
OVERLAY DISTRICTS	
	AZ Airport Overlay District
	COR Corridor Overlay District
	PD-2 Planned Development Overlay District
	FB-NCOD Forest Beach Neighborhood Character Overlay District
	FF-NCOD Folly Field Neighborhood Character Overlay District
	HH-NCOD Holiday Homes Neighborhood Character Overlay District
	RO Redevelopment Overlay District
	CSPDAA&TAOD Critical Storm Protection and Dune Accretion Area and Transition Area Overlay District

Our review of the current zone district structure in light of the goal to consolidate the zone districts to simplify the LMO and encourage more mixed-use opportunities makes it clear zone district consolidation, as well as other modifications to the zone district structure and format is needed. In undertaking the evaluation, we also felt several other considerations important to factor into the analysis.

- First, maintaining and protecting the character of established single-family neighborhoods;

- Second, ensuring consolidation does not increase nonconformities, but reduce them; and
- Third, ensuring consolidation does not affect the development approvals received by the current PUDs.

2.3.1 SUGGESTED ZONE DISTRICT CONSOLIDATION

With these additional considerations in mind, we evaluated the current zone district structure and the zone district map, reviewed more closely the zone district regulations in the LMO, and had further discussions with town staff about related zone district and development issues. This analysis resulted in a revised zone district structure which reduces the current base zone districts from 24 to 14 districts. Of the 14 base districts, three would be new mixed-use districts that would incorporate form-based elements. Generally, it is suggested the overlay districts be carried forward, except for the RO Redevelopment Overlay District.

The suggested zone district structure for the LMO rewrite is outlined in Table 2.3.1: Zone District Structure in LMO Rewrite. It shows the zone district structure in the current LMO on the left side of the table, as compared to the zone district structure proposed for the LMO rewrite, on the right side of the table. More detail about the proposed consolidation of districts and changes to the base districts follows the table.

We are certain there will input, comments, and suggestions about proposed changes to the zone district structure, as the process moves forward. This is an initial effort to consolidate some of the districts in an effort to simplify the LMO, remove obstacles for redevelopment, and provide opportunities for higher density, mixed use, and more pedestrian-friendly development opportunities in the appropriate locations.

TABLE 2.3.1: ZONE DISTRICT STRUCTURE IN LMO REWRITE

ZONE DISTRICT IN CURRENT LMO	ZONE DISTRICT IN LMO REWRITE
CONSERVATION AND PARKS/RECREATION DISTRICTS	
CON Conservation District	CON Conservation District
PR Parks and Recreation District	PR Parks and Recreation District
RESIDENTIAL DISTRICTS	
RS-2 Residential Single-Family District (2 units/acre)	RSF-3 Residential Single-Family District (3 units/acre)
RS-3 Residential Single-Family District (3 units/acre)	[CONSOLIDATED]
RS-4 Residential Single-Family District (4 units/acre)	RSF-6 Residential Single-Family District (6 units/acre) [CONSOLIDATED]
RS-5 Residential Single-Family District (5 units/acre)	
RS-6 Residential Single-Family District (6 units/acre)	
RM-4 Low to Moderate Density Residential District (4 units/acre)	RM-4 Low to Moderate Density Residential District (4 units/acre)
RM-8 Residential Moderate Density District (8 units/acre)	RM-12 Moderate to High Density Residential District (12 units/acre)
RM-12 Moderate to High Density Residential District (12 units/acre)	[CONSOLIDATED]
BUSINESS AND MIXED USE DISTRICTS	
CC Commercial Center District	I-MX-C Island Place Mixed Use District (some existing portions of the CC, SMU, WMU, and CFB districts will be designated with a lesser intensity district, probably the I-MX-M or N-MX classifications) [NEW MIXED USE DISTRICT]
CCW Coligny Commercial Walking District	
WMU Water Front Mixed use District	
SMU- Stoney Mixed Use District	
CFB Central Forest Beach District	
DCW Dunnagans Commercial Walking District	I-MX-M Island Mixed Use Moderate Intensity District (might also include some parts of the CC District) [NEW MIXED USE DISTRICT]
RD Resort Development District	N-MX Neighborhood Oriented Mixed Use (district might also be applied to edges of WMU, SMU, or CCW as a transition to lower-intensity districts) [NEW MIXED USE DISTRICT]
OL Office/Institutional Low Intensity District	
NC Neighborhood Commercial District	
MMU Marsh Front Mixed Use District	MW Marsh and Waterfront
OM Office/Institutional Moderate Intensity District	OM Office/Institutional Moderate Intensity District
OCIL Office/Light Commercial/Light Industrial District	OCIL Office/Light Commercial/Light Industrial District
IL Light Industrial/Commercial Distribution District	IL Light Industrial

TABLE 2.3.1: ZONE DISTRICT STRUCTURE IN LMO REWRITE

ZONE DISTRICT IN CURRENT LMO	ZONE DISTRICT IN LMO REWRITE
PD-1 Planned Development Mixed Use District	PD-1 Planned Development Mixed Use District
OVERLAY DISTRICTS	
AZ Airport Overlay District	AZ Airport Overlay District
COR Corridor Overlay District	COR Corridor Overlay District
PD-2 Planned Development Overlay District	PD-2 Planned Development Overlay District
FB-NCOD Forest Beach Neighborhood Character Overlay District	FB-NCOD Forest Beach Neighborhood Character Overlay District
FF-NCOD Folly Field Neighborhood Character Overlay District	FF-NCOD Folly Field Neighborhood Character Overlay District
HH-NCOD Holiday Homes Neighborhood Character Overlay District	HH-NCOD Holiday Homes Neighborhood Character Overlay District
RO Redevelopment Overlay District	[DELETED]
CSPDAA&TAOD Critical Storm Protection and Dune Accretion Area and Transition Area Overlay District	CSPDAA&TAOD Critical Storm Protection and Dune Accretion Area and Transition Area Overlay District

As outlined in Table 2.3.1: Zone District Structure in LMO Rewrite, above:

- The **CON Conservation District** and the **PR Parks and Recreation District** will be carried forward in their current form.
- Some consolidation is suggested for the **Residential districts**, which simplifies the district structure while continuing to maintain the character of the town’s residential districts and encouraging additional residential options and limited mixed-use options in the highest density RM district. Specifically:
 - The RS-2 and RS-3 Districts are proposed to be consolidated into a new **RSF-3 Residential Single Family-3 District**, with a maximum density of three units an acre. The allowed uses in the current RS-2 and RS-3 districts are the same (single-family, agriculture, and several different types of parks are allowed as permitted uses; minor utilities and cemeteries are allowed as special exceptions), and would be carried forward. The dimensional standards from the current RS-3 district would be used to ensure consolidation does not create nonconformities.
 - The RS-4, RS-5, and RS-6 Districts are proposed to be consolidated into a new **RSF-6 Residential Single Family-6 District**, with a maximum density of six units an acre. Currently the allowed uses in the RS-4, RS-5, and RS-6 districts are the same (single-family, agriculture, and several different types of parks are allowed as permitted uses; minor utilities and cemeteries are allowed as special exceptions), and they would be carried forward. The dimensional standards from the RSF-6 District would be used to ensure the consolidation would not create nonconformities. One possible modification we suggest the town consider in the district is to also allow by right small-scale attached residential development of four or fewer units, if it is designed to appear as a single-family home (the maximum density limitation of six units an acre would apply to this type of development). To ensure the small-scale attached residential development appears as a single-family home, some basic design standards would be included in the LMO. Another option, if the community is concerned the design standards might not be sufficient, is for the town to design four to eight acceptable prototype designs (an idea used by Santa Cruz, CA for accessory dwelling units and discussed in Appendix 4.2.; Santa Cruz’s Approach to Accessory Dwelling Units). Along these lines, we also suggest the town might want to consider allowing accessory dwelling units in the RSF-6 District, through prototypes.

- The **RM-4 Low to Moderate Density Residential District** would be carried forward in its current form, along with the suggestion that single-family homes in the district be allowed to have one accessory dwelling unit.
- The RM-8 and RM-12 Districts are proposed to be consolidated into a new **RM-12 Moderate to High Density Residential District**, with a maximum density of 12 units an acre. The uses allowed in the RM-12 would be the uses allowed in the current RM-12 District (group living, single-family, multifamily, manufactured housing parks, schools, community service uses, day care, government facilities, religious institutions, different types of parks, minor utilities, telecommunication facilities, and agriculture as permitted uses. Bed and breakfasts, inns, cemeteries, major utilities, and waste treatment plants as special exceptions). The dimensional standards from the current RM-12 district would be used to ensure the consolidation would not create any nonconformities. As in the RM-4 District, we suggest that single-family homes in the district be allowed to have one accessory dwelling unit. Additionally, we also suggest the town consider allowing small-scale, pedestrian-oriented, personal service retail establishments (e.g., barber shops and hair salons, health clubs and spas, banks (without drive-thrus), restaurants (without drive-thrus), supermarkets, pharmacies (without drive-thrus), liquor stores (without drive-thrus), and convenience stores (without drive-thrus) in the RM-12 District; residential above the first floor of these developments could be encouraged. To ensure the development will be small-scale and pedestrian-friendly, standards could be included in the LMO that limit the size (floorplate) of the building, regulate parking location, require certain pedestrian amenities, and require basic design features.
- The **Business and Mixed Use districts** represent the primary focus of the consolidation efforts, and where an emphasis can be placed on providing options for walkable, higher-density, mixed-use places. There are a few concepts worth discussion when considering the consolidation and transition of the business and mixed use districts. First of all, it is useful to analyze the development patterns found within the mixed use districts to ascertain which ones might be appropriate for pedestrian-oriented development. Hilton Head Island has limited pedestrian potential today, as shown on the WalkScore's "Heat Map" (see Figure 2.3.1.a). WalkScore analyzes pedestrian connectivity and density of amenities within a given area to produce a "walk score." While the island scores a low 26 (on a scale of 1 to 100), there are some areas that suggest higher potential.

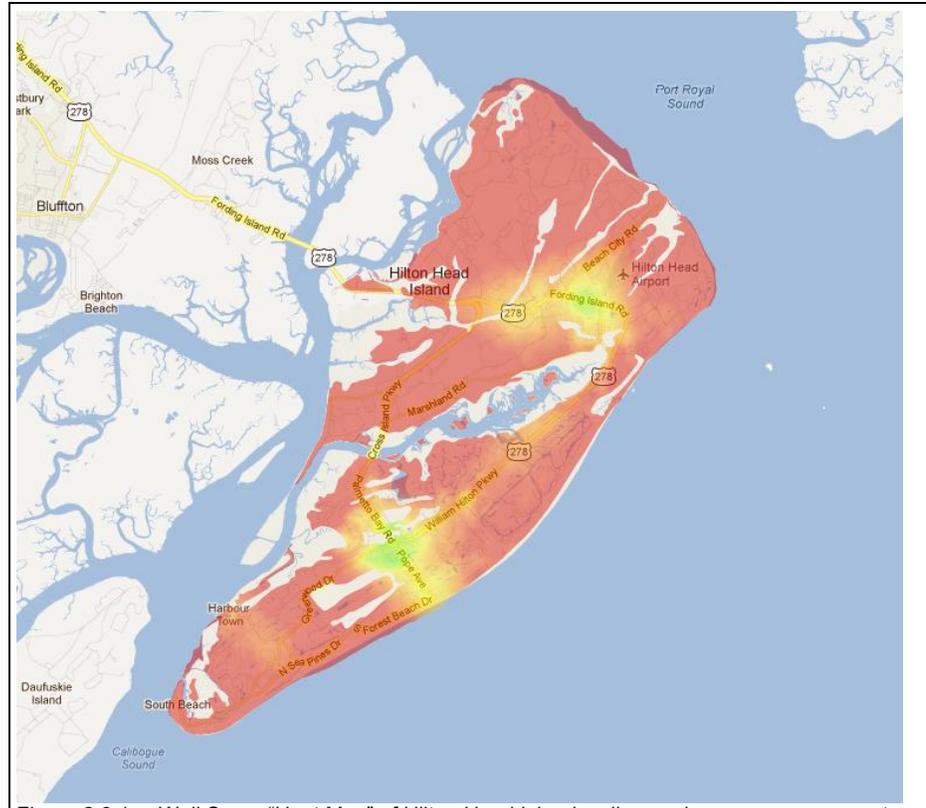


Figure 2.3.1.a: WalkScore “Heat Map” of Hilton Head Island; yellow and green areas suggest patterns that have a higher walkability potential.

The Island also has an extensive network of bicycle paths. Many of these are Class 1 facilities that provide a very broad coverage. The existing bicycle infrastructure should be considered when thinking about the potential for walkable places, because once this is taken into account, a good deal of the island can become accessible for pedestrians and bicyclists. (See Figure 2.3.1.b)

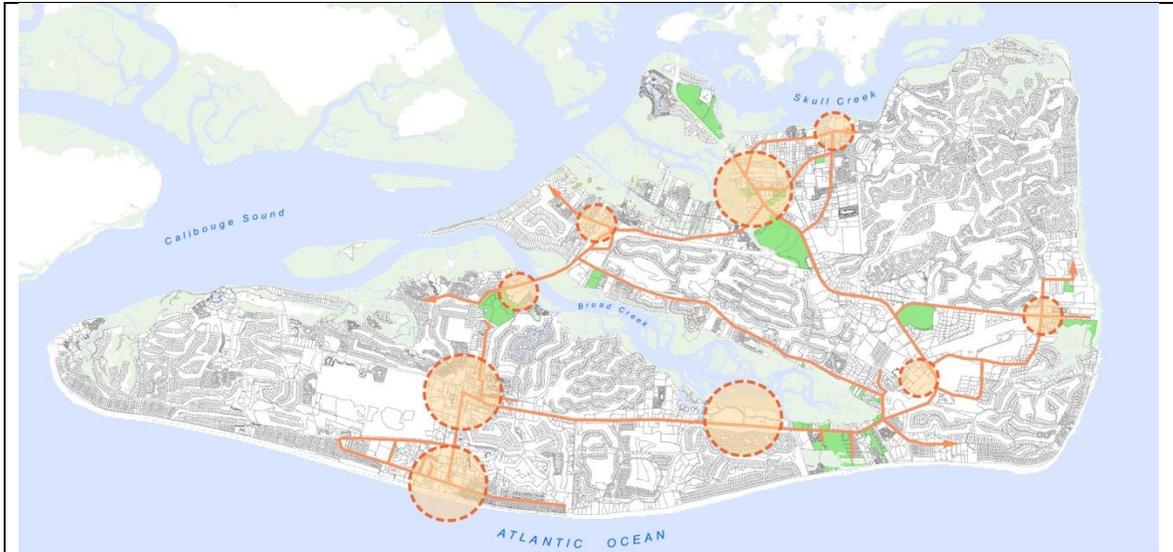


Figure 2.3.1.b: Potential pedestrian destinations in the context of the Island's bicycle route network. The larger circles illustrate a 1/2 mile "pedestrian shed" or the distance it takes a typical pedestrian to travel in about 10 minutes. The smaller circles illustrate a 1/4 mile "pedestrian shed" or the distance it takes a typical pedestrian to travel in about 5 minutes. The distances between nodes by bicycle are illustrative of a typical "bikeshed," or 2-3 miles.

These walkable destinations would benefit from more aggressive changes to the zoning in particular locations through the implementation of three or four new mixed use districts. When the 1/2 mile and 1/4 mile sheds are applied, it suggests the extent of the areas that might be prioritized for change (see Figure 2.3.1.c).

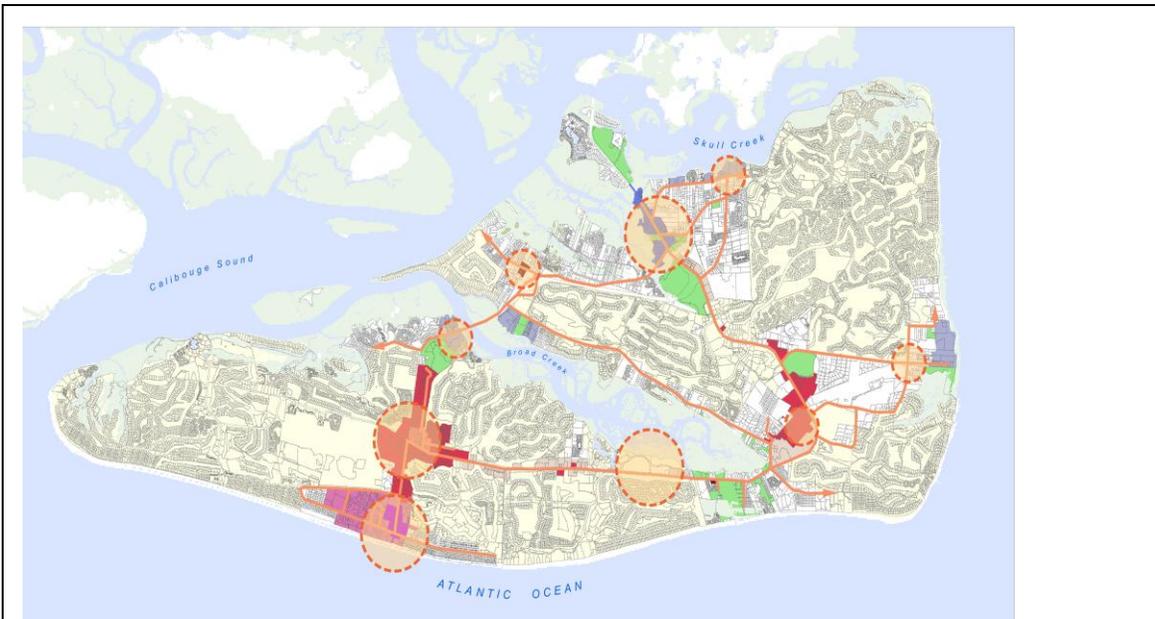


Figure 2.3.1.c: Zones most appropriate for change include CC, CCW, DCW, CFB, NC, WMU, and SMU. Shelter Cove Mall (in the PD-1 District) is also an appropriate location for change.

In principle the town should consider making adjustments in these areas and districts to promote higher intensities that will help to encourage individual property owners to redevelop; additionally, more prescriptive guidance with regards to development standards can help to ensure that this higher intensity

maintains Hilton Head character. We suggest this character should be emphasized over minor differences in nonresidential uses or metrics that might otherwise discourage investment.

Given the existing variations in intensity, height, density, and land use amongst the different line-up of business and mixed use districts in the current LMO, we suggest a set of three new mixed-use districts of varying intensities that could be applied to nine of the current 14 business and mixed use districts. The new mixed use districts would be: **I-MX-C Island Mixed Use Center District**, **I-MX-M Island Mixed Use Moderate Intensity District**, and **N-MX Neighborhood Service Mixed Use District**. Suggested development parameters for these mixed use districts are outlined in Table 2.3.1.B.

TABLE 2.3.1.B: PARAMETERS FOR NEW MIXED USE DISTRICTS					
DISTRICT	FORM	NUMBER OF STORIES	DISPOSITION	CORE APPLICATION	EDGE APPLICATION
I-MX-C Island Mixed Use Center District	Attached	5 + 1*	0' BTL	WMU, SMU, CFB, CCW	
I-MX-M Island Mixed Use – Moderate Intensity District	Attached	3.5 + 1	0' BTL	DCW, CC	
N-MX Neighborhood Mixed Use District	Detached	3	10-15' setback	OL, NC	WMU, SMU, DCW, CC, CCW

*Stories might need to be adjusted downward in SMU and other targeted locations.

While some zones might be replaced by one of the new mixed-use districts, others might be replaced by two or more to provide contextually appropriate transitions to surrounding development.

Supplemental standards for thoroughfares, civic spaces, and potentially building types and/or architecture might also apply to some of these mixed-use districts to ensure appropriate character.

The new districts, as well as the business districts that are to be carried forward are outlined below.

- The new **I-MX-C Island Mixed Use Center- District** would provide the greatest level of density/intensity:
 - The purpose and intent of the I-MX-C District would be to establish core places for pedestrian-friendly, mixed use destinations that can accommodate a high intensity and diversity of uses.
 - Development form (and standards) would emphasize and establish pedestrian features (e.g., a build-to-line, sidewalks, outdoor civic space to establish a stronger public realm), at modestly higher densities/intensities, and be mid-rise in character. Buildings at or near the property line with storefronts and related elements such as awnings and canopies would be encouraged.
 - A stronger focus will be placed on park and walk, and shared parking. The parking standards in the district would be modified accordingly to encourage more efficient land utilization.
 - The mixed use districts would take a more general and flexible approach to land uses in order to establish a full range of commercial, service, institutional, and residential uses. This district

would anticipate the broadest range of land uses including retail sales and service, office, restaurants, accommodations (hotels, etc.), community services, entertainment uses, etc. Accessory uses like open air markets, produce stands, etc. would be encouraged to activate outdoor civic spaces. Vertical mixed use, including residential and office over ground floor retail, would be encouraged and possibly incentivized.

- The district would be appropriate to apply to parts of the CC-Commercial Center, WMU-Waterfront Mixed Use, SMU- Stoney Mixed Use, parts of the CFB-Central Forest Beach,⁴ and potentially the CCW-Coligny Commercial Walking districts in the current LMO. If the town believes it appropriate, a separate stand-alone district could be created for the Coligny area. However, because it would have many of the same characteristics and form as the proposed I-MX-C District, and in an effort to simplify the town's district structure, we suggest that a stand-alone district for Coligny is not necessary.
- The new **I-MX-M Island Mixed Use Moderate Intensity District** would provide a moderate level or second tier of density/intensity, while encouraging mixed use and pedestrian-friendly development.
 - The purpose and intent of the I-MX-M District would be to provide pedestrian-friendly, mixed-use development that can support and provide a transition between the I-MX-C District and lower intensity areas in the community.
 - Development form would emphasize buildings forms that define the public realm along streets and include civic spaces. Attached but low-rise buildings would be encouraged. Additionally, buildings at or near the property line with storefronts and related elements such as awnings and canopies or stoops would be encouraged. .
 - This zone would allow a broad range of uses with an emphasis on uses that might support additional activity in the I-MX-C area, such as residential and service uses that can benefit both residents and visitors.
 - The district would be appropriate to apply to DCW Dunnagans Commercial Walking District and parts of the CC District (for example, those areas at the northern edge of the CC district and along edges with adjacent districts).
- The RD Resort Development District, OL Office/Institutional Low Intensity District, and NC Neighborhood Commercial District are candidates to be consolidated into a new **N- MX Neighborhood Mixed Use District**. The district also might be applied to the edges of the current WMU, SMU, or CCW as



⁴ It is unlikely that this new district would catalyze redevelopment in the CFB district given the high intensity of existing development in that district.

a transition to lower-intensity districts.

- The purpose and intent of the N-MX district would be to provide pedestrian- and bicycle-friendly, mixed-use development that can provide housing choices and commercial and service uses in close proximity to residential neighborhoods. In certain locations, it could also serve as a transition between the I-MX districts and lower density residential lands.
- Development form would emphasize building forms that define the public realm, and that would be predominantly detached and low-rise in character. Buildings would be closely set back from the property line although frontage additions such as porches, stoops, and canopies would orient the building to the street.
- This zone would emphasize multi-family residential and limited commercial uses that serve the daily needs of residents, including the broader range of nonresidential uses that are less appropriate for tourist and visitor activities. Use mixing also will be allowed. Uses allowed by right would include attached residential, multi-family, live/work units, lofts, group living, community services, government facilities, hospitals, schools, religious facilities, a variety of parks, eating establishments, indoor recreation and entertainment, outdoor recreation/entertainment, telecommunication facilities, utilities, waste treatment facilities, offices, hotels or motels, eating establishments, offices, convenience stores, small-scale retail and service uses, health clubs or spas, veterinary services, landscape nurseries, funeral homes, and water craft sales.
- The use of a N-MX “subzone” might help to arrange more intense uses into clusters or nodes surrounded by areas that are predominantly residential and service oriented.
- The current **OM Office/Institutional Moderate Intensity District** and **OCIL Office/Light Commercial/Light Industrial District** are proposed to be carried forward, with some refinements.
 - Development form (and standards) would accommodate vehicular traffic, while at the same time creating an environment that is pedestrian-friendly.
- The current MMU Marsh Front Mixed Use District, which is designed to provide a mix of residential, commercial, and resort accommodation uses, at a scale consistent with desired marsh front development along Broad Creek, is proposed to be carried forward and renamed **MW Marsh and Waterfront District**.
 - The character of the district is low impact activity and development potential, with limited vehicular access, many very small parcels, and its location in relation to the Broad Creel watershed. Development in the area should take advantage of the district’s natural assets, and view corridors to the Broad Creek.
 - Uses in the district permitted by right would include single-family, attached residential, multifamily, community service, day care, government facilities, religious facilities, a variety of parks, telecommunication facilities, utilities, eating establishments (except with drive-thrus), offices, bed and breakfast inns, convenience

stores without drive thrus or gas pumps, health clubs or spas, veterinary services, water-oriented uses, and agriculture.

- The current **IL Light Industrial/Commercial Distribution District** is proposed to be carried forward and renamed **IL Light Industrial District**.
 - The purpose of the district is to allow lands for light industrial and service-related land uses, some auto-oriented uses, and seafood processing. The district will be auto-oriented in nature with limited pedestrian amenities.
 - Allowed uses will include community services, government facilities, religious facilities, telecommunication facilities, minor and major utilities, eating establishments (except those with drive-thrus and low turnover seating), funeral homes, furniture stores, landscape nurseries, veterinary services, watercraft sales, rental, or services, vehicle sales and services, light industrial services, manufacturing and production, warehouse and freight movement, and wholesale sales.
- The current **PD-1 Planned Development Mixed Use District** is proposed to be carried forward in its current form, with the changes discussed in Section 2.9: Revise Planned Unit Development (PUD) Regulations.
- Few modifications are suggested for the **Overlay districts**.
 - The current **AZ Airport Overlay District** is proposed to be carried forward, with minor changes to address proposed new format and structure of the LMO.
 - The current **COR Corridor Overlay District** is proposed to be carried forward, but we suggest the town not consider applying it in the new mixed use districts (controlling development form and design through the mixed use district regulations).
 - The current **PD-2 Planned Development Overlay District** is proposed to be carried forward, with minor changes to address proposed new format and structure of the LMO.
 - The current **FB-NCOD Forest Beach Neighborhood Character Overlay District** is proposed to be carried forward, with minor changes to address proposed new format and structure of the LMO.
 - The current **FF-NCOD Folly Field Neighborhood Character Overlay District** is proposed to be carried forward, with minor changes to address proposed new format and structure of the LMO.
 - The current **HH-NCOD Holiday Homes Neighborhood Character Overlay District** is proposed to be carried forward, with minor changes to address proposed new format and structure of the LMO.
 - The current **RO Redevelopment Overlay District** is proposed to be deleted.
 - The current **CSPDAA&TAOD Critical Storm Protection and Dune Accretion Area and Transition Area Overlay District** are proposed to be carried forward, with minor changes to address proposed new format and structure of the LMO.

2.4 ENCOURAGE REDEVELOPMENT IN TARGETED AREAS

In making a code or targeted areas in the town "redevelopment friendly," we suggest there are four basic issues that need to be addressed. They are:

- Identifying the community's desired character and form for redevelopment (typically when communities want to remove obstacles to redevelopment in their codes, it is only for redevelopment that is compatible with its context and desired character/form).
- Identifying the procedural and substantive provisions in the current code that might hinder redevelopment.
- Developing a strategy to remove those procedural and substantive roadblocks to redevelopment, while at the same time revising or adding standards to ensure the redevelopment that occurs will be compatible with its context and desired character/form.⁵
- Recognizing that standards can encourage or enable different kinds of redevelopment. Standards may provide parameters that encourage the acquisition of multiple properties and the consolidation of lots to enable large, single developer projects to occur. Standards can also provide parameters that encourage individual property owners to intensify.

The LMO Rewrite Committee Report identifies several redevelopment/revitalization areas, based on their potential to leverage redevelopment and overall impact on the community. They include:

- Coligny;
- Shelter Cove and the Shelter Cove mall area;
- Mitchellville;
- The Matthews/Highway 278 intersection, including Pineland Mall and the Northridge areas; and
- The Stoney area.

In the report the LMO Rewrite Committee suggested the LMO rewrite should create more flexibility and an easier process for redevelopment in these areas; remove barriers to redevelopment; and create incentives, if appropriate.

Because the Shelter Cove area is currently subject to a PUD and master plan approval, and is in the process of requesting review and approval of an amendment, it is not included for consideration as an area targeted for redevelopment. In addition, Mitchellville is not included because a clear vision of the desired character for this area is not established.

The targeted redevelopment areas which will be focused on in the LMO rewrite will be:

- Coligny;
- The Matthews/Highway 278 intersection, including Pineland Mall and the Northridge areas; and
- The Stoney area.

Suggested options to create more flexibility and an easier process for redevelopment in these areas, remove barriers to redevelopment, and create incentives, if appropriate, for each of these areas, is discussed below.

⁵ Additionally, we have found it important to include flexibility mechanisms in some of the development standards (since in some instances, redevelopment sites face unusual problems that a "one size fits all" approach found in many codes does not properly address). In some instances, it has been important to include incentive provisions. At a minimum, it is critical not only to remove roadblocks to redevelopment, but also to "level the playing field" between "greenfield development" and redevelopment.

2.4.1 COLIGNY

Currently, lands in and around Coligny circle are zoned CCW Coligny Commercial Walking District, CFB Central Forest Beach District, and CC Central Commercial. These districts, like several of the town's commercial districts, have a framework of development standards that may be hindering private investment and potential redevelopment. An initial analysis of the combined effect of the requirements in the CCW district for setbacks, open space, buffers, and parking combined with density, nonresidential square footage, and impervious surface limitations may be inadvertently discouraging individual property owners from making improvements as well as incentivizing lot consolidation. Currently, the only option to address the obstacles that have been created is the redevelopment floating zone amendment process, which can be complex, uncertain, and time consuming.

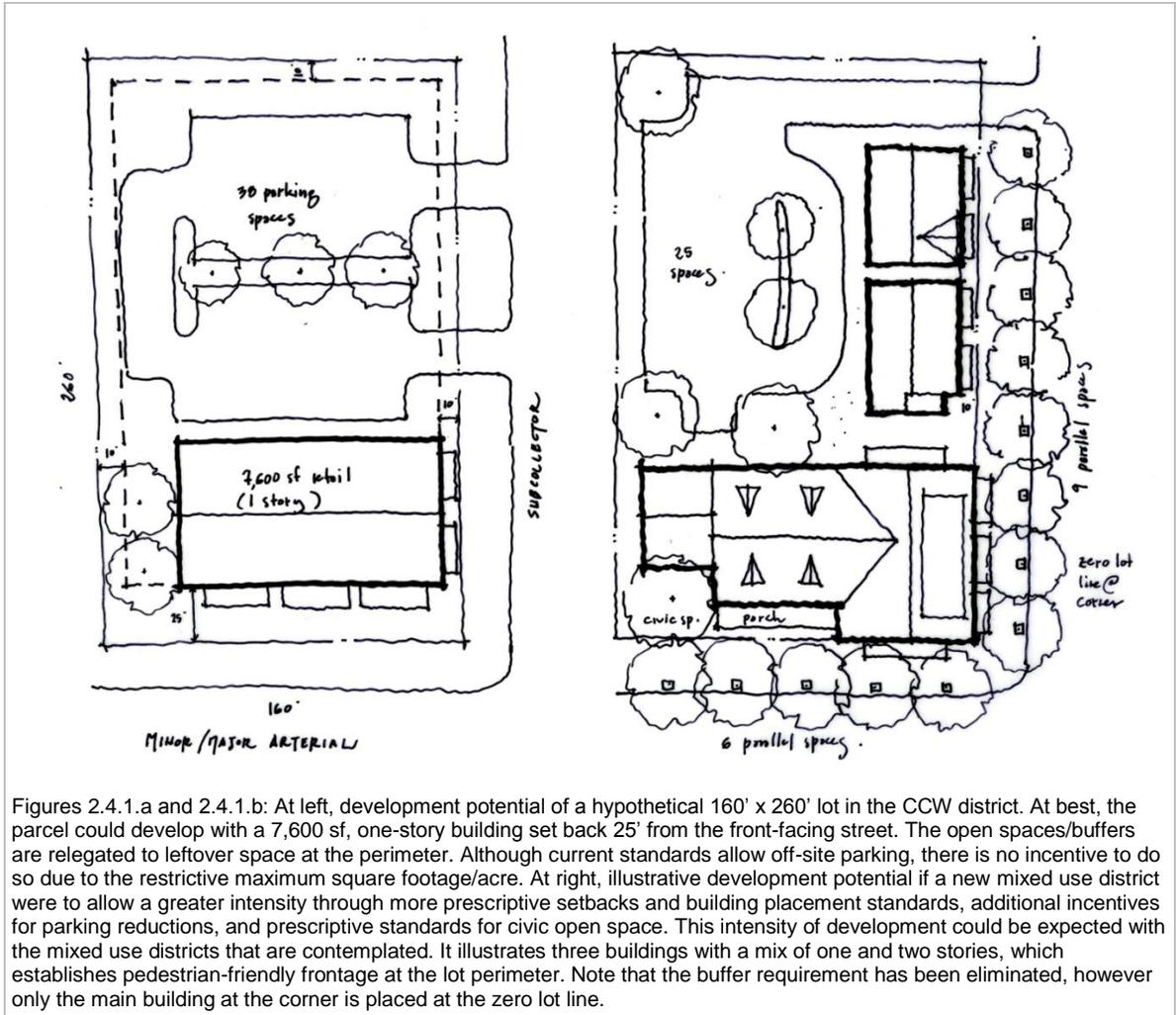


In the past, the community has discussed and identified several planning alternatives for the Coligny area that would require a significant investment in public infrastructure. It is important to consider in what ways the zoning can stimulate private investment and subsequently reduce the need for public investment.

A hypothetical, 160' x 260' lot (just under 1 acre) in the CCW district provides a visual example of how challenging the existing zoning standards make it for a typical property to develop in a way that not only builds value but provides a pedestrian friendly environment as well. This example was chosen as it is demonstrative of lot sizes in the area. The level of potential intensity is fairly identical to what exists today, providing little incentive to the property owner to make any improvements. In fact, the height limits (45') are nearly impossible to attain on a parcel of this size.

This problem becomes less severe as lot sizes get bigger, but the existing standards still impose limitations on the intensity of new development. For example, under the current LMO Coligny Plaza has little incentive to redevelop since there are little or no opportunities to increase intensity (this is particularly the case with Coligny Plaza, given their tenant stability and low vacancy).

Mixed use districts that utilize form-based elements can provide a framework for development that achieves much higher land utilization and a better pedestrian environment, with particular regards to smaller parcels. They can help to minimize the need for public funds to acquire public properties and instead place the town in a better position to focus on incremental public realm improvements. Additionally, they do not necessarily need to result in overly intense, zero-lot line developments. The Carson Cottages infill project in Old Town Bluffton provides a good example of a project that achieves a much higher intensity, yet preserves many great elements of lowcountry places.



Figures 2.4.1.a and 2.4.1.b: At left, development potential of a hypothetical 160' x 260' lot in the CCW district. At best, the parcel could develop with a 7,600 sf, one-story building set back 25' from the front-facing street. The open spaces/buffers are relegated to leftover space at the perimeter. Although current standards allow off-site parking, there is no incentive to do so due to the restrictive maximum square footage/acre. At right, illustrative development potential if a new mixed use district were to allow a greater intensity through more prescriptive setbacks and building placement standards, additional incentives for parking reductions, and prescriptive standards for civic open space. This intensity of development could be expected with the mixed use districts that are contemplated. It illustrates three buildings with a mix of one and two stories, which establishes pedestrian-friendly frontage at the lot perimeter. Note that the buffer requirement has been eliminated, however only the main building at the corner is placed at the zero lot line.



Figures 2.4.1.c and 2.4.1.d: The Carson Cottages project in Old Town Bluffton, built under a form-based code, organizes 11 cottages on just over 1 acre, with a total nonresidential square footage of over 16,000 sf/acre, or twice what is allowed in many of the business districts today. This project was positively mentioned by a number of stakeholders during our interviews as a good model for the Town.

As discussed in the previous section on zone districts, we suggest one or more mixed use districts replace the current CCW Coligny Commercial Walking District. Because this district is the heart of town and potentially the most important destination on the island, we recommend the town consider allowing it the greatest intensity of development and use.

The purpose and intent of the I-MX-C Island Mixed Use Center District would be to establish core places for pedestrian-friendly, human-scale, mixed-use development, that allow people to live, work, and play, with an emphasis on tourist-oriented spaces and activities.

Development form (and standards) would emphasize and establish pedestrian features (e.g., a build-to-line, sidewalks, outdoor civic space to establish a stronger public realm), at higher densities/intensities (and height) than in the current CCW District. A number of incentives could be considered to encourage existing properties to transition to this new form over time.

Additionally, a stronger focus will be placed on park and walk, and shared parking. The parking standards in the district would be modified accordingly to encourage more efficient land utilization. This might best occur with a coordinated policy from the town to support a consolidated off-site parking facility.

2.4.2 MATTHEWS HIGHWAY 278 INTERSECTION/PINELAND MALL AND NORTHRIDGE AREAS

Currently, lands in the Matthews Highway 278 Intersection/Pineland Mall and Northridge areas are zoned CC Commercial Center District. Currently the CC district allows for the greatest intensity in the town, but generally is not very flexible, in that the residential and nonresidential density limitations combined with parking, buffer, and open space requirements limit the potential for intensification and infill. This area provides an important service center for the eastern end of the island and is in close

proximity to tourist amenities (resorts and hotels), several residential neighborhoods, and the airport. While many current uses are large and suburban in nature, there are multiple businesses in the area (e.g. restaurants and cafes) that can benefit from a better pedestrian environment. Furthermore, the parcels provide good access and orientation to Matthews Drive and the opportunity for further subdivision into streets and blocks.

In the zone district section, we suggest this zone be replaced by one or more mixed use districts including the I-MX-M Island Mixed Use – Moderate Intensity District at its core and potentially the N-MX district at the edges and transition areas.

The purpose and intent of these Districts would be to establish core places for pedestrian-friendly, human-scale, mixed-use development, that allow people to live, work, and play.

Development form (and standards) would emphasize and establish pedestrian features (e.g., a build-to-line, sidewalks, outdoor civic space to establish a stronger public realm), at modestly higher densities/intensities (and possibly height) than in the current CC Commercial Center District.

Additionally, a stronger focus will be placed on park and walk, and shared parking. The parking standards in the district would be modified accordingly to encourage more efficient land utilization.

Uses allowed by right would include, attached residential, multi-family, lofts, live/work units, residential above the first floor of allowed retail sales and services and offices, group living, eating establishments, offices, a number of retail sales and service uses, hotels and motels, community services, day care, indoor recreation/entertainment, parks, government facilities, religious facilities, major utilities, and waste treatment plants. Accessory uses like open air markets, produce stands, etc., would be allowed subject to compliance with specific standards and receipt of an accessory use permit. The regulations would make it clear that mixed-use development is encouraged within the district, and the town might want to consider providing incentives for development with retail or office on the first level, and residential above.



2.4.3 STONEY - WARD ONE



Ward One shares some challenges with Coligny in that the existing standards make it difficult for individual property owners to develop given the relatively small parcels in the area. The SMU Stoney Mixed Use district, which is the current zoning in Ward One, is further challenged by the poor frontage conditions presented by the highway.

To address these concerns, we suggest Ward One zoning seek to achieve a variety of goals that would encourage redevelopment, including modifying the standards to allow for a greater intensity and utilization of the relatively small parcels that make up the area. The current zone boundary lines should also be revisited to better integrate the neighborhood with the potential mixed-use areas.

To achieve these goals, in the previous section on the zone districts, we suggest the mixed-use districts be applied to the current SMU Stoney Mixed Use District. Its purpose and intent would remain the same, to better encourage property owners in

the area to improve their properties. Development form would seek to provide pedestrian-friendly environments that do not depend on 278 frontage.

We also suggest that in locations where the SMU has been applied, it should also be considered for its ability to better integrate with its context, with particular attention to the Ward One residential neighborhoods.

2.5 ADDRESS NONCONFORMITIES

Both the LMO Rewrite Committee Report and stakeholders identified the need to remedy nonconformities created in the current LMO as another goal in the rewrite, primarily to remove obstacles to redevelopment. Based on stakeholder and staff interviews, it appears the most serious problem with nonconformities involves nonconforming uses (versus nonconforming dimensional standards, even though the latter is a problem in certain areas). Based on our review of the current LMO and past experience in reducing nonconforming situations in other rewrites, we suggest the following actions be taken in the LMO rewrite:

- Modify the allowed uses and dimensional standards in the zone districts, where appropriate and consistent with district character, to reduce nonconformities;
- Add an administrative adjustment procedure;
- Expand the use of alternative forms of compliance in the application of development and design standards; and
- Consider modifying the nonconformity rules to allow more flexibility in redeveloping nonconformities.⁶

Each of these actions is discussed below.

2.5.1 MODIFICATIONS TO DISTRICTS, ALLOWED USES, AND DIMENSIONAL STANDARDS

As is discussed in detail in Section 2.3, Modify and Consolidate Zone Districts and Encourage More Use Mixing, one goal of the LMO rewrite is to consolidate and simplify the zone districts in ways that will simplify district structure and encourage more use mixing. Section 2.3.1 outlines suggestions for consolidating the current base districts from 24 to 14 districts. It includes recommendations to consolidate several of the residential districts, as well as suggestions to consolidate a number of the existing business and mixed use districts and refine several others. In undertaking this consolidation with respect to the mixed use districts, efforts will be made to broaden allowed uses to allow for and encourage use mixing. This effort should also mitigate problems in these districts with respect to nonconforming uses.

Additionally, and as part of the consolidation effort, care will be taken to ensure that when consolidation occurs, the density standards in the consolidated districts, where appropriate, do not result in nonconforming situations (e.g., in the suggested consolidation of the residential districts, we recommend carrying forward the density and dimensional standards of the most dense district.)

⁶ One other tool we considered but decided was not needed in the town was contextual compatibility standards. Contextual compatibility standards are standards that establish dimensional standards (e.g., setback, and height standards) in built areas based on the context established by the current building patterns (e.g., setbacks or height of buildings along the block face or on both sides of a street within a certain distance from a lot). They are being used by an increasing number of communities to remove obstacles to redevelopment when the application of zone district dimensional standards results in nonconformities. The reasons we believe they are not needed in the town is the LMO does not include minimum lot area and setback standards, so nonconforming structures created by lots and setbacks that don't comply with a code don't appear to be a problem..

2.5.2 ADMINISTRATIVE ADJUSTMENT

One of the ideas identified by the LMO Rewrite Committee was the need for flexibility in application of some of the zoning regulations. One tool many communities use to streamline development review and allow greater flexibility is an administrative adjustment. This is a method of allowing a minor departure from a dimensional or numerical development standard (e.g., parking, landscaping, or tree protection), in cases where such deviation does not undermine the intent of the standard being deviated from and imposes no greater impacts on adjacent properties than would occur through strict compliance with the subject standard. These kinds of minor deviations from standards are reviewed and approved administratively based upon an established set of clear and measurable criteria. (See discussion in Section 2.2.6.)

Administrative adjustments are especially helpful in redevelopment contexts, where they can allow modest adjustments of standards that could avoid the need for costly reconstruction or relocation measures. It is a new tool that should be included in an LMO rewrite.

2.5.3 ALTERNATIVE FORMS OF COMPLIANCE

Alternative forms of compliance (e.g., in parking plans) are provisions that allow a developer to submit alternative plans to comply with development standards. The plans can be reviewed and approved by an administrative official.⁷ The current LMO uses alternative forms of compliance, to some extent, in its current parking standards. We suggest these provisions be expanded to provide additional flexibility to comply with development standards. Where alternative forms of compliance are used, it is important to establish standards that are applied to determine whether the alternative is appropriate. For example, with respect to parking, the current LMO parking standards (Article XII-Parking and Loading Standards) allow for shared parking and a form of deferred parking (Sec. 16-5-1210). The LMO rewrite should:

- Carry forward the shared parking provisions;
- Expand the deferred parking⁸ section; and
- Add these other forms of alternative compliance:
 - Tandem and valet parking;
 - On-street parking in certain locations;
 - Parking reductions for:
 - The implementation of transportation demand management⁹;
 - Proximity to transit; and
 - Bicycle parking;
 - Parking increases above that allowed; or
 - An alternative parking configuration that differs from LMO standards (with regard to placement, paving materials, and similar features), which



⁷ This would be done as part of the review for compliance with the parking standards, or the buffer standards, etc.

⁸ Deferred parking is a concept used in a developed code that allows a reduction in the minimum off-street parking standards if the developer, through a traffic demand study, demonstrates that because of unique circumstances, the development will not need the amount of parking that the code requires.

⁹ Transportation demand management (TDM) involves implementation of programs, or plans to encourage changes in individuals' travel behavior at a development site. TDM can include emphasis on alternative travel modes to the single-occupancy vehicles like carpools or shifts in the time of vehicle commutes to off-peak times.

can be approved if it is consistent with long-range planning goals or the intent of the LMO and other specific approval criteria.

Each would be subject to specific review standards, but should provide the developer more flexibility to redevelop the site.

Another place the town might want to consider establishing a framework for alternative forms of compliance is in Article VIII (Buffer Standards). Current Section 16-5-806 (Required Buffers) establishes a basic “one size fits all” set of adjacent use buffer standards. Many communities, especially those encouraging redevelopment, have revised their buffer standards to establish performance-based, sliding-scale buffers, based on opacity. Higher degrees of opacity are required based on the degree of potential land use conflict. For example, buffers between uses that are fairly comparable in intensity to one another (e.g., a retail use and an office use) would have a lower opacity performance standard than a buffer between a retail use and a single-family use. Buffers between existing single-family development and multifamily or light industrial development would have stringent opacity requirements. To make the regulation easier to use and add additional flexibility, these standards usually provide two or three specific buffer options that meet the opacity standards. One option might emphasize structural elements in conjunction with plantings within a buffer that might be one-half or one-quarter of the buffer width of another option that relies only on plantings. An example of this type of provision from another community’s code is included in Appendix 4.3, Example of Performance-Based Buffer Standards.

2.5.4 MODIFY NONCONFORMITIES CHAPTER PROVISIONS TO PROVIDE MORE FLEXIBILITY

The final action the town might consider in addressing nonconformities is to modify the discontinuance or abandonment period in Chapter 7: Nonconformities. Sec. 16-7-107 establishes time periods for discontinuance of a nonconforming use or abandonment of a nonconforming structure. We recommend that this time period be extended from 12 months to 18 months. This might be especially appropriate, given economic conditions over the past four years.

2.6 REVISE DESIGN STANDARDS RELATED TO TARGETED ISSUES AND AREAS

The LMO Rewrite Committee Report states the current LMO was written primarily for new development instead of redevelopment, and takes a “one size fits all” approach. This has created a situation that limits creativity and flexibility to redevelop properties. Additionally, the report suggests there is no flexibility with the current standards to accommodate areas that support higher densities, mixed uses, and more pedestrian-oriented development, versus areas that are more auto-oriented, or other areas that have other specific circumstances. The report recommends that the LMO rewrite address these issues, specifically with respect to parking, buffers, lighting, signage, stormwater, setbacks, heights, and streets. The report also suggests development standards should be added to apply to edge conditions. Finally, it suggests the LMO rewrite should be drafted in such a way as to encourage sustainable, innovative, and smart growth development.

Because town staff has been working on and recently completed modifications to the signage regulations, signage is not addressed in the Code Assessment; the revised signage regulations will be incorporated into the LMO rewrite. Additionally, because the report directs staff to evaluate the street standards, that issue is not addressed in this assessment. Finally, because the issues raised about lighting involve enforcement issues which cannot be addressed in the

LMO rewrite, no changes to the lighting standards are discussed. What is discussed are potential modifications or additions of the following development and design standards:

- Offstreet parking and loading;
- Buffers;
- Sustainable development practices;
- Neighborhood compatibility (edge conditions); and
- Stormwater management.

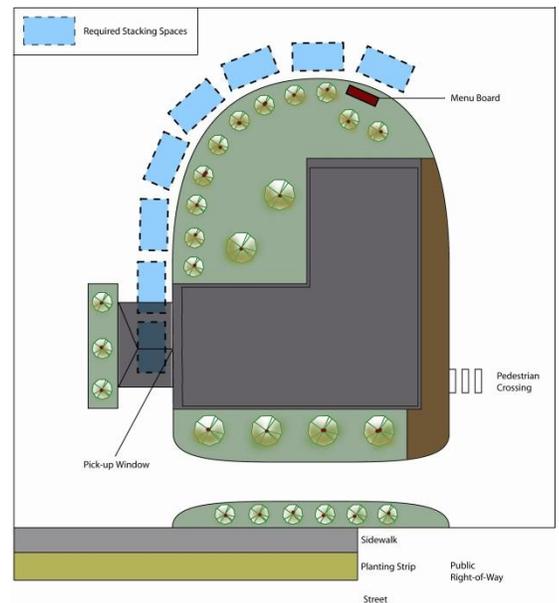
2.6.1 OFF STREET PARKING AND LOADING STANDARDS

The current off-street parking and loading standards are located in Chapter 5, Article XII (Parking and Loading Standards), of the current LMO. As highlighted by the LMO Rewrite Committee Report, they do not recognize the possibility that parking demands might differ in different places within the town (more mixed use and pedestrian-oriented areas versus areas that are more auto-oriented). Furthermore, even though the regulations include a parking “cap,” they do not incorporate recent “best practices” in parking demand, based on ITE and other traffic demand studies, nationally, which should generally lower minimum parking standards. Additionally, while Sec. 16-5-1210 (Developer Submitted Parking Data), provides some flexibility for an applicant to request alternative parking arrangements, including remote or off-premise parking (shared parking), it does not precisely identify and necessarily include more expansive provisions included in other modern codes that provide added flexibility, such as: deferred parking; valet and tandem parking; and parking reductions for transportation demand management practices, on-street spaces in certain locations, and location in proximity to public transit. Also, the current standards do not include specific provisions found in many modern codes to improve pedestrian-friendliness.

Finally, the current standards do not include precise and detailed design provisions for stacking lanes for drive-thrus and “throat” lanes for large parking lots, as well as other parking design-related details. Adding these provisions should assist in making the parking standards easier to administer.

To address these concerns, we suggest the parking standards be revised in the following ways:

- All the current parking standards for the different uses be reviewed and adjusted to bring them into consistency with modern “best practices” across the nation;
- In addition, further adjustments for off-street parking standards be made, based on the districts where the parking will occur. The major distinction will be between the new mixed use districts, and the balance of the mixed use districts.¹⁰



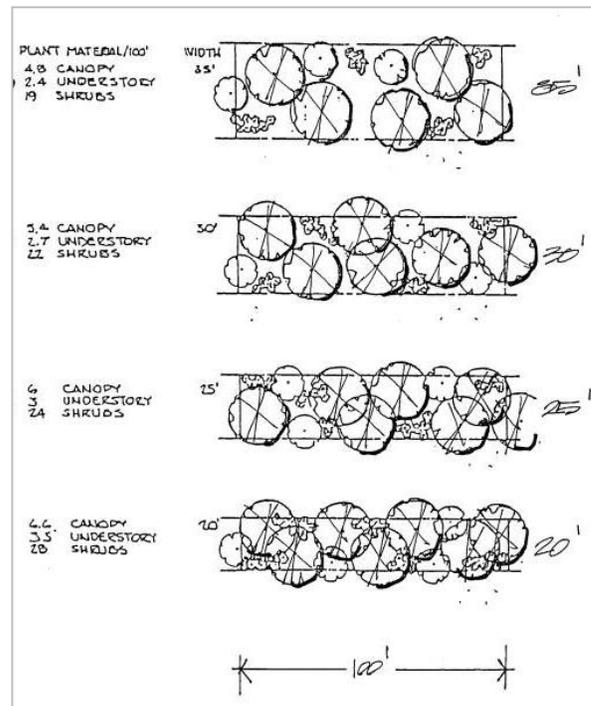
¹⁰ Structurally, these distinctions will be made in the minimum off-street parking standards, which will be set down by use, in each district.

- The provisions on alternative parking compliance be revised to include provisions not only for shared and off-premise parking, but also provisions for deferred parking; valet and tandem parking; and parking reductions for transportation demand management practices, on-street spaces in certain locations, and location in proximity to public transit. (See discussion in Section 2.5.4, Alternative Forms of Compliance).
- The parking cap provisions be maintained;
- Provisions be added to ensure parking areas are more pedestrian-friendly. These should include provisions that:
 - Require pedestrian-friendly features in parking areas, like well-marked and demarcated pedestrianways (usually within islands) that drivers and pedestrians and bicyclists can use to safely travel into the building's entrance;
 - Require parking areas to be broken into smaller-scale “pods” instead of large expansion lots;
 - Require some or a portion (e.g., 50 percent) of the parking areas in the more high density, mixed-use districts to be located to the side or rear of a building; and
 - Provide incentives for or require a certain amount of bicycle parking.
- Finally, more precise and detailed design provisions should be added for stacking lanes for drive-thrus and “throat” lanes for large parking lots, as well as other parking design-related details.

2.6.2 BUFFER STANDARDS

The town's landscape, buffer, and tree protection standards have been very effective in protecting tree canopy and ensuring development was well-landscaped and buffered as the town built-out. Today, however, conditions are different in that the community is built-out, and most new development will be redevelopment, something the town wants to encourage in targeted areas. The current buffer standards in Chapter 5, Article VIII (Buffer Standards), establishes adjacent use buffer standards (Sec. 16-5-806.A), adjacent street buffers (Sec. 16-5-806.B), buffers for loading and service areas (Sec. 16-5-807.B), buffers adjacent to the beachfront (Sec. 16-5-806.C), and wetland buffers (Sec. 16-5-806.D).

Generally, all development is required to establish adjacent uses buffers when they are developed (Sec. 16—5-806). The standards generally rely on buffer width, some vegetation, and in limited



instances structural elements to buffer adjacent uses. One element in the town's current buffer standards that is not found in most codes today is a requirement that buffers be established even when adjacent land uses are the same (e.g., when single-family uses are adjacent to one another, except in limited instances). While there is a requirement in some instances that structural elements be included in the buffer, the regulation is not precise as to the type of structural element(s) that would be found acceptable. Additionally, there is no degree of specificity as to the type of plant materials that should be included in the adjacent use buffer, nor the degree of opacity that needs to be achieved. The only plant-related standard for these buffers is a provision in Chapter 6's tree preservation standards that requires Chapter 5 buffers to have a minimum of 900 ACI per acre. A similar lack of precision exists with respect to adjacent street buffers in Sec. 16-5-806, which are required when development is adjacent to arterials and all other streets. Finally, and certainly different from modern codes, the buffer standards for loading and service areas (Sec. 16-5-807 B) rely on buffer width when buffers are required.

Given these current standards, we can understand the concerns identified in the LMO Rewrite Committee Report that the buffer standards need to be modified to provide additional flexibility for redevelopment, without sacrificing the town's desire to maintain its character as a heavily treed and well landscaped community.

With this in mind, we suggest a series of modifications to the adjacent use, street buffer, and service and loading buffer standards. First, we suggest the adjacent use buffer standards be modified to incorporate a performance-based sliding scale of opacity that corresponds to the intensity of adjacent uses. (See discussion in Section 2.5.3, Alternative Forms of Compliance). Second, we suggest the type of minimum plantings or structural elements needed for the adjacent use and adjacent street buffers be spelled out with more precision in the regulation. This can be achieved by using an aggregate caliper inch (ACI) standard in combination with requirements for minimum planting size for trees, plant material standards for shrubs, and the identification of acceptable structural elements. An example of this type of approach adopted by another community is included as Appendix 4.3, Example of Performance-Based Buffer Standards.

Third, we suggest that in this context, the town consider further reductions of the buffer standards in the mixed use districts. The reason for this is that these are considered more high density, pedestrian-oriented places, where mixed-use, walkability, and a certain character will be established, where developable space is at a premium and buffers should not be needed, or should be limited. Finally, we suggest that the buffer requirements for service and loading areas be modified and several specific options be used which achieve the same amount of buffering as now required without the amounts of buffer width.

2.6.3 REMOVE OBSTACLES AND ADD INCENTIVES FOR SUSTAINABLE DEVELOPMENT PRACTICES

Increasingly, communities nationwide are realizing that good development should be "sustainable." Sustainability involves the ability of a community to meet the needs of its present population, while ensuring that future generations have the same or better opportunities. There are increasing concerns that as a society we are using resources at a faster rate than we are replenishing them and are creating communities that are not sustainable in the long run, which diminish the choices for our children and future generations. The challenges of energy sufficiency, water supply and quality, health, and food security are all components of the sustainability issue. In addition to environmental indicators, a sustainable community is also healthy from a social and economic perspective. This could mean providing affordable housing and adequate day care facilities in the community where people

work, setting the stage for local businesses to operate, and designating land for “green collar” jobs that support sustainability practices like building retrofits, solar panel manufacturing and installation, and recycling facilities.

There are some opportunities in the LMO rewrite to remove obstacles that might exist to allow for sustainable development practices, and if the town so desires, add incentives for sustainable practices, something an increasing number of communities are doing.

The LMO Rewrite Committee Report states that the LMO should be written in such a way that encourages sustainable, innovative, and smart growth development. We suggest that in the LMO rewrite, we focus on two basic ways to promote sustainability: removing barriers to sustainable practices and creating incentives for sustainable practices. Suggested actions are discussed below.

A. REMOVE OBSTACLES

(1) Promote Active and Healthy Lifestyles



The prevalence of overweight and obese adults in the United States has increased steadily over the past three decades. Land development patterns have contributed to that trend. Development regulations have encouraged sprawling, auto-oriented development patterns that discourage physical exercise and provide large separations and poor connections between the places where people live, work, learn, shop, and play. Development regulations can, however, be changed to promote active living and healthy lifestyles through shaping compact development patterns and public amenities. One of the directions in the LMO Rewrite Committee Report is to promote development patterns that involve less reliance on automobiles, which encourage walking and healthier lifestyles. Strategies in the LMO to promote development patterns that involve less reliance on automobiles, which encourage walking and healthier lifestyles include:

- Establishing new mixed use districts that are more walkable and provide opportunities for people to live, work, and play in close proximity;
- Enhancing pedestrian and bicycle connectivity to and within new development and redevelopment with the provision of sidewalks, trails, bikeways, etc.;
- Allowing accessory dwellings, live/work, and work/live uses by right in targeted districts; and
- Allowing a range of alternatives to fully comply with minimum parking requirements, such as shared parking, deferred parking, on-street parking, and transportation demand management programs.

(2) Promote Renewable Energy Production and Energy Conservation

There is abundant sunshine on Hilton Head Island. To promote renewable energy production and energy conservation, we recommend including the following measures in the LMO rewrite:

- Allow solar panels and small wind turbines by-right in selected districts;

- Include solar panel height limit exemptions;
- Consider solar panels and other alternative energy equipment in formulating and applying design standards;
- Encourage new buildings and subdivisions to be oriented for maximum solar access; and
- Protect solar access, when solar systems are built.



(3) Promote Water Conservation and Protect Water Quality

Many communities have adopted standards and guidelines in their development codes to promote and require water conservation. Others are revamping standards to remove barriers to green infrastructure approaches (e.g., rain gardens and swales, green roofs, etc.) to stormwater management. We suggest the town consider including the following strategies in the LMO rewrite to promote water conservation and protect water quality:

- Clarify that the use of rain gardens, drainage swales, and other low impact development techniques as part of the stormwater management infrastructure are allowed uses; and
- Allow and provide incentives for rain barrels, cisterns, and other rainwater collection and storage devices as accessory uses.

B. INCENTIVES FOR SUSTAINABLE DEVELOPMENT PRACTICES

In addition to removing obstacles to sustainable development, we also suggest the LMO rewrite include menu-based provisions to provide incentives for new development to incorporate sustainable features and practices.

SITE OR BUILDING DESIGN FEATURE	POINT S	DISTRICTS IN WHICH OPTION IS AVAILABLE		
		NONRES / MIXED USE	MULTI-FAMILY RESIDENT	OTHER RESIDENT
1. ENERGY Intent: Encourage on-site renewable energy production, promote the design and construction of energy efficient buildings, reduce air, water, and land pollution from energy consumption, and, reduce the heat island effect				
1.1 Renewable Energy Sources Design and incorporate on-site renewable energy generation technologies such as solar, wind, geothermal, and biomass with production capacity of at least 5% of the project's annual electrical energy demand, with an additional point granted for every additional 5% of renewable energy generated. 10 points maximum	1-10	*	*	*
1.2 District Heating and Cooling Design and incorporate into the project a district heating and/or cooling system for space conditioning and/or water heating of new buildings in the project (at least two buildings total must be connected).	4			
1.3 Solar Orientation Design and orient the project such that 50% or more of the blocks have one axis within plus or minus 15 degrees of geographical east/west, and the east/west length of those blocks are at least as long, or longer, as the north/south length of the block. OR Design and orient the project such that 50% or more of the project total building square footage (excluding existing buildings) such that the longer axis is within 15 degrees of geographical east/west axis.	3			
1.4 Shade Structures Where appropriate, provide shade structures over windows/doors to minimize glare and unwanted solar heat gain. Such structures shall provide shading to at least 50% of the glazing facing the sun on June 21. Structures may include awnings, screens, louvers, architectural features, or similar devices.	2			
1.5 Heat Island Reduction Use any combination of the following strategies for 50% of the non-roof impervious site landscape (including roads, sidewalks, courtyards, parking lots, and driveways). <ul style="list-style-type: none"> • Provide shade from open structures such as those supporting solar panels, canopied walkways, pergolas, all with a Solar Reflectance Index (SRI) of at least 29 (SRI is a measure of the roof's ability to reject solar heat, a higher SRI yields a cooler roofing choice). (1 point) • Use paving materials with a Solar Reflectance Index (SRI) of at least 29. (1 point) • Use an open grid pavement system (at least 50% pervious). (1 point) 	3			

Such provisions use a menu of sustainable features and practices divided into two or more "schedules" or levels of sustainability. The development must attain a certain number of points before it can qualify for different types of incentives. The sustainable features and practices included in the menu can vary, but might include LEED certification (by level), brownfield development, infill development, mixed-use development, south-facing lots/buildings, practices that reduce water usage, gray water reuse, provision of energy-efficient HVAC equipment, use of alternative energy, use of rain gardens, rain water collection and storage, use of community gardens and composting, use of green or reflective "cool" roofing, use of certain levels of permeable pavement, structured parking, electric vehicle charging stations, shade features on building facades, and recycled construction materials.

The types of incentives could also vary, but might include an increase in maximum allowable residential density or nonresidential floor area in targeted districts, an increase in building height, an increase in maximum building coverage, a decrease in the minimum number

of parking spaces required, an increase in the maximum number of parking spaces allowed, or a reduction in the amount or density or landscape plantings required for site landscaping or perimeter buffers.

2.6.4 NEIGHBORHOOD COMPATIBILITY STANDARDS

Another issue raised by the LMO Rewrite Committee was the need to deal with edge areas as the town sees more intense mixed-use development in targeted areas of the community. We assume the heart of this concern involves the need to protect the character and quality of single-family districts and neighborhoods, as more intense development occurs in adjacent areas. We suggest the most appropriate way to address this is through the establishment of a set of neighborhood compatibility standards for the LMO rewrite. Its primary purpose is to protect the character of the established single-family neighborhoods. If included in the LMO, the neighborhood compatibility standards would apply to any new nonresidential development (e.g., commercial, light industrial, or offices), mixed-use development, or multifamily development of over three units when it is adjacent to, across the street from, or is within a certain distance from single-family residential development or a single-family residential zone district. The table below includes a sampling of the types of neighborhood compatibility standards that might be included in the regulation.

POTENTIAL NEIGHBORHOOD COMPATIBILITY STANDARDS	
BUILDING FAÇADE STANDARDS	Construct a similar roof type as single-family development in terms of slope and arrangement to prevent abrupt changes in roof form
	Use colors on the exterior surfaces of buildings that are compatible with nearby single-family residences
	Orient porches, balconies, outdoor space, and other site attributes such as vending machines associated with attached residential development away from adjacent single-family residential uses
	Use similarly sized and patterned architectural features such as windows, doors, awnings, arcades, pilasters, cornices, wall offsets, building materials, and other building articulations included on adjacent single-family development
BUILDING DIMENSION STANDARDS	Require that no building be higher than ___ feet within 100 feet of a single-family lot, and that buildings over ___ feet in height be stepped back in height, so that the tallest part of the structure is the furthest from the single-family residential area
SITE DESIGN STANDARDS	Require when dealing with multi-building developments on one or more lots, a continuum be established of use intensity where uses of moderate intensity are sited between high-intensity uses and low-intensity uses (e.g., office uses between retail and detached residential), as they relate to adjacent single-family development
PARKING AND DRIVEWAY AREA STANDARDS	Require parking spaces be oriented away from (or parallel to) single-family residences so that headlights do not project directly into yards
	Require a ten-foot fully-opaque vegetated buffer or a comparable buffer between single-family residences and non-residential lots
	Require parking for developments over 10,000 square feet be located interior to the site, and a minimum distance from single-family development
	Require adjoining parking lots serving non-residential or mixed-use buildings be interconnected
	Limit the width of driveways to parking areas to 24 feet (two lanes) or 12 feet in width (one lane) except those with turn lanes, to maintain pedestrian comfort and calm the speed of entering traffic
Require parking structure facades adjacent to single-family residences receive enhanced design treatment to soften their visual impact	
LOADING AND REFUSE STORAGE AREA STANDARDS	Require loading and refuse storage areas be located within a certain distance from single-family development
	Require loading and refuse storage areas be screened from view of single-family development using materials that are the same as, or of equal quality to, the materials used for the principal building, which are compatible with the materials used for the single-family development
	Require loading and refuse storage areas be incorporated into the overall design of the building and landscaped so that their visual and acoustic impacts are fully contained and out of view from adjacent single-family developments
	Require loading and refuse storage areas be located within attached enclosures when serving buildings over 5,000 square feet in size
LIGHTING STANDARDS	Reduce foot-candle values by 1/3 at lot lines and require full cut-off fixtures
OPEN SPACE SET-ASIDE	When open space is required, locate it in the transition area between the nonresidential, mixed-use,

POTENTIAL NEIGHBORHOOD COMPATIBILITY STANDARDS

STANDARDS	or multi-family development and the single-family area, unless there is a compelling reason for it to be located elsewhere on the site
OPERATIONAL STANDARDS	Curtail outdoor dining or other activities after 9:00 PM on weeknights and 11:00 PM on weekends
OPERATIONAL STANDARDS	Require amplified music, singing, or other forms of noise audible at the property line be extinguished (including noise from the typical production process associated with the use) after 9:00 PM Sunday through Thursday nights and 11 PM Friday and Saturday nights

2.6.5 STORMWATER MANAGEMENT STANDARDS

Town stormwater management standards are currently contained in Article VI of Chapter 5 (Design and Performance Standards). They include a reference to the Beaufort County Manual for Storm Water Best Management Practices as a guide for development of stormwater management plans. That reference and a number of the remaining standards in Article VI derive from a former interlocal agreement between the town and county that required the town to have stormwater management standards at least as stringent as the county's. The county's stormwater management manual, however, focuses on rural and suburban types of development and lacks the flexibility to serve as an appropriate guide for the more high density development and redevelopment occurring and expected to occur in Hilton Head Island. For example, the county standards require all stormwater runoff be handled on-site, which may be cost-prohibitive or impossible in more dense areas where much of the land is already covered with impervious surfaces.



In recognition of this, and in response to expectations that federal Clean Water Act regulations may subject the town to additional stormwater management requirements, the town has recently applied to the state for delegated authority to apply state stormwater standards and has enacted a new interlocal agreement with Beaufort County that requires the town to apply stormwater standards at least as stringent as the state's. This has two advantages. First, state stormwater management standards are much more adaptable to denser development and redevelopment than the current LMO standards and Beaufort County best management practices. Second, engineers designing stormwater management plans for development in Hilton Head Island could be subject to a single set of familiar stormwater management standards instead of the two sets it is currently subject to (for development must currently meet state standards in addition to the LMO standards and Beaufort County best management practices).

For these reasons, we recommend that the LMO reference state stormwater management standards as applicable to development in Hilton Head Island.¹¹

2.7 MODIFY NATURAL RESOURCE REGULATIONS

Chapter 6 of the current LMO (Natural Resource Protection) contains regulations pertaining to the protection of wetlands, beaches and dunes, and trees. The LMO Rewrite Committee reviewed these regulations and concluded that they create complex and costly impediments to

¹¹ We discussed the appropriateness of state stormwater management regulations with the Town Engineer, who concurred with this recommendation.

redevelopment. The committee noted that the wetland buffer requirements are too strict in the uses allowed in the buffers, that dune protection requirements are confusing and may conflict with maintaining water views, and that tree protection requirements emphasize the number of individual trees at the expense of the context in which they apply and overall forest management goals. The following sections address how the LMO might be modified to address these and related concerns.

2.7.1 ADD FLEXIBILITY TO WETLAND BUFFER REGULATIONS

Wetlands provide many community benefits, including flood control, ground water recharge and discharge, shoreline stabilization, recreational and educational opportunities, fish and wildlife habitat, and aesthetic values. Vegetated buffers protect the water quality of adjacent wetlands in a number of ways. They slow down the flow of stormwater runoff, moderating flooding and water level fluctuations and allowing sediment and other pollutants to settle and infiltrate into the soil. Buffer soils, bacteria, and plants remove or transform soluble nutrients and pollutants. Buffer vegetation scatters sunlight and provides shade, reducing water temperature in the summer and limiting nuisance algae growth. Wetland buffers also provide essential habitat (e.g. food and cover) for wetland-dependent and wetland-associated species, including commercially important species of shrimp, crabs, and fish.



Because of these benefits, wetlands have long been regulated under the federal Clean Water Act through 404 permitting by the U.S. Army Corps of Engineers and 401 water quality certification by the South Carolina Department of Health and Environmental Control, and by the South Carolina Coastal Zone Management Program through review by the state's Office of Ocean and Coastal Resource Management. The LMO's wetland regulations reinforce and supplement the federal and state wetland regulations. Like the federal and state regulations, they (1) require new development to avoid any alteration of wetlands on or adjacent to the development site unless the applicant clearly demonstrates that the proposed development cannot be located on the non-wetland part of the site; (2) require any wetlands alteration to be minimized; and (3) require any loss of wetlands to be mitigated through wetland restoration, enhancement, creation, and/or payment of mitigation fees. Although federal wetland regulations authorize the requirement of buffers in conjunction with mitigation, the LMO expands the use of buffers by requiring new development to maintain vegetated wetland buffers adjacent to any unaltered wetlands, including isolated wetlands that are no longer subject to federal wetland regulation.



The LMO Rewrite Committee supports continued efforts to preserve and protect the island's wetlands and the aesthetic and water quality functions they serve, but suggests that more flexibility in the wetland buffer regulations might be appropriate—particularly in distinguishing man-made isolated wetlands from natural wetlands, and

in allowing limited disturbance within buffers (e.g., to accommodate other water quality protection measures and provide views of water).

A. TAILOR WETLAND BUFFER REQUIREMENTS TO THE TYPE OF WETLANDS AND TO SURROUNDING CONTEXT

The LMO requires at least a 20-foot-wide wetland buffer between tidal wetlands and structures and paved surfaces associated with single-family home development. For multifamily and nonresidential development, the LMO applies minimum and average wetland buffer width standards that vary with the type of wetland (freshwater or tidal) and the type of development (structures, impervious paved surfaces, or pervious paved surfaces). Required buffer widths range from a 10-foot minimum and 35-foot average width between pervious paved surfaces and freshwater wetlands to a 25-foot minimum and 50-foot average width between impervious paved surfaces and tidal wetlands. Although the LMO is less than clear on this, it also apparently requires a 20-foot minimum buffer width adjacent to man-made lagoons and stormwater detention/retention areas that have turned into isolated wetlands.

There are several alternative approaches to wetland buffer regulations that would continue to provide the high level of wetlands protection desired by the town, yet may provide more flexibility to developers of land adjacent to certain types of wetlands.

- One option would be to continue, but clarify, the current approach of treating man-made isolated wetlands differently from other freshwater wetlands, but reduce the buffer width requirements for isolated wetlands to something less restrictive than that required between multifamily and nonresidential pervious paved surfaces and freshwater wetlands—perhaps to a 10-foot minimum and 25- or 30-foot average widths.
- Another option would be to vary wetland buffer width requirements with the extent and density of trees and other vegetation existing within the buffer. Such an approach reflects recognition that many of the wetland protection and water quality benefits provided by wetland buffers derive from the extent and density of buffer vegetation, particularly trees with significant root systems. Any such distinctions would be in addition to the current distinction between tidal and freshwater wetlands (and possibly any further distinction of man-made isolated wetlands, as suggested in the first option).



We suggest the town consider pursuing either of these options, or a combination of the two. Careful consideration should be given to defining the types of wetlands to which reduced buffer widths might apply, and/or to the appropriate trade-off between a buffer's width and its vegetation density.

B. EXPAND ACTIVITIES ALLOWED WITHIN WETLAND BUFFERS

Sec. 16-6-204.D of the current LMO expressly allows the following activities within wetland buffers:

- Limited clearing or underbrushing;
- Pathways where limited to certain prescribed widths;
- Bulkheads and associated backfill in tidal wetlands, where the required vegetative buffer is re-established; and
- Town clearing projects to provide public access to wetlands or to establish or improve views for the public.

Except as allowed above, the following activities are prohibited within wetland buffers by Sec. 16-6-204.C:

- Any soil disturbance except minimal disturbance associated with the installation of native vegetation to re-establish a buffer;
- Any fill;
- Grassed lawns and gardens;
- Placement of any structures or surfaces except allowed crossings; and
- Any removal or destruction of vegetation other than selective pruning to preserve views into the wetland.

These provisions are not clear about what activities are and are not allowed within wetland buffers. For example, Sec. 16-6-204.C's prohibition of structures and surfaces exempts "allowed crossings," but the LMO contains no provision allowing crossings within wetland buffers.



Furthermore, the list of allowed activities does not recognize many activities that are essential to the community or adjacent development (such as road or utility line crossings and shoreline stabilization projects, bridges, drainage conveyances, low-impact stormwater management measures, or removal of exotic vegetation), or are associated with generally desirable water-dependent uses (such as park shelters, docks, boat ramps). Many communities allow such activities within wetland or riparian buffers provided they have minimal or small impacts on the protective function of the buffer. For example, such activities might be allowed only when no other reasonable alternative to location within the buffer exists and where any disturbance of buffer vegetation is minimal or compensated for.

We recommend that provisions addressing activities allowed and prohibited within wetland buffers be revised to identify more clearly what activities are and are not allowed within wetland buffers. Furthermore, we recommend that the list of allowable activities be expanded to include essential and water-dependent development activities such as those noted above, subject to appropriate limitations and standards.

Although the current wetland buffer regulations allow selective pruning to preserve views into the wetlands, they do not indicate how much pruning constitutes selective pruning or the extent of views that may be preserved. We recommend that the wetland buffer regulations be revised to allow modest clearing and pruning necessary to establish a limited number and extent of view corridors through wetland buffers, and that the code language be more

precise about what constitutes selective pruning. Any reduction of significant vegetation within the corridor could be compensated for with additional buffer width and plantings, alternative water quality protection measures, or similar actions.

2.7.2 DUNE PROTECTION

Article III (Beaches) of Chapter 6 (Natural Resource Protection) of the current LMO contains standards addressing the protection of beaches and dune systems. Sec. 16-6-302 essentially prohibits any development or activity adjacent to a beach that:

- Removes or diminishes geologic components of the beach;
- Discharges stormwater or untreated sewage onto the beach;
- Removes, destroys, or depletes vegetation contributing to beach stability;
- Interferes with natural use of the beach by wildlife;
- Interferes with customary public access to and use of the beach; or
- Removes, alters, or destroys beach protection structures unless expressly authorized by a development plan approval or building permit.

Sec. 16-6-305 essentially prohibits any leveling, alteration of dunes, or any disturbance to dune vegetation except for construction of “very limited” elevated pedestrian walkways, appropriate dune restoration or stabilization measures, removal of non-native invasive vegetation, or selective clearing and pruning of trees and other vegetation determined by the Administrator as needed to create a corridor providing views to the beach.



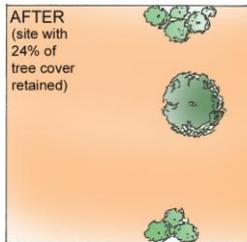
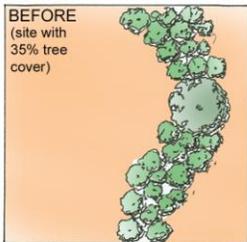
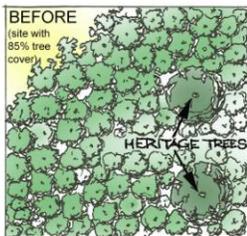
The LMO Rewrite Committee recognized the need to protect dune systems, but stated that dune regulations need to accommodate views to the beach that are necessary to encourage redevelopment of beachfront properties. Although the current dune protection standards accommodate the establishment of view corridors, they lack clear or specific criteria for balancing dune protection needs and desires for view corridors. We recommend such specific criteria be added to this article. View corridor standards, for example, might limit the width of a cleared view corridor (or corridors) to 10 to 20 percent of a development site’s beachside frontage, give highest priority to view corridors established through removal of non-native invasive vegetation, require at least low-growing vegetation within view corridors (to establish root systems), and/or require retention of the root systems of removed trees.

2.7.3 TREE PRESERVATION AND PROTECTION

Much of the success of Hilton Head Island as a premiere resort destination has been the extent to which existing tree canopy has been retained as the island developed. Designing around existing trees was relatively easy as part of the island’s large plantation developments and even for much of the “greenfield” development taking place outside the plantation gates. But now that the island is largely built out, future

growth is more likely to occur through redevelopment, particularly redevelopment of sites developed outside the plantations and before the town's tree preservation regulations came into play. On such sites, it is difficult to redevelop at existing intensities—and certainly at the increased intensities deemed needed to encourage redevelopment—because use of limited space for development competes directly with the need to devote space to meet tree preservation standards.

Developers interviewed during initiation of this LMO rewrite project identified the town's tree preservation regulations as one of the town's most difficult regulations to work with—particularly for redevelopment projects. The primary reason is the difficulty in finding enough room on a site to both meet tree preservation standards and accommodate desired buildings and associated parking areas, buffers, stormwater management facilities, and utility lines. Other cited reasons concern the burden of preparing detailed tree surveys and the standards' reliance on the use of Adjusted Caliper Inches (ACI)—an aggregate measurement of tree diameters, where the diameters of less valuable species of trees are adjusted downward.



Sec. 16-6-406 of the current LMO sets forth a general requirement that all sites except public project sites contain at least 900 ACI of trees per acre of minimum pervious surface area. An applicant must prepare a detailed tree survey to determine the existing ACI of a development site. If the ACI of existing trees is less than 900, the proposed development must plant trees to make up at least 15 percent of the shortfall. There is no limit on the extent to which trees may be removed to accommodate the proposed development—only a requirement that replacement planting be provided to make up at least 30 percent of the removed ACI. Although the current standards have achieved the retention of substantial amounts of the island's existing tree canopy, they are probably too stringent and inflexible for the types of redevelopment projects likely to be the focus of the town's future growth, and are largely seen as over-complicated and over-burdensome. For these reasons, we recommend that the town consider switching to an alternative approach that more directly

addresses tree canopy preservation. We have drafted such standards for a number of communities, where they have been successfully applied.

Tree canopy retention standards typically require a new development to retain a specific percentage of the total area of the development site covered by the canopy of existing trees meeting certain size and type thresholds. The percentage to be retained typically varies along a sliding scale based on the site's zoning and the amount of existing tree canopy area. Sites that are largely treed must retain a lower percentage of existing trees than sites with a sparse amount of tree canopy. The trees preserved as part of the required canopy retained are given accelerated credit towards buffer requirements and count as open space. An example of tree canopy retention provisions from another community's code is in Appendix 4.5, Example of Canopy Retention Standards and Specimen Tree Standards.

If the town elects to stay with the ACI-based standards instead of the sliding-scale tree canopy retention approach, we



recommend that they be modified to provide more flexibility, and that the town consider reducing the total ACI requirement.

Irrespective of which of the two above approaches the town prefers, we also recommend the addition of standards that actually preserve specimen trees. The current list of specimen trees should be modified as necessary to identify those species of trees that are particularly valuable to the island's character and ecology (e.g., live oak) and are larger than a specified diameter. Under this approach, removal of a specimen tree is prohibited unless necessary to allow a reasonable use of the site—in which case the removal must be mitigated by the provision of replacement trees on a one-to-one basis.

2.8 REVISE PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS

Approximately 70 percent of the land on Hilton Head Island is subject to and governed by either a PD-1 or a PD-2 approved Planned Unit Development (PUD) and PUD master plan. The purpose and intent statement of the PD-1 in the current LMO recognizes that, “[t]hese PUDs have served to establish the special character of Hilton Head Island as a quality resort and residential community and it is the intent in establishing this District to allow the continuation or well-planned development within these areas.” Sec. 16-4-209.A. The current LMO recognizes and clearly honors the PUDs right to develop, consistent with the terms and conditions of their master plans, and the other relevant provisions of the LMO.

In part due to the fact that many of the PUD master plans and approvals are today over 25 years old and conditions have changed, in some instances there is a desire to allow and encourage redevelopment within the PUDs. The LMO Rewrite Committee Report identifies four potential issues the town should consider in the LMO rewrite, primarily to provide more flexibility and remove obstacles for the appropriate type of redevelopment within the PUDs, as well as to more efficiently manage them. They are:

- Whether the “use it or lose it” provisions should be modified to allow “lost units” (in development built at densities lower than that approved in the master plan) to be developed or transferred?
- Whether provisions should be added that provide incentives to PUD developers who redevelop and modernize major hotels?
- Whether provisions should be added that allow for a transfer of density within PUDs, and if so under what circumstances?
- Whether efforts should be made to standardize nomenclature for the uses identified in the PUD master plans?

Each is discussed below.

2.8.1 MODIFYING THE “USE IT OR LOSE IT PROVISIONS”

Sec. 16-5-905 (PUD Density of Developed Sites) states:

A. Where a specific site in a PUD has been developed for a use which can reasonably be considered to be long term in nature (e.g. residential structures) and the resulting density of use is less than the maximum density allowed for the specific site by the Town-approved master plan, the master plan shall be deemed to be automatically amended for both the site and, when applicable, the master plan cap to reflect the lesser density actually developed on the specific site.

B. This provision shall not apply if a plan, survey, or other similar, relevant document approved by the Town indicates that additional development is still contemplated for the specific site after completion of development of the long term use.

C. This provision shall not necessarily preclude the transfer of specified density from one undeveloped site to another undeveloped site through the master plan amendment procedures outlined in Section 3, Article XV.

The LMO Rewrite Committee, along with several PUD developers raised concerns about the town's application of this provision because in a number of instances (and especially with respect to smaller sites within PUD master plans), sites have been developed at lower densities or intensities than that originally approved in the master plan, and the PUD has lost the ability to develop the approved density (or units) either on the site or at another location within the PUD. Discussion at several of the meetings of the LMO Rewrite Committee indicated that the intent of the provision when it was originally approved was that the "use it or lose it provision" should only apply to very large tracts of land within the PUDs when they did not use the approved density or intensity, not small parcels. Other questions were raised: Does the provision have a negative impact on redevelopment? Does it make sense to eliminate the provision, at least with respect to its application to commercial development? Should the town modify the provision, and if so, how?

It is difficult to prognosticate what impact the "use it or lose it" provision has on redevelopment within PUDs, since so many factors affect redevelopment; however, obviously, when density/intensity is lost, it forecloses the opportunity that it will ever be developed (without a master plan amendment). The bottom line is that there is no silver bullet solution. Generally, communities across the country have taken one of three approaches. Some have a hard and fast "use it or lose it" provision that is much like the town's (allowing density transfer, but only as an amendment to the approved master plan); these communities do not distinguish between small or large parcels or phases of the development in applying the rule. Other communities, on the other, are significantly more flexible, and allow the parcel or phase to be built out over time, density/intensity-wise, as long as the development complies with the terms and



conditions of the PUD approval and all other relevant code provisions. (In some instances, of course, when development occurs on a particular parcel under this scenario, with lower densities/intensities, future additional development is not viable because it could not comply with the terms and conditions of the PUD approval or other relevant code provisions.) A third alternative applied by a number of local governments, and one we have incorporated in some development codes, is a provision that allows for a conversion schedule to be applied within the PUD, which allows the PUD developer to transfer

density/intensity administratively, from parcel to parcel, as long as the terms and conditions of the PUD approval and the relevant code provisions are still met. Consequently, if density is not developed in one place, it can be transferred/converted to another site.¹²

¹² Typically, in the codes that include a conversion schedule, there are rules limiting how the conversion can take place. For example, residential units can only be converted and transferred within the site to other residential units. If single-family development is converted to multi-family development, the conversion is typically based on external trips generated. Commercial

Of course, there are other variations to these three approaches. For example, as has been suggested during LMO Rewrite Committee discussion, one option is to keep the existing provision in place, but exempt commercial development from the existing provisions (or hotels if they are modernized and add desired amenities).

Another option is to maintain the current provisions and exempt commercial and hotel development, but also add a conversion schedule that applies to exempt commercial and hotel development.

Another option is to use a conversion schedule, but only allow it to be used and the density/intensity transferred if the developer demonstrates the transferred density would achieve a certain score on a public benefits index, which provided points for things like sustainable development practices, mixed-use development, additional resource protection, tree protection, habitat enhancement, or the like.

Still another option is to take out the “use it or lose it provision,” and apply it retroactively.

Making a specific recommendation on which of these options is most appropriate is difficult, and clearly should be based on the town’s goals for development and redevelopment within the PUDs. We suggest that if encouraging and removing obstacles to redevelopment within the PUDs is an important goal, the town should consider either (1) including a conversion schedule and allowing for conversion and transfer of density administratively, or (2) exempting commercial and/or hotel redevelopment from the rule all together and also including a conversion schedule. If it is important to the community that there should be some type of public benefit achieved if conversion is allowed, the town might want to consider including a public benefit index in the regulations, and require a minimum score be achieved before conversion and transfer is allowed.

2.8.2 INCENTIVES TO ENCOURAGE REDEVELOPMENT OF MAJOR HOTELS WITHIN PUDS

Another issue raised by the LMO Rewrite Committee Report involves the idea of providing incentives to existing PUDs to modernize and redevelop their large hotels, especially when they add convention facilities and related amenities. Under the current PUD master plans, many of these existing hotels have limited ability to increase densities/intensities because of the “use it or lose it” provision discussed above.



In our experience, when considering regulatory options or incentives to encourage preferred development types (in this instance the hotels), we have learned several things are important to do:

- First, level the playing field—make it at least as easy, if not easier, procedurally and otherwise to achieve the preferred development than other types of development. This also means removing any obstacles to development that might exist in the current code.

and office can only be converted to commercial, office, or mixed-use development. The conversion is based on the amount of external trips generated.

- Second, offer incentives that are meaningful. Usually this involves increased density/intensity or floor area, increased height, or reductions in parking, landscaping, or tree protection.

Based upon our understanding of the situation with respect to the hotels within the PUDs, and the current rules that apply, in order to level the playing field and possibly make it easier to redevelop a hotel with the desired amenities, there appear to be several options:

- Hotels that modernize and add conference facilities could be exempted from the “use it or lose it provision”, on a retroactive basis (meaning all hotels could achieve their original density/intensity in the master plan approval);
- Provisions could be included in the PUD provisions that provide existing hotels that remodel and add conference facilities above a certain size, along with other identified amenities, receive as of right (if the convention facilities and other amenities are approved):
 - A 10 or 15 percent increase in the number of rooms approved; and
 - Specified relief from the tree protection standards.
 - Provisions could be added that establish a conversion schedule from residential units to hotel units, administratively, once conference facilities of a certain size are added; and
 - Provisions could be added that treat small-scale amendments to a hotel site approved with conference facilities and related amenities as minor amendments.

2.8.3 TRANSFER OF DENSITY WITHIN PUDS

Another issue raised by the LMO Rewrite Committee involved whether there should be rules in the PUD regulations that allow for the transfer of density within the PUDs, and if so, under what conditions the transfer should take place. As is discussed in Section 2.9.1 “Use It or Lose It” Provisions, there are a number of communities that allow for a conversion schedule to be applied within the PUD which allows the PUD developer to transfer density/intensity administratively, from parcel to parcel, as long as the terms and conditions of the PUD approval and the relevant code provisions are still met. Typically, codes that include a conversion schedule also contain rules limiting how the conversion can take place (e.g., residential units can only be converted and transferred within the site to other residential units, at varying levels, depending upon whether you convert multifamily to single-family, for example; typically, commercial and office could be converted to the other or same use, based on a trip generation standard).

Even though we are not aware of another community that has adopted this approach, another option, discussed above, is to include a conversion schedule, but only apply it if the density/intensity transferred demonstrates the transferred density would achieve a certain score on a public benefits index, which establishes certain minimum criteria. The index would provide points for things like sustainable development practices, mixed-use development, additional resource protection, tree protection, habitat enhancement, or the like.

As discussed above in Sec. 2.8.1, whether the town should allow density transfers within the PUDs depends on its goals for PUD development, and the degree to which it wants to encourage redevelopment. If encouraging and removing obstacles to redevelopment within the PUDs is important, the town should consider adding one of the density transfer mechanisms discussed above.

2.8.4 CONSISTENT REGULATIONS AMONG PUDs AND USE OF SIMILAR NOMENCLATURE

Another suggestion of the LMO Rewrite Committee Report is that the nomenclature used for the different uses identified in the PUD master plans be brought into consistency. The reason for the recommendation is that the different PUD master plans approved over the years use different terms to identify basically the same uses, making administration of the PUD master plans challenging and complex. The purpose of the effort is not to modify any development rights and approved development densities/intensities, but just to establish a consistent set of uses across all PUD master plans. If done, initially it will be important to establish a list of uses that will apply to all the PUD master plans; we assume the uses would be drawn from the use list established in the LMO rewrite. From this point, there are several options available to address this issue, none of which necessarily offers an easy resolution.

One is to meet with the PUD developers (property owner associations) to see if they would cooperate with the town to make amendments to their PUD master plans to bring the uses into consistency. If there is a willingness to cooperate, then modifications could be made to the minor amendment provisions (Sec. 16-3-1707 of the current LMO) to allow the use changes to be treated as a minor amendment. As part of this effort, the town might also want to work with the PUD applicants in scheduling a fast and consolidated review process, waive all fees to process the application requests, and possibly assist the applicants in identifying in their individual PUD master plans the use conversion that would occur.

A second option is to add provisions in the PUD amendment sections (currently Secs. 16-3-1707 and 1708 of the LMO) that require a PUD applicant, when they request either a minor or major amendment, to modify the use nomenclature in the PUD master plan to bring them into consistency with the list of uses. This will not result in an immediate and comprehensive resolution of the problem, but should resolve the problem over time as PUD applicants request amendments to their master plans.¹³

A third is to treat the effort to bring the master plan uses into consistency as a map amendment. Under this scenario amendments could be initiated by the Town Council. In an effort to streamline the process, the town could initiate and consider the PUD master plans at the same hearing(s), in a concurrent fashion.

Public notification of the hearing(s), however, would have to be provided to the PUD landowners, possibly making the process complex, time consuming, and controversial.



¹³ Another option discussed that we suggest the town not consider pursuing for legal reasons is the idea of treating the effort to bring the uses identified in the master plans into consistency as a clerical amendment, which can be initiated and approved administratively. This is so because the individual PUD approvals have been approved as individual map amendments.

PART 3: ANNOTATED OUTLINE

CHAPTER 1: GENERAL PROVISIONS

CHAPTER 2: ADMINISTRATION

CHAPTER 3: ZONE DISTRICTS

CHAPTER 4: DEVELOPMENT AND DESIGN STANDARDS

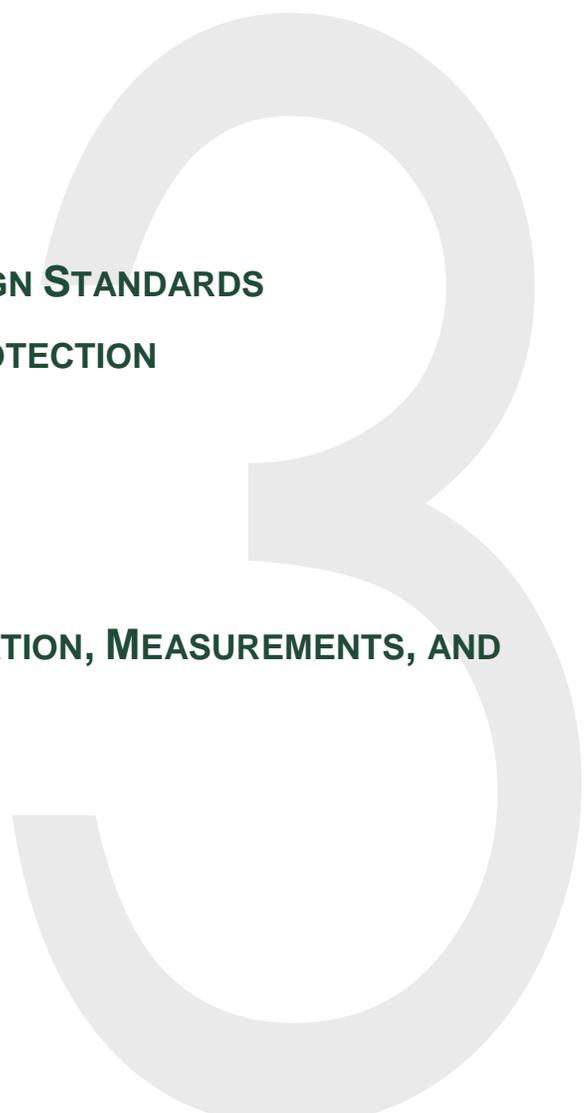
CHAPTER 5: NATURAL RESOURCE PROTECTION

CHAPTER 6: NONCONFORMITIES

CHAPTER 7: ENFORCEMENT

CHAPTER 8: DISASTER RECOVERY

CHAPTER 9: DEFINITIONS, INTERPRETATION, MEASUREMENTS, AND USES



Part 3: Annotated Outline

CHAPTER 1: GENERAL PROVISIONS

This chapter will contain important general provisions that are relevant to the LMO as a whole. While most of these provisions are traditional, all would be specifically tailored to Hilton Head Island. The chapter will play an important part in making the ordinance user-friendly by including certain overarching principles and establishing a clear basis for the authority for the ordinance's adoption, administration, and substantive regulations. For the most part, this chapter will carry forward Article I of Chapter 1 (General Provisions) of the current LMO. It will add provisions incorporating the Official Zoning Map as part of the LMO (relocated from Sec. 16-4-102 of the current Chapter 4 (Zone District Regulations)). In accordance with the LMO Rewrite Committee's recommendation, we recommend that Article II of the current Chapter 1 be relocated from the LMO to the town's code of ordinances. That article sets out the required elements of the comprehensive plan and general planning policies guiding implementation and amendment of the comprehensive plan. Moving it out of the LMO will avoid any confusion about the role of the comprehensive plan as a policy rather than regulatory document, and make the LMO easier to understand.

Article 1-1: TITLE

This article will set forth the official name of the ordinance ("The Land Management Ordinance (LMO) of the Town of Hilton Head Island), acceptable shortened references to the ordinance (e.g., "Land Management Ordinance," "LMO," "this Ordinance"), and how the ordinance and individual sections in it may be cited.

Article 1-2: AUTHORITY

This article will contain references to the statutory basis for zoning and subdivision regulation in Hilton Head Island (Chapters 7 and 29 of Title 6 of the Code of Laws of South Carolina).

Article 1-3: GENERAL PURPOSE AND INTENT

A general purpose and intent section can inform decision-makers in future years about the intent of the Town Council when it adopted the ordinance. This article will carry forward the purpose statements in Sec. 16-1-103 (Purpose) of the current LMO, updating those statements as necessary to reflect current town policies, primarily as set forth in the 2010 Comprehensive Plan.

Article 1-4: APPLICABILITY AND JURISDICTION

This article largely will carry forward provisions in Sec. 16-1-104 through -106 of the current LMO that make clear where LMO regulations apply and what activities are and are not considered "development" subject to the LMO. It will add provisions clarifying that governmental entities are subject to the LMO, in addition to private developments.

Sec. 16-1-106.B spells out the required contents of plat applications. Such a provision is completely unrelated to the section's identification of activities that do not constitute "development." In Section 2.1.6 of the Diagnosis, we recommend that those provisions within the development review procedures listing specific application contents be relocated to an administrative manual. This provision should similarly be relocated to an administrative manual.

Article 1-5: CONFORMANCE WITH ADOPTED PLANS

This article will replace the current Article II (Comprehensive Plan) with a provision explaining the relationship between the LMO and the comprehensive plan—i.e., that the plan serves as a policy guide to the amendment, interpretation, and implementation of the LMO—as well as other town-adopted plans. It will also state that the LMO is in accordance with the comprehensive plan.

Article 1-6: RELATIONSHIP WITH OTHER LAWS,

This article will carry forward provisions in Sec. 16-1-107 and -108 of the current LMO that address the resolution of potential conflicts between provisions within the LMO as well as between LMO provisions and provisions in other town regulations, expanding them to also address potential conflicts with county, state, and federal regulations. It also will carry forward provisions in the current Sec. 16-1-109 that clarify that LMO regulations are separate from, and independent of, private deed restrictions. Finally it will also include the provision allowed by state law that allows the town to ask if a proposed development application is in conflict with any covenants.

Article 1-7: OFFICIAL ZONE DISTRICT MAP

This article will carry forward provisions in Sec. 16-4-102 of the current LMO that incorporate by reference the Official Zone District Map of the Town of Hilton Head Island, including Town-approved PD-1 and PD-2 master plans. The article will also provide for maintenance of the Official Zone District Map, including changes to the map upon the approval of a rezoning application. Provisions pertaining to interpretation of zone district map boundaries will be relocated into Chapter 9: Definitions, Interpretation, Measurement, and Uses.

Article 1-8: TRANSITIONAL PROVISIONS

This article will carry forward Article III (Transitional Provisions) of Chapter 1 of the current LMO, which sets out how pre-existing zone districts are converted to new districts and addresses how the town treats PD master plans and development applications approved before the LMO's effective date. It will modify those provisions to clarify that prior development approvals may be followed through in accordance with the terms and conditions of their approvals, and the rules in existence at the time of their approval. It will expand the current provisions to clarify that violations of the current regulations continue to be violations under the new ordinance (unless they are no longer considered violations) and are subject to the penalties and enforcement provisions set forth in the new Chapter 7: Enforcement.

It also will add provisions addressing how the town treats completed applications that are already in the development approval pipeline at the time of the adoption of the LMO rewrite. The current LMO is silent about this. Most communities choose to allow such applications to continue to be processed in accordance with the LMO regulations in effect at the time of application acceptance, often giving the applicant the option of revising the application to comply wholly in accordance with regulations in the new LMO.

Article 1-9: SEVERABILITY

This article will carry forward the provision in Sec. 16-1-111 of the current LMO that declares that if any part of the LMO is ruled invalid by a court, the remainder of the LMO is not affected and continues to apply.

CHAPTER 2: ADMINISTRATION

This chapter will consolidate all development review procedures. It first will set out review procedures common to all or most types of development applications. It then will include procedural standards specific to each type of development application.

Chapter 2 of the current LMO (Review and Decision-Making Bodies) contains information describing the establishment, composition, powers and duties, and basic procedural requirements for Town entities other than the Town Council who are involved in the review of development applications (Administrator, Planning Commission, Board of Zoning Appeals, Design Review Board). While such information is a legally essential part of town regulations, it serves as merely background information on those entities involved in the LMO development review procedures, and does little to contribute to a code-user's understanding of the review procedures. For that reason, we recommend relocating the current LMO's descriptions of development review entities to an appendix of the LMO.

Article 2-1: SUMMARY TABLE OF REVIEW PROCEDURES

The first article in Chapter 2 will contain a table such as the one below that presents-in one place-an overview of the development review structure proposed for the LMO rewrite. Such a table allows a code-user to immediately see all the permits or approvals that might apply to a development-related proposal, which town entities are involved in reviewing and deciding each type of application, and where in the LMO to go for further information on the specific application type.

TABLE 2-1: SUGGESTED DEVELOPMENT REVIEW PROCEDURES						
R = RECOMMENDATION D = DECISION A = APPEAL <> = PUBLIC HEARING						
PROCEDURE	REVIEW AND DECISION-MAKING AUTHORITIES					
	ADMINISTRATOR	DESIGN REVIEW BOARD	PLANNING COMMISSION	BOARD OF ZONING APPEALS	TOWN COUNCIL	
ORDINANCE AMENDMENTS						
Text Amendment	R		<R>		D	
Map Amendment (Rezoning)	R		<R>		D	
PUD Designation/Master Plan Review	R		<R>		D	
DEVELOPMENT APPROVALS AND PERMITS						
PUD Master Plan Amendment (Minor)	D			<A>		
Subdivision Review	D		A			
Special Exception Review	R			<D>		
Public Project Review	R		<D>			
Development Plan Review	Standard	D		A		
	Abbreviated	D		A		
Corridor Overlay District Review	Minor [NEW]	D	<A>			
	Major	R	D			
Tree Removal Permit	D		A			
Wetlands Alteration Permit	D		A			
Sign Permit	Minor	D	<A>			
	Major	R	D			
OTHER DEVELOPMENT-RELATED PROCEDURES						
Development Surety	D			<A>		
Certificate of Compliance	D			<A>		
Development Name Approval	D		A			
Street/Vehicular Access Easement Name Approval			D			
RELIEF PROCEDURES						
Written Interpretation	Zoning regulation	D			<A>	
	Subdivision/ land development	D		A		

TABLE 2-1: SUGGESTED DEVELOPMENT REVIEW PROCEDURES

R = RECOMMENDATION D = DECISION A = APPEAL < > = PUBLIC HEARING

PROCEDURE	REVIEW AND DECISION-MAKING AUTHORITIES				
	ADMINISTRATOR	DESIGN REVIEW BOARD	PLANNING COMMISSION	BOARD OF ZONING APPEALS	TOWN COUNCIL
regulation					
Administrative Adjustment [NEW]	D			<A>	
Variance	Zoning regulation	R		<D>	
	Subdivision/land development regulation	R	D		
Administrative Appeal	Zoning decision or interpretation	R		<D>	
	Subdivision/land development decision or interpretation	R	D		
	Minor Corridor Overlay District Review; Minor Sign Permit	R	<D>		
Planning Emergency Permitting	D			<A>	

Article 2-2: STANDARD PROCEDURES

The modern trend in zoning administration is to consolidate and standardize those procedures shared by most development review procedures. Setting out the town’s basic development review process in one place introduces and better familiarizes potential applicants, the public, and the town’s administrative, advisory, and decision-making bodies with the principal procedures and procedural requirements common to all or most of the town’s development review procedures.

Article I of Chapter 3 of the current LMO contains provisions addressing most such common, or “standard,” procedures—e.g., pre-application conference, application submittal and completeness determination, public hearing notice, notice of decision, time limits for resubmittal, and expiration of approvals. But it does not include provisions noting the actual review steps (e.g., staff review, advisory body review, decision-making body review), how application revisions are handled, and the scheduling of public hearings. This article will carry forward the current common procedural provisions and add those missing provisions necessary to present a complete picture of the town’s basic development review process. It also will include a flow chart illustrating that basic process. Article 2-2 would include the following sections:

PROPOSED STRUCTURE

ARTICLE 2-2: STANDARD PROCEDURES

- 16-2-201 General
- 16-2-202 Pre-Application Conference
- 16-2-203 Neighborhood Meeting
- 16-2-204 Application Submittal and Acceptance
- 16-2-205 Staff Review and Action
- 16-2-206 Public Hearing Scheduling and Notice
- 16-2-207 Advisory Body Review and Recommendation
- 16-2-208 Decision-Making Body Review and Decision
- 16-2-209 Post-Decision Actions and Limitations

16-2-201. GENERAL

This section will introduce the format used for the application-specific procedures and will carry forward the current requirement for a single agent in Sec. 16-3-101 of the current LMO.

16-2-202. PRE-APPLICATION CONFERENCE

This section will carry forward the pre-application conference provisions in Sec. 16-3-102 of the current LMO, modifying it to add a purpose statement.

16-2-203. NEIGHBORHOOD MEETING

In Section 2.2.10, Consider Adding Neighborhood Meetings to the Standard Review Procedures of the Diagnosis, we suggest that the town consider adding a standard pre-application step where a prospective applicant meets with the owners of property near the development site to describe the plan for development and solicit feedback from the neighbors. If the town agrees to add such a step, this section will identify which applications, if any, require a neighborhood meeting, encourage such meetings for all other applications that require a public hearing, and set out procedures for scheduling, providing notice of, holding, and reporting the results of such meetings.

16-2-204. APPLICATION SUBMITTAL AND ACCEPTANCE

This section will carry forward the application forms, fees, submittal, and completeness determination provisions in Sec. 16-3-103 through 16-3-108 of the current LMO, simplifying wording and clarifying review deadline provisions. It will add subsections that:

- Define who may file applications (generally the landowner or his/her representative);
- Authorize the Administrator to establish application content and form requirements, as well as submittal rules and review schedules, in an administrative manual (into which the application deadlines in Sec. 16-3-106 would be relocated) (See Section 2.1.6, Add an Administrative Manual of the Diagnosis for a discussion of our recommendation to establish an administrative manual.); and
- State when an applicant may revise an application during the review procedure and how doing so affects review of the revised application.

As discussed in Section 2.2.9, Consolidate Application Check-In Conference and Application Completeness Determination Procedures of the Diagnosis, this section would also consolidate the application check-in conference procedure in the current Sec. 16-3-104 into the application completeness determination procedure in the current Sec. 16-3-108.

16-2-205. STAFF REVIEW AND ACTION

As noted above, Article I of Chapter 3 of the current LMO does not identify staff review as one of the review steps common to development applications. This new section will provide that after an application is accepted as complete:

- The Administrator distributes it to appropriate staff and review agencies for review and comment, then notifies the applicant of any noncompliant features;
- The applicant has an opportunity to revise the application to address any noncompliant features; and
- The Administrator approves, denies, or approves the application with conditions (e.g., for a Development Plan Review and many other applications) or prepares a staff report with recommendation (e.g., for rezoning and Special Exception applications) and submits to the appropriate advisory body or decision-making body.

16-2-206. PUBLIC HEARING SCHEDULING AND NOTICE

This section will add a provision requiring the Administrator to ensure that an application subject to a public hearing is scheduled for a meeting before the appropriate body in sufficient time to comply with state law requirements. It will carry forward the notice requirements in Sec. 16-3-110 and 16-3-11 of the current LMO, modifying them to comply with state law and clarify who is responsible for providing required notices.

16-2-207. ADVISORY BODY REVIEW AND RECOMMENDATION

This is another important review step for several development applications that Article 1 of Chapter 3 of the current LMO does not address. This section will provide that where an application is subject to review by an advisory body (e.g., the Planning Commission for rezoning applications), the body holds any required public hearing(s), reviews the application and staff report, then makes a recommendation for one of the decisions authorized for the particular application type, which the Administrator forwards to the decision-making body.

16-2-208. DECISION-MAKING BODY REVIEW AND DECISION

This section will address the final action on applications that go beyond staff review, whether the decision-making body is the Design Review Board (e.g., for Corridor Overlay District Review or appeals of staff decisions on minor signs), or the Planning Commission (e.g., for Street Name Approval, and appeals of staff decisions on Development Plan Review and Subdivision Review Applications), or the Board of Zoning Appeals (e.g., for Special Exceptions, Variances, and appeals of staff decisions on Minor PUD Master Plan Amendments, and zoning-related permits and interpretations), or the Town Council (e.g., for rezoning and PUD applications). It will provide that the decision-making body hold any required public hearing(s), review the application, staff report, and any advisory body recommendation, and then make one of the decisions authorized for the particular application type.

This section also will carry forward those provisions in Sec. 16-3-109 of the current LMO, which reflect the statutorily required 60-day deadline for final action on subdivision and land development plans, modifying them to clarify which application types they apply to and what final action means.

16-2-209. POST-DECISION ACTIONS AND LIMITATIONS

Sec. 16-3-113 of the current LMO requires the town to provide applicants written notice of final decisions and keep copies on file for public inspection. Sec. 16-3-114 addresses how soon after denial of an application the applicant may re-file an application for the same request. Sec. 16-3-116 describes how expiration times set out for particular applications types may be altered by time period specified as part of the application approval or by pursuit of subsequent permits and approvals. This section will carry forward those provisions, modifying the expiration provisions for clarity, to provide a “default” expiration period if none is specified for the application type or as part of approval, and to authorize staff to approve limited extensions to the expiration period. Such authority allows the town to readily accommodate a developer’s delay in starting development for good cause, such as delays in obtaining financing (a common issue during the last few years).

Article 2-3: APPLICATION-SPECIFIC PROCEDURES

This article will consolidate the specific review procedures applied to each individual type of application for development approval. For each application type, the article will set out supplementary procedures, standards, and related information that apply in addition to, or instead of, the standard procedures set forth in Article 2-2.

Articles II through XXI of Chapter 3 of the current LMO include application-specific procedures in text format. In some cases, they include provisions that repeat generally applicable common provisions. Most of the text addressing the specific application review procedures is devoted to listing and describing the required content of applications. In accordance with the recommendation in Section 2.1.6, Add an Administrative Manual of the Diagnosis, such descriptions would be relocated to an administrative manual. This will enable the LMO to depict the application-specific procedures in a simpler format that relates closely to the steps in the basic standard review procedure and includes a flow chart.

In accordance with the recommendations in Section 2.2 of the Diagnosis, several current application-specific provisions have been modified or eliminated, and several new procedures have been added. The proposed new line-up of application-specific review procedures follows—reordered from the most general to the most specific, then the relief procedures. Each procedure will reflect a similar format that builds on the steps identified as part of the standard review procedure described in Article 2-2. Any provisions that unnecessarily repeat standard review steps addressed in Article 2.2 will be eliminated. Each procedure also will include a flow chart graphically depicting those standard steps applicable to the procedure.

16-2-301. TEXT AMENDMENT

This section will carry forward the text amendment procedure in Article XIV of Chapter 3 of the current LMO, modifying it to add review criteria.

16-2-302. MAP AMENDMENT (REZONING)

This section will carry forward the map amendment procedure in Article XV of Chapter 3 of the current LMO, with refinements to review standards.

16-2-303. PUD DESIGNATION/MASTER PLAN REVIEW

This section will carry forward the Planned Unit Development (PUD) approval procedure in Article XVII of Chapter 3 of the current LMO, modifying it to replace provisions authorizing “minor amendments” to PUD master plans with provisions requiring subsequent approval and permits to be consistent with the master plan approval and describing deviations from the master plan that are considered consistent with the plan. See Section 2.2.8 (Modify Treatment of Minor PUD Master Amendments) of the Diagnosis.

16-2-304. SUBDIVISION REVIEW

This section will carry forward the Subdivision Review procedure in Article VI of Chapter 3 of the current LMO.

16-2-305. SPECIAL EXCEPTION REVIEW

This section will carry forward the Special Exception Review procedure in Article XVIII of Chapter 3 of the current LMO. The need for and use of this procedure should decrease as the number of uses designated as a special exception is reduced. (See Section 2.2.1 of the Diagnosis.)

16-2-306. PUBLIC PROJECT REVIEW

This section will carry forward the Public Project Review procedure in Article XII of Chapter 3 of the current LMO.

16-2-307. DEVELOPMENT PLAN REVIEW

This section will carry forward the Development Plan Review and Abbreviated Development Plan Review procedures in Article XV of Chapter 3 of the current LMO, modifying the Abbreviated Development Plan Review to authorize its use for accessory uses and structures, temporary uses and structures, and other minor development to be determined after further discussion with town staff and the LMO Rewrite Committee. See Section 2.2.7 (Expand Use of the Abbreviated Development Plan Review) of the Diagnosis.

16-2-308. CORRIDOR OVERLAY DISTRICT REVIEW

As recommended in Section 2.2.2 of the Diagnosis, this section will modify the Corridor Overlay District Review procedure in Article X of Chapter 3 of the current LMO to split it into major and minor review procedures, with minor reviews applicable to minor exterior changes to be determined after further discussion with town staff and the LMO Rewrite Committee.

16-2-309. TREE REMOVAL PERMIT

As recommended in Section 2.2.3 of the Diagnosis, this section will modify the Tree Protection Approval procedure in Article IV of Chapter 3 of the current LMO to limit its applicability to any removal, destruction, or damage of trees proposed outside an application for a Development Plan Review or Public Project Review.

16-2-310. WETLANDS ALTERATION PERMIT

As recommended in Section 2.2.3 of the Diagnosis, this section will modify the Wetlands Alteration Approval procedure in Article V of Chapter 3 of the current LMO to limit its applicability to any alteration of wetlands proposed outside an application for a Development Plan Review or Public Project Review.

16-2-311. SIGN PERMIT

This section will carry forward the Sign Permit procedures in Article IX of Chapter 3 of the current LMO, identifying the procedure involving Design Review Board approval as Major Sign Permits and the procedure involving staff approval of certain signs as Minor Sign Permits.

16-2-312. DEVELOPMENT SURETY

This section will carry forward the Development Surety procedure in Article VIII of Chapter 3 of the current LMO, with refinements so that it only applies to landscaping requirements.

16-2-313. CERTIFICATE OF COMPLIANCE

This section will carry forward the Certificate of Compliance procedure in Article VII of Chapter 3 of the current LMO.

16-2-314. DEVELOPMENT NAME APPROVAL

This section will carry forward the Development Name Approval procedure in Article XI of Chapter 3 of the current LMO.

16-2-315. STREET/VEHICULAR ACCESS EASEMENT NAME APPROVAL

This section will carry forward the Street/Vehicular Access Easement Name Approval procedure in Article XI of Chapter 3 of the current LMO.

16-2-316. WRITTEN INTERPRETATION

This section will modify the Written Interpretation procedure in Article II of Chapter 3 of the current LMO to split it into separate procedures for interpretation of zoning regulations and interpretation of subdivision and land development regulations. This change reflects statutory distinctions between zoning regulations and subdivision and land development regulations.

16-2-317. ADMINISTRATIVE ADJUSTMENT

This new section will create an independent review procedure that authorizes the Administrator to approve a prescribed degree of deviation from specified dimensional standards on finding that the deviation better serves the intent of the LMO. (See discussions of administrative adjustments in Section 2.2.6 (Add an Administrative Adjustment Procedure) and Section 2.5.2 (Administrative Adjustment) of the Diagnosis.)

16-2-318. VARIANCE

This section will modify the Variance procedure in Article XIX of Chapter 3 of the current LMO to distinguish variances from the LMO's zoning regulations and variances from its subdivision and

land development regulations. . It will also modify the review standards to limit the criteria to those required by state law. This change reflects statutory distinctions between zoning regulations and subdivision and land development regulations.

16-2-319. ADMINISTRATIVE APPEAL

As recommended in Section 2.2.5 of the Diagnosis, this section will modify the Administrative Appeal procedure in Article XX of Chapter 3 of the current LMO to split it into three separate appeal procedures:

- Appeals of administrative decisions and interpretations involving zoning regulations and approvals, which go to the Board of Zoning Appeals;
- Appeals of administrative decisions and interpretations involving subdivision and land development regulations (including decisions associated with Subdivision Reviews and Development Plan Reviews); and
- Appeals of administrative decisions and interpretations involving design issues (including decisions associated with Minor Corridor Overlay District Reviews and Minor Sign Permits).

This change reflects statutes that authorize the Board of Zoning Appeals to decide appeals of administrative decisions concerning zoning regulations, the Planning Commission to decide appeals of administrative decisions concerning subdivision and land development regulations, and the Design Review Board to decide appeals of administrative decisions concerning design standards.

16-2-320. PLANNING EMERGENCY PERMITTING

This section will carry forward the Planning Emergency procedures in Article XXI of Chapter 3 of the current LMO, modifying them to increase clarity and ensure consistency with other provisions of the LMO rewrite.

CHAPTER 3: ZONE DISTRICTS

Article 3-1: ZONE DISTRICTS ESTABLISHED

The LMO Rewrite Committee recommended revising the zone district regulations in the LMO to better organize the zone district standards, consolidate and simplify the districts to establish more walkable and mixed-use development opportunities at the appropriate locations, and make the structure and lay-out of the districts more user-friendly than those found in the current LMO. See discussion in Section 2.3, Modify and Consolidate Zone Districts and Encourage Use Mixing, of the Diagnosis. This results in a revised zone district structure which reduces the current base zone districts from 24 to 14 districts, of which there are three new mixed use districts established for the purpose of providing redevelopment opportunities and allowing higher density, pedestrian-oriented mixed use development. . Generally, it is suggested the overlay districts be carried forward, except for the RO Redevelopment Overlay District. The suggested zone district structure for the LMO rewrite is outlined in Table 3-1: Zone District Structure in LMO Rewrite. It shows the zone district structure in the current LMO on the left side of the table, as compared to the zone district structure proposed for the LMO rewrite on the right side of the table. A detailed explanation of these changes can be found in Section 2.3.1, Suggested Zone District Consolidation of the Diagnosis.

TABLE 3-1: ZONE DISTRICT STRUCTURE IN LMO REWRITE

ZONE DISTRICT IN CURRENT LMO	ZONE DISTRICT IN LMO REWRITE
CONSERVATION AND PARKS/RECREATION DISTRICTS	
CON Conservation District	CON Conservation District
PR Parks and Recreation District	PR Parks and Recreation District
RESIDENTIAL DISTRICTS	
RS-2 Residential Single-Family District (2 units/acre)	RSF-3 Residential Single-Family District (3 units/acre) [CONSOLIDATED]
RS-3 Residential Single-Family District (3 units/acre)	
RS-4 Residential Single-Family District (4 units/acre)	RSF-6 Residential Single-Family District (6 units/acre) [CONSOLIDATED]
RS-5 Residential Single-Family District (5 units/acre)	
RS-6 Residential Single-Family District (6 units/acre)	
RM-4 Low to Moderate Density Residential District (4 units/acre)	RM-4 Low to Moderate Density Residential District (4 units/acre)
RM-8 Residential Moderate Density District (8 units/acre)	RM-12 Moderate to High Density Residential District (12 units/acre) [CONSOLIDATED]
RM-12 Moderate to High Density Residential District (12 units/acre)	
BUSINESS AND MIXED USE DISTRICTS	
CC Commercial Center District	I-MX-C Island Place Mixed Use District (some existing portions of the CC, SMU, WMU, and CFB districts will be designated with a lesser intensity district, probably the I-MX-M or N-MX classifications) [NEW MIXED USE DISTRICT]
CCW Coligny Commercial Walking District	
WMU Water Front Mixed use District	
SMU- Stoney Mixed Use District	
CFB Central Forest Beach District	
DCW Dunnagans Commercial Walking District	I-MX-M Island Mixed Use Moderate Intensity District (might also include some parts of the CC District) [NEW MIXED USE DISTRICT]
RD Resort Development District	N-MX Neighborhood Oriented Mixed Use (district might also be applied to edges of WMU, SMU, or CCW as a transition to lower-intensity districts) [NEW MIXED USE DISTRICT]
OL Office/Institutional Low Intensity District	
NC Neighborhood Commercial District	MW Marsh and Waterfront
MMU Marsh Front Mixed Use District	
OM Office/Institutional Moderate Intensity District	OM Office/Institutional Moderate Intensity District
OCIL Office/Light Commercial/Light Industrial District	OCIL Office/Light Commercial/Light Industrial District
IL Light Industrial/Commercial Distribution District	IL Light Industrial
PD-1 Planned Development Mixed Use District	PD-1 Planned Development Mixed Use District
OVERLAY DISTRICTS	
AZ Airport Overlay District	AZ Airport Overlay District
COR Corridor Overlay District	COR Corridor Overlay District
PD-2 Planned Development Overlay District	PD-2 Planned Development Overlay District
FB-NCOD Forest Beach Neighborhood Character Overlay District	FB-NCOD Forest Beach Neighborhood Character Overlay District
FF-NCOD Folly Field Neighborhood Character Overlay District	FF-NCOD Folly Field Neighborhood Character Overlay District
HH-NCOD Holiday Homes Neighborhood Character Overlay District	HH-NCOD Holiday Homes Neighborhood Character Overlay District
RO Redevelopment Overlay District	[DELETED]
CSPDAA&TAOD Critical Storm Protection and Dune Accretion Area and Transition Area Overlay District	CSPDAA&TAOD Critical Storm Protection and Dune Accretion Area and Transition Area Overlay District

Article 3-2: ZONE DISTRICT STANDARDS

After establishing the zone districts, Chapter 4, Article II (Base District Character and Purpose), of the current LMO sets out the character and purpose of each district; Chapter 4, Article XII (Use Regulations), identifies the allowed uses for each district in a summary use table; and the development parameters are set down in several different articles: Chapter 4, Article XVI (Density Standards)—maximum densities and bonuses (if any), maximum impervious coverage, and minimum open space, and Chapter 4, Article XVII (Height)—maximum height.

We propose to consolidate these standards in Article 3-2, along with the standards for buffers and setbacks, parking requirements, and other standards related to building configuration. Where uses are subject to use specific standards, the section reference will be included. We also propose to add photographs showing the desired character in the district, an example of a typical lot pattern, and a three-dimensional drawing showing the building form that results from the application of the development parameters. The elements for each district would include:

- District Purpose

- Typical Building Forms
- Typical Lot Patterns
- Allowable Uses and Parking
- Building Configuration
- Development Form and Parameters (which includes building type (if appropriate), maximum density, maximum lot coverage, maximum building height, building setback, adjacent use setback, and adjacent street setback)

An example of this format is included in Appendix 4.5, Example of a Zone District Format, for the RSF-6 district (please note that the adjacent use standards and adjacent street setback standards are those that apply in the current RS-6 district; we are suggesting changes to these buffer standards, so if our suggestions are incorporated into the LMO rewrite, these standards would change). This format should include in one location, most of the basic development parameters that apply in a district.

It is proposed that Secs.16-4-1205 through 16-4-1215 of the current LMO, which explain the use classifications and the principal use characteristics of the uses, be moved to Chapter 9: Definitions, Interpretation, Measurement, and Uses. In addition, in the LMO rewrite, all the uses identified will be defined in the Uses article of Chapter 9.

Article 3-3: USE-SPECIFIC STANDARDS

This article will carry forward, build on, and refine, as appropriate, the specific use standards located in Chapter 4, Article XIII, Specific Use Standards, of the current LMO. It will contain all of the use-specific standards and requirements that apply to individual principal use types listed in the allowable use and parking table in the individual districts. The standards will generally apply to uses regardless of whether they are permitted as a matter of right or are subject to a special exception permit.

Article 3-4: ACCESSORY USES

Accessory uses or structures are those uses that are subordinate to the principal use of a building or land, located on the same lot as the principal use, and customarily incidental to such use or land. For example, a below-ground swimming pool is typically considered an accessory use to a single-family home. This article will carry forward, build on, and refine, as appropriate, Chapter 4, Article XIV-Accessory Uses, in the current LMO. It will add a table of accessory uses that identifies, by district, whether an accessory use is allowed or prohibited within the district. It will also identify which accessory uses require permit approval (through the Abbreviated Development Plan Review procedure).

CHAPTER 4: DEVELOPMENT STANDARDS

This chapter will contain all of the development and design standards in the LMO rewrite related to the physical layout of new development with the exception of the natural resource protection standards in Chapter 5. The proposed contents of Chapter 5, Development and Design Standards, are discussed below.

Article 4-1: GENERAL

This article will generally carry forward Chapter 5, Article I-General, in the current LMO. It serves as an introduction to the chapter and contains provisions relating to the purpose and intent of the chapter and its applicability.

Article 4-2: PARKING AND LOADING STANDARDS

This article will carry forward Chapter 5, Article XII (Parking and Loading Standards), with the suggested modifications discussed in Section 2.6.1, Off Street Parking and Loading Standards, of the Diagnosis. These suggested changes generally include the following:

- A review of all the current parking standards for the different uses to bring them into consistency with modern "best practices" across the nation;
- Further adjustments for off-street parking standards based on the districts where the parking will occur. The major distinction will be between the I-MX-C, I-MX-M, and N-MX districts, and the balance of the other districts.
- Revision of the alternative parking compliance provisions to include options for shared and off-premise parking, but also options for deferred parking; valet and tandem parking; and parking reductions for transportation demand management practices, on-street spaces in certain locations, and locations that are proximate to public transit.
- Adding provisions to ensure parking areas are more pedestrian-friendly. These should include:
 - Requiring pedestrian-friendly features in parking areas, like well-marked and demarcated pedestrianways (usually within islands);
 - Requiring parking areas be broken into smaller-scale "pods" instead of large expansive lots;
 - Requiring some or a portion (e.g., 50 percent) of the parking areas in the mixed use districts to be located to the side or rear of a building; and
 - Providing incentives for or requiring a certain amount of bicycle parking.
- More precise and detailed design provisions for stacking lanes for drive-thrus and "throat" lanes for large parking lots, as well as other parking design-related details.

Article 4-3: BUFFER STANDARDS

This article will carry forward Chapter 5, Article VIII-Buffer Standards, with the suggested modifications discussed in Section 2.6.2, Buffer Standards, of the Diagnosis. These suggested changes generally include the following:

- Modification to the adjacent use buffer standards to incorporate a performance-based sliding scale of opacity that corresponds to the intensity of adjacent uses. Additionally:
 - The reduction or elimination of adjacent use buffers between uses that are fairly comparable in intensity, especially in the mixed use districts; and
 - The provision of options through the opacity standard (with a combination of structural elements, trees, and shrubs), that results in a regulation that allow buffers with varying buffer widths to be used, depending on the type of buffering (e.g., similar opacity might be achieved using a five or ten foot buffer with certain plantings and structural element(s)) versus a 25 foot buffer with fewer plantings and no structural elements.
- The provision of credit for existing trees saved in the adjacent use buffer against the tree protection standards;
- Specific Identification in the regulations the type of minimum plantings or structural elements needed for the adjacent use and adjacent street buffers. An example of this type of approach adopted by another community is included as Appendix 4.3, Example of Performance-Based Buffer Standards;

- The consideration of further reductions of the buffer standards in the mixed use districts, due to the fact they are considered more high intensity places, where mixed-use, walkability, and a certain character will be established, where developable space is at a premium and buffers should not be needed, or should be limited; and
- The modification of the buffering requirements for service and loading buffer standards to reduce the reliance on buffer width, without sacrificing screening standards.

Article 4-4: SITE LIGHTING STANDARDS

This article will carry forward Chapter 5, Article XIV (Site Lighting Standards), with minor changes to ensure it complies with the other modifications made in the LMO rewrite.

Article 4-5: FENCE STANDARDS

This article will carry forward Chapter 5, Article XIX (Fence Standards), with minor changes to ensure it complies with the other modifications made in the LMO rewrite.

Article 4-6: SIGNAGE STANDARDS

This article will carry forward Chapter 5, Article XIII (Sign Standards), with the revisions that are being prepared by town staff.

Article 4-7: NEIGHBORHOOD COMPATIBILITY STANDARDS

This will be a new article that incorporates the neighborhood compatibility standards discussed in Section 2.6.4, Neighborhood Compatibility Standards, of the Diagnosis.

Article 4-8: BUILDING TYPE STANDARDS

This will be a new article that includes any building type standards, if they are included in the LMO rewrite.

Article 4-9: CIVIC SPACE STANDARDS

This will be a new article that incorporates any civic space standards used in the mixed-use districts.

Article 4-10: TRAFFIC ANALYSIS STANDARDS

This article will carry forward Chapter 5, Article XI (Traffic Analysis Standards), with minor changes to ensure it complies with the other modifications made in the LMO rewrite.

Article 4-11: INTERVAL OCCUPANCY CONVERSION

This article will carry forward Chapter 5, Article X (Interval Occupancy Conversion), with any changes necessary to the section to ensure it complies with the other modifications made in the LMO rewrite.

Article 4-12: SUBDIVISION STANDARDS

This article will carry forward Chapter 5, Article II (Subdivision Standards), with minor changes to ensure it complies with the other modifications made in the LMO rewrite.

Article 4-13: STREET AND PATHWAY STANDARDS

This section will carry forward Chapter 5, Article V (Street and Pathway Standards), with minor changes to ensure it complies with the other modifications made in the LMO rewrite, including the

relocation of requirements for improvements called for by traffic impact analyses from the Chapter 3, Article XIII (Traffic Impact Analysis) of the current LMO.

Article 4-14: OPEN SPACE STANDARDS

This article will carry forward Chapter 5, Article III (Open Space Standards), with minor changes to ensure it complies with the other modifications made in the LMO rewrite.

Article 4-15: UTILITY STANDARDS

This article will carry forward Chapter 5, Article XVII (Utility Standards), with minor changes to ensure it complies with the other modifications made in the LMO rewrite.

Article 4-16: FIRE PROTECTION WATER SUPPLY STANDARDS

This article will carry forward Chapter 5, Article XVI (Fire Protection Water Supply Standards), with minor changes to ensure it complies with the other modifications made in the LMO rewrite.

Article 4-17: STORMWATER MANAGEMENT STANDARDS

This article will replace the provisions in Chapter 5, Article VI (Stormwater Management Standards), with references to state stormwater management regulations and erosion and sedimentation control regulations (See Section 2.6.5 (Stormwater Management Standards) of the Diagnosis). We will work with the town engineer to determine if there is a need to supplement state regulations to address conditions unique to Hilton Head Island. If there is, any identified supplemental standards will be included in this article.

Article 4-18: FLOOD ZONE STANDARDS

This article will carry forward Chapter 5, Article XV (Flood Zone Standards), with minor changes to ensure it complies with the other modifications made in the LMO rewrite.

Article 4-19: IMPACT FEES

This article will carry forward Chapter 5, Article XVIII (Impact Fees), with minor changes to ensure it complies with the other modifications made in the LMO rewrite.

CHAPTER 5: NATURAL RESOURCE PROTECTION STANDARDS

Article 5-1: GENERAL

This article will carry forward the general authority and purpose provisions in Chapter 6, Article I (General Provisions).

Article 5-2: WETLANDS PROTECTION

This article will modify the provisions in Chapter 6, Article II (Wetlands), to implement the options discussed and recommended in Section 2.7.1 of the Diagnosis for increasing the flexibility of the wetland buffer regulations. Specifically, the modifications will tailor wetland buffer requirements to the type of wetlands and to the surrounding context, and will expand the list of activities allowed within wetland buffers to accommodate activities that are essential to the community or adjacent development and do not diminish the buffer's function of protecting the viability of adjacent wetlands.

This article will also modify current provisions authorizing alteration of buffer vegetation to provide water views. The modifications will provide for water views via a limited number of view corridors, clarify the extent to which buffer vegetation may be cleared or pruned within such view corridors, and provide for compensation or mitigation of any reduction of significant vegetation within view corridors.

Article 5-3: BEACH AND DUNE PROTECTION

This article will modify the beach and dune protection provisions in Chapter 6, Article III (Beaches), to clarify the extent of dune alteration allowed to establish authorized view corridors to the beach and water, including limitations on the number and width of view corridors and the extent to which vegetation may be removed or altered. See Section 2.7.2 (Dune Protection) of the Diagnosis.)

Article 5-4: TREE PRESERVATION AND PROTECTION

As discussed and recommended in Section 2.7.3 of the Diagnosis, this article will include a number of modifications to the tree preservation standards in Chapter 6, Article IV (Trees). It will modify current provisions to more directly address tree canopy preservation—preferably through use of tree canopy retention standards that use a sliding scale to require new development to retain a specific percentage of the site’s canopy of existing trees meeting certain size and type thresholds. (An example of tree canopy retention provisions from another community’s code is in Appendix 4.4, Example of Canopy Retention Standards and Specimen Tree Standards. If the town elects to stay with the current ACI-based standards instead, the modifications will provide more flexibility in those standards, possibly including reduction of the total ACI requirement. This article also will add standards that require new development to preserve specimen trees where possible, and where such trees must be removed, for mitigation of the loss.

CHAPTER 6: NONCONFORMITIES

Article 6-1: GENERAL PROVISIONS

This article will carry forward Chapter 7, Article I (General Provisions). Section 2.5.4, Modify Nonconformities Chapter Provisions to Provide More Flexibility, of the Diagnosis suggests the town consider modifying the current Section 16-7-107 to extend the time for discontinuance of a nonconforming use or abandonment of a nonconforming structure from 12 months to 18 months. This might be especially appropriate, given economic conditions over the past four years.

Article 6-2: NONCONFORMING USES

This article will carry forward Chapter 7, Article II (Nonconforming Uses), with any changes necessary to the section to ensure it complies with the other modifications made in the LMO rewrite.

Article 6-3: NONCONFORMING STRUCTURES

This article will carry forward Chapter 7, Article III (Nonconforming Structures), with minor changes to make sure it complies with the LMO rewrite. Other Nonconformities

Article 6-4: OTHER NONCONFORMITIES

This article will carry forward Chapter 7, Article IV (Other Nonconformities), with minor changes to ensure that it complies with the LMO rewrite.

CHAPTER 7: ENFORCEMENT

This chapter will carry forward the provisions in Chapter 8, Violations and Enforcement, in the current LMO with some minor reorganization and reformatting changes

Article 7-1: PURPOSE

This article will set forth the purpose of the enforcement section.

Article 7-2: COMPLIANCE REQUIRED

This article will state that compliance with all provisions of the LMO is required. It will incorporate the relevant provisions in Sec. 16-8-101 of the current LMO.

Article 7-3: VIOLATIONS

This article will explain that failure to comply with any provision of the LMO, or the terms or conditions of any permit or authorization granted pursuant to the LMO, shall constitute a violation. The section will include both general violations as well the identification of specific violations.

Article 7-4: VIOLATIONS CONTINUE

This article will carry forward Sec. 16-8-108 of the current LMO, with minor changes to ensure it complies with the LMO rewrite.

Article 7-5: RESPONSIBLE PERSONS

This article will state that any person who violates the LMO shall be subject to the remedies and penalties set forth in this chapter. "Person" will be defined broadly to include both human beings and business entities (firms and corporations). It will incorporate portions of Secs. 16-8-103 and 104 of the current LMO.

Article 7-6: ENFORCEMENT GENERALLY

This article will identify those persons responsible for enforcement of the provisions of the ordinance, as well as the general enforcement procedure. The Administrator (or designee) shall be responsible for enforcement of the LMO. This section will include provisions for notice of violation, and procedures to deal with complaints filed by others regarding a perceived or potential violation. It also will set out what actions may be taken by the town to enforce the LMO. See Sec. 16-8-104 of the current LMO.

Article 7-7: OTHER ENFORCEMENT ACTIONS

This article will carry forward Sec. 16-8-105 of the current LMO. It authorizes adjacent or neighboring property owners who would be specially damaged by a violation to institute certain actions to prevent violations.

Article 7-8: TREE PROTECTION VIOLATION

This article will carry forward Sec. 16-8-106 of the current LMO, with minor changes to ensure it complies with the LMO rewrite..

Article 7-9: IMPOUNDMENT OF SIGNS

This article will carry forward Sec. 16-8-107 of the current LMO, with minor changes to ensure it complies with the LMO rewrite..

Article 7-10: REMEDIES AND PENALTIES

This article will include carry forward Sec. 16-8-109 of the current LMO, with minor changes to ensure it complies with the LMO rewrite..

CHAPTER 8: DISASTER RECOVERY

Article 8-1: EMERGENCY PERMITTING

This article will carry forward Chapter 9, Article I (Emergency Permitting), with minor changes to ensure it complies with the other modifications made in the LMO rewrite.

Article 8-2: TEMPORARY SINGLE-FAMILY USES

This article will carry forward Chapter 9, Article II (Temporary Single-Family Uses), with minor changes to ensure it complies with the other modifications made in the LMO rewrite.

Article 8-3: TEMPORARY NON-RESIDENTIAL USES

This article will carry forward Chapter 9, Article III (Temporary Non-Residential Uses), with minor changes to ensure it complies with the other modifications made in the LMO rewrite.

CHAPTER 9: DEFINITIONS, INTERPRETATION, MEASUREMENT, AND USES

As in the current LMO, the definitions chapter is the last chapter in the LMO rewrite. The chapter will be organized into articles on:

- General rules of interpretation and rules of construction;
- Rules for interpretation Zone District Map boundaries;
- Rules governing measurement;
- Rules explaining the use characteristics as well as the definition of each use found in the districts;
- A table of abbreviations used in the LMO; and
- All other definitions.

We will use the definitions found in the existing LMO as a starting point for the definitions section, and add and revise definitions as necessary to ensure that the definitions do not contain substantive or procedural requirements. We will verify that key definitions conform to federal and South Carolina law and constitutional requirements. We will also add definitions, where necessary

Article 9-1: GENERAL RULES FOR INTERPRETATION

This article will address general issues related to interpretation of LMO language, including:

- The meaning of standard terms such as "shall," "should," "will," and "may";
- The use of plural and singular nouns;
- The meaning of conjunctions;
- How time is computed; and
- Other general issues that arise in interpreting and administering the LMO and its procedures.

Article 9-2: INTERPRETATION OF ZONE DISTRICT MAP BOUNDARIES

This article will establish rules for interpreting zone district boundaries shown on the Official Zone District Map. It will largely carry forward provisions in Sec. 16-4-104 (Interpretation of District boundaries) of the current LMO.

Article 9-3: RULES OF MEASUREMENT

This article will establish the rules for measuring bulk and dimensional requirements like height, width, setbacks, and others, as well as how encroachments into required yards will be determined and regulated.

Article 9-4: USE CHARACTERISTICS AND USE DEFINITIONS

This article will carry forward, and refine, as necessary, the use classifications and the principal use characteristics of the uses in Secs.16-4-1205 through 16-4-1215 of the current LMO. It will also include definitions for all of the allowed uses identified in the allowable use section for each zone district.

Article 9-5: TABLE OF ABBREVIATIONS

This article will consist of a table that sets out the abbreviations and associated terms used in the LMO text, similar to Sec. 16-10-103 of the current LMO.

Article 9-6: DEFINITIONS

This article will include definitions of terms used throughout the LMO. As noted above, we will use the definitions found in the existing LMO as a starting point for the definitions section, and add and revise definitions as necessary to ensure that the definitions do not contain substantive or procedural requirements. We will verify that key definitions conform to federal and South Carolina law and constitutional requirements. We will also add definitions, where necessary.

PART 4: APPENDICES

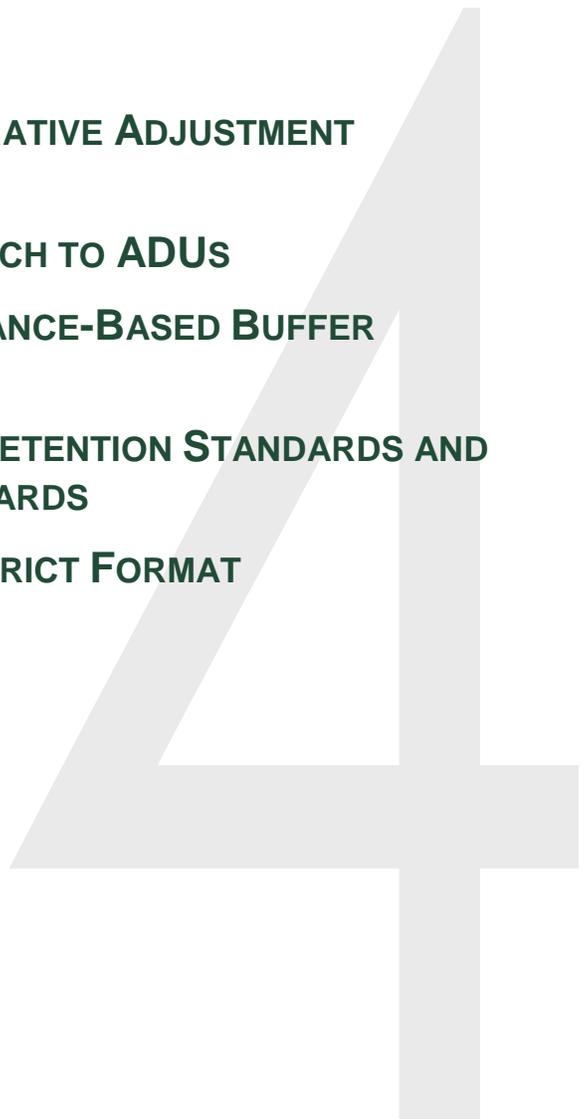
**APPENDIX 4.1: EXAMPLE OF ADMINISTRATIVE ADJUSTMENT
PROCEDURE**

APPENDIX 4.2: SANTA CRUZ'S APPROACH TO ADUS

**APPENDIX 4.3: EXAMPLE OF PERFORMANCE-BASED BUFFER
STANDARDS**

**APPENDIX 4.4: EXAMPLE OF CANOPY RETENTION STANDARDS AND
SPECIMEN TREE STANDARDS**

APPENDIX 4.5: EXAMPLE OF ZONE DISTRICT FORMAT



Part 4: Appendices

4.1 EXAMPLE OF ADMINISTRATIVE ADJUSTMENT PROCEDURE

T. ADMINISTRATIVE ADJUSTMENT²¹⁵

I. PURPOSE

An administrative adjustment is intended to allow minor variations, or adjustments, to certain dimensional or numerical standards of this Code based on specific criteria, with the intent of allowing minor modifications where application of a standard creates practical difficulties in allowing development that otherwise advances the purposes served by the standards of this Code and the comprehensive plan, and is compatible with surrounding development. An Administrative Adjustment is also intended to provide limited flexibility, in specific areas, to allow alternative design that is equal to or better than that afforded by strict application of certain dimensional or numerical standards. The purpose of this section is to establish procedures and standards for review of applications for Administrative Adjustments.

2. APPLICABILITY²¹⁶

Administrative Adjustments may be requested and granted in accordance with this subsection for the standards identified in Table 3.4.T.2, Allowable Administrative Adjustments, up to the limits set forth in the table for the zoning district within which the adjustment is requested.

STANDARD	MAXIMUM ALLOWABLE EXTENT OF ADJUSTMENT	
	REDEVELOPMENT DISTRICTS	OTHER ZONING DISTRICTS
	Minimum lot width	20%
Minimum yard depth	20%	10%
Maximum lot coverage	20%	10%
Maximum structure height	10%	5%
Maximum yard encroachment	20%	10%
Minimum or maximum number of off-street parking, loading, or stacking spaces	20%	10%
Minimum perimeter landscaping strip or buffer width	20%	10%
Minimum perimeter buffer width	20%	10%
Minimum perimeter buffer planting rate	20%	10%
Minimum screening height	20%	10%
Maximum fence height	20%	10%
Maximum illumination level	20%	10%

²¹⁵ As discussed in the Diagnosis/Annotated Outline (pp. 2-21 and 2-41), this section authorizes city staff to adjust a number of dimensional standards and quantifiable development standards by a defined extent, subject to specific review criteria. Greater flexibility for administrative adjustment is allowed in Redevelopment districts because of their more urban character, and the desire to encourage redevelopment.

²¹⁶ The standards and allowable extents of adjustment listed in this table merely show a few of the types of quantifiable development standards for which Administrative Adjustments might be granted, as well as the extents of allowable adjustment that might be applied to each. We expect the list and allowable adjustments to be revised and refined as dimensional and development standards are developed during the drafting of the second and third modules of the Code. The city may determine that adjustment of some listed standards is inappropriate, that other standards should be added to the list, and/or that the extent of allowable adjustments shown should be increased in some cases, and reduced in others.

- d. The Administrative Adjustment will not substantially interfere with the convenient and enjoyable use of adjacent lands, and will not pose a danger to the public health or safety.
- e. The Administrative Adjustment is consistent with the comprehensive plan.

5. EFFECT OF APPROVAL

A development order for an Administrative Adjustment authorizes only the particular adjustment of standards authorized by the development order. It does not exempt the applicant from the responsibility to obtain all other development permits required by this Code and any other applicable laws, and does not indicate that the development for which the Administrative Adjustment is granted should receive approval of other applications for a development permit required under this Code unless the relevant and applicable portions of this Code or any other applicable laws are met. Unless it expires in accordance with Subsection 6 below, or is revoked in accordance with Section 10.4.B.2, Revocation of Development Order, a recorded development order approving an Administrative Adjustment, including any condition of approval, shall run with the land, shall be binding on the landowners and their successors and assigns, and shall not be affected by a change in ownership.

6. EXPIRATION

A development order approving an Administrative Adjustment shall automatically expire if the development incorporating the authorized adjustment is not commenced within one year after the date of the development order, or an extension of this time period that is authorized in accordance with Section 3.3.I.3.b, Extension of Expiration Time Period.

7. AMENDMENT

The development order may be amended only in accordance with the procedures and standards for its original approval.

4.2 SANTA CRUZ'S APPROACH TO ACCESSORY DWELLING UNITS (ADUs)

The Accessory Dwelling Unit Program - Santa Cruz, California

Santa Cruz is a resort community of 60,000 people, southwest of the San Francisco Bay area and Silicon Valley. The city's prime location and high cost of living has created a serious housing affordability problem. Only 6.9% of the city's residents can afford to purchase a median-priced home. One effort the city initiated to address the problem was adoption of an accessory dwelling unit (ADU) program in 2003. Accessory dwelling units were seen as a way to accommodate more rental housing as well as a means of making home ownership more affordable. To implement the program, the city adopted a new ADU ordinance that establishes a streamlined permitting process for ADUs and offers incentives for their development. This approach sought to add a wider variety of allowable housing types within established neighborhoods, as well as an introduction of greater flexibility in the development review process for preferred development forms (accessory dwelling units in this case).

In addition to new ordinance provisions, the city also established a Technical Assistance Program that includes a Plan Sets Book that includes seven prototype ADU concepts designed by local architects, a detailed manual that explains how to obtain permits for a new ADU, and an ADU loan program through the Santa Cruz Community Credit Unit that offers loans of up to \$100,000 for the construction of an ADU. Detached ADUs that follow one of the seven building prototypes included within the Plan Sets Book may be approved administratively.

The seven prototypes include both traditional and contemporary designs, including a single-story model that uses prefabricated components, a detached ADU over a garage, an ADU with a green roof, a garage conversion, and a one-and-a-half story dwelling with a hip roof and dormers. The program has been very successful, and has resulted in hundreds of new ADUs since adoption in 2003. The program received an EPA Policies and Regulations Smart Growth Award in 2005.



Conceptual drawings of three of the seven ADU prototypes from the city's Plan Sets Book.

4.3 EXAMPLE OF PERFORMANCE-BASED BUFFER STANDARDS

ARTICLE 40.1-5: DEVELOPMENT STANDARDS
 Section 40.1-5.2 Landscaping and Screening
 Subsection (E): Perimeter Buffers

(E) Perimeter Buffers

(1) Purpose and Intent

Perimeter landscape buffers are intended to mitigate potential negative effects of different contiguous uses.

(2) Applicability

Except for single-family detached residential uses and uses in the D1 and D2 districts, all development shall provide a perimeter landscape buffer to separate it from uses in a different use classification in accordance with Table 40.1-5.2(E) (3), Buffer Types, and Table 40.1-5.2(E) (4), Buffer Type Application.

(3) Types of Buffers

Table 40.1-5.2(E) (3), Buffer Types, describes four different buffering types in terms of their function, opacity, width, and planting requirements. Where a particular buffer type is required in Table 40.1-5.2(E) (4), Buffer Type Application, the requirement may be met with the combination of minimum buffer width and minimum screening requirements specified under either Option 1 or Option 2. Where an option utilizing a fence or wall is selected, the fence or wall shall comply with the standards of Section 40.1-5.10, Fences and Walls.

TABLE 40.1-5.2(E)(3): BUFFER TYPES		
BUFFER TYPE AND CONFIGURATION ACI = AGGREGATE CALIPER INCHES	MINIMUM PERIMETER BUFFER [1] [2] [3]	
	OPTION 1: MINIMUM WIDTH 20 FEET	OPTION 2: MINIMUM WIDTH 10 FEET [4]
TYPE A - BASIC		
This perimeter buffer functions as basic edge demarcating individual properties with a slight visual obstruction from the ground to a height of ten feet.		
	2 ACI of canopy trees + 10 ACI of understory trees + 15 shrubs per 100 linear feet	

TABLE 40.1-5.2(E)(3): BUFFER TYPES

BUFFER TYPE AND CONFIGURATION ACI = AGGREGATE CALIPER INCHES	MINIMUM PERIMETER BUFFER	
	[1] [2] [3]	[1] [2] [3]
	OPTION 1: MINIMUM WIDTH 20 FEET	OPTION 2: MINIMUM WIDTH 10 FEET [4]
TYPE B - AESTHETIC		
This perimeter buffer functions as an intermittent visual obstruction from the ground to a height of at least 20 feet, and creates the impression of spatial separation without eliminating visual contact between uses.		
	8 ACI of canopy trees + 10 ACI of understory trees + 15 shrubs per 100 linear feet	2 ACI of canopy trees + 14 ACI understory trees + 35 shrubs per 100 linear feet
TYPE C - SEMI-OPAQUE		
This perimeter buffer functions as a semi-opaque screen from the ground to at least a height of six feet.		
	12 ACI of canopy trees + 14 ACI of understory trees + 25 shrubs per 100 linear feet	One 4-foot-high berm or one 4-foot-high solid fence + 2 ACI of canopy trees + 16 ACI understory trees per 100 linear feet

TABLE 40.1-5.2(E)(3): BUFFER TYPES		
BUFFER TYPE AND CONFIGURATION	MINIMUM PERIMETER BUFFER	
	[1] [2] [3]	[1] [2] [3]
ACI = AGGREGATE CALIPER INCHES	OPTION 1: MINIMUM WIDTH 20 FEET	OPTION 2: MINIMUM WIDTH 10 FEET [4]
TYPE D - OPAQUE		
This perimeter buffer functions as an opaque screen from the ground to a height of at least six feet. This type of buffer prevents visual contact between uses and creates a strong impression of total separation.		
	18 ACI of canopy trees + 20 ACI of understory trees + 55 shrubs per 100 linear feet	One 6-foot-high solid fence + 12 ACI of canopy trees per 100 linear feet
<p>NOTES:</p> <p>[1] Any required perimeter buffer width can be reduced to five feet with the provision of a solid masonry wall at least five feet in height, along with ten large shrubs per every 100 linear feet.</p> <p>[2] Perimeter buffer widths (but not vegetation amounts) may be reduced in accordance with Section 40.1-2.3(H), Administrative Adjustment.</p> <p>[3] In cases where an adjacent use is designed for solar access, understory trees can be substituted for canopy trees.</p> <p>[4] Fences and walls shall comply with the standards in Section 40.1-5.10, Fences and Walls.</p>		

(4) Buffer Type Application

Table 40.1-5.2(E)(4), Buffer Type Application, specifies the type of perimeter landscape buffer that new development shall provide between it and adjacent property, based on the zoning district of the development site and that of the adjacent property. The buffer type is indicated by a letter corresponding to one of the four buffer types depicted in Table 40.1-5.2(E)(3), Buffer Types.

TABLE 40.1-5.2(E)(4): BUFFER TYPE APPLICATION [1] A = TYPE A BUFFER B = TYPE B BUFFER C = TYPE C BUFFER D = TYPE D BUFFER N/A = NOT APPLICABLE (NO BUFFER REQUIRED)					
PROPOSED USE TYPE [2] [3]	EXISTING USE TYPE ON ABUTTING LAND				
	SINGLE-FAMILY RESIDENTIAL	ALL OTHER RESIDENTIAL	MIXED-USE & PUBLIC/ INSTITUTIONAL	COMMERCIAL	INDUSTRIAL
Single-Family Residential	N/A	N/A	N/A	N/A	N/A
All other Residential	A	N/A	N/A	N/A	N/A
Mixed-Use and Public/Institutional	B	A	N/A	N/A	N/A
Commercial	C	B	A	N/A	N/A
Industrial	D	D	D	C	N/A

NOTES:
 [1] Letters in cells correspond to the buffer types depicted in Table 40.1-5.2(E)(3), Buffer Types.
 [2] Development in AC districts is subject to perimeter buffer requirements in the AC district standards. In cases where development is proposed next to an existing PD district having no perimeter buffer, the proposed development shall provide a perimeter buffer that is consistent with the type of buffer required if the adjacent use was in a differing base district appropriate for the type of use.
 [3] Multi-family, townhouse, multi-building campus, or shopping center developments shall provide buffers around the perimeter of the development instead of around individual buildings.

(5) Location of Buffers

- (a) Perimeter buffers required by this section shall be located only along the outer perimeter of the parcel where it abuts another parcel, and shall extend to the parcel boundary line or right-of-way line.
- (b) Perimeter buffers are not required along lot lines abutting streets, except as needed to screen outdoor industrial operations or storage on lots in an industrial district. Industrial uses with outdoor operations or storage components shall include perimeter buffers as necessary to screen outdoor use areas from off-site views.
- (c) A perimeter buffer may be located along shared access easements between parcels in nonresidential developments.

(6) Responsibility for Buffer Installation

Where a developing parcel is adjacent to an existing use and a perimeter buffer is required in accordance with this section, the developing parcel shall provide the full perimeter buffer required adjacent to the existing use in accordance with Table 40.1-5.2(E)(3) Buffer Types, and Table 40.1-5.2(E)(4), Buffer Type Application, unless a portion or all of a perimeter buffer that complies with the standards of this section already exists between the lots. Where all or part of a perimeter buffer exists, but the buffer does not fully comply with the standards of this section, the developing parcel shall be responsible for providing all the additional planting material necessary to meet the standards of this section.

(7) Development within Required Buffers

- (a) The required buffer shall not contain any development, impervious surfaces, or site features (except fences or walls) that do not function to meet the standards of this section or that require removal of existing vegetation, unless otherwise permitted in this Ordinance.

- (b) Sidewalks, trails, and other elements associated with passive recreation may be placed in perimeter buffers if all required landscaping is provided and damage to existing vegetation is minimized to the maximum extent practicable.
- (c) Overhead and underground utilities required or allowed by the city are permitted to cross a required buffer in a perpendicular fashion, but shall minimize the impact to vegetation to the maximum extent practicable. Where required landscaping material is damaged or removed due to utility activity within a required buffer, the landowner shall be responsible for replanting all damaged or removed vegetation necessary to ensure the buffer meets the standards in this Ordinance.

(8) Sight Triangles

No fencing, berms, walls, or other landscaping features may exceed 30 inches above grade within required sight triangles for streets, alleys, or driveways.

(9) Credit for Existing Vegetation

Existing vegetation meeting the size standards of Section 40.1-5.2(C) (2), Planting Standards, located within the perimeter buffer area may be preserved and credited toward the perimeter buffer standards.

4.4 EXAMPLE OF CANOPY RETENTION STANDARDS AND SPECIMEN TREE STANDARDS

Article 23-6: Development Standards
Section 23-6-4: Tree Protection
Section 23-6-4(B): Applicability

4. TREE PROTECTION

(A) PURPOSE AND INTENT

The purpose and intent of this section is to:

- (1) Preserve the visual and aesthetic qualities of the city;
- (2) Encourage site design techniques that preserve the natural environment and enhance the developed environment;
- (3) Provide for a separation of uses and establish a sense of privacy;
- (4) Minimize the impact of incompatible land uses;
- (5) Reduce glare, dust, heat, and noise;
- (6) Preserve and enhance air and water quality;
- (7) Increase slope stability, and control erosion and sediment run-off into streams and waterways;
- (8) Conserve energy by reducing heating and cooling costs; and
- (9) Maintain and enhance the quality of life in the city.

(B) APPLICABILITY

(1) General

Unless exempted in accordance with Section 23-6-4(B)(2), Exemptions, the standards in this section shall apply to all lands and development in the city.

(2) Exemptions

The following tree removal activities are exempt from the standards of this section:

- a. The removal of dead or naturally fallen trees;
- b. The removal of diseased trees posing a threat to adjacent trees;
- c. The removal of pecan trees (*Carya illinoensis*), Chinese tallow or popcorn trees (*Sapium sebiferum*), or trees belonging to the pine (*Pinus*) genus;
- d. The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections;
- e. Removal of trees on lots within the Downtown (DT) or Waterfront (WF) district;
- f. Removal of trees by the federal or state government as necessary to maintain safe operations;

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Section 23-6-4(F): Retention of Existing Tree Canopy

- g.** Silvicultural activities undertaken in accordance with best management practices for forestry in Mississippi established by the Mississippi Forestry Commission; and
- h.** Agricultural activities undertaken in accordance with agricultural best management practices for Mississippi established by the Mississippi Department of Environmental Quality.

(C) TREE PERMIT REQUIRED

No removal of existing trees on a parcel of land or a development site shall occur before approval of a Tree Permit (Section 23-2-4(I)) unless in accordance with the unexpired approval of a Site Plan (Section 23-2-4(E)), Preliminary Plat (Section 23-2-4(F)), Certificate of Appropriateness (Section 23-2-4(G)), Public Works Permit (Section 23-2-4(H)), or Certificate of Zoning Compliance (Section 23-2-4(L)), as appropriate.

(D) RESPONSIBILITY FOR COMPLIANCE

Failure to comply with the standards of this section is a violation of this Ordinance subject to the remedies and penalties in this section and Article 23-9: Enforcement.

(E) EXISTING TREE CANOPY DEFINED

For the purposes of this section, “existing tree canopy” consists of the crowns of all healthy self-supporting canopy trees with a diameter at breast height (DBH) of ten inches or greater and the crowns of all healthy self-supporting understory trees with a caliper size of four inches or greater—provided, however, that “existing tree canopy” shall not include the crowns of pecan trees (*Carya illinoensis*), Chinese tallow or popcorn trees (*Sapium sebiferum*), or trees belonging to the pine (*Pinus*) genus.

(F) RETENTION OF EXISTING TREE CANOPY

(1) Requirement

A portion of the existing tree canopy shall be retained and protected during and after development in accordance with Table 23-6-4(F)(4), Existing Tree Canopy Retention Standards, and Section 23-6-4(F)(5), Establishment of Tree Protection Zone.

(2) Process Description

The standards in this section are applied as part of the following three-step process:

- a.** Step 1 involves preparing an inventory of existing tree canopy on a development site and determining the percentage of the site covered by existing tree canopy (“existing tree canopy cover”) in accordance with Section 23-6-4(F)(3), Existing Tree Canopy Inventory Required.
- b.** Step 2 involves determining the percentage of the site’s existing tree canopy cover that is required to be retained and protected in accordance with Section 23-6-4(F)(4), Tree Canopy Retention Standards.
- c.** Step 3 involves determining the location(s) of those portions of the site’s existing tree canopy that will be retained and protected in accordance with Section 23-6-4(F)(5), Establishment of Tree Protection Zone.

(3) Existing Tree Canopy Inventory Required

Before beginning any tree clearing, development work, or land disturbance, the owner of land subject to this section shall prepare and submit an inventory of existing tree canopy on the development site, subject to the following requirements:

a. General

The inventory shall identify areas on the development site covered by existing tree canopy and the percentage of the site so covered. Groups of trees in close proximity (i.e., within five feet of each other) may be designated as a clump of trees, with the predominant species, estimated number, and average diameter or circumference indicated. Known dead or diseased trees shall be identified, where practical. The inventory shall also depict any individual trees and areas of existing tree canopy that are proposed to be protected in accordance with this section.

b. Accuracy

Inventories for lots larger than one acre in size shall have an accuracy of plus or minus three feet.

c. Use of Aerial Photo for Sites Larger Than Five Acres

For a development site greater than five acres in size, an aerial photograph, or a print of equal quality, may be substituted for the inventory if it provides essentially the same information as the tree inventory.

(4) Existing Tree Canopy Retention Standards

a. Table 23-6-4(F)(4), Tree Canopy Retention Standards, establishes the minimum percentage of a development site's existing tree canopy cover that is required to be retained and protected, based on the site's existing tree canopy cover and its base zoning district designation. The table identifies minimum required tree canopy retention requirements for existing tree canopy cover at six percentage points (100%, 80%, 60%, 40%, 20%, and 0%).

b. Where the existing tree canopy cover falls between two percentage points show on the table (e.g., 65%), the following calculations shall be undertaken to determine minimum required tree canopy retention.

1. In the A, RE, RER, and RS- districts, add 0.25 to the minimum required tree canopy retention percentage for each percentage point the existing tree canopy cover falls below a percentage point identified in the first column of the table.

Example for where 65% of the development site is covered by existing tree canopy: Because 65 is 15 percentage points below the 80% existing tree canopy cover shown on the table, 15×0.25 , or 3.75 percentage points, are added to the 24% minimum required tree canopy retention designated for an existing tree canopy cover of 65%, yielding a minimum required tree canopy retention of 27.75% (24% + 3.75%) for an existing tree canopy cover of 65%.

(See a graphic depiction of other examples in Figure 23-6-4(F)(4), Existing Tree Canopy Retention.)

2. In the RM-, RMH, LB, NB, and WF districts, the same calculation is made, except 0.125 is added to the minimum required tree canopy retention percentage for each percentage point the existing tree

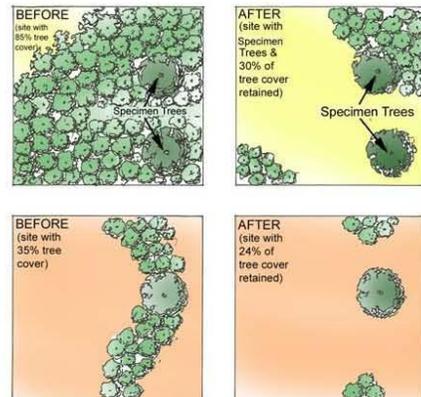


Figure 23-6-4(F)(4): Existing Tree Canopy Retention.

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canopy cover falls below a percentage point identified in the first column of the table.

3. In the CB, RB, and I districts, the same calculation is made, except 0.05 is added to the minimum required tree canopy retention percentage for each percentage point the existing tree canopy cover falls below a percentage point identified in the first column of the table.

TABLE 23-6-4(F)(4): TREE CANOPY RETENTION STANDARDS			
EXISTING TREE CANOPY COVER (AS A PERCENTAGE OF TOTAL SITE AREA) ¹	MINIMUM REQUIRED TREE CANOPY RETENTION (AS A PERCENTAGE OF TOTAL PRE-DEVELOPMENT TREE CANOPY COVER), BY DISTRICT ²		
	A, RE, RER, RS-DISTRICTS	RM DISTRICTS, RMH, LB, NB, WF	CB, RB, I
100%	19%	7%	3%
80%	24%	9.5%	4%
60%	29%	12%	5%
40%	34%	14.5%	6%
20%	39%	17%	7%
0%	44%	19.5%	8%

NOTES:
 1. Existing tree canopy cover is the percentage of a development site covered by existing tree canopy before development or land disturbing activities.
 2. Minimum required tree canopy retention is the percentage of the existing tree canopy that must be retained during and after development or land disturbing activity.
ILLUSTRATIVE EXAMPLE:
 The existing tree canopy inventory establishes that 65% of a 100,000-square-foot development site in the RS-10 district is covered by existing tree canopy. As shown in the example following provision 1 above, the minimum required tree canopy retention for the site is 27.75% of the existing canopy tree cover, or 18.04 % of the total development site. ($65\% \times 27.75\% = 18.04\%$), yielding a tree protection zone of approximately 18,038 square feet.

- c. After the minimum required tree canopy retention is determined in accordance with Table 23-6-4(F)(4), Tree Canopy Retention Standards, a tree protection zone for the site shall be established in accordance with Section 23-6-4(F)(5), Establishment of Tree Protection Zone.

(5) Establishment of Tree Protection Zone

The tree protection zone is the area of a development site that includes the portions of the existing tree canopy cover (and the associated roots within the drip line of the canopy) that are required to be retained and protected in accordance with Table 23-6-4(F)(4), Tree Canopy Retention Standards. The tree protection zone is established in accordance with the following standards.

(6) Protection of Tree Protection Zone

- a. Before approval of a Planned Development Master Plan (Section 23-2-4(C)), Site Plan (Section 23-2-4(E)), Preliminary Plat (Section 23-2-4(F)), Certificate of Appropriateness (Section 23-2-4(G)), Public Works Permit (Section 23-2-4(H)), or Certificate of Zoning Compliance (Section 23-2-4(L)), as appropriate, all tree protection zones shall be identified for protection. They shall be areas where the existing tree canopy is maintained, and where buildings and structures are not located.
- b. The tree protection zone shall be identified on the Planned Development Master Plan (Section 23-2-4(C)), Site Plan (Section 23-2-4(E)), or Preliminary Plat (Section 23-2-4(F)), as appropriate. It shall also be identified on a subdivision Final Plat (Section 23-2-4(F)) if it is required before development.

(9) Removal of Trees in a Tree Protection Zone

a. Accidental Damage or Removal

If development of a site accidentally damages existing tree canopy, causing removal within the tree protection zone, the damaged or removed tree(s) shall be replaced as follows:

1. Replacement of Trees with Ten-Inch DBH or Greater

Any tree with a DBH of ten inches or larger that is accidentally damaged or removed within a tree protection zone shall be replaced by one or more trees with a caliper of at least three-and-one-half inches and a cumulative caliper equal to or greater than that of the damaged or removed tree(s).

2. Inch-for-Inch Replacement Required

Any other tree that is damaged or removed within a tree protection zone shall be replaced with one or more trees that have a caliper of at least two inches and a cumulative caliper equal to or greater than that of the damaged or removed tree(s).

3. Location of Replacement Trees

Replacement trees shall be either planted in the tree protection zone or, where adequate room is not available within the tree protection zone, at another location on the development site. The Director of Community Development may allow replacement trees to be planted to provide street trees in accordance with the standards in Section 23-6-3(F), Street Trees.

4. Establishment Period

Replacement trees shall be maintained through an establishment period of at least three years. The applicant shall guarantee the survival and health of all replacement trees during the establishment period and guarantee any associated replacement costs in accordance with Section 23-7-9, Performance and Maintenance Guarantees. If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees.

b. Reforestation

Existing tree canopy located within a tree protection zone may be removed subject to an alternative landscaping plan (See Section 23-6-3(E), Alternative Landscaping Plan.) that reforests the development site after development or land disturbing activities, provided the reforested trees are:

- 1.** Planted at a minimum rate of one tree per 400 square feet of site area, and in sufficient numbers to occupy the same amount of the development site as the existing tree canopy required to be retained on the site in accordance with Table 23-6-4(F)(4), Tree Canopy Retention Standards;
- 2.** At least three caliper inches in size;
- 3.** Incompliance with the species diversity standards in Section 23-6-3(C)(3), New Planting Standards;
- 4.** Planted in discrete areas of the development site, and contiguous with one another, as a means of reestablishing the existing tree canopy, to the maximum extent practicable; and
- 5.** Are planted with sufficient room to accommodate future growth.

c. Damage/Removal in Violation

If tree clearing, development work, land disturbance as part of construction, or intentional damage to trees occurs without a Tree Permit (See Section 23-2-4(l), Tree Permit), one or more of the following remedies shall be applied:

1. Replacement

Damaged or removed trees shall be replaced in accordance with the standards in Section 23-6-4(G)(7)a, Accidental Damage.

2. Accelerated Compliance with Landscaping Standards

All subsequent development on the site shall be subject to double the minimum amounts of landscaping required in Section 23-6-3, Landscaping, and Section 23-6-4, Tree Protection. Nothing in this section shall require planting materials to exceed the minimum size at time of planting in Section 23-6-3(C)(3), New Planting Standards.

3. Damage Following Construction

If trees within a tree protection zone die within 12 months following the completion of construction activities on a site or portion of a site, and the death of the trees can be linked to the construction activities, the dead trees shall be replaced in accordance with Section 23-6-4(F)(9), Accidental Damage or Removal.

(G) PROTECTION OF SPECIMEN TREES

(1) Applicability

a. General

All development in the city, except that exempted in accordance with Section 23-6-4(G)(1)b, Exemptions, and Section 23-6-4(G)(1)c, Exempted Trees, shall be required to protect specimen trees, as defined in Section 23-10-2, Terms and Uses Defined, in accordance with this subsection.

b. Exemptions

The following development shall be exempt from these standards:

- 1.** Land within the Downtown (DT) or Waterfront (WF) district; and
- 2.** Existing single-family detached residential dwellings on lots of record established before [effective date of this Ordinance].

(2) General Requirement

No specimen tree may be removed, except in accordance with Section 23-6-4(G)(3), Removal of a Specimen Tree. In addition, all specimen trees shall have the following protections, whether located on public or private land:

a. Cutting, Removal, or Harm Prohibited

Specimen trees shall not be cut, removed, pushed over, killed, or otherwise harmed.

b. Paving or Soil Compaction Prohibited

The area within the drip line of any specimen tree shall not be subject to paving or soil compaction greater than ten percent of the total area within the drip line, or within 12 feet of the tree trunk. (See Figure 23-6-4(G)(2)b, Limits of Paving or Compaction near Specimen Trees.)

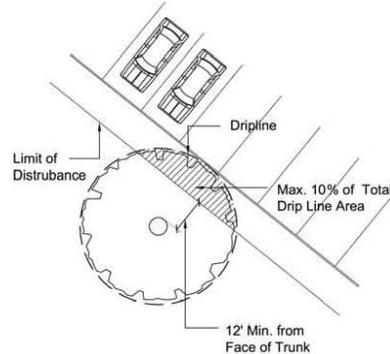


Figure 23-6-4(G)(2)b: Limits of Paving or Compaction near Specimen Trees

(3) Removal of a Specimen Tree

Specimen trees may be removed if the landowner demonstrates to the Director of Community Development one of the following conditions:

a. Removal of a Healthy Specimen Tree

A specimen tree is in healthy condition, and all of the following standards are met:

1. The landowner is otherwise in compliance with this section;
2. The specimen tree is not located within a tree protection zone;
3. The specimen tree prevents development of a lot platted before [effective date of this Ordinance] in a way that limits building area to less than otherwise allowed, or hinders compliance with the standards in Article 23-3: Zoning Districts, Article 23-5: Intensity and Dimensional Standards, Article 23-6: Development Standards, or Article 23-7: Subdivision Standards; and
4. Mitigation is provided in accordance with Section 23-6-4(G)(4), Replacement/Mitigation of Specimen Trees.

b. Removal of a Severely Diseased, High Risk, or Dying Specimen Tree

A specimen tree is certified by an arborist or other qualified professional as severely diseased, high risk, or dying. Removal of a severely diseased, high risk, or dying specimen tree shall not require mitigation in accordance with Section 23-6-4(G)(4), Replacement/Mitigation of Specimen Trees.

(4) Replacement/Mitigation of Specimen Trees

Those causing the destruction or removal of a healthy specimen tree, unless exempted, shall be responsible for the following mitigation:

a. Replacement Trees Required

Each healthy specimen tree removed or destroyed shall be replaced with three replacement trees, measuring at least six inches in caliper by American Nurseryman Standard. The replacement trees shall be replanted within 6 months of the removal or destruction of the specimen tree.

b. Location of Replacement Trees

Replacement trees shall be either planted on the parcel of land from which the specimen tree was removed, if sufficient space is available, or placed on nearby lands in accordance with Section 23-6-3(E), Alternative Landscape Plan. The Director of Community Development may allow replacement trees to be planted to provide street trees in accordance with the standards in Section 23-6-3(F), Street Trees.

c. Establishment Period

Replacement trees shall be maintained through an establishment period of at least three years. The applicant shall guarantee the survival and health of all replacement trees during the establishment period and guarantee any associated replacement costs (See Section 23-7-9, Performance and Maintenance Guarantees.). If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees.

(H) TREE PROTECTION DURING CONSTRUCTION

(1) Owner's Responsibility

During development, the owner or developer shall be responsible for the erection of any and all barriers necessary to protect any existing or installed vegetation from damage both during and after construction.

(2) Tree Protection Fencing

a. Where Required

Specimen trees and existing tree canopy retained in a tree protection zone (See Section 23-6-4(F)(3), Existing Tree Canopy Retention Standards.), and other existing trees being used for credit towards landscaping requirements in accordance with Section 23-6-4(F)(3),

Credits towards Open Space and Landscaping Requirements, shall be fenced with a sturdy and visible fence before grading or other development activity begins. Fencing shall be erected no closer than one linear foot to the tree's drip line. The Director of Community Development shall consider the existing site conditions in determining the exact location of tree protection fencing. Areas located inside of tree protection fencing are considered as tree save areas.

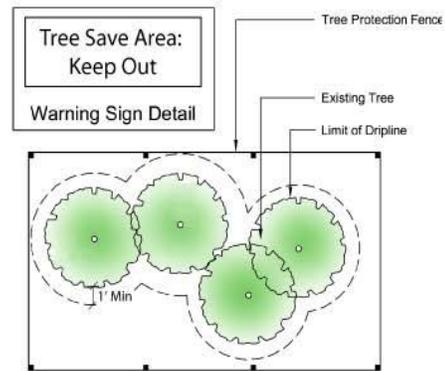


Figure 23-6-4(H)(2)a: Tree Protection Fencing

b. Type of Fencing

All fencing required by this section shall be a minimum four feet high and of durable construction (i.e., chain link or wooden post with 2x4 wire mesh). Posts shall be located no more than ten feet on-center. Chain link or wire fencing utilized as tree protection fencing shall not be required to be vinyl coated. Passive forms of tree protection may be utilized to delineate tree protection zones that are remote from areas of land disturbance. These must be surrounded by fencing, continuous rope, or durable taping (minimum four inches wide).

c. Signage

Signs shall be installed on the tree protection fence visible on all sides of the fenced-in area at a rate of at least one for every 150 linear feet. The size of each sign must be a minimum of two feet by two feet and shall contain the following language: "TREE SAVE AREA: KEEP OUT."

d. Trenching Prior to Clearing

The removal of trees adjacent to tree save areas can cause inadvertent damage to the protected trees. Prior to clearing activities, trenches with a minimum width of one-and-one-half inches and a minimum depth of 12 inches shall be cut along the limits of land disturbance, so as to cut, rather than tear tree roots.

e. Inspection

All tree protection measures shall be inspected and approved by the Director of Community Development before start of any land disturbing activities. Failure to have tree protection measures prior to the commencement of construction is a violation of this Ordinance.

f. When Required

No construction, grading, equipment or material storage, or any other activity shall be allowed within the fenced tree save area. Fencing shall be maintained until after the final site inspection.

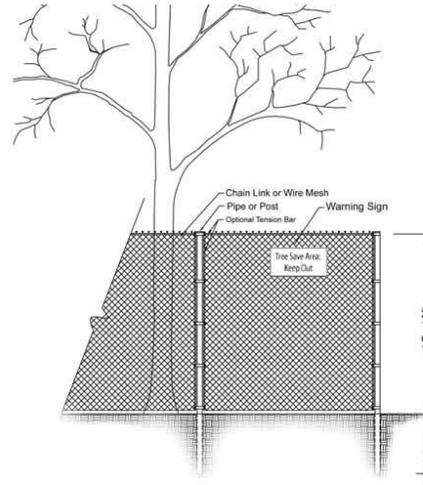


Figure 23-6-4(H)(2)b: Tree Protection Fencing

(See Figure 23-6-4(H)(2), Tree Protection Fencing, and Figure 23-6-4(H)(2)b, Tree Protection Fencing Detail.)

(3) Encroachments into Tree Save Areas

Encroachments into tree save areas shall occur only when no other alternative exists. If such an encroachment is anticipated, the following preventive measures shall be employed:

a. Soil Compaction

Where compaction might occur due to construction traffic or materials delivery through a tree save area, the area must first be mulched with a minimum four inch layer of wood chips. Equipment or materials storage shall not be allowed within a tree save area.

b. Fill

No fill shall be placed within a tree save area without adequate venting to allow air and water to reach the roots.

c. Chemical Contamination

Trees located within a tree save area shall be protected from chemical contamination from liquids or other materials, including but not limited to paint, chemical solvents, gasoline, oil, diesel fuel, hydraulic fluid, concrete spoils, or rinse water from vehicle cleaning, including rinsing of concrete truck tanks and chutes.

d. Paving Limitations

Except for driveway access points, sidewalks, curb, and gutter, no paving shall occur within five feet of a tree save area unless authorized through an alternative landscape plan (See Section 23-6-3(E), Alternative Landscape Plan.).

(I) TREE PRESERVATION INCENTIVES

(1) Tree Preservation Credits

To encourage the preservation of as many trees as practical on a development site, credit towards the minimum landscaping requirements shall be applied to all existing trees retained on a site that are not specimen trees or located within a required tree protection zone. Credits are offered only for trees that are not required to be retained by other sections of this Ordinance. Credits shall be designated on the landscape plan for the development, and shall be granted in accordance with the following standards:

- a.** A credit of one-and-one-quarter (1.25) multiplied by the aggregate caliper of trees that are not specimen trees or trees inside a tree protection zone shall be credited and applied towards the vehicular use landscaping standards in Section 23-6-3(D) and the perimeter buffer standards in Section 23-6-3(E) when the trees that are saved are:
 - 1.** Deciduous or evergreen canopy trees of four inches in caliper or greater, measured six inches above ground level; or
 - 2.** Deciduous or evergreen understory or ornamental trees of three inches in caliper or greater, measured four inches above ground level.
- b.** In no case shall credits substitute for more than 75 percent of the required site or vehicular use area landscaping material.

(2) Reduction in the Minimum Number of Required Parking Spaces

Up to a five percent reduction in the number of off-street parking spaces required on a development site shall be allowed if the reduction in the amount of required pavement will preserve the root zones of existing healthy trees with a DBH of ten inches or greater. The amount of reduction can be determined only after taking into consideration any unique site conditions and the impact of the reduction on parking needs for the use, and must be agreed upon by both the applicant and the Director of Community Development. Alternative paving materials (See Section 23-6-2(C)(4), Alternative Materials.) may be required by the Director of Community Development in cases where required parking areas encroach upon root zones.

4.5 EXAMPLE OF A ZONE DISTRICT FORMAT

<h1 style="margin: 0;">RSF-6</h1> <h2 style="margin: 0;">RESIDENTIAL SINGLE FAMILY</h2>	A. DISTRICT PURPOSE
	<p>It is the intent of the SF-6 districts to allow, preserve and protect the character of low density, single family areas and neighborhoods at densities ranging from two units per net acre up to six units per acre. Two types of residential use types are permitted in the district: single-family detached homes, and attached units, with less than 4 units. Agricultural uses and several different types of parks are also permitted. Minor utilities and cemeteries are allowed as special exceptions, while commercial, office, and industrial uses are prohibited.</p>
B. TYPICAL BUILDING FORMS	C. TYPICAL LOT PATTERNS

D. ALLOWABLE USES AND PARKING			
Land Use Type	Use	Use Standard	Parking
Residential Uses			
Single Family, Detached	P	< 4,000 s.f. = 1.75 s/du; > 4,000 s.f. = 1.75 s/du + 1 s/ each additional 1,250 s.f.	
Attached Residential, < 4 units		1.75 s/du	
Utilities			
Minor Utility	P		
TABLE KEY:			
P	Permitted Use		
SE	Special Exception		
du	Dwelling Unit		
s/	Parking Space per x		
s.f	Square Feet		
END NOTES:			
[1] Plus, 1 space for every 500 square feet of maintenance facilities			
[2] If proposed as an active park, parking is based on Developer Submitted Data, pursuant to LMO Section 16-5-1209			

E. BUILDING CONFIGURATION



F. DEVELOPMENT FORM AND PARAMETERS

Maximum Density (per net acre)	
Residential	6 DU
Lot Coverage	
Max. Impervious Cover	35%
Min. Open Space	65%
Min. Open Space for Major Residential Subdivisions	16%
Maximum Building Height	
Residential	35 ft. 1

Building Setbacks					
Adjacent Use Setback					
Proposed Use	Adjacent Use	Single Family	Multifamily, Recreational	Institutional, Commercial	Institutional, Warehouse
Single Family [1]					
Minimum Setback		20'	20'	30'	40' 2
Maximum Angle		75°	75°	60°	45°
Industrial, Utility					
Minimum Setback		40'	30'	20'	20'
Maximum Angle		45°	60°	75°	75°

TABLE NOTES:

[1] This standard applies to a single family subdivision exterior boundary only.

All lots divided for single family detached homes shall include a 5-foot setback along all internal property lines. A side setback may be reduced to less than 5 feet as long as the resultant setback combined with the adjacent lot is at least 10 feet wide and shown on the plat to be recorded.

Adjacent Street Setback				
Proposed Use	Adjacent Street	Major Arterials	Minor Arterials	All Other Streets
Single Family:				
Structures > 24 ft. in ht.				
Minimum Setback		50'	40'	20' 3
Maximum Angle		75°	70°	60° 4
Structures < 24 ft. in ht.				
Minimum Setback		50'	30'	10'
Maximum Angle		none	none	none
All Other Uses				
Minimum Setback		50'	40'	20'
Maximum Angle		75°	70°	60°

