



Town of Hilton Head Island
Regular Planning Commission Meeting
Wednesday, April 18, 2012
3:00p.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. Pledge of Allegiance to the Flag**
- 3. Roll Call**
- 4. 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.
- 5. Approval of Agenda**
- 6. Approval of Minutes** – Approval of the Minutes of the Special Planning Commission Meeting on April 10, 2012 is deferred until May 2, 2012.
- 7. Appearance by Citizens on Items Unrelated to Today’s Agenda**
- 8. New Business**
Public Hearing
ZMA120003 - A request from Mr. Chester C. Williams, on behalf of the Miller Family Limited Partnership VI, to amend the Official Zoning Map by changing the zoning designation of a property located at 807 William Hilton Parkway from OL, Office/Institutional, to PD-1 as part of the Palmetto Dunes Resort Master Plan with a land use designation of Commercial. The property is further identified as Parcel 16A on Beaufort County Tax Map 12.
Presented by: Shea Farrar
- 9. Commission Business**
- 10. Chairman’s Report**
- 11. Committee Reports**
- 12. Staff Reports**
- 13. Adjournment**

*** Upcoming Planning Commission Meetings**

Regular Planning Commission Meeting - May 2, 2012 9:00a.m.

Regular Planning Commission Meeting - May 16, 2012 3:00p.m.

** Please visit the Town’s website for a complete and up to date listing of all Town meetings.*

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



**TOWN OF HILTON HEAD ISLAND
COMMUNITY DEVELOPMENT DEPARTMENT**

One Town Center Court

Hilton Head Island, SC 29928

843-341-4757

FAX 843-842-8908

**STAFF REPORT
ZONING MAP AMENDMENT**

Application Number	Name of Project:	Public Hearing Date:
ZMA120003	Plantation Center Shopping Center	April 18, 2012

Parcel Data or Location:	Property Owners	Applicant/Agent
<p><u>Existing Zoning District:</u> OL (Office Institutional Low Intensity)</p> <p><u>Proposed Zoning District:</u> PD-1(Planned Development Mixed Use Zoning District) as part of the Palmetto Dunes Resort Master Plan with an assigned land use of Commercial, excluding eating establishments with a drive- thru. The maximum density for the site is not to exceed that which is currently developed, 38,161 square feet, and the maximum size of any one commercial establishment on the property is not to exceed 10,000 square feet. The maximum height on the property is 45 feet (two habitable stories over parking).</p> <p><u>Property Size</u> 2.48 acres</p> <p><u>Applicable Overlay District(s):</u> Corridor Overlay</p> <p><u>Parcels Affected:</u> Beaufort County Tax Map 12, Parcel 16A.</p>	<p>Miller Family Limited Partnership VI</p>	<p>Chester C. Williams Law Office of Chester C. Williams, LLC PO Box 6028 Hilton Head Island, SC 29928</p>

Application Summary:
<p>ZMA120003 - A request from Mr. Chester C. Williams, on behalf of the Miller Family Limited Partnership VI, to amend the Official Zoning Map by changing the zoning designation of a property located at 807 William Hilton Parkway from OL to PD-1 as part of the Palmetto Dunes Resort Master Plan with a land use designation of Commercial, excluding Eating Establishments with a drive-thru. The property is further identified as Beaufort County Tax Map 12 Parcel 16A.</p>

Staff Recommendation:

Staff recommends that the Planning Commission, find this application to be consistent with the Town's Comprehensive Plan and does serve to carry out the purposes of the LMO, based on those Findings of Facts and Conclusions of Law as determined by the LMO Official and enclosed herein.

Background:

Plantation Center is a shopping center located near the entrance to Palmetto Dunes Resort that offers a mix of retail sales and services. The property was developed with six buildings during the 1970's under Beaufort County Ordinances, before the incorporation of the Town. When the Land Management Ordinance (LMO) was adopted in 1987, the property was included in what is now the OL Zoning District as shown on Attachment "A". This District was oriented more toward office and institutional uses than retail sales and services, which had been the historic uses of the property. Under the OL Zoning District regulations shopping centers are not permitted, making the existing shopping center a legally nonconforming use. According to the applicant, this has created problems for securing tenants and making improvements to the property. Also, the amount of square footage that was built on the property exceeds what was allowed by the new district making the site nonconforming for density. OL Zoning District regulations permit up to 19,840 square feet of development on the property depending on the use; however, the property is currently developed with 38,161 square feet.

To help resolve these issues, the applicant is requesting to rezone the property into the PD-1 Zoning District as part of the Palmetto Dunes Resort Master Plan, with an assigned land use of Commercial, but excluding eating establishments with a drive-thru. Because the permitted uses for properties within PD-1 District are primarily governed by the use(s) assigned by the master plan, there is more flexibility with the assignment of land uses than in the OL District. As a result of the approval of this application, the shopping center use would be considered conforming. The only use on the property that will remain nonconforming is the liquor store. LMO Section 16-4-409E identifies certain uses that must be specifically stated as a permitted use on master plans within the PD-1 Zoning District and a liquor store is one of those uses. The change to specifically allow the liquor store on the property was not requested as a part of this application.

After reviewing the application, Staff's felt that not all of the additional commercial uses requested by the application were appropriate for the property. After discussions with the applicant, it was agreed that to exclude the following uses in addition to Eating Establishments with a drive-thru from being permitted on the property: Auto Repairs, Kennel/Boarding, Water Park, Taxicab Service and Towing Service. It was also agreed that the following uses would require the approval of a Special Exception by the Board of Zoning Appeals: Indoor Recreation, Indoor Entertainment and Outdoor Recreation.

In addition to changes in permitted uses, the applicant is also requesting to change the permitted density. Master Plans within the PD-1 Zoning District are also used to assign a maximum amount of development that can be built on a property, so the applicant is requesting that the existing 38,161 square feet of development become the maximum permitted density assigned to the property. In addition, the applicant proposes to limit the maximum size of any one commercial establishment on the property to 10,000 square feet and the maximum height of any structure to 45 feet to allow for two habitable stories over parking.

As a result of this amendment, the maximum impervious coverage allowed on the site will be reduced from 60% in the OL Zoning District to 40% in the PD-1 Zoning District and the height restriction on the property will be increased from 35 feet to 45 feet.

Summary of Facts and Conclusions of Law:

Findings of Facts:

- Notice of the Application was published in the Island Packet on March 11, 2012 as set forth in LMO (Land Management Ordinance) Sections 16-3-110 and 16-3-111.
- Notice of the Application was posted and mailed as set forth in LMO Sections 16-3-110 and 16-3-111.
- A public hearing will be held on April 18, 2012 as set forth in LMO 16-3-1504A.
- The Commission has authority to render their decision reached here in LMO Section 16-3-1504.

Conclusion of Law:

- The application, notice requirements, and public hearing comply with the legal requirements as set forth in LMO 16-3-110, 16-3-111 and 16-3-1504.

As set forth in Section 16-3-1505, Zoning Map Amendment Review Criteria, Planning Staff has based its recommendation on analysis of the following criteria:

Summary of Facts and Conclusions of Law:

Criteria 1: Consistency (or lack thereof) with the Comprehensive Plan (LMO Section 16-3-1505A):

Findings of Facts:

The Comprehensive Plan addresses this application in the following areas:

Economic Development Element:

Section 7.6 – Potential Strategies with Implication for Comprehensive Plan

Identify and prioritize areas in need of redevelopment, including any obsolete or run down commercial buildings. Incentivize the development of flexibility of streamlining in regulation of density caps, setbacks (and other controls) that enable a qualitative, principle based, asset revitalization that enhances the Island’s positive legacies.

Land Use Element:

An Implication for Zoning Changes

Future land use decisions and requests for zoning changes will be determined using the background information contained in this plan as well as the future land use map, currently represented by the Town’s Official Zoning Map.

An Implication for Building Permit Trends

Redevelopment of our existing built environment and infill development should be a focus for the future development of our community, while the Town has entered a more mature level of development.

An Implication for Nonconforming Parcels by Use

Current zoning classifications should be reviewed along with the associated regulations for each

use. Areas that have high instances of nonconforming uses should be reviewed closely and revisions should be made where necessary. Creative alternatives to traditional zoning classifications should be considered, such as form based and smart codes to reflect current building and development trends that are indicative of our Island character.

Goal 8.1 – Existing Land Use

A. The goal is to have an appropriate mix of land uses to meet the needs of existing and future populations.

Goal 8.4 – Existing Zoning Allocation

A. An appropriate mix of land uses to accommodate permanent and seasonal populations and existing market demands is important to sustain the Town’s high quality of life and should be considered when amending the Town’s Official Zoning Map.

Goal 8.5 – Land Use Per Capita

A. The goal is to have an appropriate mix and availability of land uses to meet the needs of the existing and future populations.

Goal 8.8 – Nonconforming Parcels by Use

B. The goal is to evaluate the locations of non-conforming uses to determine areas to consider for Zoning Map Amendments.

Goal 8.9 – Age of Structures

B. The goal is to encourage redevelopment of properties with aging structures or that no longer meet current market demands.

Goal 8.10 – Zoning Changes

A. The goal is to provide appropriate modifications to the zoning designations to meet market demands while maintaining the character of the Island.

Implementation Strategy 8.8 Nonconforming Parcels by Use

A. Evaluate the zoning districts or regulations of the districts when high concentrations of non-conforming properties by use exist to determine if amendments are appropriate.

Conclusions of Law:

- Staff concludes that this application is consistent with the Comprehensive Plan, as described in the Economic Development and Land Use Elements as set forth in LMO Section 16-3-1505A.
- The proposed rezoning would provide an appropriate mix of land uses to meet the needs of the population and improve the quality of life on the Island.
- The proposed rezoning will help to improve the marketability of the properties and meet current market demands by permitting additional commercial uses that are common in this vicinity and by allowing the existing amount of density developed on the property to be permitted.
- The proposed rezoning will provide more flexibility with the uses and density that can be developed on the property in a way that is consistent with the historic use of the property, will help to resolve issues with nonconformities on the property and will increase the potential for the redevelopment of six aging structures on the Island.

Summary of Facts and Conclusions of Law:

Criteria 2: Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood (LMO Section 16-3-1505B):

Findings of Facts:

- The present zoning of nearby properties includes both OL and PD-1.
- Nearby properties are commercial in nature and include offices, government facilities, the maintenance operations for Palmetto Dunes and vacant commercially zoned property.
- Section 16-4-216 describes the purpose of the existing OL zoning district as being: *“established between major commercial areas of the Island and intended to limit the types of nonresidential uses permitted. Land uses permitted are office and institutional in order to minimize travel impacts on the street system, encourage better compatibility in and among land uses on the Island, provide balance among land use types in major corridors and improve visual appearance along major corridors.”*
- LMO Section 16-4-209 describes the purpose of the PD-1 Zoning District as: *“to recognize the existence within the Town of certain unique mixed use Planned Unit Developments (PUDs) which are greater than 250 acres in size. Generally, these 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 of well-planned development within these areas.”*
- The property is currently developed as a nonconforming shopping center that would become conforming if the application is approved.

Conclusion of Law:

- Staff concludes that the proposed rezoning is compatible with the present zoning, the conforming uses of nearby property and with the character of the neighborhood as set forth in LMO Section 16-3-1505B because the property is located in an area that is generally commercial in nature and that would not change as a result of the approval of this rezoning.

Summary of Facts and Conclusions of Law:

Criteria 3: Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment (LMO Section 16-3-1505C):

Findings of Facts:

- LMO Section 16-4-209 describes the purpose of the PD-1 Zoning District as: *“to recognize the existence within the Town of certain unique mixed use Planned Unit Developments (PUDs) which are greater than 250 acres in size. Generally, these 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 of well-planned development within these areas.”*
- The property is developed as a shopping center, which is not permitted in the OL Zoning District.
- As a result of this rezoning the property would be approved for commercial uses as defined by LMO Section 16-4-1204, excluding Eating Establishments with a drive-thru, Auto Repair, Kennel/Boarding, Water Park, Taxicab Service and Towing Service. Indoor Recreation, Indoor Entertainment and Outdoor Recreation would require the approval of a Special Exception. This will make the property conforming for use, with the exception of the liquor store. The uses that would be permitted as a result of this rezoning are shown on Attachment “C”.

Conclusion of Law:

- Staff concludes that the property is suitable for the uses that would be permitted by the proposed rezoning as set forth in LMO Section 16-3-1505C because this rezoning would approve the property for development with the types of uses that are currently developed on the property.

Summary of Facts and Conclusions of Law:

Criteria 4: Suitability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment (LMO Section 16-3-1505D):

Findings of Facts:

- LMO Section 16-4-218 describes the purpose of the existing OL zoning district as being: *“established between major commercial areas of the Island and intended to limit the types of nonresidential uses permitted. Land uses permitted are office and institutional in order to minimize travel impacts on the street system, encourage better compatibility in and among land uses on the Island, provide balance among land use types in major corridors and improve visual appearance along major corridors.”*
- The property is developed as a shopping center, which is not permitted in the OL Zoning District, which makes the use nonconforming.
- As a result of the creation of the OL District in 1987, many commercial uses existing at that time became nonconforming. The area was zoned OL when the LMO was adopted in 1987 to eventually eliminate these commercial uses, but throughout the years, these uses have continued to remain. Other rezoning applications have been approved that removed some of these properties from the OL Zoning District to make them conforming.

Conclusion of Law:

- Staff concludes that the property is not suitable for the OL Zoning District because the current use would remain nonconforming in an area of the zoning district that has demonstrated problems with nonconforming uses.

Summary of Facts and Conclusions of Law:

Criteria 5: Marketability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment (LMO Section 16-3-1505E):

Findings of Fact:

- This rezoning will increase the number of uses that can be developed on the property.
- This rezoning will allow the property to be redeveloped at its current density.
- This rezoning will make the shopping center use conforming.

Conclusion of Law:

- Staff concludes that the marketability of the properties will be improved as set forth in LMO Section 16-3-1505E because of the resolution of some of the nonconformities on the property and increase in the number of commercial uses permitted

Summary of Facts and Conclusions of Law:

Criteria 6: Availability of sewer, water and stormwater facilities generally suitable and adequate for the proposed use (LMO Section 16-3-1505F):

Finding of Fact:

- o The property has existing water, sewer and stormwater facilities serving the development.

Conclusion of Law:

- o Staff concludes that the property has available water, sewer and stormwater facilities suitable for the proposed uses as set forth in LMO Section 16-3-1505F.

LMO Official Determination

Determination: Staff determines that this application is consistent with the Comprehensive Plan and does serve to carry out the purposes of the LMO as based on the Findings of Fact and Conclusions of Law detailed in this report.

Note: If the proposed amendment is approved by Town Council, such action shall be by ordinance to amend the Official Zoning Map. If it is denied by Town Council, such action shall be by resolution.

PREPARED BY:

SF	04/06/12
_____ Shea Farrar <i>Senior Planner</i>	_____ DATE

REVIEWED BY:

TBL	04/06/12
_____ Teri B. Lewis, AICP <i>LMO Official</i>	_____ DATE

REVIEWED BY:

JL	04/06/12
_____ Jayme Lopko, AICP <i>Senior Planner & Planning Commission Board Coordinator</i>	_____ DATE

Attachments:

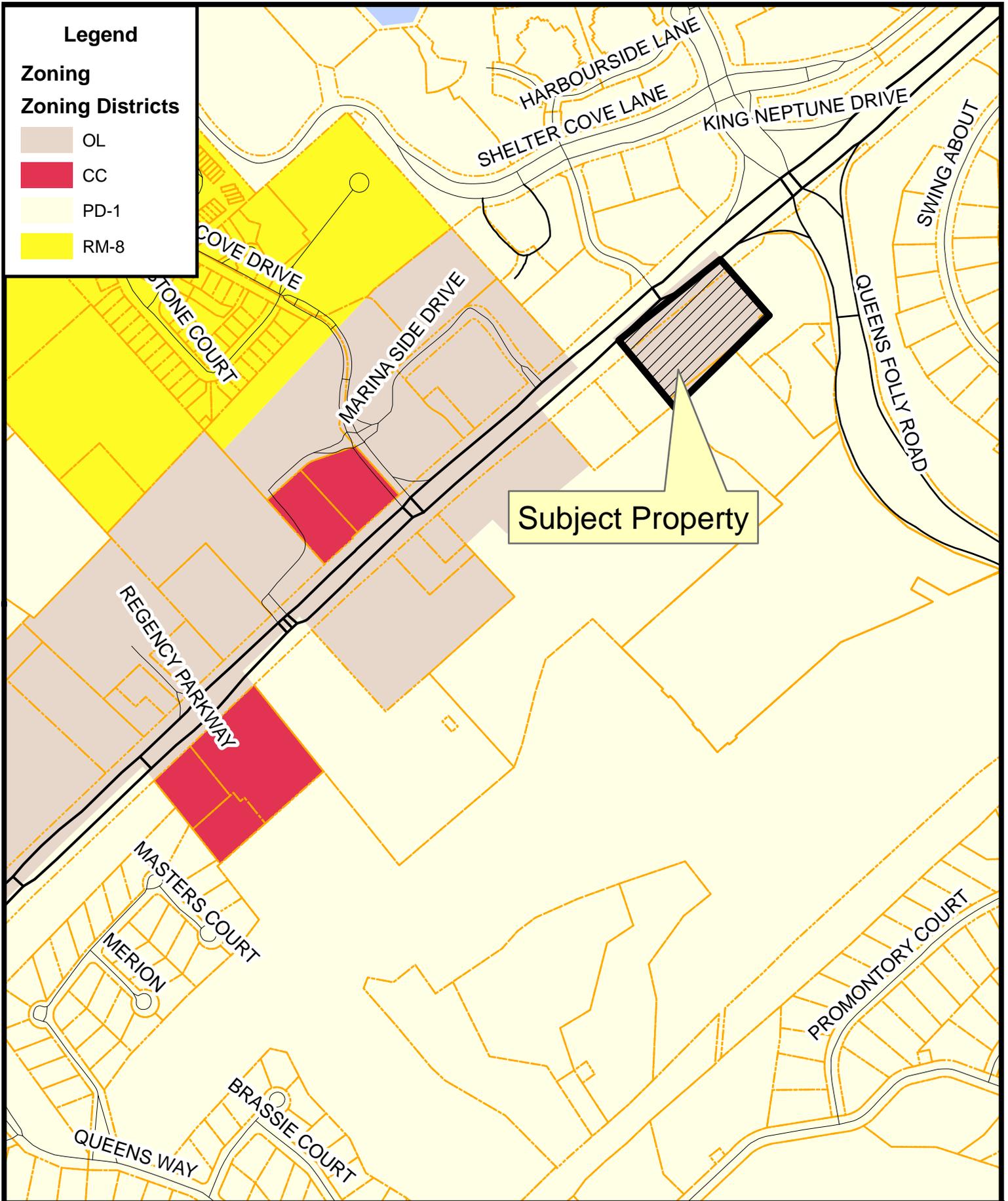
- A) Zoning Map
- B) Aerial Map
- C) Use Comparison Table
- D) Applicant’s Narrative

Legend

Zoning

Zoning Districts

- OL
- CC
- PD-1
- RM-8



Subject Property





Subject Property

TOWN OF HILTON HEAD ISLAND
ONE TOWN CENTER COURT
HILTON HEAD ISLAND, S.C. 29928
PHONE (843) 341-6000

Plantation Center
ZMA120003 - ATTACHMENT B



This information has been compiled from a variety of unverified general sources at various times and as such is intended to be used only as a guide. The Town of Hilton Head Island assumes no liability for its accuracy or state of completion.

Attachment C – Use Comparison Table (OL & PD-1)

P = Permitted By Right PC = Permitted With Conditions SE = Special Exception

Specific Use	Zoning District:	OL	PD-1
Residential Uses			
Group Living			
Household Living			
Single Family		P	
Multifamily Residential		PC	
Mixed Use		PC	
Manufactured Housing Park			
Public and Civic Uses			
Aviation/Surface Passenger Terminal			
Community Service			
Day Care		P	
Educational Facilities			
Colleges			
Schools, Public or Private			
Government Facilities		P	
Hospitals			
Institutions			
Religious Institutions		P	
Other Institutions		SE	
Parks and Open Areas			
Cemetery			
Park, Community		SE	
Park, Linear		P	
Park, Mini		P	
Park, Neighborhood			
Park, Regional			
Park, Special Use			
Utilities			
Major Utility		SE	
Minor Utility		P	
Telecommunications Facility*		PC	
Waste Treatment Plant			

Commercial Uses		
Eating Establishments		
With Drive-thru		
With Seating, High Turnover	PC	P
With Seating, Low Turnover	PC	P
Without Seating	PC	P
Indoor Recreation/Entertainment		
Indoor Recreation		SE
Indoor Entertainment		SE
Outdoor Recreation/Entertainment		
Outdoor Recreation		SE
Outdoor Entertainment*		
Water Park		
Office		
Health Services Except Hospitals	P	P
Real Estate Sales/Rental	P	P
Other Offices	P	P
Parking, Commercial		P
Resort Accommodation		
Bed and Breakfast Inn		
Central Reception or Check-in Facility		P
Divisible Dwelling Unit*		
Hotel or Motel		
Inn		
Interval Occupancy*		
RV Park		
Retail Sales and Service		
Adult Entertainment*		
Bank or Financial Institution	PC	P
Bicycle Shop (with outdoor storage)		P
Community Theater		P
Dance Studio		P
Convenience Store (excluding Gas Sales)*		
Department or Discount Store		P
Funeral Home		P
Furniture Store		P

Hardware, Paint, Glass, Wallpaper or Flooring Store		P
Health Club or Spa		P
Kennel, Boarding		
Landscape Nursery		P
Liquor Store*		
Nightclub or Bar*		
Open Air Sales		P
Pet Store		P
Shopping Center		P
Souvenir or T-Shirt Store		P
Supermarket		P
Tattoo Facility*		
Veterinary Hospital*		
Watercraft Sales, Rental or Service*		
Other Retail Sales or Service	SE	P
Vehicle Sales and Services		
Auto Rental*		
Auto Repair		
Auto Sales*		
Car Wash		P
Gas Sales*		
Taxicab Service		
Towing Service		
Truck or Trailer Rental*		
Other Uses		
Agriculture	P	
Water Oriented Facilities		
Docking Facility and Boat Ramp		
Marina*		
Other Water Oriented Uses		

*** These uses must be specifically stated in the master plan text as permitted uses within the PD-1 Zoning District.**



LAW OFFICE OF
CHESTER C. WILLIAMS, LLC

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Hilton Head Island, SC 29938-6028
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Telefax (843) 842-5412
Email Firm@CCWLaw.net

Chester C. Williams
ALSO MEMBER LOUISIANA BAR

Thomas A. Gasparini
ALSO MEMBER CALIFORNIA BAR
(Inactive)
ALSO MEMBER OHIO BAR
(Inactive)

March 1, 2012

Teri B. Lewis, AICP
LMO Official
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

HAND DELIVERED

RE: Zoning Map Amendment Application regarding Plantation Center
Shopping Center – Our File No. 01209-002

Dear Teri:

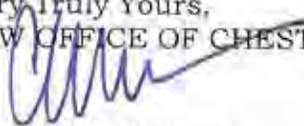
We are pleased to deliver to you herewith for filing an application we have prepared on behalf of our client, Miller Family Limited Partnership VI, to amend the Palmetto Dunes Resort Master Plan so as to include therein the 2.48 acre tract located at 807 William Hilton Parkway commonly known as Plantation Center Shopping Center, and to specify permitted uses and maximum density thereon. Also enclosed are our check in the amount of \$500.00 for the filing fee, a copy of the list of property owners within 350 feet of the property who are to receive notices as required by the LMO prepared by Lynn Cooler, and an authorization letter from our client. Note that Attachment 4 to the application is a copy of the Town-stamped, recorded 2006 asbuilt survey of Plantation Center. A full scale copy of that survey is also enclosed.

As you will see from a review of the application, we are filing this application in an effort to rezone the property in such a manner that the long-standing uses and density on the property are conforming.

We assume you and your staff will be able to place this application on the agenda for the April 18, 2012 meeting of the Town's Planning Commission, and that you will let us know if you have any questions or comments regarding this matter, or if we may otherwise be of assistance.

With best regards, we are

Very Truly Yours,
LAW OFFICE OF CHESTER C. WILLIAMS, LLC


Chester C. Williams

CCW:
Enclosures
cc: Mr. Richard J. Kolsch

STATE OF SOUTH CAROLINA) BEFORE THE PLANNING COMMISSION
) OF THE TOWN OF HILTON HEAD
) ISLAND, SC
COUNTY OF BEAUFORT) ZMA 12000__

ATTACHMENT 1
TO
THE ZONING MAP AMENDMENT APPLICATION
OF
MILLER FAMILY LIMITED PARTNERSHIP VI
REGARDING
2.48 ACRES, PLANTATION CENTER SHOPPING CENTER

This Attachment 1 is part of the Zoning Map Amendment Application (this "Application") of Miller Family Limited Partnership VI (the "Applicant"), and is submitted by the Applicant to the Planning Commission of the Town of Hilton Head Island (the "Town") to address the zoning map amendment criteria set forth in §16-3-1505 of the Town's Land Management Ordinance (the "LMO"). This Application seeks approval to amend the official zoning map of the Town by amending the Palmetto Dunes Resort Master Plan (the "PD Master Plan") to include the 2.48 acre tract located at 807 William Hilton Parkway that is the site of Plantation Center Shopping Center (the "Property") in the PD Master Plan, and to limit the applicable uses, density, and height on the Property.

I. NARRATIVE – INTRODUCTION

The Applicant is the owner of the Property, which is designated in the Beaufort County property tax records as TMS District 520, Map 12, Parcel 16A, Blocks 1 through 13. The Applicant acquired the Property on December 23, 1998.¹

¹ See the copy of the deed recorded in Beaufort County Record Book 1120 at Page 1358 which is attached as Exhibit A.



The Property is part of the general commercial area on William Hilton Parkway near the entrance to Palmetto Dunes Resort. When the LMO was enacted by the Town on January 19, 1987, the Property was not included in the PD Master Plan under the M-1 Planned Development Mixed Use Zoning District, but rather was put into a C-3 Office/Institutional Low Intensity Zoning District.²

The Applicant is now seeking to amend the Town's Official Zoning Map to remove the Property from the OL-Office/Institutional Low Intensity District and include it in the PD-1 Planned Development Mixed Use District under the PD Master Plan, by amending the PD Master Plan and its accompanying text to include the Property, and to establish specific permitted uses, maximum density, and maximum height limitations on the Property.

II. NARRATIVE – BACKGROUND

A. THE PD MASTER PLAN

The PD Master Plan was initially developed and maintained by Palmetto Dunes Resort, Inc., the original developers of Palmetto Dunes Resort, and thereafter by Greenwood Development Corporation, which acquired all of the interests of Palmetto Dunes Resort, Inc. in 1979.

After the Town was incorporated in 1983, the first official action taken regarding the PD Master Plan was its preliminary approval by the Town's Planning Commission on April 4, 1984.³

The Town enacted the original version of the LMO on January 19, 1987. Among other things, the LMO established zoning districts within the Town,

² The areas referred to in the LMO prior to July 21, 1998 as the M-1 Planned Development Mixed Use Zoning District are now known as the PD-1 Planned Development Mixed Use District under the current version of the LMO, and the areas previously referred to as the C-3 Office/Institutional Low Intensity Zoning District are now known as the OL-Office/Institutional Low Intensity District.

³ See the Town's records on the PD Master Plan and the accompanying text, and the minutes of the April 4, 1984 Planning Commission meeting included therein.



including the district that is now known as the PD-1 Planned Development Mixed Use District. The purpose of the PD-1 District is to recognize the existence within the Town of certain unique mixed use Planned Unit Developments (PUDs) which are greater than 250 acres in size. Generally, these PUDs, which include Sea Pines Plantation, Hilton Head Plantation, Palmetto Dunes Resort, Long Cove Club, and the other major PUDs on Hilton Head Island, have served to establish the special character of Hilton Head Island as a quality resort and residential community, and it is the LMO's intent in establishing the PD-1 District to allow the continuation of well-planned development within these areas.⁴

The various PUD master plans and associated text, as approved and, when applicable, as amended by the Town, establish general permitted uses and maximum area densities for the PUDs, except as may be modified by the overlay of a specific district other than the PD-1 District.⁵ With respect to the Palmetto Dunes Resort area in particular, the approved master plan and associated text is the PD Master Plan that was approved by the Planning Commission on April 4, 1984 and later revised and stamped by the Town on May 7, 1986.⁶ The PD Master Plan has been amended on numerous occasions since then, including the 2004 amendment that allowed for 5,400 square feet of commercial use density on Parcel 28, the 0.86 acre tract that is immediately adjacent to the Property.⁷

B. THE PROPERTY

According to the Beaufort County property tax records, the commercial buildings located on the Property were developed and constructed under the old Beaufort County Development Standards Ordinance between 1971 and

⁴ See LMO §16-4-209(A).

⁵ See LMO §16-4-209(D).

⁶ See the Town's records on the PD Master Plan in general, and, in particular, the copy of the 1986 PD Master Plan which is attached as Exhibit B.

⁷ See the Town's records on the PD Master Plan in general, and, in particular, Zoning Map Amendment Application No. ZMA040003. The 0.86 acre tract is shown on the copy of the plat recorded in Beaufort County Plat Book 89 at Page 1 which is attached as Exhibit C.



1977. Certain aspects of the development of the Property, especially the water and sewer service systems, which connect to the Property from Palmetto Dunes Resort, clearly reflect the integration of the Property with the area within the PD Master Plan. Since the completion of construction of the six existing buildings on the Property, it has continually operated as a commercial use multi-tenant facility.

The Property was originally assembled from various parcels by the Applicant's predecessors in title over a period of several years beginning in 1966. Through a series of transactions with Palmetto Dunes Resort, Inc. in 1973 and 1976 involving the purchase, sale, and reconfiguration of various parcels, the Property came to have its current configuration. After the Applicant acquired the Property, the six existing buildings on the Property were converted to a condominium regime⁸ in order to give the Applicant more flexibility in its future plans for the Property.

When the Town first enacted the LMO and established a zoning scheme for Hilton Head Island, instead of including the Property in the M-1 Palmetto Dunes Resort Master Plan district, the Property was zoned C-3, a district that was established to provide for office and institutional uses.⁹ That original zoning classification for the Property has always seemed odd, especially considering the long-standing use of the Property for retail and other commercial uses. The effect of the C3 zoning was to cause the then existing retail and other commercial uses on the Property to become legal, non-conforming uses.

The current zoning restrictions applicable to the Property impose a number of practical burdens and constraints on the Applicant and on potential tenants due to the fact that most retail and other commercial uses are not permitted uses in the OL District.¹⁰ In fact, there are no retail sales and service uses or eating establishment uses that are permitted by right in the OL

⁸ See the Master Deed establishing Plantation Center Horizontal Property Regime recorded on March 9, 2006 in Beaufort County Record Book 2333 at Page 1739.

⁹ The old C-3 District is the equivalent of the current LMO's OL District.

¹⁰ See the Use Table at LMO §16-4-1204.



District. Most other retail sales and services are prohibited in the OL District, though certain eating establishments and banks or financial institutions are permitted in the OL District if certain conditions are met, and retail services that fall under the category "Other Retail Sales and Services" are permitted in the OL District subject to special exception review approval by the Town's Board of Zoning Appeals. These restrictions have in the past caused the Applicant to lose prospective tenants.

The Property is fully developed for long-term commercial use, historically with retail and restaurant uses, has operated as such for some 35 years, and will continue to do so for the foreseeable future. However, those legacy uses are not by right permitted uses on the Property because of the restrictions imposed by the OL District's limitations on use. The purpose of this Application is to rezone the Property so that the Town's zoning laws match the historic uses of the Property, which have clearly been accepted by the community as appropriate, if not desirable, and so that the existing and historic uses on the Property are no longer considered non-conforming or not permitted uses.

Because of the fully developed condition of the Property, there are no infrastructure improvements necessary in order to implement the requested rezoning of the Property, or that will result from the requested rezoning of the Property.

C. THE REQUESTED REZONING

The Applicant is requesting that the PD Master Plan be amended to remove the Property from the OL District and include it in the PD Master Plan and designate it as an individual tract thereunder, and that the text of the PD Master Plan be amended to specify (1) that the permitted use on the Property is commercial, but limited so that no eating establishments may have a drive-thru; (2) that the maximum square footage of development on the Property not exceed the existing square footage currently on the Property;¹¹ (3) that the maximum size of any one commercial establishment on the Property not exceed

¹¹ According to the recorded Master Deed establishing Plantation Center Horizontal Property Regime, the six buildings on the Property have a total of 38,161 square feet.



10,000 square feet; and (4) that the maximum height of any structure on the Property not exceed forty-five (45.0') feet or two habitable stories over one level of parking;¹² thus allowing the existing and historic uses on the Property and the existing buildings on the Property to come into conformance with the requirements of the LMO.

III. NARRATIVE – CURRENT AND PROPOSED PERMITTED USE AND DENSITY

The Property is currently zoned OL–Office/Institutional Low Intensity.

The OL Districts were established between major commercial areas on the Island with the intention of limiting the types of nonresidential uses permitted. Land uses in the OL District are restricted to office and institutional in order to minimize travel impacts on the street system, encourage better compatibility in and among land uses on the Island, provide balance among land use types in major corridors, and improve visual appearance along major corridors.¹³ By right permitted uses in the OL District are limited to single family residential, day care, government facilities, religious institutions, linear and mini parks, minor utilities, health services except hospitals, real estate sales and rentals offices, other offices, and agriculture. Conditional uses permitted in the OL District are limited to multifamily residential, mixed use residential, telecommunications facilities, eating establishments without drive-thru, and banks or financial institutions, health clubs or spas, and pet stores. Uses permitted with special exception approval in the OL District are limited to institutions other than religious institutions, community parks, major utilities, and other retail services.¹⁴ Accordingly, many, if not most, of the current and historic uses on the Property have been non-conforming uses.

¹² Absent a specific height limitation for structures on the Property, under LMO §16-4-1701, the height limitation would be seventy-five (75') feet, not to exceed five habitable stories.

¹³ See LMO §16-4-216, which describes the character and purpose of the OL and OM Districts.

¹⁴ Again, see the Use Table at LMO §16-4-1204.



The maximum permitted non-residential density for a use other than office or institutional in the OL District is 6,000 square feet per net acre.¹⁵ Given that density limitation, the existing buildings on the Property are non-conforming structures.¹⁶

Under LMO §§16-4-209(D) and 16-5-904(A)(1), the permitted use and maximum density for any parcel within a PD-1 District master plan is established by the Town approved master plan and associated text. The Applicant is proposing to amend the PD Master Plan as set forth above to incorporate the Property into the PD Master Plan, to allow for specific permitted uses on the Property consistent with the current and historic uses, to limit the density on the Property to the existing density, and to limit the height of structures on the Property.

The requested amendment to the PD Master Plan will not result in any increase in the existing commercial density within the Town, as the density on the Property will be capped at the current existing density. Rather, the requested amendment will only allow for the existing and historic uses and the structures on the Property to be considered conforming to current provisions of the LMO, and for the existing structures to be conforming with the LMO's density standards.

Potential tenants who are considering making lease commitments and potential property owners who are considering making substantial financial commitments and investments are very much concerned about the possible adverse effects of a property that has limited available uses and a building that is technically a legal non-conforming structure, regardless of the apparent ability under the law to maintain that status, including the ability to rebuild after a casualty. For those potential tenants and business owners, the time required to analyze these kinds of issues is often limited, and at any given time they may be looking at numerous opportunities for new locations. Prospective tenants and business owners will ultimately have the time and capital to

¹⁵ See the Density Standards Table at LMO §16-4-1601.

¹⁶ Even though the existing structures on the Property are non-conforming, because the Property is a condominium regime, if a structure is damaged or destroyed by casualty, it can still be rebuilt under the provisions of LMO §16-7-302(C)(3).



pursue only some of these new locations, and having to deal with issues like limited available uses, or being in a building that is a non-conforming structure, can be a real disincentive that may ultimately preclude a potential tenant or business owner from committing to that location.

IV. NARRATIVE – REZONING CRITERIA

LMO §16-3-1505 sets forth the criteria which the Planning Commission is to address in making a recommendation to the Town Council on this rezoning request, as follows:

A. Consistency (or lack thereof) with the Comprehensive Plan.

The **Natural Resources Vision** of the Comprehensive Plan directs the Town to protect Hilton Head Island's diverse natural resources, which are pivotal to the economic well being of the community and the high quality of life on the Island.¹⁷ The Applicant is seeking to amend the PD Master Plan in a manner that will allow the existing and historic uses and the structures on the Property to comply with current LMO provisions, in accordance with the original plans for the development of the Property. No new development will result from the requested rezoning, and existing densities on the Property and within the Town as a whole will not increase. The Applicant's proposed amendment of the PD Master Plan will help maintain existing development as originally permitted and as operated for some 35 years, and allow for potential redevelopment on the Property, with no adverse impacts on the Town's natural resources.

The **Community Facilities Vision** of the Comprehensive Plan is for the Town to provide facilities for the residents and visitors of Hilton Head Island which are maintained at the highest levels of service and

¹⁷ See the February 17, 2010 Hilton Head Island Comprehensive Plan (the "Comprehensive Plan"), at Page 19.



efficiency consistent with facilities of a world class community.¹⁸ The approval of this Application will only change the existing and historic uses and the structures on the Property from non-conforming to conforming, which, by eliminating the potential for confusion that currently exists with the non-conforming nature of the Property, will be a further incentive for, and will make it easier for, the Applicant and the long-term tenants to maintain the Property in good condition. All infrastructure required for continued operation of the existing structures on the Property, including water and sewer, storm water drainage, electric, telephone, and cable services and roadways, is already in place, and no additional work will be required as a result of the requested rezoning. Also, because there will be no increase in the overall commercial density within the Town and no increase in the commercial density on the Property, there should be no increase in demand on the community's infrastructure as a result of the approval of this Application.

The **Economic Development Vision** of the Comprehensive Plan looks to define, foster, and enhance the economic environment that sustains Hilton Head Island's unique way of life.¹⁹ In particular, the Comprehensive Plan recognizes that "sensitive (re)development" now dominates the Town's collective thinking, with calls for the exercise of "flexibility" and "good judgment" in controls often on a case by case basis in order to preserve the essential "character" of the Island.²⁰ The Comprehensive Plan also acknowledges as a potential risk for the future economy of the Island that some of the Island's hospitality and other service sector assets are aging and becoming "tired" looking, and are in need of revitalization or potential replacement. Sensitive redevelopment is therefore a major theme of the Comprehensive Plan.²¹

¹⁸ See the Comprehensive Plan, at Page 59.

¹⁹ See the Comprehensive Plan, at Page 88.

²⁰ See the Comprehensive Plan, at Page 88.

²¹ See the Comprehensive Plan, at Page 90-91.



The potential strategies for economic development described in Section 7.6 of the Economic Development Element of the Comprehensive Plan call for the development of flexibility of streamlining in regulation of density caps, setbacks, and other controls that enable a qualitative, principle based, asset revitalization that enhances the Island's positive legacies.²² The Comprehensive Plan thus suggests that redevelopment and refurbishment of the Property could breathe new life into what is an older commercial development on the Island, bringing renewed life and vigor to the Property with new, highly desirable tenants. However, as the Comprehensive Plan seems to acknowledge, it is difficult to justify the substantial investment necessary to undertake such a project on the Property if the permitted uses are limited to those allowed in the OL District, and the buildings themselves are non-conforming.

The Applicant's desire to protect and enhance its investment in the Property is a primary reason for this Application, as a commercial building that is in conformance with zoning regulations and requirements is much more desirable than a non-conforming property. Clearly, putting the Applicant in the best possible position to maintain a successful and attractive commercial development is consistent with the Economic Development Vision of the Comprehensive Plan, and is in the best interests of the Town.

The **Land Use Element** of the Comprehensive Plan seeks a high quality of life by planning for population growth, public and private development and redevelopment, and the proper distribution, location, and intensity of land uses with adequate levels of services while maintaining and protecting the natural resources, residential neighborhoods, and overall character of the Town.²³ The Existing Land Use Map at Page 113 of the Comprehensive Plan recognizes that retail commercial use on the Property is appropriate. Several sections of the Land Use Element of the Comprehensive Plan encourage redevelopment,

²² See the Comprehensive Plan, at Page 92.

²³ See the Comprehensive Plan, at Page 100.



in particular Section 8.2 – Building Permit Trends,²⁴ Section 8.6 – Build Out,²⁵ Section 8.9 – Age of Structures,²⁶ and Section 8.11 – Land Use Goals,²⁷ all support the Applicant’s requested rezoning, as the resulting change to conformance with current zoning regulations will help encourage the refurbishment and renovation of the Property.

The Applicant believes the approval of this Application and the resulting change from non-conforming to conforming status with respect to applicable zoning regulations and requirements is also consistent with and in conformance with the visions and goals set forth in the Land Use Element of the Comprehensive Plan. Section 8.8 – Nonconforming Parcels by Use,²⁸ Goal 8.8 – Nonconforming Parcels by Use,²⁹ Goal 8.9 – Age of Structures,³⁰ and Goal 8.10 – Zoning Changes³¹ are particularly

²⁴ “Redevelopment of our existing built environment and infill development should be a focus for the future development of our community, while the Town has entered a more mature level of development.” See the Comprehensive Plan, at Page 103.

²⁵ Because of the anticipation of build-out, creative redevelopment policies and alternatives to traditional zoning and land development regulations should be a focus for all land use policies and regulations. See the Comprehensive Plan, at Page 105.

²⁶ “The location of the older developments should be reviewed to determine the areas that may be primed for redevelopment. Changes in building codes, building trends, and consumer expectations should also be considered when determining the appropriate age of structures to target redevelopment strategies.” See the Comprehensive Plan, at Page 108.

²⁷ “Promote quality infill development and use redevelopment opportunities to promote more pedestrian-friendly retail environments.” See the Comprehensive Plan, at Page 109.

²⁸ “Current zoning classifications should be reviewed along with the associated regulations for each use. Areas that have high instances of nonconforming uses should be reviewed closely and revisions should be made where necessary.” See the Comprehensive Plan, at Page 107.

²⁹ “The goal is to evaluate the locations of non-conforming uses to determine areas to consider for Zoning Map Amendments.” See the Comprehensive Plan, at Page 110.

³⁰ The goals are “to monitor areas that have high concentrations of aging structures to target for potential redevelopment”, and “to encourage redevelopment of properties with aging structures or that no longer meet current market demands.” See the Comprehensive Plan, at Page 110.

³¹ “The goal is to provide appropriate modifications to the Zoning designations to meet market demands while maintaining the character of the Island.” See the Comprehensive Plan, at Page 110.



supportive of this Application. In addition, Implementation Strategies 8.6 – Build-out,³² 8.8 – Nonconforming Parcels by Use,³³ 8.9 – Age of Structures,³⁴ and 8.10 – Zoning Changes³⁵ specifically address, and support, the purposes of this Application.

Given the history of the Property, the existing infrastructure facilities already serving the Property, and the long term retail commercial use on the Property, the requested rezoning will not have an adverse effect on the natural resources, community facilities, or existing development in the area of the Property, and will encourage the continued maintenance, or orderly redevelopment, of the Property.

B. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood.

The current uses on the Property include several restaurants, a financial services office, a liquor store, a bicycle shop, a tailor, and a hair salon, and those uses will remain so upon the approval of this Application. Past uses on the Property have included other retail sales and services. The historic uses on the Property generally have not been compatible with the current OL District zoning applicable to the Property, as those uses are, for the most part, not permitted uses in the OL District.

The nearby properties along William Hilton Parkway include the Hunter Building, the adjacent undeveloped parcel that was rezoned in

³² “Provide flexibility within the Land Management Ordinance to address future development and redevelopment of existing sites.” See the Comprehensive Plan, at Page 111.

³³ “Evaluate the zoning districts or regulations of the districts when high concentrations of non-conforming properties by use exist to determine if amendments are appropriate.” See the Comprehensive Plan, at Page 111.

³⁴ “Develop flexible regulations and incentives to encourage redevelopment of aging structures and districts.” See the Comprehensive Plan, at Page 111.

³⁵ “Focus higher intensity land uses in areas with available sewer connections.” See the Comprehensive Plan, at Page 111.



2004 to allow for general commercial uses under the PD Master Plan, and the Palmetto Dunes Resort check-in and maintenance facilities. Across William Hilton Parkway from the Property, the nearby properties include the Arts Center of Coastal Carolina and the Chamber of Commerce building, which are both within the PD Master Plan, as well as the Days Inn motel and the Pirates Island miniature golf facility. The existing uses on these nearby properties are all generally commercial in nature and compatible with general commercial uses on the Property.

Given the past and existing uses on the Property and the history of the development of the area around the Property, and considering that the PD Master Plan has other areas, such as portions of Shelter Cove, that provide office uses for the Palmetto Dunes area that is much more attractive for offices than the Property, the Applicant believes the use of the Property for general commercial uses is compatible with the present zoning and conforming uses of nearby properties and with the character of the neighborhood.

C. Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment.

The rezoning requested by this Application will not result in any change in the current use of the Property as a general retail and commercial center, but rather seeks to rezone the Property in a manner that makes uses other than only office uses permitted by right on the Property, and makes the existing structures on the Property conforming with density standards.

The nature of the PD-1 Districts under the LMO is such that the master plan maps and accompanying text can, to an extent, be drafted or amended to provide for specific and limited uses and densities in combinations that might not otherwise be available in other zoning districts within the Town. To that end, this Application to rezone the Property by amending the PD Master Plan and the accompanying text to provide for uses and a maximum density that, if approved as requested, will result in the Property being zoned in a manner that is wholly



consistent with the regulations that would be made applicable by the proposed amendment.

When the Town approved the 2004 amendment of the PD Master Plan to allow for 5,400 square feet of commercial density on Parcel 28, the vacant parcel that is immediately adjacent to the Property, the Town acknowledged that commercial uses are appropriate for the area in the vicinity of the Property. The Applicant submits that such is also the case for the Property.

The Applicant believes that the Property is suitable for the general commercial uses that would be permitted for the parcel under the PD Master Plan if the proposed amendment is approved.

D. Suitability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment.

Considering of the general availability of more desirable office space in the Shelter Cove area, and the historic use of the Property for retail commercial businesses, the Applicant in all likelihood would have a difficult time attracting and keeping office tenants and uses on the Property. The longest current use on the Property is a restaurant, and in the past the Property has been the home of many retail commercial uses. While there is a financial services office on the Property, the Applicant believes that the Property is generally unsuitable for the uses permitted under the currently applicable OL District, which is the district applicable to the Property at this time. The direct access from the Property to William Hilton Parkway is not conducive to office use on the Property. Generally, most office uses have access from secondary roads. General commercial and retail uses are more frequently located on main roads, as is the Property.

It is difficult to argue that the Property is suitable for uses in the OL District when the uses that have historically been on the Property are generally not permitted in the OL District. It is also important to note that the Town in 2004 approved general commercial use on Parcel 28,



the vacant parcel that is immediately adjacent to the Property. The Applicant believes that the approval of this Application will be a benefit not only to the Property, but also to the Town, because the end result will be a greater degree of conformance with the LMO.

It is also important to note the recent approvals by the Town Council of other zoning map amendment applications for parcels on William Hilton Parkway that are similar to the Property, specifically the South Island Square parcel and the Marina Side Drive parcels located near the corner of William Hilton Parkway and Yacht Cove Drive.³⁶ Clearly, the Town Council, based on recommendations from the Planning Commission, has realized that trying to force OL zoning regulations on historically commercial properties on William Hilton Parkway was not a good idea. Such is the case with the Property.

E. Marketability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment.

The non-conforming nature of the historic uses on the Property and of the six existing structures on the Property will change to conforming with the provisions of the LMO if this Application is approved. It should go without saying that a change from non-conforming use and structure to conforming use and structure will have a beneficial effect on the marketability of the Property. Especially when one is dealing with commercial properties, zoning conformance is a criteria that any potential purchasers and tenants will, and should, review. If zoning conformance is not an issue, then marketability of any property will certainly be enhanced. Because the non-conforming nature of the structures on the Property, coupled with the limited permitted uses available in the OL District, has the potential to adversely affect the marketability of the Property, the approval of this Application will increase the marketability of the Property. In addition, the Applicant

³⁶ See the Town's records on Zoning Map Amendment Application No. ZMA100007 regarding the Marina Side Drive parcels, which the Planning Commission reviewed on March 16, 2011; and Zoning Map Amendment Application No. ZMA100007 regarding the South Island Square tract, which the Planning Commission review on September 7, 2011.



believes that the approval of this Application will not have an adverse effect on the marketability of other properties in the vicinity.

The Town's records on the PD Master Plan indicate that there is somewhere in the neighborhood of 90,000 square feet of office space in the Palmetto Dunes and Shelter Cove master plan area, the vast majority of which is newer and more desirable office space than the Property has to offer. The limitations on the use of the Property imposed by the OL District regulations have placed the Property at a disadvantage in trying to compete for available office tenants. Such is not the case, however, for commercial and retail uses on the Property.

The Applicant believes that the highest and best use of the Property currently is, and for the foreseeable future will be, general commercial uses, as opposed to just office and institutional uses. The marketability of the Property will likely be greater if the Property is in conformance with existing zoning regulations, which can be accomplished by the approval of this Application.

F. Availability of sewer, water and stormwater facilities generally suitable for the proposed use.

Because the Property was originally permitted and developed as part of the PD Master Plan area before the Town placed the Property in an OL District, the sewer, water and storm water facilities serving the Property were designed and implemented as part of the overall sewer, water and storm water systems serving the PD Master Plan area.

Broad Creek Public Service District currently provides potable water and sanitary sewer service to the Property, and will continue to do so if this Application is approved, and the storm drainage system on the Property will continue as is if this Application is approved.

Because no new development will result on the Property following the approval of the requested rezoning, there should be no impact on sewer, water, and stormwater services or facilities as they presently exist.



IV. NARRATIVE – CONCLUSION

The Applicant believes the foregoing narrative demonstrates that this Application is in conformance with the LMO and the Town's Comprehensive Plan, and meets the criteria set forth in LMO §16-3-1505. Accordingly, the Applicant respectfully requests that the Planning Commission (a) consider this Application and the testimony and supporting documentation which will be entered into the record; (b) find:

1. That this Application and the supporting testimony and documentation establish that the requested zoning map amendment is consistent with the Town's Comprehensive Plan; and
2. That this Application and the supporting testimony and documentation establish that the current use on the Property is not consistent with the present zoning, and is consistent with conforming uses of nearby properties and with the character of the neighborhood around the Property; and
3. That this Application and the supporting testimony and documentation establish that the Property is suitable for the uses permitted by the zoning district that would be made applicable to the Property by the requested zoning map amendment; and
4. That this Application and the supporting testimony and documentation establish that the Property is not suitable for the uses permitted by the zoning district that is currently applicable to the Property; and
5. That this Application and the supporting testimony and documentation establish that the marketability of the Property for uses permitted by the zoning district that is currently applicable to the Property will be increased by the approval of the requested zoning map amendment; and



6. That this Application and the supporting testimony and documentation establish that there will be no change in the Property's requirements for sewer, water and storm water facilities, and that such services generally suitable and adequate for the existing use of the Property under the requested zoning map amendment are available to the Property;

and (c) recommend to the Town Council that they approve this Application.

Respectfully submitted on behalf of the Applicant this 1st day of March, 2012.



Chester C. Williams, Esquire
Law Office of Chester C. Williams, LLC
17 Executive Park Road, Suite 2
Post Office Box 6028
Hilton Head Island, SC 29938-6028
843-842-5411
843-842-5412 (fax)
Firm@CCWLaw.net



Exhibit A to Attachment 1 (5 Pages)

14/10 R

61448

1358

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF BEAUFORT)

KNOW ALL MEN BY THESE PRESENTS, THAT WOLFE MILLER in the State aforesaid for and in consideration of the sum of Ten Dollars (\$10.00) and no other consideration, to me in hand paid at and before the sealing of these presents by MILLER FAMILY LIMITED PARTNERSHIP, VI, a New York limited partnership, in the State aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said MILLER FAMILY LIMITED PARTNERSHIP, VI, a New York limited partnership, its successors and assigns, forever, the following described property, to-wit:

See Exhibit "A" Attached Hereto

SAID PROPERTY is conveyed subject to all applicable rights, obligations, easements, restrictions and reservations as recorded in the Office of the Register of Deeds for Beaufort County, South Carolina.

This being the same property conveyed to the Grantor herein by Deeds recorded in ORB 1063 at Page 108 and ORB 1063 at Page 98 in the Office of the Register of Deeds for Beaufort County, South Carolina.

This Deed was prepared in the Law Offices of Fraser & Allen, LLC, Post Office Box 5098, Hilton Head Island, South Carolina 29938 by J. Simon Fraser, Esquire.

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said MILLER FAMILY LIMITED PARTNERSHIP, VI, a New York limited partnership, its successors and assigns, forever.

AND I do hereby bind myself and my heirs, assigns, executors and administrators, to warrant and forever defend, all and singular, the said Premises unto the said MILLER FAMILY LIMITED PARTNERSHIP, VI, a New York limited partnership, its successors and assigns, forever, against us and our heirs, and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

R520-12-16A-D

EXHIBIT "A"

Legal Description

ALL that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, and being more particularly shown and described on a plat prepared by R. D. Trogdon, Jr., R.L.S. (S.C.) #2172, said plat being entitled "Plat Prepared for William Cork" dated October 14, 1966, said property having and containing 1.94 acres, more or less, said property being more particularly described with reference to that deed recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Deed Book 234 at Page 1600.

LESS AND EXCEPT THEREFROM:

(a) That piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, having and containing 0.0117 acres, more or less, and being shown and described on a plat thereof entitled "Survey of Two Portions of Land, Palmetto Dunes, Hilton Head Island, Beaufort County, South Carolina" dated October 17, 1972, revised December 12, 1972, said plat being prepared by Hussey, Gay & Bell Consulting Engineers, certified by Roy L. Hussey, R.L.S. (S.C.) #2373 said plat having been recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book 20 at Page 167;

(b) That certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, having and containing 0.45 acres, more or less, being particularly shown and described on a plat thereof entitled "A Plat of 0.45 Acres located on Highway 278, Hilton Head Island, Beaufort County, South Carolina", prepared by Jerry L. Richardson, R.L.S. (S.C.) #4784 said plat bearing date of March 10, 1976, which plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Deed Book 236 at Page 1776.

ALSO, all that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, having and containing .0674 acres, more or less, and being shown and described on a plat thereof entitled "Survey of Two Portions of Land, Palmetto Dunes, Hilton Head Island, Beaufort County, South Carolina" dated October 17, 1972, and revised December 12, 1972, said plat being prepared by Hussey, Gay & Bell Consulting Engineers, certified by Roy Hussey, R.L.S. (S.C.) #2373 said plat having been recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book 20 at Page 167.

ALSO, all that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, having and containing 1.09 acres, more or less, and being shown and described on a plat thereof entitled "Plat of 1.09 Acres Located on Highway 278, Hilton Head Island, Beaufort County, South Carolina," said plat being prepared by Coastal

Surveying Company, Inc., and certified by Jerry L. Richardson R.L.S. (S.C.) #4784, said plat bearing date of March 10, 1976, said plat having been recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Deed Book 236 at Page 1455;

The insured property herein is shown and described on that July 25, 1990 plat prepared by Coastal Surveying and Engineering, Inc., Jerry L. Richardson, SCRLS #4784, said plat being prepared for the William N. Cork, II Marital Trust, and being entitled, "A Plat of Plantation Center Shopping Center, As-Built Survey, A Section of Palmetto Dunes".

Beaufort County Tax Map Reference: R520 012 000 016A 0000

Mailing Address: 275 Route 25A, Suite 26
Miller Place, NY 11764

7852 Frase

FILED
JOHN T. SULLIVAN - REC.
OF BEAUFORT COUNTY, S.C.

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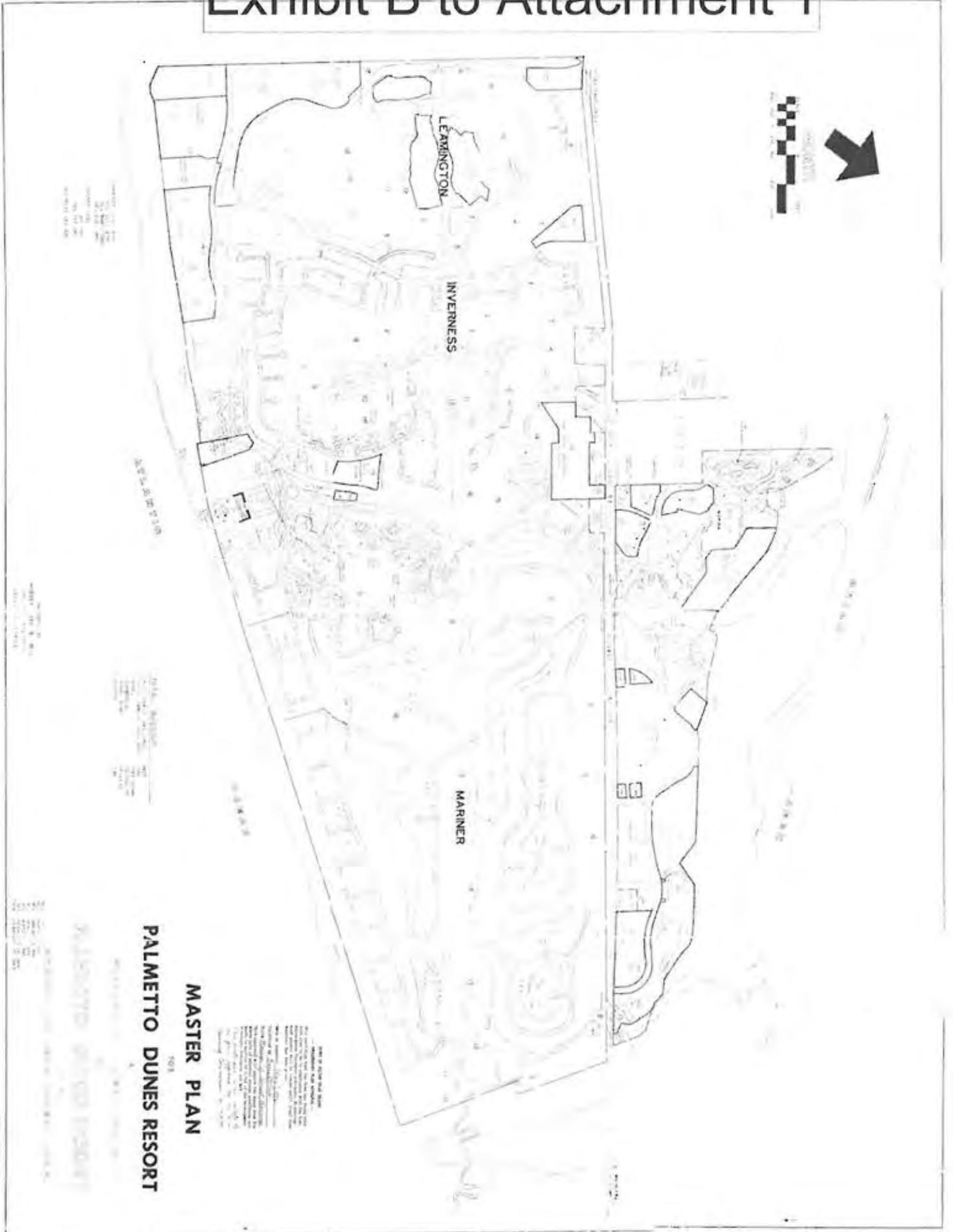
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RECORDED THIS 27 Day
OF January 1999
IN BOOK 1 AE PAGE 2696

Sharon P. Burris
AUDITOR, BEAUFORT COUNTY, S.C.

Exhibit B to Attachment 1



Attachment 2



LAW OFFICE OF
CHESTER C. WILLIAMS, LLC

17 Executive Park Road, Suite 2
Post Office Box 6028
Hilton Head Island, SC 29938-6028
Telephone (843) 842-5411
Telefax (843) 842-5412
Email Firm@CCWLaw.net

Chester C. Williams
ALSO MEMBER LOUISIANA BAR

Thomas A. Gasparini
ALSO MEMBER CALIFORNIA BAR
(Inactive)
ALSO MEMBER OHIO BAR
(Inactive)

March ____, 2012

«Company_Name»
«Address_Line_1»
«Address_Line_2»
«City», SC 29928

RE: Zoning Map Amendment Application of Miller Family Limited Partnership
VI for 2.48 Acres, Plantation Center Shopping Center – Our File No.
01209-002

Dear Sir or Madam:

As required by Sections 16-3-110 and 16-3-111(C)(1) of the Land Management Ordinance of the Town of Hilton Head Island, you are notified that there will be a public hearing before the Town's Planning Commission on Wednesday, April 18, 2012 at 3:00 P.M. in Town Council Chambers at Town Hall, One Town Center Court, Hilton Head Island, South Carolina on the zoning map amendment application filed on behalf of Miller Family Limited Partnership VI for Plantation Center Shopping Center located at 807 William Hilton Parkway. The property is also known as Beaufort County Tax District 520, Map 12, Parcel 16A, Blocks 1 through 13. The proposed zoning map amendment seeks to include the property in the PD-1 Palmetto Dunes Resort Master Plan, and to specify permitted uses and maximum density for the property. A copy of a survey showing the property is enclosed. The property is located within the OL – Office/Institutional Low Intensity Zoning District. Any interested party may appear at the public hearing.

If you require additional information regarding this application, please contact the undersigned at the telephone number on the letterhead above, or contact the Town of Hilton Head Island Planning Staff at (843) 341-4601.

With best regards, we are

Very Truly Yours,
LAW OFFICE OF CHESTER C. WILLIAMS, LLC

Chester C. Williams

CCW/
Enclosure

cc: Mr. Richard J. Kolsch
Teri B. Lewis, AICP

Attachment 3 (2 Pages)



LAW OFFICE OF
CHESTER C. WILLIAMS, LLC
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Chester C. Williams
ALSO MEMBER LOUISIANA BAR

Thomas A. Gasparini
ALSO MEMBER CALIFORNIA BAR
(Inactive)
ALSO MEMBER OHIO BAR
(Inactive)

March 1, 2012

Mr. Robert Sharp
General Manager
Palmetto Dunes Property Owners Association, Inc.
Post Office Box 7974
Hilton Head Island, SC 29928

RE: Rezoning Application for Plantation Center Shopping Center – Our
File No. 01209-002

Dear Mr. Sharp:

We represent Miller Family Limited Partnership VI, the owner of Plantation Center Shopping Center. We are preparing to file on behalf of our client an application for a zoning map amendment to move the property from the OL – Office/Institutional Light Intensity zoning district to the PD-1 Palmetto Dunes Master Plan zoning district and to specify permitted uses and maximum density for the Plantation Center property. The primary purpose for this rezoning application is to change the applicable zoning for the property in such a manner that the historical and existing uses on the property are conforming uses. A copy of that application is enclosed.

Section 16-3-1502(A)(3) of the Land Management Ordinance of the Town of Hilton Head Island requires an applicant for a rezoning or master plan amendment to solicit written comments from appropriate property owners' associations regarding the requested amendment. Even though Plantation Center Shopping Center is not subject to the Palmetto Dunes Property Owners Association's covenants, our client has asked us to solicit comments on this rezoning application from the Palmetto Dunes POA. This letter is for that purpose. We would encourage you to direct any comments you may have regarding this application to Teri B. Lewis, AICP, the Town's LMO Official, at One Town Center Court, Hilton Head Island, South Carolina 29928, within fourteen days of your receipt of this letter.



LAW OFFICE OF
CHESTER C. WILLIAMS, LLC

Mr. Robert Sharp
March 1, 2012
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We will be happy to discuss this matter further with you or any other representatives of the Palmetto Dunes POA at your convenience in an effort to address any specific concerns you may have with this application.

We trust you will let us know if you have any questions or comments regarding this matter, or if we may otherwise be of assistance.

With best regards, we are

Very truly yours,

LAW OFFICE OF CHESTER C. WILLIAMS, LLC

Chester C. Williams

CCW:

Enclosure

cc: Mr. Richard J. Kolsch
Teri B. Lewis, AICP

