



**Town of Hilton Head Island**  
**Board of Zoning Appeals Meeting**  
**Monday, June 24, 2013 at 2:30p.m**  
**Benjamin M. Racusin Council Chambers**  
**AGENDA**

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1. **Call to Order**
2. **Roll Call**
3. **Freedom of Information Act Compliance**  
Public notification of the Board of Zoning Appeals meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the requirements of the Town of Hilton Head Island Land Management Ordinance.
4. **Wireless Telephone Usage**  
Please turn off all wireless telephones so as not to interrupt the meeting.
5. **Welcome and Introduction to Board Procedures**
6. **Approval of Agenda**
7. **Approval of Minutes – April 22, 2013 Meeting**
8. **Presentation of Crystal Award to outgoing BZA Chairman Roger DeCaigny and Mr. Alan Brenner**
9. **Unfinished Business**  
None
10. **New Business**  
**Public Hearing**  
**SER130001:** Request for Special Exception for an Eating Establishment with a Drive-thru in the Commercial Center (CC) Zoning District. Ernest Marchetti, on behalf of Karen Watson, is proposing to construct a Zaxby's restaurant. The property is located at 4 Marina Side Drive, and is further identified as Parcel 166 on Beaufort County Tax Map 11. *Presented by: Nicole Dixon*
11. **Board Business**
  - a) Nomination and Election of Officers for the term July 1, 2013 – June 30, 2014
  - b) Farewell Celebration in Appreciation of Services provided by Chairman Roger DeCaigny and Mr. Alan Brenner will be held in Council Chambers following the Board training.
12. **Staff Report**
  - a) Waiver Report: Presented by Nicole Dixon
  - b) Board Training: Floodplain Training presented by Mr. Richard Spruce  
CRS Program presented by Ms. Nicole Dixon

### **13. Adjournment**

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

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3 **TOWN OF HILTON HEAD ISLAND**  
4 **Board of Zoning Appeals**  
5 **Minutes of the Monday, April 22, 2013 Meeting**  
6 **2:30p.m. - Benjamin M. Racusin Council Chambers**

**DRAFT**

7  
8  
9 Board Members Present: Chairman Roger DeCaigny, Vice Chairman Peter Kristian,  
10 Alan Brenner, Irv Campbell, Michael Lawrence, Stephen Murphy  
11 and Glenn Stanford  
12

13 Board Members Absent: None  
14

15 Council Members Present: None  
16

17 Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator  
18 Anne Cyran, Senior Planner  
19 Heather Colin, Development Review Administrator  
20 Teri Lewis, LMO Official; Brian Hulbert, Staff Attorney  
21 Kathleen Carlin, Secretary  
22  
23

24 **1. Call to Order**

25 Chairman DeCaigny called the meeting to order at 2:30p.m.  
26

27 **2. Roll Call**  
28

29 **3. Freedom of Information Act Compliance**

30 Public notification of this meeting has been published, posted, and mailed in compliance  
31 with the Freedom of Information Act and Town of Hilton Head Island requirements.  
32

33 **4. Introduction to Board Procedures**

34 Chairman DeCaigny stated the Board's procedures for conducting the business meeting.  
35

36 **5. Approval of the Agenda**

37 Vice Chairman Kristian made a **motion** to **approve** the agenda as presented. Mr.  
38 Lawrence **seconded** the motion and the motion **passed** with a vote of 7-0-0.  
39

40 **6. Approval of the Minutes**

41 Vice Chairman Kristian made a **motion** to **approve** the minutes of the March 25, 2013  
42 meeting as presented. Mr. Stanford **seconded** the motion and the motion **passed** with a  
43 vote of 7-0-0.  
44  
45  
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47

1  
2 **7. Unfinished Business**  
3 **Public Hearing**

4 **VAR130003:** Request for variance from LMO Sections 16-5-202, General Requirements,  
5 16-5-1201, Off-Street Parking Required, 16-5-704, Minimum Required Setback Area, 16-  
6 5-806, Required Buffers and 16-5-508, Street Intersections. Mr. Bret Pruehs with McNair  
7 Law Firm, on behalf of CJT Real Property, LLC, is requesting a variance from these  
8 sections to change the use designation of the existing multi-family residential development  
9 from a horizontal property regime to a single family attached major subdivision. The  
10 property is located at 2 Tidal Bluff Road, and is further identified as Parcel 17 on Beaufort  
11 County Tax Map 5. Chairman DeCaigny introduced the application and opened the public  
12 hearing. Chairman DeCaigny then requested that staff make their presentation.  
13

14 Ms. Nicole Dixon presented the history of the application. At the March 25, 2013 meeting,  
15 the staff presented the variance application for the Tidal Bluff development, which was a  
16 request for a variance from several LMO requirements in order to change the use  
17 designation of the property from Multi-Family residential to a Single Family Residential  
18 Subdivision.  
19

20 During the Board's discussion of the application, the density of the existing development  
21 was questioned. Currently the property is zoned RM-4 (Low to Moderate Density  
22 Residential), which allows 4 dwelling units per net acre. The Tidal Bluff development  
23 currently consists of 15 buildings with 2 units per building, totaling 30 residential units.  
24 Tidal Bluff is 4.96 acres, which would permit 19 residential units with the current RM-4  
25 zoning. The question was raised that if the density is currently non-conforming, would the  
26 applicant be able to go through the subdivision process should the BZA approve the  
27 variance. The applicant requested the application be remanded to the April 22, 2013  
28 meeting in order to give staff time to research this issue.  
29

30 The Tidal Bluff development was originally approved under the name Dillon Road Duplex  
31 and consisted of two phases. The first phase was for 12 units and was approved in  
32 December of 1997. The second phase was approved in June of 1998 for the additional 18  
33 units. At the time of the approvals, the property was zoned M-2 (Community Mixed Use).  
34 The M-2 zoning district permitted up to 4 dwelling units per net acre, but if property was  
35 within 500 feet of the critical line, 8 dwelling units per net acre was allowed. This property  
36 is located within 500 feet of the critical line and allowed a maximum of 39 units; therefore  
37 the 30 existing units were conforming at the time of approval and conformed to the  
38 permitted density.  
39

40 In 1999 with the Ward 1 Master Plan rezoning, the zoning district was changed from M-2  
41 to RM-4. When this rezoning took place, the provision for allowing a greater density if  
42 located within 500 feet of the critical line was removed from the density regulations, which  
43 caused the Tidal Bluff development to become legally non-conforming.  
44

45 Based on staff review of Chapter 7, Nonconformities, of the LMO, there are no provisions  
46 that would prohibit the subdivision from being approved, should the BZA grant the  
47 variance. There will be no expansion or relocation of the nonconformity or any changes to  
48 the nonconformity; therefore the nonconformity can continue. Single Family Residential

1 uses are permitted in the RM-4 zoning district. Ms. Dixon stated that the staff recommends  
2 *approval* of VAR130003. The Board and Ms. Dixon discussed the application. Following  
3 the staff's presentation, Chairman DeCaigny requested that the applicant make his  
4 presentation.

5  
6 Mr. Bret Pruehs with McNair Law Firm, on behalf of CJT Real Property, LLC, presented  
7 statements in support of the application. The Board and Mr. Pruehs discussed the  
8 application. At completion of the Board's discussion, Chairman DeCaigny requested  
9 public comments and none were received. Chairman DeCaigny then requested that a  
10 motion be made.

11  
12 Vice Chairman Peter Kristian made a **motion to approve** Application for Variance 130003  
13 as presented by staff. The application meets the Findings of Fact and Conclusions of Law  
14 contained in the staff's report. Mr. Lawrence **seconded** the **motion** and the motion **passed**  
15 with a vote of 7-0-0.

16  
17 **8. New Business**  
18 **Public Hearing**

19 **VAR130004:** Charlie Wire, on behalf of the Hilton Head Public Service District, is  
20 requesting a variance from Land Management Ordinance Section 16-5-704, Minimum  
21 Required Setback Area, Section 16-5-806, Required Buffers, Section 16-5-1207, Parking  
22 Area Design, and Section 16-5-706, Setbacks for Fences, to allow a new pump station to  
23 encroach into the adjacent street setback and buffer, the adjacent use setback and buffer, to  
24 eliminate a parking median for access to the pump station and to install a 6 foot tall fence  
25 in the adjacent street setback. The property is Barker Field Extension, located at 160  
26 Mitchelville Road and is further identified as parcel 6B on Beaufort County Tax Map 5.  
27 Chairman DeCaigny introduced the application and opened the public hearing. Chairman  
28 DeCaigny then requested that the staff make their presentation.

29  
30 Ms. Anne Cyran made the presentation on behalf of staff. The staff recommended that the  
31 Board of Zoning Appeals *approve* the application based on the Findings of Facts and  
32 Conclusions of Law contained in the staff's report. Ms. Cyran presented an in-depth  
33 overhead review of the application including an Aerial Photo, the Applicant's Narrative,  
34 the Site Plan and Site Photos.

35  
36 The subject parcel is known as Barker Field Extension and is located at 160 Mitchelville  
37 Road in the WMU Zoning District. As shown on the Vicinity Map (Attachment A), the  
38 subject parcel is bounded by: Mitchelville Road on the southwest; an undeveloped parcel  
39 on the northwest; Port Royal Sound on the northeast; and two undeveloped parcels on the  
40 Southeast.

41  
42 On September 20, 2005, Town Council adopted Resolution 2005-25 to establish policies  
43 and action strategies regarding island-wide sewer service. One policy is to work with the  
44 Hilton Head Public Service District (HHPSD) to build sewer infrastructure on Town-  
45 owned property to help decrease the cost of providing sewer service to residents. The  
46 Resolution identified the Barker Field Extension site as a preferred location for future  
47 sewer infrastructure. The site was selected because it has cleared open space and it is the  
48 best location based on engineering needs for the system.

1  
2 On February 6, 2011, Town Council approved in concept the conveyance of permanent  
3 easement rights to Hilton Head Public Service District for the establishment of a sanitary  
4 sewer pump station and its required infrastructure at Barker Field Extension in the location  
5 proposed in this application. The pump station would serve the Town's property, which is  
6 using a septic system, and 91 other properties in the area. The final easement has not been  
7 approved. If the variance request is approved, the easement agreement would be sent to  
8 Town Council for final approval. Following the staff's presentation, Chairman DeCaigny  
9 requested that the applicant make his presentation.

10  
11 Mr. Charlie Wire, Hilton Head Public Service District, presented statements in support of  
12 the application. The Board discussed several issues with Mr. Wire including the Board's  
13 concern with odors. The applicant reported that that odor should not be an issue with this  
14 application. Following this presentation, Chairman DeCaigny requested public comments  
15 and the following were received: Resident, Mr. Dan Driessen, presented statements  
16 regarding the proximity of the project to the fence at Barker Field. Following final  
17 comments by the Board, Chairman DeCaigny requested that a motion be made.

18  
19 Mr. Stanford made a **motion to approve** Application for Variance 130004 as presented by  
20 staff. The application meets the Findings of Fact and Conclusions of Law contained in the  
21 staff's report. Vice Chairman Kristian **seconded** the motion and the motion **passed** with a  
22 vote of 7-0-0.

#### 23 24 **Public Hearing**

25 **VAR130005:** Roger Freedman is requesting a variance from Land Management Ordinance  
26 Section 16-5-704, Minimum Required Setback Area, and Section 16-5-806, Required  
27 Buffers, to allow an aerial ropes course to be located in an adjacent use setback and buffer.  
28 The property is called Zip Line Hilton Head, located at 33 Broad Creek Marina Way and is  
29 further identified as parcel 379 on Beaufort County Tax Map 11.

30  
31 Ms. Dixon reported that the public hearing for Application for Variance, VAR130005, is  
32 **postponed** until further notice.

#### 33 34 **9. Board Business**

35 Ms. Dixon reported that the staff's training on Wetlands is canceled today and will be  
36 rescheduled at a later date.

#### 37 38 **10. Staff Report**

##### 39 a) Waiver Report

40 Ms. Nicole Dixon presented the Waiver Report on behalf of staff.

- 41 b) Ms. Dixon stated that staff has no agenda items for the May 20, 2013 meeting.  
42 Chairman DeCaigny approved cancellation of the May 20, 2013 meeting.

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**11. Adjournment**

The meeting was adjourned at 3:15p.m.

Submitted By:

Approved By:

\_\_\_\_\_  
Kathleen Carlin  
Secretary

\_\_\_\_\_  
Roger DeCaigny  
Chairman

DRAFT



**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  
SPECIAL EXCEPTION**

| Case #    | Name of Development | Public Hearing Date |
|-----------|---------------------|---------------------|
| SER130001 | Zaxby's Restaurant  | June 24, 2013       |

| Parcel Data  | Property Owner  | Applicant   |
|--|---|---|
| Address: 4 Marina Side Drive<br>Parcel #: R520 011 000 0166 0000<br>Zoning: Commercial Center (CC),<br>Corridor Overlay (COR)<br>Acreage: 1.31 | Karen Watson<br>4 Marina Side Drive<br>Hilton Head Island, SC 29928 | Ernest Marchetti<br>1555 Fording Island Road<br>Suite E<br>Hilton Head Island, SC 29926 |

**Application Summary**

Ernest Marchetti, on behalf of Karen Watson, is proposing to construct an Eating Establishment with a Drive-thru, in the Commercial Center (CC) Zoning District, which requires special exception approval per Land Management Ordinance (LMO) Section 16-4-1204, Use Table.

**Background**

The applicant is proposing to construct a Zaxby's drive-thru restaurant on the undeveloped property at 4 Marina Side Drive.

On June 7, 2011, Town Council approved the rezoning of the property from OL (Office Institutional Low Density) to CC to allow for commercial uses on the property.

The property is surrounded by the Verizon Wireless business to the south, a self-storage facility to the west, Christ Lutheran Church and a gas station/convenience store across William Hilton Parkway to the east, and a restaurant to the north.

**Applicant's Grounds for Special Exception, Summary of Facts and Conclusions of Law**

**Grounds for Special Exception:**

Ernest Marchetti, on behalf of Karen Watson, is requesting special exception approval for an Eating Establishment with a Drive-thru in the CC Zoning District per the requirements of LMO Section 16-4-1204, Use Table. The applicant states in the narrative that the restaurant will provide both inside and drive-thru service, will be compatible with surrounding commercial uses, will not be detrimental to the adjacent properties, and will be developed with special concern given to the existing trees on site.

**Summary of Fact:**

- The applicant seeks a special exception as set forth in LMO Section 16-3-1801.

**Conclusion of Law:**

- The applicant may seek a special exception for the proposed use as set forth in LMO Section 16-3-1801.

**LMO Official Summary of Facts and Conclusions of Law**

**Summary of Facts:**

- The application was submitted as set forth in LMO Section 16-3-1802.
- Notice of the Application was published in the Island Packet on May 19, 2013 as set forth in LMO 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.
- The applicant submitted an affidavit stating they met the mailed notice requirements as set forth in LMO Section 16-3-111.
- The Board has authority to render the decision reached here under LMO Section 16-3-1804.

**Conclusions of Law:**

- The application is in compliance with the submittal requirements established in LMO Section 16-3-1802.
- The application and notice requirements comply with the legal requirements established in LMO Sections 16-3-110 and 16-3-111.

*As provided in LMO Section 16-3-1805, Special Exception Review Criteria, the BZA shall approve an application for use by special exception if and only if the applicant shall demonstrate that the proposed use and any associated development will be consistent with the following criteria.*

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 1: It will be in accordance with the Comprehensive Plan (LMO Section 16-3-1805.A):*

**Findings of Fact:**

The Comprehensive Plan addresses this application in the following areas:

**Land Use Element**

**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. 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 8.10 - Zoning Changes**

A. Consider focusing higher intensity land uses in areas with available sewer connections.

**Conclusions of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(A).
- This application would allow an eating establishment with a drive-thru within an existing commercial corridor, bringing a mixture of land uses to meet the needs of the population.
- This application would allow a moderate to high intensity use to be located where sewer service is available.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 2: It will be consistent with the 'character and purpose' statement of the applicable district (LMO Section 16-3-1805.B):*

**Finding of Fact:**

- Per LMO Section 16-4-2, the purpose of the CC Zoning District is “to provide for moderate to high intensity commercial development, especially office and general retail development. Residential development as a component of a PUD is allowed, and traffic and pedestrian interconnections throughout this district are strongly encouraged.”

**Conclusions of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(B).
- The proposed use will be consistent with the character and purpose statement of the CC Zoning District because the eating establishment with a drive-thru is considered a moderate to high intensity commercial development.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 3: It will be compatible with the existing uses adjacent to and near the property (LMO Section 16-3-1805.C):*

**Finding of Fact:**

- The property is surrounded by the Verizon Wireless business to the south, a self-storage facility to the west, Christ Lutheran Church and a gas station/convenience store across William Hilton Parkway to the east, and a restaurant to the north.

**Conclusion of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(C) because the proposed use is compatible with the existing uses adjacent to and near the property.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 4: It will not be hazardous, detrimental or disturbing to present surrounding land uses due to noise, glare, smoke, dust, odor, fumes, water pollution or general nuisance (LMO Section 16-3-1805.D):*

**Finding of Fact:**

- The applicant proposes to construct an eating establishment with a drive-thru, which is not a use that typically causes noise, glare, smoke, dust, fumes or nuisances.

**Conclusion of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(D) because the proposed use will not be hazardous, detrimental or disturbing to surrounding land uses because it doesn't create any negative impacts.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 5: It will not otherwise adversely affect the development of the general neighborhood or of the district in which the use is proposed (LMO Section 16-3-1805.E):*

**Findings of Fact:**

- The site is currently vacant and is surrounded by uses that would be compatible with an eating establishment with a drive-thru.
- Per LMO Section 16-4-1204, the proposed use is categorized as an Eating Establishment with

a Drive-thru, which is permitted in the CC Zoning District with special exception approval.

**Conclusions of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(E).
- The proposed use will not adversely affect the development of the general neighborhood or of the district in which the use is proposed because it will be compatible with the adjacent uses.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 6: It will be consistent with existing and planned pedestrian and vehicular circulation adjacent to and near the property (LMO Section 16-3-1805.F):*

**Findings of Fact:**

- There is no existing pedestrian circulation adjacent to or near this particular piece of property.
- The Town has it planned in the CIP budget to construct a pathway in this area in the Fall of 2014.
- There is an existing access drive that can be utilized to get to the proposed restaurant.

**Conclusions of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(F).
- The proposed use will be consistent with the existing and planned circulation adjacent to and near the property because the current site has the appropriate infrastructure for the proposed use.
- Any vehicular or pedestrian circulation improvements proposed with this project will be addressed during the Development Plan Review process.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 7: It will have adequate water and sewer supply, storm water facilities, waste disposal and other public services (LMO Section 16-3-1805.G):*

**Findings of Fact:**

- The proposed use will require sewer supply, storm water facilities, waste disposal or other public services.
- The property has water and sewer service available to it by the Broad Creek Public Service District.
- Stormwater facilities for the site will be addressed during review of a Development Plan Review application.

**Conclusion of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(G) because the proposed use does require and will have adequate public services available to it.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 8: It will be developed in a way that will preserve and incorporate any important natural features that are a part of the site (LMO Section 16-3-1805.H):*

**Findings of Fact:**

- According to the conceptual site plan submitted with the application, the proposed restaurant

will be constructed in an existing open area on the property.

- The applicant states in the narrative that the proposed development will maintain and enhance the natural beauty of the site.

**Conclusion of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(H) because the proposed use will preserve the natural features that are part of the site.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 9: It will conform to any specific criteria or conditions specified for that use by special exception in the applicable district or for the proposed use, as set forth in Chapter 4 of this Title (LMO Section 16-3-1805.I):*

**Finding of Fact:**

- There aren't any specific use standards listed for a Eating Establishment with a Drive-thru in the CC Zoning District.

**Conclusion of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(I).

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 10: It will not be contrary to the public health, safety and welfare, provided that a denial based exclusively on this language shall include explicit findings regarding the way in which granting the special exception would be contrary to the public health, safety and welfare (LMO Section 16-3-1805.J):*

**Findings of Fact:**

- Staff does not have any findings of facts to show that the proposed use will be contrary to the public health, safety or welfare.
- Staff has not received comments regarding this application.

**Conclusion of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(J) because the proposed use will not be contrary to the public health, safety or welfare.

**LMO Official Determination**

**Based on the above Findings and Conclusions of law, the LMO Official determines that the request for a special exception should be granted to the applicant for the proposed Eating Establishment with a Drive-thru in the CC Zoning District because it is in conformance with the Comprehensive Plan and the Land Management Ordinance.**

**Staff Recommendation**

**Determination:** Staff recommends the Board of Zoning Appeals **approve** the application based on the above Findings of Fact and Conclusions of Law.

**BZA Determination and Motion**

The "powers" of the BZA over special exceptions are defined by the South Carolina Code, Section 6-29-800, and in exercising the power, the BZA may "permit uses by special exception subject to the terms and conditions for the uses set forth for such uses in the zoning ordinance..." or "may remand a matter to an administrative official, upon motion by a party or the board's own motion, if the board determines the record is insufficient for review."

This State law is implemented by the Hilton Head Island Land Management Ordinance, Chapter 2, Article III and the Rules of Procedure for the BZA. A written Notice of Action is prepared for each decision made by the BZA based on findings of fact and conclusions of law.

**PREPARED BY:**

N.D.

\_\_\_\_\_  
Nicole Dixon, CFM  
*Senior Planner*

June 4, 2013

\_\_\_\_\_  
DATE

**ATTACHMENTS:**

- A) Vicinity Map
- B) Applicant's Narrative
- C) Conceptual Site Plan



Proposed Special Exception - Zaxby's



## ATTACHMENT B

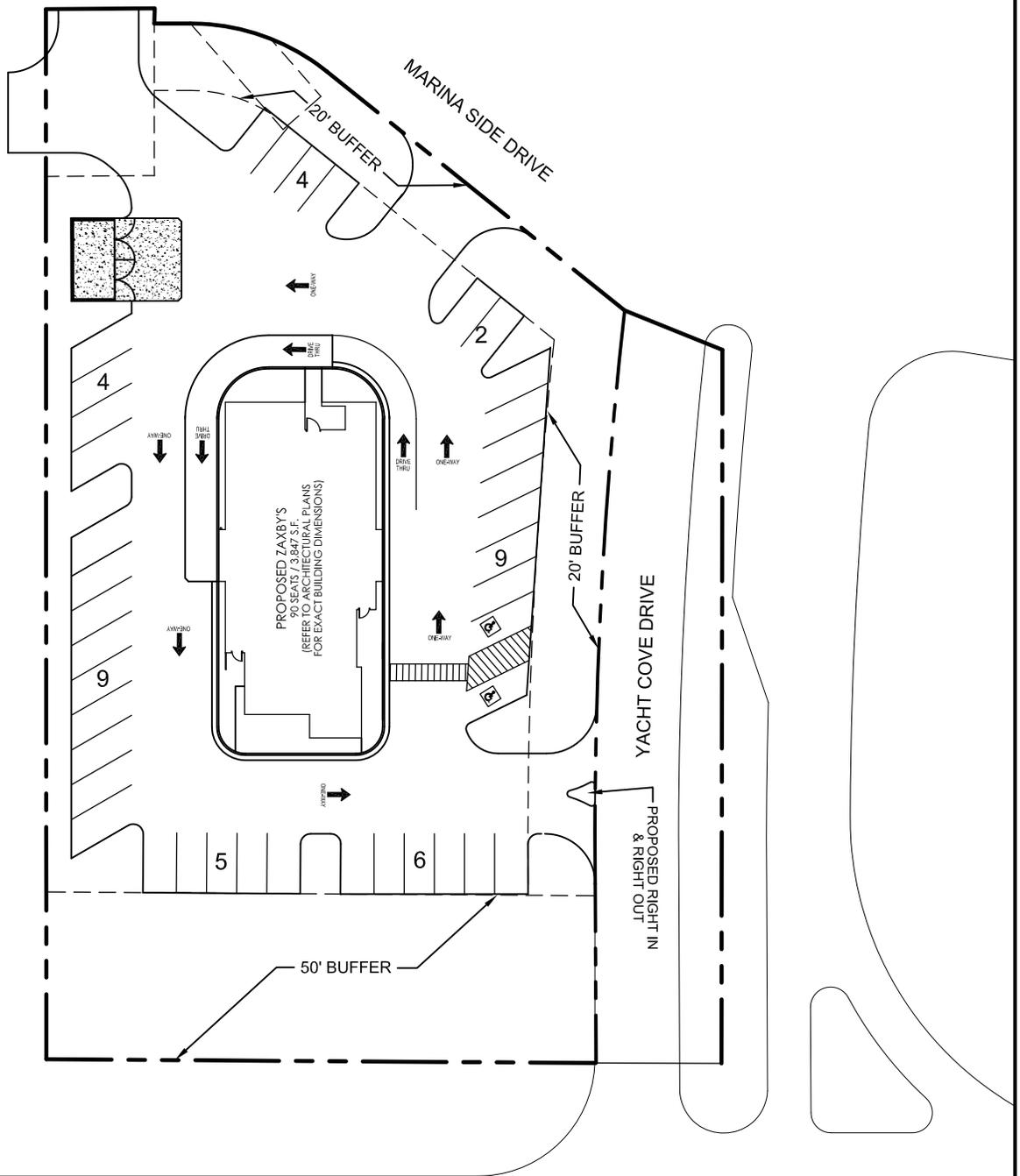
May 9, 2013

Community Development Department  
One Town Center Court  
Hilton Head Island SC 29928

### Request for Special Exception

The property at 4 Marina Side Drive is under contract with Zaxby's, a family fast food chicken restaurant. The restaurant has both inside and Drive Thru service. The property is zoned CC (Commercial Center) and in order to have a drive thru it requires Special Exception.

- A. This request is in accordance with the LMO because the zoning is CC, Commercial Center and an Eating Establishment, with Drive-Thru is permitted with Special Exception.
- B. This will be consistent with the "character and purpose" statement of the CC Zoning District.
- C. This will be compatible with the existent uses adjacent and near the property, which consist of restaurants, retail and motels.
- D. There is nothing hazardous, detrimental or disturbing to the present surrounding land uses due to noise, glare, smoke, dust, odor, fumes, water pollution or general nuisance.
- E. This will not adversely affect the development of the general neighborhood or the district in which the use is proposed
- F. This will be consistent with planned pedestrian and vehicular circulation adjacent and near the property.
- G. When the property was zoned commercial evidence of adequate water and sewer supply, storm water facilities, waste disposal was supplied to the Town.
- H. The developer is aware of the importance of maintaining and enhancing the natural beauty of the property.
- I. The developer will conform to any specific criteria or condition specified for that use by special exception.
- J. This project will not be contrary to public health, safety and welfare.



U.S. HIGHWAY 278



Carter Engineering Consultants, Inc.  
 1551 Jennings Mill Rd  
 Building 500, Suite B  
 Bogart, GA 30622

P: 706.559.7430  
 F: 706.559.7435

www.carterengineering.net



CONCEPT PLAN  
 HILTON HEAD ISLAND

PARKING: 39 ON SITE  
 DATE: 5.15.13, SCALE: 1"=50'



# **TOWN OF HILTON HEAD ISLAND**

*Community Development Department*

**TO:** Board of Zoning Appeals  
**FROM:** Nicole Dixon, CFM, *Senior Planner*  
**DATE:** June 4, 2013  
**SUBJECT:** Administrative Waivers

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The Board of Zoning Appeals (BZA) requested that staff keep them informed of administrative waivers that are granted by staff based on the provisions in Section 16-7-106 of the Land Management Ordinance (LMO). This memo will be distributed every month at the regular BZA meetings and will be discussed under staff reports on the agenda. Even if there have been no waivers for the month, a memo will be included in the packet to inform the BZA members of that.

The following language is contained in Section 16-7-106 Waiver by Administrator which gives the Administrator the power to grant waivers for existing nonconforming structures and site features.

“The Administrator may waive any provision of Article III or IV dealing with nonconforming structures and site features, respectively, upon a determination that:

- A. The proposed expansion, enlargement or extension does not encroach further into any required buffers or setbacks or increase the impervious area; and
- B. The proposed expansion, enlargement, or extension does not occupy a greater footprint than the existing nonconforming site feature or structure; and
- C. The proposed expansion, enlargement, or extension does not result in an increase in density greater than allowed per Sec. 16-4-1501, or the existing density, whichever is greater; and
- D. The applicant agrees to eliminate nonconformities or provide site enhancements that the Administrator determines are feasible in scope and brings the site into substantial conformance with the provisions of this Title (e.g. meeting buffer, impervious area and open space requirements); and
- E. The proposed expansion, enlargement or extension would not have a significant adverse impact on surrounding properties or the public health, safety and welfare; and
- F. If an applicant requests to relocate a nonconforming structure on the same site, they must bring the structure into conformance to the extent deemed practicable by the Administrator.”

The attached is a summary of the administrative waivers that have been granted by staff since the April Board of Zoning Appeals meeting.

## Administrative Waivers

### **April - 2013**

1. A project at 1 Gumtree Road (Kangaroo): the applicant requested to make improvements to an existing non-conforming parking lot (currently didn't meet parking design standards). A waiver was granted because the applicant was making improvements that were bringing the site more into compliance with the LMO. ***The project has since been withdrawn by the applicant.***
2. A project at 71 Mathews Drive (Kangaroo): the applicant requested to make improvements to an existing non-conforming parking lot (currently didn't meet parking design standards). A waiver was granted because the applicant was making improvements that were bringing the site more into compliance with the LMO. ***The project has since been withdrawn by the applicant.***