



The Town of Hilton Head Island

Regular Town Council Meeting

September 17, 2013

4:30 P.M.

AGENDA

As a Courtesy to Others Please Turn Off All Mobile Devices During
the Town Council Meeting

- 1) **Call to Order**
- 2) **Pledge to the Flag**
- 3) **Invocation**
- 4) **FOIA 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) **Proclamations and Commendations**
- 6) **Approval of Minutes**
 - a. Town Council Meeting– September 3, 2013
- 7) **Report of the Town Manager**
 - a. Island Entry Beautification Project Proposal
 - b. Presentation of the Certificate of Achievement for Excellence in Financial Reporting for the Fiscal Year ending June 30, 2012
 - c. Lemoyne Avenue – Public Meeting Results – Scott Liggett
 - d. Town Manager’s Items of Interest
 - e. August, 2013 Policy Agenda, Management Targets and CIP Updates
- 8) **Reports from Members of Council**
 - a. General Reports from Council
 - b. Report of the Intergovernmental Relations Committee – George Williams, Chairman
 - c. Report of the Personnel Committee – Lee Edwards, Chairman
 - d. Report of the Planning & Development Standards Committee – John McCann, Chairman
 - e. Report of the Public Facilities Committee – Kim Likins, Chairman
 - f. Report of the Public Safety Committee – Marc Grant, Chairman
 - g. Report of the LMO Rewrite Committee – Kim Likins, Ex-Officio Member
- 9) **Appearance by Citizens**

10) Unfinished Business

a. Second Reading of Proposed Ordinance 2013-15

Second Reading of Proposed Ordinance 2013-15 to amend the Municipal Code of the Town of Hilton Head Island by adding an exception for Public Safety personnel to be able to use electronic devices while operating a motor vehicle in the course and scope of their official duties, by amending Section 12-1-611 (c) of Chapter 1 of Title 12, Text Messaging; and providing for severability and an effective date.

b. Second Reading of Proposed Ordinance 2013-16

Second Reading of Proposed Ordinance 2013-16 of the Town Of Hilton Head Island, South Carolina establishing the rollforward millage required by Section 12-37-251, Code of Laws of South Carolina, 1976, As Amended; and providing for severability and an effective date.

11) New Business

a. Consideration of a Recommendation – Naming of Park

Consideration of a Recommendation that the Town Council of Hilton Head Island adopt an official name for the new park facility to be constructed at 133 Squire Pope Road with the name of the park to be as follows: **“Rowing and Sailing Center at Skull Creek Park.”**

b. Consideration of a Recommendation – Island Wide Beach Renourishment

Consideration of a Recommendation that the Town Council of the Town of Hilton Head Island direct placement of sand as part of our next Island-wide Beach Renourishment Project to occur along a limited reach of shoreline just north of South Beach, between Alder Lane (in South Forest Beach) and the Folly along our Atlantic Oceanfront shoreline and between the Port Royal Beach House and Tattnell Place along the Port Royal Sound-front shoreline.

c. Consideration of a Resolution – ZMA-130004 – Salty Fare

Consideration of a Resolution by the Town Council of the Town of Hilton Head Island denying the application for Zoning Map Amendment ZMA130004 which requests an amendment to Chapter 4 of Title 16, "The Land Management Ordinance" (LMO), of the Municipal Code of the Town of Hilton Head Island, South Carolina, by amending Section 16-4-102, the Official Zoning Map specifically amending the allowed uses on 4.6 acres identified as Parcels 127, 128 and 089a on Beaufort County Tax Map 3 to include water-oriented embarkation facilities and other water-oriented uses.

d. Consideration of a Resolution – ZMA130003 – Beach City Place

Consideration of a resolution by the Town Council of the Town of Hilton Head Island denying the application for Zoning Map Amendment ZMA130003 which requests an amendment to Chapter 4 of Title 16, "The Land Management Ordinance" (LMO), of the Municipal Code of the Town of Hilton Head Island, South Carolina, by amending Section 16-4-102, the Official Zoning Map specifically rezoning 8.56 acres identified as Parcels 8, 336 through 342, and 344 through 375 on Beaufort County Tax Map 5 from RM-4, Low Density Residential to RM-12 Moderate to High Density Residential.

12) Executive Session

- a.** Land Acquisition
- b.** Legal Matters
- c.** Contractual Matters

13) Adjournment

THE TOWN OF HILTON HEAD ISLAND
REGULAR TOWN COUNCIL MEETING

Date: Tuesday, September 3, 2013

Time: 4:00 P.M.

Present from Town Council: Drew A. Laughlin, *Mayor*; Bill Harkins, *Mayor Pro Tem*, George Williams, Kim Likins, Lee Edwards, Marc Grant, John McCann, *Council Members*

Present from Town Staff: Steve Riley, *Town Manager*; Greg DeLoach, *Assistant Town Manager*; Charles Cousins, *Director of Community Development*; Lavarn Lucas, *Fire Chief*; Scott Liggett, *Director of Public Projects and Facilities/Chief Engineer*; Susan Simmons, *Director of Finance*; Jill Foster, *Deputy Director of Community Development*; Brad Tadlock, *Deputy Fire Chief – Operations*; Nancy Gasen, *Director of Human Resources*; Tom Fultz, *Director of Administrative Services*; Brian Hulbert, *Staff Attorney*; Bret Martin, *Deputy Director of Finance*; Tom Dunn, *Emergency Management Coordinator*; John Valvo, *Systems Analyst*; Teri Lewis, *LMO Official*; Cinda Seamon, *Public Education Officer*; Vicki Pfannenschmidt, *Executive Assistant*

Present from Media: Tom Barton, *Island Packet*

1) CALL TO ORDER

Mayor Laughlin called the meeting to order at 4:00 p.m.

2) PLEDGE TO THE FLAG

3) INVOCATION

4) FOIA 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) Proclamations and Commendations

National Preparedness Month

Tom Dunn was present to accept the proclamation.

6) Approval of Minutes

a. Town Council Meeting– August 6, 2013

Mr. Harkins moved to approve. Mr. McCann seconded. The minutes of the August 6, 2013 Town Council meeting were approved by a vote of 5-0-1. (Mrs. Likins abstained) Mr. Edwards did not vote as he joined the meeting immediately after the vote.

7) Report of the Town Manager

a. Semi-Annual Report of the Planning Commission – Gail Quick, Chairman

Chairman Quick presented an activity report for the first six months of 2013.

b. Town Manager’s Items of Interest

Mr. Riley reported on some items of interest.

c. Proposed 2014 Town Council Meeting Dates

Mr. Harkins moved to approve. Mr. Williams seconded. The 2014 Town Council meeting dates were unanimously approved by a vote of 7-0.

8) Reports from Members of Council

a. General Reports from Council

Mr. McCann stated some of his constituents requested that the Welcome to Hilton Head Island sign which had been demolished from a vehicle accident near the airport not be reconstructed. After discussion, Council members concurred the sign was appropriate and wanted it reconstructed.

Mr. McCann requested the second reading for the burning ban be placed on the next agenda. He reminded Council that he was the one that suggested a study be done concerning recommendations on collection of yard debris before it came back before Council. Mr. McCann asked that Council go ahead and complete the second reading without the study completed. Mr. Grant stated he only supported the first reading with the stipulation that there would be recommendations concerning collection of yard debris and he felt it was necessary to be completed before the second reading. The Mayor noted it will take a time for staff to compile recommendations concerning the collection of yard debris. After discussion, Council concurred they should hold off on second reading until the study is complete.

b. Report of the Intergovernmental Relations Committee – George Williams, Chairman

No report.

c. Report of the Personnel Committee – Lee Edwards, Chairman

No report.

d. Report of the Planning & Development Standards Committee – John McCann, Chairman

Mr. McCann reported the Committee voted unanimously to oppose the staff recommendation concerning rezoning of Salty Fare and it will be coming forward at the September 17 Town Council meeting.

e. Report of the Public Facilities Committee – Kim Likins, Chairman

Mrs. Likins reported the Committee met earlier in the day and voted unanimously to approve the recommended Island Wide Beach Renourishment 2015 Proposal Project Limits and the Parks and Recreation Commission recommendation for the naming of the proposed Rowing and Sailing Center. She stated the items will be coming forward to Town Council.

f. Report of the Public Safety Committee – Marc Grant, Chairman

No report.

g. Report of the LMO Rewrite Committee – Kim Likins, Ex-Officio Member

Mrs. Likins stated the Committee continues to meet weekly and noted they actually had two meetings scheduled for the current week.

9) Appearance by Citizens

Mary Amonitti addressed Town Council with a tribute to Bill Ferguson.

10) Unfinished Business

a. Second Reading of Proposed Ordinance 2013-14

Second Reading of Proposed Ordinance 2013-14 to amend the Municipal Code of the Town of Hilton Head Island, South Carolina; to amend Chapter 1 (Beaches) of Title 8, Beaches, Waterways and Recreational Areas, Part A, General Beach Prohibitions, Section 8-1-211 (17), Unlawful Activities Enumerated; and providing for severability and an effective date.

Mr. Williams moved to approve. Mr. Harkins seconded. The motion was unanimously approved by a vote of 7-0

11) New Business

a. First Reading of Proposed Ordinance 2013-15

First Reading of Proposed Ordinance 2013-15 to amend the Municipal Code of the Town of Hilton Head Island by adding an exception for Public Safety personnel to be able to use electronic devices while operating a motor vehicle in the course and scope of their official duties, by amending Section 12-1-611 (c) of Chapter 1 of Title 12, Text Messaging; and providing for severability and an effective date.

Mr. Harkins moved to approve. Mrs. Likins seconded. The motion was unanimously approved by a vote of 7-0.

b. First Reading of Proposed Ordinance 2013-16

First Reading of Proposed Ordinance 2013-16 of the Town Of Hilton Head Island, South Carolina establishing the rollforward millage required by Section 12-37-251, Code of Laws of South Carolina, 1976, As Amended; and providing for severability and an effective date.

Mr. Harkins moved to approved. Mrs. Likins seconded. Mr. Riley explained the process noting that this was being done before the appeal process so the figures could change. Mr. Williams asked if the millage could be changed next year if there was a change. Mr. Riley stated that it is not clear whether that can be done. Mr. McCann expressed concern that even though the revenue remains the same, due to the reassessment some landowners could have an increase in taxes. The motion was approved by a vote of 6-1. (Mr. McCann opposed)

12) Executive Session

Mr. Riley stated he needed an Executive Session for contractual matters pertaining to land acquisition including requests to acquire town-owned land; and legal matters pertaining to the Republic Waste hauling contract.

At 4:45 p.m. Mr. Harkins moved to go into Executive Session for the reasons given by the Town Manager. Mr. Williams seconded. The motion was unanimously approved by a vote of 5-0.

Mayor Laughlin called the meeting back to order at 5:58 p.m. and stated there was no business as a result of the Executive Session.

13) Adjournment

Mr. Williams moved to adjourn. Mr. Edwards seconded. The meeting was adjourned at 5:59 p.m.

Vicki L. Pfannenschmidt
Executive Assistant

Approved:

Drew A. Laughlin, Mayor



Items of Interest

September 17, 2013

1. Town News



As you are aware, 2013 is an important year in the history of the Town and Hilton Head Island. Captain William Hilton sighted Hilton Head Island in 1663 and the Town of Hilton Head Island was incorporated in 1983. A committee of residents and organizations (headed by The Heritage Library) are collaborating to host a weeklong schedule of events to commemorate the 350th Anniversary of Hilton Head Island and the 30th Anniversary of the Town of Hilton Head Island. The 350/30 Celebration week is scheduled for September 30, 2013-October 5, 2013. The kickoff event will be September 30th with an open house at Town Hall beginning at 1:00 p.m.

The committee is organizing a week of events (September 30, 2013-October 5, 2013) to celebrate Hilton Head Island's 350th Birthday and the Town of Hilton Head Island's 30th Birthday. The 350/30 Celebration Week will culminate with a Community Birthday Party on Coligny Beach on Saturday, October 5, 2103 from 12:00 p.m.-6:00 p.m.

For the full schedule of events and details, go to www.celebrationhhi.org.

(Contact: Faidra Smith, Administration Manager/Public Information Coordinator, (843) 341-4640 or faidras@hiltonheadislandsc.gov)

The 2014 Accommodations Tax Grant Application is available on the Town's website at www.hiltonheadislandsc.gov The deadline for submitting an Application is Friday, September 20 at 4:00 pm.

(Contact: Erica Madhere, Finance Assistant – 341-4646)

On August 20th Town staff held a 3 hour class on analysis of the 2008 and 2011 National Electrical

Code changes. Close to 40 people attended, including electricians, engineers, and local electrical supply house representatives.

(Contact: Marc Torin, Special Projects Inspector -341-4661)

Deputy Chief Ed Boring was awarded the designation of Chief Fire Officer (CFO) recently by The Commission on Professional Credentialing. He is one of only 16 chief level officers in the state of South Carolina to hold this distinguished designation.

(Contact: Chief Lavarn Lucas – 682-5153)

Deputy Chief Ed Boring and Lieutenant Jason Walters have been placed on the South Carolina Division of Fire and Life Safety's South Carolina Emergency Response Search and Rescue Working Group. The goal of the group is to streamline and ensure the efficiency of State, regional, and local search and rescue resources and how those resources will interact both in state and with out of state resources. The group will work with the Firefighter Mobilization Committee as prescribed in Chapter 49 of the Firefighter Mobilization Act.

(Contact: Chief Lavarn Lucas – 682-5153)

2. Noteworthy Events

- a) Some of the upcoming meetings at Town Hall:
- Planning Commission – September 18, 2013, 3:00 p.m.
 - LMO Rewrite Committee – September 19, 2013, 8:30 a.m.
 - ATAX Application Deadline – September 20, 2013, 4:00 p.m.
 - Board of Zoning Appeals - September 23, 2013, 2:30 p.m.
 - Design Review Board – September 24, 2013, 1:15 p.m.
 - LMO Rewrite Committee – September 26, 2013, 8:30 a.m.
 - Public Projects and Facilities Committee Special Meeting – September 26, 2013, 2:00 p.m.
 - Public Projects and Facilities Committee – October 1, 2013, 2:00 p.m.
 - Town Council – October 1, 2013, 4:00 p.m.

(Meetings subject to change and/or cancellation. Please visit the Town of Hilton Head Island website at www.hiltonheadislandsc.gov for meeting agendas.

2013 Hilton Head Island Events

Wednesdays, thru October 30, 2013 9:00am-1:00pm	Farmers Market	Shelter Cove Community Park
Saturday, September 21, 2013	Italian Heritage Festival	Shelter Cove Community Park
Saturday, September 28, 2013 11am-5pm	Hilton Head Island Burgers and Brew Festival	Shelter Cove Community Park
Monday, September 30, 2013 1:00pm-4:00pm	Town Hall 30 th Anniversary Open House	Town Hall

2013 Policy Agenda

August, 2013

Top Priority

Target	Chief Contact	Comments
<ul style="list-style-type: none"> Economic Development Organization: Creation and Operation 	Shawn Colin	<p>The first meeting of the Economic Development Corporation (EDC) was August 27th. Next EDC meeting to be the third week in September where nominations and election of officers will take place. The report from the Economic Development Citizens Task Force will be presented shortly, and a strategic planning and a team building workshop is being planned.</p>
<ul style="list-style-type: none"> Coligny Area Development Projects: Direction and Funding 	Shawn Colin/ Jennifer Ray	<p>Public meeting was held to get input. Consultant developing plans showing three options which will be presented at a special PFC meeting on September 26.</p>
<ul style="list-style-type: none"> Arts Collaboration: Framework and Strategy for Fostering Collaboration among Arts Organizations 	Jill Foster	<p>Cultural Planning Group has been contracted to complete the project. Their first site visit was during the week of August 19th, where over 20 organizations and all of Town Council were interviewed. A survey is being developed and will</p>
<ul style="list-style-type: none"> Arts Center of Coastal Carolina: Short-Term Financial Direction 	Steve Riley	Ongoing.
<ul style="list-style-type: none"> Chaplin Linear Park and Boardwalk: Development and Permitting 	Jennifer Ray	<p>Public meeting was held to get input. Consultant currently developing plans.</p>

High Priority

Target	Chief Contact	Comments
<ul style="list-style-type: none"> LMO Modifications 	Teri Lewis	<p>The LMO Rewrite Committee is finishing up the last of its review of the draft LMO. The public adoption process is expected to start in late October/early November.</p>
<ul style="list-style-type: none"> Mainland Transportation Agreement: Dirt Road Policy Direction, Flyover Funding, and Future Town Acceptance of Private Roads Direction and Funding 	Scott Liggett	<p>Staff is completing a proposed draft policy for the acceptance of private roads. Review by Public Facilities Committee is targeted for November.</p>

**2013 Management Agenda
August, 2013**

Target	Chief Contact	Comments
<ul style="list-style-type: none"> Employee Compensation and Benefits: Review and Direction 	Greg DeLoach/ Nancy Gasen	Interviewing 3 firms.
<ul style="list-style-type: none"> Posting of Quarterly Financial Reports Online: Purpose, Method, and Funding 	Greg DeLoach/ Susan Simmons	The ability to do so is accomplished. They will be posted online monthly within the next month. We are working on a new design for July-Dec. when the Town has 2 fiscal years open. The preliminary FY13 and July (FY14) will be available by mid-September.
<ul style="list-style-type: none"> Beach Renourishment (2015): Scoping, Designing and Permitting 	Scott Liggett	Proposed project limits accepted and endorsed by the Public Facilities Committee on Sept 3, 2013. Town Council to review same on Sept 17, 2013.
<ul style="list-style-type: none"> Old Welcome Center Building: Direction 	Scott Liggett	Complete

**CIP Monthly Report
August, 2013**

Project	Chief Contact	Comments
<ol style="list-style-type: none"> Wm. Hilton Parkway / Leamington Intersection Improvements Honey Horn Access Improvements Fire Station #6 Mathews Drive Side Street Improvements Marshland Road / Mathews Drive Roundabout Rowing and Sailing Center Island Recreation Center Improvements – Phase 1 Hospital Center Blvd./ Main St. Intersection Improvements Pembroke Drive and Gardner Drive Pathways Lemoyne Avenue 	Scott Liggett	<ol style="list-style-type: none"> Request for Proposals Advertised – proposals due September 23, 2013. Construction start targeted for November. Contract awarded, targeted completion date October 2013 Construction on-going, targeted completion date June 2014. Project on hold Ready to bid, project on hold RFP for the pier and dock to be released by the end of September. RFP for upland park improvements to follow. Project Complete Project Complete IFB advertised – bids due 9-25-13, targeted construction start date by November Conceptual design complete - Public Meeting held in late August.

MEMORANDUM

TO: Town Council
FROM: Staff Attorney

Via: Stephen G. Riley, ICMA-CM, Town Manager
Gregory D. DeLoach, Esquire, Assistant Town Manager

RE: Second Reading of Proposed Ordinance Number 2013-15, Prohibiting the composition, reviewing, or sending of electronic messages while operating a motor vehicle in the Town of Hilton Head Island

DATE: September 4, 2013

No changes were made to Proposed Ordinance #2013-15 as a result of First Reading on September 3, 2013.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

PROPOSED ORDINANCE NO.: 2013-15

ORDINANCE NO.: 2013-

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND BY ADDING AN EXCEPTION FOR PUBLIC SAFETY PERSONNEL TO BE ABLE TO USE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE IN THE COURSE AND SCOPE OF THEIR OFFICIAL DUTIES, BY AMENDING SECTION 12-1-611 (C) OF CHAPTER 1 OF TITLE 12, TEXT MESSAGING; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Town Council has determined that it is in the best interests of the vehicle operators and other vehicles to prohibit the use of handheld electronic communication devices to compose, send, or review electronic messages while operating a motor vehicle within the Town; and

WHEREAS, Town Council finds that Public Safety personnel in the performance of their duties have a special need and requirement for using electronic devices to compose, review and send electronic messages in order to assist them in the protection of the health and safety of the residents and visitors of Hilton Head Island; and

WHEREAS, Town Council now desires to permit Public Safety personnel to use handheld electronic communication devices to compose, send, or review electronic messages while operating a motor vehicle in the performance of their official duties within the Town in the manner provided for in this ordinance.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS HEREBY ORDERED ORDAINED BY AND UNDER THE AUTHORITY OF THE SAID TOWN COUNCIL, AS FOLLOWS:

NOTE: **Underlined and bold-face typed** portions indicate additions to the Municipal Code. ~~Stricken~~ portions indicate deletions to the Municipal Code.

That Section 12-1-611 of Chapter 1 of Title 12 of the Municipal Code of the Town of Hilton Head Island, South Carolina, is hereby amended by adding Section 12-1-611 (c) 5:

Article 6. TEXT MESSAGING

“Section 12-1-611. Electronic Communications While Operating a Motor Vehicle.

(a) Definitions:

“Electronic communications device” means an electronic device used for the purpose of composing, reading, or sending an electronic message, but does not include a global positioning system or navigation system or a device that is physically or

electronically integrated into the motor vehicle.

“Electronic message” means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. “Electronic message” includes, but is not limited to, electronic mail, a text message, an instant message, or a command or request to access an internet site.

- (b) It shall be unlawful for a person to use an electronic communication device to compose, read, or send an electronic message while operating a motor vehicle on the streets and roads within the Town.
- (c) Exceptions. This section shall not apply to a person operating a motor vehicle while:
 - (1) off the traveled portion of a roadway;
 - (2) using an electronic communication device in a hands free, voice-activated, or voice-operated mode that allows the driver to review, prepare and transmit an electronic message without the use of either hand except to activate, deactivate, or initiate a feature or function;
 - (3) summoning medical or other emergency assistance; or
 - (4) using a citizens band radio, commercial two-way radio communication device, in-vehicle security, or amateur or ham radio device.
 - (5) **public safety personnel employed by a federal, state, county, or municipal organization who are utilizing an electronic communication device during the course and scope of their official duties.**
- (d) Penalty. A person who violates this section is guilty of misdemeanor distracted driving and, upon conviction, shall be fined one hundred dollars for a first offense, two hundred dollars for a second offense, and three hundred dollars for a third or subsequent offense. This fine is subject to all applicable court costs, assessments, and surcharges.

Section 2. Severability. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 3. Effective Date. Ordinance shall become effective upon adoption by the Town Council of the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS _____ DAY OF _____, 2013

**By: _____
Drew A. Laughlin, Mayor**

ATTEST:

**By: _____
Esther Coulson, Town Clerk**

**First Reading: _____
Second Reading: _____**

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____



MEMORANDUM

TO: Town Council

FROM: Stephen G. Riley, ICMA-CM, Town Manager

VIA: Susan M. Simmons, CPA, Director of Finance

DATE: September 9, 2013

RE: **Second Reading of Proposed Ordinance No. 2013-16**

There were no changes to Proposed Ordinance 2013-16 as a result of first reading held on September 3, 2013.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA ESTABLISHING THE ROLLFORWARD MILLAGE REQUIRED BY SECTION 12-37-251, CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance No. 2013-05 enacted by the Town Council (the “Town Council”) of the Town of Hilton Head Island, South Carolina (the “Town”) on June 18, 2013, millage rates were established for the Town’s General Fund, Debt Service Fund, and Capital Projects Fund; and

WHEREAS, pursuant to Section 12-43-217 of the Code of Laws of South Carolina, 1976, as amended (the “Code”), once every fifth year each county shall appraise and equalize those properties under its jurisdiction (“Reassessment”). Property valuation must be complete at the end of December of the fourth year and the county shall notify every taxpayer of any change in value or classification if the change is one thousand dollars or more. In the fifth year, the county or State shall implement the program and assess all property on the newly appraised values; and

WHEREAS, Beaufort County (the “County”) has undertaken Reassessment which will be implemented in tax year 2013; and

WHEREAS, the Town has been informed by the County as a result of Reassessment the value of one mill for tax year 2013 has decreased to \$840,326; and

WHEREAS, pursuant to 12-37-251(E) of the Code, the number of mills levied for each Reassessment Tax Year must be recalculated to ensure the calculation of the number of mills is revenue neutral; and

WHEREAS, pursuant to 12-37-251(E) of the Code, in order for the number of mills levied for tax year 2013 to be revenue neutral, the number of mills must be increased or “rolled forward;” and

WHEREAS, this Ordinance is being enacted in order to establish the rollforward millage rates for the Town’s General Fund, Debt Service Fund and Capital Projects Fund.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF THE SAID COUNCIL:

SECTION 1. Establishment of Millage Rates. The Town Council hereby establishes the following millage rates for each of the following funds for the fiscal year ending June 30, 2014:

General Fund	13.88
Debt Service Fund	6.14
Capital Projects Fund	<u>.81</u>
Total	<u>20.83</u>

PROPOSED ORDINANCE NO. 2013-16

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SECTION 2. Severability. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 3. Codification. This Ordinance shall be forthwith codified in the Code of Town Ordinances in the manner required by law.

SECTION 4. Effective Date. This Ordinance shall be effective upon its enactment by the Town Council of the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS ____ DAY OF _____, 2013.

Drew A. Laughlin, Mayor

ATTEST:

Esther Coulson, Town Clerk

First Reading: _____

Second Reading: _____

Approved as to form:

Gregory M. Alford, Town Attorney

Introduced by Council Member:



MEMORANDUM

TO: Steve Riley, Town Manager

FROM: Bryan McIlwee, Asst. Town Engineer/Storm Water Manager

VIA: Scott Liggett, Director of Public Projects and Facilities/Chief Engineer
Jeff Buckalew, Town Engineer

DATE: September 17, 2013

SUBJECT: Park Name Recommendation – New Facility at 133 Squire Pope Road

Recommendation:

Staff recommends Town Council adopt an official name for the new park facility to be constructed at 133 Squire Pope Road. On July 11, the Parks and Recreation Committee heard this item and voted to recommend the name of the park be as follows, “**Rowing and Sailing Center at Skull Creek Park.**” On September 3, the Public Facilities Committee took action to recommend the same name for approval by the full Town Council.

Summary:

A park’s name should be brief and concise, with the goal and intent of emphasizing the park’s function, location, physical features, or association with Hilton Head Island. This naming scheme is evident with the Town’s existing park names (see Exhibit A). After reaching out to the community and ensuring compliance with the Town’s LMO, staff presented park names to the Parks & Recreation Commission for approval. Other names considered by the Commission were:

- Skull Creek Community Park and Dock
- Skull Creek Park
- Squire Pope Community Park
- Fishing Co-op Park at Skull Creek

Subsequent to the Parks and Recreation Commission meeting of July 11, the Squire Pope/Stoney POA put forth two additional names for consideration. These names were discussed at the Public Facilities Committee meeting on September 3 and are as follows:

- Bryan-Walters Rowing and Sailing Community Park
- Squire Pope /Stoney Community Park/Rowing and Sailing Center

Background:

Town Council purchased land at 133 Squire Pope Road intended for the development of a neighborhood park and water access facility for the public. This site was formerly referred to as the Fishing Co-op site to reflect the prior use of the property. The property sits along the waters of Skull Creek and is currently called Skull Creek Access on the attached Town owned property map. Since the inception of this project, Town staff has had simply referred to it as the Rowing & Sailing Center.

The following criteria from the Town's LMO were followed when developing the staff recommendation for the park name:

16-3-1105.A.

No new street, vehicular access easement or development project name, or proposed modified name of an existing street, vehicular access easement or development, except phases of the same development project, shall duplicate, be phonetically similar to, or in any way be likely to be confused with an existing street, vehicular access easement or development name, in spite of the use of prefixes or suffixes.

16-3-1105.B.

It is desirable to use names which are simple, logical, easy to read and pronounce, and which are clear and brief. Use of frivolous or complicated words, or unconventional spellings in names shall not be approved.

16-3-1105.C

It is desirable to use names which have some association with Hilton Head Island and specifically with the immediate location of the road or place, such as reference to local history or physiographic features.

16-3-1105.H.

The proposed name of the development should in all respects emphasize the project's distinctive name rather than the name of the company or corporation that owns the development. This will reduce confusion on the location of separate developments owned by the same company or corporation.

MEMORANDUM

TO: Town Council

FROM: Scott Liggett /Director Public Projects & Facilities

VIA: Stephen G. Riley, ICMA- CM, Town Manager

DATE: September 4, 2013

RE: **Proposed scope – Island-wide Beach Renourishment Project (2015)**

Recommendation

The Public Facilities committee endorses and recommends to Town Council the direct placement of sand as part of our next Island-wide Beach Renourishment Project occur along a limited reach of shoreline just north of South Beach, between Alder Lane (in South Forest Beach) and the Folly along our Atlantic Oceanfront shoreline and between the Port Royal Beach House and Tattnall Place along the Port Royal Sound-front shoreline. Please see the attached memorandum from Olsen Associates.

Summary

The recommendation for the placement of sand is driven by need, considering collectively, three performance indicators:

- Beach Width
- Rate of Shoreline Recession
- Rate of Volumetric Sand Loss

The recommendations contained herein, come as a result current or expected narrow beach conditions and high rates of shoreline recession and volumetric sand loss which can be mitigated with the placement of sand. Conversely, areas falling outside the limits described above are the result of a lack of compelling current or expected conditions in one or more of the indicators through the expected design life of the project in question (7-10 years).

Background

The design of the upcoming beach renourishment project is underway. As has been the case with previous projects, the technical “need” for the proposed sand placement has been driven by the cumulative performance of the prior projects as evidenced in our semi-annual beach condition surveys, accompanying reports, while considering a reasonable use of the finite compatible sediments within our near-shore shoal features and budgetary constraints.

While we have continuously monitored 13 miles of our beachfront for the last 27 years, slightly more than half, just less than 8 miles has fallen within the limits of previous fill projects. This has resulted in the direct placement of sand essentially along the same oceanfront shoreline reach, three times. With the maturity of our Beach Management Program comes the ability to analyze

beach conditions using specific measurable performance indicators. One of the goals of our management techniques is to provide a “minimum beach condition” in order to maximize recreational opportunities, natural resource and habitat conditions and storm protection. However, no such quantitative standard has been adopted by the Town.

With the complementary use of these indicators, we can confirm, that as with past projects, the critical segment lies centrally along our open ocean shoreline; more or less between North Forest Beach and the Marriott Resort and Spa in Palmetto Dunes.

Similar to conditions in 2006, just north of the Folly, virtually all of the sand volume placed in 2006 remains. No material shoreline recession has occurred and this shoreline reach stands to benefit indirectly from sand placed along the Port Royal Plantation shoreline in early 2012. Thus, no sand is proposed for placement here.

Along Port Royal Sound, a portion of the reach that was restored in 1997 is proposed to be filled. This includes the portion of shoreline made part of our on-going Ocean Point Project.



PORT ROYAL SOUND

SKULL CREEK

MAY RIVER

CALIBOGUE SOUND

BROAD CREEK

ATLANTIC OCEAN



TOWN OF HILTON HEAD ISLAND
 ONE TOWN CENTER COURT
 HILTON HEAD ISLAND, S.C. 29928
 PHONE (843) 341-4600
 www.hiltonheadsc.gov

**Town of Hilton Head Island
 Beach Renourishment
 Proposed Fill Placement Areas**



The information on this map has been compiled from a variety of sources and is intended to be used only as a guide. It is provided without any warranty or representation as to the accuracy or completeness of the data shown. The Town of Hilton Head Island assumes no liability for its accuracy or state of completion or for any losses arising from the use of the map.

MEMORANDUM

Date: August 29, 2013

To: Scott P. Liggett, P.E.

From: Christopher G. Creed, P.E. 

Re: Town of Hilton Head Island
2014/15 Beach Renourishment Project
Initial Planning Observations and Recommendations



A preliminary review of existing beach conditions was conducted to identify the probable scope of the Town of Hilton Head Island's planned 2014/15 island-wide beach renourishment project. The review focused on three principal beach condition parameters. These are (1) beach width, (2) shoreline change rate, and (3) beach volume change rate. The assessment of beach width was based upon April 2013 conditions. The shoreline and volume change rate assessment considered changes that occurred to the island's beaches between April 2007 (post-2006/07 project) and April 2013. The results of this analysis are presented graphically on attached **Figure 1**. It is anticipated that fill placement will be necessary where the combined effect of narrow beach width, existing and future, and high shoreline change rates will contribute to problematic beach conditions prior to the end of the planned project life (i.e., 7-10 years following construction).

Five areas of the island have been identified to have relatively narrow existing beach widths. For the purposes of this evaluation, beach width is defined as the distance between the Town's Beachline¹ and the April 2013 mean high water shoreline. The benchmark for narrow here is a distance of 200 feet or less. Two hundred feet is not a defined management distance but rather a distance that is used in this evaluation so that a comparative assessment of relative shoreline conditions can be performed. The areas where the beach is narrow, as of April 2013, include (1) an area of the Calibogue Sound shoreline between the Lands End Groin and South Beach, (2) the Atlantic Ocean shoreline of southern and central Sea Pines, (3) North Forest beach, (4) Singleton Beach, and (5) a small portion of the Port Royal Sound shoreline at Ocean Point.

Three regional areas of the island shoreline have been identified to have high shoreline recession and beach volume erosion rates. For this evaluation, shoreline change rates greater than 5 ft/yr and beach volume loss rates greater than 5 cy/ft/yr are considered to be "high" and potentially problematic from a project performance perspective. Areas with high erosion rates include (1) a limited reach of shoreline immediately north of South Beach, (2) the reach of

¹¹ The Town's Beachline is the local regulatory line adopted by the Town in December 2006 and defines the seaward limit of development or allowable development.

shoreline generally between Alder Lane in South Forest Beach and the Folly, and (3) the central portion of the Port Royal Plantation shoreline, including the Heel shoreline.

Of particular interest is the coincidental occurrence of narrow beach conditions and high erosion rates. It is anticipated that beach conditions along areas with high erosion rates will continue to narrow. Sand placement will be required along those areas where the effects of the shoreline retreat and beach volume losses would reduce beach widths to problematic levels prior to the end of the anticipated project life (i.e., 7-10 years after construction). Areas where it is expected that continued shoreline change and sand loss rates could narrow beach widths to problematic levels prior to the end of the intended design life of the upcoming project include (1) the area just north of South Beach, (2) North Forest Beach, (3) Singleton Beach, and (4) portions of the Port Royal Plantation shoreline north of the Beach House.

Overall, narrow beach width conditions and the patterns of shoreline and beach volume change are generally consistent with historical conditions, with only a few exceptions. That is, there are areas of narrow beach conditions in southern Sea Pines, North Forest Beach, Singleton Beach and Port Royal Plantation. Higher erosion rates exist at an isolated area in the vicinity of South Beach, most of the central portion of the island, and in Port Royal Plantation. The area of shoreline between the Folly and the Heel, however, which has historically been narrow and erosional, is wide compared to historical conditions and has been generally stable to accretional since 2006. It is believed that the change in conditions along this reach of shoreline is due to the beneficial effects of sand losses from the adjacent shorelines to the north. This effect is anticipated to continue throughout the planned design life of the upcoming project.

It is recommended that sand placement during the upcoming project be considered for (1) those areas where there are higher shoreline and beach volume loss rates and (2) those areas where the loss rates would contribute to problematically narrow beach widths prior to the end of the planned 7-10 year design life of the upcoming project. Based upon the evaluation of April 2013 beach conditions and shoreline and beach volume change rates that have existed since completion of the 2006/06 island-wide beach project, sand placement during the next island-wide beach project is recommended for the following areas:

- (1) a limited reach of shoreline immediately north of South Beach
- (2) the area between Alder Lane and the Folly, and
- (3) portions of the Port Royal Plantation from just south of the terminal groin to Fish Haul Creek. Due to the rapid rate of change along this reach of shoreline, it may be necessary to adjust the scope of fill at this location immediately prior to construction.

Figure 2 depicts the approximate location and extent of these recommended sand placement areas.

Fill placement is not recommended where the beach is relatively wide and shoreline change rates are stable to accretional. In particular, it is not anticipated that sand fill will be necessary to increase beach widths or offset a long-term trend of erosion along (1) the Calibogue Sound shoreline, (2) the Atlantic Ocean shoreline along Sea Pines, (3) the reach of shoreline between the Folly and several thousand feet north of the Westin Hotel, and (4) the northern most area of the Port Royal Plantation Port Royal Sound shoreline. Areas that have received sand placement in the past but would not be included in the currently recommended project include the area between the Folly and just north of the Westin on the Atlantic Ocean shorefront and the northern Port Royal Plantation shoreline. Compared to historical conditions along these two areas, the beneficial effect of direct sand placement and the incidental effects of sand transport to these areas from adjacent shorelines have improved conditions such that additional sand placement is not presently needed to maintain desired conditions.

It is noted that these recommendations are based upon historical trends. Storms and large changes in the offshore shoal fields, especially at the northern and southern ends of the island, could alter shoreline change conditions in such a manner that the historical trends are not representative of future performance. Conditions will continue to be monitored between now and the time of construction. The town will be notified of any changes in these conditions and possible modifications to the necessary scope of the planned project that may be required to address such changes.

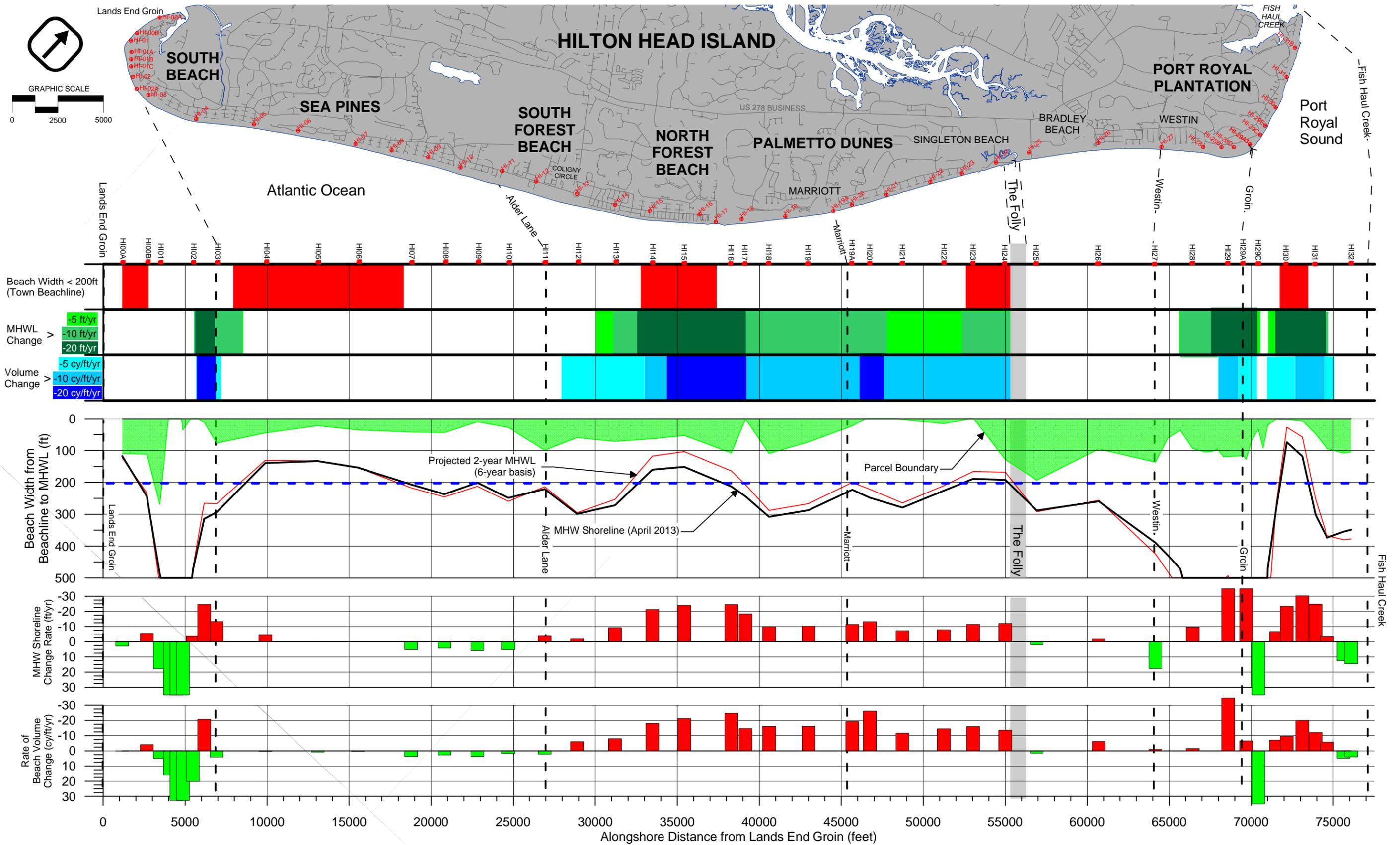


Figure 1: Beach width, rate of MHW shoreline change, and rate of beach volume change along the Hilton Head Island shoreline. Change rates are based on the period March 2007 to April 2013.

28 August 2013

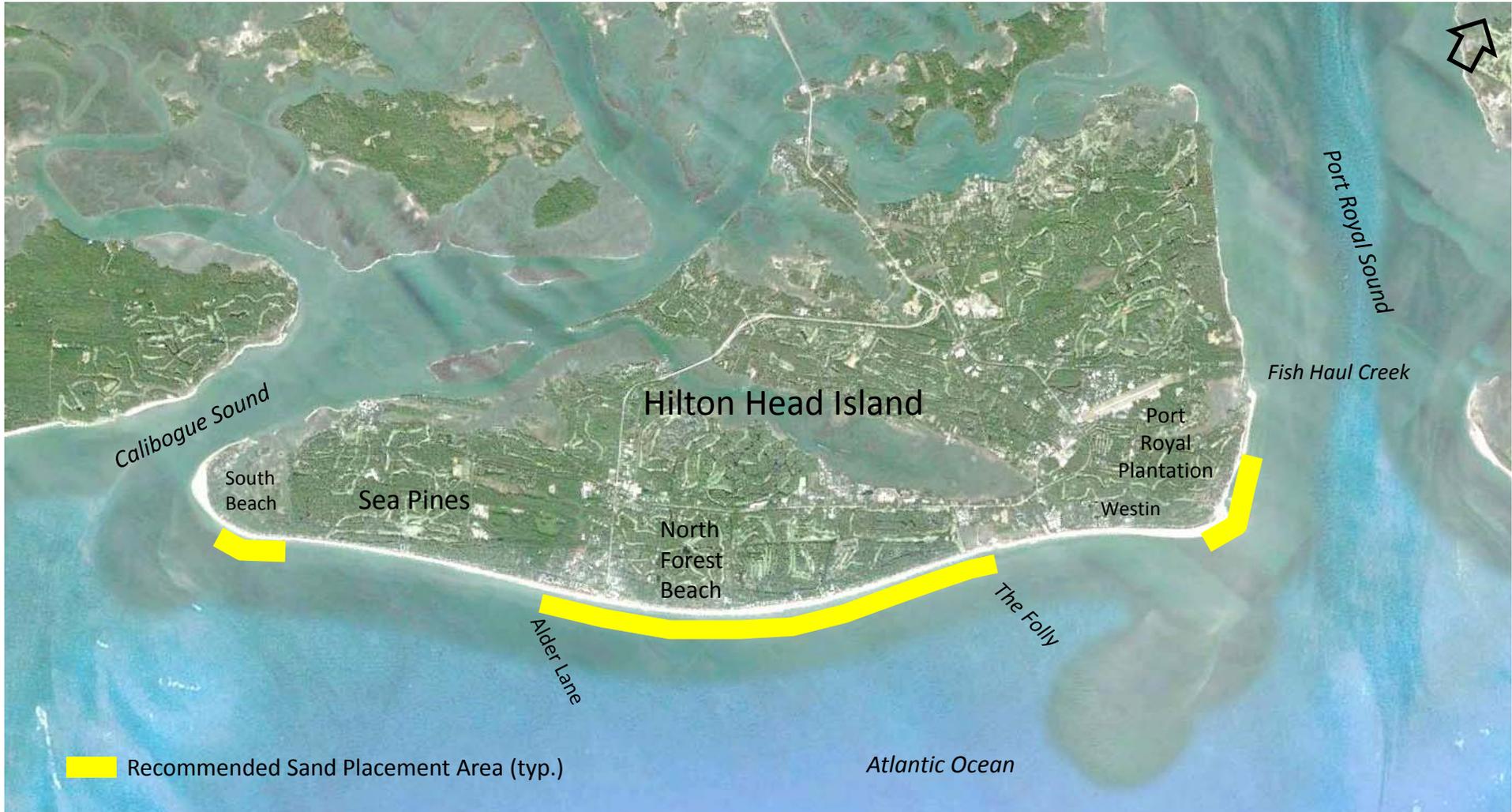


Figure 2: Approximate location and extent of recommended sand placement areas for the 2014/15 island-wide beach renourishment project based upon May 2013 conditions.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, CM, *Town Manager*
VIA: Teri B. Lewis, AICP, *LMO Official*
FROM: Anne Cyran, AICP, *Senior Planner*
CC: Charles Cousins, AICP, *Community Development Director*
DATE: September 5, 2013
SUBJECT: ZMA130004 – Salty Fare

Recommendation: The Planning and Development Standards Committee met on August 28, 2013 to review the attached application for Zoning Map Amendment (ZMA130004) and after a public meeting, voted 3-0-0 to forward the application to Town Council with a recommendation of denial, finding that the application is inconsistent with the Comprehensive Plan and does not serve to carry out the purposes of the Land Management Ordinance.

The Planning Commission met on June 19, 2013 and on August 7, 2013 to review the application and after a public hearing, voted 6-1-0 to forward the application to Town Council with a recommendation of approval, finding that the application is consistent with the Comprehensive Plan and serves to carry out the purposes of the Land Management Ordinance.

Staff recommends Town Council approve the application, finding that it is consistent with the Comprehensive Plan and serves to carry out the purposes of the Land Management Ordinance.

Summary: A request from Noreen McMullin on behalf of Stewart Kittredge Collins proposing to amend the Official Zoning Map, specifically the Hilton Head Plantation Master Plan, by amending the allowed uses of the property located at 421, 425 and 427 Squire Pope Road to include Water-Oriented Embarkation Facilities. The properties are further identified on Beaufort County Tax Map 3, as Parcels 127, 128 and 89A.

Background: Salty Fare serves as an embarkation point for Daufuskie Island ferries. The proposed use is currently occurring on the site, but it is considered legally non-conforming. If this application is approved, this legally non-conforming use will become a conforming use.

The application originally included Watercraft Rental and Other Water-Oriented Uses as additional proposed uses. The property owner withdrew the Watercraft Rental use from the application after the June 19, 2013 Planning Commission public hearing. He withdrew Other Water-Oriented Uses from the application after the Planning & Development Standards Committee meeting.

A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND DENYING THE APPLICATION FOR ZONING MAP AMENDMENT ZMA130004 WHICH REQUESTS AN AMENDMENT TO CHAPTER 4 OF TITLE 16, "THE LAND MANAGEMENT ORDINANCE" (LMO), OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, BY AMENDING SECTION 16-4-102, THE OFFICIAL ZONING MAP SPECIFICALLY AMENDING THE ALLOWED USES ON 4.6 ACRES IDENTIFIED AS PARCELS 127, 128 AND 089A ON BEAUFORT COUNTY TAX MAP 3 TO INCLUDE WATER-ORIENTED EMBARKATION FACILITIES AND OTHER WATER-ORIENTED USES.

WHEREAS, on July 21, 1998, the Town Council did amend Title 16 of the Municipal Code of the Town of Hilton Head Island by enacting a revised Land Management Ordinance ("LMO"); and

WHEREAS, the Planning Commission held public hearings on said zoning map amendment application on June 19, 2013 and on August 7, 2013, at which time presentations were made by staff and opportunities were given for the public to comment on the rezoning request; and

WHEREAS, the Planning Commission, after consideration of the staff report, public comments, and the criteria set forth in Section 16-3-1505 of the LMO, voted 6-1-0 to recommend to Town Council that the rezoning request be approved, finding that the application is consistent with the Comprehensive Plan and serves to carry out the purposes of the Land Management Ordinance; and

WHEREAS, the Planning and Development Standards Committee held a public meeting on August 28, 2013 to review said zoning map amendment application, at which time a presentation was made by staff and an opportunity was given for the public to comment on the rezoning request; and

WHEREAS, the Planning and Development Standards Committee, after consideration of the staff report, public comments, and the criteria set forth in Section 16-3-1505 of the LMO, voted 3-0-0 to recommend to Town Council that the rezoning request be denied, finding that the application is inconsistent with the Comprehensive Plan and does not serve to carry out the purposes of the Land Management Ordinance; and

WHEREAS, after due consideration of said zoning map amendment application and the recommendations of the Planning Commission and the Planning and Development Standards Committee, the Town Council, upon further review, now finds that the requested zoning map amendment does not meet the criteria as set forth in Section 16-3-1505 of the LMO.

NOW, THEREFORE, BE IT, AND HEREBY IT IS, RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, THAT THE TOWN COUNCIL HEREBY DENIES APPLICATION FOR REZONING ZMA130004.

MOVED, APPROVED, AND ADOPTED ON THIS _____ DAY OF _____, 2013.

Drew A. Laughlin, Mayor

ATTEST:

Esther Coulson, Town Clerk

Approved as to form:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____



TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court	Hilton Head Island, SC 29928	843-341-4757	FAX 843-842-8908
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STAFF REPORT ZONING MAP AMENDMENT

Application Number	Name of Project	Public Hearing Date
ZMA130004	Salty Fare	June 19, 2013

Parcel Data	Owner	Applicant
<u>Parcel IDs</u> Beaufort County Tax Map 3 Parcels 127, 128 and 089A (Salty Fare Waterfront Parcels) <u>Parcel Addresses</u> 421, 425 and 427 Squire Pope Road <u>Total Size</u> 4.6 acres	Stewart Kittredge Collins 3374 Jackson Street San Francisco, CA 94118	Noreen McMullin Property Manager, Salty Fare 421 Squire Pope Road Hilton Head Island, SC 29926

Existing	Proposed
<u>Zoning District</u> PD-1, Hilton Head Plantation <u>Applicable Overlay District(s)</u> COR (Corridor Overlay District) <u>Maximum Allowed Density</u> 10,283 square feet <u>Maximum Allowed Height</u> 75 feet <u>By Right Uses</u> <ul style="list-style-type: none"> • Commercial Uses in LMO Sec. 16-4-1204, except those uses listed in LMO Sec. 16-4-209.E 	<u>Zoning District</u> PD-1, Hilton Head Plantation <u>Applicable Overlay District(s)</u> COR (Corridor Overlay District) <u>Maximum Allowed Density</u> 10,283 square feet <u>Maximum Allowed Height</u> 75 feet <u>By Right Uses</u> <ul style="list-style-type: none"> • Commercial Uses in LMO Sec. 16-4-1204, except those uses listed in LMO Sec. 16-4-209.E • Water-Oriented Embarkation Facility

<p><u>Legally Non-Conforming Uses</u></p> <ul style="list-style-type: none"> • Water-Oriented Embarkation Facility • Watercraft Rental • Other Water-Oriented Uses 	<ul style="list-style-type: none"> • Watercraft Rental • Other Water-Oriented Uses
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Application Summary

This application is a request from Noreen McMullin, the property manager, on behalf of Stewart Kittredge Collins, the property owner, to amend the Official Zoning Map by amending the uses allowed by right on three parcels located at 421, 425 and 427 Squire Pope Road, collectively known as the Salty Fare waterfront parcels. The parcels are further identified on Beaufort County Tax Map 3 as Parcels 127, 128 and 089A.

Mr. Collins proposes to amend the list of by right uses to include Water-Oriented Embarkation Facilities, Watercraft Rentals and Other Water-Oriented Uses. Allowing Water-Oriented Embarkation Facilities would allow ferries and other watercraft to provide transportation services. Allowing Watercraft Rentals on these parcels would allow the rental of motorized and non-motorized watercraft. Allowing Other Water-Oriented Uses on these parcels would allow boat tours, charter trips, parasail tours and other similar activities to be offered.

The Salty Fare waterfront parcels are located in the PD-1 (Planned Unit Development) Zoning District in Hilton Head Plantation, and the request proposes to maintain the PD-1 zoning classification. This application does not propose to change the total permitted density, 10,283 square feet, for these parcels. This application does not propose to change the maximum allowed height, 75 feet, of structures on these parcels.

Staff Recommendation

Staff recommends that the Planning Commission find this application to be consistent with the Town’s Comprehensive Plan and serves 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

Salty Fare serves as an embarkation point for Daufuskie Island ferries and private chartered tours and provides office and retail space for a variety of businesses. Mr. Collins purchased the parcels in 2007 from the Bloody Point Group. In April 2013, Mr. Collins discussed with Town staff increasing the number of uses permitted on the waterfront parcels to allow a wider range of water-oriented services. He submitted this application in early May 2013.

The uses allowed on these parcels are all Commercial Uses measured in square feet listed in LMO Sec. 16-4-1204, Use Table, except for those uses listed in LMO Sec. 16-4-209.E. The current uses operating on site are offices, an art gallery, ferry service, kayak and paddleboard rentals, charter fishing, boat tours and jet ski rental.

The proposed uses are all currently occurring on the site, but they are considered legally non-conforming. A water-oriented embarkation facility has operated on the site since 1988. More recently a business license was issued in error to allow a business to operate boat tours and offer jet ski rentals.

If this application is approved, all legally non-conforming uses on the site will become conforming uses. Aside from bringing the site into compliance with the Land Management Ordinance, this change will allow multiple businesses to obtain licenses to offer Watercraft Rental and Other Water-Oriented Uses. Currently only one business has a business license to offer Watercraft Rental and Other Water-Oriented Uses.

Summary of Facts and Conclusions of Law

Findings of Fact:

1. Notice of the Application was published in the Island Packet on May 12, 2013 as set forth in LMO (Land Management Ordinance) Sections 16-3-110 and 16-3-111.
2. Notice of the Application was posted and mailed as set forth in LMO Sections 16-3-110 and 16-3-111.
3. A public hearing will be held on June 19, 2013 as set forth in LMO Section 16-3-1504A.
4. The Commission has authority to render their decision reached here in LMO Section 16-3-1504.

Conclusion of Law:

1. The application, notice requirements, and public hearing comply with the legal requirements as set forth in LMO Sections 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 Fact:

The Comprehensive Plan addresses this application in the following areas:

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.

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 8.3 –Planned Unit Developments (PUDs)

- A. The goal is to provide flexibility for the PUDs as future policies, regulations and requirements are adopted Town-wide.
- B. The goal is to have 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 PUD Master Plans.

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 8.10 – 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 8.3– Planned Unit Developments (PUDs)

- A. Consider flexibility within the PUDs to address appropriate commercial or service land uses in areas with a high residential concentration.

Conclusions of Law:

1. Staff concludes that this application is consistent with the Comprehensive Plan, as described in the Land Use Element as set forth in LMO Section 16-3-1505A.
2. 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.
3. The proposed rezoning will help to improve the marketability of the properties and meet current market demands by permitting additional uses that are common in this vicinity.

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 Fact:

1. Nearby parcels are zoned in the PD-1 Zoning District (Hilton Head Plantation), the WMU (Waterfront Mixed Use) Zoning District and the RM-4 Zoning District.
2. The conforming uses on nearby parcels include: Watercraft Sales and Service; Other-Water Oriented Uses; Eating Establishments with Seating (Low Turnover); Resort Accommodations; Single Family Residential; Multifamily Residential; a Government Facility (Fire Station); and a Manufactured Housing Park.
3. Code enforcement staff has not received any recent complaints or negative feedback regarding the other-water oriented uses on nearby parcels.
4. Code enforcement staff has not received any recent complaints or negative feedback regarding the ferry operations at the subject parcels.

5. Staff has received several objections to the proposed rezoning, particularly the possibility of jet-ski and high-powered boats disturbing the peace and lowering the value of neighboring residences.
6. The owner has not proposed new development for these parcels. Any future development will require approval by the Town's Design Review Board (DRB).

Conclusions of Law:

1. Staff concludes that the proposed uses are compatible with the present zoning and conforming uses of nearby property and with the character of the neighborhood as set forth in LMO Section 16-3-1505B.
2. The subject parcel will remain in the PD-1 Zoning District, which is compatible with the neighboring properties in the PD-1 Zoning District.
3. A Water-Oriented Embarkation Facility and Other Water-Oriented Uses have operated on or near the subject parcels with no apparent conflicts with the neighboring parcels.
4. Though staff has received objections to the possibility of businesses renting jet-skis and high-powered boats, these and other watercraft already use Skull Creek with seemingly little detriment to the peace of or values of adjacent residential properties.
5. The Town's Design Review Board will ensure any future development's site design, architecture and landscaping will be compatible with the character of the neighborhood.

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 Fact:

1. The greatest number of parking spaces required for any proposed use on the subject parcels would be 103 parking spaces.
2. The subject parcels contain 150 parking spaces and 208 additional spaces are available on the parcel across Squire Pope Road.
3. The site has existing infrastructure and facilities – docks and restrooms – to operate as an embarkation facility and to support Watercraft Rental and Other Water-Oriented Uses.
4. The site has operated a Water-Oriented Embarkation Facility since 1988.
5. The site has been used for Watercraft Rental and Other Water-Oriented Uses since early 2012.

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 the subject parcels can support the proposed uses and have supported one of the proposed uses.

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 Fact:

1. The conforming uses on the subject parcels are the Commercial Uses measured in square feet in LMO Sec. 16-4-1204 except for those uses listed in LMO Sec. 16-4-209.E.

2. The subject parcels have water, sewer and stormwater facilities.
3. The greatest number of parking spaces required for any conforming use on the subject parcels would be 103 parking spaces.
4. The subject parcels contain 150 parking spaces and 208 additional spaces are available on the parcel across Squire Pope Road.

Conclusion of Law:

Staff concludes that the subject parcels are suitable for the uses currently permitted in the PD-1 Zoning District as set forth in LMO Section 16-3-1505D because the subject parcels can support a number of commercial 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):

Finding of Fact:

1. This amendment would increase the number of by right uses allowed on the subject parcels.
2. This amendment would bring the parcels into greater compliance with the LMO.

Conclusions of Law:

1. Staff concludes that the marketability of the parcels could be improved as set forth in LMO Section 16-3-1505E.
2. The fact that the existing uses would become conforming and that the number of by right uses allowed on the property would be increased could result in added value for the property.

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):

Findings of Fact:

1. The subject parcels have adequate water and sewer service and stormwater facilities.
2. The proposed change in uses permitted on the parcel would not change the water and sewer capacity or the stormwater facilities of the parcels.
3. If the parcels were redeveloped, a letter from the Hilton Head Island Public Service District confirming their ability to meet the water and sewer demands of the development would be required as part of the Development Plan Review (DPR) application.
4. If the parcels were redeveloped, the Town's engineering staff would confirm as part of the DPR application that the site would be able to meet the LMO's stormwater performance standards.

Conclusion of Law:

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

LMO Official 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:

AC

Anne Cyran, AICP
Senior Planner

July 17, 2013

DATE

REVIEWED BY:

TBL

Teri B. Lewis, AICP
LMO Official

July 17, 2013

DATE

REVIEWED BY:

JL

Jayme Lopko, AICP
Senior Planner & Planning Commission Board Coordinator

July 17, 2013

DATE

Attachments:

- A) Aerial Photo – Vicinity
- B) Aerial Photo – Salty Fare
- C) Applicant’s Narrative
- D) Public Comments
- E) Letter from Stewart Kittredge Collins



Skull Creek
Boathouse
Restaurant

Salty Fare
Waterfront

Hilton Head
Boathouse

Bay Club

Salty Fare
Parking

Fire Station






Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928
(843) 341-6000

Town of Hilton Head Island
ZMA130004 Salty Fare Rezoning
Staff Report Attachment B: Aerial Photo - Salty Fare



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.

ZMA130004 Salty Fare
Staff Report Attachment C: Applicant's Narrative

Stewart K. Collins

3374 Jackson Street
San Francisco, CA. 94118
T (415) 567-0062
Kitredge@gmail.com

May 2, 2013

Jaime Lopko
Senior Planner
Town of Hilton Head
Hilton Head, SC

Dear Ms. Lopko

Re: Narrative for application to amend the Hilton Head Master Plan for Salty Fare

This is a request to amend the Hilton Head Plantation Master Plan to allow three additional uses on the dock and waterfront parcels of the property known as Salty Fare (R510 003 000 089A). Currently, the embarkation use is allowed under "legally non-conforming status." The proposed zoning amendment would change this use to "legally conforming embarkation" and add "Watercraft rental," and "Other Water Oriented Uses."

Salty Fare is located on Squire Pope Road between Hilton Head Plantation and the Hilton Head Boathouse. The property is bisected by Squire Pope Road into two parcels. The waterfront parcel (parcel 11) is 4.59 acres. The rear parcel (parcel 12) is 5.56 acres. Salty Fare improvements include an 10,000 sq. ft. commercial building, a warehouse (2600 Sq. ft.), and 325 parking spaces. The dock is a commercial grade docking facility with a fixed pier head attached to parcel 11 with three floating docks. The recently renovated floating docks have a combined area of 4200 square feet and 270 linear feet. It is the waterfront parcel is the subject of this zoning amendment.

Property History

Salty Fare was originally developed by the Melrose Company, to be used as the embarkation facility to and from its development on Daufuskie Island. In 1987, the current planning manager, Mr. Thomas Brechko, confirmed that the Salty Fare site could be used as an embarkation facility even though an embarkation facility was not an approved use for those parcels within the Hilton Head Plantation Master Plan (see the attached letter). Therefore, the embarkation facility is considered a "legally non-conforming" use. The letter also states that any proposed change in the use of the docking facility would require "re-evaluation", which is why a Zoning Map Amendment is now requested.

When Melrose Co. sold its development on Daufuskie Island, Salty Fare was included in the transaction and has been apart of every subsequent sale of the Melrose properties until The Collins Trust purchased Salty Fare from Daufuskie Island Properties (DIP) in 2007. Salty fare was leased back to DIP until the DIP bankruptcy in 2009. Since the bankruptcy proceedings, space in the commercial building has been leased for office use and the docks have been used by various transportation concerns engaged in transporting passengers to Daufuskie Island. However, given the uncertainty surrounding the future commercial uses on Daufuskie Island there has been limited demand for the only allowed use of the

ZMA130004 Salty Fare
Staff Report Attachment C: Applicant's Narrative

embarkation facilities at Salty Fare. Amending the PUD to allow Water-Oriented Uses and Watercraft Rental is critical to the economic viability of the Salty Fare property.

Proposed Additional Uses:

Embarkation: Salty Fare was established as a private embarkation venue to service the Melrose resort on Daufuskie Island exclusively. Salty fare is no longer part of the resorts and businesses on Daufuskie. Because of the ample parking availability, it is uniquely positioned to be an important embarkation facility to multiple destinations from Savannah to Beaufort.

Water Oriented Use: To provide the business opportunity for water mode ecotourism, environmental education, and recreational tours such as sunset cruises, dauphin watching, ecology expeditions, parasailing, windsurfing, kayaking, banana boat rides, etc.

Watercraft Rentals: To respond to the demand from residents and visitors for kayak, paddle board, jet skis, and boat rentals in order to participate in water recreational activities along Skull Creek.

Hilton Head Review Criteria (LMO Section 16-3-1505)

A. Consistency with the Comprehensive Plan. The proposed uses are consistent with the following goals and objectives of the Hilton Head Comprehensive Plan

- 1) The Natural Resources section (3.4) identifies ecotourism as "a growing industry and provides an excellent source of public access, education, and recreation. Ecotours are often water based with patrons using kayaks, under guidelines of experienced personnel." Section 3.4 addresses environmental education, defining it "as the process of recognizing values and clarifying those concepts in order to develop skills and attitudes necessary to understand and appreciate the interrelatedness of humans, their culture, and their biophysical surroundings." The comprehensive plan states that "the Town should take a leadership position to provide enhanced environmental learning opportunities." It is a goal of the plan to encourage property owners to become "wildlife friendly" through environmental education.
- 2) The Land Use Section addresses zoning modifications and non conforming uses (8.8) with goals to evaluate the locations of non conforming uses to determine areas to consider for zoning map amendments; and to provide appropriate modifications to the zoning designation to meet current market demands.
- 3) The Transportation Section goal (9.7) is "to integrate a marine based transportation option into the transportation network that has the potential to serve town residents, visitors, and employees." The implementation strategy for this goal asks for a.) efforts to expand marine transportation that reduces vehicular trips on Island roads or increases revenue through expanded tourism and b.) "to support the coordination of regional partners to assess potential water-borne transportation to serve areas from Beaufort to Savannah."

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

The Salty Fare water parcel is sandwiched between the **Hilton Head Boat Works**, a marina and boat warehouse, zoned water front multi-use (WMU); and, **The Cypress at Hilton Head Plantation PUD**, a retirement community within the PUD. **The Skull Creek Marina** is also located within the Hilton Head Plantation PUD. The Boat Works Marina enjoys water oriented use through the WMU zoning. It leases boat slips to businesses that operate water charter excursions for fishing and tours but does not rent water craft. Skull Creek is classified a marina that does not rent water craft or engage in "water oriented uses."

ZMA130004 Salty Fare
Staff Report Attachment C: Applicant's Narrative

Although neither marina is designated for embarkation use Salty Fare is compatible and complimentary with the water recreational opportunities of the Boat Works and Skull Creek Marina.

Hilton Head Plantation's Cypress is the immediate neighbor to the east of Salty Fare and like Salty Fare is part of the Hilton Head PUD.

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

This application does not request a zoning change. It is a request to allow three additional uses from the Salty Fare docks and water front. Salty Fare is an ideal venue for expanded water front activities from the newly repaired docks given the existing commercial infrastructure, abundant parking, and close proximity to the fire station and paramedic care.

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.

This application does not request a zoning change. Salty Fare has been a legally non conforming embarkation dock since 1987. This amendment requests three additional uses on the existing docks and along the water front. Salty Fare is an ideal venue for expanded recreational uses.

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.

Salty Fare is a commercial property, designed for embarkation use to and from Daufuskie Island. Due to the economic situation on Daufuskie Island there has been limited demand for embarkation and the parking lots are underutilized. I am requesting that The Town of Hilton Head recognize that the current limitations of uses allowed is an economic hardship affecting the value, vitality, and marketability of Salty Fare. There is however ample demand by small water oriented businesses to provide recreational and education activities from the dock facilities. If additional uses are approved, businesses and jobs will be created and the marketability will improve.

F. Availability of sewer, water, and storm water facilities generally suitable for the proposed uses.

Salty Fare is a fully developed commercial property with existing sewer, water, and storm facilities that will support the requested uses without infrastructure improvements.

Sincerely,

Stewart Collins

THE BRANTS

29 Outerbridge Circle
Hilton Head Island, SC 29926

843.681.5973

May 26, 2013

Hilton Head Town Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

Re: June 19th Town Planning Commission Public Hearing

Dear Commission and Council Members:

We are writing in response to a notice we received about the Public Hearing scheduled for June 19th regarding potential rezoning of property located at 421, 425, and 427 Squire Pope Road, also known as the Salty Fare property.

The allowed uses for the property are proposed to be amended to add:

Water-Oriented Embarkation Facilities
Watercraft Rentals
Other Water-Oriented uses.

We recognize there has been a facility for embarkation activities in the past. We understand the proposed new uses could include:

Dolphin Tours	Kayak Rentals	Parasail Flights
Jet Ski Rentals	Power Boat Rentals	Banana Boats

Except for the Embarkation activities which have been previously allowed, we hope that you will agree the other watercraft uses are not in the best interest of the residents of Hilton Head Plantation, most especially The Cypress Bay Club, which abuts the Salty Fare property.

We have lived in the Plantation for many years, moving to The Bay Club a couple of years ago; it has been a quiet, respectable neighborhood without loud, raucous distractions. We believe our peaceful, family-oriented community would be negatively impacted should the rezoning be approved. Hilton Head Plantation, The Cypress, and The Bay Club in particular, all have had the reputation of top-notch residential communities and we hope you will support us and not allow that reputation to be tarnished or diminished by the expanded water uses that are proposed.

Thank you very much for your consideration; we would appreciate your support!

Sincerely,

William A. Brant

Karen H. Brant

Cc: James Coleman
William Harkins
Peter Kristian
Drew Laughlin
Hilton Head Plantation Board of Directors

ZMA130004 Salty Fare
Staff Report Attachment D: Public Comments

It seems terribly wrong to subject a quiet residential neighborhood adjacent to the Salty Fare property to the activity of commercial water craft with out being more specific about the type and use of the watercraft which would be legal. As now proposed the activity at Salty Fare would be inappropriate for Hilton Head Plantation and for the upscale atmosphere which the Island has preserved. Sally & Austin Brown

ZMA130004 Salty Fare
Staff Report Attachment D: Public Comments

As an eight year resident of the Bay Club, I am very concerned about the proposed usage of Salty Fare. I can well understand that the owner of this property would like to receive adequate revenue from his investment.

What concerns me is the possibility of having motor boats and jet skis. I also think there should be a curfew concerning the water sports, and any parties, dances, etc.

We all bought these homes in what was then and is now a peaceful, quiet area in which to live, and we do not want this tranquility taken away from us. I ask that you consider this request when making your decision.

Respectfully yours,
Dorothy B. Cowles
35 Outerbridge circle
Hilton Head Island, SC 29926

Please make sure the following note is given to the Planning Commission and Board:

I am writing to express my deep concern for the following activities that would ruin the peace and quiet that make our area special: Jet skis and power boat rentals.

We don't want another Myrtle Beach here on Hilton Head.

Sincerely,

Louise DeWalt
99 Bird Song Way, D310
Hilton Head, SC 29926

Copies distributed to
Town Council Members
6/7/13
LWB

RECEIVED

JUN 07 2013

James B. Field, M.D.

~~50 Stoney Creek Road~~ 4 Hadley Lane

Hilton Head Island, South Carolina 29928 29926

BY: _____

Dear Commission and Council Members

June 4, 2013

We are writing you in regard to the June 19th Public Hearing of the Town Planning Commission related to the rezoning application of the Salty Fare Property.

We are residents of the Cypress Bay Club and are quite concerned that amending the zoning to permit jet skis and Power boat rentals and Parasail Flights would have an extremely adverse effect on our neighborhood. Prior to moving from Sea Pine Plantation to the Cypress Bay Club, we carefully considered the Seabrook, Tide Point and the Cypress Bay Club. We chose the Cypress Bay Club because of its reputation as a mature, quiet, peaceful residential community in Hilton Head Plantation. This reputation would be seriously challenged if the proposed rezoning of the Salty Fare Property would be approved. While we recognize that in the past water oriented embarkation facilities were approved, the noise, disturbance and increased traffic related to the proposed additional activities would certainly not be in the best interests of the Cypress Bay Club and Hilton Head Plantation.

Thank you for your consideration and hope that you will support our position.

Sincerely yours,

James B. Field

Dorothy S. Field

To: Town Council Members and Town Planning Commission Members

We are greatly concerned about the request for zoning at Salty Fare.

We came to the Cypress as our retirement home. It is now a quiet peaceful community, however, the proposed use of this property will cause a lot of noise and turn the area into a waterfront park. This type of operation needs to be in an area where there are other tourist amenities and not near a residential area.

We also feel that there is a safety issue. There is so much traffic at the Cypress Gate and adding more traffic could be a hazard.

Thank you for your consideration in this matter.

Marian Green

25 Outerbridge Circle
Hilton Head Island, SC

843-815-6765

msghhigreen@aol.com

ZMA130004 Salty Fare
Staff Report Attachment D: Public Comments

Mr. and Mrs. William B. Heberton
47 Outerbridge Cir.
Hilton Head Island
S.C. 29926

Hilton Head Island Town Planning Commission
One Town Center Court
Hilton Head Island, SC. 29928

Commission Members and Town Council

We are pleased to see some activity for use of the Salty Fare property. The application of "On the Water Hilton Head" for use of this sight is welcomed; however the requested uses are very general and open up several issues of safety and noise from some of the water borne vehicles suggested.

In view of the homes and other docking facilities along this narrow stretch of water way, it seems appropriate that some limitations be placed on the use of jet skis, banana boats and paddle boards which when operating in this area could endanger not only the users, particularly if they were novices, but also other normal transit of boats. Consider the possibility of large ferry type boats used for embarkation maneuvering in this restricted area while jet skies and or paddle boards are in use. This would be an accident waiting to happen.

The Cypress and its Bay Club homes take pride on being a quiet upscale neighborhood and its members enjoy the use of this water front. Noise abatement is a major concern particularly if these activities were to take place in this narrow cut or in and around the main channel. With reasonable assurances that these concerns can be abated, we could support the application of this proposer.

Sincerely,



William B. and Helen H. Heberton

ZMA130004 Salty Fare
Staff Report Attachment D: Public Comments

To: Town Council Members and Town Planning Commission Members

Ladies and Gentlemen,

My wife and I moved to the Cypress Bay Club almost two years ago and have found it to be a wonderful and peaceful place to live. Now we are concerned that some of the requested zoning changes at Salty Fare could negatively impact life in the Bay Club. It would appear that the requested changes are very general and open ended and will not provide assurances that the uses at Salty Fare will not be detrimental to our quality of life.

Specifically we have two concerns and hope you will address them in your consideration of the requested changes. No doubt jet skis will fall under the definition of "water craft rentals", a use that will be noisy and a general nuisance. Jet ski type watercraft could not be permitted. Our second concern is for safety issues created by a significant amount of increased activity in an area already used by many boats.

We recognize that the property owner understandably wants to have the property generate revenue and we do not stand in opposition as long as the uses of the property are consistent with maintaining current living conditions.

Respectfully,
Paul & Louise Lang
3 Outerbridge Circle

Letter to Town Planning Commission and Town Council

May 25, 2013

As residents of the Cypress Bay Club, with a home on the water, we have been notified of a request to amend the uses of the parcel known as "Salty Fare" to add Water-Oriented Embarkation Facilities, Watercraft Rentals and other Water-Oriented Uses as uses permitted by right.

We are concerned that the Uses are too general and would generate a noise level unacceptable adjacent to a residential area. We specifically object to the use of jet-ski type crafts.

In addition on a recent evening, we were bothered by amplifiers blaring music which could be heard over the TV in our house with the windows and doors shut. This is totally unacceptable.

We urge you to reject an undefined and unrestricted zoning that would lead to noisy activities. Please preserve the quiet, peaceful nature of this residential community.

Sincerely,

Jack and Mary Ellen McConnell

26 Outerbridge Circle

Hilton Head Island, SC 29926

ZMA130004 Salty Fare
Staff Report Attachment D: Public Comments

James W. Mackie
1 Outerbridge Circle
Hilton Head Island, SC 29926

June 4, 2013

Chairman, Planning Commission
Town of Hilton Head
One Town Center Court
Hilton Head Island, SC 29928

Re: Salty Fare Zoning Request

We are residents of 1 Outerbridge Circle and are very concerned about the request before the Commission to permit the operation of a water sports center on the premises known as Salty Fare Landing. The current proposal is unacceptable and should be voted down.

Our reason for purchasing a residence on Outerbridge Circle was the quality of life demonstrated by the Cypress, Hilton Head Plantation and Hilton Head Island. Over the past 20 years the Cypress has built a reputation as one of the top retirement communities in the country. This reputation was derived by the quality of the management and staff as well as the unique quality of life afforded the residents. The opportunity to live in an area that recognized the value of good land planning and environmental awareness differentiated Hilton Head from many other locations we had considered when looking to purchase as a retirement residence. We certainly had no desire to live next to a noisy water sports operation.

The current and future residents of the area surrounding Salty Fare should not have to bail out a developer who made a miscalculation and has the potential to lose money on his acquisition of the property. Any negative financial result of his acquisition should rest solely on his, and his financial backer's shoulders.

According to the 2010 Comprehensive Master Plan, the preferential use of the Waterfront Mixed Use includes small scale hotels and inns. The former use of the property as a small retail and dockage for the ferry to Daufuski Island did not create the noise levels that the use of jet skis and other outboard motor powered craft would create. The installation of a small scale inn or hotel, a small village type with stores for residents to frequent, as is found in the Main Street area of Hilton Head Plantation, or a small upscale restaurant such as the Old Fort Pub would be more acceptable to the residents and comply with the Master Plan.

The approval of the proposed zoning for the operation of a noisy water sport center would lower the financial value of our residence which would reduce the tax value and yield lower tax income to the town and county. Our quality of life would also be downgraded by increased traffic, pollution due to more motor vehicles and outboard/jet ski motors in the area, and the noise created by the watercraft will degrade the desirability of the property to future potential buyers.

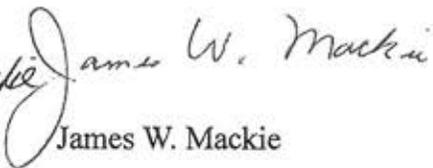
We ask that you consider the increase in noise and pollution, the potential loss of income from taxes on the adjoining properties, and the deterioration of the quality of life for adjoining residents. The Cypress has a national reputation and is currently a tremendous economic and aesthetic positive to Hilton Head Island and the Hilton Head Plantation. The potential degradation of the area by approving a noise, water and air pollution source would downgrade the quality of life on Hilton Head Island and result in the decline of economic infrastructure for those of us who live and work on the Island. If this requested use of the property is allowed, there is no reason to continue to have zoning regulation...just let everyone do as they wish and watch Hilton Head Island become a non-destination for individuals desiring a quality lifestyle. The Squire Pope Road and Skull Creek area of Hilton Head have the potential to provide a wonderful mix of uses that are compatible with keeping Hilton Head a very desirable residential and small business oasis.

Whenever a proposal for use of the Salty Fare Landing property is presented that we think is in keeping with the community and a benefit to the overall economic health of the Island, we will be more than happy to support the project. We investigated communities in several states before deciding on Hilton Head Island. We chose Hilton Head because of the overall quality of life. Please do not begin to destroy our reason for becoming residents of Hilton Head.

Your consideration of our request will be greatly appreciated.

Sincerely,


Clare Frances Mackie


James W. Mackie

ZMA130004 Salty Fare
Staff Report Attachment D: Public Comments

Letter to Hilton Head Town Zoning Commission and Town Council

June 1, 2013

I am a ten year resident of a Bay Club waterfront home ten homes from the Salty Fare property. Obviously I would like to challenge the approval of its proposed zoning change. Please let me give you my views:

First, when my husband and I bought the property, the embarkation to Daufuskie was in process. I have no problem with that continued use as that was there at the time of my purchase. Secondly, the Salty Fare property will and should be utilized, hopefully to it highest and best use.

However, the proposed usage changes are very much out of character for the property and the neighborhood.

Others have given different reasons, but I would like to echo a rationale given by a lady at an HHPOA open meeting about the Salty Fare Property some months ago. Her argument went something like this:

"When we moved to Hilton Head, we looked at various plantations and decided that what we wanted was a quiet environment, not something that would have vacation-type activities. That is why we decided on Hilton Head Plantation rather than any of the other neighborhoods because each island plantation DOES have a decided character."

I feel she had a good "read" on the entire island and had good cause for her decision. That has been the character of HHP: resident year-round, stable living. I might add that some might be very surprised to discover that a very high percentage of HHP residents (and I say residents, not vacationers) use the back (Cypress) gate exclusively. That raises other issues such as traffic, noise, access, etc. Those problems I will leave to some of the other letters.

By approving the open-ended zoning request, the town would be forever changing the character of the entire Hilton Head Plantation. I feel that would be a grievous mistake.

We have already seen activity on the Salty Fare Property and in the water which has not been approved. I would hope town officials would look into that. If the lessee is already being aggressive and disrespectful, how would he behave if he were to have town approval?

Thank you for your attention to my remarks, and I hope you will take them under very serious consideration in your deliberations.

Lorene C. Thornbury
8 Outerbridge Circle
Hilton Head Island, SC
29926
843-681-4158

ZMA130004 Salty Fare
Staff Report Attachment D: Public Comments

From: Tom Thornbury
8 Outerbridge Circle

To: Interested Parties re Salty Fare Zoning

Date: 3 June 2013

I live in Cypress Bay Club, immediately to the west of the Cypress Dock. My continuing interest in events at the Salty Fare property is evidenced by a 2012 memo concerning traffic and noise problems if the zoning is changed adversely to the interests of the residents of the Cypress Bay Club. Now we have a proposal to change zoning for the Salty Fare parcel by an applicant who plans to operate a water sports center. To the west of the Salty Fare parcel is a boat storage business and docks which allow the insertion of stored boats into the water. Also to the west are several restaurants. To the east of the Salty Fare parcel is the Cypress Bay Club, a residential parcel of 51 condominiums whose assessed value ranges from \$700,000 to over \$1,000,000 each. The Cypress Bay Club is an integral part of The Cypress Club, a development of 320 condominium units devoted to seniors aged 62 or higher. It also includes a skilled nursing unit of 50 beds. The applicant proposes to place next to this upper scale residential parcel a business using outboard motors, water skis, waterfront entertainment and other noise producing activities.

The zoning proposal to be reviewed on June 19 should be refused. It presents a classic clash between commercial activities to the west and resident uses to the east. The property to the east is occupied by persons age 62 or more. They are part of the Cypress Bay Club and have been there (or their predecessors) since the 1990s. If the requested zoning change is approved, the assessments cited above will be severely reduced, probably by enough to make the development of the Salty Fare a zero addition to town tax revenues. This fact is evidence of the poor planning that is asked for in this proposal. The best and highest use for this parcel is likely to be a boutique small hotel or a use more aligned with the 320 unit senior independent housing that is next door. I cannot imagine a water sports operation next to The Cypress as being in the interest of the development of the Island.

The major attention of the Commission should be directed to the noise and its effect on the neighborhood. Look at the over 30 foot tall wall immediately to the west of the Salty Fare parcel (walling off the Boat storage and acting as a reflector of any noise that a water sport operation east of it generates). The noise generated by a water sports operation (not adequately controlled by existing noise town rules) needs express written provision in any applicable zoning of the parcel.

I will be out of town from June 15 until June 30. As a result I will not be able to personally appear before you. Please consider my objections, above, and reject the proposed zoning. Hilton Head can do much better than the present proposal. In addition it should be noted the operations of the present applicant already include activities (installing new pilings) that constitute the post-zoning activities which the applicant seeks by the proposed zoning change. Has the applicant obtained a business license for the activities that he seeks?



Hilton Head Plantation Property Owners' Association, Inc.

PO Box 21940, 7 Surrey Lane
Hilton Head Island, SC 29925-1940

May 29, 2013

Ms. Gail Quick, Chair
Town of Hilton Head Island Planning Commission
One Town Center Court
Hilton Head Island, SC 29928

RE: Case # ZMA130004

Dear Ms. Quick:

The Board of Directors of the Hilton Head Plantation Property Owners' Association, representing over 10,000 residents of the Town of Hilton Head Island, is pleased to provide the following public comments on the captioned Zoning Text Amendment.

The property known as Salty Fare is part of the Hilton Head Plantation Master Plan and borders the neighborhood known as "The Cypress". As you may be aware, Hilton Head Plantation is primarily a residential community. Individuals who choose to purchase a home in Hilton Head Plantation selected their home based on the present zoning and character of their neighborhood.

At their May 28, 2013 meeting, the Hilton Head Plantation POA Board voted unanimously to support water-oriented embarkation facilities and watercraft rentals and other water-oriented uses with the following exceptions and conditions: less intrusive uses under this zoning such as kayak and paddle board rentals seem compatible provided such activities are done under close supervision to maximize the safety of the participants. Uses such as parasailing and "banana" boats should be conditioned upon leaving the Salty Fare facility at a slow rate of speed for both safety and noise considerations. Due to noise and safety considerations, the active part of these two uses should be restricted to the open waters of the Calibogue and Port Royal Sounds. Owing to the intrusive and raucous sound levels of Jet Skis®, the Hilton Head Plantation POA Board is opposed to rentals of this type of watercraft from an area in such close proximity to residents of The Cypress specifically, and all of the homes bordering Skull Creek that would be affected by the noise produced by Jet Ski® watercraft.

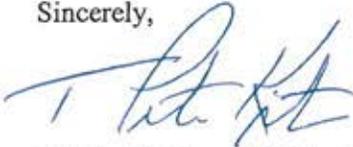
ZMA130004 Salty Fare
Staff Report Attachment D: Public Comments

Ms. Gail Quick, Chair
Town of Hilton Head Island Planning Commission
May 29, 2013
Page 2

We believe this to be a compromised use that is consistent with the residential character of the properties located along the shores of Skull Creek. We request that the Planning Commission recommendation to the Town Council be in keeping with the position outlined by the Hilton Head Plantation POA Board of Directors.

Thank you for the opportunity to provide input on this important zoning issue under consideration by the Planning Commission.

Sincerely,



T. Peter Kristian, CMCA, LSM, PCAM®
HHP General Manager

cc: HHPPOABOD
Members of Town Council
James Coleman



June 6, 2013

Ms. Gail Quick, Chair
Town of Hilton Head Island Planning Commission
One Town Center Court
Hilton Head Island, SC 29928

RE: Salty Fare Rezoning

Dear Ms. Quick:

During the past three weeks, since notice of the possible rezoning of Salty Fare was received, there has been a great deal of anxiety among Cypress residents, especially those in the Bay Club who live immediately adjacent to Salty Fare.

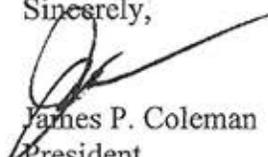
Cypress residents consider "jet ski" type watercraft to be a noisy nuisance in conflict with the residential character of The Cypress and Hilton Head Plantation. Kayaks, paddle boats and other quieter-type water oriented activities would probably not be objectionable.

However, the application specifically asks for zoning for "watercraft rentals" and "other water-oriented uses." This is bothersome and problematic because it is too general and if zoned this way without further definition, could include activities which not only Cypress residents, but island residents in general, would consider a nuisance.

There is no expectation that a conditional agreement with the operator under this zoning would ever be "policed." I suggest that the current zoning request not be approved. Perhaps a request could be resubmitted with a strict and acceptable definition as to what uses are and are not allowed.

As to the business license being issued "by mistake," hopefully this can be corrected quickly should the zoning request not be approved at the next Town Council Meeting.

Sincerely,


James P. Coleman
President

JPC:tcg

cc: Members of Town Planning Commission
Members of Town Council Members
Peter Kristian

20 Lady Slipper Lane
Hilton Head Plantation
Hilton Head Island, South Carolina 29926
843-681-6789 1-800-458-8585 Fax 843-689-2315

ZMA130004 Salty Fare
Additional Public Comments

June 14, 2013

Hilton Head Town Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

RE: June 19th Town Planning Commission Public Hearing

Dear Commission and Council Members:

I am writing in response to a notice I received about the Public Hearing scheduled for June 19th regarding potential rezoning of property located at 421, 425 and 427 Squire Pope Road, also known as the Salty Fare property.

The allowed uses for the property are proposed to be amended to add:

- Water-Oriented Embarkation Facilities
- Watercraft Rentals
- Other Water-Oriented Uses

I recognize there has been a facility for embarkation activities in the past. I understand the proposed new uses could include:

- Dolphin Tours
- Kayak Rentals
- Parasail Flights
- Jet Ski Rentals
- Power Boat Rentals
- Banana Boats

Except for the embarkation activities which have been previously allowed, I hope that you will agree the other watercraft uses are not in the best interest of the residents of Hilton Head Plantation, most especially The Cypress Bay Club, which abuts the Salty Fare property.

I suggest that the current zoning request not be approved.

Living in The Bay Club, it has been a quiet, respectable neighborhood without loud, raucous distractions. I believe our peaceful, family-oriented community would be negatively impacted should the rezoning be approved. Hilton Head Plantation, The Cypress, and The Bay Club in particular, all have had the reputation of top-notch residential communities and we hope you will support us and not allow that reputation to be tarnished or diminished by the expanded water uses that are proposed.

Thank you very much for your consideration; I would appreciate your support!

Sincerely,


Vince Barreca
7 Outerbridge Circle

ZMA130004 Salty Fare
Additional Public Comments

June 14, 2013

Hilton Head Town Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

RE: June 19th Town Planning Commission Public Hearing

Dear Commission and Council Members:

My wife and I moved to The Cypress Bay Club almost two years ago and have found it to be a wonderful and peaceful place to live. Now we are concerned that some of the requested zoning changes at Salty Fare could negatively impact life in the Bay Club. It would appear that the requested changes are very general and open ended and will not provide assurances that the uses at Salty Fare will not be detrimental to our quality of life.

Specifically, we have two concerns and hope you will address them in your consideration of the requested changes. No doubt jet skis will fall under the definition of "water craft rentals," a use that will be noisy and a general nuisance. Jet ski type watercraft could not be permitted. Our second concern is for safety issues created by a significant amount of increased activity in an area already used by many boats.

We suggest that the current zoning request not be approved.

We recognize that the property owner understandably wants to have the property generate revenue and we do not stand in opposition as long as the uses of the property are consistent with maintaining current living conditions.

Sincerely,



John and Margaret Beebe
23 Outerbridge Circle

TO WHOM IT MAY CONCERN:

It was my understanding that when Mr. Fraser planned and developed this wonderful concept of Hilton Head he thought the "south end" area first to be the attraction for visitors. For those persons he built (or had built) hotels, restaurants, refurbished the beach, rental units, bicycles paths, golf courses etc: all activities which would attract those visitors. For the small number of full-time residents (and the visitors who became home owners) he later developed the "northern end of the island. Those were the persons who required such places and services such as schools, a hospital, a library etc: since they were primarily permanent full time residents. Why change that philosophy which seemingly has worked so well? Why not keep activities such as water sports and noisy speedboats, parasailing, sightseeing and such where they are now and don't interfere with the daily

lives of those who chose the north end location for access to those activities they require. Thank you.

Ronald Corderman

ZMA130004 Salty Fare
Additional Public Comments

Cyran Anne

From: Carlin Kathleen
Sent: Friday, June 14, 2013 7:52 AM
To: Lopko Jayme; Cyran Anne
Subject: FW: Salty Fare Planning Commission Meeting

FYI...

Kathleen Carlin
Administrative Assistant
Community Development Department
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928
843.341.4684
[REDACTED]

-----Original Message-----

From: Jerry Darnell [REDACTED]
Sent: Thursday, June 13, 2013 4:32 PM
To: Carlin Kathleen
Subject: Salty Fare Planning Commission Meeting

To Town Planning Commission Members

As a resident of The Cypress and Hilton Head Plantation, I ask you to exclude jet ski watercraft and other noisy or wake-creating water activities in any zoning approval for Salty Fare.

The closeness of Salty Fare to residential property and the sensitive shoreline make such activities inappropriate. Sincerely yours, Frederick Darnell.

ZMA130004 Salty Fare
Additional Public Comments

**Mrs. Mary Elise Davis
28 Outerbridge Circle
Hilton Head, SC 29926**

June 14, 2013

Ms. Gail Quick, Chair
Town of Hilton Head Island Planning commission
One Town Center Court
Hilton Head Island, SC 29928

RE: Salty Fare Rezoning - Case # ZMA130004

Dear Ms. Quick,

The waterfront Salty Fare property being considered for rezoning is directly adjacent to my single family home in the Bay Club. In 2004, when my husband and I were considering the purchase of this home we expressed concern over the possibility of too much noise or other problems stemming from being immediately next door to the Melrose Embarkation activities. Based on the information we got we felt assured that the property had restrictions that limited the waterfront parcel to basically the "ferry type services" and the landward parcel to a certain limited number of parking spaces for employees and those going to Melrose. We were told the Town of Hilton Head had accepted the transfer of most of the square footage and density allocations of these parcels to The Cypress so they could build more units per acre there than would have previously been allowed. It therefore wouldn't even make sense to try to develop the Salty Fare property for another use in the future because a developer couldn't put much there unless they could somehow violate the previous agreements with the Town and Hilton Head Plantation. These arguments seemed reasonable to us and after listening to and watching the current activities at Salty Fare in 2004 we felt comfortable we could live next door.

For the most part Salty Fare has been a good neighbor. Even in good times for Melrose, when the ferry was running on a regular and frequent basis, it was not an offensive activity. Occasionally there was the background sound of Caribbean music playing at the baggage stand and out on the docks but it was never too loud. More recently it has not been as quiet. A good example was last year's 4th of July celebration. They staged a huge party at Salty Fare complete with parking attendants and a very loud live band on the docks. To watch my TV after the fireworks ended I had to turn up the volume on the TV inside to hear it over the music outside. Later when I wanted to go to bed I wasn't able to get to sleep until they stopped playing much later in the night. I didn't want to call the authorities to complain because it was a special day, the 4th of July, but I was certainly glad when the band stopped playing and the party slowly wound down. I wouldn't want anything close to that on a regular basis.

Most of my neighbors and I are what most of you would call elderly folks. We chose to live in The Cypress because we are in our twilight years and its nice and quiet here. As a group we have more doctor appointments than you can imagine, need more naps than we'd like to admit to because we get tired, and rely on the services from The Cypress to help us get along on a daily basis. On any given day, someone is under the weather or recently home from the hospital or the Preston Health Center. They want and need a quiet neighborhood to rest and get better.

My neighbors and I need your help. We're hoping you'll do the right thing and help protect us from what could potentially happen in the future if you choose to approve this rezoning change. We do not want to

ZMA130004 Salty Fare
Additional Public Comments

suffer the traffic and noise that "Watercraft Rentals" and "Other Water Oriented Uses" could bring to the neighborhood. The ferry services that ran before would be fine, but again, we certainly don't want the increased activity and noise pollution that jet-skis, boat rentals, parasailing, and the like would bring.

Please do not approve this rezoning request.

Most sincerely,

Mrs. Mary Elise Davis

Cc: Members of Town Planning Commission
Members of Town Council
Peter Christian, General Manager POA Hilton Head Plantation
Lois Wilkinson, President Board of Directors Hilton Head Plantation

ZMA130004 Salty Fare
Additional Public Comments

June 13, 2013

Hilton Head Town Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

RE: June 19th Town Planning Commission Public Hearing

Dear Commission and Council Members:

We are writing in response to a notice we received about the Public Hearing scheduled for June 19th regarding potential rezoning of property located at 421, 425 and 427 Squire Pope Road, also known as the Salty Fare property.

The allowed uses for the property are proposed to be amended to add:

- Water-Oriented Embarkation Facilities
- Watercraft Rentals
- Other Water-Oriented Uses

We recognize there has been a facility for embarkation activities in the past. We understand the proposed new uses could include:

- Dolphin Tours
- Kayak Rentals
- Parasail Flights
- Jet Ski Rentals
- Power Boat Rentals
- Banana Boats

Except for the embarkation activities which have been previously allowed, we hope that you will agree the other watercraft uses are not in the best interest of the residents of Hilton Head Plantation, most especially The Cypress Bay Club, which abuts the Salty Fare property.

I suggest that the current zoning request not be approved.

We have lived in the Plantation for many years, moving to The Bay Club a couple of years ago; it has been a quiet, respectable neighborhood without loud, raucous distractions. We believe our peaceful, family-oriented community would be negatively impacted should the rezoning be approved. Hilton Head Plantation, The Cypress, and The Bay Club in particular, all have had the reputation of top-notch residential communities and we hope you will support us and not allow that reputation to be tarnished or diminished by the expanded water uses that are proposed.

Thank you very much for your consideration; we would appreciate your support!

Sincerely,

Alice Fox
9 Outerbridge Circle
The Cypress BayClub

ZMA130004 Salty Fare
Additional Public Comments

*Kenneth G. & Martha W. George
31 Bird Song Way
Hilton Head Island, South Carolina 29926*

June 15, 2013

Hilton Head Town Planning Commission
Town of Hilton Head Council
One Town Center Court
Hilton Head Island, South Carolina 29928

Dear Commission and Council Members:

Thank you for encouraging home owner input when considering the rezoning of the Salty Fair property.

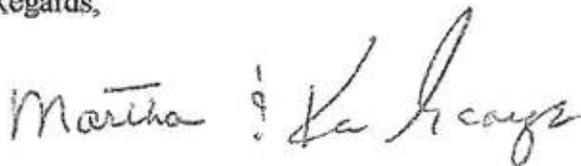
Martha and I are strong advocates of individual rights – as long as one person's rights do not cause other persons harm.

While considering the request for rezoning of Squire Pope Road property 421, 425 and 427, please consider the impact noise pollution will have on the home owners in the area. Jet ski and Banana tow boat engines have DB levels way above the comfort zone of the human ear.

One of the many positive aspects of living on Hilton Head Island is the opportunity to live the good life including enjoying being close to nature. However, when nature threatens our wellbeing, we can call critter management and remove the threat. When an idea such as allowing excessive noise threatens, we call on you folks to do the right thing.

Again, thank you for considering this noise aspect in your rezoning decision.

Regards,

A handwritten signature in cursive script that reads "Martha & Ken George". The signature is written in dark ink and is positioned below the typed name.

Martha and Ken George

ZMA130004 Salty Fare
Additional Public Comments

Hilton Head Town Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

RE: June 19th Town Planning Commission Public Hearing

Dear Commission and Council Members:

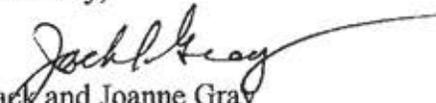
My wife and I moved to Hilton Head Plantation a few years ago and have found it to be a wonderful and peaceful place to live. Now we are concerned that some of the requested zoning changes at Salty Fare could negatively impact life in the Bay Club. It would appear that the requested changes are very general and open ended and will not provide assurances that the uses at Salty Fare will not be detrimental to our quality of life.

Specifically, we have two concerns and hope you will address them in your consideration of the requested changes. No doubt jet skis will fall under the definition of "water craft rentals," a use that will be noisy and a general nuisance. Jet ski type watercraft should not be permitted. Our second concern is for safety issues created by a significant amount of increased activity in an area already used by many boats.

We suggest that the current zoning request not be approved.

We recognize that the property owner understandably wants to have the property generate revenue and we do not stand in opposition as long as the uses of the property are consistent with maintaining current living conditions.

Sincerely,


Jack and Joanne Gray
10 Raintree Lane
Hilton Head Island SC 29926



ZMA130004 Salty Fare
Additional Public Comments

To: Hilton Head Town Planning Commission

From: Bonnie and Richard Haroff (Hilton Head Plantation residents 24 yrs./currently at The Cypress)

Date: June 14, 2013

Subject: Zoning of Salty Fare property

We strongly oppose the undefined and unrestricted zoning of the Salty Fare property. We specifically oppose jet-skis and/or other noisy watercraft. Activities such as kayaking, canoeing, parasailing and the already approved embarkation activities should be acceptable.

Please consider the peace and quiet for which Hilton Head Island neighborhoods are noted when making your zoning decisions for the Salty Fare property.

ZMA130004 Salty Fare
Additional Public Comments

June 17, 2013

Hilton Head Town Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

RE: June 19th Town Planning Commission Public Hearing

Dear Commission and Council Members:

My husband and I moved to The Cypress Bay Club eight years ago and have found it to be a wonderful and peaceful place to live. Now we are concerned that some of the requested zoning changes at Salty Fare could negatively impact life in the Bay Club. It would appear that the requested changes are very general and open ended and will not provide assurances that the uses at Salty Fare will not be detrimental to our quality of life.

Specifically, I have two concerns and hope you will address them in your consideration of the requested changes. No doubt jet skis will fall under the definition of "water craft rentals," a use that will be noisy and a general nuisance. Jet ski type watercraft could not be permitted. My second concern is for safety issues created by a significant amount of increased activity in an area already used by many boats.

I suggest that the current zoning request not be approved.

I recognize that the property owner understandably wants to have the property generate revenue and we do not stand in opposition as long as the uses of the property are consistent with maintaining current living conditions.

Sincerely,

Anne LaMotte
1 Hadley Lane
Hilton Head, SC 29926

ZMA130004 Salty Fare
Additional Public Comments

Hilton Head Town Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

RE: June 19th Town Planning Commission Public Hearing

Dear Commission and Council Members:

My wife and I moved to The Cypress Bay Club almost two years ago and have found it to be a wonderful and peaceful place to live. Now we are concerned that some of the requested zoning changes at Salty Fare could negatively impact life in the Bay Club. It would appear that the requested changes are very general and open ended and will not provide assurances that the uses at Salty Fare will not be detrimental to our quality of life.

Specifically, we have two concerns and hope you will address them in your consideration of the requested changes. No doubt jet skis will fall under the definition of "water craft rentals," a use that will be noisy and a general nuisance. Jet ski type watercraft could not be permitted. Our second concern is for safety issues created by a significant amount of increased activity in an area already used by many boats.

We suggest that the current zoning request not be approved.

We recognize that the property owner understandably wants to have the property generate revenue and we do not stand in opposition as long as the uses of the property are consistent with maintaining current living conditions.

Sincerely,

Thomas G. McElaniff

ZMA130004 Salty Fare
Additional Public Comments

Outerbridge Circle, Hilton Head Island
June 14, 2013

TO: Members of Hilton Head Island Town Planning Commission and Town Council.

FROM: Residents of properties in the Bay Club area, adjacent to Skull Creek.

The undersigned are strongly opposing the underdefined and underrestricted zoning, particularly objectionable are jet ski-type craft. A large majority of our residents are elderly and ailing. The noise generated is not conducive to a quiet, residential community. We ask that zoning be defined to restrict such nuisances, i.e. noise generated by jet skis.

NAME (S)	ADDRESS
<u>Paul Eitel and Marilyn Eitel</u>	<u>16</u> Outerbridge Circle
<u>Margaret Best + John Beebe</u>	<u>23</u> Outerbridge Circle
<u>Robert T. Bohman</u>	<u>19</u> Outerbridge Circle
<u>Elizabeth M. Grolman</u>	<u>19</u> Outerbridge Circle
<u>Patricia F. Hay</u>	<u>18</u> Outerbridge Circle
<u>Luis A. Nilges</u>	<u>9</u> Hadley Lane Outerbridge Circle
<u>Anne S. Gaudreau</u>	<u>10</u> Outerbridge Circle
_____	_____ Outerbridge Circle
_____	_____ Outerbridge Circle
_____	_____ Outerbridge Circle

ZMA130004 Salty Fare
Additional Public Comments

SHELBY H. PAGE
15 OUTERBRIDGE CIRCLE
HILTON HEAD ISLAND, SC 29926

June 16 '13

Town Planning Commission
One Town Center Court
Re Salty Fare rezoning
Dear Sirs

As a resident of the Bay Club next door to Salty Fare, I would like to express my opposition to the rezoning as proposed.

I would be glad to support a limited rezoning which excludes the use of jet ski type of watercraft and other noisy types of watercraft.

Yours truly

Shelby H. Page

ZMA130004 Salty Fare
Additional Public Comments

From: [Carlin Kathleen](#)
To: [Lopko Jayme](#); [Cyrán Anne](#)
Subject: FW: Salty Fare Proposed Activities
Date: Sunday, June 09, 2013 8:39:15 AM

FYI...

Kathleen Carlin
Administrative Assistant
Community Development Department
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928
843.341.4684
[REDACTED]

From: b_pehrson [REDACTED]
Sent: Saturday, June 08, 2013 10:47 PM
To: Carlin Kathleen
Subject: Salty Fare Proposed Activities

I live in The Cypress and would not object to some water activities in the Salty Fare property but I would object to jet ski-type crafts. They just don't belong in that body of water. When you consider the proposal, please make sure it defines exactly what would be acceptable.
Thank you. Betsy Pehrson

ZMA130004 Salty Fare
Additional Public Comments

Roy and Lois Plekenpol
31 Outerbridge Circle
Hilton Head Island, SC 29926
843-681-7923

June 14, 2013

Ms. Gail Quick, Chair
Town of Hilton Head Island Planning Commission
One Town Center Court
Hilton Head Island, SC 29928

Subject: Salty Fare Rezoning

Dear Ms. Quick:

We decided to retire and live on Hilton Head Island in 1992. After looking at most of the excellent gated plantations we elected to purchase a lot and build our home in Hilton Head Plantation. Our reason for this selection was because we wanted to live in a quiet environment, peaceful, family oriented place and not one that would have vacation type activities. One other important factor was the newly established Cypress Club which we knew we would move to when we reached our 80's. Hilton Head Plantation and the Bay Club of the Cypress have proven to be an idyllic and wonderful place to live. We lived in the home we built for 17 years and now in our home in the Cypress Bay Club for 3 years.

Our Cypress Bay Club home abuts the Salty Fare property so we do have concerns about noise pollution regarding the zoning request for "Watercraft Rentals" and "Other Water-Oriented Uses" being considered for your approval. Some of the boats were Ok but we would want to reject some boats such as Jet Skis as an example. However in discussions with Steve Riley he said the Town's position was they could not pass new uses in this manner because it would be difficult to police and manage. This made sense to us and then we realized that this open ended broad approval of uses would also allow any type of water sports/boating in the future as well and we would not be in a position to oppose.

As a result we strongly feel that locating this type of water oriented business next to a high end residential community with residents whose ages range from the high 60's to high 90's is not appropriate. For this reason we urge you to not approve the requested Zoning for "Watercraft Rentals" and "Other Water-Oriented Uses".

Most sincerely,

Roy and Lois Plekenpol

cc: Members of Town Planning Commission
Members of Town Council
Peter Christian, General Manager POA Hilton Head Plantation
Lois Wilkinson, President Board of Directors Hilton Head Plantation

ZMA130004 Salty Fare
Additional Public Comments

Ms. Gail Quick, Chair
Town of Hilton Head Island Planning Commission
One Town Center Court
Hilton Head Island, SC 29928

06/13/13

Subject : Salty Fare Rezoning

Dear Ms. Quick,

I live on Outerbridge Circle, which is close to the Salty Fare property and its waterfront. I moved here 6 months ago from the deep water side of Calibogue Cay Road in Sea Pines. At this location, jet ski watercraft were not uncommon during the summer months and they were a noise nuisance even when they were operated quite a distance from my Calibogue Cay property. To have them as close as the Salty Fare docks would pose a true noise problem.

It is my hope that you will respect the quiet and peaceful nature of the Cypress Bay Club community and restrict the zoning to watercraft that would not create a noise issue.

Thank you for considering this request.



Sam Pruett
41 Outerbridge Circle
Hilton Head, SC 29926

ZMA130004 Salty Fare
Additional Public Comments

George H. and Estelle S. Roberts

27 Outerbridge Circle
Hilton Head Island, SC 29926
Telephone: (843) 342-8830
Fax:: (843) 342-9075
E-mail: [REDACTED]

June 16, 2013

Hilton Head Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

Re: Case # ZMA130004 June 19thTown Planning Commission Public Hearing

Dear Commission and Council Members:

We became residents of the Bay Club nearly four years ago and are owners of property immediately adjacent to the parcels encompassed in the above-referenced Case.

We are deeply concerned to learn that the applicant is requesting a change in the permitted use of the property to include "Watercraft Rentals" and "Other Water-Oriented Uses as uses permitted by right" (Emphasis supplied). Surely the adoption of this latter general category, without definitions, conditions and parameters specifically identifying permitted activities would be tantamount to opening a Pandora's Box. Introduction of future yet unknown types of watercraft could fall in to the general wording of the proposed application with the dire consequence that their use may be totally inappropriate because of proximity to a quiet residential neighborhood, yet unassailable because of approval of this application.

We have visited the On the Water Hilton Head pier and obtained copies of their very attractive brochure and price list. We have no qualms with their offered Dolphin Tours, Kayak Tours, Eco Tours and Charter Fishing Trips. Their "Water Sports" offering is undefined but a picture of a Big Bertha tube and the sight of numerous jet skis on the dock are disturbing. These activities are noisy and, we suggest, nuisances not only to Bay Club residents but to water fronting Hilton Head Plantation homeowners as well. Jet Skis and Banana Boats clearly are Water-Oriented Uses but without specific regulations their use is not appropriate in Skull Creek.

We strongly urge you to deny the application as written. We understand that the present Town Council is proceeding with a more favorable view to the development of Island properties than its predecessors, however, we respectfully suggest that approval of any subsequent application for a change of use of the Salty Fare property be granted only if said use is specific and compatible with the residential character of its neighbor, the Bay Club..

Respectfully submitted,

George H. and Estelle S. Roberts

ZMA130004 Salty Fare
Additional Public Comments

June 18, 2013

Hilton Head Town Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

RE: June 19th Town Planning Commission Public Hearing

Dear Commission and Council Members:

WE have been most happy members of The Cypress Club for a little over eight years, but have been vacationing on Hilton Head Island since 1985.

After living 75 years in New York City, we found not only the perfect vacation site, but the place which we selected to retire. Why?

Hilton Head is a far cry from New York City, however, it offers not only its natural beauty, but sports, the arts, or the ability to get away from the frantic pace of the Big City, the noise factor, and the lack of sensitivity to people's needs. Yes, people come here to have fun, but they are respectful of others for the most part.

This is not Myrtle Beach, nor is it meant to be. Some of us cherish our peaceful surroundings.

We do feel that Salty Fare should be utilized for the betterment of Hilton Head Plantation, BUT PLEASE DO NOT DESTROY THE AURA OF THIS PLANTATION with noisy, unmanageable activities.

Sincerely,

Morty and Eva Rollnik
77 Bird Song Way, C-207
The Cypress

ZMA130004 Salty Fare
Additional Public Comments

June 17, 2013

Hilton Head Town Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

RE: June 19th Town Planning Commission Public Hearing

Dear Commission and Council Members:

We are writing in response to a notice we received about the Public Hearing scheduled for June 19th regarding potential rezoning of property located at 421, 425 and 427 Squire Pope Road, also known as the Salty Fare property.

The allowed uses for the property are proposed to be amended to add:

- Water-Oriented Embarkation Facilities
- Watercraft Rentals
- Other Water-Oriented Uses

We recognize there has been a facility for embarkation activities in the past. We understand the proposed new uses could include:

- Dolphin Tours
- Kayak Rentals
- Parasail Flights
- Jet Ski Rentals
- Power Boat Rentals
- Banana Boats

Except for the embarkation activities which have been previously allowed, we hope that you will agree the other watercraft uses are not in the best interest of the residents of Hilton Head Plantation, most especially The Cypress Bay Club, which abuts the Salty Fare property.

I suggest that the current zoning request not be approved.

We live in The Cypress Bay Club and it has been a quiet, respectable neighborhood without loud, raucous distractions. We believe our peaceful, family-oriented community would be negatively impacted should the rezoning be approved. Hilton Head Plantation, The Cypress, and The Bay Club in particular, all have had the reputation of top-notch residential communities and we hope you will support us and not allow that reputation to be tarnished or diminished by the expanded water uses that are proposed.

Thank you very much for your consideration; we would appreciate your support!

Sincerely,

John and Ann Runnette
24 Outerbridge Circle
Hilton Head Island, SC 29926

ZMA130004 Salty Fare
Additional Public Comments

From: [Carlin Kathleen](#)
To: [Lopko Jayme](#); [Cyrus Anne](#)
Subject: FW: SALTY FARE PLANNING COMMISSION
Date: Thursday, June 13, 2013 3:24:21 PM

FYI.....

Kathleen Carlin
Administrative Assistant
Community Development Department
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928
843.341.4684
[REDACTED]

-----Original Message-----

From: Joan Sclafani [REDACTED]
Sent: Thursday, June 13, 2013 3:23 PM
To: Carlin Kathleen
Subject: SALTY FARE PLANNING COMMISSION

To Whom It May Concern:

My husband and I moved to The Cypress about a year ago and love it. It is so serene and peaceful, and we would like it to stay that way. If we wanted to be close to a quasi amusement park, we would not have chosen The Cypress. We sincerely hope the Commission will turn down this zoning request at your Salty Fare Rezoning Meeting.

Sincerely,

Joan H. Sclafani

Sent from my iPad

ZMA130004 Salty Fare
Additional Public Comments

June 14, 2013

Hilton Head Town Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

RE: June 19th Town Planning Commission Public Hearing

Dear Commission and Council Members:

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Except for the embarkation activities which have been previously allowed, we hope that you will agree the other watercraft uses are not in the best interest of the residents of Hilton Head Plantation, most especially The Cypress Bay Club, which abuts the Salty Fare property.

I suggest that the current zoning request not be approved.

We have lived in the Plantation for many years, moving to The Bay Club a couple of years ago; it has been a quiet, respectable neighborhood without loud, raucous distractions. We believe our peaceful, family-oriented community would be negatively impacted should the rezoning be approved. Hilton Head Plantation, The Cypress, and The Bay Club in particular, all have had the reputation of top-notch residential communities and we hope you will support us and not allow that reputation to be tarnished or diminished by the expanded water uses that are proposed.

Thank you very much for your consideration; we would appreciate your support!

Sincerely,

Thelma Sutherland
39 Outerbridge Circle

ZMA130004 Salty Fare
Additional Public Comments

June 14, 2013

Hilton Head Town Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

RE: June 19th Town Planning Commission Public Hearing

Dear Commission and Council Members:

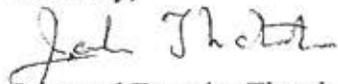
My wife and I moved to The Cypress Bay Club several years ago and have found it to be a wonderful and peaceful place to live. Now we are concerned that some of the requested zoning changes at Salty Fare could negatively impact life in the Bay Club. It would appear that the requested changes are very general and open ended and will not provide assurances that the uses at Salty Fare will not be detrimental to our quality of life.

Specifically, we have two concerns and hope you will address them in your consideration of the requested changes. No doubt jet skis will fall under the definition of "water craft rentals," a use that will be noisy and a general nuisance. Jet ski type watercraft could not be permitted. Our second concern is for safety issues created by a significant amount of increased activity in an area already used by many boats.

We suggest that the current zoning request not be approved.

We recognize that the property owner understandably wants to have the property generate revenue and we do not stand in opposition as long as the uses of the property are consistent with maintaining current living conditions.

Sincerely,



John and Dorothy Thatcher
3 Hadley Lane
Hilton Head, SC 29926

ZMA130004 Salty Fare
Additional Public Comments

June 17, 2013

Hilton Head Town Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

RE: June 19th Town Planning Commission Public Hearing

Dear Commission and Council Members:

I am writing in response to a notice we received about the Public Hearing scheduled for June 19th regarding potential rezoning of property located at 421, 425 and 427 Squire Pope Road, also known as the Salty Fare property.

The allowed uses for the property are proposed to be amended to add:

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- Other Water-Oriented Uses

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- Dolphin Tours
- Kayak Rentals
- Parasail Flights
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- Power Boat Rentals
- Banana Boats

Except for the embarkation activities which have been previously allowed, I hope that you will agree the other watercraft uses are not in the best interest of the residents of Hilton Head Plantation, most especially The Cypress Bay Club, which abuts the Salty Fare property.

I suggest that the current zoning request not be approved.

I live in The Cypress Bay Club and it has been a quiet, respectable neighborhood without loud, raucous distractions. I believe our peaceful, family-oriented community would be negatively impacted should the rezoning be approved. Hilton Head Plantation, The Cypress, and The Bay Club in particular, all have had the reputation of top-notch residential communities and we hope you will support us and not allow that reputation to be tarnished or diminished by the expanded water uses that are proposed.

Thank you very much for your consideration; I would appreciate your support!

Sincerely,

Margie Thrash
8 Hadley Lane
Hilton Head Island, SC 29926

H.F. TOMFOHRDE III

11 HADLEY LANE
HILTON HEAD, SC 29926

June 10, 2013

Ms. Gail Quick
Town of Hilton Head Island Planning Commission
One Town Center Court
Hilton Head Island, SC 29928

Re: Salty Fare Rezoning

The proposal to allow “water craft rentals” and “other water craft activities” is too broad, and should be rejected from a safety standpoint.

The proposal would allow jet skis, ferry boats, parasail boats, rental sailboats, kayaks and paddle boards to all share the waterway in front of the dock. The paddle boards, kayaks and jet skis will be operated by renters, some of whom have no prior experience operating these vessels. It is predictable that some inexperienced renters will end up in the water, where they will share the narrow waterway with jet skis, power boats and with a large resident alligator that lives in the area. This mix could be a recipe for tragedy.

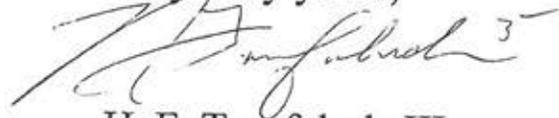
Some might argue that safety is the responsibility of the water sports business. However, both the media and lawyers would relate any tragedy to Hilton Head for permitting the activities. The owner of Salty Fare will not own or operate the water sports business. The business is run by a lessee, who requires all renters to sign a release holding him harmless against claims for injury or death.

ZMA130004 Salty Fare
Additional Public Comments

The navigable water in front of the Salty Fare dock is quite narrow, like all docks along this section of Skull Creek (Villages of Skull Creek, Cypress, Salty Fare, Chart House, Boat House docks). A large number of power boats from all these docks share this thoroughfare. In front of Salty Fare the navigable water is only 40 yards wide at low tide.

The prior zoning allowed embarkation ferries to use the dock. They were operated by professional captains, licensed by the Coast Guard. They ran infrequently and presented no significant safety hazard. This zoning should be maintained.

Very truly yours,

A handwritten signature in black ink, appearing to read "H. F. Tomfohrde III", with a small superscript "3" at the end of the signature.

H. F. Tomfohrde III

ZMA130004 Salty Fare
Additional Public Comments

June 17, 2013

Hilton Head Town Planning Commission Members and
Town of Hilton Head Council Members
One Town Center Court
Hilton Head Island, SC 29928

RE: June 19th Town Planning Commission Public Hearing

Dear Commission and Council Members:

I am writing in response to a notice we received about the Public Hearing scheduled for June 19th regarding potential rezoning of property located at 421, 425 and 427 Squire Pope Road, also known as the Salty Fare property.

The allowed uses for the property are proposed to be amended to add:

- Water-Oriented Embarkation Facilities
- Watercraft Rentals
- Other Water-Oriented Uses

I recognize there has been a facility for embarkation activities in the past. I understand the proposed new uses could include:

- Dolphin Tours
- Kayak Rentals
- Parasail Flights
- Jet Ski Rentals
- Power Boat Rentals
- Banana Boats

Except for the embarkation activities which have been previously allowed, I hope that you will agree the other watercraft uses are not in the best interest of the residents of Hilton Head Plantation, most especially The Cypress Bay Club, which abuts the Salty Fare property.

I suggest that the current zoning request not be approved.

I live in The Cypress Bay Club and it has been a quiet, respectable neighborhood without loud, raucous distractions. I believe our peaceful, family-oriented community would be negatively impacted should the rezoning be approved. Hilton Head Plantation, The Cypress, and The Bay Club in particular, all have had the reputation of top-notch residential communities and we hope you will support us and not allow that reputation to be tarnished or diminished by the expanded water uses that are proposed.

Thank you very much for your consideration; I would appreciate your support!

Sincerely,

Juanita Walters
20 Outerbridge Circle
Hilton Head Island, SC 29926

ZMA130004 Salty Fare
Staff Report Attachment E: Letter from Stewart Kittredge Collins

June 26, 2013

Dear Members of the Planning Commission of The Town of Hilton Head,

I write to report that the jet ski demonstration at Salty Fare Landing was well attended by concerned neighbors. The assumption that jet ski use will disturb the quality of life currently enjoyed by homeowners within the confines of Hilton Head Plantation was tested and I believe the neighbor's fears of noxious noise pollution has been mitigated; that we proved that the noise level from the watercraft pails when compared to the everyday sound levels originating from the neighboring properties of Skull Creek and Hilton Head Plantation. Think boat usage along Skull Creek; fork lifts working at the Skull Creek Marina; music blaring from The Boat House Restaurant; and the daily drone of yard equipment from Hilton Head Plantation.

Discussion moved from sound issues to that of the Watercraft Rental Use and to Water Orientated Use. The members of The Cypress are concerned that a zoning amendment is permanent and does not specify the number of water craft permitted to launch from the dock. Although the jet ski tour operator, Michael Moy, has pledged that he will run a limited number of jet skis, his stated intent has thus far not mitigated objections. I do not know of a solution for mistrust in the system. I believe that this request is consistent with the comprehensive plan. The proposed uses will allow transportation, recreational and educational opportunities for the greater communities of Hilton Head Island without diminishing any one's quality of life, now or in the future.

I respectfully request that your consideration be given to the notion that the individuals who oppose this zoning amendment request, were drawn to Hilton Head Island living to enjoy recreational use of our coast and water ways. By opposing opportunities for water orientated uses from Salty Fare, the objectors would limit water use availability to members within the greater community of our Island. I submit that the entire community should have equal access and enjoyment to Skull Creek and its many attractions. To deny use of Salty Fare for Water Orientated purpose would in fact deny fairness inherent in the zoning laws and would be capricious and discriminating.

In closing, I thank you for encouraging, in a spirit of cooperation, my neighbors to observe a demonstration of water craft use that would be allowed by a zoning amendment. The sound issue has been placed in perspective. More importantly, you have facilitated a nexus toward a cooperative relationship with my neighbors.

Sincerely,

Stewart Kittredge Collins

July 19, 2013



Mrs. Gail Quick, Chair
Town of Hilton Head Island Planning Commission
One Town Center Court
Hilton Head Island, SC 29928

Re: Salty Fare Zoning Amendment Request

Dear Mrs. Quick:

The rescheduling of the meeting to address the Salty Fare Zoning Amendment Request has not lessened the objections to the application.

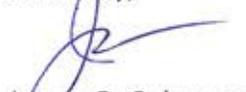
"Water Craft Rentals" and "Other Water Oriented Uses" remain too general and open-ended. The attached Memorandum from Teri Lewis, Zoning Administrator, reinforces this. She gives examples, but then says "but is not necessarily inclusive of everything in either of those categories."

To approve a zoning amendment which creates undefined and perhaps open-ended uses is not acceptable. The responsible course of action would be to pursue an LMO amendment, which Ms. Lewis also refers to in her memorandum, and which could be accomplished within the next six months.

Further, the land owner openly admits that he is actively marketing the property for higher uses, and that the current operation, which requires the amendment, is probably quite temporary. Accordingly, the Town is being asked to make a permanent land use change for a temporary cure – another reason for disapproval.

Hilton Head Plantation residents, including those at The Cypress, will not object to a well-defined, quiet enterprise at Salty Fare which does not conflict with the residential character of the neighborhood. This seems to be a reasonable position with the Town Staff, Planning Commission, and Town Council should respect.

Sincerely,



James P. Coleman
President

Attachment: Teri Lewis Letter

Cc: Members of Town Planning Commission
Members of Town Council
Peter Kristian
Lois Wilkerson
20 Lady Slipper Lane
Hilton Head Plantation
Hilton Head Island, South Carolina 29926
843-689-7000 1-800-458-8585 Fax 843-689-2315

From: TeriL@hiltonheadislandsc.gov
To: wdharkins@hotmail.com
CC: CharlesC@hiltonheadislandsc.gov
Date: Fri, 28 Jun 2013 15:57:13 -0400
Subject: Salty Fare - Use Classification

Councilman Harkins-

Below is the substance of the e-mail that I sent to you this morning. I understand that you were unable to access it.

Per our discussion earlier this week below are examples of both water oriented uses and watercraft rentals.

Watercraft Rentals

Individual rentals of various watercraft such as kayaks, boats, jet-skis

Other Water Oriented Uses

Tours, parasailing, banana boats

Please keep in mind that the examples above are simply examples of how we would classify various watercraft/uses but is **not necessarily inclusive of everything in either of those categories.**

I know there was also discussion about whether it might be a better idea to simply pursue an LMO amendment to change how water related uses are classified. Staff does not recommend this course of action for a couple of reasons. There is already a rezoning application being considered, if it stays on course, it could be decided by Town Council as early as the end of September. An amendment, though, including research, drafting and taking it through the state mandated process would not be decided by Town Council any earlier than late December.

I hope this provides you with the information that you were seeking.

Thanks-

Teri

**The Commodore HOA
2 Village North Drive
Hilton Head, SC 29926**

July 24, 2013

**Ms. Gail Quick
Town of Hilton Head Planning Commission
One Town Center
Hilton Head Island, SC 29928**

Re: Salty Fare Zoning Amendment Request

Dear Ms. Quick:

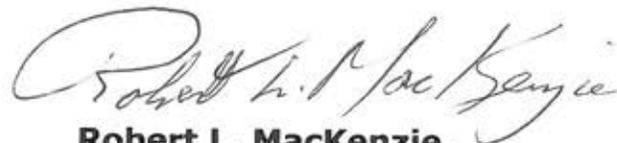
The Board of the Commodore HOA urges the Planning Commission NOT approve the proposed Salty Fare Zoning Amendment.

The proposals for "Water Craft Rentals" and "Other Water Oriented Uses" are too general and open ended. They could allow all kinds of water craft; no matter how large, how loud, how many, how fast or late or often they operate. We are particularly concerned about the potential for a large number of fast noisy jet skis.

Our twenty eight residents purchased their property to enjoy a tranquil, non-commercial water front community. We believe that adjacent water sports activities that would be allowed under the amendment could degrade our quality of life and reduce our property values.

Thank you for preserving the zoning that will maintain the environment we enjoy and that we paid for.

Very truly yours,



**Robert L. MacKenzie,
President, Commodore BOD**

COLTRANE & WILKINS, LLC
ATTORNEYS AT LAW

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HILTON HEAD ISLAND, SC 29938
(843) 785-5551
(843) 785-5552 (FAX)

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

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

July 25, 2013

Ms. Kathleen Carlin
TOWN OF HILTON HEAD ISLAND
One Town Center Court
Hilton Head Island, SC 29928

RE: Salty Fare ZMA
ZMA 13-0004

Dear Kathleen:

On behalf of The Cypress Homeowners' Association, Inc., I enclose the following for the Planning Commission's consideration at its meeting scheduled for August 7, 2013:

1. The objection to ZMA 13-0004 of The Cypress Homeowners' Association, Inc.

I have forwarded a copy of this letter and the enclosure to the Applicant Please let me know if anything further is needed in connection with this. I thank you for your help with this matter, and look forward to hearing from you soon. I am,

Sincerely,

COLTRANE & WILKINS, LLC



Curtis L. Coltrane

CLC/c

enc: As Stated
cc: Mr. Marc Puntereri
Mr. Stewart K. Collins
3374 Jackson Street
San Francisco, CA 94118

STATE OF SOUTH CAROLINA)
) BEFORE THE
COUNTY OF BEAUFORT) TOWN OF HILTON HEAD ISLAND
) PLANNING COMMISSION

IN RE:)
)
ZMA 13-0004)
SALTY FARE, Name of Project)
STEWART KITTREDGE COLLINS, Applicant)

The Cypress Homeowners' Association, Inc., submits its objection to ZMA 13-0004, as follows:

I. The Town Staff Report and Recommendation for Zma13-0004 Includes Material Errors of Law and Fact, and the Town Staff Recommendation Is Founded on the Material Errors of Law and Fact.

In the June 5, 2013, Staff Report and Recommendation, the following text appears:

1. The current uses operating on site are offices, an art gallery, ferry service, kayak and paddleboard rentals, charter fishing, boat tours and jet ski rental.¹
2. The proposed uses are all currently occurring on the site, but they are considered legally non-conforming uses. A water-oriented embarkation facility has operated on the site since 1988. More recently, a business license was issued in error to allow a business to operate boat tours and offer jet ski rentals.²
3. If this application is approved, all legally non-conforming uses on the site will become conforming uses.³

The record upon which the Staff Report is based actually refutes the statement. In the Application for ZMA 13-0004, specifically the May 2, 2013, letter from Stewart Collins, the following text appears:

1. Currently, the embarkation use is allowed under "legally non-

¹ See: Staff Report, Page 2.

² See: Staff Report, Page 3.

³ See: Staff Report, Page 3.

conforming status.”⁴

2. In 1987, the current planning manager, Mr. Thomas Brechko, confirmed that the Salty Fare site could be used as an embarkation facility even though an embarkation facility was not an approved use for those parcels within the Hilton Head Plantation Master Plan. Therefore, the embarkation facility is considered a “legally non-conforming use.”⁵
3. The letter also states that any proposed change in the use of the docking facility would require “re-evaluation”, which is why a Zoning Map Amendment is now requested.⁶
4. However, given the uncertainty surrounding the future commercial uses on Daufuskie Island there has been limited demand for the only allowed use of the embarkation facilities at Salty Fare.⁷

Contrary to the Staff Report, the Applicant’s own statements reveal that the only legal non-conforming use at the Salty Fare site is the embarkation facility.⁸ The Staff Report includes a material error of fact relating to the existing uses for which there is no support in the record made by the Applicant.

The Land Management Ordinance defines a legal non-conforming use. § 16-10-201, *Code of the Town of Hilton Head Island, South Carolina* (1983), reads, in relevant part:

Legal Nonconformity: Any land use, development, structure or site, including any lot of record, that was legally established, but that is not presently in full compliance with the provisions of this Title.⁹

⁴ See: May 2, 2013, letter from Stewart Collins, Page 1, paragraph 1.

⁵ See: May 2, 2013, letter from Stewart Collins, Page 1, paragraph 3.

⁶ See: May 2, 2013, letter from Stewart Collins, Page 1, paragraph 3.

⁷ See: May 2, 2013, letter from Stewart Collins, Page 1, paragraph 4.

⁸ If, as the Staff Report states, all uses underway at the Salty Fare site today are legal non-conforming uses, there would be no need for the Applicant to seek a Zoning Map Amendment.

⁹ The fact that the Town may have issued a business license related to some of the uses does not mean that the uses were legally established as required under § 16-10-201, *Code of the Town of Hilton Head Island, South Carolina* (1983). Under § 16-10-201, *Code of the Town of Hilton Head Island, South Carolina* (1983), a legally established use is:

Any land use, development, building, structure or site, including any lot of record, which was established, constructed, used or recorded pursuant to, and in conformance with all relevant

The Town's definition is consistent with the South Carolina Local Government Comprehensive Planning Enabling Act of 1994. S. C. Code Ann. § 6-29-730 (Supp. 2012), read, in relevant part:

The regulations may provide that land, buildings, and structures and the uses of them which are lawful at the time of the enactment or amendment of zoning regulations may be continued although not in conformity with the regulations or amendments, which is called a nonconformity.

Because the uses other than the embarkation facility were not legally established, the Staff Report includes a material error of law.

II. The Application for Zoning Map Amendment Does Not Meet the Requirements of § 16-3-1505, Code of The Town of Hilton Head Island, South Carolina (1983).

The Staff Report fails to address the fact that the Applicant is currently in violation of the Land Management Ordinance. The Applicant has several uses at the Salty Fare site that are not authorized by the existing zoning.¹⁰ Thus, the main purposes of the Application is to have the Town forgive the Applicant's violation of the Land Management Ordinance, and to have the Town change the law to rectify Applicant's violation of the Land Management Ordinance.¹¹

A review of the Application as required by § 16-3-1505, *Code of The Town of Hilton Head Island, South Carolina* (1983), shows that the zoning amendment sought by the Applicant does not warrant a recommendation approval by the Planning Commission. Under § 16-3-1505, *Code of The Town of Hilton Head Island, South Carolina* (1983), the Planning Commission must consider and make findings on the following matters regarding

requirements of the Ordinances then in effect.

The Town's error of improperly granting a business license does cause a non-conforming use to meet the requirements of this language.

¹⁰ On page 1 of the Staff Report the following uses are said to be in operation at the Salty Fare site: offices, an art gallery, ferry service, kayak and paddleboard rentals, charter fishing, boat tours and jet ski rental. The Applicant, however, states that the embarkation (apparently identified in the Staff Report as the ferry service) is the *only* authorized use at the Salty Fare site. See: May 2, 2013, letter from Stewart Collins, Page 1, paragraph 1.

¹¹ Doing so is the wrong response for two reasons:

1. It permits an Applicant to profit from its violation of the Land Management Ordinance.
2. It establishes a precedent for allowing an Applicant to seek an advantage from the Town while it remains in violation of the Town's ordinances.

the proposed amendment:

- A. Consistency (or lack thereof) with the Comprehensive Plan;
- B. Compatibility with the present zoning and conforming uses of nearby property 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;
- 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;
- 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;
- F. Availability of sewer, water and stormwater facilities generally suitable and adequate for the proposed use.

A consideration of these matters will reveal the following reasons to recommend disapproval of this Application for Zoning Map Amendment:

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

- 1. The proposed Zoning Map Amendment is sought to resolve a problem that the Applicant created by establishing uses that were not and are not authorized by the current zoning for this property.¹²
- 2. Unlike the only authorized use, which is an embarkation facility Daufuskie Island, the unauthorized uses serve tourists as their main function.
- 3. *See:* Comprehensive Plan 8.10. No change in development pattern has been demonstrated here. This Zoning Map Amendment is sought to rectify the Applicant's decision to violate the existing zoning for the Salty Fare site.
- 4. No background information within the Comprehensive Plan provides justification for this proposed zoning map amendment. Neither the Applicant nor the Staff Report points to any.

¹² The proposed Zoning Map Amendment might also enhance the speculative value of the site, but nothing the Comprehensive Plan suggests that such is proper basis for a Zoning Map Amendment.

5. The proposed Zoning Map Amendment conflicts with the Section 8.11 of the Comprehensive Plan and the Goals stated in Section 8.11 as follows:
- (i) Section 8.11, Goal 8.1(a) Goal is to have an “appropriate mix of land uses to meet the needs of existing and future population”. The Proposed Zoning Map Amendment does not promote this goal, and in fact is contrary to it because the unauthorized high intensity tourist use is not appropriate for this mostly residential neighborhood.¹³
 - (ii) Section 8.11, Goal 8.4(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.” The proposed Zoning Map Amendment does not promote this goal, and in fact is contrary to it because the unauthorized high intensity tourist use is not appropriate for this mostly residential neighborhood.¹⁴
 - (iii) Section 8.11, Goal 8.10(a) The goal is to provide “appropriate modifications to the Zoning designations to meet market demands while maintaining the character of the Island.” There is no evidence of any market driven demand for this proposed zoning map

¹³ In the Staff Report (Page 4, Criteria 2, item 2), emphasis is given to the fact that the uses sought by the Applicant are in existence on nearby properties located in the WMU Zone. This ignores two important facts:

1. The uses are allowed in the WMU Zone.
2. The Salty Fare site was created as a low intensity site in connection with the approval of the Cypress, and it has and does serve as a buffer between the WMU Zone and the residential area in Hilton Head Plantation.

¹⁴ In the Staff Report (Page 4, Criteria 2, Item 3), emphasis is given to the fact that there have been no complaints arising from the permitted uses that are in operation on parcels in the WMU Zone. This is irrelevant, as the uses being addressed are permitted in the WMU Zone. Further, the Salty Fare site buffers the residential portions of Hilton Head Plantation from the effects of the permitted uses on the “other nearby parcels”. The Staff Report (Page 4, Criteria 2, Item 4), also states that no complaints have been received by the Town regarding the ferry operation at Salty Fare. In as much as the use of the Salty Fare site as an embarkation is the only authorized use of this property, that should not be surprising. It is no justification to expand the uses at the Salty Fare site.

amendment. The perceived "need" for the Zoning Map Amendment results from the Applicant's own actions in establishing unauthorized uses on the property.

7. This proposed change appears to conflict with the Implementation Strategy of the Section 8.11 of the Comprehensive Plan, as follows.

- (i) Section 8.11
Implementation Strategy 8.10(A) "Review the appropriate locations of certain land uses in critical areas such as headlands, velocity zones, airport overlay, critical line for storm and the dune accretion zone."

A review of this Salty Fare site, which serves as a buffer between the WMU zone and the residential Cypress and Hilton Head Plantation would show that the unauthorized high intensity commercial/tourist uses are not appropriate. The proposed uses are available in the adjacent WMU zone, and there is no justification to allow the uses to encroach into the residential areas of Hilton Head Plantation.

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

1. The existing unauthorized uses that would be allowed under the proposed Zoning Map Amendment are not compatible with the character of the neighborhood, which is the adjacent residential Cypress and Hilton Head Plantation. The existing unauthorized uses are high turnover, noisy tourist uses that are not appropriate on a site adjacent to a residential neighborhood.¹⁵

2. The incompatibility of the unauthorized proposed uses on the Salty Fare site with the adjacent residential neighborhood of the Cypress and Hilton Head Plantation is demonstrated by the fact that the uses are unauthorized under the existing zoning for the Salty Fare site.¹⁶

3. See: comments under (E)(2) below.

¹⁵ The Staff Report (Page 4, Criteria 2, Item 4) states: "Code Enforcement Staff has not received any recent complaints or negative feedback regarding the ferry operations at the subject parcels". There has been considerable opposition raised to the continuation of the unauthorized uses at the Salty Fare site, however.

¹⁶ See: Notes 13 and 14 above. The Staff Report's reliance on the existence of conforming uses in WMU zone is mis-placed. The existence and operation of conforming uses in the WMU zone provides no basis to expand those uses into an area where they are not currently permitted and where the uses would impair the character of the adjacent residential 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 Salty Fare site is unsuitable for the existing unauthorized uses of kayak and paddleboard rentals, charter fishing, boat tours and jet ski rentals that would be allowed under the proposed Zoning Map Amendment for the reasons stated under headings A and B above.¹⁷

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.

1. The Salty Fare site is suitable for the embarkation use that has existed and continues to exist on the Salty Fare site. It was operated as an embarkation facility for many years following the creation of this site as a low intensity site adjacent to the Cypress and other residential neighborhoods in Hilton Head Plantation. There remains a need for embarkation facilities for Daufuskie Island and elsewhere, and there remains a need to buffer the residential portions of the Cypress and Hilton Head Plantation from the tourist oriented uses allowed in the WMU zone.

2. *See:* Section 9, sub-section 9.7 regarding Marine Transportation. The use of the Salty Fare site for an embarkation is consistent with this section of the Comprehensive Plan.

3. The existence of the embarkation facility is consistent with the following goals and implementation strategies of the Comprehensive Plan:

(i) Section 9
Sub-Section 9.10
Goal 9.5 The goal is to identify the Island - wide needs for public transportation and research alternative ways to provide the needed services.

(ii) Section 9,
Sub-Section 9.10
Goal 9.7 The goal is to integrate a marine - based transportation option into the transportation network that has the potential to serve Town residents, visitors and employees.

(iii) Section 9,

¹⁷ In the Staff Report (Page 5, Criteria 3, Item 5), the following appears: "The site has been used for Watercraft Rental and other Water-Oriented Uses since early 2012". While this may be true as far as it goes, the Staff Report leaves out the fact that those uses on the Salty Fare site violate the Land Management Ordinance. There is nothing the Land Management Ordinance or the Comprehensive Plan that supports the notion that the establishment of an illegal use is an appropriate justification for a Zoning Map Amendment.

Sub-Section 9.10
Goal 9.9 The goal is to promote regional transportation and land use planning for all of southern Beaufort County.

- (iv) Section 9
Sub-Section 9.10
Implementation Strategy 9.5(F) Support enhancements to the public transportation network, . . .
- (v) Section 9
Sub-Section 9.10
Implementation Strategy 9.5(A) Support efforts to expand marine transportation that reduces vehicular trips on Island road or increases revenue through expanded tourism.
- (vi) Section 9
Sub-Section 9.10
Implementation Strategy 9.5(B) Support coordination of regional partners to assess potential water-born transportation to serve areas from Beaufort to Savannah.

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.

1. There is no evidence of any change in the development patterns in this area affecting the Salty Fare site (*See*: Section 8, Sub-Section 8.10).¹⁸ In addition, the proposed Zoning Map Amendment conflicts with the Comprehensive Plan as follows:

- (i) Section 8
Sub-Section 8.11
Implementation Strategy 8.10(A) Review the appropriate locations of certain land uses in critical areas such as headlands, velocity zones, airport overlay, critical line for storm and the dune

¹⁸ The Applicant has given no evidence related to the marketability or lack of marketability based on the Salty Fare site as an embarkation facility. In the May 2, 2013, letter from Stewart Collins, the only justification given for the Zoning Map Amendment is that it would alleviate an "economic hardship". Nothing in the Comprehensive Plan or the Land Management Ordinance recognizes an individual property owner's economic condition as justification for a Zoning Map Amendment. Indeed, given the negative impact of the proposed Zoning Map Amendment on the adjacent residential Cypress and Hilton Head Plantation, the Zoning Map Amendment would simply transfer the economic hardship to the residents of those areas.

accretion zone.

2. The Applicant's violation of the Land Management Ordinance would be excused, allowing the Applicant to profit from his violation of the Land Management Ordinance. This is an inequitable result for these reasons:
 - (i) The law should not be changed to excuse a bad act. The Applicant's establishment of the unauthorized businesses at this site violates the Land Management Ordinance, and the Applicant should not be allowed to gain an advantage while the violation exists. That only punishes people who comply with the law. It is also detrimental to the Town's ability to enforce its own laws, because how does the Town then justify not re-writing the Land Management Ordinance for the next violator?
 - (ii) This subject property was established by its then owner as a low intensity use in connection with the development of the Cypress which is an adjoining residential development.
 - (ii) The investment of the homeowners at the Cypress and Hilton Head Plantation far exceeds any investment in the Salty Fare property, and while the after the fact authorization of the unauthorized uses may have some impact on the marketability of the Salty Fare site, it will have a negative impact on the marketability of the Cypress and other Hilton Head Plantation properties.¹⁹

¹⁹ At its meeting of May 22, 2013, the Town Council's Planning and Development Standards Committee was faced with a request of an entity known as 217 Beach City Road, LLC, to change the zoning on its land because the owner's economic expectations had not been met. The approved minutes from the May 22, 2013, Planning and Development Standards Committee meeting includes the following text:

Mr. George Williams stated that he is sympathetic to the White sisters' financial position on this issue. However, the Town should not pick and choose properties to be rezoned based on financial reasons. Mr. George Williams presented statements in support of protecting Mr. and Mrs. David Jackson's interests.

Mr. Harkins stated that he agrees with the comments presented by Mr. George Williams. Mr. Harkins stated that zoning is not a tool to correct investment failures. Mr. Harkins stated that the staff and the public presented cogent arguments in favor of denying the application. Mr. Harkins complimented Mrs. Lopko on the staff's report and the staff's presentation.

Chairman McCann agreed with the statements presented by Mr. George Williams and Mr. Harkins. Chairman McCann stated that this is not an airport issue but rather an issue of density. The Town should not rezone property for the purpose of correcting a failed investment.

The Town Council has yet to vote on the application of 217 Beach City Road, LLC, because 217 Beach City Road, LLC, has requested that the application not be placed on the agenda. Three Councilmen speaking at the meeting did express that zoning is not a tool to address investment expectations, however.

- (iii) Owners in the Cypress and Hilton Head Plantation properties made their investment, not for short term speculation, but for long term use as a residence. The proposed Zoning Map Amendment is sought only to enhance the value of a single property for a speculative purchaser, to the detriment of those who have made material investments in their residence.

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

No issue presented.

CONCLUSION

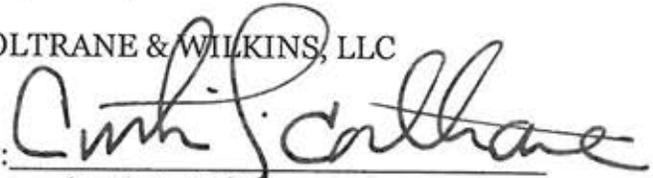
The Staff Report and Recommendation includes material errors of fact, and material errors of law. A review of the matters outlined in § 16-3-1505, *Code of The Town of Hilton Head Island, South Carolina* (1983), shows that the Application is inconsistent with the Land Management Ordinance and the Comprehensive Plan, and that the Applicant has failed to demonstrate that the Planning Commission should recommend approval of it.

The Cypress Homeowners' Association, Inc., on behalf of the more than Three Hundred property owners that it represents, urges the Planning Commission to make its findings consistent with facts and law stated herein, and that it recommend denial of ZMA13-0004.

Respectfully Submitted:

COLTRANE & WILKINS, LLC

By:



Curtis L. Coltrane
South Carolina Bar Number 1344
Post Office Drawer 6808
Hilton Head Island, SC 29938
(843) 785-5551
(843) 842-8400 (Fax)
curtis@coltraneandwilkins.com

Hilton Head Island, South Carolina

This 25th day of July, 2013.

S. Kittredge Collins
Trustee, Collins Family
3374 Jackson Street
San Francisco, CA 94118
kittredge@gmail.com

Aug 6, 2013

Ms. Kathleen Carlin
Town of Hilton Head Island
One Town Center
Hilton Head Island, SC 29928

RE: Salty Fare ZMA
ZMA 13-0004

Dear Ms. Carlin

On behalf of the Collins Family Trust, owners of the property known as Salty Fare, I submit to you, Hilton Head Planning Commission, and the Town of Hilton Head a rebuttal to several points contained in the letter submitted to you by Mr. Curtis Coltrane on behalf of The Cypress (July 25th, 2013).

My neighbors, Hilton Head Plantation and the residential community known as the Cypress have been aggressively objecting to my request to offer guided water recreation activities from the Salty Fare docks even though these activities will have no negative impacts on these communities. The Cypress borders my back parcel and is not in close proximity to Skull Creek and the proposed water activities. The five residential properties on Skull Creek enjoy life on the water and all of the uses of Skull Creek. Initially, I had interpreted the nexus of my neighbor's objections as a perception that the jets skis would present a noise nuisance and offered to demonstrate that the new jet ski is quiet and will not cause a disturbance. My invitation was accepted by many in the community and those in attendance appeared to agree. After the demonstration, I submitted to a question and answer session at the Cypress that I had hoped would clarify the areas of concern. The community appeared satisfied that the noise was not an issue but there was concern that the zoning amendment for "water orientated use" is ill defined; that approval will open the doors to future water uses that would be noxious. Mr. Puntereri and Mr. Kristian have since suggested the LMO be tightened to define the specific uses allowed under this zoning classification. I agree.

I do disagree with several of Mr. Coltrane's points specifically the following:

1.) That the proposed zoning map amendment does not promote an appropriate mix of land uses because the “unauthorized high density tourist use is not appropriate for this mostly residential neighborhood.” The reality is that Salty Fare is bordered by WMU and residential; the proposed uses are not “high density” (8 jet skies, kayaks, and paddle boards?); and will cater to the greater community and not simply the tourist.

2)That there is no evidence of any market driven demand. My dock master, Mr. Moy, who proposed operating kayak and jet ski tours from Salty Fare and received a business license from the Town, disagrees. Upon the issuance of the license, Mr. Moy, relying on the license purchased six jet skies, hired three staff members and has been running a well subscribed business. I believe this indicates a demand.

3)That the statement “the existing, unauthorized uses are “high turnover”, noisy tourist uses that are not appropriate on a site adjacent to a residential neighborhood” is incorrect. The proposed uses are not high turnover or noisy, and Salty Fare is boarded by the Skull Creek Boat house and the Boat House restaurant, both of which are high turnover, noisy, and cater to, God forbid, tourists. Reading Mr. Coltrane’s wording, one would suspect my neighbors are anti-tourism, anti-recreation, and promote exclusivity to the detriment of the public access to Skull Creek.

4)That Salty Fare is unsuitable for the unauthorized uses of kayak and paddle board rentals, charter fishing, boat tours, and jet ski rentals: In a spirit of compromise, I agreed to withdraw my application for Water Craft Rentals during my question and answer session at the Cypress. All of the proposed uses will be “guided”; there will be absolutely no water craft rentals, only tours. As for “unauthorized”, Mr. Moy received a business license. The statement that Salty Fare is unsuitable for kayak and paddle boards is unclear at best.

Mr. Coltrane twice refers to Salty Fare as a “buffer” between the WMU zone and the residential Cypress and Hilton Head Plantation. Salty Fare is a private property with a 11,000 square foot commercial building and an embarkation landing. In the years before the Melrose Inn closed the parking lot held 325 cars next to the Cypress. One might refer to the parking as “high density.’ The real issue here is that my neighbors, the Cypress and Hilton Head Plantation truly believe that Salty Fare is a buffer zone. To my knowledge, there is no such zoning classification. It is a private property and to define it as a “buffer zone” constitutes a tacit attempt to a “taking” of one private property by another private entity.

When the residents of the Cypress and Hilton Head Plantation chose to to buy their properties, they did so knowing that Salty Fare was an embarkation landing. The ferries employed were loud and the parking was extensive. The proposed zoning amendment, if approved, will be neither. If approved, Salty Fare will provide public access to Skull Creek for recreation and ecological use of the water way.

Sincerely,

S. Kittredge Collins, Trustee Collins Family Trust

cc: Anne Cyran, Senior Planner, Town of Hilton Head
Hilton Head Planning Commission
Noreen McMullin, Manager, Salty Fare
Michael Moy, Dock Master, Salty Fare

COLTRANE & WILKINS, LLC
ATTORNEYS AT LAW

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

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

August 8, 2013

Ms. Kathleen Carlin
TOWN OF HILTON HEAD ISLAND
One Town Center Court
Hilton Head Island, SC 29928

RE: Salty Fare Re-Zoning Application
ZMA 130004

Dear Kathleen:

Enclosed, you will find a letter to each the members of the Town Council's Planning and Development Standards Committee. I would ask that the letters be distributed to the Committee members, and that it be included in the agenda package for the meeting of August 28, 2013. I thank you for your help with this matter, and look forward to hearing from you soon. I am,

Sincerely,

COLTRANE & WILKINS, LLC



Curtis L. Coltrane

CLC/c

enc: As Stated
cc: Mr. Marc Puntereri
Ms. Anne Cyran

COLTRANE & WILKINS, LLC
ATTORNEYS AT LAW

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*Also Member Virginia Bar

August 8, 2013

Hon. John J. McCann, Chairman
PLANNING & DEVELOPMENT STANDARDS COMMITTEE
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

Hon. George W. Williams, Jr.
PLANNING & DEVELOPMENT STANDARDS COMMITTEE
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

Hon. William D. Harkins
PLANNING & DEVELOPMENT STANDARDS COMMITTEE
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

Hon. Kimberly W. Likins, Alternate
PLANNING & DEVELOPMENT STANDARDS COMMITTEE
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

RE: ZMA130004
Salty Fare

Dear Mr. Chairman and Committee Members:

I am writing on behalf of the Cypress Homeowners' Association, Inc., and the more than 300 property owners that it represents to express their opposition to the proposed

Hon. John J. McCann, Chairman
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August 8, 2013
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zoning change application submitted by Stewart Kittredge Collins in connection with the Salty Fare site that lies adjacent to the Cypress and other residential areas of Hilton Head Plantation.

As you are likely aware, the Planning Commission has voted to recommend approval of the proposed change in the face of the following, undisputed facts:

(a) Mr. Jim Coleman, who was involved in the development of both the Cypress and the Salty Fare site, testified that in connection with the development of the Cypress, the Salty Fare site was down-zoned to limit the water-front side to a maximum of 10,283 square feet of commercial development and all density was removed from the non water-front side. The Salty Fare site was developed as an embarkation site for owners at Melrose on Daufuskie Island, which is a low intensity use. As such, the Salty Fare site has always served to buffer the Cypress and other residential areas of Hilton Head Plantation from the more intensive uses permitted in the Waterfront Mixed Use zone.¹

(b) The owner of the Salty Fare site has established water oriented uses at the Salty Fare site that are not permitted under the existing zoning for the site, and is and has been, in violation of the Land Management Ordinance.²

The Planning Commission disregarded the testimony of long term Cypress residents, Mr. James Coleman and Mr. T. Peter Kristian in connection the with history of the property. Instead, the Planning Commission based its recommendation on its own speculation as to what might conceivably be built on the site as a result of the site's

¹ The owner of the Salty Fare site has objected to the use of the word "buffer". The only evidence in the record, though, is that the Salty Fare site has always served as a buffer or transition site between the WMU zone and the residential Hilton Head Plantation.

² It is true that the Town issued a business license relating to these uses in error, but that fact does not mean that the uses have been legally established as required under § 16-10-201, *Code of the Town of Hilton Head Island, South Carolina* (1983). Under § 16-10-201, *Code of the Town of Hilton Head Island, South Carolina* (1983), a legally established use is:

Any land use, development, building, structure or site, including any lot of record, which was established, constructed, used or recorded pursuant to, and in conformance with all relevant requirements of the Ordinances then in effect.

The Town's error in improperly granting a business license does cause a non-conforming use to meet the requirements of this language.

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August 8, 2013
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“commercial” designation under the Hilton Head Plantation PD-1 Master Plan. Specifically, members of the Planning Commission mentioned, grocery stores, a water park and fast food restaurants with a drive through. The problem with the Planning Commission’s speculation on what might, or could, happen at Salty Fare, is three-fold:

(a) The limitation on square footage (10,283) will prevent a large user such as a grocery store or water park from locating here.³

(b) The Salty Fare site is the last parcel on what is, effectively, a dead end road. The Hilton Head Plantation entrance gate is immediately past Salty Fare, and the road is no longer public from that point. Anyone not able to enter Hilton Head Plantation must turn around at that point. The notion that such a location is likely to be developed as a fast food restaurant with a drive through is simply at odds with common knowledge of where such establishments are always located.

(c) The Planning Commission also noted that Skull Creek is part of the Inter-Coastal Waterway, and suggested that the traffic in the channel of Inter-Coastal Waterway presents the same issues regarding noise and activity as a fleet of jet-ski/wave runner type craft, craft for para-sailing, craft for “banana boats” utilizing the Salty Fare dock. The Planning Commission’s reasoning on this point is not valid. The channel of the Inter-Coastal Waterway is about 700 yards (or 1/3 mile) from residences in Hilton Head Plantation, and islands covered by green Spartina grass lie between the residences and the Inter-Coastal Waterway. However, some of the residences are only 100 yards from Salty Fare dock, and all homes have a clear, unobstructed line of sight and sound to the tourist operations leaving the Salty Fare dock.⁴ The Planning Commission’s reasoning also ignores the fact that the water front owners bought their property knowing that Skull Creek is a part of the Inter-Coastal Waterway, but they did not purchase their property knowing that the Salty Fare dock would become a site for noisy water craft in close proximity to their homes.

³ The trend in grocery stores is to build larger, not smaller. Witness the recent renovation of the Harris Teeter store at Park Plaza, and the construction underway for the Kroger at Shelter Cove.

⁴ In addition, the testimony of the operator at Salty Fare was that the State’s regulations only require that craft leaving the dock be 50 feet away from the dock prior to powering up, and that his operations adhere to that regulation.

Hon. John J. McCann, Chairman
Hon. George W. Williams, Jr.
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August 8, 2013
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The water oriented uses operating at Salty Fare do so in violation of the Land Management Ordinance. The notion that the ordinance should be changed to permit these uses is exactly backwards from what should happen. Such a result is detrimental the Town's ability to enforce its ordinances, because how does the Town say "no" to the next violator who chooses expedient of violating the ordinance, when that person suggests that the solution is to change the ordinance?

It is no secret that the owner of Salty Fare is marketing the property. While approving this application might make his investment more profitable, it will do so at the expense of those who have invested in their homes at the Cypress and other residential areas of Hilton Head Plantation.

For the reasons set out in its Objection to ZMA 130004, which is a part of your record, and above, the Cypress Homeowners' Association, Inc., and the more than Three Hundred owners in it urge you to recommend denial of ZMA 130004 to the full Town Council.

Respectfully Submitted:

COLTRANE & WILKINS, LLC



Curtis L. Coltrane

CLC/c

cc: Mr. Marc Puntereri

Stewart Kittredge Collins
3374 Jackson Street
San Francisco, California 94118
kitredge@gmail.com

August 12, 2013

Hon. John J. McCann, Chairman
Planning & Development Standards Committee
Town of Hilton Head Island
One Town Center
Hilton Head, SC 29928

Hon. George W. Williams, Jr.
Planning & Development Standards Committee
Town of Hilton Head Island
One Town Center
Hilton Head, SC 29928

Hon. William D. Harkins
Planning & Development Standards Committee
Town of Hilton Head Island
One Town Center
Hilton Head, SC 29928

Hon. Kimberly W. Likins, Alternate
Planning & Development Standards Committee
Town of Hilton Head Island
One Town Center
Hilton Head, SC 29928

RE: Salty Fare ZMA
ZMA 13-0004

Dear Mr. Chairman and Committee Members,

I write to you as the Trustee of the Collins Family Trust to discuss comments submitted to you by Mr. Curtis Coltrane (August 8th) on behalf of the Cypress in opposition to my zoning amendment application for Salty Fare. I want to state that I am not an attorney. I have applied for a zoning amendment as an individual and in good faith; believing that Water Oriented Use and Embarkation Use is consistent with the location of my property and the water activities on Skull Creek. I have reached out to my neighbors in Hilton Head Plantation and The Cypress, hosting a demonstration to prove that Jet Skies are no longer the irritating water craft of the past; that in fact, they are quiet relative to the existing sounds of Skull Creek, The Skull Creek Boat House, the Boat House Restaurant, and common yard equipment operating in The Plantation. I have worked

with Mr. Puntereri and Mr. Kristian to find a solution that will assure my neighbors that the guided tours will not alter their quality of life and to mitigate their fear that by allowing water access from Salty Fare it will “open the door” to mass tourism. In the spirit of compromise, I withdrew my application for Water Craft Rental Use, and stated that all Water Oriented use at Salty Fare will be guided.

It is now clear that Mr. Coltrane’s clients, The Cypress and Hilton Head Plantation, are less concerned about noise than *any* future use of Salty Fare that will alter the residents perception that Salty Fare is a “**Buffer Zone**” property, designated to protect their quality of life beyond the gate from the “more intensive use permitted in the WMU zone.” To my knowledge, there is no such zoning designation as buffer. If a property or entity wishes to insulate themselves, they are free to design a buffer zone under the fee title of its own land. Perhaps this is what Mr. Coleman had in mind when Salty Fare was originally developed to serve his Daufuskie development. However, Melrose was sold years ago.

Mr. Coltrane wrongly asserts that it is an “undisputed fact” that when Salty Fare was developed for the owners of Melrose on Daufuskie Island, it was “low intensity use.” In a point of fact, when Melrose was operating at full capacity, the Salty Fare parking lots accommodated 325 cars a day. This was hardly low intensity usage. The proposed use of the Salty Fare dock for kayak and watercraft tours will be a low intensity use compared to past usage.

It is an undisputed fact that Mr. Moy’s business license was issued in error. When I agreed to Mr. Moy’s proposal to operate guided tours from Salty Fare, I did not understand that accessing Skull Creek from my docks for anything other than embarkation was not permitted. Please consider that Mr. Moy did apply for the business license; that there was no attempt to operate his business in violation. Mr. Moy relied upon his license to acquire six jet skies and kayaks at his expense. I might point out that there were no complaints about his tours until another applicant, who wished to launch a parasail business from Salty Fare, was denied a business license. I emphasize that there were no complaints of disturbance or diminution of quality of life noted by my neighbors until I noticed them of my zoning application

I do not understand Mr. Coltrane’s assertion that your planning commission “based its recommendation to approve my application on speculation as to what might conceivably be built on the site.” It is true that the existing zoning allows specific uses that I would not believe appropriate for the site. I am not applying for any of those uses and your commission certainly did not base their decision on this point. Your planning commission voted 6 to 1, in favor of the application because it is in compliance with neighboring use and appropriate for the site.

The planning commission correctly noted that Skull Creek is part of the inter-coastal waterway; that the traffic in the channel presents the same issues regarding noise and activity as a fleet of watercraft leaving the Salty Fare dock. Mr. Coltrane disagrees, stating that “all homes have a clear, unobstructed line of sight and sound to the **tourist** operations leaving the Salty fare dock; and “they did not purchase their property

knowing that the Salty Fare dock would become a site for noisy watercraft in close proximity to their homes.” In point of fact, Salty Fare was designed as an embarkation landing, catering to tourist clientele. Those residents who purchased homes did so with full understanding that the ferry boats were loud vessels and that they operated from Salty Fare. Additionally, our jet ski demonstration for the residents proved that the sound generated by the 4 cylinder jet skis in use today pales in comparison with noise from other sources in proximity to Salty Fare.

I must comment on Mr. Coltrane’s statement that I am actively marketing the property. This is a complete non sequitur to the issue at hand. To believe that a \$500.00 per month watercraft lease will create significant value to the property is laughable. To use this logic to argue against a zoning application has no merit unless one believes that improving one’s property is un-American. I would consider an offer from my neighbors want to pay for their buffer zone.

To close, the planning commission issued a positive recommendation because they believed that Water Oriented Use and Embarkation Use are appropriate for the site. My neighbors have hired Mr. Coltrane to protect their gated community from their perception that said uses will promote high intensity and unwanted tourist trade. Is the tourist persona non grata on Hilton Head Island? More disturbing to me is the assertion that my property is considered a buffer zone by Hilton Head Plantation and The Cypress. I will argue strenuously that this is an implied taking of private property by another private property for private use.

Sincerely,

Stewart Kittredge Collins

Cyran Anne

From: stewart collins [REDACTED]
Sent: Thursday, September 05, 2013 1:49 PM
To: Cyran Anne
Subject: Letter to the Town Council

Dear Members of the Hilton Head Island Town Council,

I, as the Trustee of the Collins family Trust, applied for three zoning uses for my property known as Salty Fare: Embarkation, Water Orientated use, and Watercraft Rental. Early in the process, I chose to withdraw the application for watercraft rental in an attempt to mitigate objections from The Cypress and Hilton Head Plantation. On the 28th of August, your Planning and Development Standards voted to deny my application despite a six to one Planning Commission vote to approve. My neighbors in the Cypress focused their objections on the Water Orientated Use, arguing that the use as written is too "open ended"; that the definition might allow unlimited wave riders or unforeseen watercraft types. The subcommittee apparently agreed that the Town's zoning category is vague and based its decision on "what might occur in the future". I do question your sub committee's disregard of the Planning Commission's affirmative vote which was based on a defined LMO use. I relied on a defined use that I believe to be appropriate for the Salty Fare. Therefore, I have no alternative but to withdraw my application for Water Orientated Use for the Salty Fare Embarkation docks. Please do not consider any request for Water Orientated zoning use until a workable definition for this use is agreed upon. A precedent was set that will allow objections to this use based on what might happen in the future, ignoring the intent of the zoning use.

I do wish to request your approval for Embarkation Use. The property is currently being used for embarkation purpose under "legal non-conforming" status. Despite the objections to Water Orientated Use, there have been no objections to Embarkation use. Please approve Salty Fare for legal conforming use at your September 17th Town Meeting.

Sincerely,

Stewart Kittredge Collins



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, CM, *Town Manager*
VIA: Teri B. Lewis, AICP, *LMO Official*
FROM: Jayme Lopko, AICP, *Senior Planner*
CC: Charles Cousins, AICP, *Community Development Director*
DATE: May 24, 2013
SUBJECT: ZMA130003 – Beach City Place

Recommendation: The Planning and Development Standards Committee met on May 22, 2013 to review the attached application for Zoning Map Amendment (ZMA130003) and after a public meeting, voted 3-0-0 to forward the application to Town Council with a recommendation of denial, finding that the application is inconsistent with the Comprehensive Plan and does not serve to carry out the purposes of the Land Management Ordinance.

The Planning Commission met on May 1, 2013 to review the attached application for Zoning Map Amendment (ZMA130003) and after a public hearing, voted 5-3-0 to forward the application to Town Council with a recommendation of approval, finding that the application is consistent with the Comprehensive Plan and serves to carry out the purposes of the Land Management Ordinance.

Staff recommends Town Council deny the application, finding that it is inconsistent with the Comprehensive Plan and does not serve to carry out the purposes of the Land Management Ordinance.

Summary: A request from Chester C. Williams on behalf of 217 Beach City Road, LLC proposing to amend the Official Zoning Map by changing the zoning designation of the property located at 1-16 and 20-70 Circlewood Drive from the RM-4 (Low Density Residential) zoning district to the RM-12 (Moderate to High Density Residential) or WMU (Water Front Mixed Use) zoning district. The properties are further identified on Beaufort County Tax Map 5, Parcels 8, 336 through 342, and 344 through 375.

On April 18, 2013, the applicant withdrew the portion of the application that seeks to rezone the properties to WMU.

Background: The subject properties are currently platted as a 32 lot single family subdivision with only one lot that has been sold and developed. This lot has been excluded from this rezoning application.

The existing subdivision was approved in June of 2009. Since that time one house has been completed within the subdivision. The subdivision has recently had an Order of Foreclosure issued against the owners of the properties. The applicant states that this rezoning application is an attempt to avoid foreclosure by redeveloping the property into a high density multi-family development.

The properties are located within the Airport Overlay Zone Approach Path and Outer Hazard Zone, which places additional restrictions for height and use of the properties. The properties are far enough away from the airport primary surface that the height restrictions will not impact the redevelopment of the properties. Residential uses do not have special restrictions for use under the outer hazard zone regulations.

A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND DENYING THE APPLICATION FOR ZONING MAP AMENDMENT ZMA130003 WHICH REQUESTS AN AMENDMENT TO CHAPTER 4 OF TITLE 16, "THE LAND MANAGEMENT ORDINANCE" (LMO), OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, BY AMENDING SECTION 16-4-102, THE OFFICIAL ZONING MAP SPECIFICALLY REZONING 8.56 ACRES IDENTIFIED AS PARCELS 8, 336 THROUGH 342, AND 344 THROUGH 375 ON BEAUFORT COUNTY TAX MAP 5 FROM RM-4, LOW DENSITY RESIDENTIAL TO RM-12 MODERATE TO HIGH DENSITY RESIDENTIAL.

WHEREAS, on July 21, 1998, the Town Council did amend Title 16 of the Municipal Code of the Town of Hilton Head Island by enacting a revised Land Management Ordinance ("LMO"); and

WHEREAS, the Planning Commission held a public hearing on said zoning map amendment application on May 1, 2013, at which time a presentation was made by staff and an opportunity was given for the public to comment on the rezoning request; and

WHEREAS, the Planning Commission, after consideration of the staff report, public comments, and the criteria set forth in Section 16-3-1505 of the LMO, voted 5-3-0 to recommend to Town Council that the rezoning request be approved, finding that the application is consistent with the Comprehensive Plan and serves to carry out the purposes of the Land Management Ordinance; and

WHEREAS, the Planning and Development Standards Committee held a public meeting on May 22, 2013 to review said zoning map amendment application, at which time a presentation was made by staff and an opportunity was given for the public to comment on the rezoning request; and

WHEREAS, the Planning and Development Standards Committee, after consideration of the staff report, public comments, and the criteria set forth in Section 16-3-1505 of the LMO, voted unanimously to recommend to Town Council that the rezoning request be denied, finding that the application is inconsistent with the Comprehensive Plan and does not serve to carry out the purposes of the Land Management Ordinance; and

WHEREAS, after due consideration of said zoning map amendment application and the recommendations of the Planning Commission and the Planning and Development Standards Committee, the Town Council, upon further review, now finds that the requested zoning map amendment does not meet the criteria as set forth in Section 16-3-1505 of the LMO.

NOW, THEREFORE, BE IT, AND HEREBY IT IS, RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, THAT THE TOWN COUNCIL HEREBY DENIES APPLICATION FOR REZONING ZMA130003.

MOVED, APPROVED, AND ADOPTED ON THIS _____ DAY OF _____, 2013.

Drew A. Laughlin, Mayor

ATTEST:

Esther Coulson, Town Clerk

Approved as to form:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____



**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
ZMA130003	Beach City Place	May 1, 2013

Parcel Data or Location	Property Owner/ Applicant	Agent
<u>Existing Zoning District:</u> RM-4 <u>Proposed Zoning District:</u> RM-12 or WMU <u>Applicable Overlay District(s):</u> Corridor Overlay Airport Overlay <u>Parcel Affected:</u> Beaufort County Tax Map 5 Parcels 8, 336-342, & 344-375	217 Beach City Road, LLC 70 Main Street, Suite 100 Hilton Head Island, SC 29926	Chester C. Williams P.O. Box 6028 Hilton Head Island, SC 29938

Application Summary:

A request from Chester C. Williams on behalf of 217 Beach City Road, LLC proposing to amend the Official Zoning Map by changing the zoning designation of the property located at 1-16 and 20-70 Circlewood Drive from the RM-4 (Low Density Residential) zoning district to the RM-12 (Moderate to High Density Residential) or WMU (Water Front Mixed Use) zoning district. The properties are further identified on Beaufort County Tax Map 5, Parcels 8, 336 through 342, and 344 through 375.

The permitted uses and maximum impervious coverage requirements would not change as a result of rezoning to RM-12. The permitted uses would change significantly as a result of rezoning to WMU (see Attachment C). The impervious coverage requirements would increase from 35% to 50% coverage as a result of rezoning to WMU. There are other requirements that will change as a result of this rezoning as well, such as open space, density, height, and parking requirements.

Staff Recommendation:

Staff recommends that the Planning Commission find this application to be inconsistent with the Town's Comprehensive Plan and does not 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:

The applicant is proposing to change the zoning designation of the subject property from RM-4 (Low Density Residential) to the RM-12 (Moderate to High Density Residential) or WMU (Water Front Mixed Use) zoning district.

The subject properties are currently platted as a 32 lot single family subdivision with only one lot that has been sold and developed. This lot has been excluded from this rezoning application.

The properties are located within the Airport Overlay Zone Approach Path and Outer Hazard Zone, which places additional restrictions for height and use of the properties. The height restrictions move outward from the end of the airport primary surface at a rate of one foot upward for every 34 linear feet. The use restrictions are based on the occupant load of proposed use. Residential uses do not have an occupant load that will fall into one of the categories that have use restrictions.

The existing subdivision was approved in June of 2009. Since that time one house has been completed within the subdivision. The subdivision has recently had an Order of Foreclosure issued against the owners of the properties. The applicant states that this rezoning application is an attempt to avoid foreclosure by redeveloping the property into a high density multi-family development.

Applicant's Grounds for ZMA:

The applicant states in the narrative that the Beach City Place subdivision is a failed single family residential development. The properties have been in default for an extended period of time and an Order of Foreclosure has been rendered against the property owner by the lender. The property owner has secured a commitment to refinance the loan for the redevelopment of the property into a multi-family residential project, but only if the permitted density is increased.

The purpose of this application is to rezone the properties to support the successful redevelopment of the property. The applicant currently has the right to redevelop the property for multi-family residential at a density of 4 units per net acre; however, this scenario is not seen as any more economically viable than the failed single family residential development. The effect of this rezoning will increase the permitted density to 12 units per net acre in both the RM-12 and WMU zoning districts.

Summary of Facts and Conclusions of Law:

Findings of Facts:

- Notice of the Application was published in the Island Packet on March 24, 2013 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 May 1, 2013 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:

Land Use

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 existing and future populations.

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 8.10 - Zoning Changes

- A. Review the appropriate locations of certain land uses in critical areas such as headlands, velocity zones, airport overlay, critical line for storm and the dune accretion zone.

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

Transportation

Goal 9.6 – Air Transportation

- B. The goal is to ensure that development surrounding the airport is designed and constructed to minimize the negative impacts of being located near the airport.

Implementation Strategy 9.6 – Air Transportation

- C. Continue to review development proposals within the Airport Hazard Overlay District to ensure the site is designed with the maximum safety possible for the occupants of the site.

1998 Ward One Master Land Use Plan

The Future Land Use Map contained in the 1998 Ward One Master Land Use Plan, an appendix to the Town's Comprehensive Plan, identifies "Low-Moderate Residential Density Maximum Density 4-8 DU/AC" and "Density Transfer Within Airport Zone" as the desired development type for the subject property.

The Resident Desires in the 1998 Ward One Master Land Use Plan include: General preference to retain low-moderate residential densities, single family in character and Commercial, recreational, or high density residential or resort uses which increase traffic and conflict with low density character should be discouraged.

Conclusions of Law:

Staff concludes that this application is not compatible with the Land Use and Transportation Elements or 1998 Ward One Master Land Use Plan, an Appendix, of the Town's Comprehensive Plan, for the following reasons:

- The proposed rezoning to WMU would not result in a more appropriate mix of land uses because it would permit high intensity uses intended for water front property. These properties are not water front and the high intensity uses permitted by this district would not be compatible with the surrounding low density residential properties.
- The proposed rezoning to RM-12 would not result in a more appropriate mix of land uses because it would permit the exact same uses, just at a higher density.
- The proposed rezoning will either bring more residents as a result of additional residential units or more visitors as a result of a commercial/industrial business, which is not minimizing the negative impacts the airport will have on the property.
- The proposed rezoning will result in an increased amount of density for development placing more occupants on a site within the Airport Approach Path, which is not ensuring the maximum safety possible for occupants of this site.
- The proposed rezoning would not be consistent with the 1998 Ward One Master Land Use Plan because both the RM-12 and WMU districts would allow a high density residential development. In addition the WMU district would allow high intensity commercial uses which would not be consistent with the single family character of the area.

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:

- LMO Section 16-4-206 describes the purpose of the existing RM-4 zoning district as: *“It is the intent of this residential district to protect and preserve the unique character of Native Islander areas and neighborhoods at densities up to four (4) dwelling units per net acre. This district is used to encourage a variety of residential opportunities.”*
- The subject properties are currently 31 vacant lots, the associated open space, and the infrastructure within a single family subdivision.
- The properties to the northwest and southwest are currently vacant. One of the properties to southwest is developed as single family residential, which is conforming in the RM-4 zoning district. The properties to the northeast are developed as both single family and multi-family residential uses, which are conforming in the RM-4 and WMU zoning districts.
- The property to the southwest is currently a light industrial use, a contractor’s office with outdoor storage, which is legally nonconforming to the RM-4 zoning district.

Conclusion of Law:

Staff concludes that the properties subject to the rezoning application are compatible with the present zoning, the conforming uses of nearby property and the character of the neighborhood as set forth in LMO Section 16-3-1505B because the properties are developed as a single family subdivision which is compatible with the surrounding residential character and uses.

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 16-4-218 describes the purpose of the RM-12 zoning district as: *“to allow higher density residential uses in locations which are served by adequate infrastructure, while maintaining the unique character of Native Islander areas and neighborhoods at densities up to twelve (12) units per net acre.”*
- LMO Section 16-4-218 describes the purpose of the WMU zoning district as: *“to recognize certain areas of the Town that are special water oriented sites, and as such have a unique ability to provide an environment conducive to water oriented commercial and residential uses. In order to service the residents of these areas, and to serve the transient boat and minor tourist use component of the district, water oriented commercial uses are permitted.”*
- LMO Section 16-4-401 describes the applicability and regulation of the Airport Overlay District (AZ) as: *“Development activity within this district is subject to regulation primarily to mitigate safety and noise problems; however, land uses within this district also shall be regulated to mitigate their incompatibility with airport operations.”*
- The uses that would be permitted under the WMU zoning are high intensity and

density uses.

- The uses that would be permitted under the RM-12 zoning are the same as RM-4 except a high density of residential would be permitted.

Conclusions of Law:

- Staff concludes that the affected properties are not suitable for the uses that would be permitted by the proposed rezoning as set forth in LMO Section 16-3-1505C because the subject properties are adjacent to residential uses and many of the WMU uses are not compatible with the surrounding single family residential.
- Although the RM-12 district permits the same uses as the RM-4 district, the RM-12 district would permit a significantly higher density of residential units which would place more residential units, which is not suitable for properties within the Airport Approach Path.

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 RM-4 zoning district as: *“It is the intent of this residential district to protect and preserve the unique character of Native Islander areas and neighborhoods at densities up to four (4) dwelling units per net acre. This district is used to encourage a variety of residential opportunities.”*
- LMO Section 16-4-401 describes the applicability of the Airport Overlay District (AZ) as: *“Development activity within this district is subject to regulation primarily to mitigate safety and noise problems; however, land uses within this district also shall be regulated to mitigate their incompatibility with airport operations.”*
- The subject properties are currently 31 vacant lots, the associated open space, and the infrastructure within a single family subdivision.

Conclusion of Law:

Staff concludes that the affected properties are suitable for the uses permitted by the RM-4 zoning district as set forth in LMO Section 16-3-1505D because the properties have been subdivided for single family residential development which is permitted in the RM-4 district.

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:

- If the property is rezoned to WMU, there will be different uses and development opportunities available to the property owner to develop.

- If the property is rezoned to RM-12, the permitted uses will remain the same; however, there will be additional density available for development.

Conclusion of Law:

- Staff concludes that the marketability of the properties may change as set forth in LMO Section 16-3-1505E.

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):

Findings of Facts:

- The subject properties are currently served with water and sewer services by Hilton Head Public Service District.
- The subject properties currently have stormwater facilities adequate for the 32 lot single family subdivision.
- A Development Plan Review (DPR) application will be required for any development on the site and water, sewer and stormwater facilities will be addressed at that time.

Conclusion of Law:

- Staff concludes that the properties have available water, sewer and stormwater services suitable for the proposed use as set forth in LMO Section 16-3-1505F.

LMO Official Determination

Determination: Staff determines that this application is inconsistent with the Comprehensive Plan and does not 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:

JL

Jayne Lopko, AICP
Senior Planner & Planning Commission Board
Coordinator

April 10, 2013

DATE

REVIEWED BY:

TBL

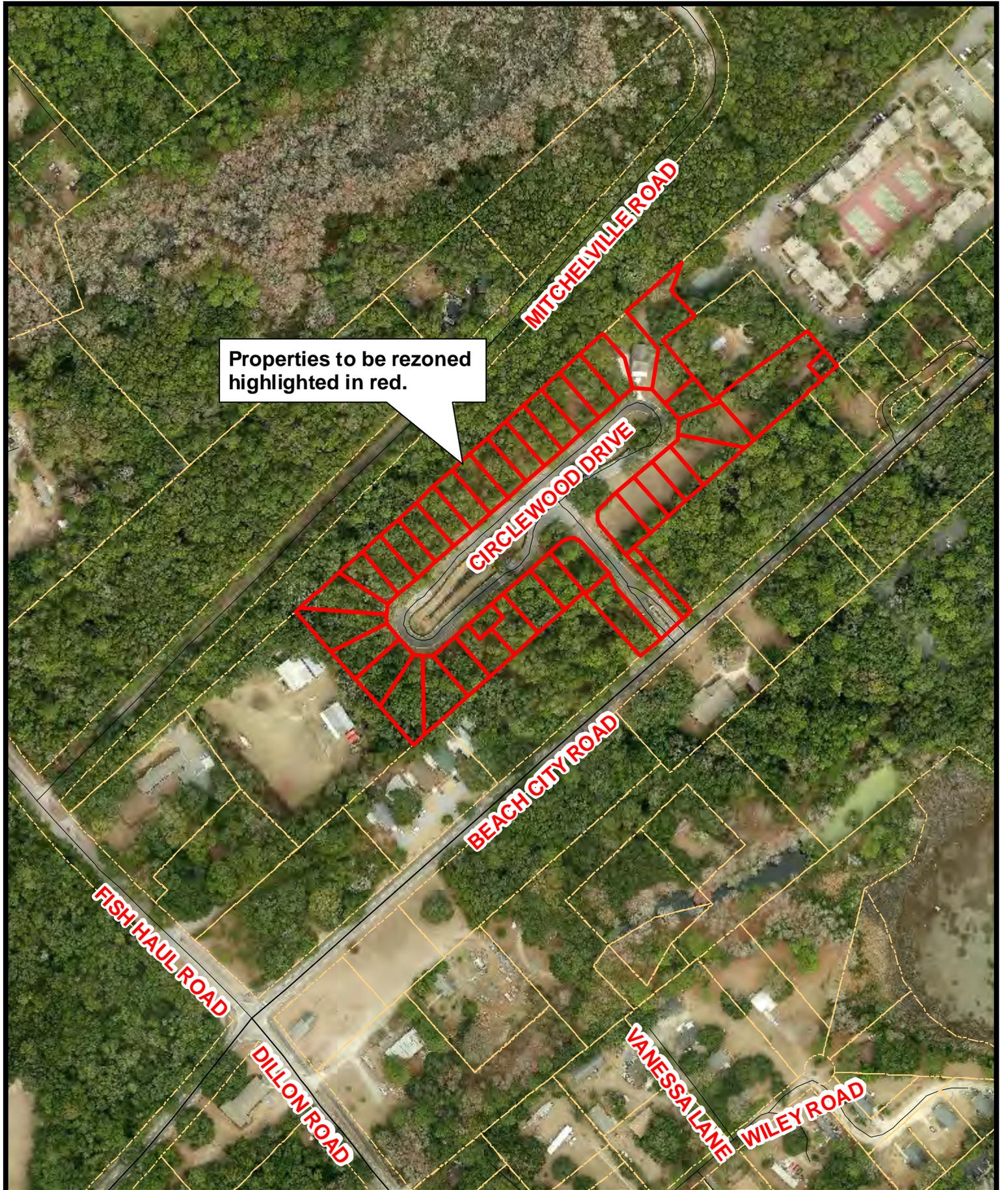
Teri B. Lewis, AICP
LMO Official

April 10, 2013

DATE

ATTACHMENTS:

- A) Vicinity Map
- B) Zoning Map
- C) Use Table
- D) Applicant's Narrative
- E) Comment Letters



Properties to be rezoned highlighted in red.

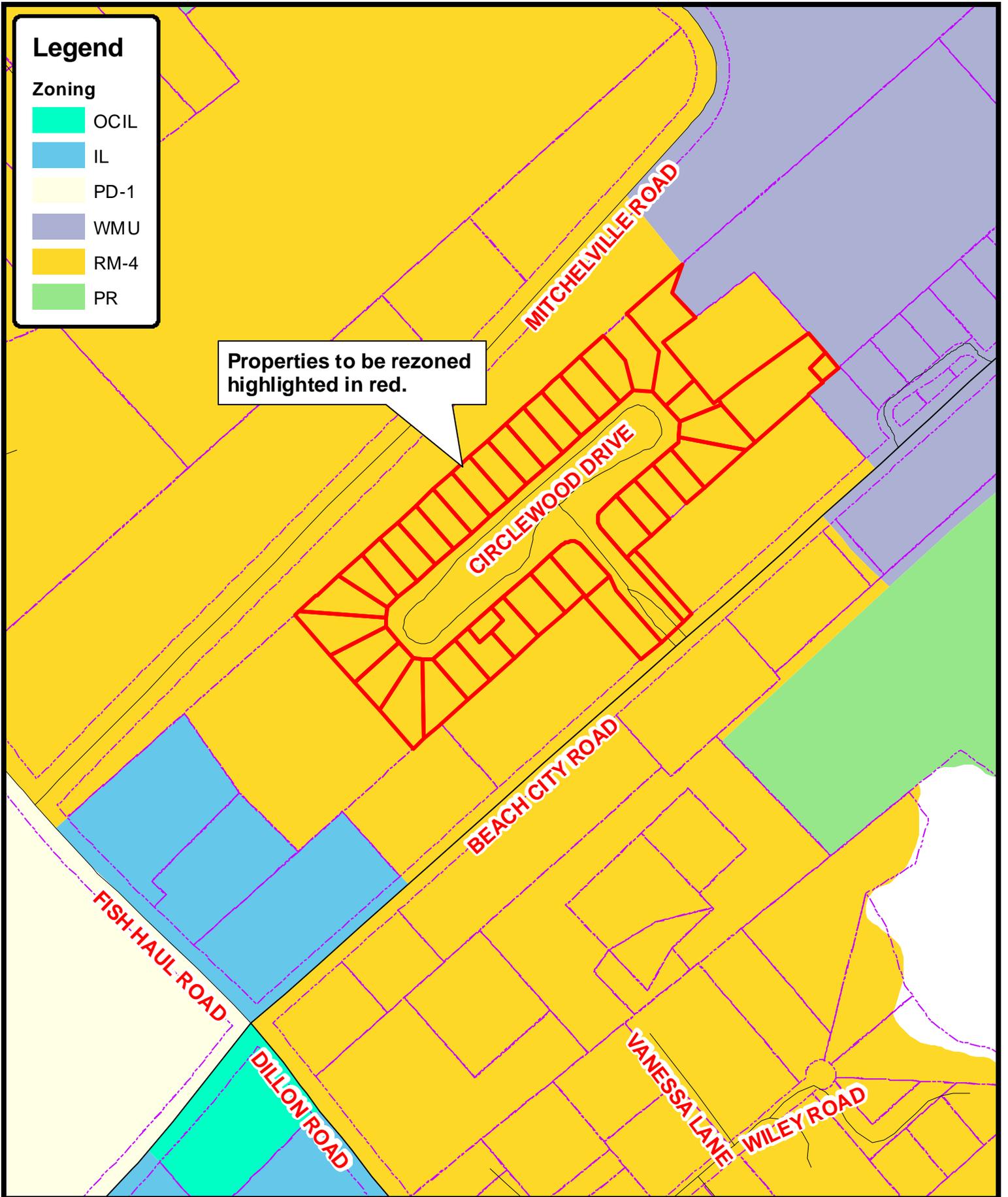


Legend

Zoning

- OCIL
- IL
- PD-1
- WMU
- RM-4
- PR

Properties to be rezoned highlighted in red.



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

Town of Hilton Head Island ZMA130003 - Zoning Map 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 date of completion.

ATTACHMENT C

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

Specific Use	RM-4 & RM-12	WMU
Group Living	PC	
Single Family	P	P
Multifamily Residential	P	P
Mixed Use		PC
Manufactured Housing Park	PC	
Aviation/Surface Passenger Terminal		
Community Service	P	P
Day Care	PC	P
Colleges		
Schools, Public or Private	SE	
Government Facilities	PC	
Hospitals		
Religious Institutions	PC	
Other Institutions	SE	SE
Cemetery	P	P
Park, Community	SE	P
Park, Linear	P	P
Park, Mini	P	P
Park, Neighborhood	P	P
Park, Regional		
Park, Special Use	P	P
Major Utility	SE	SE
Minor Utility	P	P
Telecommunications Facility	PC	PC
Waste Treatment Plant	SE	SE
Restaurant With Drive-thru		
Restaurant With Seating, High Turnover		P
Restaurant With Seating, Low Turnover		P
Restaurant Without Seating		P
Indoor Recreation		SE
Indoor Entertainment		
Outdoor Recreation		

ATTACHMENT C

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

Outdoor Entertainment		
Water Parks		
Health Services Except Hospitals		
Real Estate Sales/Rental		P
Other Offices		
Parking, Commercial		
Bed and Breakfast Inn	SE	PC
Central Reception or Check-in Facility		PC
Divisible Dwelling Unit		PC
Hotel or Motel		PC
Inn	SE	PC
Interval Occupancy		SE
RV Park		
Adult Entertainment		
Bank or Financial Institution		
Bicycle Shop (with outdoor storage)		PC
Community Theater		PC
Dance Studio		PC
Convenience Store		PC
Department or Discount Store		
Funeral Home		
Furniture Store		
Hardware, Paint, Glass, Wallpaper or Flooring Store		
Health Club or Spa		
Kennel, Boarding		
Landscape Nursery		
Liquor Store		
Nightclub or Bar		P
Open Air Sales		PC
Pet Store		
Shopping Center		
Souvenir or T-Shirt Store		
Supermarket		P

ATTACHMENT C

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

Tattoo Facility		
Veterinary Hospital		
Watercraft Sales, Rental or Service		PC
Other Retail Sales or Service		P
Auto Rental		
Auto Repair		
Auto Sales		
Car Wash		
Gas Sales		
Taxicab Service		
Towing Service		
Truck or Trailer Rental		
Aviation Services		
Contractor's Office		
Other Light Industrial Service		
Seafood Processing		PC
Other Manufacturing and Production		
Limited Manufacturing		
Moving and Storage		
Self-Service Storage		
Warehousing		
Waste Related Service		
Contractor's Materials		
Wholesale Business		
Wholesale Business with Accessory Retail Outlet		
Agriculture	P	P
Docking Facility and Boat Ramp		PC
Marina		SE
Other Water Oriented Uses		P



LAW OFFICE OF
CHESTER C. WILLIAMS, LLC

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Post Office Box 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)

15 March 2013

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 of 217 Beach City Road, LLC for 8.56
Acres, Beach City Road – Our File No. 01687-001

Dear Teri:

We are pleased to deliver to you herewith for filing an application we have prepared on behalf of our client, 217 Beach City Road, LLC, to amend the Town's Official Zoning Map and rezone an 8.56 acre tract located on Beach City Road from the currently applicable RM-4 District to either the RM-12 District or the WMU District. Also enclosed are our check in the amount of \$500.00 for the filing fee, and a copy of the list of property owners within 350 feet of the property who are to receive notices as required by the LMO.

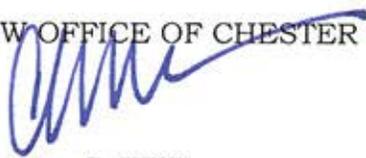
As you will see from a review of the application, we are filing this application in an effort to allow for the redevelopment of a failed single family residential subdivision for multifamily residential use.

We assume you and your staff will be able to place this application on the agenda for the 01 May 2013 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: Dr. Harinderjit Singh
Rand E. Hanna, III, Esq.
Town of Hilton Head Island Planning Commissioners (without enclosures)



Town of Hilton Head Island
 Community Development Department
 One Town Center Court
 Hilton Head Island, SC 29928
 Phone: 843-341-4757 Fax: 843-842-8908
www.hiltonheadislandsc.gov

FOR OFFICIAL USE ONLY
 Date Received: 3/15/13
 Accepted by: [Signature]
 App # ZMA: 130003
 Meeting Date: 5/1/13

217 Beach City Road, LLC/
 Applicant/Agent Name: Chester C. Williams, Agent Company: 217 Beach City Road, LLC
 Mailing Address: Post Office Box 6028 City: Hilton Head Island State: SC Zip: 29938
 Telephone: 843-842-5411 Fax: 843-842-5412 E-mail: Firm@CCWLaw.net

Project Name: 217 Beach City Road Project Address: 217 Beach City Road
 Parcel Number [PIN]: R See Attached List of Parcel Numbers
 Zoning District: RM-4 Overlay District(s): AZ and COR Requested District: RM-12 or WMU
 PD-1 Existing Land Use: N/A PD-1 Proposed Land Use: N/A

ZONING MAP AMENDMENT (ZMA) SUBMITTAL REQUIREMENTS

- Digital Submissions may be accepted via e-mail by calling 843-341-4757. The following items must be attached in order for this application to be complete:
- N/A Affidavit of Ownership and Hold Harmless Permission to Enter Property
 - XX A narrative that explains the reason(s) for the rezoning request and how the request meets the criteria of LMO Section 16-3-1505 Review Criteria. See Attachment 1
 - XX A copy of correspondence providing notice of a public hearing to all land owners of record within three hundred and fifty (350) feet on all sides of the parcel(s) being considered for the zoning map amendment. Such notice shall be mailed by first class mail thirty days (30) prior to the Planning Commission meeting per LMO Section 16-3-111C Mailed Notice. A sample letter can be obtained at the time of submittal. Also provide a list of owners of record to receive notification. The Town can assist in providing this listing by calling 843-341-4757. See Attachment 2
 - N/A Where applicable, a copy of correspondence requesting written comments from the appropriate property owners' association regarding the requested amendment per LMO Section 16-3-1502B. The Town can assist in providing this information by calling 843-341-4757.
 - XX A boundary map prepared and sealed by a registered land surveyor. Submit an 11X17 inch (or smaller) reproducible copy of the plan. See Attachment 3
 - XX Filing Fee - \$500 cash or check made payable to the Town of Hilton Head Island

Are there recorded private covenants and/or restrictions that are contrary to, conflict with, or prohibit the proposed request? If yes, a copy of the private covenants and/or restrictions must be submitted with this application. YES NO
 Not applicable. No permit requested.

To the best of my knowledge, the information on this application and all additional documentation is true, factual, and complete. I hereby agree to abide by all conditions of any approvals granted by the Town of Hilton Head Island. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale.

I further understand that in the event of a State of Emergency due to a Disaster, the review and approval times set forth in the Land Management Ordinance may be suspended.

[Signature]
 SIGNATURE Harinderjit Singh, Manager

March 15, 2013
 DATE

STATE OF SOUTH CAROLINA) BEFORE THE PLANNING COMMISSION
) OF THE
) TOWN OF HILTON HEAD ISLAND, SC
COUNTY OF BEAUFORT) ZMA 13000__

ATTACHMENT 1
TO
THE ZONING MAP AMENDMENT APPLICATION
OF
217 BEACH CITY ROAD, LLC
REGARDING
8.56 ACRES, BEACH CITY ROAD

This Attachment 1 is part of the Zoning Map Amendment Application (this "Application") of 217 Beach City Road, LLC (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 Section 16-3-1505 of the Town's Land Management Ordinance (the "LMO"). This Application seeks approval to amend the Official Zoning Map¹ of the Town by changing the base zoning district applicable to an 8.56 acre tract (the "Property") located on Beach City Road in the Town of Hilton Head Island, from the currently applicable RM-4 – Low Density Residential District to either the RM-12 – Moderate to High Density Residential District or the WMU – Water Front Mixed Use District.

I. NARRATIVE – INTRODUCTION

The Applicant is the owner of the Property located at 217 Beach City Road. The Property is comprised of forty (40) separate tax parcels, designated in the Beaufort County property tax records as TMS District 510, Map 5,

¹ See LMO Section 16-4-102.



Parcels 0008, 0336 through 0342, and 0344 through 0375.² The Applicant acquired the Property by deeds recorded on February 12, 2009.³

The Property is part of the largely underdeveloped residential area on Beach City Road west of Dillon Road and generally north of the Hilton Head Island Airport. The Applicant is now seeking to amend the Town's Official Zoning Map to move the Property from the RM-4 District to either the RM-12 District or the WMU District.

II. NARRATIVE – BACKGROUND

A. THE PROPERTY

The Property is the site of a failed single family residential development styled "Beach City Place", which was permitted by the Town and developed as a community of thirty-two (32) small lots to be utilized for single family residences.⁴ One of the lots in Beach City Place was sold prior to the failure of the development, and is the site of an existing single family home. The Property has a paved entrance road providing access to Beach City Road, a paved oval shaped road known as Circlewood Drive providing access to the individual lots in the development, and completed infrastructure for water, electrical, cable, and sanitary sewer utilities.

The mortgage securing the loan that provided the capital for development of Beach City Place on the Property has been in default for an extended period, and an Order for foreclosure has been rendered in a lawsuit filed by the lender against the Applicant.⁵ The Applicant is seeking the requested rezoning in

² The Beach City Place subdivision, shown on the survey included with this Application contains a total of 8.75 acres. One of the 38 single family lots in the subdivision was previously conveyed out by the Applicant, and is not included in this Application.

³ See the copy of the deed recorded in Beaufort County Record Book 2811 at Page 2231 which is attached as Exhibit A.

⁴ See the Town's records on Subdivision Application SUB070008.

⁵ See the records of that certain action styled *Bank of North Carolina as Successor in Interest to Beach First National Bank v. 217 Beach City Road, LLC, et al.*, Case No. 2010-CP-07-6059 in the Court of Common Pleas for the Fourteenth Judicial Circuit.



order to allow for the redevelopment of the failed single family subdivision as a multifamily residential project because the Applicant has secured a commitment to refinance the defaulted loan and provide additional capital for the redevelopment of the Property, but only if the density on the Property is increased. The Applicant's lender has agreed to delay a foreclosure sale of the Property for a limited time in order to give the Applicant time to pursue this Application.

The Property is currently located in the RM-4 District, the COR – Corridor Overlay District, and the AZ – Airport Overlay District. The current base zoning restrictions applicable to the Property under the RM-4 District clearly have not supported successful development of the Property. The purpose of this Application is to rezone the Property to support successful redevelopment of the Property.

B. THE REQUESTED REZONING

The Applicant is requesting that the Official Zoning Map be amended to change the base zoning district of the Property from currently applicable RM-4 District to either the RM-12 District or the WMU District.

III. NARRATIVE – CURRENT AND PROPOSED PERMITTED USE AND DENSITY

The base zoning district currently applicable to the Property is the RM-4 District. By-right permitted uses in the RM-4 District are restricted to single family and multi-family residential, community services, cemeteries, certain parks, minor utilities, and agriculture. Conditional and special exception uses in the RM-4 District include group living, manufactured housing park, day care, schools, government facilities, institutions, community park, certain utilities, bed and breakfast, and inn.⁶ The maximum permitted residential density in the RM-4 District is four (4) density units per net acre, non-residential development is limited to 6,000 square feet per net acre, and resort

⁶ See Use Table at LMO Section 16-4-1204.



accommodations are limited to ten rooms per net acre.⁷ The maximum impervious coverage in the RM-4 District is 35%, and the minimum open space requirements are 55% for non-residential development, 16% for major residential subdivisions, and 65% for other residential development.⁸ The maximum height of structures in the RM-4 District is limited to thirty-five (35') feet.⁹

The by-right, conditional, and special exception uses allowed in the RM-12 District are exactly the same as those in the RM-4 District.¹⁰ The maximum permitted residential density in the RM-12 District is twelve (12) density units per net acre, and non-residential development is limited to 6,000 square feet per net acre, just like the RM-4 District; however, curiously, no resort accommodation density is provided for RM-12 District.¹¹ The maximum impervious coverage in the RM-12 District is identical to that allowed in the RM-4 District, and the minimum open space requirements are 13% for major residential subdivisions, and 50% for other development.¹² The maximum height of structures in the RM-12 District is limited to forty-five (45') feet.¹³

The Property is contiguous to a portion of The Spa on Port Royal Sound, an existing multifamily residential development that is located in the WMU District. By-right permitted uses in the WMU District include single family and

⁷ See the Density Standards Table at LMO Section 16-4-1601.

⁸ See the Maximum Impervious Coverage and Minimum Open Space Table at LMO Section 16-4-1606. Note, also that the minimum open space requirements for the RM-4 District also refer to residential development at over 4 units per net acre; however, this provision seems to be a no longer applicable provision from times past when bonus densities were available in the RM-4 District.

⁹ See the Maximum Structure Height Table at LMO Section 16-4-1701.

¹⁰ Again, see the Use Table at LMO Section 16-4-1204.

¹¹ Again, see the Density Standards Table at LMO Section 16-4-1601.

¹² Again, see the Maximum Impervious Coverage and Minimum Open Space Table at LMO Section 16-4-1606.

¹³ Again, see the Maximum Structure Height Table at LMO Section 16-4-1701.



multi-family residential, community services, day care, government facilities cemeteries, parks, minor utilities, eating establishments without seating, real estate sales and rentals, certain retail sales and services, and agriculture. Conditional and special exception uses in the WMU District include mixed use, certain institutions, certain utilities, indoor recreation, resort accommodations other than RV park, certain retail sales and services, and seafood processing.¹⁴ The maximum permitted residential density in the WMU District is twelve (12) density units per net acre, non-residential development is limited to 8,000 square feet per net acre, and resort accommodations are limited to twenty (20) rooms per net acre.¹⁵ The maximum impervious coverage in the WMU District is 50%, and the minimum open space requirements are 13% for major residential subdivisions, and 50% for other development.¹⁶ The maximum height of structures in the (RM-12 - Moderate to High Density Residential District) is limited to seventy-five (75') feet.¹⁷ WMU

Given the RM-4 District limitations, the Applicant currently has the right to redevelop the Property for multifamily residential use, but only at a density of 4 units per net acre. As a practical matter, the Applicant sees that redevelopment scenario as no more economically viable than the failed single family development on the Property. Therefore, the Applicant is proposing to amend the Official Zoning Map as set forth above to incorporate the Property into the RM-12 District or, alternatively, into the WMU District. The effect of this zoning change will be to increase the permitted density on the property, and change the associated impervious coverage, open space, and height requirements applicable to the Property.

¹⁴ See Use Table at LMO Section 16-4-1204.

¹⁵ Again, see the Density Standards Table at LMO Section 16-4-1601.

¹⁶ Again, see the Maximum Impervious Coverage and Minimum Open Space Table at LMO Section 16-4-1606.

¹⁷ Again, see the Maximum Structure Height Table at LMO Section 16-4-1701.



IV. NARRATIVE – REZONING CRITERIA

LMO Section 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.¹⁸ The Applicant is seeking to amend the Official Zoning Map in a manner that will not change the permitted uses on the Property if it is rezoned to the RM-12 District.¹⁹ In fact, the implementation of the Applicant's proposed redevelopment of the Property for multifamily residential use in either the RM-12 District or the WMU District will result in an increase of minimum open space from the current 16% to 50%, a three-fold increase in required open space. The Applicant's proposed amendment of the Official Zoning Map will not negatively impact the Town's Natural Resources Vision since the development permitting process mandated by the LMO will fully address any natural resource issues that may arise.

The **Population Vision** of the Comprehensive Plan is to maintain a diverse population in the Town, which is given the opportunity to be well educated, financially secure, and enjoy a high quality of life.²⁰ The Comprehensive Plan recognizes that the Town will continue to experience significant population growth. Goal 4.2 of the Population Vision of the Comprehensive Plan seeks to create a community that is less dependent

¹⁸ See the May 4, 2010 Hilton Head Island Comprehensive Plan (the "Comprehensive Plan"), at Page 19.

¹⁹ The Applicant does acknowledge that the permitted uses on the Property will be expanded if the Property is rezoned to the WMU District.

²⁰ See the Comprehensive Plan, at Page 32.



on workforce residing on the mainland.²¹ Achieving Goal 4.2 will require additional housing for permanent residents of the Town, and approval of this Application will specifically support Goal 4.2 by permitting additional density, and therefore housing units, in a location appropriate for such redevelopment. Implementation Strategy 4.3(D) of the Population Vision of the Comprehensive Plan calls for creating "... incentives for redevelopment that opt for a planned community approach with goals of diversity in housing cost ...".²²

The **Housing Vision** of the Comprehensive Plan seeks to promote entrepreneurial housing initiatives that will result in the development of diverse housing types for all income levels, and to support affordable housing initiatives in the region to supplement housing on the Island.²³ The Comprehensive Plan recognizes that "... the availability of various housing types is important for the housing market viability to accommodate the diverse needs of the Island's population."²⁴

More specifically, the Comprehensive Plan recognizes the long-term requirements for workforce and affordable housing. The Comprehensive Plan also recognizes the "... lack of development incentives, such as increased density, decreased parking, increased height standards, etc., which allow the developer to build more than otherwise allowed by Town regulations and requirements do not exist in current codes and may, when coupled with other barriers, also become a barrier in itself to the construction or availability of affordable housing."²⁵ This Application will provide flexibility for the redevelopment of the Property and support the Housing Vision of the Comprehensive Plan by providing housing diversity

²¹ See the Comprehensive Plan, at Page 47.

²² See the Comprehensive Plan, at Page 48.

²³ See the Comprehensive Plan, at Page 49

²⁴ See the Comprehensive Plan, at Page 53.

²⁵ See the Comprehensive Plan, at Page 56.



in the Town, without requiring any further incentive for such development activity such as that recognized by the Comprehensive Plan.

Goal 5.1(A) of the Housing Vision of the Comprehensive Plan states, "The goal is to encourage redevelopment of multi-family residential structures to meet market demands and new trends."²⁶ Likewise, Goal 5.2(A) of the Housing Vision of the Comprehensive Plan supports projects that encourage affordable and workforce housing.²⁷ This Application specifically supports Goals 5.1(A) and 5.2(A) of the Housing Vision of the Comprehensive Plan. The Beach City Place single family development was a financial failure. The Applicant submits that flexibility in zoning to permit additional multi-family density will support meeting the market demand for housing variety on Hilton Head Island.

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 efficiency consistent with facilities of a world class community.²⁸ The approval of this Application will not negatively impact the Town's Community Facilities, but rather will provide additional use of the Town's parks located in the Beach City Road and Mitchelville areas by the residents of the Property's development. The basic infrastructure required for redevelopment a of the Property, including water and sewer, storm water drainage, electric, telephone, and cable services and roadways, is already in place, and additional work by the Applicant will be required only to modify the existing infrastructure on the Property for multifamily residential use.

The **Economic Development Vision** of the Comprehensive Plan looks to define, foster, and enhance the economic environment that

²⁶ See the Comprehensive Plan, at Page 57.

²⁷ See the Comprehensive Plan, also at Page 57.

²⁸ See the Comprehensive Plan, at Page 59.



sustains Hilton Head Island's unique way of life.²⁹ In particular, the Comprehensive Plan recognizes that "A sustainable workforce will become essential to the future economic potential of the Island and is essential to support the social economic population mixing that is vital for a vibrant and sustainable economy."³⁰ A sustainable workforce requires housing diversity, and housing diversity involves various levels of density in housing opportunities. As discussed below, the current mix of housing opportunities in the Town is heavily weighted towards the less dense zoning districts. Approval of this Application will provide a small step in addressing that imbalance and provide additional multi-family housing opportunities for Island residents.

The Applicant's desire to protect and enhance its investment in the Property is a primary reason for this Application. Clearly, putting the Applicant in the best possible position to maintain a successful and attractive multi-family 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.³¹ The sustainable workforce identified by the Economic Development Vision of the Comprehensive Plan requires substantial diversity in housing opportunities. In this regard, Table 8.3 of the Land Use Vision of the Comprehensive Plan informs us that a mere 78.2 acres of the Island's

²⁹ See the Comprehensive Plan, at Page 88.

³⁰ See the Comprehensive Plan, at Page 91.

³¹ See the Comprehensive Plan, at Page 100.



total 19,925.3 acres, only 0.39%, are in the RM-12 District.³² This very small percentage of the total acreage of the Town dedicated to relatively high-density housing explains, in part, the continuing issue of housing unavailability for the Island workforce, except for those in the very high income segments. Approval of this Application will address this imbalance in housing diversity opportunities in a very direct way.

Implementation Strategy 8.4(A) of the Land Use Vision of the Comprehensive Plan is to “Determine if there is an adequate amount and location of current zoning districts through review of existing zoning district classifications.”³³ This Application will directly address the paucity of RM-12 District acreage in the Town. In addition, Implementation Strategy 8.10(B) of the Economic Development Vision of the Comprehensive Plan is to “Focus higher intensity land uses in areas with available sewer connections.”³⁴ Sanitary sewer service through Hilton Head Public Service District is currently available to Property.

Given the history of the Property, the existing infrastructure facilities already serving the Property, and the current imbalance of more dense multi-family housing opportunities on the Island, 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 orderly redevelopment of the Property, all in accordance with the Comprehensive Plan.

³² See the Comprehensive Plan, at Page 104. Also, note that only 252.2 acres, just 1.27%, are currently in the WMU District.

³³ See the Comprehensive Plan, at Page 110.

³⁴ See the Comprehensive Plan, at Page 111.



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

The current use on the Property is a failed single family residential development, with only one of 38 lots having a home some four years after the subdivision of the Property was approved. The nearby properties to the northeast along Beach City Road include The Spa on Port Royal Sound, a multi-family development established some thirty years ago, another failed single family residential development (Trail Beach Manor), several undeveloped parcels, a single family dwelling,³⁵ and Fish Haul Creek Park. Undeveloped parcels front on Beach City Road on both sides of the Property's entrance. Directly across Beach City Road from the Property are an undeveloped parcel, a single family dwelling, a 2 acre undeveloped parcel, and another single family dwelling. The Golf Cottages at Mitchellville, five single family dwellings now used as dormitory housing for the Junior Players Golf Academy is located to the southwest of the Property on Beach City Road. Also to the southwest of the Property, and adjacent to it, are a veterinary hospital, a kennel, and a former contractor's storage yard, all with access to Fish Haul Road.³⁶ The Property is bordered on the north by undeveloped parcels fronting on unpaved Mitchellville Road. The existing uses on these nearby properties are a mix of residential and commercial, with one large multi-family development directly to the northeast of the Property.

Given the existing predominately multifamily residential and commercial uses use on the various properties in the vicinity of the Property, the Applicant believes the use of the Property for low density single family residential use is less compatible with the present zoning and conforming uses of those nearby properties, and with the character of the neighborhood, than a higher density multifamily residential use on the Property would be.

³⁵ These properties are located in the WMU District.

³⁶ The veterinary hospital and the kennel are in the IL – Light Industrial District, and the former contractor's storage yard is in the RM-4 District.



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 Property which is the subject of this rezoning request is uniquely suitable for the use permitted by the proposed RM-12 District or the proposed WMU District. The Property is located in a largely underdeveloped area. More specifically, the Property is adjacent to a large multi-family development directly to the northeast in the WMU District, and commercial development directly to the southwest in the IL District. The Property is to the north of the Hilton Head Island Airport, in an area that is more conducive to multi-family development than single family development. The failure of Beach City Place development is a testament to the general unsuitability of the area for low density single family residential development.

The Property has electrical, water, sewer, and storm drainage facilities in place. The Property fronts on Beach City Road, a minor arterial road with good road connections to William Hilton Parkway via Beach City Road or Dillon Road. Nearby properties include only three (3) single family residential uses, one of which is part of the failed development on the Property.

The Applicant believes that the Property is suitable for the more dense residential uses that would be permitted for the parcel under the RM-12 District or the WMU District if this Application 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.

While the permitted uses in the RM-4 District are the same as the permitted uses in the RM-12 District, as evidenced by the failed single family residential development currently on the Property, and possibly as a result of the proximity of the Hilton Head Island Airport, the Applicant in all likelihood would have a difficult time successfully redeveloping the Property for any use at the low density permitted in the RM-4 District.



Accordingly, the Applicant believes that the Property is generally unsuitable for the uses permitted under, and at the density allowed by, the RM-4 District.

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 failure of the Beach City Place development on the Property, and the failure of Trail Beach Manor just northeast of the Property are clear evidence that the marketability of the Property is, at best, challenged by its current classification in the RM-4 District. In the current Hilton Head Island real estate market, the availability of multi-family housing options, particularly in an area where there are not very many single family dwellings, but with existing utilities and transportation access, will likely be very marketable and attractive. In particular, such housing options will be attractive to the Island workforce, and encourage those workers to live on the Island side of the bridges to the mainland.

The Applicant believes the approval of this Application will undoubtedly increase the marketability of the Property. In addition, the Applicant believes that the approval of this Application will not have an adverse effect on the marketability of other properties in the vicinity. Indeed, if the other properties in the area can be made available for more dense development, those properties will very likely dramatically increase in marketability.

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

Because the Property was originally permitted and developed as the Beach City Place development, basic sewer, water, and storm water facilities serving the Property are in place. Depending upon final design and approval of the redevelopment of the Property for multifamily residential use, modifications to the existing sewer, water, and storm water facilities may be necessary.



Hilton Head 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.

The storm drainage system on the Property was approved by the Town as part of the major subdivision approval for the now failed Beach City Place development. Any redevelopment of the Property for multifamily residential use will likewise require approval by the Town of the stormwater facilities serving the Property.

V. 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 Section 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 while the current use on the Property is consistent with the present zoning, that current use has failed economically, and the proposed rezoning is also 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 economically 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 material 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 and the rezoning of the Property to the RM-12 District or, in the alternative, to the WMU District.

Respectfully submitted on behalf of the Applicant this 15th day of March, 2013.



This signature is an electronic reproduction

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



BEING the same property conveyed to Beach City Properties, Inc. from D and N Realty Partnership by deed dated July 19, 2006 and recorded on July 24, 2006 in the Register of Deeds for Beaufort County, South Carolina in Book 2411 at Page 864.

This Deed was prepared in the Law Offices of McNair Law Firm, P.A., Post Office Drawer 3, Hilton Head Island, South Carolina 29938, by Robert M. Deeb, Jr.

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 Grantee, its successors and assigns forever.

AND Grantor does hereby bind itself and its successors and assigns to warrant and forever defend all and singular the said premises unto the Grantee, its successors and assigns, against the Grantor and its successors and assigns, and all persons whomsoever lawfully claiming or to claim the same, or any part thereof.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in its name by its duly authorized officer and its seal to be hereto affixed, this 17th day of February, 2009.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Stephanie Blane
[Signature]

BEACH CITY PROPERTIES, INC.

By [Signature]
Eugene J. Laurich, Its: President

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, the undersigned Notary Public, do hereby certify that Eugene J. Laurich, its President of Grantor, by and on behalf of the Corporation personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 17th day of February, 2009.

[Signature]
Notary Public for South Carolina
My Commission Expires: 8-27-2017

ZMA Application Attachment 2



LAW OFFICE OF
CHESTER C. WILLIAMS, LLC

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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)

_____, 2013

Name
Address
City, State, Zip Code

RE: Zoning Map Amendment Application of 217 Beach City Road, LLC for 8.56
Acres, Beach City Road – Our File No. 01687-001

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 01 May 2013 at 9:00 A.M. in Town Council Chambers at Town Hall, One Town Center Court, Hilton Head Island, South Carolina on the zoning map amendment application filed by 217 Beach City Road, LLC for property located on Beach City Road. The property is also known as Beaufort County Tax District 510, Map 5, Parcels 008, 336 through 342, and 344 through 375. The proposed zoning map amendment seeks to rezone the property from the RM-4 – Low Density Residential District to either the RM-12 – Moderate to High Density Residential District or the WMU – Water Front Mixed Use District. A copy of a survey showing the property is enclosed. The property is currently located in the RM-4 – Low Density Residential 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: Dr. Harinderjit Singh
Rand E. Hanna, III, Esq.
Teri B. Lewis, AICP

ADAMS KENNETH F ANNETTE T JTROS		9565 RED BIRD LANE	ALPHARETTA	GA	30022
AHR ERNEST THERESA JTROS		38 HAUL WAY	HILTON HEAD ISL	SC	29978
ALLEN ROBERT TRUSTEE ALLEN CATHERINE		2106 ALPINE AVENUE	PORT CHARLOTTE	FL	33952
ANAYA REBECCA B	ANAYA ERNEST J	1112 LA PALOMA CT	SOUTHLAKE	TX	76092
ANDERSON MICHAEL		239 BEACH CITY RD APARTMENT 2322	HILTON HEAD ISL	SC	29926
ANDERSON NANCY HERRON		239 BEACH CITY RD UNIT 1201	HILTON HEAD ISLAND	SC	29926
ANITO LAWRENCE F JR		38 AUSERLITZ STREET	CHATHAM	NY	12037
ARINOLDO CARL G LINDA D JTROS		314 POND PATH	SETAUKET	NY	11733
BAILEY JOE % ALICE B JONES		PO BOX 22641	HILTON HEAD	SC	29925
BAKER SHELBY LJR DOROTHY I TRUSTEES		239 BEACH CITY RD #1330	HILTON HEAD ISL	SC	29926
BANACH JOSEPH L III HELEN B JTROS		3609 HOMEWOOD DRIVE	POWDER SPRINGS	GA	31027
BANNON RICHARD B NORMA C JTROS		300 PINE FOREST RD EXT	SPARTANBURG	SC	29303
BARTHOLOMEW JEFFREY J KIMBERLY A J		460 SHANE AVENUE	WAVENESBURG	OH	44688
BKH LLC		PO BOX 23526	HILTON HEAD ISLAND	SC	29925
BLUST DAVID R CYNTHIA B JTROS		3105 THE SPA ON PORT ROYAL SOUND	HILTON HEAD ISL	SC	29928
BOTHA NICOLAAS J	BOTHA GERTRUDA P	1802 HARBOR PLACE	WOODSTOCK	GA	30189
BOWEN JAMIE A	BOWEN JILL A	2210 PARK RD	TOWNVILLE	SC	29689
BRAY YALE W KAREN I JTROS		39 WICKLOW DR	HILTON HEAD ISLAND	SC	29928
BRENDEL TOMMY A	BRENDEL AUDREY K	1431 MOUNTAIN MEADOW DR	HENDERSONVILLE	NC	28739
BRENER HOWARD	BRENER SHARON	3912 UPLAND WAY	MARIETTA	GA	30066
BRESLIN THOMAS K PINKHAM JULIE B J		55 ISLAND AVENUE	QUINCY	MA	02169
BROWN ROSS E IVA S		311 SOUTH AVE	WESTON	MA	02493
BROWN SANDRA L		100 COTTONS WAY	PENROSE	NC	28766
BULLA FRANK A DIRUCCO PHILLIP J		150 WHITE PLAINS RD SUITE 202	TARRYTOWN	NY	10591
BURGESS KARL REICHELDERFER JILL JT		5210 COUNTRY LAKE COURT	LILBURN	GA	30047
BURRELL MICHAEL K SR REBECCA G JTRO		749 BROOKWOOD DRIVE	STATESBORO	GA	30461
CANAAN LAND PROPERTIES INC		712 W CHERRY STREET	JESUP	GA	31545
CAROL CAPIELLO LIVING TRUST		3 MANGIN RD	COMMACK	NY	11725
CARR KENNETH R	CARR DONNA L	225 W SMOKETREE TERR	JOHNS CREEK	GA	30005 7212
CARTER CAROLE		239 BEACH CITY RD #2303	HILTON HEAD ISLAND	SC	29926
CHAMP PETER E PATTY K		16149 S EAGLE RIDGE DR	TINLEY PARK	IL	60477-8296
CHANDLER LUCINDA STEDFELD THOMAS DEN		6325 GAY WIND DR	CHARLOTTE	NC	28226
CHRISTINE LYNCH 2009 REVOCABLE TRUST	THERESA M TURANO REVOCABLE LIVING TR	224 RIVERWOOD DRIVE	NEW HOPE	PA	18938
CILURSO EDWARD	CILURSO KAREN	51 LETTIAL LN	HADDONFIELD	NJ	08033
CLARK WILLFRED V JANET M		107 A DEER PARK ROAD	DIX HILLS	NY	11746-4926
COMBS CURTIS J	COMBS VANESSA E	5375 214TH CT	BOCA RATON	FL	33486

CONDON JOHN		1030 JENKINS RD	CHARLESTON	SC	29407
CONKLIN DEBRA E		68 LACKAWANNA TRAIL	SUFFERN	NY	10901
COOL SPRINGS PROPERTIES LLC		39 BISHOP ST	BLUFFTON	SC	29909
COSTLOW DAVID L PAULA S JTROS		PO BOX 96	READINGTON	NJ	08870-0096
COX BETTY M		371 BARNSLEY DRIVE	EVANS	GA	30809
CREATIVE HOME INTERIORS LLC		17 DOLPHIN POINT LN	HILTON HEAD	SC	29926
D'AMICO SIMON VANESSA LECY JTROS		239 BEACH CITY RD # 1308	HILTON HEAD ISLAND	SC	29926
DAUGHERTY HILL LLC		5105 OLD ELLIS POINTE	ROSWELL	GA	30076
DAVIS ROBERT DAVIS		PO BOX 356	KERSHAW	SC	29067
DAVIS ROBERT W		PO BOX 356	KERSHAW	SC	29067-0356
DAVISON ANDREW R		239 BEACH CITY ROAD APT 3109	HILTON HEAD ISL	SC	29926
DEMPSEY GERARD W	DEMPSEY JULIE	25 LILY LAKE RD	HIGHLAND	NY	12528
DESELLIER JAMES R THOMAS J		402 ROCK CREEK ROAD	CLEMSON	SC	29631-1944
DESJANO FRANK M PATRICIA M JTROS		57 MANDALAY DRIVE	POUGHKEEPSIE	NY	12603
DIBLASI PAUL S		PO BOX 22137	HILTON HEAD	SC	29926
DIGEORGE JOHN F LORRAINE JTROS		93 PORTSMOUTH DRIVE	TOMS RIVER	NJ	08957
DOCKUM DAVID L SMITH WALDO A JTROS		1 HONEY LOCUST CIR	HILTON HEAD ISL	SC	29926
DREW-BROOK MAJUBEEN WINSOME	DREW-BROOK GEOFFREY COOK	233 SANDFORD RD	MOUNT ALBERT	ON	L0G1M0
DUNES SPA LLC		1836 HWY 54 WEST	FAYETTEVILLE	GA	30214
DWYER KIERAN P		239 BEACH CITY RD #3110	HILTON HEAD ISL	SC	29926
EINFELD SAM W JUDY		22 WILLOW DR	RANDOLPH	NJ	07869-4747
FARR JEFF RICE PATRICK JTROS		73 CHESTER HILL RD	WARWICK	NY	10990
FBO SHEILA R LEGGETT IRA		130 KENNEDY ST	ELENBORO	NC	28040
FEDERAL NATIONAL MORTGAGE ASSOCIATIO		PO BOX 650043	DALLAS	TX	75265
FERNANDEZ ALEANDRO D		239 BEACH CITY RD APT 3116	HILTON HEAD ISLAND	SC	29926
FITSCHEN DAWN DUCA BRIAN		25 LUDDINGTON ROAD	WEST ORANGE	NJ	07052
FORD SHIRLEY A WILLIAMS VIOLA B MIL		22 PEACHTREE ST	CHARLESTON	SC	29403
FORTSON HALEY W		3236 THE SPA	HILTON HEAD ISL	SC	29928
FOSTER WILLIAM J		70 PADDLEBOAT LN APT 302-D	HILTON HEAD ISLAND	SC	29928
FREUND HOLDINGS LLC		907 SPRING TREE ST	ROUND ROCK	TX	78681
GAUJOT PAUL A		709 LESLIE AVENUE	GLASGOW	KY	42141
GENGHINI FRANK J PATRICIA S JTROS		10 DOE RUN DRIVE	WARRINGTON	PA	18976
GHIZZONI RYAN C		6017 HERONS CIRCLE	AUSTINTOWN	OH	44515
GONZALES DAVID A		79 REGENT AVE	BLUFFTON	SC	29910
GRUBB ROGER DALE		27 FERRILAKES DRIVE	BLUFFTON	SC	29910
GUIDO MARK F	GUIDO RANDI SUE	5442 RIDGEMOOR DR	BRASELTON	GA	30517

GUIENDON JOSEPH R MARY M JTROS		132 MARSH VIEW DRIVE	RICHMOND HILL	GA	31324
GUISTI RICHARD SR ROBIN L JTROS		131 LONGMEADOW DR	WOLCOTT	CT	06716
H & H AUTO BODY LLC		17 CARDINAL ROAD	HILTON HEAD ISLAND	SC	29926
HAB LLC % HEATHER ANN C BARTOLOTTO		PO BOX 2856	BLUFFTON	SC	29910
HAGEMAN ALAN E	HAGEMAN SUSAN I	208 SILVER LAKE RD E	COLUMBIA	SC	29223
HAUSER DONALD H	BEARD MARSHA C	261 FIFTH AVE	NEW YORK	NY	10016
HEANER JAMES PAUL	HEANEY CHRISTINA E	4122 HOODRIDGE LN	MINT HILL	NC	28227
HENDRICKS REGINALD L SHAROLD L JTRO		PO BOX 2299	BLAIRSVILLE	GA	30514
HENGMUHL SCOTT		148 RUNNER RD	SAVANNAH	GA	31410
HENNESSEY CURTIS BLAIR LYNETTE M J		107 AVENIDA	WYLLIE	TX	75098
HEW & ASSOCIATES		12 WIDEWATER	HILTON HEAD ISL	SC	29926
HILTON HEAD PROPERTIES C/O TERRY CHU		36 PRIVATE DRIVE 10461	PROCTORVILLE	OH	45669
HIH GROUP OF COMPANIES LLC UNIT		861 BLUE RIDGE RD	PITTSBURGH	PA	15239
HOGAN MARK D SABA ROBERT J JTROS		55 MALLORY AVE #25	JERSEY CITY	NJ	07305
HORN JOHN K JR	VAN HORN SUSAN K	13 PARK ALY N	SARATOGA SPGS	NY	12866-1436
HUFENBECHER CHRISTINE A	HUFENBECHER PATRICIA	402 MIDDLECREEK RD	HONESDALE	PA	18431
HUONG LE TRAN	TRAN HUONG DUONG Q	1 AVE AT PORT IMPERIAL APT 1113	WEST NEW YORK	NJ	07093-8303
HUTCHISON KENNETH P GRIER KIMBERLY A		115 FIELDSTONE WAY	FAYETTEVILLE	GA	30215-8166
IANNAZZO ELIZABETH F IANNAZZO ANTHON		12 EXETER RD	AVONDALE ESTATES	GA	30002-1335
JACKSON DAVID	JACKSON ALETHEA W	25 MITCHELLEVILLE ROAD	HILTON HEAD ISL	SC	29926
JOHNSON BARNEY LJr	JOHNSON JANICE M	108 LINCOLN RD	HEMPSTEAD	NY	11550
JOHNSON BERMADETTE F	F/B/O TRUST MICHAEL LOWE JOHNSON U/W	3146 SURREY RD	THOMSON	GA	30824
JOHNSON LENIAH		10 FLAMINGO CV	LADYS ISLAND	SC	29907
JONES MARY JOAN		230 PORTER AVE	SEASIDE HEIGHTS	NJ	08751
JORGENSEN CHRISTOPHER A		239 BEACH CITY RD APT 1107	HILTON HEAD ISL	SC	29926
JOSTWORTH THOMAS C		PO BOX 802813	MIAMI	FL	33280-2813
JOYCE CHARLES RICHARD	JOYCE TAMMY AKERS	11745 HIGHLAND COLONY DR	ROSWELL	GA	30545
JUNIOR PLAYERS GOLF ACADEMY INC		3150 OLD BAYWOOD RD	GALAX	VA	24333
KAIL BRADEN E	KAIL SUZANNE R	154 BEACH CITY RD	HILTON HEAD ISLAND	SC	29926
KAPTUROWSKI PAUL F		PO BOX 722	WAYNESBURG	OH	44688-0722
KENNEDY CLAUDIA J		235 HORN TASSLE CT	INDIAN TRAIL	NC	28079
KEVIN SUMNER AND THERESA SUMNER LIVI		4 MAGAZINE PLACE	HILTON HEAD ISLAND	SC	29928
KEVIN ALLAN S		123 BROLA RD	MIDDLETOWN	NY	10940
KOSMATKA KENT	KOSMATKA DELORA	20 TWISTED CAY LANE	HILTON HEAD ISL	SC	29926
KRECKER GREGORY S		210 SYCAMORE ST	GOODLAND	KS	67735
		239 BEACH CITY RD #2202	HILTON HEAD ISL	SC	29926

KROPIEWNICKI JOSEPH		90 GLOUCESTER RD # 1202	HILTON HEAD ISL	SC	29928
KUNDRAT JOHN J		239 BEACH CITY RD APT 2310	HILTON HEAD IS	SC	29926-4714
LAMBERT EDWARD D LORINDA ANN JTROS		8 FISH HAUL RD	HILTON HEAD ISLAND	SC	29926
LAMMERT KARL KEVIN JTROS		30 MATTHEWS DR #113	HILTON HEAD ISL	SC	29926
LANEY KERMI QUINTON JR MARY ANN JT		1093 FISHING CREEK ESTATES RD	LINCOLNTON	GA	30817
LARKIN DARRYL		145 WILSON AVENUE	ELIZABETHTON	TN	37643
LAURENTIS SEMINA DE		66 QUAIL RUN	TORRINGTON	CT	06790
LEEWE JAMES F JR REBECCA S JTROS		3643 FORT PEYTON CIRCLE	ST AUGUSTINE	FL	32086
LEVVA NOELLA		PO BOX 5412	HILTON HEAD ISL	SC	29938
LIMPHIPHATN ESTER C LIMPHIPHATN		1145 STONEWOLF TRAIL	FAIRVIEW HEIGHTS	IL	62208
LOVELL JOHN WILLIAM		PO BOX 35941	TUCSON	AZ	85740
LUCIANI JOHN M	LUCIANI CONSTANCE M	119 SETTLERS PT	GUYTON	GA	31312
LYNCH ROBERT F CATHY S JTROS		7390 POSSUM STREET	MT VERNON	OH	43050
LYNN GEORGE K JR PEGGY LEE JTROS		91 CLUB COURSE DR	HILTON HEAD ISLAND	SC	29928
MACCHIAVERNA JUNE R		1212 W SHERWIN AVE	CHICAGO	IL	60626-2218
MACKEY MARK STEPHEN		233 BEACH CITY ROAD	HILTON HEAD ISL	SC	29926
MACNEIL PAUL D		30 LADYS ISLAND DR	BEAUFORT	SC	29907
MALLEY MICHAEL P SHARON E JTROS		3 MCOUEEN BLVD	FARMINGSALE	NJ	07727
MANZINO CHARLES P		17956 HOLLY BROOK DR	TAMPA	FL	33647
MARIANO DOROTHY H ARMAND M JTROS		36 CROSSROAD LANE	GLASTONBURY	CT	06033
MATTHEWS EUGENE VERMEILE J CO-TRUSTE		168 LITTLE CAPERS RD	BEAUFORT	SC	29902
MAURICE THREE LLC % MAURICE MALIN		45 HALE PLACE	TAPPAN	NY	10983
MAZAKOV DARIN	MAISAK LARYSA	PO BOX 1634	ALEXANDRIA	VA	22313
MCCARDLE THOMAS J		83 MAPLE AVENUE	WEST PATERSON	NJ	07424-0875
MCCAFFREY CORNELIUS		42 BRIARWOOD LN	MILLERTON	NY	12546
MCCALL FAMILY TRUST U/T/A LOIS M MCC		43 WEXFORD CLUB DR	HILTON HEAD ISLAND	SC	29928
MCCLARNON KEVIN DALE	MCCLARNON KIM MARIE	13112 MYRTLE DRIVE	BURNSVILLE	MN	55337
MCCLESKY MARGARET P		43 STONEY CREEK RD	HILTON HEAD ISL	SC	29928
MCCLURE JACKIE L	MCCLURE MARIA S	48 OVERLOOK CT	AIKEN	SC	29805
MCCORMICK EDWARD L BEATRICE F		106 KING DRIVE	POUGHKEEPSIE	NY	12603-3210
MEARS FRANKLIN H		PO BOX 14548	AUGUSTA	GA	30919
MELICK DIANA	MELICK GARY	235 ARDSLEY LN	ALPHARETTA	GA	30005
MICHAUD MATTHEW		3 DRISCOLL LN	MATTAPoisETT	MA	02739
MIKOUCHI PATRICIA A MIKOUCHI-LOPEZ T		5 LADSON CT	HILTON HEAD ISLAND	SC	29926
MILLER DAVE		1094 E CHOCTAW DR	LONDON	OH	43140
MONCADA JULIO H		239 BEACH CITY RD NO. 3329	HILTON HEAD ISLAND	SC	29926

MOORE JUDITH G			239 BEACH CITY RD #1322	HILTON HEAD ISLAND	SC	29926
MOORER DOLORES P			5146 TOREY LN	SUMMERVILLE	SC	29485
MOSES THOMAS E			1807 RIVER CHASE RD	HIXSON	TN	37343-3433
MOULTRIE EDITH W			103 E LATHROP AVE	SAVANNAH	GA	31401
MULLINS MARGARET R MOORE VICKI MULLI			103 EAST LATHROP AVE	SAVANNAH	GA	31401
MURPHY RAYMOND A PATRICIA A JTROS			4297 HIGHBORNE DRIVE	MARLETTA	GA	30066
MUSA ANN FLORENCE TRUSTEE EDWARD F			36 RIDGE LANE	HILLSDALE	NY	12529
NABEL PATRICIA BENNETT			4 MT VIEW DR	PLEASANT VALLEY	NY	12569
NATIONAL ALLIANCE FOR THE MENTALLY I			1321 ROBIN HOOD RD	HIGH POINT	NC	27262
NICHOLSON ANTHONY SCOTT MARY JONES J			PO BOX 24128	HILTON HEAD ISLAND	SC	29925
NIEHAUS THOMAS J			239 BEACH CITY RD #1110	HILTON HEAD ISLAND	SC	29926
NITZA KATHLEEN MURPHY			92 PHEASANT LANE	FAIRFIELD	CT	06824
OBERMAN STUART J JOANNE M JTROS			239 BEACH CITY RD #1128	HILTON HEAD ISLAND	SC	29926
O'SHEA THOMAS M			6218 GREENS MILL RIDGE	LOGANVILLE	GA	30052
PACE EDWIN STEPHEN III LINDA A JT			1206 THE SPA	HILTON HEAD ISL	SC	29928
PANKEY PATRICK ALAN			315 ABBEY RD	KINGSPORT	TN	37663
PARRA MILTON H DIANE P JTROS		PANKEY MARILYN	1231 FERNCREEK DR	WATKINSVILLE	GA	30677
PASQUALINO JOHN A		PASQUALINO USA	17100 NABLUK LANE	CORNWALLUS	NC	28031
PEEPLES BENNIE L		PEEPLES SANDRA H	738 NORLAND AVE	CARNEGIE	PA	15106
PEISER JOHN F		PEISER KATHRYN L	PO BOX 22316	HILTON HEAD ISLAND	SC	29925
PENNINGROTH ERIC L ROSEANNE JTROS			33-20 214 PLACE	BAYSIDE	NY	11361
PENSCO TRUST CO F/B/D CHRISTINE HANS			2310 COLLINGWOOD RD	ALEXANDRIA	VA	22308
PERRINE DAVID MICHAEL KAY ELLEN JT			78 JIB SAIL CT	HILTON HEAD ISLAND	SC	29928
PERRY LINDA HRS OF % ROBERT GREENE			1404 BELLE MEADE ROAD	AKRON	OH	44321
PETERS CLIFTON L III			608 POWELL STREET	BROOKLYN	NY	11212-5334
PETERSON ALLEN D			PO BOX 3025	SAN BERNARDINO	CA	92413
PETTIT STACY P			233 HITCHING POST CRES	BLUFFTON	SC	29910
PIMENTEL RICHARD M DIANE A JTROS			239 BEACH CITY RD APT 1101	HILTON HEAD ISLAND	SC	29926-4708
PRIOR MICHAEL		PRIOR MICHELE	43 VAIL ROAD	BETHEL	CT	06801
QUINTON MAUREEN A TRUSTEE			3750 WINCHESTER TRAIL	MARTINEZ	GA	30907
RAHMANI BRUCE R HOSSEINIAMI ALI			1232 BLAKE COURT	YORK	PA	17403-9114
RAMEIZL JAMES		RAMEIZL PHYLLIS	17240 BROOKDALE LANE	ROUNDS HILL	VA	20141
RAMEY CHERYL JEAN		RAMEY WILBUR JAMES	55 RED CEDAR ST	BLUFFTON	SC	29910 8926
REILLY CHRISTOPHER BARBARA J REILLY			301 CENTRAL AVE 341	HILTON HEAD ISLAND	SC	29926
REILLY SEAN			239 BEACH CITY ROAD APT 2104	HILTON HEAD ISL	SC	29926
			5 STONEFIELD LANE	BLUFFTON	SC	29910

REILLY SEAN PATRICK		239 BEACH CITY RD VILLA 3311	HILTON HEAD ISL	SC	29926
RESORT INVESTMENT CORP		PO BOX 11496	COLUMBIA	SC	29211-1496
RETREAT PET SUITES LLC % STUART W CA		9 BIG WOODS DRIVE	HILTON HEAD ISL	SC	29926
RICE JOSHUA FRANKLIN JOHNNA LINDA		2288 WICKINGHAM DR NE	MARIETTA	GA	30066-3083
RITZLER JAMES R JUDITH A JTROS		PO BOX 7122	HILTON HEAD ISLAND	SC	29938
RIEVERS NATHAN ETHEL		PO BOX 21063	HILTON HEAD ISL	SC	29925
ROBERSON IRENE	LAUNIERE RENEE KATHERINE	619 NORFLEET RD	ATLANTA	GA	30305
RODNEY W BYRD AND JOYCE K BYRD REVOC	RODNEY W BYRD AND JOYCE K BYRD REVOC	481 HARBOR DR	LEBANON	OH	45036
ROMEO THOMAS M	ROMEO NANCY L	12 REACH LN	HIGH FALLS	NY	12440
ROTE DENNIS	ROTE LINDA L	354 PACES FERRY RD	AUGUSTA	GA	30907
RUNGE GARY L		6175 BISHOP BEND RD	UNION	KY	41091
RUNGE LARY		130 MCCULLUM RD	INDEPENDENCE	KY	41051
RUNGE VICTORIA M	BISHOP RONNIE L	239 BEACH CITY RD #1205	HILTON HEAD ISLAND	SC	29926
RUSH DALE H		1408 ROSEMOUND AVE	JONESBORO	AR	72401
RUSH DALE JR	RUSH PATIENCE J	3829 BAUM ST SE	CANTON	OH	44707
RUTLEDGE JOHN W SUSAN K JTROS		30 GAGE COURT	TAPPAN	NY	10983
SAKONCHICK JAMES		1272 NOTCH RD	CHESHIRE	CT	06410
SAMARGHANDI MAIID H SUZANNE H JTR		11679 WINDY HILL CT	LOVELAND	OH	45140
SANDERS ALFRIDA J WILLIAM P		PO BOX 5394	HILTON HEAD ISL	SC	29938
SANTA MARIA RICHARD LINDA JTROS		7 PERSIMMON PLACE	HILTON HEAD ISLAND	SC	29926
SAPEZINSKAS SAULIUS SAPEZINSKIENE JO		5 WOODSIDE DR	BLUFFTON	SC	29910
SAUERS GERALD L		219 O'HARA MANOR DRIVE	PITTSBURGH	PA	15238
SAUNDERS BRUCE H		239 BEACH CITY RD VILLA 1220	HILTON HEAD ISLAND	SC	29926
SAVYOR WALTER P		239 BEACH CITY RD	HILTON HEAD ISLAND	SC	29926-4234
SCHAFFER DAVID RUTH ANN JTROS		1515 SCHAEFER CORNER RD	VARNVILLE	SC	29944
SCHIEDER NICHOLAS MOWRY CAROLINE S J		908 N MANGUM ST	DURHAM	NC	27701
SCHMEDES JOHN B	SCHMEDES BARBERA SECRIST	292 GRANVILLE COURT	MARIETTA	GA	30064
SCHOCK RICHARD SUSAN JTROS		1063 VALLEY WOODS DR	BATAVIA	OH	45103
SCHRAMM CHARLES W		2998 YELLOWWOOD COURT	BREMEN	IN	46506
SCOTTO CHRISTOPHER J		9716 B REA ROAD 133	HILTON HEAD ISLAND	SC	29926
SCRII LLC		PO BOX 10	HILTON HEAD ISLAND	SC	29938
SEVASTOS JOHN P URANIA C JTROS		29400 FAIRMONT BLVD	PEPPER PIKE	OH	44124
SH ENTERPRISES INC		4 OTRANTO CT	HILTON HEAD ISLAND	SC	29928
SHEARS OUIDA T MAYHEW EVA T		355 GAMMEL STREET	MOBILE	AL	36610
SHOCKLEY ANDREW G PATRICIA H		603 VILLA CREST DR	KNOXVILLE	TN	37923-6018
SMAALSTIG RICHARD KATHY CONWAY HARRIE		216 MOREWOOD RD	GLENSHAW	PA	15116

SMITH LANISE KEITH		630 CREIGHTON DR	TAYLORS	SC	29687
SMITH RANELL ENTRUST OF TAMPA BAY LL		PO BOX 22386	HILTON HEAD ISLAND	SC	29925
SMITH WALDO A DOCKUM DAVID A JTROS		1728 KINGS MANOR COURT	MATTHEWS	NC	28105
SOLOMON ROBERT T	SOLOMON GERLINDE E	101 OXFORD CIR	RINCON	GA	31326
SPA ON PORT ROYAL SOUND HORIZONTAL P		239 BEACH CITY RD #1127	HILTON HEAD ISLAND	SC	29926
SPA ON PORT ROYAL SOUND HORIZONTAL P		239 BEACH CITY ROAD 1212	HILTON HEAD ISLAND	SC	29926
SPA ON PORT ROYAL SOUND HORIZONTAL P		239 BEACH CITY ROAD	HILTON HEAD ISLAND	SC	29926
SPA ON PORT ROYAL SOUND HPR COUNCIL		239 BEACH CITY RD	HILTON HEAD ISLAND	SC	29926
SPA ON PORT ROYAL SOUND HPR INC		239 BEACH CITY RD	HILTON HEAD ISLAND	SC	29926
STERNAD KENNETH B MURPHY KEVIN J ETA		5832 CATALINET COURT	ST LOUIS	MO	63128
Stevens, Cornelia Groover Ruby Oliv		P. O. Box 21087	Hilton Head Island	SC	29928
TAYLOR MONTIE E MARTIN ALTON LEROY J		447 PAIGE POINT BLF	SEABROOK	SC	29940
TERMEL FARID AGHA ROYA JTROS		3631 OAK ST	DULUTH	GA	30096
THOMPSON DONNA S		14591 ELKIN HIGHWAY 268	RONDA	NC	28670
TODD MARK D		1815 LAKE ROAD XXX	WEBSTER	NY	14580
TOLTON DEBORAH		239 BEACH CITY RD 3332 THE SPA	HILTON HEAD ISL	SC	29926
TOMASELLI STEPHEN JAMES SKALA ALLISO		2462 WINDY HILL DR	PEPPER PIKE	OH	44124
TOOGOOD CAROL A		239 BEACH CITY RD VILLA 1208	HILTON HEAD ISLAND	SC	29926
TOWN OF HILTON HEAD (THE)		ONE TOWN CENTER CT	HILTON HEAD ISLAND	SC	29928
TRUANO FRANCIS I NOEL J JTROS		22 SOVEREIGN DR	HILTON HEAD ISL	SC	29928
TURNER RICK T	TURNER BEVERLY J	PO BOX 1700	DANVILLE	KY	40423
TZELLAS LISA M		18 RED OAK LN	WEST BARNSTABLE	MA	02668
V B BRADLEY CORP		1160 S BUNN RD	HILLSDALE	MI	49242-8330
VALENZUELA REINA I		2 KATHERINE AVE	FAIR LAWN	NJ	07410
VAN HORN FAMILY TRUST UNDER THE WILL		402 MIDDLECREEK RD	HONESDALE	PA	18431
VAN HORN FAMILY TRUST UNDER WILL ELI		402 MIDDLE CREEK RD	HONESDALE	PA	18431
VAN HORN JOHN H JR SUSAN K JTROS		402 MIDDLE CREEK RD	HONESDALE	PA	18431
VERDERBER ROBERT W		3 DARIEN PLACE	EAST NORTHPORT	NY	11731
WALSH FRANK J		4010 CROWN POINTE STREET	CHARLESTON	SC	29492
WARD IRENE F WILLIAM L TRUSTEES (IR		21 SAXONY LANE	WOODBURY	CT	06798
WATTS ALONZO L KAREN E JTROS ETAL		225 WALTON MEADOW LN	ROSWELL	GA	30075
WEAVER CAROL P		112 WILLOW RUN	NORTH AUGUSTA	SC	29841
WEAVER HAROLD J CAY 2 JTROS		670 BEACH ISLAND TRACE	DADEVILLE	AL	36853
WECKHORST GERALD K NANJI P		PO BOX 22645	HILTON HEAD ISLAND	SC	29925-2645
WECKHORST GERALD NANJI % NAN-SEAS		PO BOX 22645	HILTON HEAD ISLAND	SC	29925
WEGENER THOMAS B EVE JTROS		27 HERITAGE PRWY	SCOTIA	NY	12302

WELCH THOMAS F ROBIN S JTROS		5 PINEFIELD ROAD	HILTON HEAD ISL	SC	29926
WELLMAN SAMUEL W	WELLMAN KELLY C	575 TUDOR BRANCH	GROVETOWN	GA	30813
WHITE PERRY BARBARA J		PO BOX 21031	HILTON HEAD ISL	SC	29925
WHITSON MICHAEL D	WHITSON LOLA R	298 COMFORT PLACE	BURNSVILLE	NC	28714-4543
WIKE PROPERTIES LLC		113 SHANTY RIDGE LANE	BANNER ELK	NC	28604
WILCOX MICHAEL C REED FRANCES BOOGHE		239 BEACH CITY RD APT 2113	HILTON HEAD ISL	SC	29926
WILKEN LYNNE D		40 FOLLY FIELD RD	HILTON HEAD ISLAND	SC	29928
WILSON DIANNE R		13 VICTORIA CIR	COLLEGEVILLE	PA	19426
WOOD BRIAN S KRUEGER SARAH L JTRO		239 BEACH CITY RD #1103	HILTON HEAD ISLAND	SC	29926
WOODS JAMES M	WOODS VICTORIA E	48 SALT MARSH DR	HILTON HEAD ISLAND	SC	29926
WOODS PATRICIA J		239 BEACH CITY RD UNIT 3111	HILTON HEAD ISLAND	SC	29928
YOUNG CHARLES EDWARD		2627 MOORINGS PKWY	SNELLVILLE	GA	30039
YOUNG VICTOR P KATHARINE JTROS		1 SMOKE CANDLES PLACE	PALM COAST	FL	32164



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)

April 18, 2013 ²⁵ *cc*

Ms. Kathleen Carlin
Planning Commission Secretary
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

**VIA email to KathleenC@hiltonheadislandsc.gov
and
Hand Delivered**

RE: 217 Beach City Road, LLC - Zoning Map Amendment Application
ZMA130003 - Our File No. 01687-001

Dear Kathleen:

Enclosed for filing in the record for Zoning Map Amendment Application ZMA130003 and immediate distribution to the Planning Commissioners is a Second Supplement to that application.

We anticipate the filing of a Third Supplement soon, and we reserve the right to do so on behalf of our client, 217 Beach City Road, LLC.

With best regards,

Very truly yours,

LAW OFFICE OF CHESTER C. WILLIAMS, LLC

This signature is an electronic reproduction

Chester C. Williams

CCW\skt
Enclosure

cc: Dr. Harinderjit Singh
Rand E. Hanna, III, Esq.
Teri B. Lewis, AICP
Jayme D. Lopko, AICP
Ms. Gail A. Quick

STATE OF SOUTH CAROLINA) BEFORE THE PLANNING COMMISSION
) OF THE
) TOWN OF HILTON HEAD ISLAND, SC
COUNTY OF BEAUFORT) ZMA130003

**SECOND SUPPLEMENT
TO
THE ZONING MAP AMENDMENT APPLICATION
OF
217 BEACH CITY ROAD, LLC
REGARDING
8.56 ACRES, BEACH CITY ROAD**

This Second Supplement to Zoning Map Amendment Application ZMA130003 (the "Application") of 217 Beach City Road, LLC (the "Applicant") is submitted by the Applicant to the Planning Commission of the Town of Hilton Head Island (the "Town") to supplement the Application. The Application as originally filed seeks approval to amend the Official Zoning Map of the Town by changing the base zoning district applicable to an 8.56 acre tract (the "Property") located on Beach City Road in the Town of Hilton Head Island, from the currently applicable RM-4 – Low Density Residential District to either the RM-12 – Moderate to High Density Residential District or the WMU – Water Front Mixed Use District.

This Second Supplement (1) revises the Application to withdraw those portions of the Application that seek to rezone the Property to the WMU – Water Front Mixed Use District, and (2) addresses certain issues that may be raised as a result of comments on the Application by the Federal Aviation Administration, the South Carolina Aeronautics Commission, and Beaufort County.



I. WITHDRAWAL OF THE WMU – WATER FRONT MIXED USE DISTRICT REZONING REQUEST

The Applicant has previously withdrawn those portions of the Application that seek to rezone the Property to the WMU – Water Front Mixed Use District,¹ and hereby confirms that withdrawal.

II. THE AIRPORT OVERLAY DISTRICT

As noted on the Application form, the Property is located in the AZ – Airport Overlay District (the “Airport Overlay District”), which provides for land use controls and restrictions on properties in the vicinity of the Hilton Head Island Airport (the “Airport”). The Airport Overlay District regulations are in Chapter 4, Article IV of the Town’s Land Management Ordinance (the “LMO”).

The Airport Overlay District² includes five subdistricts, namely, the Discretionary Noise Level (also referred to as the LDN 60 area), the Significant Noise Level (also referred to as the LDN 65 area), the Approach Path, the Inner Hazard Zone, and the Outer Hazard Zone. The Property is located wholly within the LDN 60 area and the Approach Path, and partly within the Outer Hazard Zone.³

As explained below, there is nothing in the Airport Overlay District restrictions that prohibits, or even discourages, residential development on the Property at heights up to, and even exceeding, the 45 feet maximum height allowed in the RM-12 District.

¹ See the April 18, 2013 letter from the undersigned to Teri B. Lewis, AICP, the Town’s LMO Official.

² See the November 3, 1999 Airport Overlay District Map, which is part of the Town’s Official Zoning Map.

³ See the marked up excerpt from the Airport Overlay District Map, which shows the outline of the Property in red, attached to this Second Supplement as Exhibit A.



A. LDN 60 AREA

The LDN 60 area includes the entire area within the Airport Overlay District.⁴ The only Airport Overlay District restrictions on lands in the LDN 60 area are that no use of any land or water be made in a manner as (a) to create electrical interference with navigational signals or radio communication between the airport and aircraft, (b) to make it difficult for pilots to distinguish between airport lights and other lights (*i. e.*, colors and patterns), (c) to result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, (d) to create bird strike hazards, or (e) to otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the Airport.⁵

Note there is no prohibition on residential development in the LDN 60 area (indeed, the currently permitted single family residential subdivision on the Property is in the LDN 60 area), though noise mitigation measures are encouraged for all proposed residential development.

Note, also, there are no restrictions on height for any proposed development, residential or otherwise, in the LDN 60 area regulations.

B. THE APPROACH PATH

The Approach Path subdistrict of the Airport Overlay District, which generally includes the areas extending out from the north and south ends of the Airport runway, was established to insure that development near the Airport will not pose safety problems due to vertical protrusions. Its main focus is a height limitation that increases as the linear distances from the runway ends increase. Within the Approach Path, no building, structure, utility pole or protrusion of any kind thereof shall be permitted to extend to a height measured from the mean elevation of the airport runway that exceeds the limits established in LMO Section 16-4-402(C)(a). With respect to the north

⁴ See LMO Section 16-4-402(A)(1). The other four subdistricts in the AZ Overlay District are “subsections of the Discretionary Noise Level.”

⁵ See LMO Section 16-4-403(A).



end of the Airport runway, the maximum permitted height increases by a ratio of 1:34 (*i. e.*, for every 34 feet one moves away from the end of the runway, the maximum height increases by 1 foot).

As the Planning Commissioners will recall, this height limitation has over the last several years been the topic of much discussion as it relates to Beaufort County's tree trimming and removal activities on and in the vicinity of the Airport. As part of one of its tree trimming and removal permit applications to the Town, Beaufort County commissioned the preparation of very detailed plans showing the height limitations of the Approach Path area. Those plans show that by the time one reaches the Property, the height limitations of the Approach Path allow for construction and development on the Property at a height exceeding 80 feet.⁶

C. THE OUTER HAZARD ZONE

The Outer Hazard Zone is an area that demonstrates a higher statistical probability of aircraft accidents occurring.⁷ Restrictions on development in the Outer Hazard Zone are limited to required construction techniques and occupancy loads, and include a prohibition on uses designed to serve children or those with low effective mobility, such as day care centers, hospitals, assisted living facilities, and nursing homes.

There is nothing in the Outer Hazard Zone restriction that prohibits, or even discourages, residential use. Further, as evidenced by the existing single family residential subdivision on the Property, there is nothing in the Outer Hazard Zone restriction that leads one to believe that residential use on the property is incompatible with the operations of the Airport.

⁶ See the Construction Plans for Runway 21 Offsite Tree Obstruction Removal Project at Hilton Head Island Airport (HXD) prepared by Wilbur Smith Associates, Charles F. Stearns, PE, dated June 28, 2011 (the "Wilbur Smith Plans"). A reduced size copy of Page 4 of the Wilbur Smith Plans is attached to this Second Supplement as Exhibit B. Note the Property is not actually shown on Page 4 of the Wilbur Smith Plans, as it is located further north of the Airport, outside the scope of Page 4 of the Wilbur Smith Plans.

⁷ See LMO Section 16-4-402(A)(5).



III. THE AIRPORT AND THE COMPREHENSIVE PLAN

The Airport is referred to in several places in the Town's Comprehensive Plan, including the following:

1. Sections 7.5 and 7.6 of the Economic Development Element acknowledge that the Airport is limited in capacity (around 4% of visitors to the Town historically arrive by air), and that the expansion capability of the Airport is limited. Figures 7.3 and 7.4 in the Economic Development Element shows that both monthly tower operations at the Airport and total passenger arrivals at the Airport seem to have peaked in 2007, and were declining in 2008 and 2009.
2. Implementation Strategy 8.10(A) in the Land Use Element calls for a review of the appropriate locations of certain land uses in areas such as the Airport Overlay District.
3. Section 9.6 of the Transportation Element discusses the Airport and air transportation. Goal 9.6 of the Transportation Element is to ensure that Airport operations remain safe while providing air travel to the Town, and to ensure that development surrounding the Airport is designed and constructed to minimize the negative impacts of being located near the Airport.
4. Implementation Strategy 9.6(C) of the Transportation Element calls for review development proposals within the Airport Overlay District to ensure the site is designed with the maximum safety possible for the occupants of the site.

The Applicant readily acknowledges that any redevelopment of the Property under the RM-12 District, if the Application is approved, must be undertaken in a manner that will fully and completely comply with the requirements of the Airport Overlay District, thereby assuring compliance with the provisions of the Comprehensive Plan relating to the Airport.



IV. COMMENTS ON THE APPLICATION BY THE FEDERAL AVIATION ADMINISTRATION, THE SOUTH CAROLINA AERONAUTICS COMMISSION, AND BEAUFORT COUNTY

The Town Staff apparently solicited, and has now received, comments concerning the Application from the Federal Aviation Administration (the “FAA”), the South Carolina Aeronautics Commission (the “Aeronautics Commission”), and Beaufort County, SC (“Beaufort County”). Beaufort County is the owner of the Airport.

A. THE FAA’S COMMENTS

The FAA provided comments concerning the Application by way of the March 28, 2013 letter from Parks Preston, Program Manager for the FAA Atlanta Airports District Office to Teri B. Lewis, AICP (the “FAA Letter”).⁸ The FAA Letter states that the FAA “... encourages land uses that are considered to be incompatible with airports (such as residential, schools, and churches) to locate away from airports, and encourages land uses that are more compatible (such as industrial and commercial uses) to locate around airports.” The FAA also asserts that the “... area in question ... is directly under the final approach to Runway 21.”

The FAA provides no supporting documents or other references concerning its assertion that residential development on the Property is “considered to be incompatible” with airports. The FAA Letter does not identify who, or what, determines what the FAA does, and does not, consider to be incompatible with airports.

Notwithstanding the FAA’s position, the LMO does not take a similar position, as residential use on the Property has already been approved and permitted.

⁸ A copy of the FAA letter is attached to this Second Supplement as Exhibit C.



B. THE AERONAUTICS COMMISSION'S COMMENTS

The Aeronautics Commission provided comments on the Application in a March 29, 2013 email from Mihir Shah, PE, AICP, Airport Planning & Environmental Engineer, to Gary Kubic, Beaufort County Administrator (the "Aeronautics Commission Email").⁹ The Aeronautics Commission Email asserts that rezoning the Property to allow for higher residential density is incompatible with the Airport for several reasons:

1. The Aeronautics Commission Email first says the Property "... is located just outside the Airport's existing Runway Protection Zone (RPZ) for Runway End 21", and that higher density residential land uses "are to be strongly discouraged in the inner approach area."
2. The Aeronautics Commission Email next says the Property "... would be located at the very edge of the Airport's future Runway End 21 RPZ based on the FAA-approved Airport Layout Plan updated in 2011, which depicts Runway 21 being extended in the direction of [the Property]."
3. Third, the Aeronautics Commission Email says the Aeronautics Commission "... is currently drafting statewide airport land use policies ... [that] will almost certainly consider dense residential developments ... as incompatible [with airports]."

To understand and evaluate the assertions made in the Aeronautics Commission Email, it is important to be familiar with what is referred to as the Airport Layout Plan for the Airport. There are three versions of the Airport Layout Plan for the Airport included in the Hilton Head Island Airport Master Plan Update prepared by Talbert & Bright dated September 8, 2011 (the "Airport Master Plan"). Each of those Airport Layout Plans (the Current

⁹ A copy of the Aeronautics Commission Email is attached to this Second Supplement as Exhibit D.



Configuration, the Phase 1 Development, and the Ultimate Development)¹⁰ show, among other things, the boundary of the Runway Protection Zone¹¹ at the north end of the Airport Runway.

The Airport Layout Plan (Current Configuration) shows current conditions at the Airport. While the Applicant admits that the Property is certainly in the vicinity of the Airport, it is clear from the Airport Layout Plan (Current Configuration) that the Property is not in the existing Runway Protection Zone for Runway End 21. In fact, contrary to the assertion made in the Aeronautics Commission Email, the Property is not “just outside” the existing Runway Protection Zone; instead the southeastern corner of the Property is approximately 1,100 feet from the northern end of the Runway Protection Zone.

The Airport Layout Plan (Phase 1 Development) shows the conditions at the Airport assuming the runway is lengthened from the current 4,300 feet to 5,000. Again, it is clear from the Airport Layout Plan (Phase 1 Development) that the Property is well outside the future Runway Protection Zone, being located some 800 feet from the northern end of the Runway Protection Zone.

In the Applicant’s opinion, it is not necessary to address any issues raised by virtue of the Airport Layout Plan (Ultimate Development), which

¹⁰ Reduced size copies of the Airport Layout Plan (Current Configuration), the Airport Layout Plan (Phase 1 Development), and the Airport Layout Plan (Ultimate Development), all dated September 1, 2011, marked up to show the outline of the Property in red near the bottom of each page, are attached to this Second Supplement as Exhibits E, F, and G, respectively. Note the versions of the three Airport Layout Plans included in the Airport Master Plan are based on aerial photographs of the area of the Airport. The versions of the Airport Layout Plans attached to this Second Supplement as Exhibits E, F, and G do not include the aerial photograph information, and were obtained from the Aeronautics Commission’s web site. Similar to Page 4 of the Wilbur Smith Plans referred to in Footnote 4 above, the majority of the Property is not shown on the Airport Layout Plans, as it is, for the most part, outside the scope of the Airport Layout Plans.

¹¹ The Airport Master Plan refers to the Runway Protection Zone in some places as the Approach Runway Protection Zone, to distinguish it from the Departure Runway Protection Zone. The three Airport Layout Plans all show both the Runway Protection Zone and the Departure Runway Protection Zone, each as different areas. The Aeronautics Commission Email refers only to the Runway Protection Zone, and does not refer to the Departure Runway Protection Zone.



shows the conditions at the Airport assuming the runway is lengthened even further to 5,400 feet, because a runway of that length is currently not permitted under the LMO.¹² Nevertheless, even if the Airport runway was lengthened to 5,400 feet, as the Aeronautics Commission Email acknowledges, the Property would still not be located in the Runway Protection Zone.¹³

The Applicant is puzzled by the further assertion in the Aeronautics Commission Email that allowing denser residential development on the Property would seriously impact the viability of any planned future extension of the Airport runway due to incompatible land uses, and could potentially affect grant funding related to that extension, especially considering that the Property is excluded from the areas under consideration in the Airport Master Plan.

The Aeronautics Commission Email also advises that the Aeronautics Commission is currently drafting statewide airport land use policies to guide local governments as required by Section 55-13-5 of the Revised Title 55 enabling legislation,¹⁴ and then asserts, without any documentary or other support, that the as yet unfinished land use standards “will almost certainly consider dense residential developments ... as incompatible [with airports].” Not only is this assertion wholly unsupported by any reference of any sort, it is, at least at this time, mere speculation about what those policies may contain

¹² See LMO Section 16-4-1307. The Airport, or more specifically, an Aviation/Surface Passenger Terminal, is a Special Exception Use, with a condition that the length of the runway is limited to 5,000 linear feet. Absent an amendment of the LMO, it is illegal for the Airport runway to be lengthened to 5,400 feet.

¹³ The Airport Layout Plan (Ultimate Development) shows that if the Airport runway is at some point lengthened to 5,400 feet, the Property would still be located approximately 800 feet from the northern end of the Runway Protection Zone, though the Applicant does acknowledge that Airport Layout Plan (Ultimate Development) shows that the Property would be located at the edge of the Departure Runway Protection Zone. On this point, the Aeronautics Commission Email is wrong: the Property will not be located “at the very edge of the Airport’s future Runway End 21 RPZ”; instead, the Property will be located at the edge of the Airport’s future Runway 21 DPRZ, or Departure Runway Protection Zone.

¹⁴ See Title 55, Chapter 13, Section 5 of the Code of Laws of South Carolina (1976), as amended (the “SC Code”).



when finalized.¹⁵ In response to a request by counsel for the Applicant for copies of the draft airport-compatible land use standards, the Aeronautics Commission advised that they are in the process of creating the required regulations and maps, which are currently under review by a technical advisor consultant firm, attorneys, city and county planning organizations, and the Aeronautics Commission, and they are “unable to provide land use drawings to county and city officials to supplement Beaufort County and Hilton Head land use ordinances.”¹⁶

In other words, the Aeronautics Commission is arguing against the Application based on draft regulations and maps that are not approved or adopted, and that the Aeronautics Commission will not share. Because the Applicant has no way to review the underpinnings of the Aeronautics Commission’s arguments, due process and fairness seems to require that the Planning Commission disregard those assertions, which are not only unsupported by any available evidence, but are, in fact, contradicted by the FAA-approved Airport Layout Plans.

The Aeronautics Commission urges the Town to “... appropriately manage land use around Hilton Head Airport ...” in order to protect the public investment in the Airport. The Applicant believes the Town has done exactly that, as evidenced by the LMO’s Airport Overlay District regulations. However, it seems clear to the Applicant that the Aeronautics Commission now is not happy with what has served the Town well for many years, and wants more. The Applicant should not be the one to pay the price sought by the Aeronautics Commission.

¹⁵ Note that SC Code Section 55-13-5 was enacted effective June 18, 2012 and even now, ten (10) months later, the Aeronautics Commission has not yet created the required airport maps. Until the required maps are completed, approved, and published, nothing pertaining to those maps is pertinent to the Application.

¹⁶ See the copy of the April 9, 2013 email from Paul Werts, the Executive Director of the South Carolina Aeronautics Commission, attached to this Second Supplement as Exhibit H.



C. BEAUFORT COUNTY'S COMMENTS

The April 3, 2013 letter from Mr. Kubic to Mrs. Lewis (the "County Letter")¹⁷ merely parrots the recommendations of the FAA and the Aeronautics Commission without further discussion, or documentary or evidentiary support.

V. THE SOUTH CAROLINA AIRPORTS ACT

Originally enacted in 1962 and amended in 2012, as noted above, the South Carolina Airports Act is set out in SC Code Section 55-9-10, *et seq.* (the "Airports Act"). Section 55-9-260 of the Airports Act specifically empowers a municipality that has an airport hazard area within its territorial limits to adopt, administer, and enforce, consistent with the Airports Act, zoning regulations for the airport hazard area, including specifying land uses permitted, and regulating and restricting, for the purpose of preventing airport hazards, the heights of structures and trees. SC Code Section 55-9-330 addresses the permitted contents of airport zoning regulations. More particularly, SC Code Section 55-9-330(A) provides

All airport zoning regulations adopted pursuant to this chapter shall be reasonable and none shall impose any requirement or restriction which is not necessary to effectuate the purposes of this chapter. [Emphasis added.]

VI. DISCUSSION

The Airport Act requires that all airport zoning regulations be reasonable, and not impose any requirement or restriction on land uses which is not necessary. The Applicant submits that the LMO's Airport Overlay District regulations do exactly that. However, when it comes to the Property and the

¹⁷ A copy of the County Letter is attached to this Second Supplement as Exhibit I.



Application, that no longer seems to be good enough for the FAA, the Aeronautics Commission, and Beaufort County.

At their core, the arguments against the Application contained in the FAA Letter, the Aeronautics Commission Email, and the County Letter are apparently based upon safety concerns, and the possible future extension of the Airport runway. Residential uses on the Property are “considered to be incompatible”, and are “strongly discouraged”. Considering the numerous references to the “final approach to Runway 21”, and the “Runway Protection Zone”, and the “inner approach area”, the most likely basis for the positions taken by the FAA, the Aeronautics Commission, and Beaufort County for their opposition to the Application is safety. It is interesting to note, however, that none of the comments in opposition to the Application actually use the word “safety” in connection with the proposed rezoning of the Property; rather, the FAA and the SC Aeronautics Commission prefer to use the terms “incompatible” and “strongly discouraged” to characterize their concerns.

At the end of the day, the area past the end of Runway 21 is either “safe”, or it is “unsafe”. With regard to any land in the vicinity of any airport, safety is not a matter of degree. If the Property is “safe” for single family and multi-family residential development in the RM-4 District, adding additional density cannot make it “unsafe”. The area is either “safe” for residential uses, or it is not.

Finally, the arguments against the Application contained in the FAA Letter, the Aeronautics Commission Email, and the County Letter come down to this: The Application should not be approved because to do so might have an adverse impact on something the Airport might do at some time in the future. The FAA and the Aeronautics Commission Email both argue that residential use on the Property is “incompatible” with the Airport, but neither the LMO nor the Town’s Comprehensive Plan support that assertion. In fact, not only is residential use currently permitted on the Property under the currently applicable RM-4 zoning, residential use is essentially the only currently permitted use on the Property. It seems almost specious for the FAA, the Aeronautics Commission, and Beaufort County to argue that what is the only economically viable permitted use on the Property is “incompatible” with



the Airport, and should not be allowed on the Property, or should not be allowed to expand on the Property.

The Applicant notes that neither the FAA, the Aeronautics Commission, nor Beaufort County have cited any provisions of the LMO or the Town's Comprehensive Plan in support of their arguments against approval of the Application.

The Applicant suspects that the true reason why the FAA, the Aeronautics Commission, and Beaufort County all oppose the Application is because of some perceived notion that allowing an increase in the density available to the Property may have an adverse impact on future plans to lengthen the Airport's Runway 21 in the direction of the Property. If that is the case, then the Applicant submits that the as yet unapproved and unpermitted plans of a property owner in the vicinity of the Property, which may or may not ever come to pass, is not a proper reason to deny the Application.

The fact is, the Property has been zoned for essentially only residential use for at least 13 years, ever since the October 5, 1999 adoption by the Town Council of the amendments to the LMO that implemented the Ward One Master Land Use Plan. Further, the fact is, substantial parcels in the immediate vicinity of the Property have been zoned for up to 12 residential density units per acre for at least 13 years, again ever since the 1999 implementation of the Ward One Master Land Use Plan. It's a little late now for the FAA, the Aeronautics Commission, and Beaufort County to be arguing against residential use on the Property.

VII. CONCLUSION

The Applicant continues to believe the Application is in conformance with the LMO and the Town's Comprehensive Plan, and meets the criteria set forth in LMO Section 16-3-1505. Accordingly, the Applicant again 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 the 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 the Application and the supporting testimony and documentation establish that while the current use on the Property is consistent with the present zoning, that current use has failed economically, and the proposed rezoning is also consistent with conforming uses of nearby properties and with the character of the neighborhood around the Property; and

3. That the 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 the Application and the supporting testimony and documentation establish that the Property is not economically suitable for the uses permitted by the zoning district that is currently applicable to the Property; and

5. That the 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 the Application and the supporting testimony and documentation establish that there will be no material 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 and the rezoning of the Property to the RM-12 District.



Respectfully submitted on behalf of the Applicant this 25th day of April,
2013.



This signature is an electronic reproduction

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 Second Supplement (1 Page)

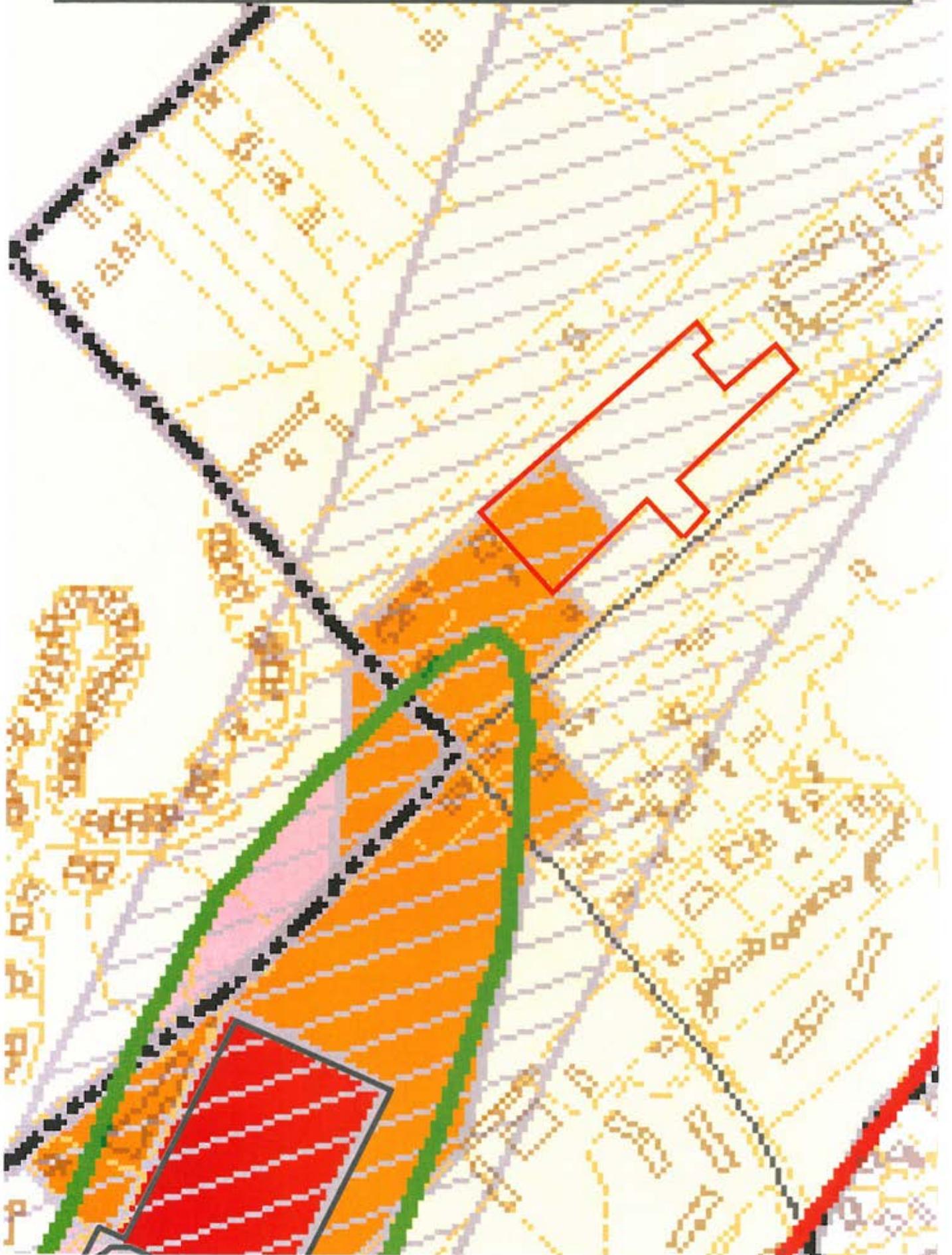




Exhibit C to Second Supplement (2 Pages)

U.S. Department
of Transportation
**Federal Aviation
Administration**

Federal Aviation Administration
Atlanta Airports District Office

1701 Columbia Avenue
Campus Building, Suite 2-260
College Park, Georgia 30337

March 28, 2013

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

RE: Proposed Rezoning near the Hilton Head Island Airport

Dear Ms. Lewis:

The Hilton Head Island Airport (HXD) forwarded your message regarding the rezoning application for the property located at Circlewood Drive (also known as Beach Place Subdivision). FAA understands that the property is currently zoned RM-4 (Low Density Residential) and the applicant is proposing to rezone the property to either RM-12 (Moderate to High Density Residential) or WMU (Waterfront Mixed Use). FAA encourages land uses that are considered to be incompatible with airports (such as residential, schools, and churches) to locate away from airports and encourages land uses that are more compatible (such as industrial and commercial uses) to locate around airports. The area in question (see attachment) is directly under the final approach to Runway 21. We recommend that the area **not** be rezoned to "Moderate to High Density Residential."

If you should have any questions or need additional information, please call me at 404-305-7149 or Parks.Preston@faa.gov. Thank you.

Sincerely,

Parks Preston
Program Manager

Cc: Gary Kubic, Beaufort County Administrator
Robert McFee, P.E., Director of Engineering & Infrastructure
James Stephens, SCAC
Judy Elder, TB&E



Exhibit D to Second Supplement (2 Pages)

Judy Elder

From: Shah, Mihir <mshah@aeronautics.sc.gov>
Sent: Friday, March 29, 2013 4:24 PM
To: gkubic@bcgov.net
Cc: Werts, Paul; Stephens, James; Parks.Preston@faa.gov; teril@hiltonheadislandsc.gov; rmcfee@bcgov.net; Judy Elder
Subject: Proposed Rezoning near HHI Airport & Compatible Land Use

Dear Mr. Kubic:

The Federal Aviation Administration has forwarded to us a message from Ms. Teri B. Lewis, LMO Official for the Town of Hilton Head Island, regarding a rezoning application for the property located at Circlewood Drive (also known as Beach Place Subdivision), and located approximately 3,000 feet north of Runway End 21 at Hilton Head Island Airport. The message states that the applicant proposes to rezone the property from the current RM-4 (Low Density Residential) to either RM-12 (Moderate to High Density Residential) or WMU (Waterfront Mixed Use). The SC Aeronautics Commission emphasizes and promotes compatible land use and development around publicly-owned airports in the state, as per our as per new airport-related land use provisions in our agency's revised enabling legislation (Title 55 of the South Carolina Code of Laws). Ensuring compatible land use around the Airport will protect the investments made and anticipated to be made in the facility.

The proposed rezoning to higher residential densities would be considered by SC Aeronautics to be a land use that is **incompatible** with Hilton Head Island Airport, for the following reasons:

- The proposed rezoning is located just outside the Airport's existing Runway Protection Zone (RPZ) for Runway End 21. As per current FAA guidance, industry research, and typical airport zoning ordinances which regulate land uses outside the RPZ, residential land uses, especially higher-density ones, are to be strongly discouraged in the inner approach area. Concentrations of people in this area pose a major safety and quality of life (noise) risk because of aircraft flying in low proximity to the ground.
- The proposed rezoning would be located at the very edge of the Airport's future Runway End 21 RPZ based on the FAA-approved Airport Layout Plan updated in 2011, which depicts Runway End 21 being extended in the direction of the subject property. Allowing denser residential development would seriously impact the viability of any planned future extension due to incompatible land uses, and could potentially affect grant funding related to that extension.
- SC Aeronautics is currently drafting statewide airport land use policies, specifically airport-compatible land use standards to guide local governments, and land use notification and procedures as required by Section 55-13-5 of the revised Title 55 enabling legislation. Both the land use standards and notification and review procedures will almost certainly consider dense residential developments such as the Circlewood Drive proposal as incompatible.

In summary, SC Aeronautics encourages Beaufort County and the Town of Hilton Head Island to appropriately manage land use around Hilton Head Island Airport, especially considering its recent Airport Layout Plan update showing a planned lengthening of the runway. Moreover, the Airport has and will likely continue to receive FAA and state grant money; as such, the County and the Town are expected to use zoning, building permits, and other land use techniques to protect the public investment in the facility.

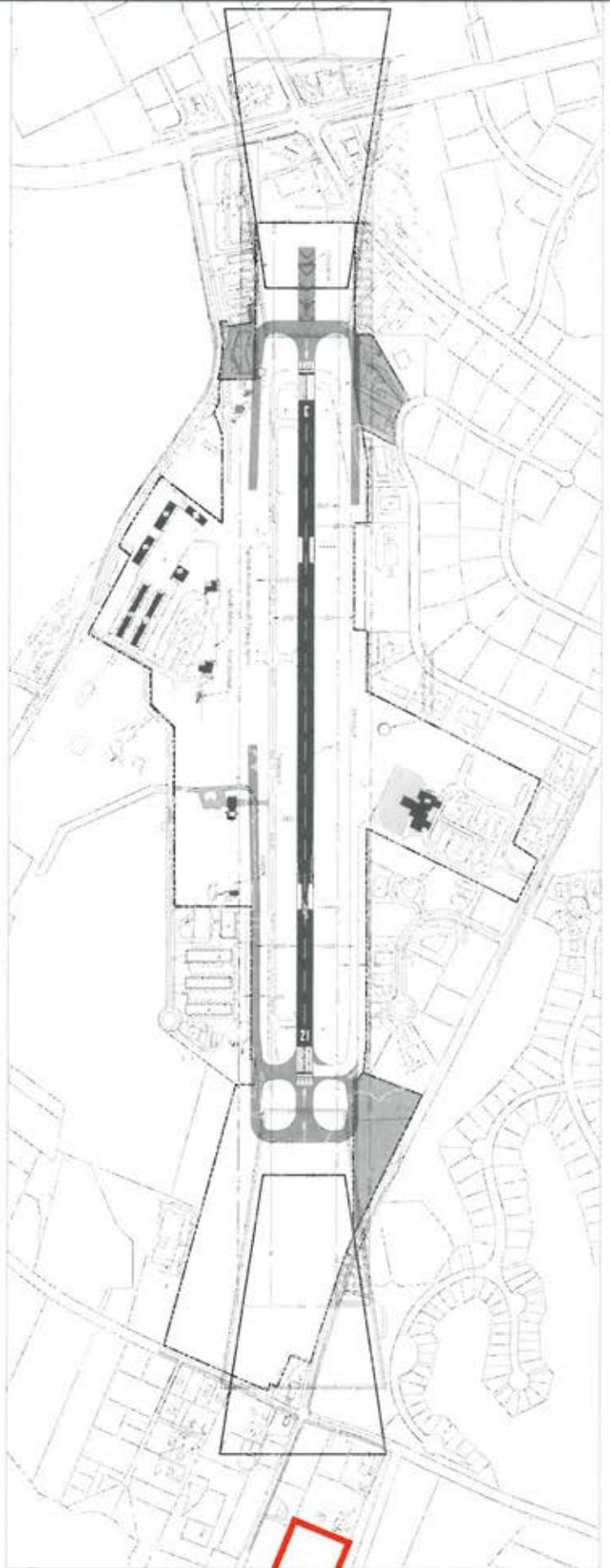
Should you have any questions or comments regarding the Airport, please do not hesitate to contact me.

Regards,
Mihir Shah



Mihir P. Shah, PE, AICP
Airport Planning & Environmental Engineer
South Carolina Aeronautics Commission
2553 Airport Boulevard
West Columbia, South Carolina 29170
Tel: 803-896-6257 Fax: 803-896-6266
Cell: 803-719-6531
E-mail: mshah@aeronautics.sc.gov
Websites: www.scaeronautics.com

Exhibit F to Second Supplement (1 Page)



LEGEND

- █ Runway 12-30
- █ Runway 13-31
- █ Runway 14-32
- █ Runway 15-33
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 This diagram is not intended to be used for navigation purposes. It is provided for informational purposes only. The FAA is not responsible for any errors or omissions in this diagram. The FAA is not responsible for any damage or injury resulting from the use of this diagram. The FAA is not responsible for any loss of property or data resulting from the use of this diagram. The FAA is not responsible for any other consequences resulting from the use of this diagram.

CONDITIONALLY APPROVED
 FEDERAL AVIATION ADMINISTRATION
 AIRPORT DESIGN AND CONSTRUCTION DIVISION
 12/11/11

RELANDER COUNTY, NORTH CAROLINA
 COUNTY COMMISSIONER
 DATE 9/2/11
 COUNTY COMMISSIONER

TALBERT & BRIGHT
 CONSULTING ENGINEERS
 1000 WEST 10TH STREET, SUITE 100
 WILSON, NC 27157
 TEL: 919.383.1100
 FAX: 919.383.1101
 WWW.TALBERTANDBRIGHT.COM

Airport Layout Plan (Phase 1 Development)
 TALBERT & BRIGHT CONSULTING ENGINEERS
 SHEET 3 OF 14

Exhibit H to Second Supplement (1 Page)

From: Werts, Paul <pwerts@aeronautics.sc.gov>
Sent: Tuesday, April 09, 2013 3:50 PM
To: firm@ccwlaw.net
Subject: HXD - Hilton Head Airport

Law Office of Chester Williams –

Per your request, the airport layout plan of the Hilton Head Airport approved by the Federal Aviation Administration and the South Carolina Aeronautics Commission (SCAC) is too large to e-mail. Please go to our web page www.scaeronautics.com and click on the ftp link at the bottom of the page. Your user name: aeroguest1 password: xGSR8qyr. The drawings are located in the Hilton Head folder. The firm also requested land use maps per chapter 13 of Title 55. As discussed, the Division of Aeronautics is in the process of creating regulations and maps per the code as approved in July 2012. Currently, maps and land use minimum standards are under review by a technical advisor consultant firm, attorneys, city and county planning organizations, and SCAC. At this time, we are unable to provide land use drawings to county and city officials to supplement Beaufort County and Hilton Head land use ordinances.

Regards,

Paul Werts
Executive Director
South Carolina Aeronautics Commission
2553 Airport Blvd.
West Columbia, SC 29170
Office - 803-896-6262
Cell - 803-429-6818
www.scaeronautics.com

Exhibit I to Second Supplement (1 Page)

OFFICE OF THE COUNTY ADMINISTRATOR COUNTY COUNCIL OF BEAUFORT COUNTY

GARY T. KUBIC
COUNTY ADMINISTRATOR

CHERYL HARRIS
EXECUTIVE ASSISTANT

ADMINISTRATION BUILDING
100 RIBAUT ROAD
POST OFFICE DRAWER 1228
BEAUFORT, SOUTH CAROLINA 29901-1228
TELEPHONE: (843) 255-2026
FAX: (843) 255-9403
www.bccw.net

BRYAN J. HILL
DEPUTY COUNTY ADMINISTRATOR

JOSHUA A. GRUBER
STAFF ATTORNEY

April 3, 2013

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

RE: Proposed Rezoning of Circlewood Drive (also known as Beach City Place Subdivision)

Dear Ms. Lewis:

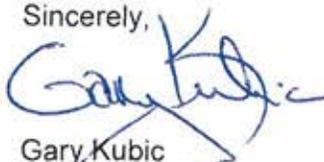
The purpose of this letter is to respond to your email of March 27, 2013, regarding the proposed rezoning of the property on Circlewood Drive from the current RM-4 (Low Density Residential) to either RM-12 (Moderate to High Density Residential) or WMU (Waterfront Mixed Use). The property in question is located approximately 3,000 feet north of the end of Runway 21 at Hilton Head Island Airport and within the approach to Runway 21.

FAA has sent a letter recommending that the Town not rezone the property as residential property is considered incompatible with airport operations. The South Carolina Aeronautics Commission (SCAC) has also provided input stating that the proposed rezoning to higher residential densities would be considered by SCAC to be a land use that is incompatible with Hilton Head Island Airport.

Beaufort County concurs with the FAA and SCAC, and respectfully requests that the Town not approve the rezoning request.

Should you have any questions regarding these matters, please do not hesitate to contact me.

Sincerely,



Gary Kubic
County Administrator

GK:ch

cc: Rob McFee, Division Director, Engineering and Infrastructure



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)

April 25, 2013

Ms. Kathleen Carlin
Planning Commission Secretary
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

**VIA email to KathleenC@hiltonheadislandsc.gov
and
Hand Delivered**

RE: 217 Beach City Road, LLC - Zoning Map Amendment Application
ZMA130003 - Our File No. 01687-001

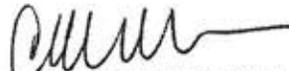
Dear Kathleen:

Enclosed for filing in the record for Zoning Map Amendment Application
ZMA130003 and immediate distribution to the Planning Commissioners is a
Third Supplement to that application.

With best regards,

Very truly yours,

LAW OFFICE OF CHESTER C. WILLIAMS, LLC



This signature is an electronic reproduction

Chester C. Williams

CCW\skt
Enclosure

cc: Dr. Harinderjit Singh
Rand E. Hanna, III, Esq.
Teri B. Lewis, AICP
Jayme D. Lopko, AICP
Ms. Gail A. Quick

STATE OF SOUTH CAROLINA) BEFORE THE PLANNING COMMISSION
) OF THE
) TOWN OF HILTON HEAD ISLAND, SC
COUNTY OF BEAUFORT) ZMA130003

**THIRD SUPPLEMENT
TO
THE ZONING MAP AMENDMENT APPLICATION
OF
217 BEACH CITY ROAD, LLC
REGARDING
8.56 ACRES, BEACH CITY ROAD**

This Third Supplement to Zoning Map Amendment Application ZMA130003 (the "Application") of 217 Beach City Road, LLC (the "Applicant") is submitted by the Applicant to the Planning Commission of the Town of Hilton Head Island (the "Town") to supplement the Application. The Application as originally filed seeks approval to amend the Official Zoning Map of the Town by changing the base zoning district applicable to an 8.56 acre tract (the "Property") located on Beach City Road in the Town of Hilton Head Island, from the currently applicable RM-4 – Low Density Residential District to either the RM-12 – Moderate to High Density Residential District or the WMU – Water Front Mixed Use District.

The Second Supplement to the Application (1) revises the Application to withdraw those portions of the Application that seek to rezone the Property to the WMU – Water Front Mixed Use District, and (2) addresses certain issues that may be raised as a result of comments on the Application by the Federal Aviation Administration (the "FAA"), the South Carolina Aeronautics Commission (the "Aeronautics Commission"), and Beaufort County.

This Third Supplement addresses certain issues raised in the Staff Report of the Town Community Development Department dated April 10, 2013



(the "Staff Report").¹ The sections of this Third Supplement refer to the same sections of the Staff Report. This Third Supplement ignores those portions of the Staff Report directed at the rezoning of the Property to the WMU – Mixed Waterfront District, since those portions of the Application have been withdrawn.²

I. THE APPLICATION SUMMARY

The Staff Report accurately recognizes that the only real issue with regard to the Application is development density on the Property. The permitted uses in the existing RM-4 District and the proposed RM-12 District are exactly the same.

II. BACKGROUND

The Staff Report correctly characterizes the Property as located in the Airport Overlay Zone and in the Outer Hazard Zone.³ The Staff Report also correctly identifies the height restriction imposed by the Airport Overlay Zone as a 1:34 increase, measured from the end of the runway primary surface.

The Staff Report also correctly summarizes the marketability history of the Property by acknowledging the existence on the Property of a failed single family residential development.

The Applicant notes the attachment to the Staff Report, without comment by the Town Staff, of letters from the FAA and Beaufort County, and an email from the Aeronautics Commission. The content of these

¹ Although dated April 10, 2013, the Staff Report was first published on April 22, 2013.

² See the April 18, 2013 letter from the undersigned to Teri B. Lewis, AICP, the Town's LMO Official.

³ The Staff Report does not mention that only a portion of the Property is located in the Outer Hazard Zone.



communications is discussed at length in the Second Supplement to this Application.

III. CONSISTENCY WITH THE COMPREHENSIVE PLAN

The Staff Report identifies five (5) Goals, and two (2) Implementation Strategies from the Town's May 4, 2010 Comprehensive Plan (the "Comprehensive Plan") as being relevant to the Application. The original Application addressed two (2) of the Goals (8.1 – Existing Land Use, and 8.4 – Existing Zoning Allocation) and one (1) of the Implementation Strategies (8.10 – Zoning Changes) identified in the Staff Report, although with different conclusions.

The Applicant notes that the Town Staff apparently has been unable to find anything at all in the Comprehensive Plan that supports the approval of the Application.⁴ Further, and surprisingly, the Staff Report does not address the Application's citations to the provisions of the Natural Resources Element, the Population Element, the Housing Element, the Community Facilities Element, or the Economic Development Elements of the Comprehensive Plan that support the approval of the Application. Since those portions of the Application are not challenged by the Staff Report, the Applicant urges the Planning Commission to accept those portions of the Application as offered.

A. THE TRANSPORTATION ELEMENT

The original Application did not directly address the Transportation Element of the Comprehensive Plan, because the Application and the rezoning

⁴ One of the obvious obligations of the Town Staff in reviewing a rezoning application is to do so fairly and evenhandedly. Although in practice the Town Staff typically prepares its reports on rezoning applications as if the rezoning process was an adversarial proceeding, pointing out to the Planning Commission only those provisions of the Comprehensive Plan that support the Town's Staff's recommendation, in truth, the Town Staff should point out all the strengths and all the weaknesses of an application, in a detached, professional manner, rather than taking on the role of being an advocate for a particular position. The Town Staff represents the citizens of and property owners in the Town, as do the Planning Commission and the Town Council, including the Applicant, and each should exercise its responsibilities with an even hand.

process are properly focused on the Property, and not on the Hilton Head Island Airport. Nevertheless, the Applicant submits that Goal 9.6 – Air Transportation of the Comprehensive Plan supports the Application. Goal 9.6 is “... to ensure that development surrounding the airport is designed and constructed to minimize the negative impacts of being located near the Airport.” Goal 9.6 is, clearly, focused on lands in the vicinity of the Airport, not on the Airport itself. Moreover, Goal 9.6 does not discourage development near the Airport; instead, it seeks to “minimize the negative impacts” on the properties in the vicinity of the Airport. As will be discussed in more detail below, the development contemplated by the Application will indeed “minimize the negative impacts” of the location of the Property.

Implementation Strategy 9.6 specifically identifies “maximum safety” as a consideration in the review of development proposals within the Airport Overlay District. The Staff Report concludes that

The proposed rezoning will result in an increased amount of density for development placing more occupants on a site within the Airport Approach Path, which is not ensuring the maximum safety possible for occupants of this site.⁵

As discussed at length in the Second Supplement, increasing density does not decrease safety. Property in the Outer Hazard Zone, or, for that matter, in any part of the Airport Overlay District, is either safe, or it is not safe. If the Outer Hazard Zone is safe, increased density simply means that more people are located in a safe area. If the Outer Hazard Zone is not safe, then in order to be consistent with the Comprehensive Plan and ensure “maximum safety”, no development should be permitted in the unsafe areas.⁶

⁵ See the Staff Report at Page 4.

⁶ If “maximum safety” is the Implementation Strategy, and the reader agrees with the Staff Report assertion that more density is less safe, one wonders why the existing 32 lot single family residential subdivision development on the Property was permitted in 2009.

B. THE LAND USE ELEMENT

With regard to Goal 8.1 – Existing Land Use, the Staff Report concludes that “The proposed rezoning to RM-12 would not result in a more appropriate mix of land uses because it would permit the exact same uses, just at a higher density.” This conclusion relies on the strictest possible definition of “uses”. While the “uses” for the purposes of the LMO for RM-4 and RM-12 are, indeed, the same, any reasonable analysis of the Application would conclude that more dense multifamily development would, as a practical matter, change the mix of “uses” in the area from primarily single-family to more dense multi-family residential.

With regard to the 1998 Ward One Master Land Use Plan (the “Ward One Plan”), the Applicant notes that both the RM-4 District and the RM-12 District was added to the LMO specifically as a result of the Ward One Plan. Further, the Staff Report neglects to point out that the primary reason for the difference between the maximum densities allowed in the RM-4 District as opposed to the RM-12 District is the availability of adequate infrastructure necessary to support higher density development.⁷ The Staff Report also neglects to point out that the Ward One Plan acknowledged that the lower density of the RM-4 District was intended to address the general lack of sanitary sewer service in the Ward One area fifteen years ago, and that bonus densities were to be available if sanitary sewer service was available for tracts of greater than three acres.

IV. SUITABILITY OF THE PROPERTY AFFECTED BY THE AMENDMENT FOR USES PERMITTED BY THE DISTRICT THAT WOULD BE MADE APPLICABLE BY THE PROPOSED AMENDMENT

The Staff Report recognizes that the Property is compatible with the present zoning, the conforming uses of nearby property and the character of

⁷ See the purpose statements of the RM-4 District and the RM-12 District in LMO Sections 16-4-206 and 16-4-208, respectively.



the neighborhood, and suitable for the uses permitted by the RM-4 District. Despite the fact that the uses in the proposed zoning RM-12 District are exactly the same as in the current RM-4 District, the Staff Report concludes that

... the RM-12 district would permit a significantly higher density of residential units, which would place more residential units, which is not suitable for properties within the Airport Approach Path.

The Staff Report therefore is arguing that while the currently permitted multifamily residential use on the Property is “compatible”, a more dense multifamily residential use is “not suitable” for the Property. This argument can only be based upon the safety concerns discussed above. Again, if the Property is not “safe”, or “compatible”, or “suitable” for twelve units per acre (the RM-12 permitted density), how can it be “safe”, or “compatible”, or “suitable” for 4 density units per acre?⁸

The Town Staff’s position is even more confusing when one considers that the regulations applicable to the Approach Path subdistrict of the Airport Overlay District contain no density limitations.

The Applicant also notes that the height restriction for the proposed RM-12 District is 45 feet. The Airport Overlay Zone, based upon its 1:34 height restriction ratio, would permit development on the Property to be in excess of 80 feet, or almost twice the maximum height permitted by the RM-12 District. The 45 foot height limit provides a reduction of almost fifty (50%) percent from the height otherwise deemed to be safe by the FAA, the Aeronautics Commission, and the LMO.

⁸ One wonders how residents of The Spa on Port Royal Sound, the multifamily residential development directly adjacent to the Property to the northeast, and also located in the Airport Overlay District’s Approach Path, will feel about the Town Staff, the FAA, the Aeronautics Commission, and Beaufort County concerns about safety in connection with the Application.



V. MARKETABILITY

The Staff Report determines that "... the marketability of the properties may change as set forth in LMO Section 16-3-1505E. LMO Section 16-3-1505E states that marketability on one of the criteria to be considered when reviewing a rezoning application.

In this case, the Staff Report acknowledges the failure of the existing single family residential development on the Property, yet the Staff Report makes no comment on whether the marketability of the Property will be increased by allowing additional density. It should be obvious in these circumstances that the marketability of the Property will be increased with the approval of the Application, and the Staff Report should reflect that fact.

VI. AVAILABILITY OF SEWER, WATER AND STORMWATER FACILITIES GENERALLY SUITABLE AND ADEQUATE FOR THE PROPOSED USE

The Staff Report concedes that this criterion is met by the Application.

VII. THE LMO OFFICIAL'S DETERMINATION

Not surprisingly, based on what seems to be an uneven review of the criteria for reviewing a rezoning application, the Town Staff determined that the Application is inconsistent with the Comprehensive Plan and does not serve to carry out the purposes of the LMO.

VIII. DISCUSSION

LMO Section 16-4-208, which was added to the LMO in 1999 as part of the Ward One Plan implementation, states the intent of the RM-12 District:



It is the intent of this residential district to allow higher density residential uses in locations which are served by adequate infrastructure, while maintaining the unique character of Native Island areas and neighborhoods at densities up to twelve (12) units per net acre. This district is used to encourage a variety of residential opportunities.

The Applicant notes that the words “maintaining the unique character of Native Island areas and neighborhoods” and “encourage a variety of residential opportunities” above also appear in LMO Section 16-4-206, the definition of the RM-4 – Low Density Residential District. Read together, and particularly in connection with the Comprehensive Plan, it is clear that the density proposed by the Application is specifically contemplated for the Ward One area, and is particularly suited for the Property, given the admittedly adequate infrastructure available for such development.

Finally, the Applicant suspects that the communications from the FAA, the Aeronautics Commission, and Beaufort County may be the real basis, or at least a substantial part of the basis, for the LMO Official’s Determination and, as such, they all merited comprehensive, critical review and comment by the Town Staff.

The Applicant also suspects that the true reason why the FAA, the Aeronautics Commission, Beaufort County, and now the Town Staff, all oppose the Application is because of their perceived notion that allowing an increase in the density available to the Property may somehow have an adverse impact on future plans to lengthen the Airport’s Runway 21 in the direction of the Property. If that is the case, then the Applicant submits that the as yet unapproved and unpermitted plans of another property owner in the vicinity of the Property (Beaufort County), which may or may not be consistent with the Comprehensive Plan,⁹ and which may never come to pass, is not a proper reason to deny the Application.

The fact is, the Property has been zoned for essentially residential use for at least 13 years, ever since the October 5, 1999 adoption by the Town Council

⁹ See Section 9.6 of the Comprehensive Plan at Pages 129 through 131.



of the amendments to the LMO that implemented the Ward One Master Land Use Plan. Further, the fact is, substantial parcels in the immediate vicinity of the Property, one adjacent to the Property and under the runway flight path, have been zoned for up to 12 residential density units per acre for at least 13 years, again ever since the 1999 implementation of the Ward One Master Land Use Plan.

IX. CONCLUSION

The Applicant continues to believe the Application is in conformance with the LMO and the Town's Comprehensive Plan, and meets the criteria set forth in LMO Section 16-3-1505. Accordingly, the Applicant again 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 the 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 the Application and the supporting testimony and documentation establish that while the current use on the Property is consistent with the present zoning, that current use has failed economically, and the proposed rezoning is also consistent with conforming uses of nearby properties and with the character of the neighborhood around the Property; and
3. That the 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 the Application and the supporting testimony and documentation establish that the Property is not economically suitable for the uses permitted by the zoning district that is currently applicable to the Property; and

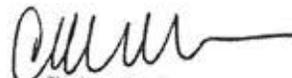


5. That the Application and the supporting testimony and documentation establish that the marketability of the Property for uses permitted by the zoning district that is currently applicable to the Property will be increased by the approval of the requested zoning map amendment; and

6. That the Application and the supporting testimony and documentation establish that there will be no material 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 and the rezoning of the Property to the RM-12 District.

Respectfully submitted on behalf of the Applicant this 25th day of April, 2013.



This signature is an electronic reproduction

Chester C. Williams, Esquire
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OFFICE OF THE COUNTY ADMINISTRATOR
COUNTY COUNCIL OF BEAUFORT COUNTY

GARY T. KUBIC
COUNTY ADMINISTRATOR

CHERYL HARRIS
EXECUTIVE ASSISTANT

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BRYAN J. HILL
DEPUTY COUNTY ADMINISTRATOR

JOSHUA A. GRUBER
STAFF ATTORNEY

April 3, 2013

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

RE: Proposed Rezoning of Circlewood Drive (also known as Beach City Place Subdivision)

Dear Ms. Lewis:

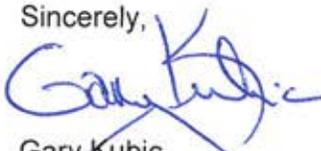
The purpose of this letter is to respond to your email of March 27, 2013, regarding the proposed rezoning of the property on Circlewood Drive from the current RM-4 (Low Density Residential) to either RM-12 (Moderate to High Density Residential) or WMU (Waterfront Mixed Use). The property in question is located approximately 3,000 feet north of the end of Runway 21 at Hilton Head Island Airport and within the approach to Runway 21.

FAA has sent a letter recommending that the Town not rezone the property as residential property is considered incompatible with airport operations. The South Carolina Aeronautics Commission (SCAC) has also provided input stating that the proposed rezoning to higher residential densities would be considered by SCAC to be a land use that is incompatible with Hilton Head Island Airport.

Beaufort County concurs with the FAA and SCAC, and respectfully requests that the Town not approve the rezoning request.

Should you have any questions regarding these matters, please do not hesitate to contact me.

Sincerely,



Gary Kubic
County Administrator

GK:ch

cc: Rob McFee, Division Director, Engineering and Infrastructure

Judy Elder

From: Shah, Mihir <mshah@aeronautics.sc.gov>
Sent: Friday, March 29, 2013 4:24 PM
To: gkubic@bcgov.net
Cc: Werts, Paul; Stephens, James; Parks.Preston@faa.gov; teril@hiltonheadislandsc.gov; rmcfee@bcgov.net; Judy Elder
Subject: Proposed Rezoning near HHI Airport & Compatible Land Use

Dear Mr. Kubic:

The Federal Aviation Administration has forwarded to us a message from Ms. Teri B. Lewis, LMO Official for the Town of Hilton Head Island, regarding a rezoning application for the property located at Circlewood Drive (also known as Beach Place Subdivision), and located approximately 3,000 feet north of Runway End 21 at Hilton Head Island Airport. The message states that the applicant proposes to rezone the property from the current RM-4 (Low Density Residential) to either RM-12 (Moderate to High Density Residential) or WMU (Waterfront Mixed Use). The SC Aeronautics Commission emphasizes and promotes compatible land use and development around publicly-owned airports in the state, as per our as per new airport-related land use provisions in our agency's revised enabling legislation (Title 55 of the South Carolina Code of Laws). Ensuring compatible land use around the Airport will protect the investments made and anticipated to be made in the facility.

The proposed rezoning to higher residential densities would be considered by SC Aeronautics to be a land use that is **incompatible** with Hilton Head Island Airport, for the following reasons:

- The proposed rezoning is located just outside the Airport's existing Runway Protection Zone (RPZ) for Runway End 21. As per current FAA guidance, industry research, and typical airport zoning ordinances which regulate land uses outside the RPZ, residential land uses, especially higher-density ones, are to be strongly discouraged in the inner approach area. Concentrations of people in this area pose a major safety and quality of life (noise) risk because of aircraft flying in low proximity to the ground.
- The proposed rezoning would be located at the very edge of the Airport's future Runway End 21 RPZ based on the FAA-approved Airport Layout Plan updated in 2011, which depicts Runway End 21 being extended in the direction of the subject property. Allowing denser residential development would seriously impact the viability of any planned future extension due to incompatible land uses, and could potentially affect grant funding related to that extension.
- SC Aeronautics is currently drafting statewide airport land use policies, specifically airport-compatible land use standards to guide local governments, and land use notification and procedures as required by Section 55-13-5 of the revised Title 55 enabling legislation. Both the land use standards and notification and review procedures will almost certainly consider dense residential developments such as the Circlewood Drive proposal as incompatible.

In summary, SC Aeronautics encourages Beaufort County and the Town of Hilton Head Island to appropriately manage land use around Hilton Head Island Airport, especially considering its recent Airport Layout Plan update showing a planned lengthening of the runway. Moreover, the Airport has and will likely continue to receive FAA and state grant money; as such, the County and the Town are expected to use zoning, building permits, and other land use techniques to protect the public investment in the facility.

Should you have any questions or comments regarding the Airport, please do not hesitate to contact me.

Regards,
Mihir Shah



Mihir P. Shah, PE, AICP
Airport Planning & Environmental Engineer
South Carolina Aeronautics Commission
2553 Airport Boulevard
West Columbia, South Carolina 29170
Tel: 803-896-6257 Fax: 803-896-6266
Cell: 803-719-6531
E-mail: mshah@aeronautics.sc.gov
Websites: www.scaeronautics.com



U.S. Department
of Transportation
**Federal Aviation
Administration**

Federal Aviation Administration
Atlanta Airports District Office

1701 Columbia Avenue
Campus Building, Suite 2-260
College Park, Georgia 30337

March 28, 2013

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

RE: Proposed Rezoning near the Hilton Head Island Airport

Dear Ms. Lewis:

The Hilton Head Island Airport (HXD) forwarded your message regarding the rezoning application for the property located at Circlewood Drive (also known as Beach Place Subdivision). FAA understands that the property is currently zoned RM-4 (Low Density Residential) and the applicant is proposing to rezone the property to either RM-12 (Moderate to High Density Residential) or WMU (Waterfront Mixed Use). FAA encourages land uses that are considered to be incompatible with airports (such as residential, schools, and churches) to locate away from airports and encourages land uses that are more compatible (such as industrial and commercial uses) to locate around airports. The area in question (see attachment) is directly under the final approach to Runway 21. We recommend that the area **not** be rezoned to "Moderate to High Density Residential."

If you should have any questions or need additional information, please call me at 404-305-7149 or Parks.Preston@faa.gov. Thank you.

Sincerely,

Parks Preston
Program Manager

Cc: Gary Kubic, Beaufort County Administrator
Robert McFee, P.E., Director of Engineering & Infrastructure
James Stephens, SCAC
Judy Elder, TB&E



DAVID AND ALETHEA W. JACKSON
108 Lincoln Road
Hempstead, NY 11550

April 22, 2013

Ms. Teri B. Lewis, AICP
TOWN OF HILTON HEAD ISLAND
One Town Center Court
Hilton Head Island, SC 29928

RE: Application for Zoning Map Amendment
of 217 Beach City Road, LLC

Dear Ms. Lewis:

We are David and Alethea W. Jackson, and we are the homeowners of property in the "Beach City Place" subdivision off of Beach City Road. Our property is Lot 8 in the subdivision, and we have built a home on the lot.¹ As of today, we are the only owner within the "Beach City Place" subdivision other than 217 Beach City Road, LLC.

We are writing to express our strong opposition to the pending application to re-zone the "Beach City Place" subdivision property from "RM-4" to "RM-12" or "Waterfront Mixed Use", for the following reasons:

1. A change in the zoning from "RM-4 to RM-12 or WMU would be detrimental to our substantial investment in "Beach City Place" subdivision. When we purchased our lot, our expectation, based on the representations of 217 Beach City Road, LLC, was that our home would be in a restricted single family neighborhood.
2. We have rights in the open areas and road rights of way in the "Beach City Place" subdivision shown on the subdivision plat for "Beach City Place" that would likely be negatively affected by a change from "RM-12" or "Waterfront Mixed Use", because it is doubtful a higher density development plan would keep the same layout of roads and open space within the subdivision.
3. 217 Beach City Road, LLC, has obligations to us arising from our contract to purchase Lot 8 in "Beach City Place" that would be violated by this proposed change in the zoning.

We purchased Lot 8 from 217 Beach City Road in 2009, and our house was built that

¹ Our Lot 8 can be seen on Attachment 3 to the Application of 217 Beach City Road, LLC. Our lot is Lot 8.

Ms. Teri B. Lewis
April 22, 2013
Page 2

same year. At the time we purchased Lot 8, 217 Beach City Road, LLC, represented to us that the "Beach City Place" subdivision would be a single family subdivision, and would be restricted to single family homes with recorded covenants. A copy of the contract between us and 217 Beach City Road, LLC, is attached as Exhibit "A". We direct your attention to Article 10 of the contract, which reads:

ASSOCIATION COVENANTS AND RESTRICTIONS. It is expressly understood and agreed by Purchaser that the Property shall be conveyed subject to matters reflected on the Plat and subject to the general easements, equitable restrictions, limitation on use, affirmative obligations, and the covenants and restrictions relating to Beach City Place and the Beach City Place Homeowner's Association, Inc., all of which shall be recorded by Seller in the Beaufort County Records ("Covenants"). A copy of the Covenants will be provided to Purchaser after being drafted. Purchaser is under no obligation to purchase until Purchaser has had an opportunity to review the Covenants.

The Covenants for Beach City Place subdivision were drafted and provided to us by 217 Beach City Road, LLC. A copy of the Covenants is attached hereto as Exhibit "B". In the Covenants, Article 6.3 reads as follows, in relevant part:

6.3 Single Family Residential Use of Lots. All Lots shall be used for single family residential purposes only and no commercial activity of any nature whatsoever shall be conducted thereon.

We have now been made aware that 217 Beach City Road, LLC, never recorded the Covenants despite its obligation to record the Covenants and its representations to us that it would record the Covenants. It is our further understanding that 217 Beach City Road, LLC, would not be able to change the zoning as it now seeks to do if changing the zoning would violate existing recorded covenants.²

We believe that the failure of 217 Beach City Road, LLC, to record the Covenants is a violation of its obligations to us under our contract with 217 Beach City Road, LLC. 217 Beach City Road, LLC, should not now be allowed to profit or gain any advantage as a result of its failure to honor its contractual obligations to us, particularly when such would be a serious and material detriment to us and our investment in the "Beach City Place" subdivision.

² On its Application, 217 Beach City Road, LLC, did not answer the question inquiring about whether the requested action would violate any "recorded private covenants and/or restrictions". Rather, it typed the following under the question: "Not Applicable. No Permit Requested". As we stated above, 217 Beach City Road, LLC, did not record the Covenants, but it is obligated to do so under its contract with us.

In addition to our contract with 217 Beach City Road, LLC, to purchase Lot 8, we also contracted for the construction of the house. As a result of the purchase of Lot 8 and the construction of the house, our investment in the "Beach City Place" subdivision is Four Hundred Thousand (\$400,000.00) Dollars. Having purchased the property and built the house, our reasonable investment backed expectation is that our house would be in a restricted neighborhood of single family homes, not in an unrestricted neighborhood of apartments, duplexes or any other multi-family use.

We would also point out that when 217 Beach City Road, LLC, advertised the lots in Beach City Place for sale to the public, the advertisements described Beach City Place as a development of single family homes.

We made a significant change in our position and spent Four Hundred Thousand and no/100 (\$400,000.00) Dollars in reliance on the representations of 217 Beach City Road, LLC, that we were purchasing a lot and house in a restricted single family residential neighborhood, and that 217 Beach City Road, LLC, would record the Covenants for "Beach City Place" subdivision.

The conveyance of Lot 8 to us from 217 Beach City Place, LLC, was made with reference to the recorded plat for the "Beach City Place" subdivision. A copy of our deed from 217 Beach City Road, LLC, is attached as Exhibit "C". A copy of the recorded subdivision plat referred to in our deed is attached as Exhibit "D". Because Lot 8 was conveyed to us with reference to the recorded subdivision plat, we have rights in both the open spaces and road right of way shown on the subdivision plat.

In the case of *Epps v. Freeman*, 261 S.C. 375, 200 S.E.2d 235 (S.C. 1973), the South Carolina Supreme Court stated the law of South Carolina to be:

Generally, where property sold is described in the conveyance with reference to a plat or map on which streets, alleys, parks, and other open areas are shown, an easement therein is created in favor of the grantee. Such an easement is deemed a part of the property to which the grantee is entitled and of which he cannot be divested except by due process of law.

As you can see from the subdivision plat, the open spaces and road rights of way comprise a substantial portion of the total area of the subdivision. The Application of 217 Beach City Place, LLC, makes no mention of our rights in the open space and road rights of way, and makes no provision for the protection of our rights at all.³

³ If the Planning Commission approves the Application, we will be forced to assert our rights in Court. We should not be placed in the position of having to spend more money to defend rights that we have already paid 217 Beach City Road, LLC, for.

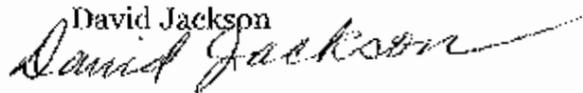
Ms. Teri B. Lewis
April 22, 2013
Page 4

It is unfortunate, but we will be unable to personally attend the Planning Commission hearing scheduled for May 1, 2013. We have a matter pending in the Court of Common Pleas and a matter has been scheduled for that same day in Charleston, South Carolina. We asked the representatives of 217 Beach City Road, LLC, for a postponement of the hearing before the Planning Commission, but they advised that they were under time constraints that could not be met if they agreed to a postponement.

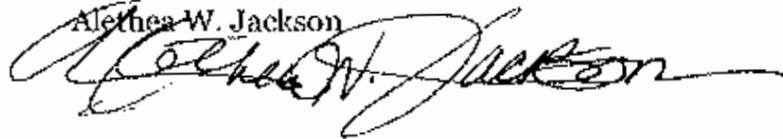
For the reasons stated above, we object to the application of 217 Beach City Road, LLC, to re-zone the "Beach City Place" subdivision property. We thank you for your attention this matter, and your consideration of our views. We are,

Sincerely,

David Jackson



Alethea W. Jackson



cc: Ms. Jayme Lopko, AICP
Town of Hilton Head Island
Planning Commission

EXHIBIT "A" TO APRIL 22, 2013, LETTER FROM DAVID AND ALETHEA W.
JACKSON AND DAVID JACKSON TO TERI B. LEWIS

BEACH CITY PLACE SALES AGREEMENT

THIS SALES AGREEMENT ("Agreement") is executed effective April 14, 2009, by and between 217 Beach City Road, LLC, a South Carolina limited liability company, whose address is 70 Main Street, Suite 100, Hilton Head Island, South Carolina, 29926 ("Seller") and:

Name: David and Alethea Jackson
Address: 108 Lincoln Road
Hempstead, NY 11550
Telephone: (516) 292-1203 (collectively "Purchaser").

WHEREAS, Purchaser desires to purchase, and Seller desires to sell, the Property described below in accordance with the following terms and conditions;

NOW, THEREFORE, for and in consideration of the terms and conditions of this Contract and other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby expressly acknowledged, the parties hereto do hereby covenant and agree as follows:

1. **PROPERTY DESCRIPTION.** Purchaser shall buy and Seller shall sell the real estate described as Lot 8, being a portion in the development known as Beach City Place ("Property") , located on Hilton Head Island, Beaufort County, South Carolina ("Project") as shown on the plat recorded in the Beaufort County Register of Deeds Office in Plat Book (bkd) at Page (bpd) ("Plat"). Notwithstanding anything else contained herein, this Agreement shall not be effective until Purchaser has provided Seller with notification of the Plat recording information. Upon Purchaser's notification to Seller of the recording information of the Plat, this Agreement shall be fully enforceable and binding upon both Purchaser and Seller.
2. **PURCHASE PRICE.** The Purchaser agrees to pay as the purchase price of the Property the sum of TWO HUNDRED THOUSAND and 00/100 DOLLARS (\$200,000.00) ("Purchase Price") payable as follows:
 - a. \$ 10,000.00 due on the date hereof as an earnest money deposit to be held by the Escrow Agent pending Closing.
 - b. \$ 190,000.00 representing the balance of the Purchase Price to be paid in certified funds at Closing.
3. **FINANCING.** This Contract is subject to Purchasers obtaining a construction loan commitment from a lending institution for a construction loan in the amount of at least Three Hundred Thousand and No/100 Dollars (\$300,000.00) with interest at the prevailing rate at Closing. Such construction loan shall obligate the lender to disburse no less than \$160,000.00 upon the acquisition of the Property with the balance of the construction loan to be disbursed by contractor order draws during the course of the construction of the improvements on the property. Purchaser will endeavor in good faith to obtain a loan upon said terms from a local lender customarily making such loans in Beaufort County. The financing contingency described herein is a limited one and must be satisfied by Purchaser within ten (10) days of the date of this Contract. In the event the Purchaser is unable to obtain financing by that date, Purchaser shall have the affirmative obligation to notify Seller in writing that the financing contingency has not been satisfied. Such notice must be received by Seller no more than five (5) days after the financing contingency date specified herein. If no such notice is received by Seller, the financing contingency shall be waived. Upon receipt of notice from Seller of a cancellation of Contract for failure to obtain financing, the Escrow Agent shall return to Purchaser all earnest money deposits and upon such payment, this Contract shall have no further force or affect and neither party shall have any further rights hereunder.
4. **CLOSING DATE.** It is agreed by and between the parties hereto that the terms of this Contract shall be complied with and the closing of this transfer shall take place seven days after acceptance of Contract ("Closing" or "Closing Date"). In the event the Plat is not recorded by such date, Closing shall be no later than seven (7) calendar days following Purchaser's notification to Seller of the Plat recording information. Closing shall be held at the offices of McNair Law Firm, P.A., 23-B Shelter Cove Lane, Suite 400, Hilton Head Island, SC 29928 unless otherwise agreed by the parties.

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5. **CONVEYANCE OF PROPERTY.** At Closing, Seller shall convey insurable and marketable title to the Property to Purchaser in fee simple by limited warranty deed, free from encumbrances except such as are herein agreed to be assumed by Purchaser. If an owner's title commitment can be issued by an ALTA title insurance company without any unusual or extraordinary exceptions for property on Hilton Head Island, title shall be considered insurable and marketable title.
6. **TITLE.** Purchaser agrees to notify Seller in writing of any defects in title rendering title unmarketable and/or uninsurable as soon as reasonably possible and in any event not later than ten (10) days from the date of execution of this Contract by Seller. In case legal steps are necessary to perfect the title, such action must be taken by Seller promptly at Seller's sole expense. If there is found to be any defect in the title which cannot be corrected within thirty (30) days, the earnest money deposited by Purchaser is to be returned to Purchaser. This Contract shall terminate, and neither party shall have any further obligations or rights hereunder.
7. **CLOSING EXPENSES.** Seller shall be responsible for paying the Deed Recording Fee as required by Section 12-24 of the Code of Laws of South Carolina 1976, as amended. Purchaser shall be responsible for the Town of Hilton Head Island Transfer Fee. Purchaser shall be responsible for Purchaser's closing costs which shall include title examination, title insurance premiums, any loan document preparation, and applicable attorney fees. Seller shall be responsible for its attorneys' fees. In no event shall Seller be responsible for any lender imposed charges or fees. Purchaser shall be responsible for any costs of title examination, title insurance premiums, loan documentation preparation, settlement statement computation and Closing disbursements if Escrow Agent does not provide those services.
8. **PRORATIONS.** All county property taxes, applicable water and sewer charges, maintenance assessments and other applicable charges shall be prorated as of the Closing Date.
9. **MORTGAGE RELEASE.** Seller agrees that it will obtain upon payment of the Purchase Price by Purchaser, appropriate releases releasing the Property described herein from the lien of all mortgages or other blanket encumbrances, if any, which may cover the Property.
10. **ASSOCIATION COVENANTS AND RESTRICTIONS.** It is expressly understood and agreed by Purchaser that the Property shall be conveyed subject to matters reflected on the Plat and subject to the general easements, equitable restrictions, limitation on use, affirmative obligations, and the covenants and restrictions relating to Beach City Place and the Beach City Place Homeowners' Association, Inc., all of which shall be recorded by Seller in the Beaufort County Records ("Covenants"). A copy of the Covenants will be provided to Purchaser after being drafted. Purchaser is under no obligation to purchase until Purchaser has an opportunity to review the Covenants.
11. **ASSOCIATION ASSESSMENTS.** In order to provide for the preservation, maintenance and operation of amenities and common areas within Beach City Place Homeowner's Association, Inc., as well as to provide the owners of lots within the Property with services for the use and benefit of said owners, there has been created Beach City Place Homeowner's Association, Inc. ("Association"). Subject to the provisions set forth in the Covenants providing for the Association and contained in the Articles and By-Laws of the Association, the Association is granted the right to assess property owners within the Property to carry out its prescribed functions. Purchaser hereby acknowledges that it is aware of the rights of the Association to levy and enforce assessments against it, and Purchaser hereby agrees to pay promptly all such assessments which are properly made against it by the Association.
12. **ARCHITECTURAL REQUIREMENTS.** Purchaser understands that set forth in the Covenants are architectural approval and controls where it is stated that no building, fence, sign or other structure will be created, placed or altered on the Property until the proposed building plan and site plan, including parking, have been approved in writing by Beach City Place Architectural Review Committee ("ARC"). Purchaser agrees that the actual construction of the Property will have no material variation from the plans approved by the ARC unless the ARC shall have also approved these variations in writing. The ARC may grant or deny approval of Purchaser's plans on any grounds, including purely aesthetic consideration. Provisions pertaining to the architectural approval and controls are set forth in the Covenants.

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13. **WATER AND SEWER SERVICE.** The parties hereto acknowledge that arrangements for water and sewer service must be made by Purchaser independently with Hilton Head PSD #1 subject to their established rates and charges as approved from time to time by the South Carolina Public Service Commission. Purchaser further expressly acknowledges that no wells may be drilled on the Property.
14. **CONDITION OF PROPERTY.** Purchaser purchases, and Seller sells the Property in an "as-is" condition, and neither Seller nor its agents has made any commitments or accepted any obligations for work on the Property or in the Project, other than as required by the Town of Hilton Head Island. Purchaser acknowledges that neither Seller nor its agents, employees, or attorneys have made any pledges, covenants or commitments in regard to the development of the Project which has induced the purchase of the Property except as stated in this Contract, the Covenants, and the recorded plat.
15. **ESCROW AGENT.** The Escrow Agent hereinabove referred to shall be the law firm of McNair Law Firm, P.A. The Escrow Agent shall not be charged with any knowledge until such facts are communicated to the Escrow Agent in writing. The Escrow Agent shall not be required to institute or maintain any litigation unless indemnified to its satisfaction for its counsel fees, costs, disbursements and all other expenses and liabilities to which it may, in its judgment, be subjected in connection with this action. The Seller and Purchaser shall at all times indemnify the Escrow Agent against all actions, proceedings, claims or demands arising out of this transaction. Upon the failure of Purchaser to comply with the requirements as set forth herein, Escrow Agent shall be empowered to dispose of the earnest money as provided for in this Contract without incurring any liability. In the event of a dispute by and between the Seller and Purchaser which cannot be resolved, Escrow Agent shall have the option of depositing the earnest money deposit into the Office of the Clerk of Court for Beaufort County, South Carolina pending resolution of the disposition of said funds and, upon depositing said funds, Escrow Agent shall bear no further responsibility.
16. **INTERSTATE LAND SALES ACT EXEMPTION.** This Agreement and the Project lots are exempt from the Interstate Land Sales Act 15 U.S.C. 42 §1701 et seq. pursuant to §1702(b)(1). By executing this Agreement, the Purchaser verifies that it has personally inspected the Property.
17. **BROKERAGE FEES.** The Seller and the Purchaser acknowledge that the _____ (not applicable) are the only real estate brokers involved in this transaction. Seller shall pay _____ a commission of \$ _____ of the Purchase Price at Closing. Purchaser shall not be responsible for or Sellers commission responsibilities. Purchaser holds Seller harmless from any claims of commissions from other real estate broker with whom Purchaser may have dealt, and the Seller holds Purchaser harmless from any claims for commission from any other real estate broker with whom the Seller may have dealt.
18. **DEFAULT.** Upon the failure of Purchaser to comply with the terms hereof, and after receipt of notice of said default with a ten-day (10-day) right to cure, it is understood and agreed by and between the parties hereto that Seller may: (a) at its option because of the difficulty in ascertaining actual resulting damages, retain the earnest money deposit as partial liquidated damages, (b) enforce this performance of this Contract by specific performance, and/or (c) sue for damages. It is understood by and between the parties hereto that upon a default by Seller, and after notice with a ten (10) day right to cure, Purchaser may cancel the Contract and obtain a refund of the earnest money deposit as its sole and exclusive remedy. Notwithstanding the preceding, the ten (10) day right to cure shall not apply to Purchaser's default of its obligation to Close on the Closing Date.
19. **BINDING EFFECT.** This Contract is binding upon the heirs, personal representatives, successors and assigns of the parties.
20. **ASSIGNABILITY.** The rights of Purchaser pursuant to this Contract may not be assigned or otherwise transferred without the express written consent of Seller, which consent may be withheld for any reason. Any attempt by Purchaser to assign this Contract without the express written consent of Seller shall be deemed a default of Purchaser, and Seller shall not be bound by any such assignment.

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- 21. **SURVIVAL OF CLOSING.** This Contract and all the terms and conditions hereof shall survive the Closing of the transaction contemplated hereby and shall thereafter continue to bind the parties to this Contract. This Contract shall be executed in duplicate originals.
- 22. **ENFORCEABILITY.** Should any provisions of this Contract be void or become unenforceable at law or in equity, the remaining provisions shall remain in full force and effect and shall not in any manner be affected or impaired thereby.
- 23. **ENFORCEMENT.** In the event of litigation relating to the enforcement of rights under this Contract, the prevailing party shall be entitled to recover all litigation expenses, including attorneys' fees and court costs, from the non-prevailing party.
- 24. **NO WAIVER.** No failure of a party to exercise any power or right granted hereunder or to insist upon strict compliance with any obligation specified herein, and not practice at variance with the terms hereof, shall constitute a waiver of said power or right unless expressly authored in writing by the affected party.
- 25. **WAIVER OF CONFLICT OF INTEREST.** Purchaser is a member of WSI II, LLC, which is a member of Seller. Purchaser and Seller understand their inherent conflicts of interests in buying a piece of property from a company in which one has an interest. Purchaser acknowledges that Purchaser has the opportunity to seek representation to advise Purchaser of this transaction.

SIGNED AND SEALED BY PURCHASER AS OF THE DAY AND YEAR FIRST WRITTEN ABOVE.

WITNESSES:

PURCHASERS:

David Jackson

 DAVID JACKSON

Arthur Jackson

 ARTHUR JACKSON

SIGNED AND SEALED BY SELLER AS OF THE DAY AND YEAR FIRST WRITTEN ABOVE.

WITNESSES:

[Signature]

SELLER:

217 Beach City Road LLC
 By: *[Signature]*

 Edward W. Flynn, Manager

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EXHIBIT "B" TO APRIL 22, 2013, LETTER FROM DAVID AND ALETHEA W.
JACKSON AND DAVID JACKSON TO TERI B. LEWIS

DECLARATION
OF
COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
BEACH CITY PLACE
HILTON HEAD ISLAND
SOUTH CAROLINA

Jackson

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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
BEACH CITY PLACE**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made on this _____ day of July, 2009 by 217 Beach City Road, LLC, a South Carolina limited liability company having an address of 70 Main Street, Suite 100, Hilton Head Island, South Carolina 29926 (the "Declarant"):

WHEREAS, Declarant is the owner of real property generally known as Beach City Place on Hilton Head Island, Beaufort County, South Carolina as more particularly described on Exhibit "A", and

WHEREAS, Declarant developed Beach City Place into a thirty-two (32) lot single family residential community and wishes to submit Beach City Place to the provisions of this Declaration

NOW THEREFORE, Declarant hereby declares that the real property described on Exhibit "A" of this Declaration generally known as Beach City Place, including any improvements which may be constructed on Beach City Place, is subjected to the provisions of this Declaration. All property within Beach City Place shall be held, sold, transferred, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens contained in this Declaration. The provisions of this Declaration shall run with all the property within Beach City Place and subject all that property to this Declaration. This Declaration shall benefit, and be binding upon, all persons having any right, title or interest in any portion of Beach City Place, their respective heirs, legal representatives, successors, successors-in-title, and assigns

**SECTION I
DEFINITIONS**

The following words used in this Declaration shall have the following meanings.

1.1. "Area of Common Responsibility" shall mean the roadway known as Chincapin Oak Circle, a right of way within a 2.60 acre parcel depicted on the plat described on Exhibit "A" attached hereto. Area of Common Responsibility shall also mean all seven areas labeled "Open Space", said areas also labeled A, B, C, D, E, F, and G on the plat described on Exhibit "A" attached hereto along with any hardscape, drainage, roadways, or landscaping within said areas of Common Responsibility. Area of Common Responsibility shall also mean such areas for which the Association has responsibility pursuant to this Declaration.

1.2. "Association" shall mean Beach City Place Homeowners Association, Inc., a South Carolina nonprofit corporation, its successors and assigns.

1.3. "Board of Directors" or "Board" shall mean the appointed or elected board of directors, as applicable, of the Association.

1.4. "Bylaws" shall refer to the Bylaws of the Association, as may be amended.

1.5. "Common Property" shall mean all property described in the definition of Area of Common Responsibility, along with all improvements thereon, including all roadways, drainage and utility infrastructure not conveyed to utility companies, and associated hardscape and landscaping within the Area of Common Responsibility.

1.5. "Beach City Place" shall mean all the real property described on Exhibit "A" generally known as Beach City Place. All Beach City Place shall be subject to the buffers, easements and setback lines, as well as any other matters, depicted on the plat described on Exhibit "A" attached hereto

1.6. "Beach City Place Standards" shall mean the standard of conduct, maintenance, or other activity generally prevailing in Beach City Place. Such standards may be more specifically determined by the Board of Directors and must be consistent with Beach City Place Standards originally established by the Declarant

1.7. "Declarant" shall mean Beach City Properties, Inc. The Declarant may appoint and designate a successor Declarant by designating such appointment or designation in a Supplemental Declaration filed in the Beaufort County Register of Deeds Office.

1.8. "Declaration" shall include this Declaration and any Supplemental Declaration.

1.9. "Lot" shall mean any single family residential lot of land within Beach City Place, whether or not improvements are constructed on that land, which constitutes a single-family dwelling site as shown on the plat recorded in the Beaufort County Register of Deeds Office described on Exhibit "A". The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, all of the right, title, and interest of an Owner in the Common Property and membership in the Association.

1.10. "Mortgage" shall mean any mortgage used for the purpose of encumbering real property in Beach City Place as security for the payment or satisfaction of an obligation.

1.11. "Mortgagee" shall mean the holder of a Mortgage.

1.12. "Occupant" shall mean any Person occupying all or any portion of a Lot or other property located within Beach City Place for any period of time, regardless of whether such Person is a tenant or the Owner of such property.

1.13. "Owner" shall mean the record owner, whether one or more Persons, of the fee simple title to any Lot, excluding any Person holding such interest merely as security for the performance or satisfaction of any obligation.

1.14. "Person" shall mean a natural person, corporation, limited liability company, partnership, association, trust, or other legal entity.

1.15. "Supplementary Declaration" means an amendment or supplement to this Declaration which subjects additional restrictions and obligations on Beach City Place or adds additional land to Beach City Place or assigns the Declarant's rights under this Declaration.

1.16. "Total Association Vote," means all of the votes attributable to members of the Association. If the Total Association Vote is taken during a time while Declarant has the right to appoint members of the Board of Directors, a Total Association Vote approving some item or proposition must contain the affirmative vote of Declarant or the item or proposition will be deemed not to have been approved

SECTION 2

PROPERTY SUBJECT TO THIS DECLARATION

2.1. Property Subjected To This Declaration. All real property in Beach City Place is subject to the covenants and restrictions contained in this Declaration is the real property depicted on the plat described in Exhibit "A".

SECTION 3

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

3.1. Membership. Every Owner shall be deemed to have a membership in the Association. If a Lot is owned by more than one Person, there shall be only one (1) membership per Lot, and the votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office in the Association, may be exercised by a Member or the Member's spouse or written designee, but in no event shall more than one (1) vote be cast nor office held for each Lot owned.

3.2. Voting. Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Association prior to any meeting. The Lot's vote shall be suspended in the event more than one (1) Person seeks to exercise it. Additionally, the Declarant shall have one (1) vote for each vote held by Members other than Declarant until the Declarant ceases to own one (1) Lot or more, or January 1, 2020, whichever occurs first. These votes of Declarant shall be in addition to the votes Declarant receives due to its ownership of Lots.

3.3. Association Board. As long as the Declarant owns one (1) or more lots in Beach City Place, Declarant shall have the power to appoint a majority of the Board of Directors of the Association.

SECTION 4 ASSESSMENTS

4.1. Purpose of Assessment. The assessments provided for in this Declaration shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Lots, as may be authorized from time to time by the Board.

4.2. Creation of the Lien and Personal Obligation for Assessments. Each Owner agrees to timely pay to the Association: (a) annual assessments or charges; (b) special assessments; and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration. Each Owner also agrees to pay to the Association reasonable fines as may be imposed in accordance with the terms of this Declaration.

4.3. Late Charges. All assessments shall accrue late charges and shall accrue interest not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due. Additionally, the costs of collection shall be added to any amount due, which costs of collection shall include without limitation reasonable attorney's fees incurred by the Association. The assessments and charges shall be a continuing lien upon the Lot against which each assessment is made, and shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due.

4.4. Personal Liability. Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Lot, and each grantee of an Owner shall be jointly and severally liable for the assessments which are due at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings.

4.5. Accounting of Payment. The Association shall, within ten (10) business days after receiving a written request, furnish a written accounting setting forth whether the assessments on a specified Lot have been paid. Such written accounting shall be binding upon the Association as of the date of issuance. The Board shall have the right to impose a reasonable charge for providing this accounting.

4.6. Annual Assessments. Annual assessments shall be levied equally on all Lots and shall be paid in such manner and on such dates as may be fixed by the Board. The Board may allow annual assessments to be paid in periodic payments, and the Board shall have the right to accelerate any unpaid

ordinance, or with any order or directive of any municipal or other governmental authority. The obligation to pay assessments is a separate and independent covenant on the part of each Owner and is not subject to setoff.

4.13. Application of Payments. All payments shall be applied first to costs of collection, then to late charges, then to interest and then to delinquent assessments.

4.14. Date of Commencement of Assessments. Assessments shall start on the date of the closing of the sale of a Lot to a Person other than the Declarant. The first assessment for any Lot shall be adjusted according to the number of days then remaining in that calendar year.

4.15. Specific Assessment. The Board shall have the power to specifically assess a lot or lots pursuant to this Section 4 as it shall deem appropriate, in its sole discretion. Failure of the Board to exercise its authority under this Section 4 shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section 4 afterwards. The Board may also specifically assess Owners for expenses of the Association which benefit less than all of the Lots. Such specific assessment shall be assessed equitably among all of the Lots which are benefitted according to the benefit received, as determined by the Board in its sole discretion.

4.16. Budget Deficits During Declarant Control. For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may, but shall not be required to:

4.16.1. advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association and the sum of the annual, special and specific assessments collected by the Association in any fiscal year. Such advances may be evidenced by promissory notes from the Association to the Declarant. The failure of Declarant to obtain a promissory note shall not invalidate the debt;

4.16.2. cause the Association to borrow such amount, however, no mortgage encumbering the Common Property or any improvements maintained by the Association shall be given to secure such a loan; and

4.16.3. provide services to the Association or the Common Property. Declarant shall designate the value of the services provided and such amount may be evidenced by a promissory note from the Association to the Declarant. Failure to obtain a promissory note shall not invalidate the obligation referred to in this Section 4.16.

SECTION 5

MAINTENANCE & CONVEYANCE OF COMMON PROPERTY TO ASSOCIATION

5.1. Association's Responsibility. The Association shall maintain in good repair the Common Property. This responsibility shall include the operation, maintenance, repair, and replacement of all improvements and landscaping situated on the Common Property as set forth in this Section 5.1.

5.1.1 The Association shall maintain all roadways, open spaces, and associated drainage within Beach City Place to the extent such maintenance is not otherwise maintained by a governmental entity or public service district.

5.1.2. The Association shall be responsible for Common Property utility expenses such as water, sewer, and electricity.

5.1.3. The Association shall operate and maintain all Common Property lighting with the exception of those street lights billed to Owners and other lighting maintained and operated by a utility company.

5.1.4. The Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without Beach City Place if the Board determines that such maintenance would benefit the Owners

5.1.5. The Association shall not be responsible for the maintenance, repair or replacement of any roadways and associated infrastructure within Beach City Place which has been conveyed to the Town of Hilton Head Island, Beaufort County or another governmental body, public service district, or utility company

5.1.6. The Association shall not be responsible for any utility infrastructure which is not owned by the Association including, without limitation, water, sewer, electricity, telephone, cable television, or propane gas infrastructure

5.1.7. In the event that the Association determines that the need for maintenance, repair, or replacement of Common Property is caused through the willful or negligent act of an Owner, or the family, guests, lessees, or invitees of any Owner or Occupant, then the Association may perform such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs thereof shall be a specific assessment against such Owner subject to the Association's lien and collection rights provided for in this Declaration.

5.2. Owner's Responsibility. With the exception of the roadway, associated drainage, bridge, and landscaping and hardscaping which is Common Property, all maintenance of Lots and all structures, parking areas, landscaping, and other improvements on each lot shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Beach City Place Standards and this Declaration. In the event the Board determines that any Owner has failed or refused to properly maintain, repair, or replace items for which such Owner is responsible, the Association may perform such maintenance, repair or replacement for the Owner at the expense of the Owner. Except in an emergency situation, the Association shall give the Owner prior written notice of the Association's intent to provide such necessary maintenance, repair, or replacement. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have seven (7) days after receipt of such notice within which to complete such maintenance, repair, or replacement. If such maintenance, repair, or replacement is not capable of completion within the seven (7) day period, the Owner must commence such work within seven (7) days and shall complete such work within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs shall be an assessment against such Owner and its Lot.

SECTION 6 USE RESTRICTIONS AND RULES

6.1. General. All Owners and Occupants must comply with these use restrictions and rules. These use restrictions may only be amended as provided in this Declaration. In addition, the Board may, from time to time, without consent of the Members, promulgate, modify, or delete other rules and regulations applicable to Beach City Place. So long as the rules and regulations do not conflict with the terms of this Declaration, such rules and regulations shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting by a majority of the Total Association Vote.

6.2. Fines for Covenant, Rule and Regulation Violations. The Association may adopt fines to enforce the provisions of these Covenants and the published rules and regulations of the Association. Such fines may be adopted and amended from time to time by a majority vote of the Association Board of Directors. Association fines may not be levied against any Owner until the fines and rules and regulations have been mailed to all Owners to the addresses on record with the Association. Revised fines shall not take effect until mailed to all Owners similarly. Fines levied against Owners for violations of these Covenants, or the Association rules and regulations, shall be a charge against the Lot owned by the Owner in violation of the Covenant, rule or regulation, and shall be a charge and continuing lien on the subject Lot, as well as a personal obligation of the Owner, as set forth in Section 4 above. Owners shall have the right to appeal any Association fine. All appeals shall be in writing and shall be heard by the Board, or a committee selected by the Board. The determinations by the Board, or the Board's appeal committee, of all appeals shall be made in the Board's, or the Board's appeal committees', sole discretion. Such determinations shall be final adjudications of all fines and shall not be subject to any further appeal whatsoever. The Board may promulgate rules governing the fine appeal process.

6.3. Single Family Residential Use of Lots. All Lots shall be used for single family residential purposes only and no commercial activity of any nature whatsoever shall be conducted thereon. Residential purposes shall include home businesses or business activities which do not maintain advertising on a Lot, or invite customers or clients within Beach City Place. Residential purposes include the sale and leasing of Lots. The Board may issue rules and regulations regarding permitted business activities, so long as the rules and regulations do not conflict with the terms of this Declaration. The Declarant shall have the right to operate a sales office and a construction office from one or more Lots within Beach City Place. No garage or part of a garage may be used for business purposes so as to prevent occupant's vehicles from being parked in the garage.

6.4. Architectural Standards for Improvements to Lots. No exterior improvement, alteration, addition, or erection whatsoever shall be commenced or placed upon any Lot, unless installed by the Declarant, or as approved in accordance with this Declaration. All improvements to Lots, except driveways and other non-vehicle improvements, must be constructed outside of all buffers, setbacks and easements depicted on the plat described in Exhibit "A" attached hereto, unless such vehicle improvements have the written consent of the Board. No exterior construction, addition, erection, or alteration shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by an Architectural Review Committee to be established by the Board.

6.4.1. The Architectural Review Committee may be established and shall have jurisdiction over modifications and new construction on Lots.

6.4.2. The Board may employ architects, engineers, or other persons as it deems necessary to enable the Architectural Review Committee to perform its review.

6.4.3. The Architectural Review Committee may impose application fees and deposits for any submission to the Architectural Review Committee, such fees and deposits to be decided by the Architectural Review Committee with approval from the Board in its sole discretion.

6.4.4. The Architectural Review Committee may, from time to time, delegate any of its rights or responsibilities hereunder to one (1) or more duly licensed architects or other qualified Persons, which shall have full authority to act on behalf of the committee for all matters delegated.

6.4.5. Written design guidelines and procedures may be promulgated for the exercise of this review, which guidelines may provide for a review fee.

6.4.6. So long as the Declarant owns any property for development or sale in Beach City Place, the Declarant shall have the right to appoint all members of the Architectural Review Committee. Upon the expiration of earlier surrender in writing of such right, the Board shall appoint the members of the Architectural Review Committee.

6.4.7. If the Architectural Review Committee fails to approve or to disapprove submitted plans and specifications within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required, and this Section will be deemed to have been fully complied with. As a condition of approval under this Section, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on any change, modification, addition, or alteration. The Architectural Review Committee shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any Lot to inspect for the purpose of ascertaining whether or not these Persons shall not be deemed guilty of trespass by reason of such entry.

6.4.8. Plans and specifications are not approved for engineering or structural design or quality of materials, and by approving such plans and specifications neither the Architectural Review Committee, the members thereof, nor the Association assumes liability or responsibility therefor, nor for any defect in any structure constructed from such plans and specifications. Neither Declarant, the Association, the Architectural Review Committee, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any owner of property affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every owner agrees that such person or owner will not bring any action or suit against Declarant, the Association, the Architectural Review Committee, the Board, or the officers, directors, members, employees, and agents of any board, or the officers, directors, members, employees, and agents of any of them to recover any damages and hereby releases, remises, and covenants not to sue for all claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

6.4.9. Signs. No sign of any kind shall be erected by an Owner or Occupant within Beach City Place without the prior written consent of the Architectural Review Committee. Notwithstanding the foregoing, the Board and the Declarant shall have the right to erect reasonable and appropriate signs. The Declarant shall have the right to erect and maintain "For Sale" signs on any Lot in its sole discretion. Signs required by legal proceedings may be erected upon any Lot. The provisions of this Section shall not apply to any Person holding a Mortgage who becomes the Owner of any Lot as purchaser at a judicial or foreclosure sale conducted with respect to a first Mortgage or as transferee pursuant to any proceeding in lieu thereof.

6.4.9.1 No boat, motor home, trailer, or recreational vehicle or trailer may be left upon any portion of Beach City Place unless the same is stored within a garage. The Association shall have the right to remove any such boat, motor home, trader, or recreational vehicle if not moved by the Owner within one (1) day's notice, and the costs of such removal shall be an assessment against such Owner.

6.4.9.2 All single-family detached homes shall contain a garage; carports shall not be permitted. All vehicles shall be parked within the driveway or garage of each Lot. Garages shall not be altered to include living space. The term "vehicles," as used herein, shall include motorcycles, minibikes, scooters, go-carts, trucks, vans and automobiles.

6.4.9.3 No unlicensed vehicle shall be left upon any portion of Beach City Place. The Association shall have the right to remove any such vehicle if not removed by the Owner within ten (10) days of notice, and the costs of such removal shall be an assessment against such Owner.

6.4.10. Leasing. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, Bylaws, and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance, the Board, in addition to any other remedies available to it, may evict the tenant on behalf of the owner and specifically assess all costs associated therewith against the Owner and the Owner's lot.

6.4.11. Occupants Bound. All provisions of the Declaration, Bylaws, and of any rules and regulations, use restrictions or design guidelines promulgated pursuant to this Declaration shall apply to all Occupants of Lots even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

6.4.12. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats or other usual and common household pets. No pets shall be kept, bred or maintained for any commercial purpose. Dogs shall be kept on a leash when outside of a Lot. All Owners shall remove their pets' waste from Common Areas and Lots.

6.4.13. Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her lot. No Lot within Beach City Place shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within Beach City Place.

6.4.14. Antennas. No exterior antennas of any kind, including, without limitation, satellite dishes, shall be placed, allowed, or maintained upon any portion of Beach City Place, including any Lot, without the prior written consent of the Architectural Review Committee. Satellite Dishes which are dark in color and are 18 inches or less in diameter shall be allowed, provided they are not visible from the street, installed upon or adjacent to a residence, and are integrated with the surrounding landscape.

6.4.15. Tree Removal. No trees that are more than four (4) inches in diameter at a point two (2) feet above the ground shall be removed without the prior written consent of the Architectural Review Committee. However, no flowering trees, including, without limitation, dogwood trees, regardless of their diameter, shall be removed without the prior written consent of the Architectural Review Committee.

6.4.16. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant may alter, obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains, the right to alter same being expressly reserved to Declarant.

6.4.17. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

6.4.18. Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, hot tubs, spas, and related equipment, and other similar items shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate.

6.4.19. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Architectural Review Committee. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning

regulations. Declarant's right to replat any Lot shall include the right to change the configuration of streets and otherwise make changes on the final plat for Beach City Place as to how the streets and common areas in Beach City Place are laid out.

6.4.20. Guns. The use or discharge of firearms in Beach City Place is prohibited. The term "firearms" includes rifles, pistols, "BB" guns, pellet guns, and small firearms of all types.

6.4.21. Fences. No fence or fencing type barrier of any kind shall be placed, created, allowed, or maintained upon any Lot without the prior written consent of the Architectural Review Committee. Notwithstanding the foregoing, the Declarant shall have the right to erect fencing of any type, at any location, on any Lot during the period that such Lot is being used by Declarant as a model home. The Board shall have the right to erect fencing of any type considered appropriate or desirable by the Board at any location on the Common Property.

6.4.22. Artificial Vegetation and Exterior Sculptures. No artificial vegetation shall be permitted on the exterior of any Lot. Exterior sculptures, fountains, flags and similar exterior ornamental items must be approved by the Architectural Review Committee.

6.4.23. Lighting. Except as may be permitted by the Architectural Review Committee, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on a Lot; (b) One (1) decorative post light; (c) street lights in conformity with an established street lighting program for Beach City Place; or (d) seasonal decorative lights.

6.4.24. Mailboxes. All mailboxes located on Lots shall be of a similar style approved by the Architectural Review Committee. Mailboxes shall be kept painted and in good repair by the Owners. Replacement mailboxes may be installed after the type has been approved in writing by the Architectural Review Committee.

6.4.25. Exteriors. Any change to the exterior color of any improvement located on a Lot, including, without limitation, the dwelling, must be approved by the Architectural Review Committee.

6.4.26. Clothesline. No exterior clotheslines of any type shall be permitted upon any Lot.

6.4.27. Storage Sheds and Garages. Construction, installation or placement of a storage shed, tree house, play house, detached garage, or a building separate from the main house on the Lot is not permitted without the prior written consent of the Architectural Review Committee, in its sole discretion. All plans (which must include the length, width, height, materials, colors, and location) must be submitted to the Architectural Review Committee for written approval prior to obtaining building permits or starting construction. The structure must be constructed, installed or placed in a location inconspicuous as much as possible from public view. All materials used in the construction of such buildings must match the main dwelling located on the Lot.

SECTION 7

INSURANCE AND CASUALTY LOSSES

7.1. Insurance on Common Property. The Board of Directors or the duly authorized agent of the Association shall have the authority to and shall obtain insurance for all insurable improvements whether or not located on the Common Property which the Association is obligated to maintain. This insurance shall provide fire and extended coverage, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

7.2. Liability Insurance. The Board shall obtain a general commercial liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of

at least One Million Dollars (\$1,000,000.00). If available, the Board is authorized to obtain directors, and officers, liability insurance coverage.

7.3. Other Insurance. In addition to the other insurance required by this Section 7, the Board shall obtain workers' compensation insurance to the extent necessary to satisfy the requirement of South Carolina law. The Board shall also obtain a fidelity bond or bonds on Association directors, officers, employees, and other persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall be in an amount no less than three (3) month's prorated Assessments plus any reserves. Bonds shall contain a waiver of all defenses based upon the exclusion or person serving without compensation and may not be canceled, subjected to nonrenewal or substantially modified without at least thirty (30) days prior written notice to the Association. The Association shall also obtain construction code endorsements, also known as law and ordinance endorsements, and flood insurance if necessary, and to the extent necessary, to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U.S. Department of Veterans Affairs, or the U.S. Department of Housing and Urban Development.

7.4. Declarant. The Board is authorized to obtain the insurance coverage required hereunder through the Declarant and to reimburse Declarant for the cost thereof. The Board shall not be required to comply with the provisions of this Section if the Board has contracted for or otherwise arranged to obtain the required insurance coverage through the Declarant.

7.5. Premiums. Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

7.6. Miscellaneous. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee for the respective benefited parties, as further identified below. Such insurance shall comply with these provisions:

7.6.1. All policies shall be written with an insurance company authorized to do business in South Carolina.

7.6.2. Exclusive authority to settle losses under policies obtained by the Association shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

7.6.3. In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

7.6.4. All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually by the Board.

7.6.5. The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

7.6.5.1 a waiver of subrogation by the insurer as to any claims against the Board, its manager, the Owners and their respective agents, tenants and guests;

7.6.5.2 a waiver by the insurer of its rights to repair and reconstruct instead of paying a cash settlement;

7.6.5.3 that no policy may be canceled, invalidated, or suspended on account of any one or more individual Owners;

7.6.5.4 that no policy may be canceled, subjected to nonrenewal, invalidated, or suspended on account of any defect or the conduct of any Board member, Association officer or employ, or employee of the authorized manager of the Association without prior demand in writing deliver to the Association to cure any defect or to cease the conduct and the allowance or

a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

7.6.5.5 that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

7.6.5.6 that no policy may be canceled, subjected to nonrenewal or substantially modified without at least thirty (30) days prior written notice to the Association.

7.7. Individual Insurance for Lot Owners. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket "all-risk" casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, if reasonably available, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If all-risk coverage is not reasonably available, Owners shall obtain, at a minimum, fire and extended coverage. The policies required hereunder shall be in effect at all times. Authority to adjust losses under policies obtained by an Owner shall be vested in the Owner. The losses under policies obtained by an Owner shall be vested in the Owner. The Association shall have the right, but not the obligation, at the expense of the Owner, to acquire the insurance required to be maintained by the Owner if the Owner fails to provide a valid policy to the Association with a prepaid receipt within ten (10) days after receipt by the Owner of a written request from the Association. If the Association does acquire insurance on behalf of any Owner, the cost thereof shall be assessed against the Owner and the Lot as a specific assessment.

7.8. Damage and Destruction ... Property Insured by Association. Immediately after damage or destruction by any casualty to any improvement covered by Association insurance, the Board or its authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost or repair or reconstruction of the damaged property. Repair or reconstruction, as used in this Section 7, means repairing or restoring the property to substantially the same condition and location that existed prior to the casualty, allowing for changes necessitated by changes in applicable ordinances. Repair or reconstruction procedures shall be as follows

7.8.1. Any damage to property covered by Association insurance shall be repaired or reconstructed unless seventy-five percent (75%) or the Total Association Vote agree otherwise in a vote taken at a duly called Association meeting held sixty (60) days after the casualty. If for any reason the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such sixty (60) day period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) day.

7.8.2. If the insurance proceeds are insufficient to pay for the repair or reconstruction, the Board shall, without the necessity of a vote of the Owners, levy a special assessment against all Owners in proportion to the number of Lots owned by each Owner. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs or repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

7.8.3. If the Association votes not to repair or reconstruct damage improvements, and no alternatives are authorized by the Association, then the property shall be restored to its natural state and maintained as an undeveloped portion of Beach City Place in a neat and attractive condition.

7.9. Damage and Destruction to Improvements on Lots ... Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within ninety (90) days after such damage or destruction or, where repairs cannot be completed within ninety (90) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within ninety (90) days after such damage or destruction. In the event of noncompliance with this provision, the Board shall have all enforcement powers specified in this Declaration.

7.10. Insurance Deductible. The deductible for any casualty insurance policy carried by the Association shall be paid by the Association or be allocated among the Persons who are responsible for the damage or destruction.

SECTION 8 MORTGAGEE PROVISIONS

8.1. Mortgagee Provisions. The following provisions are for the benefit of holders of first Mortgages on Lots in Beach City Place. The provisions of this Section 8 apply to both this Declaration and the Bylaws, notwithstanding any other provisions contained therein.

8.2. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association, such request to state the name and address of such holder, insurer, or guarantor and the Lot number, therefore becoming an "eligible holder", will be entitled to timely written notice of:

8.2.1. any condemnation loss or any casualty loss which affects a material portion of Beach City Place or which affects any Lot on which there is a first Mortgage held, insured or guaranteed by such eligible holder;

8.2.2. any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage or such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of an unencumbered Lot of any obligation under the Declaration or the Bylaws which is not cured within sixty (60) days;

8.2.3. any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

8.3. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

8.4. Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

8.5. Applicability of Section Nothing contained in this Section shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or South Carolina law for any of the acts set out in this Section.

SECTION 9 **EASEMENTS**

9.1. Easements for Use and Enjoyment. Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to each Lot. Any Owner may delegate such Owner's right of use and enjoyment in and to the Common Property to the members of the Owner's family and to such Owner's tenants and guests. Such delegation shall be deemed when any Owner leases its Lot. The Owners' easements for use and enjoyment shall be subject to the following provisions:

9.1.1. the right of the Association to suspend a Lot Owners' voting rights and the right to use the Common Property for any period during which any assessment against such Owner remains unpaid, or for a reasonable period of time for a violation of this Declaration, Bylaws or the Associations rules or regulations;

9.1.2. Regarding any docks within the Area of Common Responsibility, the right of the Association to charge reasonable admission and other fees for the use of such Common Property, to limit the number of guests of Owners and tenants who may use the Common Property, and to provide for the exclusive use and enjoyment of specific portions of the Common Property by an Owner, its guests and invitees, at designated times for special events upon such Owner's payment to the Association of a reasonable use charge, as set by the Board in its sole discretion, and the right of the Association to promulgate rules and regulations for the use of such docks.

9.1.3. the right of the Association to borrow money for the purpose of improving the Common Property, or for construction, repairing or improving any facilities located on the Common Property, and to give as security for the payment of any such loan a Mortgage encumbering the Common Property; provided, however, the lien and encumbrance of any such Mortgage shall be subject and subordinate to the provisions of this Declaration. Any such Mortgage on the Common Property shall be approved by at least two thirds (2/3) of the Total Association Vote. The exercise of any rights held by any mortgagee of Common Property shall not cancel or terminate any provisions of this Declaration, or the holder of any Mortgage on any Lot.

9.1.4. the right of the Association to dedicate or grant licenses, permits or easement over, under and through the Common Property to governmental entities for public purposes; and

9.1.5. the right of the Association to dedicate or transfer all or any portion of the Common Property subject to the such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless approved by at least two thirds (2/3) of the Total Association Vote.

9.2. Easements for Utilities. There is hereby reserved to the Declarant and the Association blanket easements upon, across, above and under all property within Beach City Place, including all Lots, for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving Beach City Place or any portion thereof. This easement shall include, without limitation, gas, water, sanitary sewer, telephone, electricity, cable television, security, as well as storm drainage and any other service or system which the Declarant or the Association might decide to have installed to service Beach City Place. It shall be expressly permissible for the Declarant, the Association, or the designee of either, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, pipes, cables and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or

easement by separate recordable document, the Declarant or the Board, as the case may be, shall have the right to grant such easement.

9.3. Easement for Drainage. Declarant hereby reserves a perpetual easement across all Beach City Place property for the purpose of altering drainage and water across all Beach City Place property for the purpose of altering drainage and water flow. This right shall include, but is not limited to, altering swales, installing drains, drainage ditches, pipes, inlets, headwalls, and altering channeling, or piping waterflow across any Lot or any property in Beach City Place. Rights exercised pursuant to this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

9.4. Easement for Entry. In addition to the other rights reserved to Declarant and the Association, the Declarant or the Association shall have the right (but not the obligation) to enter upon any property or Lot within Beach City Place for emergency, security, and safety reasons. This right may be exercised by the Declarant or its designee, any officer of the Board, and all governmental employees, policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. This right of entry shall include the right of the Board to enter to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard or condition in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

9.5. Easement for Maintenance. Declarant hereby expressly reserves a perpetual easement for the benefit of Declarant or the Association across such portions of Beach City Place, determined in the sole discretion of the Declarant and the Association, as are necessary to allow for the maintenance required by this Declaration. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment to Owners' property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

9.6. Easement for Entry Features. There is hereby reserved to the Declarant and the Association an easement for ingress, egress, installation, construction landscaping and maintenance of entry features and similar streetscapes for Beach City Place, over and upon each Lot within the 40' private access easement as is depicted on the recorded subdivision plat for Beach City Place described on Exhibit "A" attached hereto.

9.7. Construction and Sale Period Easement. Notwithstanding any provisions contained in the Declaration, the Bylaws, any rules and regulations, design guidelines, and any amendments thereto, so long as Declarant owns any Lot in Beach City Place for development or sale, Declarant reserves an easement across Beach City Place for Declarant and any builder or developer approved by Declarant to maintain and carry on, upon such portion of Beach City Place as Declarant may reasonably deem necessary. This reserved easement shall include an easement for such utilities, facilities and activities which, in the sole opinion of Declarant, may be required, convenient, or incidental to the development, construction, and sales activities related to property within or near Beach City Place. This easement shall include, without limitation:

9.7.1. the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in any portion of Beach City Place as well as any Lot in Beach City Place;

9.7.2. the right to tie into any portion of Beach City Place with driveways, parking areas and walkways;

9.7.3. the right to tie into or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services;

9.7.4. the right (but not the obligation) to construct recreational facilities on Common Property;

9.7.5. the right to carry on sales and promotional activities in Beach City Place.

9.7.6. the right to place direction and marketing signs on any portion of Beach City Place, including any Lot or Common Property;

9.7.7. the right to construct and operate business offices, signs, construction trailers, model residences, and sales offices incidental to the construction, development and sales activities;

9.7.8. Declarant and any builder or developer authorized by Declarant may use residences, offices or other buildings owned or leased by Declarant or such builder or developer as model residences and sales offices, and may also use recreational facilities available for use by Beach City Place as a sales office or for marketing purposes without charge. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, and reasonable steps shall be taken to protect such property from damage. Any damage shall be repaired by the Person causing the damage at its sole expense. This Section shall not be amended without the Declarant's express written consent until the Declarant's rights hereunder have terminated as provided in this Declaration.

SECTION 10
GENERAL PROVISIONS

10.1. Enforcement. Each Owner and Occupant shall comply strictly with the Bylaws, the rules and regulations, the use restrictions, as they may be lawfully amended or modified from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration. The Board may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association, or in a proper case, by an aggrieved Owner. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board shall have the right to record in the appropriate land records a notice of lien, a notice of violation of the Declaration, Bylaws, rules and regulations, use restrictions, or design guidelines and to assess the cost of recording and removing such notice against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

10.2. Self-Help. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon any Lot or any other portion of Beach City Place to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, the rules and regulations, or the use restriction. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days written notice of its intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after reasonable notice. All costs of self-help, including reasonable attorney's fees, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

10.3. Condemnation. In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking, at least seventy-five percent (75%) of the Total Association Vote shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor. The provisions of this Declaration applicable to Common Property improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

10.4. Duration. The covenants and restrictions of this Declaration shall run with and bind Beach City Place, and shall inure to the benefit of and shall be enforceable by Declarant, the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent provided by South Carolina law. If South Carolina law limits the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time any such provision shall be automatically extended for successive periods of ten (10) years, unless a written instrument reflecting disapproval signed by the then Owners of 2/3 of the Lots and the Declarant (if the Declarant still owns any property in Beach City Place or has the right to annex additional property) is recorded within the year immediately preceding the beginning of a ten (10) year renewal period.

10.5. Annexation. So long as the Declarant owns one (1) or more Lots, the Declarant may unilaterally annex additional property under this Declaration by filing a Supplemental Declaration to this Declaration referencing this Declaration and giving the legal description of the additional property. Such Supplemental Declaration shall define the rights and obligations of the owners of the additional property regarding Common Property, Assessments, and rights in the Association. Such Supplemental Declaration may, in the discretion of the Declarant, give the owners of the additional property only usage rights to

specified Common Property in consideration of a portion of the Assessment(s) charged to Lot Owners. Any property annexed to this Declaration shall be within the boundaries of the Town of Hilton Head Island.

10.6. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association, HUD, the VA, or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or private insurance company to insure or guarantee Mortgage Loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely and materially affect the title to any Owner's Lot unless any such Lot Owner shall consent in writing. Further, so long as Declarant has the right unilaterally to subject additional property to this Declaration, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Lot Owners hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Lot Owner.

In addition to the above, this Declaration may be amended:

10.6.1.1 For so long as the Declarant owns any property in Beach City Place or has the right to annex additional property, with the affirmative written consent of the Declarant and upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least one half (1/2) of the Lots not owned by Declarant;

10.6.1.2 If the Declarant no longer owns any Property in Beach City Place and no longer has the right to annex additional property, upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots

10.7. Partition. The Common Property shall remain undivided, and no Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within Beach City Place and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not necessarily limited to, the Lots located within Beach City Place.

10.8. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

10.9. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end, the provisions of this Declaration are declared to be severable.

10.10. Captions. The captions are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

10.11. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such

regarding litigation involving the Association, lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in Beach City Place or the privilege of possession and enjoyment of any part of Beach City Place.

10.17. Implied Rights. The association may exercise any right or privilege given to it expressly by the Declaration, the Bylaws, the Articles of Incorporation, any use restriction or rule and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

10.18. Variances. Notwithstanding anything to the contrary contained herein, the Declarant and the Board or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for Beach City Place.

10.19. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least eighty percent (80%) of the Total Association Vote. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in this Declaration, (c) proceedings involving challenges to ad valorem taxation or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended during the time period when Declarant owns any property for development or sale in Beach City Place, or has the right to unilaterally annex additional property to Beach City Place unless such amendment is made by the Declarant.

IN WITNESS WHEREOF, the Declarant herein, hereby executes this instrument under seal this _____ day of July, 2009

WITNESSES:

DECLARANT:
217 Beach City Road, LLC

By: Edward Flynn, Its Manager

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) ACKNOWLEDGMENT

I, the undersigned notary, do hereby certify that by Edward Flynn, Manager of 217 Beach City Road, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument

Witness my hand and official seal this _____ day of _____, 2009.

Notary Public of South Carolina
My Commission Expires. _____

EXHIBIT "C" TO APRIL 22, 2013, LETTER FROM DAVID AND ALETHEA W.
JACKSON AND DAVID JACKSON TO TERI B. LEWIS

BEAUFORT COUNTY SC -- ROD
 BK 02857 PGS 1505-1507
 FILE NUM 2009035233
 06/16/2009 01:41:15 PM
 REC'D BY P BAXLEY RCPT# 587769
 RECORDING FEES 10.00
 County Tax 220.00
 State Tax 520.00
 Transfer Tax 500.00

2860
 10
 3
 PB

This deed was prepared in the law offices of
 MCNAIR LAW FIRM, P.A.
 23-B Shelter Cove Lane, Post Office Drawer 3
 Hilton Head Island, SC 29938
 (843) 785-2171

RECORDED
 2009 Aug -10 12:11 PM
Sharon P. Beanie
 BEAUFORT COUNTY AUDITOR

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
 COUNTY OF BEAUFORT) (General Warranty)

KNOW ALL MEN BY THESE PRESENTS, that 217 Beach City Road, LLC, hereinafter referred to as "Grantor," in the State aforesaid, for and in consideration of the sum of Two Hundred Thousand and 00/100 Dollars (\$200,000.00) to Grantor in hand paid by

David Jackson and Alethea W. Jackson
 108 Lincoln Road
 Hempstead, NY 11550

hereinafter referred to as "Grantees," the receipt of which is hereby acknowledged, has granted, bargained, sold and released and by these presents does grant, bargain, sell and release, subject to the easements, restrictions, reservations and conditions set forth in the legal description below, unto the said Grantees, as joint tenants with the right of survivorship and not as tenants in common, the following described property:

ALL that certain piece, parcel or lot of land known as Lot 8, being a portion in the development known as Beach City Place, located on Hilton Head Island, Beaufort County, South Carolina, as shown on a plat prepared by Mark R. Renew of Sea Island Land Survey, LLC, S.C. Registered Land Surveyor No. 25437, which plat is dated May 22, 2007, and recorded in the Office of Clerk of Court for Beaufort County, South Carolina in Plat Book 128 at Page 64.

This being a portion of the same property which was conveyed to 217 Beach City Road LLC by deed of Beach City Properties Inc. dated February 19, 2009, recorded in the Beaufort County Register of Deeds Office in Deed Book 2811 at Page 2231.

This Deed was prepared in the Law Offices of McNair Law Firm, P.A., Post Office Drawer 3, Hilton Head Island, South Carolina 29938, by Robert M. Deeb, Jr.

THIS CONVEYANCE IS MADE SUBJECT TO all other easements and restrictions of record and otherwise affecting the property.

PARENT PIN # R510 005 000 0008 0000 - 1 -

ADD OMP Record 04/2009 12:15:20 PM
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R51C	005	000	0343	0000	00

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 Grantees, as joint tenants with the right of survivorship and not as tenants in common, their heirs and assigns forever; subject, however, to the rights, conditions and restrictions that constitute covenants running with the land, all as set forth herein.

AND Grantor does hereby bind itself and its successors and assigns to warrant and forever defend all and singular the said premises unto the Grantees, their heirs and assigns, against the Grantor and its successors and assigns, and all persons whomsoever lawfully claiming or to claim the same, or any part thereof.

[Signatures on Following Page]

EXHIBIT "D" TO APRIL 22, 2013, LETTER FROM DAVID AND ALETHEA W.
JACKSON AND DAVID JACKSON TO TERI B. LEWIS

Frank Mangan
16 Adventure Galley Lane
Hilton Head SC 29926



May 8, 2013

Ms. Jayme Lopko,

Senior Planner

Town of Hilton Head Island

Re: Proposed Rezoning of 217 Beach City Road LLC Property

Dear Ms. Lopko,

The Island Packet reports the HHI Planning and Development Standards Committee is considering a rezoning of the above property.

This letter is to express a variety of concerns I believe are relevant to this as well as my strong opposition to this action. Those reasons include:

-The Town should not be in the business of “picking winners”.

As I understand it the investing group successfully worked to set up an LLC, determine infrastructure needs, commit capital, work through P&Z regulations and approval processes and receive outside financing. In other words they, and their successors, are sophisticated investors who set out to make a profit within the existing Town guidelines. At no time did they propose, nor were they required to offer, to share any of their financial success with the Town.

While it is unfortunate their anticipated profit failed to materialize why is the Town now considering changes which will enrich investors? How does this not create precedent for the Town to then do this for other, perhaps, favored developers?

-The Town has no reason to “give away” assets which belong to taxpayers.

The possible number of home sites will be tripled from 32 to, apparently, 96. Since each of the new 64 building lots has a monetary value, why is the Town proposing to give them - at zero cost - to an investor group? How can the Town justify this free exchange of what are taxpayer assets?

If the Town strongly believes this density is appropriate why are taxpayers not being compensated at fair market value for the loss of their asset?

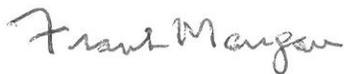
-The Town should not ignore its own experts, including those who drafted the Master Plan, plus the opinions of affected, relevant, parties as the FAA, SCAC and, importantly, the non-support of Town staff.

-The density level considered by the Town conflict with other, voter approved, priority goals of the Town.

Large majorities of the voting population have routinely approved the expenditure of tens of millions of dollars for the acquisition, creation and preservation of open land and environmentally sensitive sites. If the Town believes greater density, despite reservations of affected parties as above, is a priority shouldn't that be put before the voters in a referendum?

I would appreciate your presenting my views for discussion and review at the May 22 meeting of the Subcommittee and, at the June 18th Town Council meeting. If I can provide additional information please phone at the above number.

Cordially,



CC: Mr. William D. Harkins

Town Council Member, Ward Two

Sam W. Einfeldt
22 Willow Drive
Randolph, NJ 07869

Ms. Jayme Lopko
Senior Planner
One Town Center Court
Hilton Head Island, South Carolina 29928

Dear Ms. Lopko,

My name is Sam Einfeldt and I own a condo at 239 Beach City Road. My wife and I spend approximately 5 months per year on Hilton Head Island and have owned our unit since 1985. There are 268 privately owned condos in that facility.

On May 1, 2013, several of my neighbors and I attended the Planning Board Meeting regarding the rezoning of the property at 217 Beach City Road. We, as residents and taxpayers, have several concerns regarding the rezoning of this property.

Attorney Chester Williams presented a very passionate presentation for the White family who has a financial interest in the property at 217 Beach City Road. The essence of the plea was that unless the property was rezoned to 12 units per acre, the bank would foreclose. If it was rezoned, the bank would hold off on foreclosure proceedings. To many of us, it seemed that Mr. Williams was inferring that because the White family has a history on the island, it was the responsibility of Hilton Head Island to bail them out of a poor investment.

The proposed vote would change the zoning so that 12 homes or trailers, per acre, can be located there rather than 4 homes per acre. That change could have a major impact to the Beach City Road area. I believe that the board members did not take into account the people who reside in that particular area. We (residents), who attended the meeting, came away believing that several board members feel that Beach City Road is "off the beaten path" and that no one (tourist) travels that part of the island, the change won't hurt anyone. Who will see it? There is an historical park right across the street from 217 Beach City Road. **Do we really want high density housing or, most likely, another trailer park in this area?**

When questions were posed specific to what will be built on the property, the answer was maybe condos or apartments, not sure at this time. In the same conversation, Attorney Williams stated that the White family has backing from a banking institution if the change is accepted. Not one board member provided any detail. My perception, like many other people in attendance, is that if they already have backing, then someone must know what is going to be built there.

A statement made by Attorney Williams was that the White family investment failed due to the economy and where the property in question is located. When the lots were initially offered, I believe the price was \$345,000.00 per lot and this included building plans. These lots seemed to be overpriced. I have heard several horror stories regarding individuals who attempted to buy

lots there, but went elsewhere because the builder was very difficult to work with and/or never returned calls.

If the property is going to be developed, then we would like to see a condo complex be built. We believe that property owners take pride in what they own because they have a vested interest in their home as well as the area. A condo complex would also keep the value of surrounding properties stable. A trailer park, in that location, is an invitation for disaster.

Another question posed was to what degree would the area be negatively impacted? Attorney Williams responded none to very little. If you do not know what is going to be built on the property, then how can you make that statement? If you put 12 units per acre, which is considered high residential density, then how could there not be a negative impact to the area? Is there going to be one, two, or three bedroom units? What about the impact on traffic, schools, pedestrians, and/or crime?

A statement was made specific to the many years of history that the White family has on Beach City Road. However, I believe most of the family now resides outside of the state of South Carolina.

This property is directly in the flight path of the Hilton Head Airport. Mr. Williams did an excellent job of showing how the units could be within the height restrictions allowed. However, is it really prudent to allow high density housing on the flight path of an airport whose runway is being expanded to practically the entrance of this development?

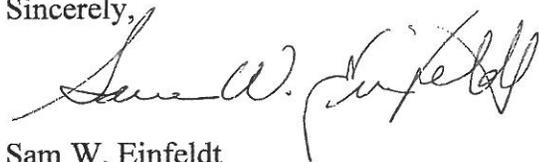
One board member made a very good point. I believe he stated something to the effect that if we vote to allow high density housing in the airport flight path, how can we deny the same type of zoning on other parts of the island? It would appear that the board is on a slippery slope that could be detrimental to the entire Island.

You must remember that we, too, are taxpayers. Whatever is built may cause the fair market value of our property to decline. If so, will the town bail us out?

We would like the Town of Hilton Head to take a good look as to what is going to be built at the end of Beach City Road. Consider that the board voted against the recommendation from the federal, state, county, and town authorities.

Hopefully, the council will reconsider the circumstances and reverse the previous decision of the Planning Board. I realize this will negatively impact the White family, but will be for the greater good of Hilton Head Island, the immediate area, and the current residences.

Sincerely,



Sam W. Einfeldt



The Spa On Port Royal Sound

239 Beach City Road
Hilton Head, SC 29926

(843) 689-7500 (Phone)

(843) 681-2017 (Fax)

hoaspa@hargray.com

<http://thespaonportroyalsound.net>

A Horizontal Property Regime

April 29, 2013

Hilton Head Island Planning Commission
Town Of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

RE: Zoning Map Amendment Application Of 217 Beach City Road, LLC for 8.56 Acres,
Beach City Road

Dear Hilton Head Island Planning Commission,

The Spa On Port Royal Sound is opposed to any effort to rezone on the grounds that will change the character of the neighborhood and overly tax the existing infrastructure.

Sincerely,

Frank Desiano

HOA Board President
The Spa On Port Royal Sound

Cc: Alford Law Firm, LLC
Chester C. Williams, Esq.

Email Comments – ZMA130003

As owners at The Spa on Port Royal Sound on Beach City Road, we would oppose any effort to rezone on the grounds that it will change the character of the neighborhood and overly tax the existing infrastructure.

Respectfully,
Dale and Patience Rush

Just who's interest is the rezoning commission looking out for?

The FAA, SC Aeronautics Commission, Beaufort County government and the town of Hilton Head Island staff all opposed the approval of the rezoning request and several area local residents spoke out against this rezoning at the meeting.

Despite all of this opposition, the rezoning commission, after an Executive Session to discuss this among themselves, voted to approve the increased density request.

The only people in favor of this were the individuals who stand to make a financial gain on the sale of the property after rezoning. Several of the individuals do not even live on the island.

And what kind of property will go here? Apparently apartments will go here and its location under the landing approach will be subject to extremely high noise levels, especially since the rezoning will allow about three stories to be built. Certainly a noise study should be done and before any apartments are built.

The potential lives at risk building high density apartments under the airport approach is high, especially considering landings and take offs are the most dangerous times of flight.

Hopefully the Planning Review Board and Town Council will take a hard look at this ill-advised decision and overturn it.

Gary Runge

As owners at The Spa on Port Royal Sound on Beach City Road, we would oppose any effort to rezone on the grounds that it will change the character of the neighborhood and overly tax the existing infrastructure.

Respectfully,
Jeff and Kim Bartholomew

It has come to my attention that a public meeting will be held on May 1, 2013 regarding rezoning of the Beach City Place development. I am a full-time resident of The Spa on Beach City Road Villa 1104. I chose to make The Spa and Hilton Head Island my permanent home because of its natural beauty and character. I will be out of town during this meeting, however, I wish voice my objections to this proposed zoning change that will permit mobile/modular homes in the Beach City Place development. This change will not only effect the aforementioned. It will also significantly effect the area's infrastructure as well as the economic impact of possible loss of tourist rentals at The Spa. Additionally, this will detract from the many accomplishments of the city such as the buffer zones, Mitchelville Project, and the beach replenishment project.

Thank you for your time and consideration.

Respectfully,
Dale H. Rush Sr.

I would like to request that the rezoning 20 to 70 Circlewood Dr be stopped from happening! The R12 zoning could put Beach city rd back on the map as ...low income/trailer park road/ not a vacation beach etc. We have lived at the SPA for 5 years full time and owned for years. Beach city road and the beach + the Mitchelville project + the golf villas and the city buying up the land to the beach have made it a very desirable vacation and a show place of the natural park of the Island. Building Villas on the lots in question are the right thing to do not R12 housing of any sort and out of the HHI control! I will be at the meeting and would like to speak on as a board member of the SPA board to protest the ruling; I join the FAA, the town and any other groups that protest the zoning.

Thanks for your time.

Shelby Baker - 239 Beach City Rd unit 1330

We are totally opposed to changing the above properties to RM-12 zoning district! We hope and pray that you will reconsider and realize this is a unacceptable decision.

Thank you,
Lynn & Carol Hicks
112 Willow Run
North Augusta, SC, 29841

I am a homeowner at the spa on Port Royal and feel this reasoning would be bad for our neighborhood. Traffic and noise would be increased we bought our unit based on the fact that there were to be single family residences built on these lots which would have made a nicer area. Please don't allow this high density zoning in this area. Thank You.

Bob Lynch - 239 Beach City Rd. Unit 1302

As a property owner at The Spa, 239 Beach City Rd., I am writing to you to voice my opposition to the zoning proposal from Chester C. Williams to re-zone the property located at 217 Beach City Road from RM-4 to RM-12.

I feel that this proposed zoning change would be a detriment to the community, possibly allowing low income housing and too much additional traffic onto Beach City Rd.

Thank you for your consideration,
Christopher E. Hatch
239 Beach City Rd. #1320
Hilton Head, SC

I am owner and full time resident of: 239 Beach City Rd. Villa 1104, The Spa on Port Royal Sound. I wish to voice my strongest objections to the changing of zoning of 217 Beach City Rd. (Beach City Place) from RM-4 (Low Density Residential) to RM-12 (Moderate to High Density Residential).

Thank You for your time and consideration.
Respectfully,
Dale H. Rush, Sr.

I write as an owner of property at the SPA on Beach City road. I'd like to weigh in opposing the rezoning of the Beach city road property from its current R4 status to an R12 status. While I can fully appreciate the difficult times investors are facing as they look to recoup in the economic free fall of the last several years, the rezoning of the Beach city property to higher density is not favorable for the long term development of the area. Over the last 10 years the Beach city area has been in the process of a unique revival with several historic sites, the existing public park accessible to the beach and the addition of a public natural park on Beach city road as well as the ongoing efforts of Mitchellville, the area is developing into an Natural and historic area for the Hilton Head island. Rezoning to R12 is not consistent with the development taking place. I can understand the investment challenge facing the property owners and developers but I do not believe that is an appropriate rationale to change the zoning to one that reduces the favorable changes that have taken place benefiting all of the community in this area in the last ten years.

Thank you for your consideration
Julie Pinkham - 1125 the SPA on Port Royal Sound

As an owner at The Spa on Port Royal Sound on Beach City Road, we would oppose any effort to rezone 217 Beach City Road on the grounds that it will change the character of the neighborhood and overly burden the existing infrastructure.

Respectfully,

Barbera & John Schmedes

As owners of one of the units at The Spa on Port Royal Sound on Beach City Road, we would oppose any effort to rezone 217 Beach City Road on the grounds that it will change the character of the neighborhood and overly burden the existing infrastructure. The beauty of the Spa rests upon its natural beauty and peacefulness. This re-zoning would impact that aura and downgrade the quality of life at the Spa.

Respectfully,
Majid and Suzanne Samarghandi

As owners at The Spa on Port Royal Sound on Beach City Road, we would oppose any effort to rezone 217 Beach City Road on the grounds that it will change the character of the neighborhood and overly burden the existing infrastructure.

Respectfully,
Eric L. Penningroth - Owner 239 Beach City Rd, unit 2321

The proposed rezoning on Beach City Road is not compatible with the historic nature of the area, especially considering the proposals for Fish Haul as a historic representation of Mitchellville.

Respectfully,
Jim and Carlyne Sakonchick
239 Beach City Road Unit 2108
Hilton Head, SC 29926

Why would the rezoning commission vote in favor of this?

The FAA, SC Aeronautics Commission, Beaufort County government and the town of Hilton Head Island staff all opposed the approval of the rezoning request and several area local residents spoke out against this rezoning at the meeting and Baygall is against it.

Despite all of this opposition, the rezoning commission, after an Executive Session to discuss this among themselves, voted to approve the increased density request.

The only people in favor of this were the individuals who stand to make a financial gain on the sale of the property after rezoning. Several of the individuals do not even live on the island.

And what kind of property will go here? Apparently apartments will go here and its location under the landing approach will be subject to extremely high noise levels, especially since the rezoning will allow about three stories to be built. Certainly at least, a noise study needs to be done at the third story level.

The potential lives at risk building high density apartments under the airport approach is high, especially considering landings and take offs are the most dangerous times of flight. How will this decision look if disaster does indeed strike?

The Planning Review Board has unanimously voted against this and hopefully Town Council will take a hard look at the commission's ill-advised decision and overturn it also.

Gary Runge

As an owner at The Spa on Port Royal Sound on Beach City Road, I oppose any effort to rezone 217 Beach City Road on the grounds that it will change the character of the neighborhood, overly burden the existing infrastructure and further decline our property values. The recession of 2008 and the diminishing of our beach front have already caused property owner values here to decline but we have seen no reduction by you in our property taxes.

You should further research federal guidelines on R12 zoning and you will also learn that it allows for mobile homes.

R12 zoning invites revolving door tenants that typically lack values as associated to neighborhoods, care of property, etc. Also you may wish to research other communities that have allowed R12 zoning and you will learn that crime rates typically increase by double digits.

Instead of changing zoning to bail out someone's bad investment, we would suggest that you use your resources and energy to get our beach front refurbished and help our existing property values as Hilton Head Island tax payers.

I would be happy to discuss this individually or as a group with each of you.

Respectfully,
Barney L. Johnson, Jr.

As an owner at The Spa on Port Royal Sound on Beach City Road, I would oppose any effort to rezone 217 Beach City Road on the grounds that it will change the character of the neighborhood and overly burden the existing infrastructure. Being an owner here has been such a pleasant experience partly due to the area being what it is, low key. I would hate to see the quiet community I have come to love changed by over populating the area. I also am concerned with the type changes introduced that the area would be at risk for a higher crime rate. And further more how would this type of housing in this area effect the historical value which is currently being developed? If the area was developed as originally planned it would have added to my investment and been appreciated. The proposed changes at this time will only devalue my property and certainly will prompt me to consider finding another option for my secondary home. This rezoning proposal seems to serve an individual developer without consideration of existing home owners in the area. I am perplexed that the city council is not considering all concerned.

Respectfully,
Janice Meadows Johnson

I am an owner of a Condo at the Spa on Beach City Rd. I would have no problem with the property being rezoned as long as there is a restriction on the type of housing that is being built. If it was single family homes or town homes being built it would be fine it might actually bring up the value of our Rd. and Condo. If they are planning on creating section 8 housing then I

would have a serious issue with it. I hear that some people are against it because the Airport might need to expand with more runways, the last thing we need is more planes taking off and landing near our Condo. The noise level is high enough and we do not need any more traffic of that type. I hope you look at not the property type but how it's being developed to benefit all involved.

Lee Staelens

Please be advised that, as a home owner at the SPA on Port Royal Sound on Beach City Road, We are opposing any effort to rezone 217 Beach City Road on the ground that it will change the character of our serene neighborhood and overly burden to the existing infrastructures. Will also create hardship to and for a lot of the residents.

Thanking you and hope that your votes will be in opposition of this change as you have been elected and put in charge to protect the need and welfare of the residents.

Respectfully yours,
David Harounian

As an owner at the Spa on Port Royal Sound on Beach City road, I oppose any effort to rezone 217 Beach City Road on the grounds that it will change the character of the neighborhood and overly burden the existing infrastructure.

With the impact on the environment and the neighborhood already impacted by the expansion of the airport, I highly question the wisdom and reasoning for another drastic change so quickly and hastily at this end of the island.

Respectfully,
Semina De Laurentis -- Unit 1305

I am a full time resident and owner in The Spa on Port Royal Sound. I wish to register my opposition to the rezoning of 217 Beach City Road on the grounds it will certainly change the character of the neighborhood and overly burden the existing infrastructure.

Respectfully
Dale H. Rush, Sr.
239 Beach City Road Villa 1104

As an owner at the Spa on Beach City RD, I wish to express my opposition to the rezoning of 217 Beach City Rd. The increase in population would cause the entire ambience of the neighborhood. We have to think of the traffic problem, and other infrastructure that would be overburdened. Can't Developers leave one tiny part of the Island to exist in a rural typesetting without jamming people in one of the few existing charming quiet areas of the Island.

Barbara Reilly

As an owner at The Spa on Port Royal Sound on Beach City Road, I oppose any effort to rezone 217 Beach City Road to R12 because of the changes it would bring to the area's character, charm and quietness as well as adding stresses to the existing infrastructure. My purchase of a Villa at the Spa was largely based on the low density of population and natural landscape in the area with limited traffic and low commercial development. I understand that limited development will proceed, but oppose allowing greater density.

Donna S. Thompson

As owners at The Spa on Port Royal Sound on Beach City Road, we would oppose any effort to rezone 217 Beach City Road from R4 to R12 on the grounds that it will change the character of the neighborhood and overly tax the existing infrastructure.

We believe the Town has a great plan for the area and we want to see improvements continue without materially affecting the community we love.

Respectfully,
Thomas C. Jostworth
239 Beach City Rd. - Unit 1227

As owners at The Spa on Port Royal Sound on Beach City Road, we are OPPOSED to efforts to rezone 217 Beach City Road on the grounds that it would change the character of the neighborhood and overly burden the existing infrastructure.

Respectfully,
Tommy Brendel and Audrey Brendel

As owners at The Spa on Port Royal Sound on Beach City Road, we would oppose any effort to rezone 217 Beach City Road on the grounds that it will change the character of the neighborhood and overly burden the existing infrastructure.

Respectfully,
Tommy Brendel

As the owners of unit 1312 at the Spa on Port Royal Sound for over 25 years I am against the rezoning of the property at 217 Beach City Road. The original zoning is proper for the area and conducive to the proper development of the neighborhood. The developing of Fish Haul Park will have historical significance without changing the character of our street. Twelve homes per acre will have a negative impact. We would appreciate your consideration.

Respectfully,
Phil DiRuocco & Frank Bulla - Unit 1312

Mrs. Lopko, as owners at the Spa on beach city rd. my wife and I would to express our being opposed to any change in the zoning at 217 beach city road. 12 houses on 1 acre would be too many and that would change the character of the neighborhood and overly burden the existing infrastructure. Please share my concerns with town council at next meeting. Thank you.
