



**Town of Hilton Head Island  
Board of Zoning Appeals  
Regular Meeting  
Monday, April 27, 2015 2:30 p.m.  
Benjamin M. Racusin Council Chambers  
AGENDA**

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1. **Call to Order**
2. **Pledge of Allegiance to the Flag**
3. **Roll Call**
4. **Freedom of Information Act Compliance**  
Public notification of the Board of Zoning Appeals meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the requirements of the Town of Hilton Head Island Land Management Ordinance.
5. **Welcome and Introduction to Board Procedures**
6. **Approval of Agenda**
7. **Approval of the Minutes – March 23, 2015 Meeting**
8. **Unfinished Business**  
None
9. **New Business**  
**Appeal 679-2015:**  
Request for Appeal from Jacquelyn Sankowski. The appellant is appealing the Town's determination (made on March 10, 2015) that a proposed interactive digital display is considered to be a sign.  
*Presented by: Teri Lewis*
10. **Board Business**
  - a) Adoption of the revised Rules of Procedure
11. **Staff Reports**
  - a) Waiver Report
12. **Adjournment**

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

**TOWN OF HILTON HEAD ISLAND**  
**Board of Zoning Appeals**  
**Minutes of Monday, March 23, 2015 2:30pm Meeting**  
**Benjamin M. Racusin Council Chambers**

**DRAFT**

Board Members Present: Chairman Glenn Stanford, Irv Campbell, David Fingerhut, Michael Lawrence, and Steve Wilson

Board Members Absent: Vice Chairman P. Jeffrey North

Council Members Present: None

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator  
Teri Lewis, LMO Official  
Brian Hulbert, Staff Attorney  
Kathleen Carlin, Secretary

**1. Call to Order**

Chairman Stanford called the meeting to order at 2:30p.m.

**2. Pledge of Allegiance to the Flag**

**3. Roll Call**

**4. Freedom of Information Act Compliance**

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

**5. Welcome and Introduction to Board Procedures**

Chairman Stanford welcomed the public and introduced the Board's procedures for conducting the business meeting.

**6. Approval of Agenda**

Mr. Fingerhut made a **motion** to **approve** the agenda as presented. Mr. Wilson **seconded** the motion and the motion **passed** with a vote of 5-0-0.

**7. Approval of the Minutes**

Mr. Fingerhut made a **motion** to **approve** the minutes of the January 26, 2015 meeting as submitted. Mr. Wilson **seconded** the motion and the motion **passed** with a vote of 5-0-0.

**8. Unfinished Business**

None

**9. New Business**

**Public Hearing**

**VAR-000272-2015:**

Cynthia and Cornelius Cornelssen are requesting a variance from Land Management Ordinance Section 16-6-102.D, Wetland Buffer Standards, in order to construct a pool within the 20 foot tidal wetland buffer. The property is located at 294 Seabrook Drive and is further identified as parcel 426 on Beaufort County Tax Map 4B. Chairman Stanford introduces the application and requested that the staff make their presentation.

Ms. Nicole Dixon made the presentation on behalf of staff. The staff recommended that the Board of Zoning Appeals approve this application with the condition that the remaining areas of the wetland buffer that do not contain existing vegetation be planted with wetland buffer materials, based on the Findings of Fact and Conclusions of Law contained in the staff report.

Ms. Dixon presented an in-depth overhead review of the application including a review of the Vicinity Map, Location Map, As-Built survey, proposed Site Plan and photos of existing conditions.

The subject parcel is located at 294 Seabrook Drive in Hilton Head Plantation. The applicants purchased the home in 2013 and are proposing to construct a raised pool within the footprint of their existing wooden deck and spa. The property is surrounded by the tidal marsh in the rear, a single family residence on one side, and the Country Club of Hilton Head Golf Course on the other side and across Seabrook Drive. The existing house and deck, built in 1991, are considered non-conforming structures as portions of them are located within the 20-ft. tidal wetland buffer.

The applicant states in the narrative that the proposed pool will allow them to spend more time outdoors enjoying the views of the marsh and golf course. The applicant states that due to the situation of the house on the property, the proposed pool location on the existing deck is the only available option for them without disrupting the structure of the house or impacting existing vegetation in any way.

Ms. Dixon reviewed the Findings of Facts and Conclusions of Law. Based on the Findings of Facts and Conclusions of Law, the LMO Official determines that the request for a variance should be granted to the applicant with the condition that the remaining areas of the wetland buffer that do not contain existing vegetation be planted with wetland buffer materials. The Hilton Head Plantation Property Owners Association has approved the application as submitted. The adjacent Hilton Head Plantation Golf Course has approved access to their property during this construction. Following the staff's presentation, Chairman Stanford invited the applicant to make his presentation.

The applicant, Mr. Neal Cornelssen, presented statements in support of the request for variance application. Chairman Stanford requested public comments on the application and none were received. The Board discussed the application including the size of the lot, the size of the pool, the type of encroachment and the location of wetlands. Following final comments by the Board, Chairman Stanford requested that a motion be made.

Mr. Fingerhut made a **motion** to **approve** Application for Variance VAR-000272-2015 as submitted by staff including the condition that the remaining areas of the wetland buffer that do not contain existing vegetation be planted with wetland buffer materials. Mr. Campbell **seconded** the motion and the motion **passed** with a vote of 5-0-0.

## 10. Board Business

### a) Adoption of the BZA – 2015 Meeting Schedule

Chairman Stanford requested that a motion be made to approve the 2015 Meeting Schedule. Mr. Fingerhut made a **motion** to **approve** the 2015 Meeting Schedule as presented. Mr. Wilson **seconded** the motion and the motion **passed** with a vote of 5-0-0.

### b) Revisions to Rules of Procedure

At the January 26, 2015 BZA meeting the Board asked Brian Hulbert, Staff Attorney, to provide a recommendation to the Board on two issues concerning the Rules of Procedure. The two issues, raised by Chester C. Williams, Esq., during a discussion of the Rules of Procedure, are as follows. The staff memo included in the March 23<sup>rd</sup> meeting packet included the following information and recommendation from Mr. Hulbert:

#### 1. Motion for Reconsideration.

Article XI, Motions, Section 1, Motion for Reconsideration, paragraph 7, provides that the time for appeal from any decision of the BZA to Circuit Court shall be stayed by the timely filing of a Petition for Reconsideration and shall run from the receipt of the written Notice of Action Denying the Petition, or written Notice of Action delivered after the BZA has reconsidered the matter, as the case may be. Mr. Williams expressed an opinion that he did not believe the BZA had the authority to stay the statutory requirement that an appeal be filed with the Circuit Court within 30 days of the final decision.

South Carolina Code of Laws Section 6-29-820 requires that any appeal be filed within 30 days after the decision of the Board is mailed. LMO Section 16-2-102 H.1 requires that the Official provide the Applicant a written copy of the decision within 5 days after the Board issues a final decision. In my opinion, neither the Town nor the BZA has the authority to stay the statutory 30 day filing period for an appeal from the BZA. Because this is imposed in the state law, it cannot be modified unless authorized by statute or by a Court of law.

#### **Therefore my recommendation is that paragraph 7 should be deleted in its entirety.**

The BZA should continue to issue a final decision in a timely manner on any application it considers per the LMO and the Official should ensure that an Applicant is provided a written copy of the final decision, by mail, within 5 days after the BZA issues a final decision. The 30 day time clock begins upon the mailing of the final decision. If an Applicant elects to file a motion for reconsideration, the time period would continue to run during the consideration of the motion. A new time period would begin if the Motion were granted, as by rule the matter would be considered as if no previous vote had been taken. Once the BZA reached a final decision on the matter heard pursuant to the granting of the Motion for Reconsideration, then a new 30 day clock would begin upon mailing of the final decision. The Applicant or Town would be able to appeal this new final decision.

Prior to today's meeting Chairman Stanford stated his concern to Mr. Hulbert that the removal of Paragraph 7 in its entirety may inadvertently cause a trap for the unwary. Mr. Hulbert stated that there is no legal requirement under state law for the Board to accept a

Motion for Reconsideration. The Board and Mr. Hulbert discussed the Motion for Reconsideration and the Notice for Appeal requirements. Following this discussion, Chairman Stanford invited Chester C. Williams, Esq., to present statements to the Board.

Mr. Williams stated his concern with what happens to an applicant whose application has been denied by the Board because it leaves the only recourse of appealing before the Circuit Court. The timing of the mailing of the notice of the decision is a real concern because it starts the 30 day clock running. Mr. Williams stated that state law keys in on the mailing of the notice.

Chairman Stanford and Mr. Hulbert discussed the issue of providing a copy of the order versus mailing a copy of the order commencing that period of time. Mr. Hulbert stated that the Code requires that a mailing of the decision by the BZA is required within five days of the Board's final decision (this starts the running of the clock).

Mr. Hulbert stated that when the BZA makes a decision on an application it is a final decision and the Code requires that the Town mails that decision or delivers that decision within five days. The Town cannot hold up the delivery of the BZA's decision. Chairman Stanford and Mr. Hulbert discussed the requirements of a Motion for Reconsideration. Mr. Hulbert stated that he is not comfortable delaying BZA decisions. Final decisions should be delivered in a timely manner rather than trying to anticipate an unforeseen situation down the road by an applicant.

Chairman Stanford stated that because it is a matter of existing procedure for the Town, he is inclined to leave the language as is with regard to when the Town would mail the final order. The Board cannot order the Town to wait until after the five days have occurred to mail the Board's final decision.

Chairman Stanford stated that the Board agrees that Paragraph 7 should be deleted and requested that a motion be made. Mr. Hulbert stated that the Board would need to make a motion and vote on this issue at the next meeting. This is the only change that was recommended by the BZA with regard to the Rules of Procedure.

## 2. **Motion for Postponement.**

Mr. Williams expressed concern that there was a conflict between the LMO and the BZA Rules of Procedure as to how a hearing may be postponed. Specifically, Mr. Williams states that Section 16-2-102.e 3 seems to require that the body of the BZA has to vote to postpone a hearing, whereas Rule of Procedure XI Section 3 allows for the Chairman or Vice Chairman, in the absence of the Chairman, to postpone a hearing for good cause one time for up to 3 months from the original hearing date.

**In Mr. Hulbert's opinion, the Rules of Procedure and LMO are not in conflict with each other on postponement.** Nowhere in the LMO Section cited by Mr. Williams does it require the body to vote to allow a postponement. The LMO specifically states "The body may grant the request and concurrently set a new hearing date for the application for good cause shown." In my opinion, this does not preclude the BZA body from delegating this authority to the Chairman or Vice Chairman to act on behalf of the body. Mr. Williams makes an interpretation that the LMO requires only the full body of the BZA can postpone a hearing. I do not concur that this is a correct reading of the LMO.

I believe that the BZA may elect to require the request for postponement be decided by the full body of the BZA at a public meeting, or that the BZA may delegate this authority to the Chairman or Vice Chairman in the interest of expediency and in order to not require the matter come to a public meeting just to determine if the matter should be postponed or that it be required to occur at the originally scheduled date. Therefore, I do not believe any change to this Rule of Procedure is required; however, if the BZA desires, it could amend the Rule to require that a Motion for Postponement or request to defer a hearing be acted upon by the full BZA at a public meeting or hearing.

Following the Board's discussion on the Motion for Postponement, the Board agreed to leave the language as is.

**11. Staff Reports**

a) Ms. Dixon presented the staff's Waiver Report to the Board.

**12. Adjournment**

The meeting was adjourned at 3:50p.m.

Submitted By:

Approved By:

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

\_\_\_\_\_  
Glenn Stanford  
Chairman



# TOWN OF HILTON HEAD ISLAND

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## *Community Development Department*

**TO:** Board of Zoning Appeals  
**VIA:** Nicole Dixon, *Senior Planner and Board Coordinator*  
**FROM:** Teri Lewis, *LMO Official*  
**DATE:** April 7, 2015  
**SUBJECT:** APPEAL 679-2015

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Staff has received an appeal from Jacquelyn Sankowski on behalf of Vacation Homes of Hilton Head. Ms. Sankowski is appealing the March 10, 2015 interpretation stating that her proposed interactive digital display is considered to be a sign. As a sign, the proposed interactive digital display would not only be too large to meet the window sign size requirements, it would also be considered a prohibited sign because it will have animated or moving effects. The appellant is asking that the Board of Zoning Appeals (BZA) reverse the decision of the Land Management Ordinance (LMO) Official and allow the installation of the proposed interactive digital display.

### **Findings of Fact**

1. Application was submitted on March 26, 2015 as set forth in LMO Section 16-2-102.C and Appendix D-23.
2. Notice of the Application was published in the Island Packet on April 5, 2015 as set forth in LMO Section 16-2-102.E.2.
3. Notice of Application was mailed on April 2, 2015 as set forth in LMO Section 16-2-102.E.2.
4. The Board has authority to render the decision reached here under LMO Section 16-2-102.G.
5. Teri Lewis is the LMO Official for the Town of Hilton Head Island.
6. As the LMO Official for the Town of Hilton Head Island, Teri Lewis has the authority to make administrative decisions and written interpretations related to the Land Management Ordinance.
7. The proposed interactive digital display meets the definition of a sign.
8. The size of the proposed interactive digital display is 25" x 42".
9. The images on the proposed interactive digital display will move.

### **Conclusions of Law**

1. The application was submitted 32 days prior to the meeting, therefore meeting the 30 day deadline required in the LMO.
2. Notice of application was published 22 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
3. Notice of application was mailed 25 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
4. The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

5. Appendix A: A-1 states that, “The Official is the LMO Official who is designated by the Town Manager as the person who administers and enforces this Ordinance.” Furthermore, a review of LMO Section 16-10-105, General Definitions, defines Official as, “The Town employee to whom the Town Manager has delegated the responsibility of administering and enforcing this Ordinance. See Appendix A-1, Official. The Official is the person referred to as zoning administrator in the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 (S.C. Code Ann. 6-29-310 et. seq.)” In addition to the fact that there is a Class Specification for ‘LMO Official’ and that this title is reflected on Teri Lewis’ official documents with the Town, a search of Town Staff on the Town’s website lists the title associated with Teri Lewis as LMO Official. Therefore, it is concluded that Teri Lewis is the LMO Official for the Town of Hilton Head Island.
6. Additionally, Appendix A: A-1.A.3 states that one of the powers and duties of the LMO Official is to make written interpretations of the LMO. It is therefore concluded that Teri Lewis has the authority to make the written interpretations that are the subject of this appeal.
7. LMO Section 16-10-105, General Definitions, defines a Sign as, “Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, structures, costumes, designs, trade names, or trademarks by which anything is made known (all or any of which are sometimes referred to as “copy”), and that are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or products, and that are visible from any public street or adjacent property and used to attract attention. A sign includes the sign structure and the sign face on which any copy is displayed.” The proposed interactive digital display will advertise products of Hilton Head Vacation Homes and will be used to attract attention, therefore it is concluded that the proposed interactive digital display meets the definition of a sign.
8. LMO Section 16-5-114.E.1.b.ii.16.C limits an individual window sign to four square feet in totality. The size of the proposed interactive digital display will be greater than six square in totality therefore it is concluded that the proposed interactive digital display will not meet the size requirements for window signs.
9. LMO Section 16-5-114.I.2 states that, “Signs with animated or moving effects (including but not limited to sign faces that periodically change to show different images or messages), and signs carried, waved, or otherwise displayed by persons either on public ways or in a manner visible from public ways, are prohibited. This provision is directed toward such displays intended to draw attention for a commercial purpose, and is not intended to limit the display of placards, banners, flags, or other signage by persons participating in demonstrations, political rallies, and similar events.” The sign will have sign faces that will periodically change so therefore it is concluded that the proposed interactive digital display is a prohibited sign.



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## TOWN OF HILTON HEAD ISLAND

### *Community Development Department*

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**TO:** Board of Zoning Appeals  
**VIA:** Nicole Dixon, *Senior Planner and Board Coordinator*  
**FROM:** Teri Lewis, *LMO Official*  
**DATE:** March 31, 2015  
**SUBJECT:** Appeal 679-2015

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Staff has received an appeal from Jacquelyn Sankowski regarding the March 10, 2015 determination stating that an interactive digital display is considered to be a sign. As a sign, the proposed interactive digital display would not only be too large to meet the window sign size requirements, it would also be considered a prohibited sign because it will have animated or moving effects. The appellant is appealing the Town's decision and is asking that the Board reverse the decision of the Land Management Ordinance (LMO) Official and allow her to install the proposed interactive digital display.

Per the Code of Laws of South Carolina, specifically 6-29-800.B, upon receipt of an appeal staff is required to immediately transmit to the board all the papers constituting the record upon which the action appealed from was taken. The record as attached consists of the following documents: Appeal Application, Appellants Narrative, Determination from Teri B. Lewis (Exhibit 1), Specifications of the interactive digital display unit (Exhibit A), Photo comparison of proposed unit and paper listings (Exhibit B), Photo of proposed unit in daylight and night (Exhibit C), Additional Photos (Exhibit D), Correspondence between Town staff and the appellant, copy of LMO Section 16-10-105, General Definitions – Sign, copy of LMO Section 16-5-114.E.1.b.ii.16 – Window Signs and copy of LMO Section 16-5-114.I.2 – Prohibited Signs. Please note that all photographs were submitted by the appellant

Staff reserves the right to submit additional documents.

If you have any questions, please contact Teri Lewis at 843-341-4698 or [teril@hiltonheadislandsc.gov](mailto:teril@hiltonheadislandsc.gov).



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](http://www.hiltonheadislandsc.gov)

FOR OFFICIAL USE ONLY	
Date Received:	3.26.15
Accepted by:	SMITH W
App. #: APL	079-2015
Meeting Date:	

Applicant/Agent Name: Jacquelyn Sankowski Company: Vacation Homes of Hilton Head  
 Mailing Address: PO Box 6706 City: HHI State: SC Zip: 29938  
 Telephone: 843 715 2208 Fax: 888 285 2174 E-mail: jacquelyn@vacationhomeohh.com

**APPEAL (APL) SUBMITTAL REQUIREMENTS**

**If you are interested in submitting your appeal electronically please call 843-341-4757 for more information.**  
 The following items must be attached in order for this application to be complete:

- A detailed narrative stating the Town Official or Body who made the decision, the date of the decision being appealed, the decision being appealed, the basis for the right to appeal, the grounds of the appeal, cite any LMO Section numbers relied upon; **and** a statement of the specific decision requested of the review body.
- Any other documentation used to support the facts surrounding the decision.
- Filing Fee - \$100.00 cash or check made payable to the Town of Hilton Head Island.

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.

Applicant/Agent Signature: J Sankowski Date: 3/12/14



March 19, 2015

To Whom It May Concern:

Below is the information requested for the appeal submittal to the Town of Hilton Head Island.

- Town Official, Body, Date, and Decision Being Appealed:

- o Terry Lewis, LMO Official (Exhibit 1)
- o March 10, 2015
- o Decision Being Appealed: Image Surge Interactive Storefront at our office located at 28 Shelter Cove Lane, Unit 112A.
- o Basis for the right to appeal and grounds for appeal:

We would like to install the Image Surge Interactive Storefront (Exhibit A) to help promote a more streamlined storefront compared to other real estate companies' methods of displaying properties. The traditional way of displaying company real estate listings is through individual papers scattered in the front window for people who walk by.

(Exhibit B) shows a side by side image of the proposed screen and traditional paper listings. We feel that the new Shelter Cove Towne Centre represents the future look of Hilton Head Island, which will promote much needed community growth. By using the traditional way of advertising we do not feel that it does the center justice, but we as business owners do have the need to advertise to potential clients. After speaking with Dunes Properties, 214 King Street, in downtown Charleston, SC (who has a very strict historical society) who received approval for their Image Surge storefront the feedback to the screen has been all positive. It helps generate interest to the local real estate market without the intimidation of walking into a real estate office. This screen allows the client to view all real estate listings in the local MLS through the glass window.

The size of the screen would be 24"x 42". As you can see from Exhibit C the Storefront adjusts with daylight to avoid excessive brightness. The reason it has been approved in other cities are as follows: the screen has the ability to adjust the speed of motion, adjust the brightness, and adjust the times of day it is in sleep mode.

We do understand that this is larger than what is allowed per the LMO, but we feel that the pros outweigh the cons. We have also noticed that several other businesses on the island have been allowed animated and illuminated screens, see Exhibit D. Picture one displays an interactive DVD screen at Wyndham Vacation Rental Company just off Pope Avenue. Picture two shows an illuminated screen that rotates movie times and availability. Picture three also shows TVs mounted at the entry of the same movie theatre less than three feet away from the glass.

We hope you will consider our proposal to install this unique and advanced technology in the heart of Hilton Head Island's newest shopping center. We know that it will bring growth and great interest to the area.

Sincerely,

Jacquelyn Sankowski, Co-Owner

(843) 384-2943

Exhibit 1:

# TOWN OF HILTON HEAD ISLAND

One Town Center Court, Hilton Head Island, SC 29928

(843) 341-4600 Fax (843) 842-7228

<http://www.hiltonheadislandsc.gov>

March 10, 2015

Jacquelyn Sankowski  
Vacation Homes of Hilton Head  
Sent to [jacquelyn@vacationhomeshh.com](mailto:jacquelyn@vacationhomeshh.com)

Dear Ms. Sankowski:

This letter serves as a formal determination that the interactive digital display that you would like to place in the window at Vacation Homes of Hilton Head is considered to be a sign. A sign is defined in the Town's Land Management Ordinance (LMO) as, "Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, structures, costumes, designs, trade names, or trademarks by which anything is made known (all or any of which are sometimes referred to as "copy"), and that are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or products, and that are visible from any public street or adjacent property and used to attract attention. A sign includes the sign structure and the sign face on which any copy is displayed." Since the display meets the definition of a sign, it must comply with the sign regulations in Chapter 5 of the LMO. Based on the information that you provided to Anne Cyran the interactive digital display would be considered a prohibited sign because it will have animated or moving effects (LMO Section 16-5-114.I.2 – copy attached).

Should you wish to appeal this determination to the Board of Zoning Appeals (BZA), please file an appeal application (copy attached) within 14 calendar days of receipt of this determination.

Sincerely,



Teri B. Lewis  
LMO Official

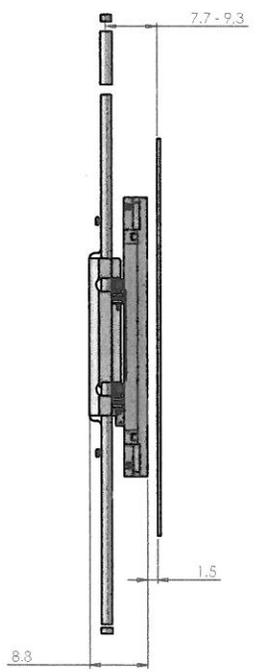
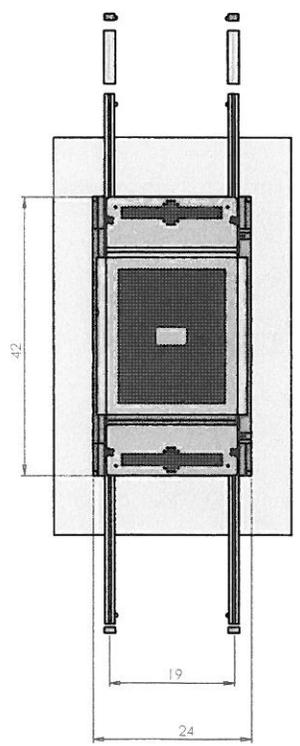
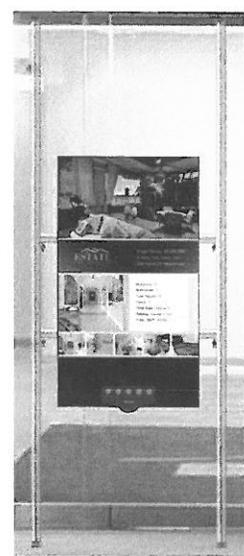
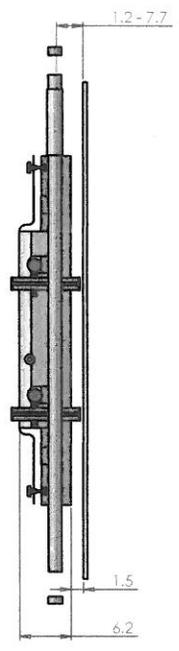
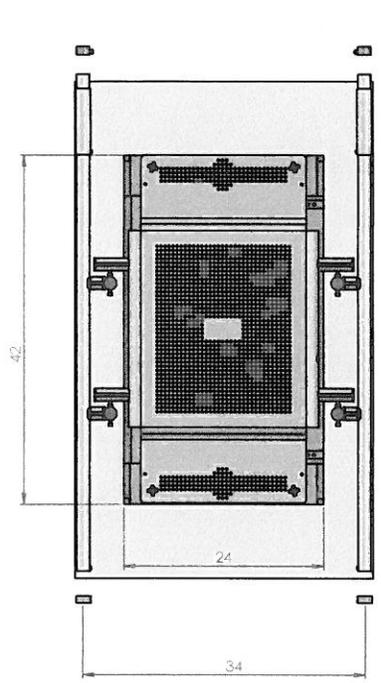
Exhibit A. Unit specs and installation. **IMAGESURGE INTERACTIVE STOREFRONT SPECIFICATIONS AND REQUIREMENTS**

**DISPLAY SPECS**

Dimensions: 47" diag (24"w x 42"h x 3.5"d)  
 Brightness: 3000 nits (Sunlight Readable)  
 Blackening Free: up to 230°F (110°C)

**INSTALLATION REQUIREMENTS**

Window Size: min 24"w x 42"h  
 Window Position: min 40" from ground (outside) to frame bottom  
 Internet Connectivity: Wired (strongly preferred), WiFi



3 Exhibit Unit we are proposing (left) compared to clutter of paper listings.



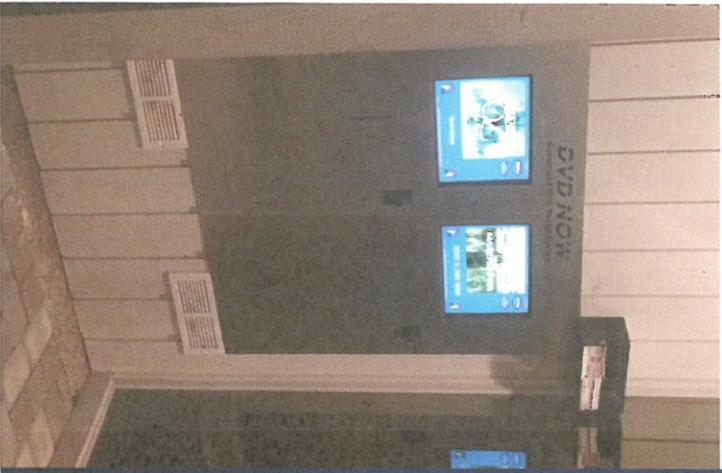
Exhibit C



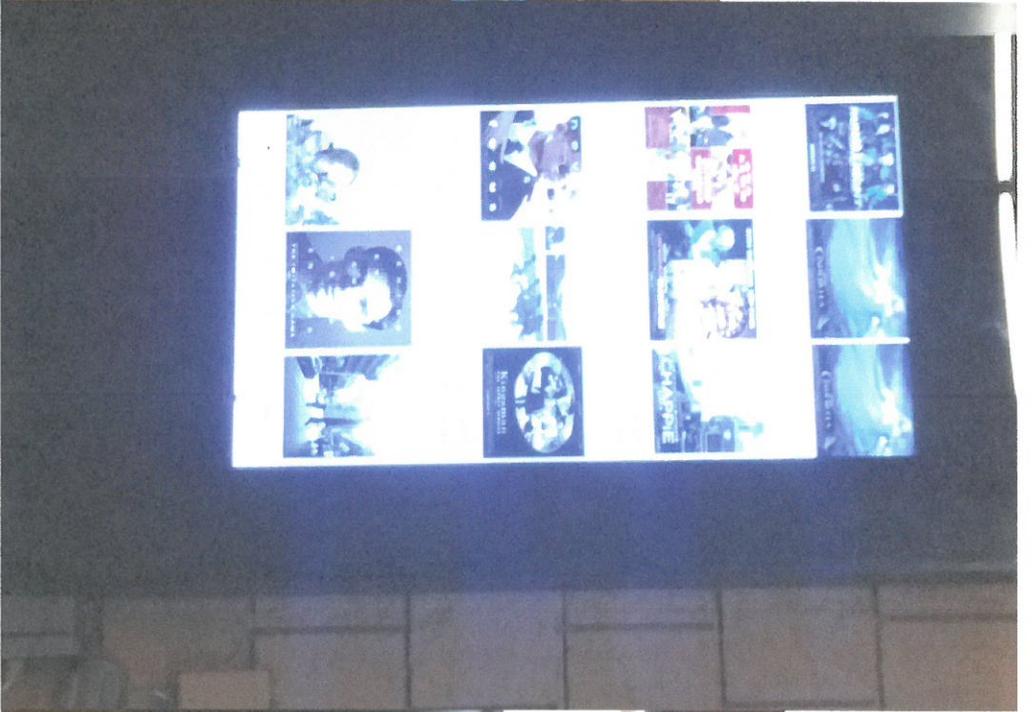
Unit in daylight + night.



# Exhibit D



Wyndham  
Vacation Rentals



Cinema



Cinema Screen 1

## Lewis Teri

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**From:** Cyran Anne  
**Sent:** Tuesday, March 31, 2015 10:04 AM  
**To:** Lewis Teri  
**Subject:** FW: Vacation Homes of Hilton Head- Interactive Screen

Anne Cyran, AICP  
Senior Planner  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4697  
[annec@hiltonheadislandsc.gov](mailto:annec@hiltonheadislandsc.gov)

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**From:** [REDACTED]  
**Sent:** Friday, February 20, 2015 10:32 AM  
**To:** Cyran Anne  
**Subject:** Vacation Homes of Hilton Head- Interactive Screen

Anne,

Thank you for taking the time to speak with me yesterday. Attached you will find images and specs of the interactive screen we are looking to install at Shelter Cove Towne Center, our office is Unit 112A. You will see one of the image shows the screen alongside paper listings in the window and the difference it makes by eliminating the property listings.

We would not be posting paper listings in our window if we are able to secure this storefront at our business. I appreciate you time in looking into this matter and look forward to hearing from you soon.

Sincerely,

Jacquelyn Sankowski, President  
[REDACTED]  
Vacation Homes of Hilton Head  
Local: (843) 715-2208  
Toll-Free: (888) 444-5573  
[www.VacationHomesofHiltonHead.com](http://www.VacationHomesofHiltonHead.com)

## Lewis Teri

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**From:** Cyran Anne  
**Sent:** Tuesday, March 31, 2015 10:04 AM  
**To:** Lewis Teri  
**Subject:** FW: Vacation Homes of Hilton Head- Interactive Screen

Anne Cyran, AICP  
Senior Planner  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4697  
[annec@hiltonheadislandsc.gov](mailto:annec@hiltonheadislandsc.gov)

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**From:** Cyran Anne  
**Sent:** Tuesday, February 24, 2015 5:05 PM  
**To:** [REDACTED]  
**Subject:** RE: Vacation Homes of Hilton Head- Interactive Screen

Good afternoon Jacquelyn,

Teri Lewis, the Land Management Ordinance (LMO) Official, and I reviewed the materials you sent. The panels you proposed would be considered signs and therefore would be regulated by LMO Section 16-5-114, Sign Standards. LMO Section 16-5-114.I.2 and .11, Prohibited Signs (page 5-80), prohibit signs with animated or moving effects and signs that are internally illuminated. Since the panels would have animated effects and would be internally illuminated, they would be prohibited by the Town's LMO.

The LMO is available on the Town's website: <http://www.hiltonheadislandsc.gov/misc/lmo.cfm>

Please contact me if you have any questions.

Sincerely,

Anne Cyran, AICP  
Senior Planner  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4697

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**From:** [REDACTED]  
**Sent:** Friday, February 20, 2015 10:32 AM  
**To:** Cyran Anne  
**Subject:** Vacation Homes of Hilton Head- Interactive Screen

Anne,

Thank you for taking the time to speak with me yesterday. Attached you will find images and specs of the interactive screen we are looking to install at Shelter Cove Towne Center, our office is Unit 112A. You will see one of the image shows the screen alongside paper listings in the window and the difference it makes by eliminating the property listings.

We would not be posting paper listings in our window if we are able to secure this storefront at our business. I appreciate you time in looking into this matter and look forward to hearing from you soon.

Sincerely,

Jacquelyn Sankowski, President

[REDACTED]

Vacation Homes of Hilton Head

Local: (843) 715-2208

Toll-Free: (888) 444-5573

[www.VacationHomesofHiltonHead.com](http://www.VacationHomesofHiltonHead.com)

## Lewis Teri

---

**From:** Cyran Anne  
**Sent:** Tuesday, March 31, 2015 10:05 AM  
**To:** Lewis Teri  
**Subject:** FW: Interactive Digital Display

Anne Cyran, AICP  
Senior Planner  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4697  
[annec@hiltonheadislandsc.gov](mailto:annec@hiltonheadislandsc.gov)

---

**From:** [REDACTED]  
**Sent:** Monday, March 02, 2015 4:31 PM  
**To:** Cyran Anne  
**Subject:** Interactive Digital Display

Hello,

I got your response about not permitting the use of the digital display we are interested in purchase. Is there an appeal process we can go through?

Sincerely,

Jacquelyn Sankowski, President  
Cell: [REDACTED]  
Vacation Homes of Hilton Head  
Local: (843) 715-2208  
Toll-Free: (888) 444-5573  
[www.VacationHomesofHiltonHead.com](http://www.VacationHomesofHiltonHead.com)

## Lewis Teri

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**From:** Cyran Anne  
**Sent:** Tuesday, March 31, 2015 10:05 AM  
**To:** Lewis Teri  
**Subject:** FW: Appeal Process

Anne Cyran, AICP  
Senior Planner  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4697  
[annec@hiltonheadislandsc.gov](mailto:annec@hiltonheadislandsc.gov)

**From:** [REDACTED]  
**Sent:** Tuesday, March 10, 2015 11:17 AM  
**To:** Cyran Anne  
**Subject:** Appeal Process

I was wondering if you had any luck gathering the materials for me needed for the appeal process?

Sincerely,

Jacquelyn Sankowski, President  
Cell: [REDACTED]  
Vacation Homes of Hilton Head  
Local: (843) 715-2208  
Toll-Free: (888) 444-5573  
[www.VacationHomesofHiltonHead.com](http://www.VacationHomesofHiltonHead.com)

## Lewis Teri

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**From:** Cyran Anne  
**Sent:** Tuesday, March 31, 2015 10:05 AM  
**To:** Lewis Teri  
**Subject:** FW: Appeal Process

Anne Cyran, AICP  
Senior Planner  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4697  
[annec@hiltonheadislandsc.gov](mailto:annec@hiltonheadislandsc.gov)

---

**From:** Lewis Teri  
**Sent:** Tuesday, March 10, 2015 2:30 PM  
**To:** Cyran Anne  
**Subject:** RE: Appeal Process

Anne-  
Here is the determination and the two referenced attachments.

Thanks-  
Teri

---

**From:** Cyran Anne  
**Sent:** Tuesday, March 10, 2015 11:39 AM  
**To:** Lewis Teri  
**Subject:** FW: Appeal Process

Teri,

Can you give me an update on the status of the determination letter?

Thanks,

Anne Cyran, AICP  
Senior Planner  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4697  
[annec@hiltonheadislandsc.gov](mailto:annec@hiltonheadislandsc.gov)

---

**From:** [REDACTED]  
**Sent:** Tuesday, March 10, 2015 11:17 AM

**To:** Cyran Anne  
**Subject:** Appeal Process

I was wondering if you had any luck gathering the materials for me needed for the appeal process?

Sincerely,

Jacquelyn Sankowski, President  
Cell: (██████████)  
Vacation Homes of Hilton Head  
Local: (843) 715-2208  
Toll-Free: (888) 444-5573  
[www.VacationHomesofHiltonHead.com](http://www.VacationHomesofHiltonHead.com)

## Lewis Teri

---

**From:** Cyran Anne  
**Sent:** Tuesday, March 31, 2015 10:05 AM  
**To:** Lewis Teri  
**Subject:** FW: Appeal Process

Anne Cyran, AICP  
Senior Planner  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4697  
[annec@hiltonheadislandsc.gov](mailto:annec@hiltonheadislandsc.gov)

---

**From:** Cyran Anne  
**Sent:** Wednesday, March 11, 2015 10:14 AM  
**To:** [REDACTED]  
**Subject:** RE: Appeal Process

Good morning Jacquelyn,

The LMO Official's determination letter is attached. The following documents are also attached:

- LMO Section 16-5-114.I, Prohibited Signs. This section states that internally illuminated signs are prohibited.
- Appeal application form
- LMO Section 16-2-103.T, Appeal of Administrative Decision or Determination to the Board of Zoning Appeals. This section describes the process by which appeals are reviewed.

Per LMO Section 16-2-103.T.4.a, you have 14 calendar days from today to submit an application to appeal the LMO Official's determination in the attached letter.

Please contact me if you have any questions.

Sincerely,

Anne Cyran, AICP  
Senior Planner  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4697  
[annec@hiltonheadislandsc.gov](mailto:annec@hiltonheadislandsc.gov)

---

**From:** [REDACTED] [mailto:jqacquelyn@monticellohilton.com]  
**Sent:** Tuesday, March 10, 2015 11:17 AM

**To:** Cyran Anne  
**Subject:** Appeal Process

I was wondering if you had any luck gathering the materials for me needed for the appeal process?

Sincerely,

Jacquelyn Sankowski, President  
Cell: [REDACTED]  
Vacation Homes of Hilton Head  
Local: (843) 715-2208  
Toll-Free: (888) 444-5573  
[www.VacationHomesofHiltonHead.com](http://www.VacationHomesofHiltonHead.com)

## Lewis Teri

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**From:** Cyran Anne  
**Sent:** Tuesday, March 31, 2015 10:05 AM  
**To:** Lewis Teri  
**Subject:** FW: Appeal Process

Anne Cyran, AICP  
Senior Planner  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4697  
[annec@hiltonheadislandsc.gov](mailto:annec@hiltonheadislandsc.gov)

**From:** [REDACTED]  
**Sent:** Wednesday, March 18, 2015 3:50 PM  
**To:** Cyran Anne  
**Subject:** Re: Appeal Process

I have seen a lot of digital displays driving around the island. How did they get approved?

Example, DVD dispenser at Wyndam Vacations.

Redbox Dvd machines around the island.

Northridge Cinema ticket dispenser and video screens in window.

Sincerely,

Jacquelyn Sankowski, President  
Cell: [REDACTED]  
Vacation Homes of Hilton Head  
Local: (843) 715-2208  
Toll-Free: (888) 444-5573  
[www.VacationHomesofHiltonHead.com](http://www.VacationHomesofHiltonHead.com)

**From:** [annec@hiltonheadislandsc.gov](mailto:annec@hiltonheadislandsc.gov)  
**Sent:** Wednesday, March 11, 2015 10:13 AM  
**To:** [REDACTED]

Good morning Jacquelyn,

The LMO Official's determination letter is attached. The following documents are also attached:

- LMO Section 16-5-114.I, Prohibited Signs. This section states that internally illuminated signs are prohibited.

### **Roadway**

That portion of a **street** improved, designed, or ordinarily used for vehicular and bicycle traffic. A **roadway** includes motor vehicle travel lanes and may include **bike lanes**.

### **Satellite Dish**

A device used to transmit or receive radio or electromagnetic waves between terrestrially and orbitally based devices.

### **Shared Parking**

The use of parking spaces used or proposed to be used to meet the minimum number of off-street parking spaces required for one or more other **uses**.

### **Shipping Container**

A standardized, reusable shipping vessel used in the transportation of freight and capable of being mounted on a rail car, or mounted on a chassis for movement by truck trailer, or loaded on a ship.

### **Sight Triangle**

A triangular area at each corner of the intersection of two **streets** or of a **street** and a **driveway**, where vision is required to be unobstructed.

### **Sign**

Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, **structures**, costumes, designs, trade names, or trademarks by which anything is made known (all or any of which are sometimes referred to as "**copy**"), and that are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or products, and that are visible from any **public street** or **adjacent** property and used to attract attention. A sign includes the **sign structure** and the **sign face** on which any **copy** is displayed.

### **Sign Area**

The area enclosed by the perimeter of the **sign face**. For **signs** consisting of **copy** or **graphics** individually applied to a **facade**, the **sign area** shall be considered as the area of an imaginary rectangle that will enclose all such items.

### **Sign Face**

The part of the sign that is or can be used for the display of any **copy** or **graphics**, including any background material, panel, trim, color, or illumination that differentiates the sign from a **facade** or **sign structure**.

### **Sign Structure**

Any supporting **structure** erected, used, or intended for the purpose of displaying any sign, with or without a sign thereon.

- (B) The **Official** shall have authority to limit the number, location, and color of such **signs**.
- (C) **Sign faces** shall meet South Carolina Department of Transportation standards.

## 16. Window Signs

Signs on the inside, or attached to the outside, of window glass shall comply with each of the following:

- (A) Window **signs** shall cover no more than 25 percent of the gross area of glass on any one side of a **building**.
- (B) Window **signs** shall not be illuminated.
- (C) No single window sign shall exceed four square feet in totality.

## 2. Sign Review

### a. Sign Review

#### i. Signs Subject to Administrative Sign Review

Unless review by the **Design Review Board** is required in accordance with Sec. 16-5-114.E.2.a.ii below, the following **signs** are subject to review and approval of a Sign Permit **application** by the **Official**:

- 01. Real estate **signs**;
- 02. Project **signs**;
- 03. Temporary **signs**;
- 04. Sign systems not subject to DRB Sign Review; and
- 05. Permanent **signs**, including the **sign face** and **structure**, that are 40 square feet or less.

#### ii. Signs Subject to DRB Sign Review

Any permanent sign, including the **sign face** and **structure**, that is greater than 40 square feet, or any sign system that includes such a sign, is subject to review and approval of a Sign Permit **application** by the **Design Review Board** in accordance with the following procedures, which relate to the standard review steps and specific procedures in Sec. 16-2-102, Standard Review Procedures.

### b. Sign Review Procedures

#### i. Application Submittal

An **application** for a Sign Permit may be submitted by **persons** identified in Sec. 16-2-102.C.1, and shall be submitted in accordance with Sec. 16-2-102.C.

#### ii. Staff Review and Action

- 01. On receiving a Sign Permit **application** subject to administrative sign review (see Sec. 16-5-114.E.2.a.i), the **Official** shall review and make a final decision on the **application** in accordance with Sec. 16-2-

01. The amount of information on **signs** shall be no more than is necessary to provide reasonable identification of the destination(s) and direction thereto.
02. Such **signs** must be located within 200 feet of an intersection with no more than one sign viewed from any one direction.
03. Such **signs** shall be limited to 20 square feet of **sign face**.

**b. Planned Unit Development Off-Premises Identification Signs**

- i. A planned unit **development** (PUD) whose primary entrance (**right-of-way** or easement) is located on a public **street** but is not within the boundary of the PUD shall be allowed one off-premises identification sign, which shall be located within the **right-of-way** or easement for the entrance street.
- ii. This sign shall comply with the following requirements:
  01. The amount of information on such sign shall be no more than is necessary to provide reasonable identification of the PUD.
  02. Such sign shall be subject to the standards of Sec. 16-5-114.F, Freestanding Signs.

**I. Prohibited Signs**

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The following types of **signs** are prohibited:

1. Abandoned **signs** and **sign structures**.
2. **Signs** with animated or moving effects (including but not limited to **sign faces** that periodically change to show different images or messages), and **signs** carried, waved, or otherwise displayed by **persons** either on public ways or in a manner visible from public ways, are prohibited. This provision is directed toward such displays intended to draw attention for a commercial purpose, and is not intended to limit the display of placards, banners, flags, or other signage by **persons** participating in demonstrations, political rallies, and similar events.
3. Balloons.
4. Banners, except within the boundaries of a special event. (See Sec. 16-5-114.H.9, Temporary Special Event Signs.)
5. Bench **signs**.
6. Dilapidated or damaged **signs**.
7. **Signs** attached to or painted upon piers, docks, or seawalls, other than official regulatory or warning **signs**.
8. **Signs** that emit sound, vapor, smoke, odor, particles, or gaseous matter.
9. Inflated **signs** and windblown **signs** other than holiday decorations.
10. Information boxes not attached to a **real estate sign**.
11. Internally illuminated **signs** that contain a visible light source, except for those **signs** complying with the provisions of Sec. 16-5-114.D, Sign Illumination.
12. **Signs** that are displayed or erected for which a Sign Permit has been denied or has not been issued.
13. **Signs** that exhibit statements, words, or pictures of an obscene or pornographic nature.



# **TOWN OF HILTON HEAD ISLAND**

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*Community Development Department*

**TO:** Board of Zoning Appeals  
**FROM:** Nicole Dixon, CFM, *Senior Planner*  
**DATE:** April 13, 2015  
**SUBJECT:** Revisions to Rules of Procedure

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At the March 23, 2015 Board of Zoning Appeals meeting, the Board reviewed and discussed proposed revisions to the Rules of Procedure. The attached final version of the Rules of Procedure will be adopted at the April 27, 2015 meeting.

*Board of Zoning Appeals  
Rules of Procedure  
Town of Hilton Head Island*

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**Article I**  
**Purpose and Responsibilities**

The Board of Zoning Appeals exists to provide final administrative decisions for the Town of Hilton Head Island to enforce the zoning ordinance in accordance with State law, subject to an appeal to circuit court by an appropriate interested party. Its main responsibilities include hearing and deciding: (a) appeals from administrative decisions of the Land Management Ordinance (LMO) Administrator and from Planning Commission actions on certain traffic analysis plans; (b) applications for variances from LMO requirements; and (c) applications to permit uses by special exception. The powers of the Board of Zoning Appeals also include remanding a matter to an administrative official if the record is deemed insufficient, issuing subpoenas for witness appearances, and certifying contempt to the circuit court. In exercising these powers, the Board of Zoning Appeals may, in conformity with State law and the LMO, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination of an Administrator, and to that end, has all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. All final decisions and orders of the Board must be in writing and be permanently filed in the office of the Board as a public record.

**Article II**  
**Authority**

**Section 1. Authority.**

The Town of Hilton Head Island Board of Zoning Appeals is established by Appendix A-3 of the Land Management Ordinance (LMO) of the Town of Hilton Head Island pursuant to the authority of Section 6-29-780, *et seq.*, of the Code of Laws of South Carolina, and hereinafter shall be referred to as the "Board."

**Section 2. Territorial Jurisdiction.**

Pursuant to Appendix A-3.E of the LMO, the Board shall have jurisdiction over all the lands within the Town. This jurisdiction may be expanded by the Town Council by ordinance and/or by intergovernmental agreement, in accordance with Section 6-29-330 of the Code of Laws of South Carolina.

**Article III**  
**Rules of Procedure**

**Section 1. Rules of Procedure.**

These *Rules of Procedure* are adopted by the Board to carry out its powers and responsibilities under SC Code 6-29-780, -790, -800, and -810 and Appendix A-3 of the LMO. A portion or section of the *Rules of Procedure* may be suspended by majority vote of the Board to meet particular circumstances. If there is a situation where these *Rules of Procedure* do not specifically apply, then the most recent edition of *Robert's Rules of Order* shall govern the conduct of meetings. An informational chart summarizing types of motions and votes in Robert's Rules of Order is attached.

## **Section 2. Amendment.**

These rules may be amended at any time by an affirmative vote of a majority of the members of the Board; provided however, that such amendment(s) shall have first been presented to the entire Board, in writing, at a Regular or Special Meeting preceding the Regular or Special Meeting at which the vote is taken.

## **Article IV** **Board Organization and Duties**

### **Section 1. Membership.**

- A. Number and Qualifications.** The Board shall consist of seven members appointed by the Town Council. To the extent practicable, the appointed members may include at least one attorney and one design professional (either a registered architect or a registered landscape architect). None of the members shall hold an elected public office or position with the Town of Hilton Head Island or Beaufort County, South Carolina.
- B. Length of Terms.** Members of the Board shall be appointed annually for three-year terms effective each July 1, with all such terms ending on June 30 of the applicable year, unless a member is appointed to fill a vacancy. Vacancies shall be filled by the Town Council by appointments for the balance of any unexpired terms.
- C. Term Limits.** No member may serve more than two successive terms, except for extraordinary circumstances where Council believes it to be in the best interest of the community to have a continuation for a specific period of a particular member of the Board. This limitation shall not prevent any person from being appointed to the Board after an absence of one year. Service for a partial term of less than 1½ years shall not constitute a term of service for the purpose of these term limits.
- D. Attendance/Absences.** Board members are expected to attend all Board meetings. Each member of the Board who has prior knowledge that they will not be able to attend a scheduled Regular Meeting of the board shall notify the Secretary no later than 4:30pm the business day before the meeting. In the case of an emergency, a member shall give the earliest possible notification. The Secretary or Staff shall notify the Chairman in the event that the projected absence(s) will produce a lack of a quorum.
- E. Removal.** Three (3) absences at Regular or Special Meetings of the Board during one Board year (July 1 through June 30) shall be cause for recommendation by the Chairman to the Town Council to reconsider the appointment of that member. Attendance records may be reviewed annually by the Board in executive session during the 9<sup>th</sup> month of each Board year.
- F. Education.** The Code of South Carolina requires a six (6) hour Orientation Program and a three (3) hour/year Continuing Education Program for each Board member.

## Section 2. Election of Officers.

The officers of the Board shall be a Chairman and a Vice-Chairman for one-year terms beginning on the first meeting in July. They are elected annually by the Board members no later than at the last meeting in July. Neither of these two positions shall be filled by a member beginning his or her first year of service as a Board member. Members that leave the Board and are re-appointed after a period of no more than three years may be elected to an officer position in his or her first year of service. Nominations for the Chairman and Vice-Chairman shall be made from the floor at the meeting.

A majority vote is normally required to elect to office. If no one in an election receives a majority vote, the vote must be repeated until one of them does get a majority.

**A. Chairman – Term and Duties.** The term shall be for one year. At the end of each Board year, the Chairman may be re-elected subject to his/her appointment term. The Chairman shall have the following duties:

1. In consultation with the Staff Board Coordinator, delegate the Secretary to prepare agendas for all meetings;
2. Conduct all meetings and hearings of the Board, meaning that the Chairman—
  - i. Is responsible for maintaining order.
  - ii. Should begin the meeting promptly at the scheduled hour if a quorum is present.
  - iii. Should have a well prepared agenda and abide by it.
  - iv. Should be familiar with the procedural rules of the bylaws.
  - v. Keeps the board working together by explaining procedure clearly and communicating the next business in order.
  - vi. Should “assign” the floor by recognizing those members who wish to speak by calling them by name. No other member may interrupt or call out remarks without being out of order. Private discussion between members while another has the floor is out of order and disruptive members should be reminded of this rule.
  - vii. Should impartially call on members wishing to speak and should give members on both sides of an issue an opportunity to speak.
  - viii. Should remain calm and objective, keeping the meeting moving.
  - ix. Should always confirm that all members understand the motion and that the Secretary has fully recorded the motion.
  - x. Should open debate by saying “Is there any discussion?” The Chairman *must* open all debatable questions to debate.
  - xi. Should recognize members who wish to speak by stating their names.
  - xii. Should be a voting member and vote on all cases before the Board. If the Chairman wishes to make a motion, he/she should pass the gavel to the Vice-Chairman for conducting the meeting.
  - xiii. Should request that a motion with grounds (facts and conclusions) be made by any member. If necessary, may assist the member in formulating the motion. (Complex motions may be brought to the meeting pre-written.)
  - xiv. Should request any member to second the motion.

- xv. If a motion fails to get a second, should state, “Since there is no second, the motion is not before the Board.”
  - xvi. If seconded, should ask the members if there is any discussion of the motion.
  - xvii. Should not allow irrelevant discussion.
  - xviii. At the conclusion of any discussion of a seconded motion, should put the question to a vote by requesting the Secretary to call the role.
  - xix. Should announce the result of the vote.
  - xx. At the conclusion, should adjourn the meeting without motion – “If there is no further business and there is no objection, the meeting will be adjourned. There being no objection, the meeting is adjourned.”
3. Act as spokesperson for the Board;
  4. Sign documents for the Board. Note, final decisions are signed by the moving member, the Chairman, and the seconding member;
  5. Act or designate a Board member to act as liaison with other governmental agencies and Town boards;
  6. Assign or delegate tasks to other Board members as may be necessary to perform the Board’s functions;
  7. Transmit reports and recommendations to Town Council;
  8. Ensure that all business is conducted in accordance with the SC Code, the LMO, and these Rules of Procedure;
  9. Cancel a scheduled Board meeting if there are no agenda items; and
  10. Perform other duties approved by the Board.

**B. Vice-Chairman.** A Vice-Chairman shall be elected by the Board from among the members in the same manner and for the same term as the Chairman. The Vice-Chairman shall serve as Acting Chairman in the absence of the Chairman, and, at such time, the Vice-Chairman shall have the same powers and duties as the Chairman. The Vice-Chairman shall succeed the Chairman, if the office is vacated before the term has expired, to serve the remainder of the unexpired term of the Chairman. A new Vice-Chairman shall be elected at the next regular meeting of the Board. In the absence of both the Chairman and Vice-Chairman, an acting Chairman shall be elected by the members present at a meeting of the Board.

**Section 3. Secretary—Appointment and Duties.**

During the July meeting of each year, a member of the Town’s Community Development Department shall be appointed by the Board to independently act as the Secretary of the Board. The Secretary will not be eligible to vote or to otherwise participate or deliberate in the proceedings of the Board. The Secretary shall:

1. Publish and post notices of all meetings of the Board;
2. As delegated by the Chairman, prepare meeting agendas;
3. Distribute to each Board member in advance of each meeting--the agenda, prior meeting draft minutes for approval, and all written submissions by staff and applicants on each agenda item, and other relevant materials;
4. Record the proceedings of meetings on audio tape and prepare written minutes of meetings

for approval by the Board at its next regular meeting, recording in the written minutes the attendance of members at each meeting, the attendance of Council members, the attendance of staff, and a detailed summary of all discussions during each meeting;

5. Maintain the Board's notices, correspondence, reports and forms as public records for a period of time consistent with the records retention schedule of the Town of Hilton Head Island;
6. Assist in the preparation and forwarding of all reports and recommendations of the Board; and
7. Maintain each final decision of the Board as a permanent record as required by the SC Code.

#### **Section 4. Staff Board Coordinator.**

The Community Development Director shall appoint a member of Staff to assist the Chairman and the Secretary in Board coordination, including:

1. Ensuring all postponed agenda items are rescheduled;
2. Ensuring public notices are accurately written for publication;
3. Ensuring the minutes accurately reflect the actions taken in the meeting;
4. Coordinating with pertinent staff on submittal of agenda items to the Secretary for distribution to the Board;
5. Scheduling mandatory training sessions for the Board;
6. Ensuring the Board's Rules of Procedure remain updated;
7. Attending all Board meetings and resolving any questions or requests by the Board; and
8. Assisting the Secretary in the efficient running of the public meetings.

### **Article V** **Meetings and Quorum**

#### **Section 1. Regular and Special Meetings.**

**A. Meeting Schedule.** An annual schedule of regular meetings and work sessions of the Board shall be adopted, published and posted at the Town Government Center in late Fall of each year for the next calendar year. Unless rescheduled by a vote of the Board, meetings shall be held at the time and place stated in notices. Meetings shall be open to the public.

**B. Regular Meetings.** Regular Meetings of the Board shall be held on the fourth Monday of each month or such other date as determined by the Chairman or with input from Staff. Notification of all Applications for Appeal, Variance and Special Exception scheduled and any other matters for consideration at each regular meeting of the Board will be in accord with the public notice requirements of the SC Code as implemented by the Town's LMO.

**C. Special Meetings.** Special Meetings of the board may be called at any time by the Chairman or requested by the Staff. At least forty eight (48) hours public notice shall be provided for any Special Meeting of the board including the time, place and particular agenda item(s) scheduled for consideration consistent with the notice requirements of the SC Code as implemented by the

Town's LMO.

**D. Cancellation of Meetings.** Whenever there is no business scheduled for any Regular or Special Meeting of the Board, the Chairman or Staff may cancel such Regular Meeting by giving notice to all members of the Board, as well as the public, no less than twenty-four (24) hours prior, whenever possible, to the time set for any such Regular Meeting.

## **Section 2. Quorum.**

A majority of the Board shall constitute a quorum for the conduct of business. The Secretary will notify the Chairman in the event projected absences will result in the lack of a quorum. If a quorum is established, then a member leaves, the quorum is no longer present. In the absence of a quorum, no further business requiring a vote shall be transacted and any such business shall be postponed to the next meeting.

## **Section 3. Conflict of Interest**

At a minimum, South Carolina law regarding conflicts of interest [S. C. Code Ann. § 8-13-10, *et seq.*, (Supp. 1994)] shall control Board members' actions. In addition, any member of the Board who believes that he or she has or may have a conflict of interest of any nature on any matter before the Board shall, prior to the case at the Regular or Special Meeting at which such matter may be heard or considered by the Board:

1. Prepare a written Potential Conflict of Interest Form describing the matter requiring action or decisions and the nature of his/her potential conflict of interest with respect to the action or decision;
2. File the Potential Conflict of Interest Form with the Secretary; and,
3. Provide a copy of the Potential Conflict of Interest Form to the Chairman.

Upon receipt of a Potential Conflict of Interest Form from any member of the Board, as required in section II (J)(A), *supra.*, the Chairman shall cause the Potential Conflict of Interest form to be recorded in the minutes and shall require that the member filing such Potential Conflict of Interest Form be excused from any votes, deliberations, and any other actions on the matter on which the potential conflict of interest or conflict of interest exists.

Any Board member so disqualified shall leave the dais while the disqualifying matter is being considered and refrain from deliberating or voting on the question.

## **Article VI** **Meeting Administration, Public Comment,** **Notices, Fees, Voting Supplemental Submissions/Briefs**

### **Section 1. Media Notices.**

The Secretary shall give the notice required by statute or ordinance for all meetings of the Board as per Section 16-2-102.E of the LMO. All Board meetings shall be open to the public and all requirements of the South Carolina Freedom of Information Act [S. C. Code Ann. § 30-4-10, *et seq.* (Supp. 1994)] shall be complied with in the conduct of meetings.

## **Section 2. Agenda (Order of Business)**

A written agenda shall be furnished by the Secretary to each member of the Board and media. An agenda may be changed at the related meeting by a majority vote of the members present. Public Hearing items should be so noted with each pertinent item. Generally, the agenda should contain:

1. Call to Order;
2. Roll Call;
3. Freedom of Information Act Compliance;
4. Use of Cellular Telephones or Other Electronic Sound Emitting Devices Prohibited;
5. Review of Meeting Protocol as described within, including Citizen Participation;
6. Approval of Agenda;
7. Approval of Minutes of Previous Meeting
8. Old Business;
9. New Business;
10. Board Business;
11. Staff Reports;
12. Adjournment.

## **Section 3. Minutes.**

**A. Meetings.** Minutes of meetings is governed by the Code of South Carolina (30-4-70 through 30-4-90). Minutes of each Board meeting shall be recorded by the Secretary and approved at the next available meeting after their preparation. Final approved Minutes shall be available on microfilm for previous years, and may be posted on the Town's Web site for public information.

### **B. Minimum Contents of Minutes.**

1. Kind of meeting (regular or special).
2. Name of the organization.
3. Date and place of the meeting.
4. Presence of the Chairman and Secretary or the names of substitutes.
5. Presence of a quorum.
6. Names of all Board members, Council members, and Staff.
7. Time the meeting was called to order.
8. Whether the minutes of the previous meeting were approved or corrected.
9. All adopted and defeated motions and grounds (facts and conclusions). Withdrawn motions need not be recorded.
10. Name of the maker of the motion and the seconding member.

11. Summary of all presentations and discussions.
12. Motions, including proposed findings and conclusions, must be recorded verbatim.
13. Record the vote of each member upon each question, or, if absent or failing to vote, indicating that fact.
14. The adjournment and the time of adjournment.

**C. Lack of Quorum.** If there is lack of a quorum of the Board, minutes may be recorded but shall include a statement in the header of each page indicating that a quorum was not present and the minutes are not official. Such minutes shall not be approved by the Board at a later meeting. (There are different quorums, depending on the agenda item.)

#### **Section 4. Public Comment.**

In the case of a Variance or Special Exception application, at the conclusion of presentations by Staff and the Applicant, the Chairman will open the public hearing. The Chairman may set a time limit for all public comments and may determine the order of the comments. The Chairman will recognize citizens to comment and request that they sign up to speak at the podium. Each person will have the opportunity to speak for three (3) minutes. At the conclusion of the public comment, the Chairman will close the public hearing. Staff and/or the Applicant may request that the Chairman allow additional clarification after the public comments. Public comment is not permitted in a case involving an appeal from an Administrator decision.

#### **Section 5. Submission Deadline for Regular Meetings.**

The deadline for the filing of a complete Application with narrative for Variance or Special Exception or Request for Appeal shall be thirty (30) calendar days prior to any Regular Meeting of the Board. Any submission or brief containing any citation to an opinion of a court must include a complete copy of the cited opinion.

#### **Section 6. Meeting Protocol.**

The Chairman will review the protocol at the start of each meeting. The meeting protocol includes further information about the following: speaker sign-up sheet, length of time for speakers, the order of presentation, and the opening and closing of a public hearing. The speaker sign-up sheet will be placed at the podium for speakers to sign when they come up to speak.

#### **Section 7. Filing of Application, Fees and Notice.**

All Applications and Appeals scheduled for review by the Board shall be filed by the interested property owner(s) or by a property owner aggrieved by an Administrator's decision, or by a representative with a written certification of authority by such property owner. All Applications and Appeals shall satisfy all fees and notice requirements in accord with the provisions outlined in the LMO. In any case where the owner of record of the real property affected by any Application for Special Exception or Application for Variance, or his/her certified representative, is not the Applicant,

the Applicant shall serve notice of the Application to the contiguous owner(s) of record within the time frames and as described in the LMO. Such notice shall include the time and place of the Board meeting at which the Application shall be heard.

### **Section 8. Motions and Final Decisions.**

A Motion by a Board member is the procedure leading to a final decision by the Board when the Motion is seconded by another Board member and adopted by a vote of a quorum of the Board. A Motion is to be made to describe the proposed decision with findings and conclusions to support the Motion. If the Motion is seconded and adopted by the Board, the final decision, contained in a Notice of Action, must be in writing and be permanently filed in the office of the Board as a public record. The final decision must include findings and conclusions and be delivered to parties of interest by certified mail.

### **Section 9. Voting.**

1. A Board member must be present at the beginning of each case to be permitted to discuss and vote on the case. If a Board member that was absent at the beginning of the hearing establishes requisite knowledge of the case, the member may be permitted to discuss and vote on the case by a majority vote of the Board.
2. All members of the Board, including the Chairman, shall be voting members, and shall be entitled to vote on any issue before the Board unless disqualified by law.
3. For Appeals from Administrator's decision, a majority vote of the entire Board shall be necessary, thus requiring at least 4 affirmative votes to pass a motion.
4. A simple majority of a quorum shall be required to conduct all other Board business including a decision on an Application for Variance or Special Exception.

### **Section 10. Supplemental Submissions/Briefs.**

Any supplemental written submission or legal brief must be delivered [One (1) hard copy or one (1) copy sent via e-mail] to the Secretary of the Board no later than 8:00am four business days before the public meeting day in order for the Secretary to distribute such submission to each Board member by the close of business that day. Town Staff, or the opposing party, has two business days after receipt of the supplemental submission to respond in writing. This excludes any business days when the Town is closed. The Board reserves the right to require or permit later written submissions or briefs and/or proposed findings of fact and conclusions of law to be submitted by the Appellant, Applicant for Variance or Special Exception, or Town Staff. Any submission or brief containing any citation to an opinion of a court must include a complete copy of the cited opinion. Any written or oral information sent directly to any Board member shall be disregarded and promptly turned over to the Chairman through the Secretary of the Board.

### **Section 11. Communication Among Board Members or With an Outside Party.**

- A. There shall be no communication in writing, orally, or by e-mail by any Board member with any other Board member or any outside party regarding the substance of any matter before the Board

that is or may be brought to a vote other than during a public meeting.

- B. Once a decision has been rendered by the BZA, there shall be no further discussions by any Board member with staff, applicants or their attorneys or representatives. Any such communications regarding a decision should be made to the Town Attorney.
- C. Communication with staff or outside parties to communicate procedural matters or general positions or opinions of the BZA will be at the discretion of the Chairman or by an affirmative vote of the majority of the Board members. The Chairman or his designee will be responsible for all such written/verbal communications with anyone other than the remainder of the Board members and Staff.
- D. Board members should refrain from discussing an upcoming agenda item with the Applicant, his Attorney, or his Agent, either through written or verbal communication. Board members should refrain from discussing an upcoming agenda item with Staff either through written or verbal communication, except to clarify facts or request additional information. All discussion of the item should take place in the public meeting. This is to avoid the appearance of improper ex parte communications.

## **Article VII**

### **Procedures for Hearing an Application for a Variance**

The following procedures shall be applicable in the presentation of a Request for a Variance.

#### **Section 1. Presentation of the Town Staff and Applicant.**

- 1. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Application for a Variance. During the presentation by Staff, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, Staff's time may be extended if the Staff is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
- 2. The Applicant shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Applicant believes supports the Application for a Variance. During the presentation by the Applicant, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Applicant's time may be extended if the Applicant is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
- 3. The Staff shall have a maximum of five (5) minutes to present any desired rebuttal.
- 4. Following the presentation, the Board of Zoning Appeals may ask such additional questions of the Applicant or Staff as the members deem appropriate.
- 5. The Board may subpoena witnesses and in the case of contempt may certify such fact to the Circuit Court having jurisdiction over such matters.

#### **Section 2. Public Comment.**

- 1. The Chair will call on interested citizens and request that they come to the podium, state their name for the record and place their name on the sign up sheet. Each person will have

- the opportunity to speak for three (3) minutes.
2. The Applicant and/or Town Staff shall clarify any information presented by the public before the Board makes a motion.

### **Section 3. Vote on Application for Variance.**

1. Following the presentation by all parties as set forth above, the Board, upon a Motion duly made and seconded, shall vote on the Application for Variance.
2. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision and appropriate references to the relevant criteria of the LMO.
3. Pursuant to the provisions of the LMO the Board shall approve the Application for Variance, approve the Application for Variance with conditions or modifications; or, deny the Application for Variance.
4. Following the vote, the Staff shall prepare a written Notice of Action. The written notice of action shall include decision of the Board as well as the findings of fact and conclusions of law adopted by the Board with respect to the Application for Variance.
5. The Notice of Action shall be mailed by certified letter to the Applicant and record owner of the real property affected by the Application for Variance, if different from that of the Applicant.
6. The decision of the board shall be deemed final and applicable upon mailing of the Notice of Action.
7. The certificate of mailing shall be made a part of the board's file on the Application for Variance.

## **Article VIII**

### **Procedures for Hearing an Application for Special Exception**

The following procedures shall be applicable in the presentation of an Application for Special Exception:

#### **Section 1. Presentation of the Town Staff and Applicant.**

1. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Application for a Special Exception. During the presentation by Staff, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, Staff's time may be extended if the Staff is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
2. The Applicant shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Applicant believes supports the Application for a Special Exception. During the presentation by the Applicant, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Applicant's time may be extended if the Applicant is unable to complete the presentation due to questioning from the Board of Zoning Appeals.

3. The Staff shall have a maximum of five (5) minutes to present any desired rebuttal.
4. Following the presentation, the Board of Zoning Appeals may ask such additional questions of the Applicant or the Staff as the members deem appropriate.
5. The Board may subpoena witnesses and in the case of contempt may certify such fact to the Circuit Court having jurisdiction over such matters.

### **Section 2. Public Comment.**

1. The Chair will call on interested citizens and request that they come to the podium, state their name for the record and place their name on the sign up sheet. Each person will have the opportunity to speak for three (3) minutes.
2. The Applicant and/or Town Staff shall clarify any information presented by the public before the board makes a motion.

### **Section 3. Vote on Application for Special Exception.**

1. Following the presentation by all parties as set forth above, the Board, upon a Motion duly made and seconded, shall vote on the Application for Special Exception.
2. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision and appropriate references to the relevant criteria of the LMO.
3. Pursuant to the provisions of the LMO, the Board shall approve the Application for Special Exception, approve the Application for Special Exception with conditions as stated in the LMO or deny the Application for Special Exception.
4. Following the vote, the staff shall prepare a written Notice of Action. The written notice of action shall include the decision of the Board as well as the findings of fact and conclusions of law adopted by the board with respect to the Application for Special Exception.
5. The Notice of Action shall be mailed by certified letter to the Applicant and record owner of the real property affected by the Application for Special Exception, if different from that of the Applicant.
6. The decision of the board shall be deemed final and applicable upon mailing of the Notice of Action.
7. The certificate of mailing shall be made a part of the board's file on the Application for Special Exception.

## **Article IX** **Procedures for Hearing an Appeal**

The following procedures shall be applicable in the presentation of an Appeal from a decision of any Administrator:

### **Section 1. Jurisdiction.**

Once an appeal has been taken from any final decision of Administrator, the jurisdiction of the Administrator, from which the appeal was taken, shall cease.

## **Section 2. Presentation of the Town Staff and Applicant.**

1. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Application for an Appeal. During the presentation by Staff, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, Staff's time may be extended if the Staff is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
2. The Applicant shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Applicant believes supports the Application for an Appeal. During the presentation by the Applicant, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Applicant's time may be extended if the Applicant is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
3. The Staff shall have a maximum of five (5) minutes to present any desired rebuttal.
4. Following the presentation, the Board of Zoning Appeals may ask such additional questions of the Applicant or Staff as the members deem appropriate.
5. The Board may subpoena witnesses and in the case of contempt may certify such fact to the Circuit Court having jurisdiction over such matters.
6. Public comment is not permitted in a case involving an appeal from an Administrator decision.

## **Section 3. Vote on the Appeal.**

Following the presentation by all parties as set forth above, the Board, upon a Motion duly made and seconded, shall vote on the Appeal.

1. Pursuant to the provisions of Section 16-2-103.T.4.d of the LMO, the Board shall:
  - a) Affirm the action of the Administrator from which the Appeal was taken; or,
  - b) Modify the action of the Administrator from which the Appeal was taken, and to that end, the Board of Zoning Appeals shall have all of the powers of the Administrator from which the Appeal was taken, and may issue a permit, or direct that a permit be issued; or,
  - c) Reverse the action of the Administrator from which the Appeal was taken, and to that end, the Board of Zoning Appeals shall have all of the powers of the Administrator from which the Appeal was taken, and may issue a permit, or direct that a permit be issued; or,
  - d) Remand the action of the Administrator from which the Appeal was taken for such further proceedings as the Board of Zoning Appeals may deem appropriate.
2. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision.
3. Following the Vote, the Board shall issue a written Notice of Action. The written notice of action shall include the decision as well as the findings of fact and conclusions of law

adopted by the Board.

4. The Notice of Action shall be mailed by certified letter to the Appellant and Record Owner of the real property affected by the Appeal, if different from that of the Appellant.
5. The decision of the Board shall be deemed final and applicable upon mailing of the Notice of Action.
6. The certificate of mailing shall be made a part of the board's file on the Appeal.

## **Article X**

### **Procedures for a Remand**

#### **Section 1. Remand.**

1. A member of the Board may move for a remand at any time, subject to review and determination by the Board. The motion shall specifically set forth factual and/or legal grounds that cause the record to be insufficient.
2. If a remand is granted, the Town and the Applicant shall obtain and present all additional information needed to render the record sufficient as detailed in the motion for the remand.

## **Article XI**

### **Motions**

#### **Section 1. Motion for a Reconsideration.**

1. The Board may reconsider any decision made under Section 16-2-103.E.3.d, 16-2-103.S.3.d or 16-2-103.T.4.d of the Land Management Ordinance.
2. Any party aggrieved by a decision of the Board, if they desire to do so, is required to file any Petition for Reconsideration by delivering the same to the Administrator within five (5) days from the date of hearing. "Delivered" as referenced in this section, means actual delivery.
3. The Petition for Reconsideration shall be in writing and shall state with particularity the points alleged to have been overlooked or misinterpreted the Board.
4. The Petition for Reconsideration shall be presented to the Board at the next regular scheduled meeting following the filing of the Petition for Reconsideration after compliance with the public notice requirements for a Board Public Meeting per the LMO.
5. Motions:
  - a. A Motion to Grant the Petition for Reconsideration may only be made by a member of the Board who voted on the prevailing side in the original vote.
  - b. The effect of the granting of a Motion for Reconsideration shall be that the Board will review the entire matter as if no previous vote had been taken.
  - c. A Motion to Deny the Petition for Reconsideration may be made by any member of the Board. The effect of a vote denying a Petition for Reconsideration is that the vote shall be considered to be the Board's final action on the matter. A Notice of Action shall be delivered to the Applicant following such vote.

6. Successive Petitions for Reconsideration are prohibited. No matter that has been reconsidered may be reconsidered a second time. The Board may not reconsider a denial of a Petition for Reconsideration.

## **Section 2. Motion to Dismiss.**

Any interested party to a matter pending before the BZA may file a Motion to Dismiss the pending matter. The purpose of a Motion to Dismiss is to seek dismissal of the matter prior to the hearing on the merits of the pending matter.

1. A Motion to Dismiss may assert matters relating to procedure or jurisdiction including:
  - a. Failure to comply with requirements of the LMO,
  - b. Lack of jurisdiction,
  - c. Standing,
  - d. Other matters not relating to the merits of the matter.
2. A Motion to Dismiss shall be in writing, and be filed and served in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.
3. A Motion to Dismiss may be supported by briefs of the law, affidavits or other matters pertinent to the Motion.
4. Any interested party may file briefs and other materials in response to the Motion, in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.
5. The Motion to Dismiss will be normally heard at the same meeting as the related appeal; however, the Chairman or Vice Chairman, in the absence of the Chairman, upon request, in his sole discretion, may permit the motion to be heard at an earlier meeting.

## **Section 3. Motion for Postponement.**

The Town, the Applicant or a Member of the Board may request a postponement of an application at any time, subject to the review and determination of the Board.

The Chairman or Vice Chairman, in the absence of the Chairman, may for good cause grant one postponement request for a period of up to three months from the original hearing date. Any subsequent postponement requests shall be discussed and voted on by the Board

A Motion for Postponement shall be in writing, stating the reasons for the requested postponement, and be filed and served in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.

## **Section 4. Motion for Withdrawal of Application.**

The applicant may request a withdrawal of an application prior to the ruling. A Motion for Withdrawal of the Application shall be in writing, stating the reasons for the requested withdrawal, and be filed and served in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.

The Board shall have the opportunity to discuss the reasons for the application being withdrawn; unless the project has been abandoned. In the absence of the applicant, if the withdrawal is questioned by the Board, the case will be postponed to the next meeting.

## **Article XII** **Miscellaneous**

### **Section 1. Executive Session.**

If a member determines after reviewing the applicable cases that they would benefit from the advice of legal counsel in Executive Session they shall contact the Chairman or his designee. The Chairman will determine if an Executive Session is warranted. If the Chairman decides that the membership would benefit from an Executive Session, they will inform the Board's Secretary of the request. The Chairman's decision can be overridden by a majority vote of the Board taken at a regular or special meeting of the BZA.

Executive Session is a meeting at which the proceedings are secret. A member can be punished under disciplinary procedure if he violates the secrecy of an executive session. Anyone else permitted to be present is honor-bound not to divulge anything that occurred.

Permitted reasons should include:

1. Personnel reasons
2. Contracts
3. Legal advice relating to pending, threatened or potential claim
4. Discussion regarding development of security personnel
5. Investigative proceedings regarding allegations of criminal misconduct
6. Economic development (specific criteria in FOIA)
7. Legal advice relating to procedural, conflict of interest, or general issues unrelated to a specific matter before the Board.

Entering and Adjourning an Executive Session:

1. A motion to close the current meeting and go into executive session is made and passed by a majority vote;
2. Chairman must announce the specific purpose of the executive session;
3. No formal action may be taken in executive session except to:
  - a. Adjourn
  - b. Return to public session

The Board can request attendance by non-members as they deem appropriate.

### **Section 2. Recess.**

A recess shall be declared as deemed appropriate by the Chairman or by majority vote of the

members present at the meeting. No discussion of the agenda item shall be conducted by Board members during the recess.

**For the Board of Zoning Appeals  
Town of Hilton Head Island, South Carolina**

Date of Approval: April 27, 2015

By: \_\_\_\_\_  
Glenn Stanford  
Chairman

## Attachment for Reference

### TYPES OF MOTIONS

<b>Main Motion</b>	<b>A main motion is defined as a proposal that certain action is taken or an opinion be expressed by the group.</b> The words to use are: "I Move."
<b>Secondary Motions</b>	<b>A secondary motion is one which can be made <i>while</i> the main motion is on the floor and <i>before</i> it has been decided.</b> Secondary motions are divided into three classes which relate to their use in parliamentary procedure. Those classes are: <ul style="list-style-type: none"> <li>○ Subsidiary motions</li> <li>○ Privileged motions</li> <li>○ Incidental motions</li> </ul>
<b>Subsidiary Motions</b>	<b>Subsidiary motions relate directly to the motion on the floor. They may change the words, send it to a committee, delay it, etc.</b> They are designed to expedite business by disposing of the pending motion other than by adopting or rejecting it. <i>Subsidiary motions are the class of motions most frequently used in meetings.</i> These motions have rank (order of precedence of motions) among themselves. A motion of higher rank can be made while a motion of lower rank is on the floor. The lower rank motion "yields" to the higher rank motion. (Motion to postpone has higher rank than the motion to commit and takes precedence. If motion to postpone is adopted, the main motion and the motion to commit are postponed until the next meeting.)
<b>Privileged Motions</b>	<b>Privileged motions are motions of an emergency nature,</b> such as to recess or adjourn. They do not relate to the motion on the floor but to the welfare of the group. They are of high rank and must be handled before any other business that may be pending.
<b>Incidental Motion</b>	<b>Incidental motions are procedural.</b> They deal with process, such as enforcing proper procedure, correcting errors, verifying votes, etc. When introduced, they must be decided before business can resume.
<b>Amending Motion</b>	General consent can be used with amendments to motions if the Chairman feels the group will accept the amendment. "If there is no objection, the motion is so amended." <i>Restate the motion.</i>
<b>Motions Commit</b>	Have precedence over the motion to amend. <b>More than one motion can be on the floor but only one question.</b> All pending motions must relate to the main motion on the floor. No new business may be introduced.
<b>Point of Order</b>	Motion used if a board member feels the Chairman is failing to operate within the rules.

### Restorative Motions or Motions that Bring Back a Question

<b>Restorative Motion</b>	<b>Allows a group to change its mind.</b> <ul style="list-style-type: none"> <li>○ They are a separate category because of their contradiction to the</li> </ul>
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	<p>parliamentary rule that once a question has been decided it cannot be brought up again at the same meeting.</p> <ul style="list-style-type: none"> <li>○ Within limits, members have the right to rethink a situation if they feel their decision has been made too quickly or without enough information.</li> <li>○ The two most commonly used restorative motions are: <b><i>Rescind</i></b> and <b><i>Reconsider</i></b>.</li> </ul>
<b>Rescind</b>	<p><b>Rescind is the motion to use to quash or nullify a previously adopted motion.</b> It may strike out an entire motion, resolution, bylaw, etc.</p> <ul style="list-style-type: none"> <li>○ Rescind is <i>not in order</i> when any action has already been taken as a result of the vote, such as any kind of contract when the other party has been notified.</li> <li>○ It must be seconded.</li> <li>○ It requires a <i>two-thirds</i> vote unless <i>notice has been given</i> at the previous meeting, either verbally or in writing. If notice has been given, the motion requires only a <i>majority</i> vote.</li> </ul>
<b>Reconsider</b>	<p><b>Reconsider is the motion which allows a group to reconsider the vote on a motion.</b> It enables a majority of the members, within a limited time, to bring back a motion for further consideration after it has been acted upon. Its purpose is to prevent hasty or ill-advised action.</p> <ul style="list-style-type: none"> <li>○ Reconsider has special rules to prevent its abuse by a disgruntled minority, since it allows a question already decided to be brought up again.</li> <li>○ Rules limit who can make the motion. <b>It can only be made by someone who voted on the prevailing (winning) side.</b></li> <li>○ <b>It has a time limit. It must be made on the same day that the vote to be reconsidered was taken.</b></li> <li>○ It requires a second.</li> <li>○ It may be debated and it opens up the motion to which it is applied to debate.</li> <li>○ It requires only a majority vote.</li> <li>○ It may be made and seconded while other business is pending because of its time limit. However, it is not debated and voted on until the business on the floor is completed.</li> <li>○ All action that might come out of the original motion is stopped at the time that reconsider is made and seconded. This is the main value of the motion, and it should be made as quickly as the situation calling for it is recognized.</li> </ul>
<b>Amend a Motion</b>	<p><b>Change the wording to make it clearer, more complete, or more acceptable before the motion is voted upon.</b> The amendment must be germane to the motion on the floor to be in order. Adoption of the amendment does not adopt the motion. If the group votes “no” on the amendment, the motion is on the floor in its original wording.</p>
<b>Amend an Amendment</b>	<p>First amendment is called the primary and the amendment to the amendment is the secondary amendment. Only two amendments may be pending at any time. First vote on the amendment to the amendment (secondary), then vote on the original amendment (primary), then vote on the main motion. Amendments require a majority vote.</p>
<b>Friendly</b>	<p>Change in wording to enhance the original motion – can be changed by general</p>

<b>Amendments</b>	consent.
<b>Hostile Amendments</b>	Gives a different meaning to a motion and may defeat the intent of the main motion.
<b>To Commit or Refer a Motion</b>	Sends the question to a small group (committee) to be studied and put into proper form for the group to consider. Motion includes specific directions as to where the question ought to go (what committee). Motion can be applied to any main motion with any amendments that may be pending. It must be seconded, it can be debated, and requires a majority vote.
<b>Postpone</b>	<b>Delays action on a question until later in the same meeting or until the next meeting.</b> <i>A motion cannot be postponed further than the next regular meeting.</i> Can be applied to all main motions, it must be seconded, it can be debated, it can be amended (as to time of the postponement), it requires a majority vote. Motion is called up automatically when the time to which it was postponed arrives (place under Unfinished Business on agenda of next meeting).
<b>Limit Debate</b>	<b>Motion to exercise special control over debate</b> – reducing the number and length of speeches allowed. Used with any motion, must be seconded, is not debatable, can be amended (but only as to the length of speeches or when the vote will be taken), requires 2/3 vote, vote must be taken by show of hands or a rising vote in a large group. (Need a timekeeper and timer if speeches have a time limit.)
<b>Previous Question</b>	<b>The motion used to cut off debate and to bring the group to an immediate vote on the pending motion. (Call the question for an immediate vote).</b> Previous question can be ruled out of order if the motion is debatable and has not received debate. Motion requires 2/3 vote (by show of hands or standing vote). Not debatable.
<b>Postpone Indefinitely</b>	Lowest-ranked subsidiary motion is used to kill a main motion. It avoids a direct vote on the question on the floor. Shouldn't be used.
<b>Lay on the Table</b>	Highest-ranked subsidiary motion. Cannot be amended or debated. It is out of order when used to "kill or avoid dealing with a measure". <b>Was designed as a courtesy motion to allow a group to set aside a question for something more important, such as arrival of a speaker.</b>
<b>Withdraw a Motion</b>	<b>Permission to withdraw a motion allows a member who realizes he has made a hasty or ill-advised motion to withdraw it with the consent of the group.</b> This device saves time in disposing of the motion. The presiding officer usually handles the request by use of general consent.
<b>Dilatory Tactics</b>	A dilatory tactic is the misuse of parliamentary procedure to deliberately delay or prevent action in a meeting. It is the duty of the presiding officer to prevent a dissident minority from misusing legitimate forms of motions to obstruct business. Such motions should be ruled out of order or those members engaged in such game playing should not be recognized.

## TYPES OF VOTES

<b>Majority Vote</b>	<ul style="list-style-type: none"> <li>• <b>More than half of the votes cast.</b></li> <li>• The minority has the right to be heard, but once a decision has been reached by a majority of the members present and voting, the minority must then respect and abide by the decision.</li> </ul>
<b>Silence is Consent</b>	Those members who do not vote, agree to go along with the decision of the majority by their silence.
<b>Two-thirds Vote</b>	<b>A two-thirds vote is necessary whenever you are limiting or taking away the rights of members or whenever you are changing something that has already been decided.</b> A two-thirds vote has at least twice as many votes on the winning side as on the losing side. A show of hands should be taken for <i>all</i> motions requiring a <i>two-thirds vote</i> . If a motion requires a two-thirds vote, the Chairman should inform the group of that.
<b>General Consent</b>	<p><b>Is an informal agreement of the group, the method in which action is taken without a formal vote or on occasion without a motion.</b> The Chairman initiates the procedure to expedite business. Usually done to approve and correct the minutes.</p> <ul style="list-style-type: none"> <li>• The presiding officer always pauses after asking if there is any objection. If there is <i>any</i> objection, the matter is put to a vote in the usual way.</li> <li>• A member may object because he feels it is important to have a formal vote and dispel any suspicion of railroading.</li> </ul>
<b>Tie Vote</b>	Is a <i>lost</i> vote because a majority was not obtained. The <i>Chairman is not compelled to break a tie</i> . While the Chairman has a right to vote as a member, it is recommended he not vote unless the vote is by ballot. He may also vote in cases where the vote would change the result. The Chairman should appear impartial.



# TOWN OF HILTON HEAD ISLAND

## *Community Development Department*

**TO:** Board of Zoning Appeals  
**FROM:** Nicole Dixon, CFM, *Senior Planner*  
**DATE:** April 6, 2015  
**SUBJECT:** Substitutions of Nonconformities for Redevelopment

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The Board of Zoning Appeals (BZA) requested that staff keep them informed of substitutions of nonconformities for redevelopment that are granted by staff. A memo is distributed every month at the regular BZA meetings and is discussed under staff reports on the agenda. Even if there have been no waivers for the month, a memo will be included in the packet to inform the BZA members.

The following language is contained in Section 16-7-101.F, Substitutions of Nonconformities for Redevelopment, which gives the Administrator the power to grant such substitutions for existing nonconforming structures and site features.

LMO Section 16-7-101.F:

“To provide flexibility and encourage redevelopment of sites with nonconforming features or structures, the Official is authorized to approve a Development Plan for such sites if the proposed development:

1. Will not include any new development that increases the amount of encroachment into any required buffer or setback;
2. Will not increase the impervious cover on the site over the maximum allowed for the district or the existing impervious cover, whichever is greater;
3. Will not result in a density in excess of what is allowed under this Ordinance, or the existing density, whichever is greater;
4. Will lessen the extent of existing nonconforming site features to the greatest extent possible;
5. Will not have an adverse impact on the public health, safety or welfare; and
6. Will lessen the extent of nonconformities related to any existing nonconforming structure on the site to the greatest extent possible.”

There have been no Substitutions of Nonconformities for Redevelopment granted by staff since the March 2015 Board of Zoning Appeals meeting.