



**Town of Hilton Head Island  
Board of Zoning Appeals  
Regular Meeting  
Monday, January 26, 2015 2:30 p.m.  
Benjamin M. Racusin Council Chambers  
AGENDA**

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1. **Call to Order**
2. **Roll Call**
3. **Freedom of Information Act Compliance**  
Public notification of the Board of Zoning Appeals meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the requirements of the Town of Hilton Head Island Land Management Ordinance.
4. **Swearing in Ceremony for returning BZA member, Chairman Glenn Stanford**
5. **Welcome and Introduction to Board Procedures**
6. **Approval of Agenda**
7. **Approval of the Minutes – June 23, 2014 Meeting**
8. **Unfinished Business**  
None
9. **New Business**  
**Public Hearing**  
**SER-002322-2014**: Kerry Pollock of Comedy Magic Cabaret, on behalf of Richard Kolsch with Miller Family Limited Partnership, is requesting special exception approval for a comedy club per the restrictions placed on the property when it was rezoned to the Planned Development (PD-1) Zoning District on June 5, 2012. As part of the rezoning (ZMA120003), the use indoor entertainment was listed as a use that requires special exception approval. The property is located in the Palmetto Dunes Resort at 807 William Hilton Parkway and is further identified as parcel 16A on Beaufort County Tax Map 12. *Presented by: Nicole Dixon*
10. **Board Business**
  - a) Adoption of the 2015 BZA Meeting Schedule
  - b) Revisions to 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, June 23, 2014 2:30pm Meeting**  
**Benjamin M. Racusin Council Chambers**

**DRAFT**

Board Members Present: Chairman Peter Kristian, Vice Chairman Glenn Stanford,  
Irv Campbell, David Fingerhut, Michael Lawrence, P. Jeffrey North  
and Steve Wilson

Board Members Absent: None

Council Members Present: Mayor Drew Laughlin

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator  
Teri Lewis, LMO Official  
Brian Hulbert, Staff Attorney  
Richard Spruce, Flood Plain Administrator & Plans Examiner  
Jayme Lopko, Senior Planner  
Kathleen Carlin, Secretary

**1. Call to Order**

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

**2. Roll Call**

**3. 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.

**4. Presentation of Crystal Award to outgoing BZA Member, Mr. Peter Kristian**

Mayor Drew Laughlin presented the Town's Crystal Award to outgoing BZA member, Mr. Peter Kristian. Mayor Laughlin expressed his appreciation to Mr. Kristian for his excellent service to the Board of Zoning Appeals and Town of Hilton Head Island. A Farewell Celebration in appreciation of Mr. Kristian's service was held in Council Chambers following the meeting.

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

**6. Approval of Agenda**

Vice Chairman Stanford made a **motion** to **approve** the agenda as presented. Mr. Campbell **seconded** the motion and the motion **passed** with a vote of 7-0-0.

**7. Approval of the Minutes**

Vice Chairman Stanford made a **motion** to **approve** the minutes of the May 19, 2014 meeting as presented. Mr. Wilson **seconded** the motion and the motion **passed** with a vote of 7-0-0.

**8. Unfinished Business**

None

**9. New Business**

*(Chairman Kristian recused himself from review of APL130010 due to a professional conflict of interest. A Conflict of Interest Form was completed and signed by Mr. Kristian and attached to the record. Chairman Kristian requested that Vice Chairman Stanford presided over the review of APL130010.)*

**Hearing**

**APL130010:** Request from Terry A. Finger on behalf of Kittredge S. Collins and Michael Moy. The appellant is appealing the Town's determination on December 11, 2013 that the business license issued to On the Water Tours was issued in error, that the land uses assigned to the property (located at 421 Squire Pope Road) do not allow the activities conducted by On the Water Tours and that jet skis cannot be considered a form of embarkation. Acting Chairman Stanford introduced the application and stated that there will be no public comment. Acting Chairman Stanford requested that the appellant make his presentation.

Terry A. Finger, Esq., presented statements on behalf of the property owner, Mr. Kittredge Collins, and the business owner, Mr. Michael Moy. The appeal is from a letter sent by Ms. Teri Lewis, LMO Official, to Mr. Kittredge Collins dated December 11, 2013. Ms. Lewis had determined that the business license issued by the Town to the On the Water Tours for 2013 was issued in error. Ms. Lewis also stated that the land uses assigned to the property do not allow the activities conducted by On the Water Tours, and that jet skis cannot be considered a form of embarkation. Mr. Finger stated that the grounds for appeal are as follows:

(1) The business license to On the Water Tours was not issued in error; (2) The Town has waived its right to attempt to revoke or rescind the business license of On the Water Tours; (3) "Embarkation" is not a defined term in either the LMO or any other operable documents concerning this property. The use of jet skis falls as an allowable use under embarkation; (4) "Non-recreational ferry embarkation" is not a defined term under the LMO or any other operable documents concerning this property; (5) The action of the Town is arbitrary and capricious and is based solely upon unfounded complaints from residences within Hilton Head Plantation; (6) The docking facilities at Salty Fare were designed and constructed in order to facilitate full water uses on the subject property; (7) The damages caused by the Town and its agents in publically alleging that the business license for On the Water Tours had been revoked have been extensive and on-going; and (8) The Town's staff decision is not supported by facts, evidence, or law.

Mr. Finger and the Board discussed the appellant's ground for appeal. Following Mr. Finger's presentation, Mr. Kittredge Collins, property owner, presented additional statements in support of the appeal. Following the appellant's presentations, Acting Chairman Stanford requested that the staff make their presentation.

Ms. Teri Lewis, LMO Official, made the presentation on behalf of staff. Ms. Lewis presented statements regarding the history of the application. Ms. Lewis discussed the applicant's rezoning application which was not successful. Ms. Lewis also described the options that were considered by staff and the appellant. Following the staff's presentation, Acting Chairman Stanford asked Brian Hulbert, staff attorney, if the Board could receive comments from Mr. Peter Kristian, General Manager, Hilton Head Plantation POA. Mr. Hulbert stated that this would be permitted.

Acting Chairman Stanford then requested that Mr. Peter Kristian (as General Manager of Hilton Head Plantation, POA), address the Board. Acting Chairman Stanford asked Mr. Kristian if Hilton Head Plantation has a position on this issue and Mr. Kristian stated that they do. Mr. Kristian stated that the embarkation issue ended up being a very broad term and opening it up to a broader context of operational use became a concern for the Board. The Board is, therefore, in opposition to the appeal.

Terry Finger, Esq., asked Mr. Kristian about the Salty Fare documents created in 1987 that detail the restrictions on the use. Mr. Kristian stated that these documents pre-date his association with Hilton Head Plantation's POA. Acting Chairman Stanford discussed the definition of "embarkation" including limited recreational use. Following final discussion by the Board, Acting Chairman Stanford requested that a motion be made.

Mr. Fingerhut made a **motion to deny** Application for Appeal APL130010. Mr. Fingerhut stated that the Board should uphold the staff's position on this application. Mr. North **seconded** the motion and the motion **passed** with a vote of 5-2-0.

Chairman Kristian resumed his position as BZA Chairman at this time.

### **Public Hearing**

**VAR-000632-2014:** Debbie Remke, of Low Country Permit Expeditors, on behalf of Rodney Galella, is requesting a variance from Land Management Ordinance Section 16-4-704, Forest Beach Neighborhood Character Overlay District Regulations, to construct a pool and deck within the adjacent street setback and buffer. The property is located at 16 Dove Street and is further identified as parcel 240 on Beaufort County Tax Map 15A. Chairman Kristian introduced the application and requested that the staff make their presentation.

Ms. Nicole Dixon made the presentation on behalf of staff. Ms. Dixon presented an in-depth overhead review of the application including an as-built of the property and a site plan. Staff recommended that the application for variance be disapproved based on the staff's Findings of Fact and Conclusions of Law.

The subject parcel is located at 16 Dove Street in North Forest Beach, within the Forest Beach Neighborhood Character Overlay District. The property is a corner lot that has frontage on North Forest Beach Drive and Dove Street, and is surrounded by single family residential properties.

The applicant contacted staff inquiring if a pool was permitted on the property in the proposed location. Staff informed the applicant that the proposed pool, which is shown located in the 20-foot adjacent street setback and buffer, would require a variance application. The applicant states in the narrative that they are requesting the variance

because it is the only useable area on the property for a pool. The applicant also states that the only other area on the property that could be available for a pool already has a deck, and is adjacent to a neighbor who has asked the applicant to not place the pool on that side of the house. The applicant states in the narrative that the owner of the property would like the pool to be located where it is visible from the interior of the home. There is a six-foot high privacy fence that surrounds the property, so the proposed pool would not be visible from the street, neighbors or any passers-by. Ms. Dixon reviewed the staff's Findings of Fact and Conclusions of Law. Following the staff's presentation, Chairman Kristian requested that the applicant make her presentation.

Ms. Debbie Remke, of Low Country Permit Expeditors, presented statements in support of the application on behalf of her client, Mr. Rodney Galella. The applicant believes that there are extraordinary and exceptional conditions pertaining to this piece of property. The lot is small and the fenced in area is actually outside of the property line giving the appearance of a larger yard. The useable area is 22-ft. from the property line to the house.

Ms. Remke presented an overhead review of the property including the 20-ft. setback line. Chairman Kristian and the applicant discussed the non-conformities associated with the property and the need for open space. Following the applicant's presentation, Chairman Kristian requested public comments and none were received.

Chairman Kristian and other Board members discussed the application. The Board stated their concern with the application's inability to comply with the six required criteria. The BZA is required to follow the law. Following final discussion by the Board, Chairman Kristian requested that a motion be made.

Vice Chairman Stanford made a **motion** to **deny** Application for Variance VAR-000632-2014 based on the staff's Findings of Fact and Conclusions of Law including the fact that there are no extraordinary and exceptional conditions pertaining to the property. Mr. Fingerhut **seconded** the motion and the motion **passed** with a vote of 7-0-0.

## 10. Board Business

Nomination and Election of Officers for the July 1, 2014 – June 30, 2015 term.

Chairman Kristian stated that it is time to nominate and elect new officers for the term, July 1, 2014 – June 30, 2015. Chairman Kristian requested that a motion be made for Chairman for the term, July 1, 2014 – June 30, 2015.

Mr. Wilson made a **motion** to nominate Mr. Glenn Stanford to serve as Chairman for the new term. Mr. Lawrence **seconded** the motion. There were no additional nominations for the office of Chairman. The vote to elect Mr. Stanford as the new Chairman was **unanimous**.

Chairman Kristian then requested that a motion be made for a Vice Chairman for the new term. Mr. Stanford made a **motion** to nominate Mr. P. Jeffrey North to serve as Vice Chairman for the new term. Mr. Lawrence **seconded** the motion. There were no additional nominations for the office of Vice Chairman. The vote to elect Mr. North as the new Chairman was **unanimous**.

**11. Staff Reports**

- a) Ms. Dixon presented the staff's Waiver Report.
- b) Ms. Dixon presented staff's proposed revisions to the Rules of Procedure. The Board discussed the revisions with staff. The Board **adopted** the revisions to the Rules of Procedure as presented by staff by general consent.

**12. Adjournment**

The meeting was adjourned at 3:40p.m.

Submitted By:

Approved By:

Approved By:

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

\_\_\_\_\_  
Peter Kristian  
Chairman  
(for review of:  
VAR-000632-2014)

\_\_\_\_\_  
Glenn Stanford  
Vice Chairman  
(for review of:  
APL130010)



## TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court	Hilton Head Island, SC 29928	843-341-4757	FAX 843-842-8908
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### STAFF REPORT SPECIAL EXCEPTION

Case #:	Name of Development:	Public Hearing Date:
SER-002322-2014	Plantation Center	January 26, 2015

Parcel or Location Data:	Property Owner	Applicant
Address: 807 William Hilton Pkwy Parcel#: R520 012 000 016A 0000 Acreage: 2.49 acres Zoning: PD-1 (Planned Development) – Palmetto Dunes	Richard Kolsch Miller Family Limited Partnership, LLC 595 Route 25A Suite 1 Miller Place, NY 11764	Kerry Pollock Comedy Magic Cabaret 122 Doncaster Lane Okatie, SC 29909

Application Summary:
<p>Kerry Pollock of Comedy Magic Cabaret, on behalf of Richard Kolsch with Miller Family Limited Partnership LLC, is requesting special exception approval for a comedy club per the restrictions placed on the property when it was rezoned to the Planned Development (PD-1) Zoning District on June 5, 2012. As part of the rezoning (ZMA120003), the use of indoor entertainment was listed as a use that requires special exception approval.</p>

Staff Recommendation:
<p><b>Determination:</b> Staff recommends the Board of Zoning Appeals <b>approve</b> the application based on these Findings of Fact and Conclusions of Law.</p>

Background:
<p>The subject parcel is located at 807 William Hilton Parkway and is currently developed with a shopping center known as Plantation Center. The property is bound by Greenwood Development marketing offices to the north, Greenwood Development property maintenance and storage yard and the Palmetto Dunes POA Office redevelopment to the</p>

east, a vacant property and the Hunter building with commercial uses to the south, and Hilton Head Chamber of Commerce and the Arts Center of Coastal Carolina buildings to the west across William Hilton Parkway.

The Comedy Magic Cabaret currently operates out of the Kingfisher restaurant in Shelter Cove. The owner of the business is wishing to relocate to the Fidelity building in Plantation Center.

Plantation Center was rezoned in June 2012 from OL (Office/Institutional Low Intensity) to the PD-1 (Planned Development) Zoning District as part of the Palmetto Dunes Resort. As part of that rezoning approval, restrictions were placed on what uses were permitted and what uses would require special exception approval by the Board of Zoning Appeals. Indoor entertainment was a use that was listed as requiring special exception approval. Indoor Entertainment is now referred to as Indoor Commercial Recreation under the new LMO. The proposed comedy club is considered an indoor commercial recreation use.

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

**Grounds for Special Exception:**

The applicant states in his narrative that the proposed use will be conforming to the comprehensive plan and compatible with the surrounding commercial land uses. The comedy club is a small family oriented comedy and magic club which will be located inside an existing building, where only minor internal building improvements will be needed. No site work or improvements of any kind are expected outside of the building. The use will not have traffic or parking impacts because the site is an existing shopping center with existing parking. The applicant has secured a shared parking agreement with the Greenwood marketing offices adjacent to the property if the need arises for additional parking. The applicant states they have been in operation at the Kingfisher restaurant in Shelter Cove for two years and have received no complaints or had any issues with surrounding neighbors.

**Summary of Fact:**

- The applicant seeks a special exception as set forth in LMO Section 16-2-103.E.

**Conclusion of Law:**

- The applicant may seek a special exception for the proposed use as set forth in LMO Section 16-2-103.E.

**Summary of Facts and Conclusions of Law:**

**Summary of Facts:**

- Application was submitted on December 23, 2014 as set forth in LMO Section 16-2-102.C and Appendix D-23.
- Notice of the Application was published in the Island Packet on January 11, 2015 as

set forth in LMO Section 16-2-102.E.2.

- Notice of the Application was posted on January 7, 2015 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on January 5, 2015 as set forth in LMO Section 16-2-102.E.2.
- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

**Conclusions of Law:**

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application was submitted 34 days prior to the meeting, therefore meeting the 30 day deadline required in the LMO.
- Notice of application was published 15 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
- Notice of application was posted 19 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
- Notice of application was mailed 21 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

*As provided in LMO Section 16-2-103.E.4, Special Exception Review Standards, the BZA shall approve an application for use by special exception if and only if the applicant shall demonstrate that the proposed use and any associated development will be consistent with the following standards.*

**Summary of Facts and Conclusions of Law:**

*Criteria 1: It will be in accordance with the Comprehensive Plan (LMO Section 16-2-103.E.4.a):*

**Findings of Facts:**

**Natural Resources Element:**

- **Goal 3.5 - Promote Sustainable Development**
  - A. The goal is to create incentives for low impact development (for both site and structure design).

**Land Use Element:**

- **An Implication for Building Permit Trends - 8.2**

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

- **An Implication for Land Use Per Capita - 8.5**  
A fundamental policy of land use is whether or not the Town has sufficient land uses to support the population, both the permanent and seasonal population. It is also important that the portion of each land use classification is supported and sustainable in terms of infrastructure and natural resources to ensure a high quality of life that contributes to the character defining features of our community.
- **Goal 8.1 – Existing Land Use**  
A. The goal is to have an appropriate mix of land uses to meet the needs of existing and future populations.
- **Goal 8.5 - Land Use Per Capita**  
A. The goal is to have an appropriate mix and availability of land uses to meet the needs of the existing and future populations.
- **Goal 8.10 - Zoning Changes**  
A. The goal is to provide appropriate modifications to the zoning designations to meet market demands while maintaining the character of the Island.
- **Implementation Strategy 8.3 - Planned Unit Developments (PUDs)**  
A. Consider flexibility within the PUDs to address appropriate commercial or service land uses in areas with a high residential concentration.

**Conclusions of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-2-103.E.4.a because the application will be in accordance with the Comprehensive Plan.
- The application will provide for more flexibility within the PUD by allowing a commercial use in a location that is appropriate because commercial uses already exist on the property and the development is in close proximity to the high residential population of Palmetto Dunes Resort and Shelter Cove.
- The application will help meet market demands and support the development of an appropriate mix of land uses to meet the needs of the population and improve the quality of life on the Island.
- The application will allow an additional commercial use on a property that is already developed with commercial space, which is a more sustainable solution than developing new commercial space on a vacant piece of property when underutilized space already exists.

**Summary of Facts and Conclusions of Law:**

*Criteria 2: It will comply with all regulations and standards that are generally applicable within the zoning district and that are specifically applicable to the particular type of Special Exception (LMO Section 16-2-103.E.4.b):*

**Findings of Facts:**

- The proposed use will be located within an existing building, where the only improvements planned are minor internal renovations. A building permit is required for such improvements.
- There are no use standards in the LMO for an indoor commercial recreation use in this zoning district.

**Conclusion of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-2-103.E.4.b because there are no standards for this use in this zoning district that need to be met and the building permit process will ensure compliance with all building and fire code regulations.

**Summary of Facts and Conclusions of Law:**

*Criteria 3: It will be compatible with the intensity, scale, and character of development existing or planned in the surrounding area (LMO Section 16-2-103.E.4.c):*

**Findings of Facts:**

- The application proposes a commercial use in an existing shopping center.
- The property is surrounded by Greenwood Development marketing offices and their property maintenance and storage yard, the Palmetto Dunes POA Office redevelopment, the Hunter building with commercial uses and the Hilton Head Chamber of Commerce and the Arts Center of Coastal Carolina.

**Conclusion of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-2-103.E.4.c because the proposed use will be compatible with the existing commercial uses and development within the surrounding area.

**Summary of Facts and Conclusions of Law:**

*Criteria 4: It will not cause undue traffic congestion or create a traffic hazard (LMO Section 16-2-103.E.4.d):*

**Findings of Facts:**

- The applicant states in the narrative that the comedy club is a small venue with an average of 20-30 cars per night.
- Because the proposed use will be located in an existing building in the shopping center, no additional parking is required.
- The applicant has secured a shared parking agreement with the Greenwood Development Marketing offices adjacent to the subject property should there be a

need for additional parking.

**Conclusions of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-2-103.E.4.d because the proposed use will not cause undue traffic congestion or create any traffic hazard.
- The applicant has even gone above what is required and secured a shared parking agreement should the need arise for extra parking, to ensure no traffic congestion is created.

**Summary of Facts and Conclusions of Law:**

*Criteria 5: It will incorporate preservation and protection of important natural features and not result in significant adverse impacts on the natural environment – including, but not limited to, water, air, noise, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment (LMO Section 16-2-103.E.4.e):*

**Findings of Facts:**

- The proposed use will be located within an existing building, where the only improvements planned are minor internal renovations.
- There will be no site improvements or impacts made to any existing natural features, trees or vegetation on the property.

**Conclusion of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-2-103.E.4.e because there will be no impact to any natural features on site nor will the proposed use have any adverse impact on the natural environment.

**Summary of Facts and Conclusions of Law:**

*Criteria 6: It will not generate needs for transportation, water supply, sewage disposal, storm water management, solid waste collection, fire and police protection, and similar public services that cannot be adequately handled by available or provided infrastructure and facilities (LMO Section 16-2-103.E.4.f):*

**Finding of Fact:**

- The proposed use will be located within an existing building, where the only improvements planned are minor internal renovations.

**Conclusion of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-

2-103.E.4.f because the site is an existing shopping center that is already served by adequate infrastructure and facilities.

**Summary of Facts and Conclusions of Law:**

*Criteria 7: It will not substantially injure the value of surrounding properties (LMO Section 16-2-103.E.4.g):*

**Findings of Facts:**

- The application proposes a commercial use in an existing shopping center.
- The property is surrounded by Greenwood Development marketing offices and their property maintenance and storage yard, the Palmetto Dunes POA Office redevelopment, the Hunter building with commercial uses and the Hilton Head Chamber of Commerce and the Arts Center of Coastal Carolina.

**Conclusion of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-2-103.E.4.g because the proposed use is compatible with the surrounding properties and will not injure the value of them.

**Summary of Facts and Conclusions of Law:**

*Criteria 8: It will not materially endanger the public health or safety (LMO Section 16-2-103.E.4.h):*

**Findings of Facts:**

- The application proposes a commercial use in an existing building within a shopping center.
- The only improvements planned are minor internal renovations.
- The applicant states in the narrative that the comedy club is a small family oriented venue.

**Conclusion of Law:**

- Staff concludes that this application meets the criteria as set forth in LMO Section 16-2-103.E.4.h because the proposed use will not endanger the public health or safety.

**LMO Official Determination:**

**Based on the above Findings of Facts and Conclusions of Law, the LMO Official determines that the request for a special exception should be granted to the applicant for the proposed Indoor Commercial Recreation use in the PD-1 Zoning District**

because it is in conformance with the Comprehensive Plan and the Land Management Ordinance.

**BZA Determination and Motion:**

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

A written Notice of Action is prepared for each decision made by the BZA based on findings of fact and conclusions of law.

**The BZA can either Approve the application, Disapprove the application, or Approve with Modifications. Findings of Fact and Conclusions of Law must be stated in the determination.**

**PREPARED BY:**

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

January 13, 2015  
\_\_\_\_\_  
DATE

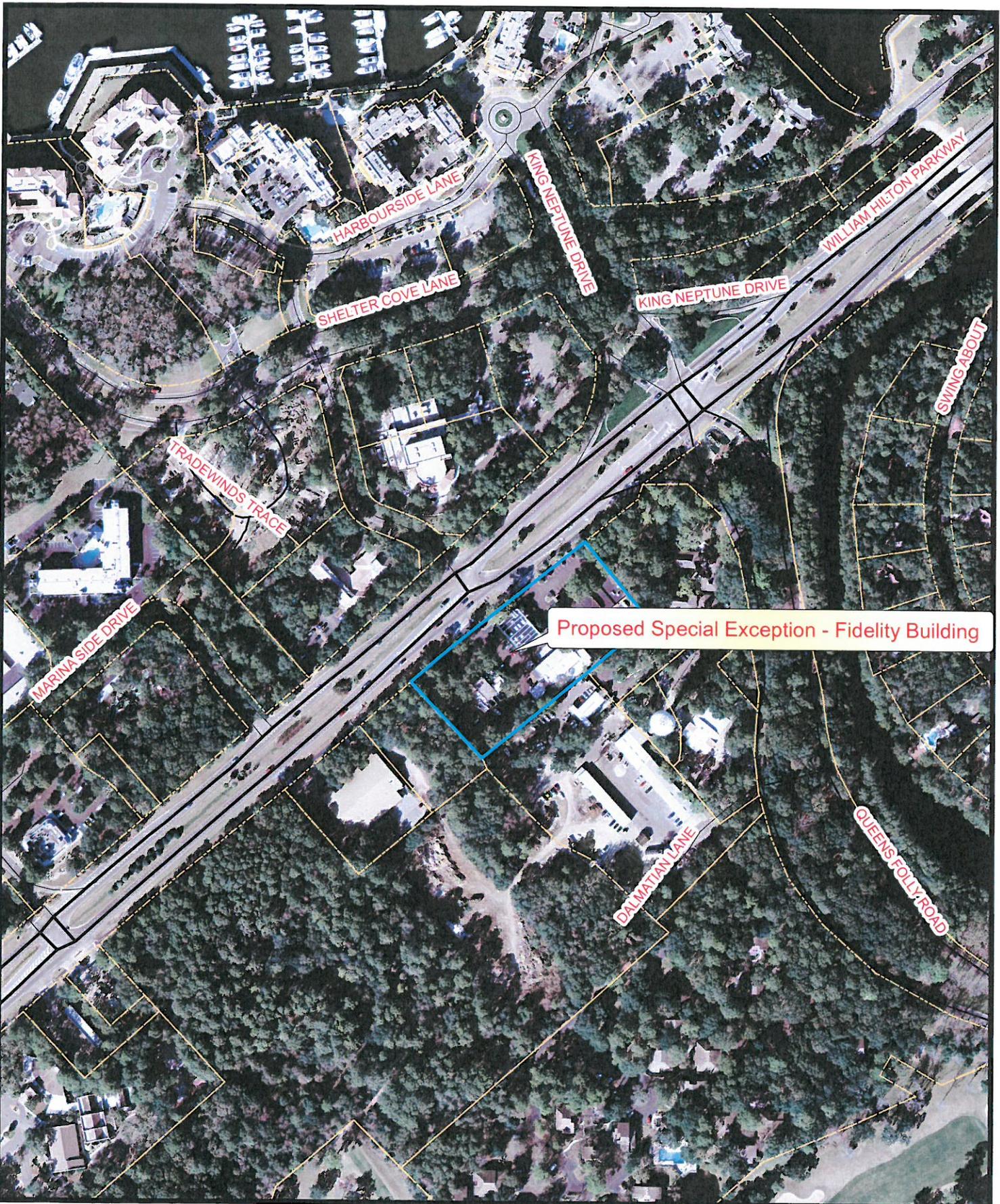
**REVIEWED BY:**

HC  
\_\_\_\_\_  
Heather Colin, AICP, Development Review  
Administrator

January 14, 2015  
\_\_\_\_\_  
DATE

**ATTACHMENTS:**

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



Proposed Special Exception - Fidelity Building



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

### Town of Hilton Head Island

## ATTACHMENT A - 807 William Hilton Parkway

### Vicinity Map



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

Re zoning



# ATTACHMENT B

## Narrative of Specific Use

We are requesting a special exception for the location provided on the application (Plantation Center) for the specific use of our Comedy Magic Cabaret. We are a family oriented comedy and magic club that features "Funny not Filthy" shows. We are applying for the special exception because we were informed that it is required for an entertainment venue. We have been located for the previous two years above the Kingfisher restaurant and are moving to the Plantation Center location if granted the exception. In the 2 years at Kingfisher in Shelter Cove, we have had no issues or complaints with any of the criteria required for the exception.

We are in accordance with the comprehensive plan and will comply with all regulations and standards applicable to the zoning district at Plantation Center which is light commercial. We are very compatible with the existing and planned development of the surrounding area and in fact intend to work closely with our neighboring restaurants for dinner/show package deals to help cross promote and build relationships.

We will not have a significant impact on either the traffic or the parking in the area. We are a small venue and only average 20-30 cars per night over a two hour period. We will have shared parking in the center as well as private parking that we have procured from the Palmetto Marketing offices adjacent to our business. They do not use their lot after 5:00PM and will lease it to us for our use after that time. We have attached a copy of the lease to our application. With only 20-30 cars average and providing a second dedicated lot with a separate entrance we feel there would be negligible impact on traffic or parking.

Since we will be operating upstairs of the existing Fidelity building, we will only be performing light internal remodeling. We will not have any significant impact on the natural environment. All of our activity will be inside of an existing building and will be in accordance with letter "e" of the special exception criteria.

All public services at our location are adequately handled by existing and provided infrastructures and facilities.

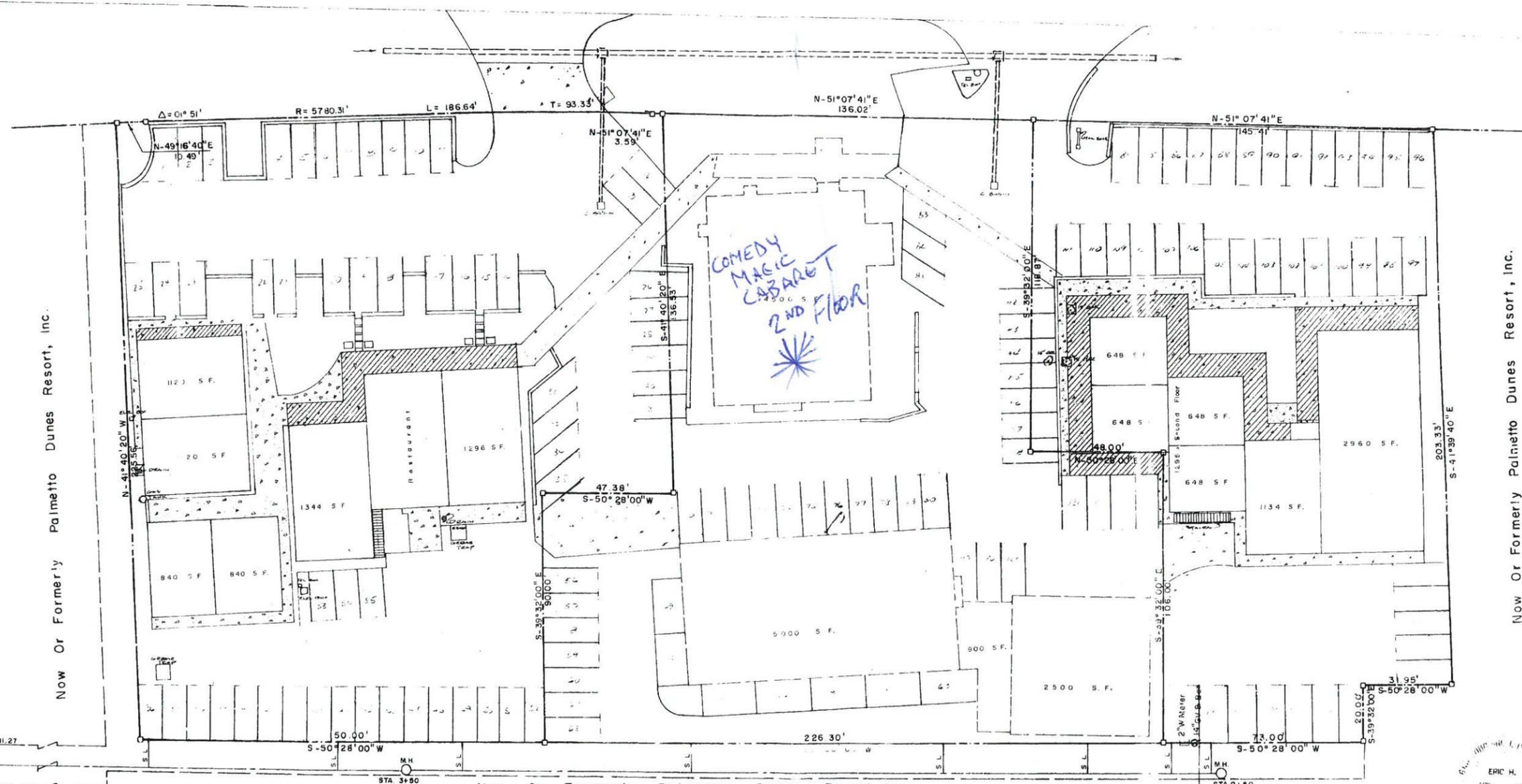
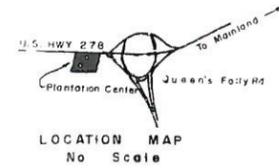
While not causing injury to the value of surrounding properties, we feel and have been told by the landlord and some of the properties that we would enhance their location and services.

Public health and safety should not be an issue. We will comply with all laws and code which inherently provide for the public health and safety. We are a family establishment with light food and beverage.

# ATTACHMENT C

P343A

U. S. H W Y. 2 7 8



Now Or Formerly Palmetto Dunes Resort, Inc.

Now Or Formerly Palmetto Dunes Resort, Inc.

PLAT  
AS-BUILT NEW ADDITION  
PLANTATION CENTER  
U.S. HIGHWAY 278  
HILTON HEAD ISLAND  
BEAUFORT COUNTY, SOUTH CAROLINA

FOR:  
MR. WILLIAM N. CORK, PRESIDENT  
HILTON HEAD ISLAND S. C.  
DATE: MAY, 1977  
SCALE: 1"=20'

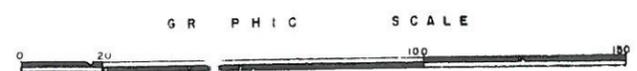
**APPROVED**  
(AS PLATTED HEREON)  
THIS SUBDIVISION PLAT MEETS THE REQUIREMENTS OF THE BEAUFORT COUNTY SUBDIVISION REGULATIONS AND IS HEREBY APPROVED FOR RECORDING WITH THE BEAUFORT COUNTY REGISTER OF MEAN CONVEYANCES.  
Date of Planning Commission Approval: 1/13/78  
CERTIFIED BY: *[Signature]*  
DATE: *January 10, 1978*  
BEAUFORT COUNTY JOINT PLANNING COMMISSION FILE NO.

**LEGEND**

- OVERHANG
- COVERED WALK
- CURB

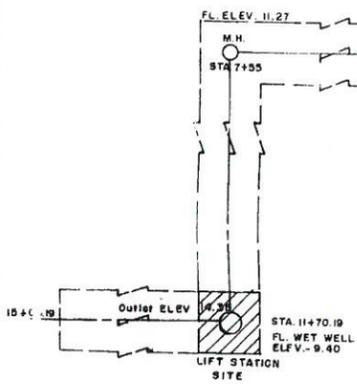
**NOTE**

Parking required + new addition	= 136	paces
Available Parking	= 151	
<b>Recap:</b>		
Number of stores (retail)	= 13	
Sq. foot retail (16,906)	= 8	
Sq. foot warehousing (8 emp. 4 veh.)	= 1	
Sq. foot office (1296 4 empl.)	= 1	
Restaurant - (60 seats 8 empl.)	= 1	
Beauty shop (4 chairs 4 empl.)	= 1	
<b>Total required</b>	<b>= 13</b>	



ERIC H. FREI  
E. H. FREISSLER P. E. & L. S. 4624

E. H. FREISSLER CONSULTING P. E. & L. S.		P. O. DRAWER 1568	
HILTON HEAD ISLAND, S. C. 29928		DRAWN BY H.C.	
SCALE: 1"=20'	APPROVED BY: <i>[Signature]</i>	DATE: 5/5/77	REVISED 7-7-77
Rev 1/6/78 To show parking		DRAWING NUMBER	



**TOWN OF HILTON HEAD ISLAND**

**BOARD OF ZONING APPEALS**

**2015 Public Meeting Schedule**

BZA Powers and Duties	Application Procedure
<p>The Board of Zoning Appeals has the following powers:</p> <p>A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of Title 16 of the Municipal Code, Land Management Ordinance.</p> <p>B. To hear and decide requests for variance from the Design and Performance Standards of the Land Management Ordinance.</p> <p>C. To review and take action on applications for uses by special exception; and</p> <p>D. To review and take action on appeals of Planning Commission action on certain traffic analysis plans.</p>	<p>Applications for Variance and Special Exception must be completed and submitted not later than 30 days prior to the meeting at which the application will be considered. In addition, Applications for Appeal must be filed not later than 14 days from the date of the decision being appealed.</p> <p>An Application Check-In Conference is required for all applications to determine whether the application meets the minimum requirements for acceptance. Application Check-In Conferences must be scheduled by appointment with the Community Development Department staff.</p>

<u>BZA PUBLIC MEETING DATE</u>	<u>APPLICATION DEADLINE</u>
January 26, 2015 .....	December 26, 2014
February 23, 2015 .....	January 23, 2015
March 23, 2015.....	February 20, 2015
April 27, 2015.....	March 27, 2015
*May 13, 2015 .....	April 13, 2015
June 22, 2015.....	May 22, 2015
July 27, 2015.....	June 26, 2015
August 24, 2015.....	July 24, 2015
September 28, 2015.....	August 28, 2015
October 26, 2015.....	September 25, 2015
*November 16, 2015.....	October 16, 2015
*December 14, 2015.....	November 13, 2015
<p>* <b>Tuesday, May 13<sup>th</sup></b> (due to scheduling conflicts and Memorial Day holiday)</p> <p>* <b>November 16<sup>th</sup></b> is the third Monday of the month due to the Thanksgiving Holiday</p> <p>* <b>December 14<sup>th</sup></b> is the second Monday of the month due to the Holidays</p>	

Regular meetings are held on the 4<sup>th</sup> Monday of each month at 2:30pm in Council Chambers.



# TOWN OF HILTON HEAD ISLAND

*Community Development Department*

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

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At the June 23, 2014 Board of Zoning Appeals meeting, the Board reviewed and discussed proposed revisions to the Rules of Procedure regarding the timing allowed for supplemental submissions, to allow staff to have a chance to respond to such supplements and to give the Board additional time to review the information. Corrections were also made to an incorrect citing of a code section. The proposed changes were approved but never formally adopted since the BZA has not had a regular meeting since June.

Since the June meeting, the re-write of the Land Management Ordinance was adopted by Town Council on October 7, 2014. I went through the Rules of Procedure and made revisions based on code section changes and other minor revisions, accordingly. These changes are located on pages 5, 10, 12, 17, 18 and 19, and are attached for your review and discussion at the January 26, 2015 meeting.

The final version of the Rules of Procedure, incorporating both sets of changes listed above, will be adopted at the February 23, 2015 meeting, or the next regularly scheduled meeting should the board not meet in February.

*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 ~~Sec. 16-2-301~~ 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 ~~Section 16-2-304~~ 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 ~~Chapter 2 Article III~~ 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 ~~Chapter 3~~ 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 ~~forty-five (45)~~ 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 16-3-2001, Code of the Town of Hilton Head Island, South Carolina (1983)~~ and ~~Section 16-3-2003, Code of the Town of Hilton Head Island, South Carolina (1983)~~, 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 ~~16-3-1804, 16-3-1905, or 16-3-2003 Action by Board of Zoning Appeals~~ 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.
  7. The time for Appeal from any decision of the Board under Section ~~16-3-1804, Section 16-3-1905 or Section 16-3-2003~~ 16-2-103.E.3.d, 16-2-103.S.3.d or 16-2-103.T.4.d of the LMO 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 the written Notice of Action delivered after the board has Reconsidered the matter, as the case may be.

## **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:

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 parliamentary rule that once a question has been decided it cannot be brought up again at the same meeting.</li> <li>○ Within limits, members have the right to rethink a situation if they feel their</li> </ul>
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	<p>decision has been made too quickly or without enough information.</p> <ul style="list-style-type: none"> <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 Amendments</b>	<p>Change in wording to enhance the original motion – can be changed by general consent.</p>
<b>Hostile Amendments</b>	<p>Gives a different meaning to a motion and may defeat the intent of the main motion.</p>
<b>To Commit or Refer a</b>	<p>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</p>

<b>Motion</b>	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</b>	Those members who do not vote, agree to go along with the decision of the

<b>Consent</b>	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>	<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. <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:** January 12, 2015  
**SUBJECT:** Administrative Waivers – (Substitutions of Nonconformities for Redevelopment)

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The Board of Zoning Appeals (BZA) requested that staff keep them informed of administrative waivers 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.

With the adoption of the new Land Management Ordinance (LMO), the language in the Nonconformities Section pertaining to waivers has been revised. Administrative waivers are now referred to as “Substitutions of Nonconformities for Redevelopment”. This is how you will see the subject of this memo in the future. 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.”

The attached is a summary of the Substitutions of Nonconformities for Redevelopment that have been granted by staff since the June 2014 Board of Zoning Appeals meeting.

## Substitutions of Nonconformities for Redevelopment

### **May - 2014**

1. A project at 397 Squire Pope Road (Boathouse Restaurant): the applicant requested to add an outside cooler, parking and landscaping to the property. The parking lot is currently a nonconforming site feature. A waiver was granted because the applicant is proposing to make improvements that will bring the parking lot more into compliance with the LMO.

### **July – 2014**

1. A project at 16 Queens Folly Road (Palmetto Dunes POA Office Building): the applicant requested to make parking lot improvements to the property as part of the redevelopment of the property. The parking lot is currently a nonconforming site feature. A waiver was granted because the applicant is proposing to make improvements that will bring the parking lot more into compliance with the LMO.

### **September – 2014**

1. A project at 6 Finch Street (Land Speed Automotive): the applicant requested to make parking lot improvements to the property as part of their expansion project. The parking lot is currently a non-conforming site feature. A waiver was granted because the applicant is proposing to make improvements that will bring the parking lot more into compliance with the LMO.
2. A project at 16 Dove Street (pool addition): the applicant requested to construct a pool within the adjacent street setback and buffer. The property is currently non-conforming to the buffer standards as a concrete patio is currently located within the buffer. A waiver was granted because the applicant redesigned the pool so that it was within the same footprint of the existing patio and because they added landscaping to the buffer bringing it more into compliance with the LMO.
3. A project at 177 Spanish Wells Road (Lopez Subdivision): the applicant requested a waiver from the 200 foot driveway separation requirement as part of his subdivision project. A waiver was granted due to the location of the subject property and the restrictions that exist that wouldn't allow the applicant to feasibly meet the requirement.

### **November – 2014**

1. A project at 2073 Deer Island Road (walkway addition): the applicant requested to add walkways and a front entrance pad through the tidal buffer. The property is currently non-conforming to the buffer standards as there is a deck currently located within the tidal buffer. A waiver was granted with the condition that the applicant build the walkways with pavers set in sand so that the area remains pervious.