



**Town of Hilton Head Island
Board of Zoning Appeals
Special Meeting
Monday, August 29, 2016 - 4:00 p.m.
Benjamin M. Racusin Council Chambers
AGENDA**

1. **Call to Order**
2. **Pledge of Allegiance to the Flag**
3. **Roll Call**
4. **Freedom of Information Act Compliance**
Public notification of the Board of Zoning Appeals meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the requirements of the Town of Hilton Head Island Land Management Ordinance.
5. **Welcome and Introduction to Board Procedures**
6. **Approval of Agenda**
7. **New Business**
Request from Chester C. Williams: Motion for Stay or Postponement - filed on behalf of Arbor Nature LLC, the Appellant in connection with Application for Appeal APL-001006-2016. At the August 22, 2016 meeting, the BZA voted to deny the request to postpone further action by the BZA until the issues subject to the appeal are decided by the court in the pending lawsuit. The BZA voted to hear the appeal at the September 26, 2016 regular meeting. Subsequently, the BZA was informed that the appellant's counsel is unavailable. The BZA will vote on a request for postponement until the October 24, 2016 regular meeting. The BZA will also vote on a 1:00pm meeting start time.
8. **Adjournment**

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



LAW OFFICE OF
CHESTER C. WILLIAMS, LLC

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Chester C. Williams
ALSO MEMBER LOUISIANA BAR

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

23 August 2016

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

**Via Email and
Hand Delivered**

RE: ArborNature, LLC Application for Appeal APL-001006-2016 – Our File
No. 01802-001

Dear Teri:

On behalf of our client, ArborNature, LLC, we enclose herewith for filing with the Board of Zoning Appeals (the “BZA”), a Motion for Postponement of the 26 September 2016 hearing on this matter by the BZA.

Please let us know if you or any members of the BZA have any questions or comments regarding this Motion, or if we may otherwise be of assistance.

With best regards, we are

Very Truly Yours,

LAW OFFICE OF CHESTER C. WILLIAMS, LLC

This signature is an electronic reproduction

Chester C. Williams

CCW/
Enclosure

cc: Mr. and Mrs. Adam Congrove
C. Glenn Stanford, Esq.
Thomas C. Taylor, Esq.
Brian E. Hulbert, Esq.
Nicole Dixon, CFM

<p>STATE OF SOUTH CAROLINA</p> <p>COUNTY OF BEAUFORT</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>BEFORE THE BOARD OF ZONING APPEALS OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA</p> <p>APPLICATION FOR APPEAL NO. APL-001006-2016</p>
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MOTION FOR POSTPONEMENT

A. INTRODUCTION AND BACKGROUND

This Motion for Postponement is filed on behalf of ArborNature, LLC (the “Appellant”) in connection with Application for Appeal No. APL-001006-2016 (the “Appeal Application”) filed by the Appellant, which is pending before the Board of Zoning Appeals (the “BZA”) for the Town of Hilton Head Island (the “Town”).

The Appellant respectfully submits that:

1. On 22 August 2016, the BZA voted to deny the Appellant’s Motion for Stay or Postponement of further action by the BZA on the Appeal Application beyond the BZA’s 26 September 2016 meeting.

2. On 22 August 2016, the BZA also voted to authorize the Chairman of the BZA to issue subpoenas for live testimony of witnesses at a hearing on the merits of the Appeal Application, but declined to authorize the Chairman to issue subpoenas for depositions of witnesses prior to a hearing on the merits of the Appeal Application.

3. Because of the two votes by the BZA on the Appeal Application on 22 August 2016, the Appellant will be seeking subpoenas for witnesses to testify at the BZA’s 26 September 2016 hearing on the merits of the Appeal Application, and the Appellant must necessarily be prepared to examine and cross-examine witness at that hearing.

4. The undersigned Chester C. Williams is counsel for the Appellant in the Appeal Application, and Thomas C. Taylor, Esq. is counsel for the Appellant in that certain action styled *Indigo Run Community Owners*



Association, Inc., a South Carolina non-profit corporation and Chew-Fisher Capital Business Park, LLC, a Nebraska limited liability company v. Adam Congrove, Dennis Roy Congrove, and ArborNature, LLC, a South Carolina limited liability company, Civil Action No. 2016-CP-07-1294 in the Court of Common Pleas for the Fourteenth Judicial Circuit, Beaufort County, South Carolina (the “Pending Litigation”), and is co-counsel with the undersigned for the Appellant in the Appeal Application. The undersigned is not a litigator, and is unfamiliar with examination and cross-examination of witnesses under oath.

5. The undersigned and Mr. Taylor were both present at the BZA’s 22 August 2016 hearing, but Mr. Taylor was forced to leave that meeting while the BZA was in executive session, and before its members voted to limit the Chairman’s subpoena authority to witnesses for live testimony only, as opposed to deposition testimony.

6. As Mr. Taylor was leaving the BZA meeting, he told the undersigned that he is unavailable to attend the 26 September 2016 BZA meeting because of long-standing vacation plans.

7. The Appellant looks to Mr. Taylor for litigation-related assistance and support. The undersigned is unqualified to conduct on his own the examination and cross-examination of witnesses under oath at a hearing on the merits of the Appeal Application at the 26 September 2016 BZA meeting.

8. Because sworn witness testimony at the BZA’s hearing on the merits of the Appeal Application will be admissible as sworn testimony in the Pending Litigation, similar to deposition testimony used in litigation, it is critical to the competent and effective representation of the Appellant in the Appeal Application and in the Pending Litigation that Mr. Taylor be available to conduct sworn examination and cross-examination of witnesses at the BZA’s hearing on the merits of the Appeal Application.

B. MOTION FOR STAY OR POSTPONEMENT

Pursuant to Article XI, Section 3, Paragraph 2 of the BZA’s Rules of Procedure, the Appellant moves for a stay or postponement of further action by the BZA on the Appeal Application until the BZA’s 24 October 2016 meeting in order to allow the Appellant to be represented by its litigation counsel, and to

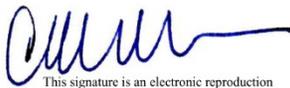


provide a fair and complete hearing on the Appeal Application with Mr. Taylor in attendance and available to conduct examination and cross examination of witnesses under oath for the Appellant.

C. CONCLUSION

The Appellant asks that the BZA consider this Motion for Postponement, and vote to postpone the hearing on the merits of the Appeal Application until the BZA's 24 October 2016 meeting.

Respectfully submitted on behalf of the Appellant 23 August 2016.



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