

## **MOTION TO CONDITIONALLY GRANT ENCROACHMENT PERMIT**

On the Chair's own motion, I move to grant the application of Atlantic Partners II, LLC (the "Applicant") for an encroachment permit allowing construction of a driveway connection between Seabrook Island Road and an abutting proposed senior living facility, consistent with the current design drawings for that driveway and related modifications to Seabrook Island Road, upon conditions to be determined by the Planning Commission for the Town of Seabrook Island and accepted by the Applicant and, where applicable, by Big Rock Partners, LLC ("Big Rock").

## **CONDITIONS TO THE ENCROACHMENT PERMIT OF ATLANTIC PARTNERS II, LLC**

- 1) Until a certificate of occupancy has been issued by the Town of Kiawah Island for the proposed senior living facility, vehicles involved with the construction of the proposed senior living facility may not enter or leave the site of that facility via Seabrook Island Road.
- 2) Applicant and Big Rock, their members and assigns, agree to comply with all of the provisions, terms, conditions and restrictions set forth in Applicant's July 16, 2018 Application for Encroachment Permit.
- 3) Applicant and Big Rock, their members and assigns, warrant that they will pay any and all expenses incurred by the Town of Seabrook Island, South Carolina (the "Town") as a result of expenses incurred or damages suffered by the Town and/or its residents as a result of increased storm water runoff from the senior living facility. Final storm water plans shall be subject to review and approval by the Town prior to the commencement of construction activities.
- 4) Applicant and Big Rock, their members and assigns, shall indemnify and hold harmless the Town from any and all liability, claims and /or expenses (including reasonable attorney fees) arising out of or in any way related to bodily injury or property damage (i) occurring on Applicant's property, at or near the entrance to the senior living facility and (ii) attributable to vehicular traffic entering or leaving the senior living facility.
- 5) The Easement Agreement between Applicant and the Town, wherein the Applicant allowed the use of its property for a bike path to Freshfields Village, shall be amended to delete the Town's indemnification of Applicant as set forth therein. Nothing in this condition, or the request therefore, shall be construed as a waiver of any immunities granted to the Town under the South Carolina Tort Claims Act.
- 6) Applicant and Big Rock, their members and assigns, shall fully mitigate, at their sole expense, the loss of or damage to trees resulting from construction of the senior living facility entrance and related modifications to Seabrook Island Road. The Town shall make the final determination of the type and size of required replacement trees and where they will be located.

- 7) Applicant and Big Rock, their members and assigns, warrant that they will at all times keep those portions of the pedestrian/bicycle path lying near the entrance to the senior living facility in good maintenance and repair.
- 8) The Town shall select and locate vehicular and bicycle/pedestrian traffic signage associated with the Seabrook Island Road entrance to the senior living facility at the sole expense of the Applicant and Big Rock.
- 9) In recognition of the Town's declared policy of limiting access to the portion of Seabrook Island Road at issue, Applicant and Big Rock, their members and assigns, agree to share their conditionally permitted driveway with the developer of the neighboring property currently owned by Haulover Creek Development, or alternatively at the Town's option, to close their conditionally permitted driveway and use a central entrance from Seabrook Island road that is permitted by the Town for construction on the neighboring property.