

TOWN OF SEABROOK ISLAND

DSO Advisory Committee Meeting

August 20, 2020 – 2:00 PM

Virtual Meeting (Zoom)

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AGENDA

CALL TO ORDER

APPROVAL OF MINUTES

1. DSO Advisory Committee Meeting:

- August 13, 2020

[Pages 2-3]

ITEMS FOR DISCUSSION

1. Review and Discussion of Draft DSO Articles:

- Article 17: Duties & Responsibilities
- Article 18: Permits & Fees
- Article 19: Amendments
- Article 20: Appeals

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[Pages 14-18]

[Pages 19-22]

ADJOURN

About the DSO Advisory Committee

On March 26, 2019, the Seabrook Island Town Council approved a contract with PLB Planning Group for the purpose of completing a comprehensive update of the town's Development Standards Ordinance (DSO). The DSO Advisory Committee was appointed on April 23, 2019 and includes ten members: one member from Seabrook Island Town Council, two members from the Board of Zoning Appeals, two members from the Planning Commission, four residents of the town, and one staff representative from the Seabrook Island Property Owners Association. The committee will be tasked with providing input, guidance and feedback to town staff and the consultant during the development of a new DSO. The committee's recommendations will be submitted to Town Council in late 2020.

TOWN OF SEABROOK ISLAND

DSO Advisory Committee Meeting

August 13, 2020 – 2:00 PM

Virtual Meeting Hosted via Zoom

[Live Streamed on YouTube](#)



MINUTES

Present: Skip Crane (Chair), Wayne Billian, Bob Driscoll, Ava Kleinman, Gary Quigley, Walter Sewell, Roger Steel, Ed Williams, Joe Cronin (Town Administrator)

Absent: Katrina Burrell

Guests: John Gregg (Mayor), Paul LeBlanc (PLB Planning Group)

Chairman Crane called the meeting of the DSO Advisory Committee to order at 2:00 PM. Chairman Crane confirmed that the requirements of the Freedom of Information Act were fulfilled, and the meeting agenda was properly posted.

APPROVAL OF MINUTES

1. **DSO Advisory Committee Meeting: July 30, 2020:** Mr. Quigley made a motion to approve the minutes from the July 30, 2020 meeting. Mr. Steel seconded the motion. The motion was **APPROVED** by a vote of 8-0.

Mr. Billian joined the meeting at approximately 2:10 pm.

ITEMS FOR DISCUSSION

1. **Discussion of "Next Steps" for the DSO Update:** With only a handful of draft articles left to review, Chairman Crane asked the project consultant, Paul LeBlanc of PLB Planning Group, to provide an overview of the committee's "next steps" once the initial review of the draft DSO has been completed. Mr. LeBlanc stated that an updated "second draft" would be provided following the initial review of each of the draft articles. The second draft would include all articles in a single document and the committee would be provided with both a "redline" and "clean" copy. The second draft would become the "formal" draft of the new DSO, which could then be distributed for public review and comment prior to moving into the adoption phase. The consensus of the committee was that the committee should conduct a second review of the draft DSO prior to distributing it for public review. Town Administrator Cronin recommended that committee members take a few weeks to review the updated draft once it has been completed and send back a list of only those sections, subsections, paragraphs, tables, illustrations, etc. that they would like to mark for additional discussion. Once those items have been identified, the committee would hold one or more additional meetings to

discuss only those items which have been flagged for review. He added that this would likely require a change order to incorporate additional meetings and services that were not included in the initial scope.

2. **Review and Discussion of Draft DSO Articles**: Paul LeBlanc of PLB Planning Group provided a summary of the proposed language for the following article:

- Article 17: Subdivision: Design Requirements

Committee members reviewed, discussed and provided feedback on the proposed language for Article 17. A detailed discussion took place regarding the designation of arterial streets; internal street design and future connectivity between developments; the requirement to connect to public utilities; the authority of the Planning Commission to waive or modify subdivision requirements; and whether or not the town is open to accepting future streets for public ownership and maintenance.

Mr. LeBlanc will incorporate the committee's recommendations into an updated version of Article 17.

ADJOURN

There being no further business, Mr. Quigley made a motion to adjourn the meeting. Mr. Steel seconded the motion. The motion was **APPROVED** by a vote of 8-0 and the meeting was adjourned at 3:51 PM.

Minutes Approved:



Joseph M. Cronin
Town Administrator

Duties and Responsibilities

Article 17

Seabrook Island Development Standards Ordinance



Section 17.1 Zoning Administrator

- A. **Role.** The zoning administrator is designated as the individual responsible for administering and enforcing the provisions of this ordinance.
- B. **Powers and Duties.** The zoning administrator shall have the following powers and duties under this ordinance:
1. To review and decide applications for:
 - a. zoning compliance permits,
 - b. conditional use permits,
 - c. exempt and minor subdivisions,
 - d. certain site development plans, including changes to approved plans, where allowed by this ordinance,
 - e. temporary use permits, and
 - f. sign permits.
 2. To render interpretations of this ordinance.
 3. To establish application content requirements and a submission schedule for review of applications and appeals.
 4. To compile and maintain administrative manuals and procedures.
 5. To review and make recommendations through staff reports to the Town Council, Planning Commission, and Board of Zoning Appeals on applications for permits and other approvals, where appropriate, and take any other action necessary to administer the provisions of this ordinance.
 6. To maintain the official zoning district map and other such records and official materials that relate to the adoption, amendment, enforcement, or administration of this ordinance.
 7. To enforce this ordinance in accordance with *Article 23*.
 8. To provide expertise and technical assistance to the Town Council, Planning Commission, and Board of Zoning Appeals upon request.

Section 17.2 Planning Commission

- A. **Role.** The Planning Commission functions as an advisory committee to the zoning administrator and Town Council with respect to certain provisions of this ordinance and has direct review and approval functions as specified in this ordinance, including the following.
- B. **Powers and Duties.** The Planning Commission for the Town of Seabrook Island is vested with the powers and responsibilities authorized by § 6-29-310 et seq. of the SC State Code, including the following:
1. Comprehensive plan. To oversee the preparation and periodic updating of the town's comprehensive plan, and, by resolution, to recommend adoption of the plan or any element, amendment, extension or addition, including maps and other descriptive matter, to Town Council.
 2. Text amendments. To initiate, review, and make recommendations to Town Council to approve or deny any requested amendments to the text of this ordinance.
 3. Amendments to official zoning map (rezoning). To initiate, review, and make recommendations to Town Council to approve or deny applications to amend the official zoning map.
 4. Subdivisions. To review and decide applications for the subdivision and development of land, including, but not limited to, the review and approval of preliminary subdivision plans and final subdivision plats.

5. Site development plan review. To review and decide applications for site development plan approval, as authorized by this ordinance.
6. Appeals. To hear and decide appeals on decisions of the zoning administrator, where allowed by this ordinance.
7. Street names. The Planning Commission shall approve street names as part of its plat review authority.
8. Right of entry. The Planning Commission and its members, officers, and staff, in the performance of their functions, may enter upon any land and make examinations and surveys.
9. Other powers and duties. To carry out any other powers and duties delegated to it by Town Council, consistent with state law.

Section 17.3 Town Council

- A. **Role**. Town Council is the legislative body elected by the voters of the Town of Seabrook Island to govern the affairs of the community.
- B. **Powers and Duties**. Council is specifically charged with the following responsibilities related to land development within the community:
 1. Appoint members. Council appoints members of the Planning Commission, Board of Zoning Appeals, and other related committees.
 2. Adopt ordinance. Upon receiving a recommendation from the Planning Commission, Council is charged with acting upon the Development Standards Ordinance.
 3. Amendments. Upon receiving a recommendation from the Planning Commission, Council is responsible for acting upon text and map amendments to the DSO.
 4. Comprehensive Plan. Upon receiving a recommendation from the Planning Commission, Council is responsible for acting upon the Comprehensive Plan.
 5. Fees. Council adopts the fee schedule related to administration and enforcement of the provisions of this DSO.
 6. Other. Council performs such other duties as prescribed by South Carolina law and the Town Charter.

Section 17.4 Board of Zoning Appeals

- A. **Role**. The Board of Zoning Appeals is established as an objective, quasi-judicial body charged with specific duties by state law.
- B. **Powers and Duties**. The following specific powers are granted to the Board of Zoning Appeals:
 1. Appeals. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination by the zoning administrator in the enforcement of this ordinance.
 2. Variances. To authorize upon appeal in specific cases a variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
 3. Special Exceptions. To permit uses by special exception, subject to the terms and conditions for those uses, as may be authorized and specified in this ordinance.

Permits and Fees

Article 18

Seabrook Island Development Standards Ordinance



Section 18.1 Minimum Requirements

- A. **Permit Required.** No construction, erection, renovation, alteration, removal, or moving of a structure or use within the Town of Seabrook Island that requires a permit, as identified in *Section 18.2*, shall commence prior to the issuance of that permit. Failure to obtain the required permit(s) or initiating an activity that requires a permit prior to obtaining the permit shall be subject to fines or other penalties as specified in *Article 23*.
- B. **Incomplete Applications.** Permit applications shall be completed in full, including all drawings, studies, reports, certifications, and other information that may be required as part of the permit application. Incomplete applications shall be returned to the applicant and will not be processed.
- C. **Void if Used in Conflict.** Any permit or license issued in conflict with the provisions of this ordinance shall be considered null and void from the date of issue.

Section 18.2 Required Permits

- A. **Building Permit.** Building permits are required for all structures constructed, reconstructed, or erected. Building permits shall be applied for and issued by the Charleston County Building Services, pursuant to agreement with the town.
 - 1. Prerequisite. Building permits shall be issued only to holders of a valid zoning permit who demonstrate that the proposed structure(s) meets all applicable ordinances adopted by the town and other relevant jurisdictions. **Are zoning permits issued in advance of construction?**
 - 2. Permit Time Limits.
 - a. A building permit will be considered expired if construction is not commenced within a period of six (6) months after issuance of the building permit or once commenced, if construction is discontinued for a period of six (6) consecutive months.
 - b. All building permits shall allow **one (1) year** for construction from the date of issuance of the building permit. **This is a fairly short time frame for some projects. Is this a county requirement?**
 - c. The **zoning administrator** may grant extensions, not exceeding **six (6) months** per extension, when construction is actively pursued. All extensions must be requested at least 30 calendar days before expiration of the initial one (1) year time period or prior extension. All requests for extensions must be accompanied by a fee. **If the county has jurisdiction over building permits, isn't it responsible for approving extensions?**
 - d. An extension designed to merely keep the permits in effect while no substantial work is being performed will not be authorized and the permits will be allowed to expire. The **zoning administrator** shall determine whether substantial work is being performed based on factors such as: the absence of construction equipment and/or materials on-site, duration of time during which no significant activity has been observed, delays caused by unforeseen weather conditions, deterioration of unfinished construction, evidence of vandalism, or other similar conditions. **Does the town have this authority? Is it something the county would do?**
 - e. Any construction started and not completed within the allotted time period of the building permit or extension shall be considered to be in violation of this ordinance and subject to fines or initiation of legal proceedings on behalf of the Town of Seabrook Island to **order the removal of such construction** in addition to the issuance of fines on a daily basis as allowed by this ordinance. **If a building is partially complete and the time period lapses, it seems unlikely that it would be removed. Even if desirable, is it enforceable?**

- B. **Separate Construction Permit.** A construction permit, as differentiated from a building permit, shall be requested from the zoning administrator for the following activities: **Is this used? Issued by the Town?**
1. Docks. A construction permit shall be required to construct a dock or walkway into any part of the marsh geographically situated in the Town of Seabrook Island. Prior to filing an application for a construction permit, the applicant shall first obtain a permit from the South Carolina OCRM and, where applicable, from the U. S. Army Corps of Engineers, South Carolina Fish and Wildlife Commission, and/or SIPOA. Evidence of such other regulatory approval shall accompany the construction permit application.
 2. Walkways or Stairs to the Beach. A construction permit shall be required to build a walk or stairs seaward of the South Carolina OCRM 40 year setback line. Prior approval must be received from the OCRM if the walkway or stairs is to be more than six (6) feet wide. Evidence of such approval must accompany the application.
- C. **Zoning Permit.** Prior to requesting a building permit or conducting any of the activities listed below, applicants must apply for and receive a zoning permit from the zoning administrator. The purpose of the zoning permit is to verify that proposed development and construction within the Town of Seabrook Island will conform to the requirements of the development standards ordinance.
1. A zoning permit is required in advance of:
 - a. The issuance of any building permit.
 - b. Land altering activity preparatory to the construction of a structure for which a building permit is required. For purposes of this ordinance, land altering activities include grading, filling, excavating, and cutting trees.
 - c. Improving any lot by grading, filling, or surfacing or by constructing or enlarging driveways or parking areas.
 - d. Constructing or installing utility lines, pipes, or service for any structure for which construction is commenced.
 - e. A change of use within an existing building.
 2. A zoning permit shall not be required for grading, drainage, or construction of roads and utilities that occurs entirely within streets, rights-of-way, and/or designated easements when the improvements have been approved as part of a preliminary or final plat pursuant to *Article 15* of this ordinance.
 3. Issuance of a zoning permit will entitle the holder to seek a building permit from Charleston County upon a showing of compliance with all applicable ordinances and requirements.
 4. A zoning permit shall expire if a building permit is not issued within six (6) months of the zoning permit being issued or, if no building permit is required, the zoning permit shall expire if the authorized use or development has not commenced within six (6) months.
- D. **Sign Permit.** . A sign permit shall be required to erect, place, modify the structure, allow the continued placement, or convert any portion of a sign, including a conversion from temporary to permanent or from **non-electronic message sign to an electronic message sign**, unless otherwise provided in *Article 13*.
1. Permits shall not be required for ordinary repair and maintenance of a sign. Ordinary repair and maintenance includes changing light bulbs, painting (provided the sign's legend is not changed), and other minor work which does not involve structural alteration or modification of the sign face.
 2. Signs otherwise exempt from permits shall be as specified in **Table 13-2** of this ordinance.
 3. Applications for sign permits shall be filed with the zoning administrator.

4. A sign permit shall be valid for a period of six (6) months. If the sign for which a permit was issued is not erected within that time period, the permit shall expire.

E. Tree Removal Permit.

1. Any person desiring to remove or relocate a protected tree shall file an application for a tree removal permit with the zoning administrator. If the protected tree is within an area governed by the SIPOA, the zoning administrator shall forward the application to the SIPOA for a decision. All other applications shall be reviewed by the zoning administrator.
2. Trees identified for removal pursuant to an approved site plan shall be marked. Any tree that is not so approved for removal and marked shall not be removed, except pursuant to a separate tree removal permit applied for and issued in accordance with this section.

F. Encroachment Permit.

1. An encroachment permit shall be required for any development (whether within or outside the corporate limits of the town) which proposes to provide vehicular access to or otherwise impact any public street or right-of-way within the town, or in which the town has any legal right or interests ("public street or right-of-way"). Impacts shall include vehicular access to or from; drainage to, from, or under any such public street or right-of-way; and/or utilities (whether owned and/or operated by the town or others) located beneath the surface of any such public street or right-of-way.
2. Applicants shall furnish information concerning the proposed encroachment as required by the town and may be required to submit one (1) or more of the following studies at no expense to the town:
 - a. a traffic impact analysis, prepared by a qualified transportation engineer registered in the State of South Carolina;
 - b. a drainage study to the town's specifications which identifies and quantifies drainage from the proposed development, including its impact on existing roadway drainage systems and compliance with all applicable provisions of the stormwater regulations ;
 - c. a study to the town's specifications which identifies and quantifies impact of the proposed development on utilities located beneath the surface of any potentially affected public street or right of way.
3. Completed permit applications, including any required studies, shall be referred to the **Planning Commission** for review and approval prior to issuance of the permit by the zoning administrator. In approving issuance of an encroachment permit, the **Planning Commission** may attach such conditions to approval as it deems necessary to protect the interests of the town, public streets or rights-of-way, drainage system, and utilities, including without limitation requiring the applicant to: **Should this be a review by the PC with a recommendation to Council?**
 - a. Alter existing public streets, as specified by the **town**; **Instead of "town", this should state PC or Council (whichever makes the final decision)**
 - b. Install traffic signs and/or signals, as required by the town;
 - c. Install replacements and/or modifications to existing roadway drainage systems, as specified by the town; and,
 - d. Protect existing buried utilities, and/or repair and/or replace them as required.
 - e. In the alternative, the applicant may be allowed to make payment to the town to defray the entire cost of making the required improvements or reach agreement regarding sharing the costs.

G. Temporary Use Permit.

1. Notwithstanding the district requirements of this ordinance, **Town Council** may approve the issuance of a temporary use permit for special events and activities. **Or should it be zoning administrator?**
 2. In considering a request for a temporary use permit, **Town Council** shall consider whether the proposed use will be established such that there are no detrimental impacts on adjacent properties and that it is situated in a manner that ensures safe and convenient access. In approving a temporary use, **Council** may attach such conditions to the temporary use permit as it deems warranted.
 3. A temporary use permit shall be issued for a specified time period not to exceed 60 days and **may be renewed for no more than two (2) additional periods of not more than 30 days each.** Issuance and renewal of a temporary use permit shall be at the sole discretion of **Town Council** and the owner shall have no right to the issuance of any such permit.
 4. The following procedures shall be followed for review and approval of temporary use permits.
 - a. Applications for a temporary use permit shall be submitted to the zoning administrator who may require the applicant to submit such additional information as deemed necessary to review the application.
 - b. The zoning administrator shall forward the application to **Town Council** with a recommendation. **Town Council** shall have sole discretion to determine whether or when to act on any temporary use permit request.
 - c. Notwithstanding the above specified procedures, **Town Council** may delegate to the zoning administrator authority to issue temporary use permits for nonconforming activities having a duration of no more than 72 hours.
- H. **Certificate of Occupancy.** The purpose of the certificate of occupancy is to ensure that new construction projects and/or uses of property, when completed, fully comply with all applicable building and zoning requirements prior to occupancy of the structure or commencement of the use. Failure to conform to all applicable regulations will, upon final completion of a structure or installation of a use, result in withholding the certificate of occupancy until full compliance is determined.
1. No new structure, or addition to an existing structure, for which a zoning permit is required, may be used or occupied until a certificate of occupancy has been issued. Use shall include residing in, as well as, storing furniture, clothing, or other personal possessions in residential building structures, including accessory buildings; and selling or storing goods, offering any services, or conducting any activity for which the structure was intended in any non-residential building or structure.
 2. No certificate of occupancy shall be issued for a **single-family dwelling** until the applicant provides a letter from the Seabrook Island Utility Commission verifying that the applicant has requested necessary water and sewer service for the construction address and paid all necessary fees and/or fulfilled any conditions of service included in the Seabrook Island Utility Commission's "Schedule of Rates, Charges, and Conditions of Water and Sewer Service" in effect at the time of the building permit application. **Shouldn't this requirement apply to all uses?**
 3. **It shall be unlawful for any contractor or subcontractor to allow any person, including an owner or their representatives, to use or occupy any structure or building before a certificate of occupancy has been issued. Contractors and subcontractors shall monitor all buildings and structures for which they have any responsibility and shall notify the town in writing immediately upon obtaining any knowledge or information relating to a violation of this section by any person. In the event a contractor or subcontractor allows a structure to be used in**

violation of this provision, it shall be liable for a misdemeanor. Has this ever been done? Why is the contractor responsible and not the owner?

Section 18.3 Fees

Application fees shall be paid at the time the application form and supplemental materials are submitted. The fee amount for the application shall be as established by Town Council.

Section 18.4 Performance Guarantees

- A. **Guarantee Required.** As a condition of approval of a site development plan, conditional use, subdivision, or mixed use development, a financial guarantee may be required of sufficient sum to assure the installation of those features or components of the approved activity or construction that are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Those features or components, referred to as "improvements," may include, but shall not be limited to, streets, curbing, landscaping, fencing, walls, screening, buffers, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items. Does SIPOA have a role in this?
- B. **Procedure.** Performance guarantees shall be processed in the following manner:
1. Council, upon recommendation of the zoning administrator or Planning Commission, as applicable, may require the posting of a performance guarantee to ensure that all required improvements are completed.
 2. Prior to the issuance of a building permit, the applicant shall submit an itemized estimate of the cost of the required improvements which are subject to the performance guarantee. The cost estimate shall be reviewed by the zoning administrator who may refer the itemized estimate to engineers, other professionals, or relevant agencies to verify the cost estimates. The amount of the performance guarantee shall be 100 percent of the cost of purchasing materials and installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies, but not-to-exceed a total of 125 percent of the estimated cost of construction and materials.
 3. The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the town.
 4. Upon receipt of the required performance guarantee, a building permit shall be issued for the subject development or activity, provided it complies with all other applicable provisions of this ordinance and other applicable ordinances of the town.
 5. The zoning administrator, upon the written request of the owner, shall rebate portions of the performance guarantee after determining that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall not exceed the amount stated in the itemized cost estimate for the applicable improvements.
 6. When all required improvements have been completed, the owner shall send written notice of completion to the zoning administrator. Upon receiving the notice, the zoning administrator shall cause an inspection to be made of all the improvements and approve, partially approve, or reject the improvements, stating in writing the reasons for any rejections. If partial approval is granted, the cost of the improvement rejected shall be set forth and the owner will be directed to complete the missing items. The town may withhold issuance of the certificate of occupancy until all improvements are completed.
 7. A record of authorized performance guarantees shall be maintained by the zoning administrator.

- C. **Acceptance of Guarantee of a Government Agency.** In lieu of financial guarantees required in these regulations, Town Council may accept the written guarantee of a governmental body to complete required improvements; provided, the improvements will be completed **within 90 days** of the date of such acceptance by Town Council. **90 days is a very short time frame for completing typical improvements such as streets, drainage, and utility installation.**

DRAFT

Amendments

Article 19

Seabrook Island Development Standards Ordinance



Section 19.1 Ordinance Text or Map Amendments

- A. **Ordinance Text Amendment.** Only the Planning Commission or Town Council may initiate an amendment to the ordinance text in accordance with the procedures of Section 19.2; provided, an application form and fee shall not be required.
- B. **Map Amendment.** The Official Zoning Map may be amended from time to time by Town Council, either on its own initiative or in response to a petition from the owner or option holder of a property. In either case, the procedures of Section 19.2 shall be followed; provided, if an amendment is initiated by Town Council an application form and fee shall not be required.
- C. **Resubmittal of Map Amendment.** No application for a zoning map amendment affecting the same parcel, or part thereof, which has been denied by Town Council, shall be resubmitted within 12 months of the date when the request was first denied. However, if the amendment request is for a different zoning district than the previous request, an application may be accepted.

Section 19.2 Amendment Procedure

- A. **Application.** Each application to amend the zoning map shall be filed with the zoning administrator on forms provided for that purpose, along with the application fee. Only complete applications, containing all required information, exhibits, and the required fee, shall be processed in accordance with the public notice and hearing requirements of this ordinance. An application shall not be withdrawn by the applicant after the legal notification has been processed, except as otherwise provided.
- B. **Zoning Administrator Review.** The zoning administrator shall review all proposed map amendment requests. Applications shall be forwarded to the Planning Commission, along with a recommendation, **within 15 days of receipt** of a complete application.
- C. **Public Notice.** All proposed amendments to the ordinance text and zoning map shall be subject to the public hearing requirements; provided text amendments shall not require posting of property or notification of interested parties or adjacent property owners.
 - 1. Public Hearing Advertisement(s). Notice of the time and place for each public hearing shall be published at least 15 days in advance of the hearing in a newspaper of general circulation in the Town of Seabrook Island. However, for map amendments, no hearing shall take place less than 30 days from the date of filing the application and the certificate of service as required in Subsection C.4 of this section.
 - 2. Posting of Property. In cases involving a zoning change, conspicuous notice shall be posted on or adjacent to the subject property no less than 15 days in advance of the hearing date. At least one (1) such notice shall be visible from each street that abuts the property.
 - 3. Notification of Interested Parties.
 - a. If a landowner whose property is the subject of a proposed amendment will be allowed to present oral or written comments to the Planning Commission at a public hearing, at least a 10 day notice and opportunity to comment in the same manner must be given to other interested members of the public, including owners of adjoining property. **Is this needed or, since it's a public hearing, can anyone be given the opportunity to speak without advance request. It seems that the applicant should be allowed to present his/her request as a matter of right.**
 - b. If a list of groups that have expressed an interest in being informed of zoning proceedings is maintained by the town clerk, notice of such meetings shall be mailed to these groups.

4. **Notification of Adjacent Property Owners.** Any person applying to rezone property within the town must give notice of such action to the owners of all real property located within two (2) lots on all sides of such property.
 - a. The applicant shall provide such notice by serving a copy of the application on the owner of the properties as shown on current tax records at least 30 days prior to the date set for a public hearing. The applicant shall file service of certified mail with date of service at the **same time the application is filed.** *Is this a requirement? It seems that the application should be submitted and accepted by the zoning administrator before the neighbors are given notice of a hearing.*
 - b. Notice must also be made to SIPOA and, if applicable, to a regime manager or president. Notice to a partnership may be made by serving any partner. Notice to a corporation may be made on any officer.
- D. **Planning Commission Review.** The Planning Commission shall consider all amendment requests and submit a report and recommendation for action to Town Council within 30 days of the public hearing.
 1. If the Planning Commission does not forward its recommendation to Town Council within 30 days, it shall be deemed a recommendation for approval.
 2. However, in the case of a map amendment, the applicant may request, in writing, that the Commission defer making its recommendation for a specified period of time, in which case the 30 day requirement shall not apply.
- E. **Town Council Action.**
 1. Consideration.
 - a. Upon receipt of an application transmitted by the Planning Commission for an amendment to the ordinance text or zoning map, along with its recommendation, Town Council shall place the proposal on its agenda for the next scheduled public hearing. **If Town Council has authorized the Planning Commission to hold a public hearing on a proposed amendment, Council may elect to consider the amendment proposal without holding a second public hearing.** *Has Council delegated public hearing authority to the PC?*
 - b. In accord with SC Code 1976, § 6-29-760, no change in or departure from the ordinance text or official zoning map, as recommended by the Planning Commission, may be made pursuant to the hearing unless the change or departure is first resubmitted to the Planning Commission for review and recommendation. Council shall inform the Planning Commission of any substantive changes or departures from the amendment proposal reviewed and recommended by the Planning Commission prior to taking action, allowing the Planning Commission opportunity to make further recommendations.
 2. Final Action.
 - a. After a duly advertised public hearing has been conducted by the Planning Commission and/or Town Council, Council shall consider all information presented at the public hearing, staff review comments, and the Planning Commission recommendation.
 - b. Town Council shall have the option of forwarding the proposal and all such information to committee in order to gain additional facts or seek a resolution of any disputes related to the request. In such cases, Town Council may defer additional action on the application until such committee has reported out on its discussions and made a recommendation on the zoning amendment under consideration.
 - c. Town Council may approve or disapprove any application or request for change in zoning.

- i. If deemed to be in the public interest, Town Council may require that the applicant exclude specific uses otherwise allowed in the proposed zoning district as a condition of the amendment approval.
 - ii. The record of Town Council's final action shall specify Council's reasons for denial or approval of the proposed text or map amendment and the specific conditions applicable to an amendment approved with conditions.
3. Effective Date. Any ordinance adopted affecting a change in the text of the Development Standards Ordinance or zoning map shall become effective the day following the council meeting at which action has been taken.

Section 19.3 Criteria for Amendments

In consideration of amendments to the ordinance or map, the Planning Commission and Town Council shall be guided by the following criteria, as applicable.

A. Text Amendments.

1. The proposed text amendment would clarify the intent of the ordinance.
2. The proposed text amendment would correct an error or oversight in the ordinance.
3. The proposed text amendment would address changes to the State legislation, recent case law, or Attorney General opinions.
4. The proposed text amendment would promote compliance with changes in other County, State or Federal regulations.
5. In the event the amendment will add a use to a district, that use shall be fully consistent with the purpose of that district and the character of the other uses provided for within the district.
6. The amendment will not create incompatible land uses within a zoning district or between adjacent districts.
7. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical items.
8. As applicable, the proposed change would be consistent with the town's ability to provide adequate public facilities and services.
9. The proposed change would be consistent with the town's desire to protect the public health, safety, and welfare of the community.

B. Map Amendments. Note: the current DSO lists 14 criteria. They have been consolidated into the following:

1. Whether or not the proposed rezoning is consistent with the goals, policies, and future land use recommendations of the Town of Seabrook Island Comprehensive Plan; or, if conditions have changed significantly since the Plan was adopted, consistency with recent development trends in the area.
2. Whether the proposed district and all uses allowed within that district are compatible with the site's physical, geological, hydrological, and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values, and traffic impacts.
3. Whether, if rezoned, the site can accommodate all allowed uses, considering existing or planned infrastructure including streets, sanitary sewers, storm sewer, water, sidewalks, and street lighting.

4. Whether the current zoning already provides a reasonably viable economic use of the subject property.
5. Other factors deemed appropriate by the Planning Commission or Town Council.

Section 19.4 Challenges

- A. An owner of adjoining land or representative has standing to bring action contesting the decision of Town Council on a zoning change request; provided, this subsection does not create any new substantive right in any party.
- B. No challenge to the adequacy of "Notice of Challenge" to the validity of a regulation or map, or amendment thereto, whether enacted before or after the effective date of this section, may be made 60 days after the decision of Town Council if there has been substantial compliance with public notice requirements or with established procedures of Town Council or the Planning Commission.

DRAFT

Appeals

**Article
20**

Seabrook Island Development Standards Ordinance



Section 20.1 Purpose and Authority

- A. The South Carolina Code specifically authorizes the zoning ordinance to provide for a Board of Zoning Appeals as part of the administrative mechanism designed to enforce the ordinance. The Town Council has hereby created a Board of Zoning Appeals with the authority to make certain final decisions concerning this ordinance, subject to appeal to circuit court.
- B. The powers of the Board are limited to three specific subject matter areas:
 - 1. determining appeals from administrative decisions of the zoning administrator,
 - 2. granting or denying applications for variances, and
 - 3. granting or denying applications for special exceptions.
- C. In addition, the BZA may remand a matter to the zoning administrator if the record is insufficient for the Board's review.

Section 20.2 Administrative Appeals

A. Authority and Limitations.

- 1. The Board shall have the exclusive power to hear and decide appeals where it is alleged the zoning administrator, in the enforcement of this ordinance, erred in an order, requirement, decision, or determination.
- 2. The Board has all the powers of the zoning administrator in such cases and may issue or direct the issuance of a permit.
- 3. In exercising its authority, the Board of Zoning Appeals may reverse or affirm, wholly or in part, or may modify the administrative order, requirements, decision, or determination. The Board, in the execution of its duties, may subpoena witnesses and, in case of contempt, may certify such fact to the circuit court having jurisdiction.

B. Hearing.

The Board shall fix a reasonable time for hearing the appeal or other matter referred to it, and give at least 15 days public notice thereof in a newspaper of general circulation within the town, as well as due notice to the parties in interest, and shall render its decision within a reasonable time. At the hearing any party may appear in person or by representative.

C. Decisions.

- 1. When deciding an administrative appeal, the Board is not bound by the conclusion or reasoning of the zoning administrator and may consider and apply the appropriate provisions of this ordinance as dictated by the facts before it.
- 2. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the Board, after the notice of appeal has been filed, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the zoning administrator, and on due cause shown.

D. Timing.

An appeal of an administrative decision shall be filed within 30 days from the date the appealing party has received actual notice of the action from which the appeal is taken. Written notice of the appeal shall be filed with the zoning administrator specifying the grounds for the appeal. The zoning administrator shall forthwith transmit to the Board the notice of appeal and all papers, documents, and exhibits constituting the record upon which the action appealed from was taken.

Section 20.3 Variances

A. Authority and Limitations.

1. The Board has the power to hear and decide requests for variances when strict application of the zoning ordinance would result in unnecessary hardship.
2. A variance allows the Board to modify an otherwise legitimate zoning restriction when, due to unusual conditions of the property, the restriction may be more burdensome than was intended. The variance must not impair the public purpose. To obtain a variance on the ground of unnecessary hardship, there shall at least be proof that a particular property suffers a singular disadvantage through the operation of a zoning regulation.
3. An owner shall not be entitled to relief from a self-created or self-inflicted hardship. A claim of unnecessary hardship shall not be based on conditions created by the owner nor can one who purchases property after the enactment of a zoning regulation complain a nonconformity creates a hardship.
4. The fact that the property may be used more profitably, if a variance is granted, may not be considered as grounds for a variance.
5. In granting a variance, the Board may attach conditions. These conditions may affect the location, character or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety or general welfare.

B. Hearing.

1. Any person requesting a variance must give notice of such action to the owners of all real property located within two (2) lots on all sides of the subject property. The applicant shall provide such notice by serving a copy of the application on the owner of the properties as shown on current tax records at least 30 days prior to the date set for a public hearing. The applicant shall file service of certified mail with date of service **at the same time the application is filed.** *Is this a requirement? It seems that the application should be submitted and accepted by the zoning administrator before the neighbors are given notice of a hearing.*
2. Notice must also be made to SIPOA and, if applicable, to a regime manager or president. Notice to a partnership may be made by serving any partner. Notice to a corporation may be made on any officer.
3. No hearing on the application shall take place less than 30 days from the date of filing the application and the certificate of service.

C. Decisions.

1. The Board of Zoning Appeals shall only grant a variance in an individual case of unnecessary hardship if the Board finds and explains, in writing, that all the following criteria have been satisfied:
 - a. *Extraordinary conditions.* There are extraordinary and exceptional conditions pertaining to the particular piece of property. Extraordinary conditions could exist due to size, shape, topography, drainage, street widening, beachfront setback lines, or other conditions that make it difficult or impossible to make an economically feasible use of the property.
 - b. *Other property.* These conditions do not generally apply to other property in the vicinity.
 - c. *Utilization.* Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

- d. *Detriment.* The authorization of a variance will not be of substantial detriment to adjacent property or to the public good; and the character of the district will not be harmed by the granting of the variance.
- 2. The board shall not grant a variance the effect of which would be to allow:
 - a. establishment of a use not otherwise permitted in a zoning district; or
 - b. physical extension of a nonconforming structure or use of land; or
 - c. change the zoning district boundaries shown on the official zoning map.

Section 20.4 Special Exceptions

The Board of Zoning Appeals shall be responsible to review and decide applications for special exception uses, if provided for in the ordinance, subject to the terms and conditions as may be set forth for such uses in this ordinance.

Section 20.5 Decisions of the Board

- A. After a vote on an application, a record of action containing the decision of the Board shall be transmitted to the applicant by the zoning administrator. The decision shall be binding and, whenever a permit is authorized, the terms and conditions of the decision shall be incorporated into the permit.
- B. A decision of the Board on an administrative appeal shall not be in effect and acted upon by the town until the expiration of five (5) days from the date of the Board's decision unless the Board finds the immediate validity of a decision is necessary for the preservation of property or personal rights and shall so certify on the record. Decisions by the Board on all other matters not on appeal are effective upon the date of the Board's decision.
- C. Any party adversely affected by a decision of the Board may appeal the decision in the manner provided in *Section 20.6* of this ordinance.

Section 20.6 Appeals of Board Decisions

- A. Any person who may have a substantial interest in any decision of the Board of Zoning Appeals may appeal any decision of the Board to the circuit court in and for Charleston County.
- B. An appeal petition to circuit court must be filed with the clerk of court within 30 days after the decision of the Board is rendered. Failure to file an appeal petition within the prescribed time deprives the court of jurisdiction to hear the matter.