

CHAPTER 3 | DEVELOPMENT REVIEW PROCEDURES

Table of Contents

ART. 3.1	GENERAL.....	3-1
ART. 3.2	<i>COMPREHENSIVE PLAN</i> AMENDMENTS	3-7
ART. 3.3	ZONING AND LAND DEVELOPMENT REGULATIONS TEXT AMENDMENTS	3-9
ART. 3.4	ZONING MAP AMENDMENTS [REZONINGS].....	3-11
ART. 3.5	PD, PLANNED DEVELOPMENT ZONING DISTRICT	3-13
ART. 3.6	SPECIAL EXCEPTIONS	3-13
ART. 3.7	SITE PLAN REVIEW	3-16
ART. 3.8	ZONING PERMITS.....	3-17
ART. 3.9	CERTIFICATES OF OCCUPANCY	3-22
ART. 3.10	ZONING VARIANCES	3-23
ART. 3.11	WRITTEN INTERPRETATIONS.....	3-26
ART. 3.12	PUBLIC PROJECT REVIEW.....	3-27
ART. 3.13	APPEALS OF ZONING-RELATED ADMINISTRATIVE DECISIONS	3-28
ART. 3.14	APPEALS OF SUBDIVISION-RELATED ADMINISTRATIVE DECISIONS	3-30
ART. 3.15	ADDRESSING AND STREET NAMES	3-31
ART. 3.16	DEVELOPMENT AGREEMENTS	3-32

INTENTIONALLY BLANK

CHAPTER 3 | DEVELOPMENT REVIEW PROCEDURES

ARTICLE 3.1 GENERAL

The general provisions of this Section apply to all development applications and procedures under this Chapter unless otherwise stated.

§3.1.1 AUTHORITY TO FILE APPLICATIONS

Applications for review and approval under this Chapter may be initiated by: (1) petition of all the owners of the property that is the subject of the application; (2) the owners' authorized agents; or (3) Review and Decision-Making Bodies.

§3.1.2 FORM OF APPLICATION

Applications required under this Chapter shall be submitted in a format and in such numbers as required by the official responsible for accepting the application. Application submittal requirements and format information shall be available to the public in the Planning Department.

§3.1.3 FILING FEES

Applications shall be accompanied by the fee amount that has been established by the County Council for the respective type of application. Fees shall not be required for applications initiated by authorized Review or Decision-Making Bodies.

§3.1.4 APPLICATION COMPLETENESS AND SUBMISSION DEADLINES

- A. Applications required under this Ordinance shall be considered complete only if they are submitted in the required format, include all mandatory information and are accompanied by the established fee.
- B. Applications for consideration by the Board of Zoning Appeals shall be submitted no later than 12:00 p.m. on the Friday, six (6) weeks prior to the regularly scheduled Board of Zoning Appeals meeting, unless otherwise provided in this Ordinance or as directed by the Chairman of the Board of Zoning Appeals. Application filing deadlines and Board of Zoning Appeals meeting dates are available at the Planning Department. Within 15 days of submittal of the application, staff will determine if the application is complete and can be scheduled for the next available Board of Zoning Appeals meeting. The requirements for applications deemed incomplete by the Planning Director are listed in Section 3.1.4(D) below.
- C. Applications for consideration by the Planning Commission shall be submitted no later than 12:00 p.m. on the Friday, six (6) weeks prior to the regularly scheduled Planning Commission meeting, unless otherwise provided in this Ordinance or as directed by the Chairman of the Planning Commission. Application filing deadlines and Planning Commission meeting dates are available at the Planning Department. Within 15 days of submittal of the application, staff will determine if the application is complete and can be scheduled for the next available Planning Commission meeting. The requirements for applications deemed incomplete by the Planning Director are listed in Section 3.1.4(D) below.

- D. Any application that is determined to be incomplete shall, within 15 days of its submittal, be returned to the applicant along with an explanation of the application's deficiencies. Fees shall not be refunded. No further processing of the application shall occur until the deficiencies are corrected. Once the deficiencies are corrected, the application may be resubmitted without the payment of additional fees, provided that it is resubmitted within six months of the date that the application was returned to the applicant. Applications resubmitted more than six months after the date that the application was returned as incomplete shall require repayment of applicable fees.

§3.1.5 APPLICATION SUBMITTAL

Whenever the procedures of this Ordinance expressly state that applications are to be submitted after a "pre-application conference," applicants shall be responsible for scheduling and attending such meetings. When pre-application conferences are required, an application shall not be accepted until the pre-application conference has been conducted, and any errors or omissions noted in review of the application for completeness have been addressed by the applicant.

§3.1.6 NOTICES

A. Content

All notices with the exception of Posted Notices required under this Ordinance shall: (1) indicate the date, time and place of the public hearing or date of action that is the subject of the notice; (2) describe the property involved in the application by street address and, if required, by legal description; (3) describe the nature, scope and purpose of the application or proposal; and (4) indicate where additional information on the matter can be obtained. Posted Notices under this Ordinance shall indicate time and place and indicate where any additional information on the subject of the notice can be obtained.

[Commentary—References to "days" are to Charleston County Government work days, unless otherwise indicated.]

Procedure	Review [R], Decision-Making [DM] And Appeal [A] Bodies				Notices See Section 3.1.6			
	Staff	PC	CC	BZA	News	Post	Neighbor	Parties in Interest & Community Interest
Comprehensive Plan Amendments	R	R	DM		✓			✓
Ordinance Text Amendments	R	R	DM		✓			✓
Zoning Map Amendments	R	R	DM		✓	✓	✓	✓
Planned Development (PD) Zoning Map Amendment	R	R	DM		✓	✓	✓	✓
Special Exceptions	R			DM	✓	✓	✓	✓
Site Plan Review	DM			A				
Variances	R			DM	✓	✓	✓	✓
Written Interpretations	DM			A				
Public Project Review	R	DM			✓			✓
Appeals of Zoning-Related Administrative Decisions				DM	✓	✓	✓	✓
Appeals of Subdivision-Related Administrative Decisions		DM			✓			✓

Notes: In cases where no Appeal Body is shown or where the County Council is shown as final Decision-Making Body, appeals shall be taken to the Circuit Court of Charleston County, as provided by law.

R = Review Body [Responsible for Review and Recommendation]

DM = Decision-Making Body [Responsible for Final Decision to Approve or Deny]

A = Authority to hear and decide appeals of Decision-Making Body's action

Neighbor and Community Interest notice is a courtesy notice; failure to provide will not invalidate any action taken.

B. Types**1. Newspaper Notice**

When the provisions of this Ordinance require that "Newspaper Notice" be provided, the official responsible for accepting the application shall ensure that notice is published in a newspaper of general circulation in the county. Unless otherwise expressly provided in state statutes or this Ordinance, the first required newspaper notice shall be published at least 15 calendar days before the public hearing, meeting, or date of action that is the subject of the notice. Newspaper Notice shall indicate the time and place or date of action that is the subject of the notice, describe the property involved in the application by street address and, if required, by legal description, describe the nature, scope and purpose of the application or proposal.

2. Posted Notice

When the provisions of this Ordinance state that "Posted Notice" should be provided, the official responsible for accepting the application shall post the notice on the subject property in a manner that makes the notice clearly visible to neighboring residents and passers-by from each public street bordering the subject property. Unless otherwise expressly provided in state statutes or this Ordinance, Posted Notice shall be in place at least 15 calendar days before the public hearing, meeting, or date of action that is the subject of the notice. Once the notice has been posted, the owner(s) of the subject property are responsible for notifying the Planning Department in writing if the Posted Notice is removed or damaged prior to the public hearing, meeting or date of action that is the subject of the notice. Failure to notify the Planning Department in writing of removed or damaged Posted Notice may result in rescheduling of the public hearing and a delay in decision from the decision-making body.

3. Neighbor Notice

When the provisions of this Ordinance require that "Neighbor Notice" be provided, the official responsible for accepting the application shall mail notice to the applicant and all property owners within 300 feet of the subject property. Ownership information shall be obtained from the County Assessor's Office. Unless otherwise expressly provided in state statutes or this Ordinance, required Neighbor Notices shall be deposited in the U.S. mail at least 15 calendar days before the public hearing, meeting, or date of action that is the subject of the notice. Failure to provide this notice will not invalidate any action taken.

4. Parties in Interest

When the provisions of this Ordinance require that notice be sent, the following "Parties in Interest" shall be notified: the applicant and the owner of the property (if other than applicant). Parties in Interest shall mean any individual, associations, corporations or others who have expressed an interest in writing in an application pending before the Planning Department and that has been received by the Planning Director. It is the responsibility of the Parties in Interest to provide updated contact information to the Planning Department. The Planning Department will

keep the Parties in Interest contact information on file for one year from the initial date received.

5. Community Interest Notice

When the provisions of this Ordinance require that "Community Interest Notice" be provided, the official responsible for accepting the application shall provide written notice to any individual, group or organization that has submitted a written statement of interest to the Planning Director. When Community Interest Notice is required, courtesy notice will be provided to the Planning Director of any municipality within the Planning Area of the subject tract. Community Interest Notice is a courtesy notice; failure to provide this notice will not invalidate any action taken.

C. Constructive Notice

Minor defects in a notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. In all cases, however, the requirements for the timing of the notice and for specifying the date, time and place of a hearing and the location of the subject property shall be strictly construed. If questions arise regarding the adequacy of notice, Review and Decision-Making Bodies shall make formal findings regarding whether there was substantial compliance with the notice requirements of this Ordinance.

§3.1.7 ACTION BY DECISION-MAKING BODIES

Unless otherwise expressly stated, Decision-Making Bodies shall be authorized to approve, approve with conditions or deny applications and permit requests based on compliance with the applicable review and approval criteria. Decision-Making Bodies shall also be authorized to refer an application back to a review body or to defer action while additional information is being obtained.

§3.1.8 INACTION BY REVIEW AND DECISION-MAKING BODIES

When a Review or Decision-Making Body fails to take action on an application within the time required, such inaction shall be interpreted as a recommendation of approval of the application, respectively. Time frames for action may be extended if the applicant consents to the extension. When a Review Body fails to take action on an application within the time required, the Decision-Making Body shall be free to proceed with its own action on the matter without further awaiting the recommendation of the Review Body.

§3.1.9 CONDITIONS OF APPROVAL

Unless otherwise expressly stated, Decision-Making Bodies shall be authorized to impose conditions of approval as allowed by law. Conditions may be those deemed necessary to reduce or minimize any potential adverse impact upon other property in the area or to carry out the general purpose and intent of this Ordinance. All conditions must relate to a situation created or aggravated by the proposed use and be roughly proportional to the impact of the approved use or activity.

§3.1.10 APPROVAL CRITERIA: BURDEN OF PERSUASION

In all cases, the applicant shall have the burden of establishing that an application complies with applicable approval criteria.

§3.1.11 PUBLIC HEARINGS

A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Ordinance, provided that the continuance is set for a certain date and time and the date and time is announced at the public hearing.

§3.1.12 SUCCESSIVE APPLICATIONS**A. Time Limit**

If a final Decision-Making Body denies an application for a Zoning Map Amendment, Planned Development or Special Exception use, an application for the same or more intensive zoning, development or use on the subject parcel, whether the parcel is in its original configuration, expanded or reduced in area, shall not be accepted for 12 months from the date that the Decision-Making Body acted to deny the application.

B. Waivers

The time limit of Section 3.1.12A notwithstanding, Decision-Making Bodies may, after receipt of written petition by the property owner, waive the waiting period requirement by a 2/3 vote of members present and voting. If the time limit is waived, the Decision-Making Body shall give written notice to the Planning Director, directing staff to process the application. All resubmissions shall be processed as new applications, with prescribed fees. All documents and fees required for the respective type of application shall be included with the new application. Denial of the application shall be final and the 12-month waiting period shall be met before further consideration of a similar application on the subject property.

C. Applications Withdrawn Before Public Hearing Notice

Withdrawal of an application by the applicant before advertisement of any public hearing and before any required signs have been posted on the subject property shall be considered a termination of the application. Although no fees shall be refunded, reapplication in such cases shall not be subject to the 12-month waiting period.

D. Applications Withdrawn After Public Hearing Notice

Withdrawals of applications that occur after advertisement of any public hearing or after any required signs have been posted on the subject property shall be treated the same as a denied application. Application processing shall terminate upon receipt of written notice from the applicant or owner. Reapplication shall be subject to a 12-month waiting period unless a waiver is granted in accordance with Section 3.1.12B of this Chapter.

E. Requests for Postponements of Applications to the Board of Zoning Appeals

Requests for postponements of applications from Board of Zoning Appeals Public Hearings must be made in writing by the applicant. Such requests received after advertisement of any public hearing or after any required signs have been posted on the subject property shall be subject to all applicable application fees as listed in the fee schedule approved by County Council.

- F. Requests for Postponements of Applications to the Planning Commission**
 Requests for postponements of all applications from Planning Commission meetings, with the exception of subdivision applications, must be made in writing and the letter must be signed by both the property owner(s) and the applicant(s). Postponement requests received within ten (10) calendar days of the Planning Commission meeting for which the application is scheduled shall be considered withdrawals. In the event an application is withdrawn for failure to meet the ten (10) day provision, the applicant must submit a new application in compliance with Section 3.1.4, Application Completeness and Submission Deadlines, of this Ordinance, and all applicable fees must be paid. The Planning Commission may waive the required fees when the request for postponement is made due to extenuating circumstances as determined in the sole discretion of the Planning Commission.

§3.1.13 VESTED RIGHTS

The provisions of the Charleston County Vested Rights Ordinance, Ordinance Number 1393, shall apply.

ARTICLE 3.2 COMPREHENSIVE PLAN AMENDMENTS

§3.2.1 PRE-APPLICATION CONFERENCE AND APPLICATION FILING

- A. Prior to the submittal of an application for a *Comprehensive Plan* amendment, applicants shall participate in a pre-application conference scheduled with the Planning Director. A pre-application conference is not required for applications submitted by the County.
- B. Applications for amendments to the *Comprehensive Plan* shall be submitted by individuals or groups of individuals to the Planning Director on forms available in the Planning Department.
- C. No application for a *Comprehensive Plan* Amendment shall be accepted as complete unless it includes the required fee and the following information:
1. Completed *Comprehensive Plan* Amendment application signed by the current property owner(s) or applicant(s).
 2. Thirty-five (35) copies of the applicant's letter of intent explaining the objective of the proposed amendment(s) and how the criteria listed in Section 3.2.9(B) are met;
 3. Thirty-five (35) copies of the proposed changes to the *Comprehensive Plan* based on the current *Comprehensive Plan* in effect and showing proposed text deletions as strike-through text and proposed text additions in bold, italic text. Proposed changes to any *Comprehensive Plan* map shall be illustrated in a map format similar to the existing *Comprehensive Plan* maps and shall be labeled as "proposed amendment"; and

4. Any other information that the Planning Commission determines is reasonably necessary to make an informed decision as to whether the application complies with the standards of this Article.
- D. Applications for *Comprehensive Plan* Amendments shall comply with Section 3.1.4, Application Completeness and Submission Deadlines, of this Ordinance.
 - E. The applicant may hold a community workshop for the proposed *Comprehensive Plan* amendment. The purpose of a community workshop is to ensure early citizen participation in an informal forum, in conjunction with development applications and to provide an applicant the opportunity to understand and try to mitigate any impacts an application may have on an affected community. The workshop shall ensure that citizens and property owners have an adequate opportunity to learn about applications that may affect them and to work with the applicant to resolve any concerns at this stage of the process. A community workshop is not intended to produce complete consensus on all applications, but to encourage applicants to be good neighbors. If the applicant chooses to hold a community workshop, a summary of the workshop may be submitted with the application for the *Comprehensive Plan* amendment.

§3.2.2 PLANNING DIRECTOR REVIEW AND REPORT

The Planning Director shall review each proposed *Comprehensive Plan* amendment and distribute the application to other agencies and reviewers. Based on the results of those reviews, the Planning Director shall provide a report on the proposed amendment to the Planning Commission. The Planning Director shall have at least 30 calendar days to conduct required reviews.

§3.2.3 PLANNING COMMISSION REVIEW AND RECOMMENDATION

Newspaper notice of Planning Commission meeting on *Comprehensive Plan* amendments shall be provided at least 15 calendar days before the hearing. Newspaper and Parties in Interest notice shall be provided in accordance with Section 3.1.6 of this Chapter. The Planning Commission shall review the proposed amendment and adopt a resolution, by majority vote of the entire membership, recommending that the County Council approve, deny, or approve with conditions the proposed amendment. Planning Commission may hold a special meeting to gather community input as outlined in Section 3.2.1(E) of this Ordinance prior to making a recommendation to County Council.

§3.2.4 PUBLIC HEARING NOTICE

Newspaper Notice of public hearings on *Comprehensive Plan* amendments shall be provided at least 30 calendar days before the hearing. Newspaper and Parties in Interest notice shall be provided in accordance with Section 3.1.6 of this Chapter.

§3.2.5 COUNTY COUNCIL HEARING AND DECISION

- A. After receiving the recommendations of the Planning Commission, the County Council shall take action to approve, approve with conditions or deny the proposed *Comprehensive Plan* amendment based on the Approval Criteria of Section 3.2.6. County Council shall hold a public hearing prior to giving second reading to *Comprehensive Plan* amendment applications.

- B. A majority vote of the entire membership of County Council shall be required to approve, approve with conditions, or disapprove the amendment.
- C. *Comprehensive Plan* Amendments shall be adopted by ordinance.

§3.2.6 APPROVAL CRITERIA

Comprehensive Plan Amendments may be approved by the County Council only if they determine that the proposed amendment is consistent with the overall purpose and intent of the *Comprehensive Plan* and that any one of the following criteria has been met:

- A. There was a significant error in the original *Comprehensive Plan* adoption;
- B. In adopting the *Comprehensive Plan*, the County Council failed to take into account facts, projections or trends that were reasonably foreseeable to exist in the future;
- C. Events, trends, or facts after adoption of the *Comprehensive Plan* have changed the County Council's original findings made upon plan adoption;
- D. Events, trends, or facts after adoption of the *Comprehensive Plan* have changed the character or condition of an area, making the *proposed* amendment necessary;
- E. The proposed *Comprehensive Plan* Amendment is requested pursuant to and complies with Article 3.17, Developments of County Significance; or
- F. The proposed *Comprehensive Plan* Amendment is consistent with the comprehensive plan future land use recommendations of adjacent municipalities that have adopted extra-territorial jurisdiction for the subject parcel(s).

§3.2.7 NOTICE OF DECISION

Following final action by the County Council, the Planning Director shall be responsible for providing the applicant with written notice of the decision.

ARTICLE 3.3 ZONING AND LAND DEVELOPMENT REGULATIONS TEXT AMENDMENTS

§3.3.1 APPLICATION FILING

- A. Applications for amendments to the text of this Ordinance shall be submitted to the Planning Director on forms available in the Planning Department.
- B. No application for a Zoning and Land Development Regulations Text Amendment shall be accepted as complete unless it includes the required fee and the following information:
 1. Completed Zoning and Land Development Regulations Text Amendment application signed by the current property owner(s) or applicant(s);
 2. Thirty-five (35) copies of the applicant's letter of intent explaining the

proposed amendment(s) and how it meets the criteria listed in Section 3.3.6;

3. Thirty-five (35) copies of the proposed text amendment based on the current Ordinance in effect and showing proposed deletions as strike-through text and proposed additions in bold, italic text;
4. Restrictive covenants affidavit(s) signed by the applicant or current property owner(s) in compliance with state law, if applicable; and
5. Any other information that the Planning Commission determines is reasonably necessary to make an informed decision as to whether the application complies with the standards of this Article.

- C. Applications for Zoning and Land Development Regulations Text Amendments shall comply with Section 3.1.4, Application Completeness and Submission Deadlines, of this Ordinance.

§3.3.2 PUBLIC HEARING NOTICE

Newspaper and Party in Interest notice of the County Council's public hearing shall be provided in accordance with the requirements of Section 3.1.6. Newspaper Notice of a public hearing regarding any proposed amendments to Chapter 8, Subdivision Regulations, shall be made at least thirty (30) calendar days prior to a public hearing on any proposed amendments.

§3.3.3 PLANNING DIRECTOR REVIEW AND REPORT

The Planning Director shall review each proposed text amendment in light of the Approval Criteria of Section 3.3.6 and provide a report to the Planning Commission. The Planning Director shall have at least 30 calendar days to conduct required reviews.

§3.3.4 PLANNING COMMISSION REVIEW AND RECOMMENDATION

The Planning Commission shall review the proposed amendment and take action by majority vote of the entire membership, recommending that the County Council approve or deny the proposed amendment. The Planning Commission's recommendation shall be based on the Approval Criteria of Section 3.3.6. The Planning Commission shall submit its recommendation to the County Council within thirty (30) calendar days of the Planning Commission meeting at which the amendment was introduced.

§3.3.5 COUNTY COUNCIL HEARING AND DECISION

After receiving the recommendation of the Planning Commission, the County Council shall take action to approve, approve with conditions or deny the proposed text amendment based on the Approval Criteria of Section 3.3.6. County Council shall hold a public hearing prior to giving second reading to ZLDR text amendment applications. A simple majority vote of County Council members present and voting shall be required to approve the amendment.

§3.3.6 APPROVAL CRITERIA

Text amendments to this Ordinance may be approved if the following approval criteria have been met:

- A. The proposed amendment corrects an error or inconsistency or meets the challenge of a changing condition;

- B. The proposed amendment is consistent with the adopted Charleston County *Comprehensive Plan* and goals as stated in Article 1.5; and
- C. The proposed amendment is to further the public welfare in any other regard specified by County Council.

§3.3.7 FINAL ACTION

Text amendments shall be adopted by ordinance.

§3.3.8 NOTICE OF DECISION

Following final action by the County Council, the Planning Director shall be responsible for providing the applicant with written notice of the decision.

§3.3.9 PENDING TEXT AMENDMENTS

No application for a Zoning Permit, Building Permit or Certificate of Occupancy shall be accepted for property within any area involved in or affected by a pending Ordinance text amendment if the Zoning Permit, Building Permit or Certificate of Occupancy would allow uses or activities that would be forbidden under the proposed amendment. This prohibition on acceptance of applications shall apply from the date that the application is filed until action on the amendment is taken by County Council.

ARTICLE 3.4 ZONING MAP AMENDMENTS [REZONINGS]

§3.4.1 APPLICATION FILING

- A. Applications for amendments to the Official Zoning Map (rezonings) shall be submitted to the Planning Director on forms available in the Planning Department.
- B. Upon submission of a Rezoning application, no additional rezoning applications shall be accepted for the subject property until the original application has been withdrawn or the County Council has rendered its final decision and all applicable time limits on refiling have expired.
- C. No application for a Zoning Map Amendment shall be accepted as complete unless it includes the required fee and the following information:
 1. Completed Zoning Map Amendment application signed by the current property owner(s);
 2. A copy of a legible approved and recorded plat showing current property boundaries;
 3. A copy of the current, recorded deed;
 4. Restrictive covenants affidavit(s) signed by the applicant or current property owner(s) in compliance with state law; and
 5. Any other information that the Planning Commission determines is reasonably necessary to make an informed decision as to whether the

application complies with the standards of this Article.

- D. Applications for Zoning Map Amendments shall comply with Section 3.1.4, Application Completeness and Submission Deadlines, of this Ordinance.

§3.4.2 PUBLIC HEARING NOTICE

Newspaper, Neighbor, Parties in Interest, and Posted Notice of the County Council's public hearing shall be provided in accordance with the requirements of Section 3.1.6 of this Chapter.

§3.4.3 PLANNING DIRECTOR REVIEW AND REPORT

The Planning Director shall review each proposed zoning map amendment in light of the Approval Criteria of Section 3.4.6, and if deemed necessary, distribute the application to other agencies and reviewers. Based on the results of those reviews, the Planning Director shall provide a report on the proposed amendment to the Planning Commission. The Planning Director shall have at least thirty (30) working days to conduct required reviews.

§3.4.4 PLANNING COMMISSION REVIEW AND RECOMMENDATION

The Planning Commission shall review the proposed zoning map amendment and adopt a resolution, by majority vote of the entire membership, recommending that the County Council approve or deny the proposed zoning map amendment. The Planning Commission's recommendation shall be based on the Approval Criteria of Section 3.4.6 of this Chapter. The Planning Commission shall submit its recommendation to the County Council within thirty (30) calendar days of the Planning Commission meeting at which the zoning map amendment was introduced.

§3.4.5 COUNTY COUNCIL HEARING AND DECISION

After receiving the recommendation of the Planning Commission, the County Council shall take action to approve or deny the proposed zoning map amendment based on the Approval Criteria of Section 3.4.6. County Council shall hold a public hearing prior to giving second reading to zoning map amendment applications. A simple majority vote of County Council members present and voting shall be required to approve the amendment. Zoning map amendments shall not be approved "with conditions" except Planned Developments or property developments under the South Carolina Local Government Development Agreement Act (1993) as amended.

§3.4.6 APPROVAL CRITERIA

Zoning map amendments may be approved only if the proposed amendment corrects an error or inconsistency, meets the challenge of some changing condition in the area, or if all of the following criteria are met:

- A. The proposed amendment is consistent with the *Comprehensive Plan* and the stated purposes of this Ordinance;
- B. The proposed amendment will allow development that is compatible with existing uses and zoning of nearby property;
- C. The County and other service providers will be able to provide adequate water and sewer supply, stormwater facilities, waste disposal and other public facilities and services to the subject property, while maintaining adequate levels of service to existing development;

- D. The applicant provides documentation that the proposed amendment will not result in significant adverse impacts on other property in the vicinity of the subject tract or on the environment, including air, water, noise, stormwater management, wildlife and natural resources; and
- E. The subject property is suitable for proposed zoning classification considering such things as parcel size, parcel configuration, road access, and the presence of natural resources and amenities.

[Commentary-This provision does not require that the Applicant submit a special study in every instance of a zoning map amendment request.]

§3.4.7 FINAL ACTION

Zoning map amendments shall be adopted by ordinance.

§3.4.8 NOTICE OF DECISION

Following final action by the County Council, the Planning Director shall be responsible for providing the applicant with written notice of the decision and for revising the Official Zoning Map, if the amendment was adopted.

ARTICLE 3.5 PD, PLANNED DEVELOPMENT ZONING DISTRICT

§3.5.1 GENERAL

Planned Developments shall adhere to the procedures and guidelines contained in Article 4.27, PD, Planned Development Zoning District and shall be considered zoning text and map amendments.

ARTICLE 3.6 SPECIAL EXCEPTIONS

§3.6.1 APPLICATION FILING

- A. Applications for Special Exceptions shall be submitted to the Planning Director on forms available in the Planning Department.
- B. Upon submission of a Special Exception application, no additional Special Exception applications shall be accepted for the subject property until the original application has been withdrawn or the Decision-Making Body has rendered its final decision and all applicable time limits on refileing have expired.
- C. Special Exception applications shall comply with Section 3.1.4, Application Completeness and Submission Deadlines, of this Ordinance.
- D. No application for a Special Exception shall be accepted as complete unless it includes the required fee and the following information:
 1. Completed Special Exception application signed by the current property owner(s).
 2. Applicant's letter of intent explaining the proposed use and how it meets the Approval Criteria of Section 3.6.5.

3. Site plan drawn to an engineer's scale showing the property dimensions, dimensions and locations of existing and proposed structures and improvements, parking areas, Grand trees, wetlands (properties containing DHEC-OCRM Critical Line areas must contain an up to date DHEC-OCRM signature on the site plan or plat), holding basins and buffers when applicable. One 24 x 36 copy and twenty (20) reduced 11 x 17 copies shall be submitted.
 4. A copy of a legible approved and recorded plat.
 5. Restrictive covenants affidavit(s) signed by the applicant or current property owner(s) in compliance with State law.
 6. Any other information that the Planning Director determines is necessary to make an informed decision as to whether the application complies with the standards required by Article 3.6.
- E. All proposed Special Exception uses, except placement of Manufactured Housing, shall satisfy the Site Plan Review process. Applicants shall attend at least one (1) Site Plan Review meeting prior to submitting the application for Special Exception.

§3.6.2 PUBLIC HEARING NOTICE

Newspaper, Neighbor, Parties in Interest and Posted notice of the Board of Zoning Appeals' public hearing shall be provided in accordance with the requirements of Section 3.1.6 of this Chapter.

§3.6.3 PLANNING DIRECTOR REVIEW AND REPORT

The Planning Director shall review each proposed Special Exception in light of the Approval Criteria of Section 3.6.5 of this Chapter, and if deemed necessary, distribute the application to other agencies and reviewers. Based on the results of those reviews, the Planning Director shall provide a report on the proposed Special Exception to the Board of Zoning Appeals.

§3.6.4 BOARD OF ZONING APPEALS HEARING AND DECISION

- A. The Board of Zoning Appeals shall hold at least one (1) public hearing on the proposed Special Exception. Within a reasonable time after the close of the public hearing, the Board of Zoning Appeals shall approve, approve with conditions or deny the proposed Special Exception based on the Approval Criteria of Section 3.6.5.
- B. A majority of the Board of Zoning Appeals constitutes a quorum.
- C. A majority of the members present and voting are required to approve a Special Exception.

§3.6.5 APPROVAL CRITERIA

- A. Special Exceptions may be approved only if the Board of Zoning Appeals finds that the proposed use:

1. Is consistent with the recommendations contained in the Charleston County *Comprehensive Plan* and the character of the underlying zoning district "Purpose and Intent";
 2. Is compatible with existing uses in the vicinity and will not adversely affect the general welfare or character of the immediate community;
 3. Adequate provision is made for such items as: setbacks, buffering (including fences and/or landscaping) to protect adjacent properties from the possible adverse influence of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion and similar factors;
 4. Where applicable, will be developed in a way that will preserve and incorporate any important natural features;
 5. Complies with all applicable rules, regulations, laws and standards of this Ordinance, including but not limited to any use conditions, zoning district standards, or Site Plan Review requirements of this Ordinance; and
 6. Vehicular traffic and pedestrian movement on adjacent roads shall not be hindered or endangered.
- B. In granting a Special Exception, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure 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.

§3.6.6 FINAL DECISION AND ORDERS

Final decisions and orders of the Board must be in writing and be filed in the Office of the Planning Director as a public record. Final decisions shall be available for public inspection during regular office hours. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board which must be delivered to parties in interest by certified mail. As a courtesy notice, the orders of the Board may be sent via U.S. mail to persons on the Neighborhood notice list.

§3.6.7 NOTICE OF DECISION

The written final decision shall be mailed to all parties in interest by certified mail and published once in a newspaper of general circulation in the County.

§3.6.8 APPEALS

Any person with a substantial interest in a decision of the Board of Zoning Appeals or any officer, board, or bureau of the county may appeal a final decision of the Board of Zoning Appeals to the Circuit Court of Charleston County. Appellants shall file with the Court Clerk a written petition plainly and fully setting forth how such decision is contrary to law. Such appeal shall be filed within 30 calendar days after the decision of the Board of Zoning Appeals is mailed.

§3.6.9 LAPSE OF APPROVAL

An approved Special Exception shall lapse and be of no further effect twelve (12) months after the date that the Special Exception was approved by the Board of Zoning Appeals unless a

complete application of a Zoning Permit is submitted in accordance with Article 3.8, or if no Zoning Permit is required, unless construction or development has commenced and is being diligently pursued.

One one-year extension of a Special Exception approval may be allowed if construction or development has commenced and is being diligently pursued. Applications for extensions of Special Exception approvals shall be submitted to the Planning Director on forms available in the Planning Department at least fifteen (15) days prior to the expiration of the Special Exception approval.

ARTICLE 3.7 SITE PLAN REVIEW

§3.7.1 APPLICABILITY

Except as expressly exempted in Section 3.7.4, the Site Plan Review procedures shall apply to any of the following: (A) new development, redevelopment and property improvements that increase by more than 25 percent the area devoted to vehicular use, or the gross floor area of buildings; (b) any change in use to a more intensive use, as determined by the Planning Director; and (c) any earth disturbing activity greater than or equal to 5,000 square feet. The entire site shall be brought into compliance with all applicable Ordinance standards at the time of Site Plan Review.

§3.7.2 DEFINITIONS

For the purposes of this Section, a change in use to a more intensive use shall include any occupancy of a building that has not been occupied by a business for more than two (2) years as determined by County records or other reasonable investigation.

§3.7.3 LIMITED SITE PLAN REVIEW

The Limited Site Plan Review Procedure applies to all property improvements that are not listed in Section 3.7.1 above, as determined by the Planning Director. The Limited Site Plan Review Procedure is intended to ensure that these property improvements are in compliance with all applicable sections of this Ordinance. The Limited Site Plan Review Procedure does not require formal Site Plan Review application.

§3.7.4 EXEMPTIONS

Applications for placement of manufactured housing units and proposals for single family residential development on existing approved and recorded plats shall be expressly exempt from the Site Plan Review procedures of this Section.

§3.7.5 APPLICATIONS

Applications for Site Plan Review shall be submitted to the Planning Director on forms available in the Planning Department. Upon submission of an application for Site Plan Review, no additional applications for Site Plan Review shall be accepted for the subject property until the original application has been withdrawn or the Decision-Making Body has rendered its final decision and all applicable time limits on refilling have expired.

§3.7.6 REVIEW AND ACTION SITE PLAN REVIEW COMMITTEE

The Site Plan Review Committee shall review each Site Plan application in light of the applicable Approval Criteria of Section 3.7.5 and act to approve or deny the Site Plan application. The Site Plan Review Committee consists of representatives from the Planning Department, Department of Public Works, South Carolina Department of Health and

Environmental Control (DHEC), Department of Transportation, Corps of Engineers, and Office of Coastal Resource Management and other departmental representatives as deemed necessary by the Planning Director, each of whom addresses the issues relevant to their respective department's responsibilities.

§3.7.7 APPROVAL CRITERIA

A Site Plan application may not be approved unless the Planning Director finds that the proposed project complies with all applicable provisions of this Ordinance.

§3.7.8 APPEALS

Appeals shall be processed in accordance with the procedures of Article 3.13 of this Chapter. Applications for Appeals of approved site plans shall clearly state the error in any order, requirement, decision or determination that was made by the administrative official when approving the site plan.

§3.7.9 AMENDMENTS

The procedure for amending a Site Plan shall be the same as required for the original approval.

ARTICLE 3.8 ZONING PERMITS

§3.8.1 APPLICABILITY

Except as expressly exempted in Section 3.8.2 of this Chapter, a Zoning Permit shall be required before any of the following activities:

- A. The issuance of a building permit under the Charleston County Building Code;
- B. Excavation preparatory to constructing a structure for which a building permit is required;
- C. Improving any zoning lot by grading, filling, or surfacing, or by constructing a driveway in conjunction with the construction of a single family residence, or by constructing or enlarging parking areas containing more than six parking spaces;
- D. Change in the use classification of any part of a structure or lot, including any increase in the number of families or dwelling units occupying a building or lot;
- E. Installation of any sign (on-premises or off-premises);
- F. Moving of any house or mobile home;
- G. Prior to obtaining a business license;
- H. Any earth disturbing activity; or
- I. Clearing and grubbing, including and grading, drainage, or the construction of roads or utilities in a subdivision.
- J. Prior to issuance of a Zoning Permit, a pre-construction planning conference for tree preservation, as specified in Article 9.4, shall be held with the Planning

Director's representative, the applicants, and any parties deemed appropriate for the purpose of determining if there is a need for additional tree protection techniques and for designating placement of tree barricades, construction employee parking, temporary construction offices, and dumpsters.

- K. Agricultural uses shall be subject to the applicable provisions of Article 9.4, Tree Protection and Preservation.

§3.8.2 EXEMPTIONS

A. Agriculture

A Zoning Permit shall not be required with respect to any parcel of land being used for a bona fide, principal agricultural use as of April 21, 1999, including: farming, dairying, pasturage, agriculture, horticulture, floriculture, venticulture, animal and poultry husbandry, forestry, and other uses or enterprises customarily carried on in the field of general agriculture, including the necessary accessory uses for packing, treating, or storing of produce, in any zoning district. The operation of any accessory use shall be secondary to that of the normal agricultural activity.

B. Utility Lines

A Zoning Permit shall not be required for a service connection with established electric distribution or transmission lines, water lines, sewer, gas or other pipelines, provided that such facilities shall comply with all other applicable standards of this Ordinance. Installation of new main or distribution trunk lines for water, sewer or gas shall not be exempt.

C. Fences

A Zoning Permit shall not be required for the installation of any fence that is less than six (6) feet in height and exempt from Charleston County Building Code requirements, as amended, except those made of brick, stone, or concrete. Fence installation must also comply with the vision clearance requirements of Section 4.2.3 of this Ordinance.

D. Accessory Structures

A Zoning Permit shall not be required for the placement of one, one-story detached accessory structure used as a tool or storage shed, playhouse, or similar accessory structure, provided the building footprint does not exceed 120 square feet. In the event that one detached accessory structure already exists on the subject property, a Zoning Permit is required for any additional detached accessory structure. Detached accessory structures must also comply with all applicable standards of the Zoning and Land Development Regulations Ordinance.

§3.8.3 APPLICATION FILING

Applications for Zoning Permits shall be filed with the Planning Director on forms available in the Planning Department. Zoning Permit applications shall include the following information:

- A. For all new construction or changes in building footprint, applications shall include a site plan drawn to engineer's scale that shows proper dimensions, dimensions and locations of all existing and proposed structures and

accessories, setbacks, driveways, and wetlands/OCRM Critical Line, if applicable;

- B. Applications shall include an approved, recorded plat indicating new County Parcel ID Number or if an approved, recorded plat is not available, the application shall include a Charleston County Parcel Boundary Map showing the subject parcel, surrounding properties, and County Parcel ID Number;
- C. Proposed construction, including accessory uses and structures, if occurring on more than one abutting lot of record, shall not be placed on property lines and must meet all setback requirements;
- D. Applications shall include a current letter of availability from local providers for public water and/or sewer. If water and/or sewer service is not available, a well and/or septic tank permit final approval from SC DHEC shall be required;
- E. Applications shall include an approved tree survey showing Grand trees (24" DBH or greater, except pine trees) in the footprint, or within 20 feet, of any proposed construction as required by this Ordinance unless the applicant provides a signed statement indicating no protected trees will be affected;
- F. For all structures requiring a new address (e.g., new building construction, power poles, irrigation systems, or accessory structures with electrical service), written address confirmation must be obtained from the Planning Department. A site plan showing the location of the proposed structure and street access is required for address confirmation. The site plan should also show the street access for all existing structures; and
- G. Commercial, Multifamily, Office, Industrial and other nonresidential uses require Site Plan Review approval prior to an application for a Zoning Permit.

§3.8.4 PLANNING DIRECTOR REVIEW AND ACTION

- A. When an application is made for a Zoning Permit for improvements and uses that comply with all requirements of this Ordinance, the Planning Director shall issue a Zoning Permit and return a signed copy of the application, including plan, to the applicant within ten (10) working days of receipt of the application.
- B. When the Planning Director receives a Zoning Permit application for improvements or uses that do not comply with all requirements of this Ordinance, the Planning Director shall deny the Zoning Permit application, and within ten days of receipt of the application, return the application, including plan, to the applicant along with written notice of the denial. The written notice shall state the reasons for the denial and cite the sections of this Ordinance with which the application does not comply.
- C. When a Zoning Permit application includes a request for a Variance or an Appeal of an Administrative Decision, the Planning Director shall transmit such application, together with all supporting information, within 30 working days of receipt of the application, to the Board of Zoning Appeals for their review. Upon receipt of a written order from the Board of Zoning Appeals, the Planning

Director shall complete the ordered action within ten working days of receipt of the order.

§3.8.5 EFFECT OF PERMIT ISSUANCE

- A. After a Zoning Permit is issued for construction requiring a building permit, the Building Inspection Services Director shall issue a building permit when the requirements of the Building Codes have been met.
- B. After a Zoning Permit is issued for a use or construction not requiring a building permit, the applicant may proceed to carry out the improvement described in the approved Zoning Permit application.

§3.8.6 LAPSE OF APPROVAL

- A. A Zoning Permit issued for construction that requires a building permit shall lapse and be of no further effect if a building permit is not issued within six months of the date of issuance of the Zoning Permit.
- B. A Zoning Permit issued for use or construction that does not require a building permit shall lapse and be of no further effect if the authorized development has not commenced within six months, or if after the development has commenced, the work is suspended or abandoned for a period of more than one year.
- C. Zoning Permit extensions, for periods of up to 90 days, shall be approved by the Planning Director. No more than six 90-day extensions will be allowed. An application for a Zoning Permit extension shall be submitted to the Planning Director prior to the expiration of the Zoning Permit.

§3.8.7 ADMINISTRATIVE PERMITS

A. Temporary Zoning Permits

- 1. The Planning Director may issue a Temporary Zoning Permit not to exceed a one-year period, provided such uses are in compliance with and are authorized by this Ordinance. Permits for permanent installation shall be obtained simultaneously with the Temporary Zoning Permit.
- 2. Temporary Zoning Permits may be issued for temporary installation of the following if located on the same zoning lot as the permanent installation:
 - a. Manufactured housing unit installation to be used as a residence while the permanent residential structure is being built;
 - b. Temporary office for construction office or security guard quarters;
 - c. Temporary structure for commercial use while construction of the permanent structure is in progress; and
 - d. Temporary power permits for construction of permitted uses.

3. A Temporary Zoning Permit may be issued by the Planning Director to move a single family detached home, modular home, or manufactured home to a lot of record, subject to the following:
 - a. The lot on which the home is placed must be zoned for residential use;
 - b. The lot on which the home is placed must comply with all requirements for the applicable zoning district;
 - c. An application for a Temporary Zoning Permit shall be completed by the owner of the property on a form established by the Planning Director prior to movement of the home;
 - d. The home will not be occupied until a certificate of occupancy is issued after a complete Zoning and Building permit application has been approved and all requirements of this Ordinance have been complied with; and
 - e. The Temporary Zoning Permit is valid for a period not to exceed thirty (30) days from the date the permit is issued.

The Temporary Zoning Permit may be renewed by the Planning Director if the applicant provides documentation indicating they have submitted a complete application for a Zoning Permit and Building Permit.

The home must be removed within fifteen (15) days after the Temporary Zoning Permit expires. Failure to comply is a violation of this Ordinance and is subject to the provisions of Article 11, Violations, Penalties and Enforcement.

All regulatory agencies may inspect at any time for safety and non-movement of the temporary placement and require further installation safeguards in compliance with these regulations.

B. Renewal of Temporary Zoning Permits

1. Renewal of Temporary Zoning Permits may be granted for one additional year when construction is being diligently pursued, and it is evident that progress is being made in construction. Extensions beyond the renewal shall be processed as a Special Exception.
2. The temporary use of a manufactured housing unit as an accessory dwelling unit as per Chapter 6 of this Ordinance may be renewed annually subject to the criteria listed in Section 6.6.1, Accessory Uses and Structures Allowed, of Article 6.6 Temporary Uses.
3. Administrative review and renewal of a Special Exception for an accessory dwelling unit shall occur every five years and will be contingent upon confirmation by the Planning Director that the structure complies with the accessory dwelling provisions of this Ordinance.

C. Minor Repair Permits

If an application for a Zoning Permit is to effect only minor repairs, the Planning Director shall be authorized to waive the requirement for an approved plat, site plan and/or septic tank approval. The work to be performed shall be clearly defined in the Zoning Permit.

D. Emergency Permits**1. Individual**

When a use, structure or building has been damaged or destroyed by fire, flood, wind or other act of God, and strict compliance with Zoning Permit requirements will impair the health and safety of the affected individuals or the security of the premises, the Planning Director may declare an emergency condition and grant a temporary Administrative Permit in accordance with the following requirements:

- a. If the use, structure or building complies with all applicable requirements of this Ordinance, a nonrenewable, temporary Administrative Permit shall be issued for a period not to exceed one year.
- b. If the use, structure or building is a legal nonconformity, and less than 50 percent of the appraised value has been damaged or destroyed, a nonrenewable, temporary Administrative Permit shall be issued for a period not to exceed one year.
- c. If the use, structure or building is a legal nonconformity, and 50 percent or more of the appraised value has been damaged or destroyed, only emergency housing or the use of manufactured housing units for the conduct of emergency business operations while relocation efforts are in progress shall be allowed. The nonrenewable, temporary Administrative Permit shall be issued for a period not to exceed six (6) months.

2. Community

Where a major disaster affects the health, safety or welfare of the general public and compliance with Zoning Permit requirements will delay remedial action, the Planning Director shall be authorized, upon approval of the County Administrator, to waive Zoning Permit requirements for a specified period of time.

ARTICLE 3.9 CERTIFICATES OF OCCUPANCY**§3.9.1 APPLICABILITY**

No structure or zoning lot or part thereof for which a Zoning Permit has been issued shall be used or occupied until the Building Inspection Services Director has, after final inspection, issued a Certificate of Occupancy indicating that the use or structure complies with all applicable requirements of the Zoning Permit and this Ordinance. This Certificate of Occupancy may be combined with or made a part of the Certificate of Occupancy required under the Building Code. The issuance of a Certificate of Occupancy shall not be construed as waiving

any provision of this Ordinance or the applicable Zoning Permit.

§3.9.2 UTILITY CONNECTIONS

- A. Electric or gas utility companies or cooperatives shall not provide their respective utility until receipt of an approved Certificate of Occupancy.
- B. Temporary electrical power permits shall require authorization from the Planning Director prior to such services being provided by the utility companies.

ARTICLE 3.10 ZONING VARIANCES

§3.10.1 APPLICABILITY; LIMITATIONS

The Board of Zoning Appeals shall be authorized to approve Zoning Variances to any zoning-related dimensional, design or performance standard set forth in this Ordinance, provided that the Approval Criteria of Section 3.10.6 are met and provided that such Zoning Variance does not have the effect of:

- A. Permitting a use, activity, business or operation that is not otherwise allowed by the Use Regulations of the underlying zoning district;
- B. Allowing the physical extension of a Nonconforming Use, except as expressly allowed in Chapter 10;
- C. Increasing the density of a residential use above that permitted by the underlying district;
- D. Varying the sign regulations of this Ordinance;
- E. Varying or waiving the Subdivision Regulations contained in Chapter 8; or
- F. Varying or waiving any other standard of this Ordinance that is expressly stated as being ineligible for a Zoning Variance.

§3.10.2 APPLICATION FILING

- A. Applications for Zoning Variances shall be submitted to the Planning Director on forms available in the Planning Department.
- B. Zoning Variance applications shall comply with Section 3.1.4, Application Completeness and Submission Deadlines, of this Ordinance.
- C. No Application for a Zoning Variance shall be accepted as complete unless it includes the required fee and the following information:
 - 1. Completed Zoning Variance Application signed by the current property owner(s).
 - 2. Applicant's letter of intent explaining the requested Zoning Variance and

how it meets the Approval Criteria of Section 3.10.6.

3. Site plan drawn to engineers scale showing the property dimensions, dimensions and locations of existing and proposed structures and improvements, parking areas, Grand trees, wetlands (properties containing DHEC-OCRM Critical Line areas must contain an up to date DHEC-OCRM signature on the site plan or plat), holding basins and buffers when applicable. One 24 x 36 copy and twenty (20) reduced 11 x 17 copies shall be submitted.
 4. A copy of a legible approved and recorded plat.
 5. Restrictive covenants affidavit(s) signed by the applicant or current property owner(s) in compliance with state law.
 6. Any other information that the Planning Director determines is necessary to make an informed decision as to whether the application complies with the standards required by Article 3.10.
- D. All proposed Zoning Variances, except single family residential development, shall satisfy the Site Plan Review process. Applicants shall attend at least one (1) Site Plan Review meeting prior to submitting an application for a Zoning Variance.
- E. Separate applications and fees shall be filed for more than one Variance request to each requirement of this Ordinance. If an applicant requests a Variance for removal of more than one Protected/Grand tree, each additional Protected/Grand Tree shall require an additional fee.

§3.10.3 PUBLIC HEARING NOTICE

Newspaper, Neighbor, Parties in Interest and Posted notice of the Board of Zoning Appeals' public hearing shall be provided in accordance with the requirements of Section 3.1.6 of this Chapter.

§3.10.4 PLANNING DIRECTOR REVIEW AND REPORT

The Planning Director shall review each proposed Zoning Variance in light of the Approval Criteria of Section 3.10.6, and if deemed necessary, distribute the application to other agencies and reviewers. The Planning Director shall provide a report on the proposed Zoning Variance to the Board of Zoning Appeals.

§3.10.5 BOARD OF ZONING APPEALS HEARING AND DECISION

- A. The Board of Zoning Appeals shall hold at least one (1) public hearing on the proposed Zoning Variance. Within a reasonable time after the close of the public hearing, the Board of Zoning Appeals shall approve, approve with conditions or deny the proposed Zoning Variance based on the Approval Criteria of Section 3.10.6.
- B. A majority of the Board of Zoning Appeals constitutes a quorum.
- C. At least 2/3 of the members present and voting are required to approve a

Zoning Variance.

§3.10.6 APPROVAL CRITERIA

- A. The Board of Zoning Appeals has the authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship.
- B. A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Zoning Appeals makes and explains in writing the following findings:
 - 1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
 - 2. These conditions do not generally apply to other property in the vicinity;
 - 3. Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;
 - 4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;
 - 5. The Board of Zoning Appeals shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a Nonconforming Use of land, or to change the zoning district boundaries shown on the Official Zoning Map. The fact that property may be utilized more profitably if a Zoning Variance is granted shall not be considered grounds for granting a Zoning Variance.
 - 6. The need for the variance is not the result of the applicant's own actions; and
 - 7. Granting of the variance does not substantially conflict with the *Comprehensive Plan* or the purposes of this Ordinance.
- C. In granting a variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure 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.

§3.10.7 FINAL DECISIONS AND ORDERS

Final decisions and orders of the Board must be in writing and be filed in the Office of the Planning Director as a public record. Final decisions shall be available for public inspection during regular office hours. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board which must be delivered to parties in interest by certified mail. As a courtesy notice, the orders of the Board may be sent via U.S. mail to Neighborhood notice list.

§3.10.8 NOTICE OF DECISION

The written final decision shall be mailed to all parties in interest by certified mail and published once in a newspaper of general circulation in the County.

§3.10.9 APPEALS

Any Person with a substantial interest in a decision of the Board of Zoning Appeals or any officer, board, or bureau of the county may appeal a final decision of the Board of Zoning Appeals to the Circuit Court of Charleston County. Appellants shall file with the Court Clerk a written petition plainly and fully setting forth how such decision is contrary to law. Such appeal shall be filed within 30 calendar days after the decision of the Board of Zoning Appeals is mailed.

§3.10.10 LAPSE OF APPROVAL

An approved Zoning Variance shall lapse and be of no further effect twelve (12) months after the date that the Zoning Variance was approved by the Board of Zoning Appeals unless a complete application of a Zoning Permit is submitted in accordance with Article 3.8 of this Chapter, or if no Zoning Permit is required, unless construction or development has commenced and is being diligently pursued.

One one-year extension of a Zoning Variance approval may be allowed if construction or development has commenced and is being diligently pursued. Applications for extensions of Zoning Variance approvals shall be submitted to the Planning Director on forms available in the Planning Department at least fifteen (15) days prior to the expiration of the Zoning Variance approval.

ARTICLE 3.11 WRITTEN INTERPRETATIONS**§3.11.1 APPLICATION FILING**

Applications for Written Interpretations of this Ordinance shall be submitted to the Planning Director on forms available in the Planning Department.

§3.11.2 PLANNING DIRECTOR REVIEW AND DECISION

Within 30 working days of receipt of a complete application for a Written Interpretation, the Planning Director shall: (1) review and evaluate the application in light of this Ordinance, the *Comprehensive Plan* and any other relevant documents; (2) consult with other staff as necessary; and (3) render a written interpretation.

§3.11.3 FORM

The interpretation shall be provided to the applicant in writing and shall be filed in the official record of interpretations.

§3.11.4 OFFICIAL RECORD OF INTERPRETATIONS

An official record of interpretations shall be kept on file in the Planning Department. The record of interpretations shall be available for public inspection in the Planning Department during normal business hours.

§3.11.5 APPEALS

Appeals of the Planning Director's written interpretation shall be taken to the Board of Zoning Appeals in accordance with procedures of Article 3.13. If the appeal results in a change of interpretation, the new interpretation shall be filed in the official record of interpretations.

ARTICLE 3.12 PUBLIC PROJECT REVIEW**§3.12.1 APPLICABILITY**

Public Project Review shall apply to all public projects except those expressly exempt under S. C. Code §6-29-540.

§3.12.2 APPLICATION FILING

- A. Applications for Public Project Review shall be submitted to the Planning Director on forms available in the Planning Department.
- B. No application for a Public Project Review shall be accepted as complete unless it includes the required fee and the following information:
 - 1. Completed Public Project Review application signed by the current property owner(s);
 - 2. A copy of a legible approved and recorded plat showing current property boundaries;
 - 3. A copy of the current, recorded deed;
 - 4. Restrictive covenants affidavit(s) signed by the applicant or current property owner(s) in compliance with state law; and
 - 5. Any other information that the Planning Commission determines is reasonably necessary to make an informed decision as to whether the application complies with the standards of this Article.
- C. Applications for Public Project Reviews shall comply with Section 3.1.4, Application Completeness and Submission Deadlines, of this Ordinance.

§3.12.3 PUBLIC HEARING NOTICE

Newspaper and Parties in Interest notice of the Planning Commission meeting shall be provided in accordance with the requirements of Section 3.1.6 of this Chapter.

§3.12.4 PLANNING DIRECTOR REVIEW AND REPORT

The Planning Director shall review each proposed Public Project in light of the *Comprehensive Plan*. Based on the results of that review, the Planning Director shall provide a report on the proposed Public Project to the Planning Commission.

§3.12.5 PLANNING COMMISSION REVIEW AND DECISION

- A. The Planning Commission shall review the Public Project to determine whether it is consistent with the *Comprehensive Plan*. This determination shall include written findings. The Planning Commission may hold one or more public hearings in accordance with the requirements of Section 3.1.6 prior to completing their review.
- B. If the Planning Commission finds the proposal conflicts with the

Comprehensive Plan, it shall forward its written findings and an explanation of its reasoning to the public entity proposing the project.

- C. If the public entity proposes to proceed with its public project in conflict with the *Comprehensive Plan*, then the entity must publicly state its intention to proceed and its reasons for proceeding. The public entity must provide written notice of its intention to proceed and its reasons to the Planning Commission, as well as public notice in a publication of general circulation at least 30 calendar days in advance of award of a contract or beginning construction of the proposed public project.

ARTICLE 3.13 APPEALS OF ZONING-RELATED ADMINISTRATIVE DECISIONS

§3.13.1 AUTHORITY

The Board of Zoning Appeals shall be authorized to hear and decide appeals only on zoning-related matters 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 any of the zoning-related regulations of this Ordinance. The Board of Zoning Appeals shall have no authority to hear or decide appeals from administrative decisions made pursuant to the Subdivision Regulations of Chapter 8.

§3.13.2 RIGHT TO APPEAL

Appeals of Administrative Decisions on zoning-related matters may be filed by any officer, board, or bureau of the county, or by any person with a substantial interest in a decision of an administrative official.

§3.13.3 APPLICATION FILING; TIMING

Applications for Appeals of Administrative Decisions on zoning-related matters shall be submitted to the Planning Director on forms available in the Planning Department. Appeals of Administrative Decisions to grant or deny a Zoning Permit shall be filed within 30 calendar days from the date of the Administrative Decision.

§3.13.4 EFFECT OF FILING

Any permits, decisions or determinations which are the subject of an appeal shall be temporarily suspended upon filing a complete application for an appeal, unless the official responsible for issuing the permit or making the decision or determination which is being appealed certifies to the Board of Zoning Appeals, after the appeal is filed, that because of facts stated in the certification, a stay would cause immediate peril to life or property. In such case, action upon any such permits, decisions or determinations shall not be stayed other than by a restraining order, which may be granted by the Board of Zoning Appeals or by a court of record upon proper notice and hearing. However, in the absence of a certification that a stay would cause immediate peril to life or property, any work purported to be undertaken pursuant to an appealed permit, decision or determination after actual notice of the appeal has been received shall be subject to Chapter 11, Violations, Penalties, and Enforcement, of this Ordinance.

§3.13.5 RECORD OF ADMINISTRATIVE DECISION

The official whose decision is being appealed shall transmit to the Board of Zoning Appeals all papers constituting the record upon which the action appealed is taken.

§3.13.6 PUBLIC HEARING NOTICE

Newspaper, Neighbor, Parties in Interest and Posted Notice of the Board of Zoning Appeals' public hearing shall be provided in accordance with the requirements of Section 3.1.6 of this Chapter.

§3.13.7 BOARD OF ZONING APPEALS REVIEW AND ACTION

- A. The Board of Zoning Appeals shall hold at least one public hearing on the appeal, and within a reasonable time following the close of the public hearing, take final action based on the procedures and requirements of this Section.
- B. In exercising the appeal power, the Board of Zoning Appeals shall have all the powers of the official from whom the appeal is taken, and the Board of Zoning Appeals may reverse or affirm, wholly or in part, or may modify the decision being appealed.
- C. If the Board of Zoning Appeals determines that it is necessary to obtain additional evidence in order to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct issuance of a permit. The Board of Zoning Appeals in execution of the duties specified in this Chapter may subpoena witnesses and in case of contempt may certify this fact to the circuit court having jurisdiction.
- D. A quorum of the Board of Zoning Appeals shall be achieved when the number of members in attendance equals more than $\frac{1}{2}$ of the total membership of the Board of Zoning Appeals. At least $\frac{2}{3}$ of the members present and voting shall be required to reverse any order, requirement, decision, or determination of any administrative officer or agency.

§3.13.8 APPROVAL CRITERIA; FINDINGS OF FACT

An appeal shall be sustained only if the Board of Zoning Appeals finds that the administrative official erred. The decision of the Board of Zoning Appeals shall be accompanied by specific, written findings of fact and conclusions of law clearly stating the reason for the decision. Those written findings shall be delivered to parties in interest by certified mail, published once in a newspaper of general circulation in the county, and permanently filed in the Planning Department.

§3.13.9 APPEALS

Any person with a substantial interest in a decision of the Board of Zoning Appeals or any officer, board, or bureau of the county may appeal a final decision of the Board of Zoning Appeals to the Circuit Court of Charleston County. Appellants shall file with the Court Clerk a written petition plainly and fully setting forth how such decision is contrary to law. Such appeal shall be filed within 30 calendar days after the decision of the Board of Zoning Appeals is mailed.

ARTICLE 3.14 APPEALS OF SUBDIVISION-RELATED ADMINISTRATIVE DECISIONS**§3.14.1 AUTHORITY**

The Planning Commission shall be authorized to hear and decide appeals only on subdivision-related matters (including determinations of [subdivision application] incompleteness) 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 any of the subdivision regulations of Chapter 8 of this Ordinance.

§3.14.2 RIGHT TO APPEAL

Appeals of Administrative Decisions on subdivision-related matters may be filed by any officer, board, or bureau of the county, or by any person with a substantial interest in a decision of an administrative official.

§3.14.3 APPLICATION FILING: TIMING

Applications for Appeals of Administrative Decisions on subdivision-related matters shall be submitted to the Planning Director on forms available in the Planning Department. Appeals of Administrative Decisions on subdivision matters shall be filed within 30 calendar days of the date of written notice of the decision being appealed.

§3.14.4 EFFECT OF FILING

Any permits, decisions or determinations which are the subject of an appeal shall be temporarily suspended upon filing a complete application for an appeal, unless the official responsible for issuing the permit or making the decision or determination which is being appealed certifies to the Planning Commission, after the appeal is filed, that because of facts stated in the certification, a stay would cause immediate peril to life or property. In such case, action upon any such permits, decisions or determinations shall not be stayed other than by a restraining order, which may be granted by the Planning Commission or by a court of record upon proper notice and hearing. However, in the absence of a certification that a stay would cause immediate peril to life or property, any work purported to be undertaken pursuant to an appealed permit, decision or determination after actual notice of the appeal has been received shall be subject to Chapter 11, Violations, Penalties, and Enforcement, of the Ordinance.

§3.14.5 RECORD OF ADMINISTRATIVE DECISION

The official whose decision is being appealed shall transmit to the Planning Commission all papers constituting the record upon which the action appealed is taken.

§3.14.6 PUBLIC HEARING NOTICE

Newspaper Notice of the Planning Commission's public hearing shall be provided in accordance with the requirements of Section 3.1.6 of this Chapter.

§3.14.7 PLANNING COMMISSION REVIEW AND ACTION

- A. The Planning Commission shall hold at least one public hearing on the appeal and, within a reasonable time following the close of the public hearing, take final action based on the procedures and requirements of this Section. When the appeal relates to a determination of (application) incompleteness, the Planning Commission shall hear and take action on the appeal within 15 calendar days of the date of the appeal.

- B. In exercising the appeal power, the Planning Commission shall have all the powers of the official from whom the appeal is taken, and the Planning Commission may reverse or affirm, wholly or in part, or may modify the decision being appealed.
- C. If the Planning Commission determines that it is necessary to obtain additional evidence in order to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence, and to that end shall have all the powers of the officer from whom the appeal is taken.
- D. A quorum of the Planning Commission shall be achieved when the number of members in attendance equals more than ½ of the total membership of the Planning Commission. At least 2/3 of the members present and voting shall be required to reverse any order, requirement, decision, or determination of any administrative officer or agency.

§3.14.8 APPROVAL CRITERIA: FINDINGS OF FACT

An appeal shall be sustained only if the Planning Commission finds that the administrative official erred. The decision of the Planning Commission shall be accompanied by specific, written findings of fact and conclusions of law clearly stating the reason for the decision. Those written findings shall be delivered to Parties in Interest by certified mail and permanently filed in the Planning Department.

§3.14.9 APPEALS

Any person with a substantial interest in a decision of the Planning Commission or any officer, board, or bureau of the County may appeal a final decision of the Planning Commission to the Circuit Court of Charleston County. Appellants shall file with the Court Clerk a written petition plainly and fully setting forth how such decision is contrary to law. Such appeal shall be filed within 30 calendar days after the decision of the Planning Commission is mailed.

ARTICLE 3.15 ADDRESSING AND STREET NAMES

§3.15.1 AUTHORITY

The Planning Director shall be authorized to assign and change physical addresses as provided for in Chapter 4; Art. VII of the Charleston County Code of Ordinances, as amended, and §23-47-60 et. seq. of the Code of Laws of South Carolina (1976), as amended.

The Planning Commission shall be authorized to approve the name of a new street or road within the jurisdiction of Charleston County, as provided for in the Code of Laws of South Carolina §6-29-1200 and §23-47-60 et. seq. of the Code of Laws of South Carolina (1976) as amended. The Planning Commission may delegate this authority to the Planning Director.

§3.15.2 APPLICATION FILING

Applications for the following shall be submitted to the Planning Director on forms available in the Planning Department:

- A. Requests for Reservations of Street Names; and
- B. Requests for Street Name Changes.

§3.15.3 STREET NAMES**A. Requests for Reservations of Street Names**

All street names shall comply with Chapter 4; Art. VII of the Charleston County Code of Ordinances, as amended, and §23-47-60 et. seq. of the Code of Laws of South Carolina (1976), as amended. Street names proposed by the applicant shall be approved by the Planning Department. The Planning Department shall be given at least five (5) working days to approve requests for reservations of street names.

B. Requests for Street Name Changes

The Planning Commission shall be authorized to approve requests for street name changes within the jurisdiction of Charleston County, including but not limited to the naming of existing unnamed easements, rights-of-way and other access types where there is no street name or the current street name poses a threat to the efficient provision of emergency services. Requests for street name changes shall be in accordance with the Code of Laws of South Carolina §6-29-1200 and §23-47-60 et. seq. of the Code of Laws of South Carolina (1976), as amended, and Chapter 4; Art. VII of the Charleston County Code of Ordinances, as amended.

ARTICLE 3.16 DEVELOPMENT AGREEMENTS**ARTICLE 3.16 DEVELOPMENT AGREEMENTS**

Requests for Development Agreements shall be processed pursuant to the South Carolina Code of Laws, Title 6, Chapter 31, as amended.