Planning Commission Decision Memorandum
Horry County, South Carolina

Date: April 2, 2020
From: Planning and Zoning
Division: Infrastructure and Regulation
Prepared By: Leigh Kane, Principal Planner
Cleared By: David Schwerd, Planning Director
Regarding: Article XV of the Horry County Zoning Ordinance

ISSUE:
Should Horry County amend Article XV of the Horry County Zoning Ordinance to ensure authorities, application procedures, and review criteria are clearly defined for zoning amendments?

PROPOSED ACTION:
Approve the proposed amendments to Article XV of the Horry County Zoning Ordinance.

RECOMMENDATION:
Staff recommends approval.

BACKGROUND:
The South Carolina Planning Enabling Act of 1994 identifies the public hearing, public noticing criteria, and adoption procedures for zoning amendments. However, it does not define the application submission or review criteria for amendments, as this is a local government authority. The IMAGINE 2040 Comprehensive Plan public input process identified the need to revise the submission requirements and rezoning review criteria that Planning Commission and County Council use to evaluate rezoning requests, especially for those properties located within Scenic & Conservation areas of the Future Land Use Map. Amendments to Article XV were drafted to ensure that the ordinance reflects state law and the implementation of the comprehensive plan. A public hearing was held at the March 5, 2020 Planning Commission, followed by a Planning Commission Special Workshop on March 12, 2020 to further review the details of this amendment among commissioners, staff, and the community.

ANALYSIS:
Significant revisions to Article XV include:

- Addition to Declaration of Policy that zoning amendments be evaluated for their consistency with the Consolidated Plan, Capital Improvements Plan, and Official Map;
- Amend refund policy to allow PDDs to be refunded all except the cost of a Standard Rezoning fee ($250) if a request for withdraw occurs prior to Planning Commission public hearing;
- Consolidation of rezoning submission requirements for PDD, MRD, and major residential subdivisions with lots less than or equal to 10,000 ft²;
- Additional requirement for the 100 and 500-year regulatory floodplain to be included in all conceptual plans for all MRD and all major residential rezonings with lots less than or equal to 10,000 ft²;
• Additional rezoning submission criteria for PDD, MRD, and major residential rezoning requests in Scenic & Conservation areas;
• Revisions to the rezoning review criteria to ensure that they are consistent with the vision, goals, and objectives of the IMAGINE 2040 Comprehensive Plan and to ensure there are greater considerations for the environment, especially for rezoning requests in Scenic & Conservation areas; and
• Clarification of what constitutes a minor and major amendment within PDD and MRD developments.

Based upon public input received to date, the following revisions have been made to the previous drafts:
• Removal of procedures for publicly initiated text amendments because the public can request changes directly through their elected and appointed officials and through public input at Planning Commission and County Council meetings;
• Removal of the requirement for a water and sewer service verification letter for rezoning requests because it is duplicative of development review requirements;
• Additional wetland analysis options were added to the rezoning submission criteria for requests in Scenic and Conservation Future Land Use areas;
• Removal of requirement of identification of any federally or state recognized rare, threatened, and endangered species for rezoning submissions in Scenic and Conservation Future Land Use areas, as staff will evaluate publically available information from South Carolina Department of Natural Resources;
• Removal of requirement of identification of any historic and archeological resources for rezoning submissions in Scenic and Conservation Future Land Use areas, as staff will evaluate publically available information from South Carolina Department of Archives and History;
• Removal of the Rezoning Review Criteria, as it will be included as an amendment to the Planning Commission Rules of Procedure. Changes to the Rules of Procedure will require a public review process; and
• Removal of proposed section on Pending Amendments, which was intended to limit future non-conformities from being created as a result from pending zoning map and text amendments. This authority already exists for any ordinance that has been recommended for approval and is under County Council consideration for adoption.
1500. Authority.

Any amendment, change or supplement to the Zoning Ordinance must be submitted through the Horry County Planning Department to the Horry County Planning Commission for public hearing, review and recommendation to County Council. A recommendation for an amendment to the Zoning Ordinance must first be made by Planning Commission prior to County Council approval.

1501. Requirements for change.

(A) Declaration of Policy. As a matter of policy, a zoning amendment shall only be acted upon favorably:

1. Where necessary to implement the Comprehensive Plan,
2. When consistent with the Consolidated Plan, Capital Improvements Plan, and Official Map;
3. To correct an original mistake or manifest error in the zoning ordinance or map;
4. To recognize substantial change or changing conditions or circumstances in a particular locality; or
5. To recognize changes in technology, the style of living, or manner of doing business.

(B) Availability of certain zoning districts for rezoning requests. The following zoning districts shall no longer be available for use in the rezoning of property within Horry County. Property zoned as any of following districts may remain zoned as such until rezoned and shall be subject to the standards of the district as specified within this ordinance.

<table>
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<tr>
<th>Conservation Preservation</th>
<th>CP</th>
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<tbody>
<tr>
<td>Limited Forest Agriculture</td>
<td>LFA</td>
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<tr>
<td>Forest Agriculture</td>
<td>FA</td>
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<tr>
<td>Commercial Forest Agriculture</td>
<td>CFA</td>
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<td>Resort Residential</td>
<td>RR</td>
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<tr>
<td>Resort Commercial</td>
<td>RC</td>
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<tr>
<td>Neighborhood Commercial</td>
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<td>Community Commercial</td>
<td>CC</td>
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<td>Highway Commercial</td>
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<td>Amusement Commercial</td>
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<td>Office, Professional, Institutional</td>
<td>OPI</td>
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<td>Limited Industrial</td>
<td>LI</td>
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<td>Heavy Industrial</td>
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<td>Commercial Recreation</td>
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<td>Education, Institution, Office</td>
<td>EIO</td>
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<td>Retailing and Consumer Services</td>
<td>RCS</td>
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<td>Transportation-related Services</td>
<td>TRS</td>
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<tr>
<td>Planned Unit Development</td>
<td>PUD</td>
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</table>
Requests to amend the Zoning Ordinance shall be processed in accordance with the requirements of this Article.

(A) Initiation of Amendments. Amendments to the zoning ordinance may be initiated by the Planning Commission, County Council, the Board of Zoning Appeals, the Zoning Administrator, the Planning Director, and other County Council appointed boards and commissions. A zoning map amendment may also be proposed by a landowner or agent for a person, business or organization having rights in contract to the land that is subject to the zoning map amendment.

(B) Application Procedure. Applications for zoning map amendments must be signed by the applicant(s) and submitted, in proper form, at least thirty (30) days prior to a Planning Commission meeting in order to be heard at that meeting. Completed forms, together with the application fee to cover administrative costs, plus any additional information the applicant feels to be pertinent, will be filed with the Planning Department. A maximum of twenty-five (25) applications for zoning map amendments may be taken from property owners on a monthly basis. The same zoning map amendment, affecting the same parcel or parcels of property or part thereof and requesting the same change in district classification by a property owner or owners, cannot be submitted more than once every twelve (12) months. Application fees are not refundable, except in cases where a PDD rezoning is withdrawn prior to Planning Commission action. In such cases, all except the cost of a Standard Rezoning fee may be refunded provided the retained fees cover the cost incurred by the County associated with the request.

(C) Zoning Map Amendment Application Submission Requirements. An application for a map amendment shall be considered complete if it includes the following information:
   1. Signature of current property owner(s) and/or agent.
   2. Proposed zoning classification;
   3. Property Identification Number of the proposed development;
   4. Tract boundaries and total land area;
   5. Existing and proposed land uses throughout the development;
   6. Adjacent property owners and land uses;
   7. Boundary survey of the property, upon request;
   8. Restrictive covenant affidavit(s) signed by the applicant or current property owner(s) in compliance with state laws, if applicable.
   9. Any rezoning request to establish a PDD, MRD, or major residential development with lots less than or equal to 10,000 ft² lots must also present a general idea of how the tract of land will be developed. The submission shall contain the following information:
Table 1: Submission criteria for PDD, MRD, and major residential rezoning requests.

**Wetlands Information.** The applicant must submit one (1) of the following:
- Preliminary wetlands assessment prepared by a qualified environmental consultant as identified by the Corps of Engineers,
- Wetlands verification letter from the Corps of Engineers, or
- Certified wetlands delineation map and preliminary jurisdictional determination letter from the Corps of Engineers.

**Project phasing plan and phase completion schedule;**

**Conceptual Plan** shall include, but not limited to:
- Plan sheet size not to exceed 30” x 42”;
- Drawn to scale not smaller than 1”=200’;
- Proposed Project Name;
- Owner of the property and/or developer;
- Adjacent property owners and land uses;
- North arrow, written and graphic scales, and a location map drawn to scale and not less than 1” = 2000’ to show the relationship between the proposed land development and surrounding area;
- Location and types of uses;
- Table summarizing project acreage, gross and net density, number of lots, and proposed area, yard, and height requirements;
- Number of units by residential dwelling type;
- Gross and net densities by phase or residential dwelling type;
- Existing road rights-of-way and easements;
- Proposed driveway, roadway, and curb-cut locations;
- Proposed rights-of-way and lot layout compliant with the requirements of the Land Development Regulations;
- Internal traffic circulation for all residential and non-residential land uses;
- Traffic analysis and proposed external improvements;
- All planned accessory dwelling units, places of worship, golf courses, public spaces, amenity areas, common areas, ponds, and open space;
- All required external buffers.
- Location of 100 and 500-year regulatory floodplains per FEMA Flood Insurance Rate (FIRM) Maps;
- Existing wetlands, spoilage areas, and any wetlands that will be filled;

**Pedestrian Flow Plan,** when sidewalks and/or paths included.

**Illustrative Plan is optional, but does not replace the need to submit a conceptual plan.**
- North arrow, name of developer, owner, proposed development, and Parcel Identification Number (PIN) and adjacent PINs;
- Location and types of uses;
- General road layout for all pods and phases;
- Amenity areas and/or active and common open space areas; and
- Typical lot layouts per product type and phase.
10. **Additional Submission Criteria for Request within Scenic and Conservation Area.** Any rezoning request made within a Scenic and Conservation Area of the Comprehensive Plan’s Future Land Use Map shall also include:

a. One of the following wetland analyses for all requests over 2.5 acres:
   i. Preliminary wetlands assessment prepared by a qualified wetlands consultant as identified by the Corps of Engineers,
   ii. Wetlands verification letter from the Corps of Engineers, or
   iii. Certified wetlands delineation map and preliminary jurisdictional determination letter from the Corps of Engineers.

a. National Wetlands Inventory Map for all requests under 2.5 acres;

b. Geotechnical exploration investigation report or USDA Soils Map with classifications;

c. Map of the Hydrologic Unit Code (HUC) 8 watershed and identification of existing ditches, ponds/lakes, or other waterbodies on the property; and

d. Topographic survey or LiDAR derived contours overlaid on conceptual plan for all requests over 2.5 acres. Provide survey or LiDAR year on conceptual plan.

11. **Additional Submission Criteria for Planned Development District (PDD).** All PDD requests shall also meet additional requirements as defined in 721, including, but not limited to:

a. Written narrative;

b. Internal buffers between dissimilar uses in accordance with 721.3B; and

c. Provision for recycling facility location and documentation for proposed collection of recyclables.

d. A Conceptual Plan with bubble diagrams depicting uses, densities, internal roadways (interconnectivity to be established), and open space may be submitted for projects greater than 100 acres.

12. **Additional Submission Criteria for Multi-Residential District (MRD) with Sustainable Development Standards.** All MRD requests that include Sustainable Development Standards shall also include:

a. All sustainable development options being utilized.

b. Supporting documentation to convey how the sustainable development standards will be met, such as a pedestrian flow plan, open space plan, tree survey, or other supporting documentation,

c. Expected sustainable development incentives, including any density increases over the standard MRD development standards, setbacks, and dimensions.

13. **Submission Criteria for the Marine Industrial (MI) District.** Any request to establish a Marine Industrial district (MI) shall meet the following criteria:

a. Minimum size to rezone to MI district is one hundred (100) acres. This can be a group of existing contiguous parcels.

b. Conceptual plan showing major roadways and potential traffic impacts and improvements shall be submitted with the request.

14. 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) Planning Commission Public Hearing Notice. Notice of the time and place of the Planning Commission public hearing shall be published in a newspaper of general circulation in the County in advance of the scheduled Planning Commission meeting date in which the proposed amendment shall be heard.

1. **Zoning Amendment.** Newspaper notice of a public hearing shall be made at least fifteen (15) days in advance of the scheduled public hearing date.

2. **Zoning Map Amendment.**
   a. **Property Posting.** When a proposed amendment affects the district classification of a property, conspicuous notice shall be posted on or adjacent to the property affected with at least one (1) such notice being visible from each public thoroughfare that abuts the property.
   b. **Notification of Surrounding Property Owners.** Property owners within 500 feet of the property proposed for the zoning map amendment shall be notified by mail at least fifteen (15) days prior to the Planning Commission public hearing.

3. **Registration to Receive Public Notice.** Any organization or individual may register with the Planning Department to receive public notice by electronic mail at least fifteen (15) days prior to the Planning Commission public hearing.

4. **Public Comment.** The Planning Commission may receive public input by written comments being submitted to the Planning Department. Planning Commission shall hold a public hearing on all zoning text and map amendments. If an applicant or land owner is allowed to provide oral or written comments, the commission must give other interested members of the public at least 10 days’ notice and an opportunity to comment in the same manner.

(E) Planning Commission Review and Recommendation. The Planning Commission shall have thirty calendar (30) days to review the proposed amendment and take action, recommending that County Council approve or deny the proposed amendment. The Planning Commission shall state its findings and its evaluation of the request in a report to County Council. If the Planning Commission fails to submit a recommendation within a thirty (30) day period, it shall be deemed to have recommended approval of the proposed amendment.

(F) County Council Hearing and Decision. Before enacting an amendment, the County Council shall hold a public hearing. In any request for change, County Council shall consider the recommendation of the Planning Commission on each proposed amendment; however, County Council is not bound by the recommendation in making a final decision. All amendments shall be adopted by ordinance.

(G) Notice of Decision. Following final action by the County Council, the Planning Director or designee shall be responsible for providing the applicant with written notice of the decision within fifteen (15) days. Any changes to the Official Zoning Map shall occur within this timeframe. Approved text amendments shall be made available to the public upon request.

(H) Deferral and Withdrawal Requests. An applicant may request their application be deferred or withdrawn by submitting a written request to the Planning Department. If the public cannot be notified of the deferral or withdraw within a reasonable time period prior to the Planning Commission public hearing at which the application is to be heard, the request for deferral shall be considered and acted upon during the public hearing as scheduled. A maximum of two (2) applicant initiated deferrals shall be allowed prior to Planning Commission recommendation. Once Planning
Commission has made its recommendation to County Council, all requests for deferral or withdraw shall be submitted by the applicant to the Clerk of Council for Council’s consideration.

1503. Changes in the Zoning Map. Following final action by the County Council any necessary changes shall be made on the official Zoning Map. A written record of the type and date of such changes shall be maintained by the Planning Commission. Until such change is made, no action by the County Council on amendments to the Zoning Ordinance shall be considered official unless the Planning Commission fails to make the change within fifteen (15) days after formal action by the County Council. In the latter event, action by the County Council shall be considered official fifteen (15) days after the date of the action if the Planning Commission fails to make the appropriate changes.

1504. Modifications within PDD and MRD Developments. Land development of all PDD and MRD developments shall conform to the County Council approved conceptual plan and written narrative. All developments shall also be reviewed utilizing the procedures established in the Horry County Land Development Regulations. Minor changes in conceptual or master phasing plans for PDD and MRD developments may be approved by the Zoning Administrator or designee, provided that a request is submitted in writing through a Minor Amendment Application by the owner or agent and that the changes:

(A) Do not increase density or intensity;
(B) Do not change the outside (exterior) boundaries;
(C) Do not change any uses, including mixture of uses and residential housing types, that would significantly alter the character of the development.
(D) Do not significantly change the external appearance from those shown on any plans which may be submitted or presented by the developers;
(E) Minor changes may include, but are not limited to: minor shifting of the location of buildings, parking, shifting of entrances and internal roadways to resolve regulatory permitting issues, utility easements, parks, amenities, or other public open spaces, or other features of the plan.

Changes which materially affect the plan’s basic concept or the designated general use of parcels of land within the development should be considered major changes. All other changes or modifications not enumerated above shall also constitute a major change and will require a full rezoning action, as outlined in 1502.