Planning Commission Decision Memorandum
Horry County, South Carolina

Date: January 30, 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 text amendments and zoning map amendments. However, it does not define the application submission or review criteria for text amendment and zoning map requests, 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.

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;
- Allowance for publicly initiated text amendment application procedures;
- 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;
- New requirement for a Water and Sewer Service Verification Letter to be submitted for all commercially reviewed rezoning requests that are greater than or equal to 3 acres in size or any major residential development;
- 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.
1500. Authority.

Any amendment, change or supplement to the Zoning Map or 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. No amendment shall be approved by County Council unless a recommendation has first been made by the Planning Commission.

1501. Requirements for change.

(A) Declaration of Policy. As a matter of policy, no request to change the text of the ordinance or map shall be acted upon favorably except:

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>
<thead>
<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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<tr>
<td>Resort Residential</td>
<td>RR</td>
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<td>Resort Commercial</td>
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<td>Neighborhood Commercial</td>
<td>NC</td>
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<td>Community Commercial</td>
<td>CC</td>
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<td>Highway Commercial</td>
<td>HC</td>
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<td>Amusement Commercial</td>
<td>AC</td>
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<tr>
<td>Office, Professional, Institutional</td>
<td>OPI</td>
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<tr>
<td>Limited Industrial</td>
<td>LI</td>
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<tr>
<td>Heavy Industrial</td>
<td>HI</td>
</tr>
<tr>
<td>Commercial Recreation</td>
<td>CR</td>
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<tr>
<td>Education, Institution, Office</td>
<td>EIO</td>
</tr>
<tr>
<td>Retailing and Consumer Services</td>
<td>RCS</td>
</tr>
<tr>
<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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1502. Procedure for Amendments.

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 text or official zoning map may be initiated by the Planning Commission, County Council, the Board of Zoning Appeals, the Zoning Administrator, the Planning Director, other County Council appointed boards and commissions, or a landowner or agent for a person, business or organization having rights in contract to the land. An amendment to the zoning ordinance text may also be initiated by any member of the public.

(B) Application Filing. Applications for 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. The same text or 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.

1. Zoning Text Amendment Application. No application for a text amendment shall be accepted as complete unless it includes the following information:
   a. Signature of applicant or agent.
   b. Written statement explaining the proposed amendment(s) and how it meets the Declaration of Policy in this Article.
   c. If applicable, document of the proposed changes to the Zoning Ordinance in effect and showing proposed text deletions as strike-through text and proposed additions in bold, underlined text.
   d. 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.

2. Official Zoning Map Amendment Application. No application for an amendment shall be accepted as complete unless it includes the following information:
   a. Signature of current property owner(s) and/or agent.
   b. Proposed zoning classification;
   c. Property Identification Number of the proposed development;
   d. Tract boundaries and total land area;
   e. Existing and proposed land uses throughout the development;
   f. Adjacent property owners and land uses;
   g. Boundary survey of the property, upon request;
   h. Water and Sewer Service Verification Letter. Commercially reviewed uses greater than or equal to 3 acres in size and major residential developments must provide a verification letter from the appropriate water and sewer service provider of their ability to serve the proposed development.
i. Restrictive covenant affidavit(s) signed by the applicant or current property owner(s) in compliance with state laws, if applicable.

j. 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.

<table>
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<tr>
<th>Wetlands Information. The applicant must submit one (1) of the following:</th>
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<td>- Preliminary wetlands assessment prepared by a qualified wetlands consultant,</td>
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<td>- Wetlands verification letter from the Corps of Engineers, or</td>
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<td>- Certified wetlands delineation map and preliminary jurisdictional determination letter from the Corps of Engineers.</td>
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**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;
- Adjacent driveway, roadway, and curb-cut locations;
- Proposed rights-of-way and lot layout compliant with the requirements of the Land Development Regulations;
- Traffic circulation for all 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.
k. 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:
   i. Certified wetland delineation map and preliminary jurisdictional determination letter from the Corps of Engineers for all requests over 2.5 acres;
   ii. National Wetlands Inventory Map for all requests under 2.5 acres;
   iii. Identification of any federally or state recognized rare, threatened, and endangered species located on the property;
   iv. USDA Soils Map and classifications;
   v. Map of the Hydrologic Unit Code (HUC) 12 watershed and identification of existing ditches, ponds/lakes, or other waterbodies on the property;
   vi. Identification of any historical or archeological resources; and
   vii. Topographic Survey overlaid on conceptual plan for all requests over 2.5 acres. Provide year of survey.

l. 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:
   i. Written narrative;
   ii. Internal buffers between dissimilar uses in accordance with 721.3B; and
   iii. Provision for recycling facility location and documentation for proposed collection of recyclables.
   iv. 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.

m. Additional Submission Criteria for Multi-Residential District (MRD) with Sustainable Development Standards. All MRD requests that include Sustainable Development Standards shall also include:
   i. All sustainable development options being utilized.
   ii. 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,
   iii. Expected sustainable development incentives, including any density increases over the standard MRD development standards, setbacks, and dimensions.

n. Submission Criteria for the Marine Industrial (MI) District. Any request to establish a Marine Industrial district (MI) shall meet the following criteria:
   i. Minimum size to rezone to MI district is one hundred (100) acres. This can be a group of existing contiguous parcels.
   ii. Conceptual plan showing major roadways and potential traffic impacts and improvements shall be submitted with the request.
o. 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) **Planning Commission Review and Report.** Planning Commission shall have at least 30 calendar days to conduct a review of each proposed amendment and make a recommendation to County Council. If the Planning Commission fails to submit a report within a thirty (30) day period, it shall be deemed to have recommended approval of the proposed amendment.

(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.
   c. **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.

3. **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 the landowner’s oral or written comments are to be allowed, 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 Recommendation. The Planning Commission shall review the proposed amendment and take action, recommending that the County Council approve or deny the proposed amendment. The Planning Commission shall state its findings and its evaluation of the request to County Council based upon the following criteria:

1. Comprehensiveness:
   a. Is the change consistent with the Comprehensive Plan?

2. Reasonableness:
   a. Will the change address a non-conforming use?
   b. Are there other adequate sites with the appropriate zoning for the proposed use?
   c. How does the project minimize or mitigate adverse impacts on the surrounding community and on necessary public safety services, infrastructure, and the environment?

3. Character of Surrounding Community:
   a. Is the change consistent with the surrounding land uses?
   b. Is the property within a municipal annexation area?
   c. Are there other properties in the same area that are already zoned to allow the same use?

4. Changing Conditions:
   a. Have there been recent changes in public infrastructure that would support a change in the zoning, such as the completion of a road project, school, fire station, etc?
   b. Is there an economic development project that supports a change in the zoning or and surrounding zoning?

5. Public Welfare:
   a. Could the change result in an environmental justice issue?
   b. Will the change present a nuisance (light, dust, noise, airflow, smell) to the surrounding area?
   c. Will the change negatively impact the capacity of water & sewer system, schools, streets, or other public services and infrastructure?
   d. Are the cumulative infrastructure impacts of the proposed change, along with background growth occurring in the surrounding area, addressed in the submittal?

6. Public Safety:
   a. Will the change place people and infrastructure in a hazard prone area?
   b. Can the regional stormwater drainage system support the change?
   c. Will the change impact significant hydrologic systems and connectivity?
   d. Will the change result in the creation of an ISO 10 area?

7. Environment (evaluated for changes in Scenic & Conservation Future Land Use Areas):
   a. Will the change result in wetland fill?
   b. Will the change result in fill in the regulatory floodzone?
   c. Will the change impact an important habitat?
   d. Will the change adversely impact protected and endangered species?

(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. Pending 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 amendment if the Zoning Permit, Building Permit, or Certificate of Occupancy would allow uses or activities that would be in conflict to the proposed amendment. This prohibition on acceptance of applications shall apply from the date that the application is filed until final action on the amendment is taken by County Council.

1504. 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.

1505. 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.