Real Property Committee

9:00 a.m., Wednesday, March 6, 2019
Conference Room
1207 Palm Boulevard, Isle of Palms, South Carolina

AGENDA

1. **Call to Order** and acknowledgement that the press and public were duly notified of the meeting in accordance with the Freedom of Information Act.

2. **Approval of Previous Meeting's Minutes**
Regular Meeting of February 6, 2019

3. **Citizens' Comments**

4. **Comments from Marina Tenants**

6. **Old Business**

A. Discussion of marina restaurant lease bid process/timeline
   1. Status of building assessment
   2. Status of engaging the services of commercial real estate consultant to guide and advise the City throughout the bidding process
B. Update on removal and replacement of the underground storage tanks at the IOP Marina
C. Update on marina docks rehabilitation project
D. Status of list of certified arborists

7. **New Business**

A. Discussion of moratorium on future lot subdivisions as it relates to stormwater management
B. Discussion of the City's Tree Ordinance
C. Discussion of the City's allocation of Greenbelt funds and allowable projects
D. Discussion of marina leases as it relates to overall vision of the marina property

8. **Miscellaneous Business**
Tenant Rents Report

Next Meeting Date: 9:00 a.m., Wednesday, April 3 , 2019 in the Conference Room

9. **Executive Session –** if necessary

10. **Adjournment**

Real Property Committee

9:00 a.m., Wednesday, February 6, 2019

The regular meeting of the Real Property Committee was called to order at 9:00 a.m., Wednesday, February 6, 2019 in the City Hall Conference Room, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmembers Bell, Ferencz and Ward, Interim Administrator Fragoso and Clerk Copeland; a quorum of the Committee was present to conduct business.

1. Interim Administrator Fragoso called the meeting to order and acknowledged that the press and public were duly notified of the meeting in accordance with the Freedom of Information Act.

2. Election of Chair and Vice Chair

Councilmember Ward nominated Councilmember Bell for Chair, and Councilmember Ferencz seconded. With no other nominations, Councilmember Bell was unanimously elected Chair.

Chair Bell nominated Councilmember Ferencz as Vice Chair, and Councilmember Ward seconded. With no other nominations, Councilmember Ferencz was unanimously elected Vice Chair.

3. Approval of Previous Meeting's Minutes

MOTION: Councilmember Ward moved to approve the minutes of the regular meeting of January 8, 2019 as submitted; Councilmember Ferencz seconded and the motion PASSED UNANIMOUSLY.

4. Citizens' Comments

Jamie Zazella, 104 Forest Trail, referred to a letter she has sent to City Council members opposing the proposed subdivision planned for the lots across from her home due to the flooding that already occurs on the street now. She read the letter into the minutes of the meeting; a copy is attached to the historical record of the meeting along with photographs of the debris that accumulates on her property from these lots and a copy of the drainage exhibit the developer presented to the City.

Henry Hagerty, 106 Forest Trail, also spoke about the proposed subdivision on Forest Trail, specifically about a "very odd post the realtor did on this development." He distributed photographs of his back yard because his property and the properties to be developed are all on the same flood plain. He said that the flooding seen has happened once a month since the fall, and he is going to develop a drainage plan that directs the water into his ditch to submit to the Building Department. Once approved, he will bring in a backhoe to dig the ditch to a depth of twelve inches (12 in.) as directed. He noted that, when drainage plans were done, nothing was said about water table studies; he told the Committee that his front yard was "a mud pit twenty-four (24) hours a day – it does not dry out because the water table has come up." He stated that the entirety of Forest Trail is below the level of the road. In his opinion the problems were that the flooding on Forest Trail has always been an issue and (1) one that everybody knows about; the addition of these residences will only make matters worse. He stated that the flooding was a

public safety issue, not just a problem. He anticipated a minimum of four thousand square feet of impervious surfaces going into this single development, and water will have no place to go.

5. Comments from marina tenants – none

6. Old Business

A. Update on RFI for municipal parking lot alternate uses

Interim Administrator Fragoso said that she had no update for the Committee at this time.

B. Discussion of Marina restaurant lease bid process/timeline

Referring to the timeline she developed, Interim Administrator Fragoso noted that the City is in the period assigned for the building assessment with a date late in March for its presentation to City Council.

1. Status of building assessment

The Interim Administrator reported that the building assessment was underway and that she has a meeting with Hill Construction tomorrow to get on update on their progress.

2, Status of engaging the services of commercial real estate consultant to guide and advise the City throughout the bidding process

In addition, she is working on the RFP for the real estate consultant to advise the City throughout this process; her goal is to have the RFP issued by Friday, February 15th. The City is giving respondents fifteen (15) days to submit their proposals and another fifteen (15) days for staff to evaluate them and make a recommendation to this Committee at its April meeting. Assuming a contract award at the April City Council meeting, the consultant would begin drafting the bid documents; the City will allow the consultant forty-five (45) days to complete the document and to advertise it the first week of July. The bids would be due the middle of August, and the submissions would be evaluated through the end of September.

Chair Bell set his goal to reduce the timeline as much as possible whenever possible.

C. Update on removal and replacement of the underground storage tanks at the IOP Marina

The Interim Administrator reported that the old tanks have been removed, and the new tanks were in the ground. Ground samples were sent for analysis because signs of petroleum contamination were present, and the need for remediation will only be known when the results of the analyses of the soil samples are received.

A change order has been received from Jones and Frank in the amount of twelve thousand nine hundred twenty dollars twenty cents ($12,920.20) for hose reels that were overlooked by the City and the Engineer in the addendum to the RFP. The Interim Administrator commented that the contingency fund for the project had money in it to cover this cost.

MOTION: Councilmember Ward moved to approve the change order for the hose reels in the amount of $12,920.20; Chair Bell seconded and the motion PASSED UNANIMOUSLY.

D. Update on marina docks rehabilitation project

Since City Council approved the project to move forward with Concept 2, and ATM has started to prepare the permit applications and to schedule the pre-application meeting with DHEC and the Corps of Engineers to get as preliminary "nod' for the project. The conceptual drawings they will see will be changed and refined as the construction process nears based on funding availability.

E. Status of list of certified arborists

The intention of this list is to compile a list of certified arborists in which the City can place its trust to have true and accurate decisions on the condition of a tree. The City will recommend persons on this short list for residents to deal with when they want to remove a tree.

According to the Interim Administrator, Attorney Copeland was sent the portion of the January minutes where this request was made to determine if any Code issues need to be changed.

7. New Business

A. Discussion of proposed revenue generating opportunities

1. Increase to residential rental license fees

From the budget workshop on revenues held last week, these are recommendations on which Council reach a positive consensus. The current residential rental license is a combination of a base fee of one hundred seventy-five dollars ($175) and an incremental rate of two dollars thirty cents ($2.30) for each thousand dollars or portion thereof in revenue in excess of two thousand dollars. The recommendation out of the meeting was to double each rate, i.e. base rate of three hundred fifty dollars ($350) and the incremental rate of four dollars sixty cents ($4.60) for every thousand dollars or portion thereof in excess of two thousand dollars in revenue. This action would be expected to generate an additional four hundred eighty thousand dollars ($480,000) in revenue from short-term rental licenses.

A rental is considered to be a short-term when the property is rented for any period less than ninety (90) days.

Chair Bell stated that one (1) thing the City has overlooked is the penalty for not getting a rental license; he believed the concept that penalties drive compliance.

Director Kerr said that the penalties imposed by the City of Isle of Palms were set by state law.

Councilmember Ward confirmed that the rental license increase would go into effect for the FY20 budget year.

According to the Interim Administrator, this change would be required to be done by ordinance.

MOTION: Chair Bell moved to increase residential rental license fees by doubling the base rate to $350 and doubling the incremental fee to $4.60/$1,000 in excess of $2,000 in revenue; Councilmember Ferencz seconded and the motion PASSED UNANIMOUSLY.

2. Standardization of building permit fees

Staff was recommending that the building permit fees be standardized at a base rate of fifty dollars ($50) plus five dollars ($5) per one thousand dollars ($1,000) of value.

MOTION: Chair Bell moved to approve the increase in building permit fees as stated above; Councilmember Ferencz seconded and the motion PASSED UNANIMOUSLY.

B. Consideration of incorporating the end of 41st Avenue to the marina property

Chair Bell explained that this stretch of land was 41st Avenue from Waterway to its terminus; if Council were to approve this action, the land could be abandoned as a road and added to the marina property. It could be appended to the restaurant for use as additional parking, but it would not become part of any marina lease.

The first step would be for the City to get a quitclaim deed from The Beach Company for the land under the road and would then follow state regulations for abandoning the road. Interim Administrator Fragoso described it as a long and arduous process that would cost the City seventeen to eighteen thousand dollars ($17,000 - $18,000).

Chair Bell suggested not doing any further work until the real estate consultant could tell the Committee what the incremental value of that property could be to the marina restaurant lease.

Councilmember Ward said that he did not see the value in doing and asked what the plus side was.

Chair Bell answered that the marina has very limited parking under the existing lease terms for the marina restaurant building, but an option would be that the City could combine parking along 41st and the other properties the City owns along the waterfront to expand the commercial opportunities with Morgan Creek Grill.

Councilmember Ferencz said that she would not want to see staff spend any more time on this issue now.

Interim Administrator Fragoso noted that this idea was first introduced to the Committee by the marina operator because he would very much like to have an entry gate installed to better manage the property; to accomplish this the City would need to have some kind of agreement with him to supervise the property. It would allow the City the opportunity to make changes to the current lease when negotiating the addition.

C. Discussion of FY20 budgets for the Front Beach area, Beach Monitoring and Maintenance and the IOP Marina

On the updated schedules, the transfers-in have been separated out of revenue and shown on the second page.

All of the marina leases include a two percent (2%) annual CPI adjustment and no additional rent to be as conservative as was reasonable and with no change in the rent structure. The Interim Administrator reminded the Committee that the City's leases with Tidal Wave and Morgan Creek Grill expire in October 2020.

Each section of expenditures has a Maintenance and Service Contracts line; in future versions of the FY20 budget, the amount in that line will be a consolidation of the five (5) lines shown on this first version. Included in the consolidated number will be fifty-one thousand dollars ($51,000) that is a provision for maintenance of City-owned property not covered in any of the leases.

Based on discussions with ATM regarding the length of time permitting is expected to take, no construction is expected on the marina dock rehabilitation in FY20; the City anticipates only incurring engineering and soft costs in the next fiscal year.

Interim Administrator Fragoso stated that ending section of the FY20 marina budget shows that the marina fund could pay for the first phase of the marina dock rehabilitation, the fuel dock, without transfers-in from tourism funds or incurring debt.

Chair Bell noted that the remaining two plus million dollars ($2,000,000+) needed for the docks rehabilitation currently has no funding source, and that the City's lease income from the marina will only increase by the annual CPI. He opined that Council must decide what the value was "to the community of putting significant money in or taking on more debt for the marina relative to what we [the residents] get out of the marina." The intention of Council is to set aside the three hundred thousand dollars ($300,000) previously used to pay off the marina debt to put back into the marina.

The Interim Administrator reminded the Committee that tourism funds were transferred into the marina fund to service that debt.

In addition, this first draft does not include any capital improvements for the marina restaurant building or any increases to marina rents.

The Beach Preservation Fee Fund is shown with a three percent (3%) increase, the trend seen in recent years. The item in the line for Capital Outlay is the funding for an additional beach walkover or the remediation of an existing walkover. Rather than adding a beach walkover, a policy of previous councils, the Interim Administrator advocated for maintaining the existing beach walkovers; if an access path were to be identified in the future for a dune walkover, the project could be budgeted for at that time or an application could be made for Greenbelt Funds.

Councilmember Ferencz supported a study to determine how many beach accesses would be needed in the future, where they should be located and how many should be ADA accessible.

Councilmember Ferencz stated that the residential parking plan was year-round, but other parking was seasonal; she asked if staff had looked into all parking being year-round and the associated costs.

Interim Administrator Fragoso commented that Front Beach businesses struggle in the off-season and enforcing the kiosks year-round could be more harmful to them.

D. Discussion of maximum number of vehicles located at a short-term rental property

Chair Bell questioned the sensibility of making every effort to reduce parking on the City's streets while not acting to minimize the number of vehicles parked at the large rental properties. He opined that a twelve (12) bedroom house did not have sufficient parking for twelve (12) vehicles and the overflow was into areas designated for beach parking.

Director Kerr stated that only two (2) options were available to renters, either require all vehicles to be parked on-site or to limit the number of cars to be on-site and with overflow parking in the right-of-way. The current ordinance allows one (1) vehicle per approved bedroom or one (1) vehicle per two and a half (2½) people of the maximum overnight occupancy; new homes are limited to twelve (12) bedrooms.

Councilmember Bell commented that he has seen as many as twenty (20) cars at one (1) residence; therefore, he thought the subject needed more debate.

8. Miscellaneous Business

The Interim Administrator reported that all tenants were current with rent payments.

Next Meeting Date: 9:00 a.m., Wednesday, March 6, 2019 in the Conference Room

9. Executive Session – not necessary

10. Adjournment

MOTION: Councilmember Ferencz moved to adjourn the meeting at 10:38 a.m.; Councilmember Ward seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland
City Clerk

CHAPTER 5. - LAND DEVELOPMENT REGULATION[5]

Footnotes:

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State Law reference— Land development regulation, S.C. Code 1976, § 6-29-1110 et seq.

Sec. 5-5-1. - Subdivision approval required.

Approval of any subdivision of property within the City shall be required as set forth hereinbelow. These requirements shall be referred to as the "Land Development Regulations" of the City.

(a) *Scope.* Regarding real property in the City, no subdivision shall be made, platted, or recorded for any purpose, nor shall parcels resulting from such subdivisions be sold or offered for sale, unless such subdivision meets all requirements of these regulations.

(b) *Subdivision defined.* The term "subdivision" means any division of a lot, tract or parcel of land into two (2) or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, and includes all division of land involving a new street or change in existing streets and includes resubdivision which would involve the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, and includes combinations of lots or record. However, the following exceptions are included within this definition only for the purpose of requiring that the Planning Commission be informed and have a record of the subdivisions:

(1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of this chapter;

(2) The division of land into parcels of five (5) acres or more where no new street is involved and plats of these exceptions must be received as information by the Planning Commission, which shall indicate such fact on the plat; and

(3) The combination or recombination of entire lots of record where no new street or change in existing streets is involved.

(c) *Compliance with zoning requirements.* All applications for subdivision must also meet all of the applicable requirements of title 5, chapter 4, pertaining to zoning.

(d) *Plats required to be stamped.* All plats for the subdivision of property within the City shall bear the stamp of the City Planning Commission and an authorized signature as a condition precedent to recording at the County RMC Office, or its successor office.

(Code 1994, § 5-5-1; Ord. No. 1999-7, 4-27-1999)

Sec. 5-5-2. - Subdivision approval process.

The procedure for obtaining subdivision approved by the City is as follows:

(a) Conceptual plan: Submission and review are optional.

(b) Preliminary plat: Submission, review and approval are required.

(c) Conditional plat: Submission, review and approval are optional.

(d) Final plat: Submission, review, approval and recording are required.

Subsection (a) of this section is optional, at the discretion of the owner. Subsection (b) of this section shall be completed prior to land clearing, grading or making any street or other improvements, including utilities. Either subsection (c) or (d) of this section shall be completed prior to commencement of building construction and/or sale of any lots within the proposed subdivision. Subsection (d) of this section shall be completed prior to the occupancy of any structure.

(Code 1994, § 5-5-2; Ord. No. 1999-7, 4-27-1999)

Sec. 5-5-3. - Conceptual plan.

(a) *Purpose.* Conceptual plans are encouraged but are not required. The purpose of conceptual plan review is to assist the owner in demonstrating compliance with this chapter prior to extensive site planning and expenditures.

(b) *No rights granted by conceptual plan review.* Conceptual plan review is solely advisory in nature. Conceptual plan review does not involve any interpretation or approval and it creates no vested right or right of reliance on the part of the owner.

(c) *Information required for review.* Conceptual plans shall contain at least the date, be legibly drawn to scale, but not necessarily showing exact dimensions, and include the following:

(1) North arrow, written and graphic scales, and a location map showing the relationship between the proposed subdivision and the surrounding area.

(2) Tract boundaries and total acreage.

(3) Significant topographical and physical features including the location of all critical areas, wetlands, watercourses within and abutting the tract, flood hazard areas and designation of flood hazard zone.

(4) The location, names and rights-of-way widths of existing streets.

(5) Tentative street and lot arrangement showing acreage, proposed minimum lot size and the number of lots.

(6) Existing and proposed land uses throughout the subdivision.

(7) Zoning classification and TMS numbers.

(8) Existing and proposed drainage and utility easements.

(9) Statement for proposed method of sanitary sewerage disposal.

(10) The location of the critical area as defined by OCRM, and delineation of the marsh setback required by section 5-4-18. All wetland areas under the jurisdiction of the OCRM or the U.S. Army Corps of Engineers shall be shown.

(11) Flood hazard zone, the OCRM critical line, baseline and construction setback line and the City's zoning beach front jurisdictional setback line shall be shown; if applicable.

(12) The tree survey required in section 5-4-61.

(13) Owner's name, address and telephone number.

(d) *Review process.* The applicant may submit a proposed conceptual Plan to the Zoning Administrator, who shall forward the plan to the City Building Official and the Planning Commission for advisory review. The Planning Commission shall provide the applicant with the advisory and nonbinding results of its review within forty-five (45) days following submission of the plan. City Council hereby delegates to the Planning Commission the review of any conceptual plan pursuant to any PDD zoning district requirement.

(Code 1994, § 5-5-3; Ord. No. 1999-7, 4-27-1999)

Sec. 5-5-4. - Preliminary plat.

(a) *Required.* Submission and approval of a preliminary plat is the first formal stage of a subdivision application review. Preliminary plat approval is required before site improvements may commence.

(b) *Rights afforded by approval.* Issuance of a preliminary plat authorizes the owner to proceed with the installation of site improvements and with the preparation of final plats. Preliminary plat approval does not authorize the sale or transfer of lots, or the commencement of construction of improvements.

(c) *Information required for review.*

1. Preliminary plats shall be drawn to scale no smaller than 1" = 200'. Where large areas are being platted, they may be drawn on one (1) or more sheets not to exceed twenty-two inches (22") by thirty-four inches (34") in size. For small areas being platted, a scale of 1" = 100' shall be used, provided the drawing does not exceed twenty-two inches (22") by thirty-four inches (34") in size.

2. In addition to the information required for conceptual plans in section 5-5-3(c), the following information shall be required:

   (1) The courses and distances of the perimeter of the subject property shall be shown.

   (2) References to a known point such as street intersections and railroad crossings.

   (3) Zoning classifications, total acreage and total number of lots.

   (4) The County Tax Map System (TMS) identification numbers of adjacent properties, and street names where known or available, and all intersecting boundaries or property lines shall be shown.

   (5) Proposed divisions to be created shall be shown, including the right-of-way widths, roadway widths, easement widths, and names of streets; the location of proposed utility installations, lot lines; and sites reserved or deeded for public uses.

   (6) The title, scale (including graphic scale), north arrow (magnetic, grid or true), date, name of the subdivider and the name of the licensed professional who prepared the plat, together with his South Carolina Registration Number and seal shall be shown on each sheet.

   (7) Drainage features shall be shown.

   (8) When required by the City Building Official or other requirements, a drainage plan showing profiles, plans and drainage specifications for existing and/or proposed on-site stormwater drainage facilities and off-site facilities to be used to carry stormwater from the site.

   (9) Accompanying data as listed in subsection (9)(a) of this section:

      (a) The preliminary plat shall be accompanied by either a statement from the City Water and Sewer Commission stating that a sewer line is located on a right-of-way or easement abutting the proposed lots and that public sewer capacity is available to serve the proposed lots; or where a sewer line does not abut the property or public sewer capacity is not available, proof that the proposed lots meet the current SCDHEC minimum standards for an on-site wastewater treatment system.

(d) *Criteria for review.* The application for preliminary plat approval must contain all required information. Incomplete applications will be rejected and returned to the applicant without review. All rejected applications shall be accompanied by a letter from the Planning Commission stating the reason for rejection.

(e) *Review process.*

(1) The owner shall submit a proposed preliminary plat to the Zoning Administrator, who shall forward the application to the Planning Commission, the City Building Official and all other applicable City departments and consultants for review. Complete applications submitted more than fourteen (14) days prior to the next regularly scheduled meeting of the Planning Commission will be placed on the Commission's agenda for review; complete applications submitted within fourteen (14) days of a regularly scheduled Commission meeting shall be placed on the agenda of the following regularly scheduled meeting. Twelve (12) copies of the plat and two (2) copies of the required supplemental material shall be submitted.

(2) Fees set by City Council pursuant to section 5-5-12 must be paid by the applicant at the time of submission of a proposed preliminary plat.

(3) The Planning Commission shall take action to approve, disapprove, or approve with specified conditions the preliminary plat within the sixty (60) days after receipt of a complete application and all required information. Failure to act within the sixty (60) day period, unless extended by agreement, shall be deemed to constitute approval and a certificate to that effect shall be issued by the Planning Commission on demand. The owner shall be notified in writing of the actions taken.

(4) A record of all actions on all plats with the grounds for approval or disapproval and any conditions attached to the action must be maintained by the Planning Commission as a public record.

(f) *Duration.* Approval of a preliminary plat is valid for one (1) year from the date of approval. Where a subdivision is being developed in sections, the one (1) year shall be measured from the date of the most recent final approval granted to a portion of the subdivision. Prior to the expiration of a preliminary plat, the developer may apply for a one (1) year extension of time by the Planning Commission. There is no right to receive an extension, and the Planning Commission has the discretion to require the subdivider to apply for a new preliminary plat; the Planning Commission shall consider the applicant's progress or lack thereof in proceeding with the development and any change circumstances and restrictions in deciding whether to grant an extension.

(Code 1994, § 5-5-4; Ord. No. 1999-7, 4-27-1999; Ord. No. 2003-8, § 2, 6-24-2003)

Sec. 5-5-5. - Conditional plat.

(a) *Submittal.* Submission and approval of the conditional plat is an optional second formal stage of the subdivision regulation process. Approval authorizes the sale of lots and the construction of structures before site improvements are made, provided that adequate financial guarantees are provided to the City to ensure that all required improvements will be completed.

(b) *Rights afforded by approval.* Issuance of a conditional plat authorizes the subdivider to proceed with the sale or transfer of lots and with the preparation of final plats. Further, structures may be approved and constructed, pursuant to the requirements of this title, on lots covered by a conditional plat. However, no certificate of occupancy shall be issued for any structures until approval and recording of a final plat is obtained by the owner.

(c) *Information required for review.* In addition to the information required for review of a preliminary plat submission, the following information is required:

(1) The applicant shall submit a bond or other financial guarantee meeting the criteria set forth in section 5-5-9.

(2) The following conditions shall be conspicuously noted on the plat:

a. "This is a conditional plat. No final approval from the City has been obtained. Final plat approval is contingent upon completion and approval of all required improvements. No property shown on the preliminary plat may be occupied in any manner until a final plat is

approved by the City. No building permits will be issued until the road base and water system are installed."

b. "It shall be the duty of any attorney, real estate agent or broker involved in the subdivision process to give notice of these conditions of approval to all prospective purchasers of any parcels shown thereon."

(d) *Criteria for review.* The application for conditional plat approval must contain all required elements. Incomplete applications shall be returned to the applicant without review. All rejected applications shall be accompanied by a letter from the Planning Commission stating the reason for the rejection.

(e) *Review process.* The application for conditional plat shall follow the same process set forth for the approval of a preliminary plat pursuant to section 5-5-4.

(f) *Duration.* In the event required improvements are not completed within one (1) year from the date of approval of a conditional plat, the City shall have the right to invoke the applicable financial guarantees and complete construction of the required improvements. The developer may apply for an extension of time of up to one (1) year by the Planning Commission to complete the required improvements, provided that adequate financial guarantees are so extended; however, no more than two (2) such extensions may be granted, and the Planning Commission has the right to invoke the applicable financial guarantees rather than grant an extension.

(Code 1994, § 5-5-5; Ord. No. 1999-7, 4-27-1999)

Sec. 5-5-6. - Final plat.

(a) *Required.* Submission and approval of the final plat is the final stage of the subdivision approval process. Such approval is required before a certificate of occupancy will be issued.

(b) *Rights afforded by approval.* Approval of a final plat authorizes the owner to sell or transfer lots, and to commence construction of structures provided all necessary permits have been obtained therefor, and further authorizes issuance of a certificate of occupancy upon compliance with all requirements of section 5-4-101.

(c) *Information required for review.*

1. The final plat must be recordable at the County RMC Office, drawn on sheets not exceeding twenty-two inches (22") by thirty-four inches (34"), with a scale of 1" = 100' or larger, and not less than eight and one-half inches (8½") by eleven inches (11"). Where necessary the plat may be on several sheets accompanied by an index sheet or key map insert showing the entire subdivision.

2. In addition to the information required for review of the preliminary plat in section 5-5-4, the following information shall be required:

   (1) All information required on the preliminary plat, with the exception of topographic data.

   (2) All property lines with distances, accurate bearings or deflection angles. If a control traverse is run between any two (2) points on any property lines, then it shall be noted. For property lines which are curves or are in part curves, the arc length and radius shall be shown.

   (3) Curve data for all curves shall consist of the following: The Delta angle, the degree of the curve, the tangent distance, the length of curve by arc method, and the radius. This information should be calculated along the centerline or other defined traverse line for the entire curve, beginning to end as one (1) set of data.

   (4) The location of all points of curvature and tangency.

   (5) The location of points of intersection where circular curves are not used.

   (6) Lot and block numbers suitably arranged by an easily understood system.

(7) Certificate of accuracy. A certificate of accuracy shall be lettered or printed on the face of the final plat. The signature, seal and certification of a State-registered professional land surveyor to the effect that the final plat accurately reflects a Class A survey, that all monuments shown thereon actually exist and their position is accurately showing, and that all dimensional details are correct.

(8) In subdivisions where existing public water and public sewer systems have been extended and/or a new system installed, the applicant shall submit a letter of operation and maintenance agreement for the system and certifications of inspection from the State Department of Health and Environmental Control.

(9) A statement as follows: "This plat is subject to all applicable easements, reservations and restrictive covenants of record."

(10) Accurate location, material and description of monuments and markers. Monuments to be placed after final street improvements shall be designated as "future."

(11) Certificates, as follows:

a. A surveyor's certificate as to accuracy of survey and plat.

"I, [name of surveyor], a registered surveyor of the State of South Carolina, do hereby certify that I have surveyed the property shown hereon, that this plat shows the true dimensions of the property and that all necessary markers have been installed and the precision is 1: _____ [state actual precision]."

The unadjusted field measurement of lots and blocks shall be accurate within the standards set forth in the minimum Standards Manual of the State Board of Engineering Examiners.

b. A statement of dedication by the property owner of any streets, rights-of-way, easements, or other sites for public use. If any change in ownership is made subsequent to the submission of the plat and prior to the granting of final approval, the statement or dedication shall be amended accordingly.

c. The signature and seal of the registered land surveyor in accordance with the current Minimum Standard Manual for the Practice of Land Surveying in South Carolina.

d. The date of the field survey upon which final plat is based.

(d) *Criteria for review.* The application for final plat approval must contain all required elements. Incomplete applications shall be rejected and returned to the applicant without review. All rejected applications shall be accompanied by a letter from the Planning Commission stating the reason for rejection.

(e) *Review process.*

(1) The applicant shall submit a proposed final plat to the Zoning Administrator, who shall forward the application to the Planning Commission, the City Building Official and all other applicable City departments and consultants for review. Complete applications submitted more than fourteen (14) days prior to the next regularly scheduled meeting of the Planning Commission will be placed on the Commission's agenda for review; complete applications submitted within fourteen (14) days of a regularly scheduled Commission meeting shall be placed on the agenda of the following regularly scheduled meeting. Twelve (12) copies of the plat and two (2) copies of the required supplemental material shall be submitted.

(2) The Planning Commission may request additional information or documentation to make an application complete and eligible for review.

(3) The Planning Commission shall take action to approve, disapprove, or approve with specified conditions the final plat within sixty (60) days after receipt of a complete application and all required information. Failure to act within sixty (60) days, unless extended by agreement, shall

be deemed to constitute approval and a certificate to that effect shall be issued by the Planning Commission on demand.

(4) A record of all actions on all plats with the grounds for approval or disapproval and any conditions attached to the action must be maintained by the Planning Commission as a public record. In addition, the owner must be notified in writing of the actions taken.

(5) When the Planning Commission approves a final plat after all requirements of these regulations are met, it shall cause its action, including any conditions, to be noted on the face of the original final plat.

(6) The City reserves the right to require that the following statement be placed upon the plat:

"The approval of this plat does not obligate the City of Isle of Palms in any way to accept the maintenance any of the streets, roads, accesses or easements shown hereon."

(7) No property may be sold or transferred prior to the approval and recording of the final plat, except pursuant to a conditional plat issued under section 5-5-5.

(8) No certificate or occupancy pursuant to section 5-4-101 shall be issued prior to the approval and recording of a final plat.

(9) Fees as set forth in section 5-5-12 will be levied to defray expenditures associated with processing of applications. These fees are due upon submission of an application.

(Code 1994, § 5-5-6; Ord. No. 1999-7, 4-27-1999)

Sec. 5-5-7. - Development standards.

(a) *Location.* Critical area, land subject to flooding by normal tides, freshwater wetlands and other areas subject to periodic inundation shall not be subdivided for residential use, unless provisions are made for satisfactory drainage in accordance with the requirements of OCRM, U.S. Army Corps of Engineers and other applicable State and Federal regulatory agencies. All drainage system shall be designed and constructed in accordance with the requirements of the OCRM and the latest edition of the County Road Code.

(b) *Easements and dedications.*

(1) Easements for drainage, water or sewer, may be required along rear and side property lines where necessary. Redesign of the lot may be required to address drainage conditions.

(2) Drainage easements shall be provided and dedicated in accordance with the requirements of the OCRM and the latest edition of the County Road Code.

(3) Easements shall center along or be adjacent to a common property line where practical.

(4) No subdivision shall block or obstruct the natural drainage of the adjacent area.

(5) Existing natural drainage shall be retained or adequately relocated.

(6) Dedication of streets, schools sites, or recreational areas may be required.

(c) *Lots.* Lot requirements are contained in sections 5-4-32 through 5-4-40, with special requirements and exceptions contained in additional sections of this title.

(d) *Flood prevention.*

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than fifty (50) lots or five (5) acres.

(e) *Other requirements.*

(1) All land subdivisions in the City shall be in accordance with (Class A) Urban Land Surveys as promulgated by S.C. Code 1976, title 40, ch. 22, as amended, and as described in the Minimum Standards Manual For the Practice of Land Surveying in South Carolina.

(2) Beachfront property. All plats for beachfront property shall contain the following note:

"The City of Isle of Palms, at the time of the approval of this plat, prohibits the issuance of any permits for any kind of hard beach erosion control structures or devices (i.e., sea walls, revetments, rip-rap, bulkheads, groins, large sandbags, etc.) within the area landward of the OCRM critical area and within a 250-foot radius of the mean high water mark of the Atlantic Ocean, Breach Inlet, or Dewees Inlet, and strongly opposes the issuance of any permits for hard beach erosion control structures elsewhere in the City.

(3) The Planning Commission shall approve and authorize the name of a street or road laid out within property over which it has jurisdiction. Also, it may, after fifteen (15) days' notice published in a newspaper having general circulation in the City, change the name of a street or road within the City pursuant to S.C. Code 1976, § 6-29-1200, as amended.

(4) No land development plan, including subdivision plats, shall be approved unless all land intended for use as building sites can be used safely for building purposes without danger from flood or other inundation or from other menaces to health, safety or public welfare.

(5) Stormwater management. No land development plans, including subdivision plats, shall be approved unless the property meets all requirements contained in title 3, chapter 3, pertaining to stormwater regulations.

(Code 1994, § 5-5-7; Ord. No. 1999-7, 4-27-1999; Ord. No. 2007-6, § 1, 3-27-2007; Ord. No. 2007-17, § 1, 8-28-2007)

Sec. 5-5-8. - Required improvements.

(a) *Markers.*

(1) Markers shall be placed as specified below:

a. A marker shall be set on the right-of-way line at the ends of the block for every block length of street. When blocks occur that have a curve in them, markers shall be set on both sides of the street at the ends of tangents. Markers shall also be set on rights-of-way (on each side of the centerline) at angle points when curves are not used. All interior lot corners shall be marked.

b. Markers shall be one of the following:

1. A reinforced concrete marker with a brass or copper pin in the top. Concrete markers shall be a minimum of three feet (3') long and have a minimum cross sectional area of nine (9) square inches. They shall protrude above the ground not less than two inches (2") and not more than six inches (6").

2. An iron pipe having a minimum diameter of three-fourths (¾) inch hollow or one-half (½) inch solid steel. Such iron pins will be a minimum of two feet (2') in length and shall extend above the ground at least one inch (1").

(2) Markers shall be installed prior to the submission of and approval of the final plat.

(3) The location and type of all markers used shall be indicated on the final plat.

(b) *Utility, drainage and street improvements.*

(1) Utility, drainage and street improvements shall be as required by and in conformance with the standards and specifications of the latest edition of the County Road Code.

(2) The owner shall install public water lines where public water service is available within five hundred feet (500') of the property.

(3) The owner shall install public sewer lines where public sanitary sewer service is available within five hundred feet (500') of the property.

(4) Street name signs in accordance with the requirements of the current edition of the County Road Code shall be installed. Should another type be desired, exceeding these standards, plans shall accompany the preliminary plat for approval.

(5) All required drainage facilities shall be properly constructed in accordance with the standards and specifications of the latest edition of the County Road Code.

(6) All lots not exceeding two hundred (200') feet in depth shall be provided with means for positive drainage and shall have a slope of not less than 0.70 percent to an approved swale, ditch, gutter or other type of approved drainage facility. Larger tracts of land shall either meet this standard or provide for adequate drainage by using one or more of the techniques contained in OCRM stormwater guidelines and approved by the Building Official and Public Works Department as consistent with the drainage patterns for surrounding properties.

(Code 1994, § 5-5-8; Ord. No. 1999-7, 4-27-1999)

Sec. 5-5-9. - Financial guarantees.

(a) In lieu of completing the required improvements listed hereinabove, a no-contest, irrevocable bank letter of credit, or performance and payment bond underwritten by an acceptable State-licensed corporate surety, or a bank cashier's check, all in favor of the City, to ensure that in the event of default by the developer funds will be available to install the required improvement at the expense of the owner, may be accepted by the Planning Commission; provided that the City Attorney has in each instance reviewed each letter of credit or bonding agreement and has given an opinion in favor of the City that the interests of the City are fully protected. Where a cashier's check for the full cost of the improvements is utilized, opinion of counsel may be waived. The amount of the bond shall be set by the Planning Commission, and shall be not less than one hundred twenty-five percent (125%) of the projected cost of the improvements, with a minimum of $2,000.00, if completed two (2) years after the date of the bond.

(b) Upon completion of the improvements as required by this section, written notice thereof shall be given by the subdivider to the bond holder, who shall cause an inspection of the improvements to be made. The bond holder will within thirty (30) days of the date of notice, authorize in writing the release of the security given, provided improvements have been completed in accordance with the required specifications. Should the improvements not be completed in accordance with the required specifications by the date originally stipulated in writing by the bond holder, the funds derived from said bond or cashier's check will be used by the bond holder to complete the improvements according to required specifications, at the earliest reasonable time. Where it appears that the bond was insufficient to finance the required improvements after the subdivider has defaulted, City Council will assess the individual subdivider the cost of the improvements over and above the surety amount.

(c) In no instance will the bond holder be authorized to extend for the subdivider the completion date originally stipulated.

(d) Pro-rata refunds based on a percentage of overall completion shall not be authorized, with the exception of an irrevocable bank letter of credit. The Planning Commission, may at its discretion, refund no more than ninety percent (90%) of the original estimated completion cost of that portion of the project requested by the developer.

(e) The Planning Commission shall review, approve, or reject each acceptance of surety in lieu of completion of improvements. In making its determination it shall give due consideration to the commitments made by the subdivider to individual purchases.

(Code 1994, § 5-5-9; Ord. No. 1999-7, 4-27-1999)

Sec. 5-5-10. - Exceptions.

For a proposed subdivision, or modification of an existing lot or subdivision, which does not involve the construction or improvement of any street or drainage system, an owner may submit the following information to the Zoning Administrator:

(1) The information required for review of a conceptual plan, as set forth in section 5-5-3.

(2) County Health Department approval for lots that will utilize on-site sanitary sewerage disposal systems.

(3) A letter confirming the availability of water and/or sewer service from the applicable utility.

Review shall follow the procedures set forth for final plats in section 5-5-6; provided that if the Building Official determines that street or drainage system modifications are required, the application shall be construed as one for issuance of a preliminary plat pursuant to section 5-5-4.

(Code 1994, § 5-5-10; Ord. No. 1999-7, 4-27-1999)

Sec. 5-5-11. - Variances.

(a) Where extraordinary hardship may result from strict interpretation of these regulations, the applicant may apply to the Planning Commission for a variance. Such variance may be granted to alleviate such hardship, provided that such variation does not have the effect of nullifying the intent and purpose of these regulations.

(b) The application for a variance shall clearly and definitely state the reason why a variance is needed. Consideration must be given to the following factors:

(1) Special conditions affecting the property.

(2) Undue hardships that will result from adherence to the requirements.

(3) Grants of variance shall not be detrimental to adjacent property or to the public interest. Conditions may be imposed on any such variance.

(Code 1994, § 5-5-11; Ord. No. 1999-7, 4-27-1999)

Sec. 5-5-12. - Fees.

(a) Fees charged to defray the costs of plat review shall be set forth in a Schedule of Fees, to be developed by the Building Official and approved by resolution of City Council.

(b) Such Schedule of Fees may be amended from time to time by resolution of City Council.

(Code 1994, § 5-5-12; Ord. No. 1999-7, 4-27-1999)

Sec. 5-5-13. - Vested rights.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

1. *City* means the incorporated area of the City.
2. *Approved* means a final review and approval by the Planning Commission of a site specific development plan in accordance with the provisions of this chapter. Phased development plans remain subject to review by the Planning Commission of all phases prior to being vested.
3. *Landowner* means an owner of a legal or equitable interest in real property, including heirs, devisees, successors, assigns and personal representatives of the owner. Landowner also includes a person holding a valid contract to purchase real property whom the owner has given written authorization to act as his agent or representative for the purpose of submitting a proposed development plan.
4. *Phased development plan* means a development plan submitted to the Planning Commission by a landowner that shows the types and density or intensity of uses for a specific property or properties to be developed in stages but which do not satisfy the requirements of a Site Specific Development Plan.
5. *Site specific development plan* means a plan submitted by a landowner which describes with reasonable certainty the types and density or intensity of uses for specific property and must include, at a minimum, a preliminary plat in conformity with section 5-5-4(c) and a site plan which includes the sizes, shapes, dimensions and locations of all proposed structures.
6. *Vested right* means the right to undertake and complete the development of property under the terms and conditions of a Site Specific Development Plan in conjunction with this section and in conformity with City land development ordinances and upon final approval by the Planning Commission.

(b) Submission and approval of a site specific development plan confers upon the owner a vested right to undertake and complete the development of the subject property in conformity with the information provided by the owner to the Planning Commission.

(c) A vested right is established for two (2) years from the date of final approval of a site specific development plan. Such vested right shall receive no more than five (5) one-year extensions upon written application by the landowner for each year that an extension is desired and shall be received no later than thirty (30) days prior to the expiration of the current term. No extension shall be approved if an amendment to this chapter has been adopted that prohibits such approval.

(d) A vested right in a site specific development plan shall not attach until all plans have been received, approved and all fees paid in accordance with the procedure outlined in subsection (e) of this section. All administrative appeals must be resolved in favor of the applicant before a vested right attaches.

(e) The procedure for the review process of a site specific development plan is the same as that required to submit a preliminary plat as set forth in section 5-5-4(e).

(f) The Board of Zoning Appeals has no authority to grant a vested right and no such right shall accrue as a result of its actions.

(g) Variances or special exceptions do not create vested rights.

(h) A phased development plan is not eligible for vesting.

(Ord. No. 2005-2, § 2, 6-28-2005)

Sec. 5-5-14. - Penalties.

Any violation of the provisions of this chapter shall be a misdemeanor, punishable pursuant to section 1-3-66; and in addition, any City official is hereby authorized and empowered to enforce these regulations pursuant to the remedies set forth in section 5-4-7.

(Code 1994, § 5-5-13; Ord. No. 1999-7, 4-27-1999; Ord. No. 2005-2, § 1, 6-28-2005)

ARTICLE 3. - LANDSCAPING AND TREE REMOVAL REGULATIONS

Sec. 5-4-61. - Permit required for cutting or removing trees.

(a) No person shall cut or remove any tree except in strict compliance with this article.

(b) No person shall cut or remove any tree without first obtaining a tree permit from the Zoning Administrator.

(c) For new construction, an application for a tree permit shall accompany the application for a zoning permit pursuant to article 4 of this chapter and shall be considered part of such application. No tree shall be cut or removed prior to the issuance of a tree permit. Compliance with all conditions set forth in the tree permit shall be required before a certificate of occupancy will be issued by the City.

(d) Prior to a lot subdivision (including a lot line adjustment) request being filed or receiving approval from the Planning Commission, a tree permit must be obtained if the result of the subdivision would require the removal of a tree in order to construct any building on any lot affected by the subdivision; provided, however, that no tree permit may be issued in connection with any such subdivision request which would result in the removal of a historic tree. No site work shall begin and no tree shall be removed prior to the approval of the subdivision plat.

(e) Any person desiring a permit to cut or remove a tree shall submit a written application to the Zoning Administrator which shall contain the following information:

(1) Name and address of the applicant;

(2) Status of applicant with respect to the lot;

(3) Written consent of the owner of the lot if applicant is not the owner;

(4) Address of the lot;

(5) An accurate plat of the lot, including a statement of the acreage of the lot from which the tree will be removed;

(6) A tree survey overlay on the same scale as the plat of the lot, which locates all trees by diameter breast height and species and identifies trees to be cut or removed and all trees to be preserved. Dead or diseased trees shall be identified. Groups of trees in close proximity, (i.e., within five feet (5') of each other) may be designated as a clump of trees, with the predominant species, estimated number and average diameter indicated. All tree surveys shall be prepared by a licensed landscape architect, surveyor or engineer registered in the State, at the applicant's expense, and shall have an accuracy of plus or minus three feet (3'). The applicant shall wrap the trees proposed to be cut or removed with blaze orange tape prior to submitting an application for a tree permit.

(f) Trees may be cut or removed only under the following conditions:

(1) Upon the owner proving to the Zoning Administrator that cutting or removing a tree is necessary to make reasonable use of the property, including the siting of primary or accessory buildings. Such proof must demonstrate that there is no reasonable alternative that would preserve the tree, and such proof must be made for each tree proposed to be cut or removed.

(2) For improvements, expansion or new construction of infrastructure services, including systems for wastewater disposal, water distribution and streets, but only if no reasonable alternatives are available.

(3) Upon proof by the owner to the Zoning Administrator that the tree is dead, diseased or hazardous as determined in section 5-4-63.

(4) Each tree that is removed shall be replaced according to the requirements set forth in section 5-4-66.

(g) Any tree may be pruned without a tree permit so long as such pruning is done in accordance with ANSI Publication A300 (Part 1) 2001 Pruning. Any pruning not done in accordance with ANSI Publication A300 (Part 1) 2001 Pruning shall be deemed to be the cutting of a tree for all purposes of this article.

(h) Notwithstanding the procedures contained in this article for altering or removing trees, it is the intent of the City to encourage whenever feasible the preservation of all trees, including those which are not protected by this article. Therefore, all provisions of this article shall be strictly construed.

(Code 1994, § 5-4-61; Ord. No. 2002-19, § 3, 2-28-2003; Ord. No. 2007-12, § 2, 7-24-2007; Ord. No. 2013-08, § 2, 7-23-2013)

Sec. 5-4-62. - Reserved.

Sec. 5-4-63. - Removal of dead, diseased or hazardous trees.

(a) As limited by sections 5-4-61, 5-4-64, and 5-4-65, dead, diseased or hazardous trees may be removed by the landowner pursuant to a tree removal permit in accordance with this section.

(b) When a dead or diseased tree constitutes a hazard to life and/or property, or harbors insects or disease which constitute a substantial threat to other trees within the City, a permit for its removal may be issued by the Zoning Administrator even though its removal decreases the density of trees on a lot or parcel below the minimum density standards. Replacement of trees removed pursuant to this section is encouraged but not required.

(c) When a tree is causing structural damage to an enclosed area of the primary building, including porches, or any other permanent accessory structure that would require a building permit, and the damage cannot be remedied without removing the tree, the Zoning Administrator may determine that the tree is hazardous and issue a permit for its removal. This section shall not apply to trees causing structural damage to accessory structures that would not require a building permit or to any unenclosed areas of primary buildings. Replacement of trees removed pursuant to this section is encouraged but not required.

(d) When a certified arborist determines in writing that a tree poses a clear and imminent threat of structural damage to an enclosed area of the primary building, including porches, or any other permanent accessory structure that would require a building permit, and the threat of damage cannot be remedied without removing the tree, the Zoning Administrator may determine that the tree is hazardous and issue a permit for its removal. This section shall not apply to trees threatening structural damage to accessory structures that would not require a building permit or to any unenclosed areas of primary buildings. Replacement of trees removed pursuant to this section is encouraged but not required.

(e) When a tree is causing structural damage to a septic tank system, and the damage cannot be remedied without removing the tree, the zoning administrator may determine that the tree is hazardous and issue a permit for its removal. Replacement of trees removed pursuant to this section is encouraged but not required, except in situations where the repairs to the septic tank system are not completed within sixty (60) days of the issuance of the tree removal permit.

(f) When a certified arborist determines in writing that a tree poses a clear and imminent threat of structural damage to a septic tank system, and the threat of damage cannot be remedied without removing the tree, the zoning administrator may determine that the tree is hazardous and issue a permit for its removal. Replacement of trees removed pursuant to this section is encouraged but not required.

(g) An owner seeking to remove a tree pursuant to this section shall submit written proof to the zoning administrator that the tree to be removed meets the requirements of this section. If the zoning administrator reasonably determines that there is a question as to the viability or health of a tree for which a removal permit is requested pursuant to paragraph (b) of this section, the Zoning

Administrator may require that the applicant consult with, and provide documentation from, a certified arborist as a part of the permit process. If the Zoning Administrator reasonably determines that there is a question as to the structural damage being caused by a tree for which a removal permit is requested pursuant to paragraph (c) of this section, the zoning administrator may require that the applicant consult with, and provide documentation from, an engineer as part of the permit process.

(Code 1994, § 5-4-63; Ord. No. 2002-19, § 5, 2-28-2003; Ord. No. 2013-08, § 3, 7-23-2013; Ord. No. 2013-10, § 2, 11-19-2013; Ord. No. 2015-06, § 2, 6-23-2015)

Sec. 5-4-64. - Trimming, cutting or removal of historic trees.

(a) Historic trees may be pruned, cut or removed only under the following circumstances:

(1) For improvements, expansion or new construction of infrastructure services, including systems for wastewater disposal, water distribution and streets, but only if no reasonable alternatives are available;

(2) Upon the owner proving that the tree is dead, diseased or hazardous, pursuant to the requirements and procedures set forth in section 5-4-63;

(3) For the siting of one (1) single-family dwelling on a lot, provided that the applicant can demonstrate that there is no feasible alternative design or siting that would preserve the tree; or

(4) For the siting of a multifamily or commercial structure that meets one of the exceptions set forth in subsections (a)(1) through (3) of this section, or that has been previously approved in a conceptual site plan; provided that there is no feasible alternative that would preserve the tree, and provided further that removal of historic trees pursuant to this subsection shall be limited to either the fewest number of trees or the least total DBH necessary for siting of the building footprint and the least destructive configuration of driveways and parking as determined by the Zoning Administrator.

Prior to the issuance of a permit for the cutting or removal of a historic tree, the Zoning Administrator shall confirm in writing that one or more of the circumstances enumerated hereinabove exists.

(b) The permit for cutting or removal of a historic tree shall require the owner to comply with the requirements set forth in sections 5-4-65 and 5-4-66 and the following additional conditions:

(1) Each removed historic tree shall be replaced by the fewest number of the same type (species) of trees to replace the removed tree with the same DBH or greater; and

(2) Such other reasonable conditions which are in furtherance of the provisions of this article as may be imposed by the Zoning Administrator.

(Code 1994, § 5-4-64; Ord. No. 2002-13, § 4, 10-22-2002; Ord. No. 2002-19, § 6, 2-28-2003; Ord. No. 2013-08, § 4, 7-23-2013)

Sec. 5-4-65. - Cutting, trimming or removal of significant trees.

(a) Significant trees may be trimmed, cut or removed only under the following circumstances:

(1) Upon the owner proving that trimming, cutting, or removal of a significant tree is necessary to make reasonable use of the property, including the siting of primary or accessory buildings. Such proof must demonstrate that there is no reasonable alternative that would preserve the tree, and such proof must be made for each significant tree proposed for trimming, cutting, or removal;

(2) For improvements, expansion or new construction of infrastructure services, including systems for wastewater disposal, water distribution and streets, but only if no reasonable alternatives are available;

(3) Upon proof by the owner that the tree is dead, diseased or hazardous, pursuant to the requirements and procedures set forth in section 5-4-63.

(b) Each significant tree that is removed shall be replaced according to the requirements set forth in section 5-4-66.

(Ord. No. 2002-13, § 5, 10-22-2002; Ord. No. 2013-08, § 5, 7-23-2013)

Sec. 5-4-66. - Standards for tree planting and replacement.

(a) Pursuant to permit. Each tree planted or replaced pursuant to a tree permit in accordance with the requirements of this article shall have a minimum size of four inches (4") caliber and twelve feet (12') in height at the time of planting and be the same species or a similar species to the tree being replaced. Palm trees shall not be permitted as replacements for canopy trees. The sum of the replacement trees will be equal or greater than one-half (½) DBH of the trees they are designated to replace.

(b) Pursuant to citation of violation. If commercially available within the State, replacement trees planted pursuant to a citation of violation of this article shall be of the same type (species) and size (height and DBH) as the tree being replaced. If not so available, the type and size of such replacement trees shall be as close to that of the tree being replaced as is commercially available within the State. Replacement trees shall have a cumulative DBH equal to or greater than the trees they replace; provided, however, that replacement historic trees shall have a cumulative DBH equal to or greater than three (3) times the DBH of the trees they replace.

(c) All replacement trees shall be vigorous, well-shaped, branched and foliated. The owner of the property shall be responsible for maintaining all remaining and replacement trees. The Zoning Administrator shall have the right to inspect any replacement tree for one (1) year after planting to ensure that it is surviving in healthy condition. A replacement tree found to be dead or in a declining condition shall be replaced by the owner within thirty (30) days of notification from the Zoning Administrator, who shall then have the right to reinspect such tree for one (1) year thereafter.

(d) In situations where tree replacement on the same property is impossible or undesirable, as determined by the Zoning Administrator, the owner shall either donate such tree or trees as would otherwise be required by this article to the City to be planted, at the owner's expense, on such public property as City Council shall direct, or pay a fee to the City equal to one hundred percent (100%) of the fair market cost of the trees that would have been required to be replanted at the site, plus the costs of replanting. All such fees shall be placed in a special account to be used solely for the beautification of public property as determined by City Council.

(e) Notwithstanding any other provision of this article to the contrary, replacement of a historic tree that has been unlawfully removed shall be effected at the same location from which the historic tree was removed. No structure may be located in whole or in part in the location from which a historic tree was unlawfully removed.

(Code 1994, § 5-4-66; Ord. No. 2002-13, § 6, 10-22-2002; Ord. No. 2002-19, §§ 7, 8, 2-28-2003; Ord. No. 2004-1, § 1, 4-27-2004; Ord. No. 2007-12, § 3, 7-24-2007)

Sec. 5-4-67. - Penalties for unlawful removal of trees.

Any person who violates any provision of this article shall be subject to the following fines and restrictions:

(1) Violation of this article shall be deemed as a misdemeanor, and shall be punished as provided in section 1-3-66. Each day any violation of this article continues shall constitute a separate and distinctive offense.

(2) In addition to the penalties imposed in subsection (1) of this section, the person found to be in violation of this article shall be required to plant or replace trees, pursuant to the requirements of section 5-4-66(b). The requirements of this subsection are mandatory, and shall apply regardless of any other fines or penalties imposed for a violation of this article.

(3) Where a violation of this article is associated with construction pursuant to a City zoning permit or building permit, a certificate of occupancy pursuant to section 5-4-101 shall not be issued until such violation has been remedied and trees are planted or replaced, pursuant to the requirements of section 5-4-66, as necessary to meet the requirements of this article. The requirements of this subsection are mandatory, and shall apply regardless of any other fines or penalties imposed for a violation of this article.

(Code 1994, § 5-4-67; Ord. No. 2002-13, § 7, 10-22-2002; Ord. No. 2002-19, § 9, 2-28-2003)

Sec. 5-4-68. - Tree protection during development.

(a) If proposed construction or development on a lot will encroach into a tree protection zone, then prior to the issuance of permit for the work, the owner of the lot must develop a tree preservation plat (TPP) approved in writing by an arborist certified by the International Society of Arboriculture. The TPP must be filed with and approved by the Zoning Administrator.

(b) For projects requiring a TPP, no certificate of occupancy shall be issued until a written statement from a certified arborist is filed and approved by the Zoning Administrator certifying that the approved TPP was adhered to during construction and development.

(Code 1994, § 5-4-68; Ord. No. 2007-12, § 4, 7-24-2007)

Sec. 5-4-69. - Appeals of tree permit actions.

Appeals of decisions and actions of the Zoning Administrator or his designee pursuant to this article shall be made to the City's Board of Zoning Appeals, pursuant to section 5-4-5.

(Code 1994, § 5-4-69)

Sec. 5-4-70. - Exceptions for commercial timber operations, utility companies.

This article shall not apply to commercial timber operations or utility companies maintaining safe clearance around utility lines.

(Code 1994, § 5-4-70)

Sec. 5-4-71. - Buffer yards.

(a) Any commercial, municipal or other nonresidential use shall be separated and buffered from adjoining properties as follows:

(1) Abutting to residential property:

a. Fifteen foot (15') landscaped buffer yard setback;

b. Eight foot (8') painted, wooden stockade fence; and

c. Three (3) canopy trees and six (6) understory trees per one hundred feet (100') of frontage.

(2) Abutting to commercial property or abutting street with residentially zoned property across said street:

a. Five foot (5') landscaped buffer yard setback;

b. Two (2) canopy trees and two (2) understory trees per one hundred feet (100') of frontage.

(b) Canopy trees shall be a minimum of two and one-half inches (2½") in caliper. Understory trees shall be a minimum of six feet (6') in height.

(c) Existing plant materials which satisfy the requirements of this section may be counted toward satisfying the requirements of this section.

(d) All buffer yards shall be seeded with lawn grass or other suitable ground cover.

(e) Structures may be substituted with approval of the Planning Commission.

(f) Landscaping shall be required on all new developments and any old building with renovation or remodeling equal to or greater than twenty-five percent (25%) of the building's appraised value.

(g) All required landscaping shall be completed prior to the issuance of a certificate of occupancy.

(Code 1994, § 5-4-71)

Secs. 5-4-72—5-4-80. - Reserved.

Charleston County Greenbelt Program
Rural and Urban Grants Programs

Application Instructions

Charleston County's Comprehensive Greenbelt Plan provides guidance for spending the greenbelt portion of the Transportation Sales Tax. The purpose of Urban and Rural Grants Programs is to distribute the greenbelt portion of the Transportation Sales Tax proceeds in an equitable manner for the conservation of greenspace throughout Charleston County. The plan assigns the Greenbelt Advisory Board (GAB) with the responsibility of administering both the Urban and Rural Grants Programs.

The instructions below should be adhered to in the completion of an application. Questions regarding the application process should be directed to Cathy L. Ruff, Greenbelt Programs Director at 843-202-7204 or cruff@charlestoncounty.org.

I. Application Period

Applications for both the Rural and Urban Grants Programs may be submitted beginning Wednesday, November 7, 2018 and must be received by end of business on Thursday, February 2019. Applications will not be accepted after the deadline.

II. On-Line Application Submission

Applications ***must*** be submitted on-line. In order to access the on-line application, applicants must complete the Notice of Intent Form found on the Greenbelt website greenbelt.charlestoncounty.org. The completed, signed form must be submitted via email to **cruff@charlestoncounty.org**. Once your Notice of Intent Form is received, you will be emailed access to the on-line application form.

In addition to the on-line application, applicants must submit two paper copies of the full application packet via mail or in person to the following address:

Charleston County Greenbelt Programs
Attn: Cathy L. Ruff
4045 Bridge View Drive, Suite B238
North Charleston, SC 29405

Applications missing information or any of the required attachments may be deemed incomplete and deferred until the next funding cycle.

III. Pre-Application Meetings

Pre-application meetings are **not** mandatory for the application process. However, if you should desire to meet regarding your project, or if you need technical assistance, please contact Cathy L. Ruff at 843-202-7204 or cruff@charlestoncounty.org.

IV. Funds Available

Currently, $12 million is available for rural projects. A total of $8 million is available for urban projects.

V. Rural/Urban Area Definition

Projects funded with Rural Program monies must occur in the Rural Area of Charleston County defined by the County's Comprehensive Plan as the municipalities and unincorporated areas that are located outside the Charleston County Urban Suburban Growth Boundary. These areas include the West St. Andrews area in West Ashley, Wadmalaw Island, Edisto Island, the St. Pauls area, Hollywood, Meggett, Ravenel, Rockville, Awendaw, McClellanville and portions of Johns Island, West Ashley and East Cooper.

Urban areas of Charleston County are defined by the Comprehensive Greenbelt Plan as the municipalities and unincorporated areas that are located within the Charleston County Urban Suburban Growth boundary, as defined within the Charleston County Comprehensive Plan.

The municipalities and unincorporated lands within this boundary include:

City of Charleston	Town of Mount Pleasant
City of Folly Beach	City of North Charleston
City of Isle of Palms	Town of Seabrook Island
Town of James Island	Town of Sullivan's Island
Town of Kiawah Island	Town of Summerville
Town of Lincolnville	Unincorporated

VI. Urban Allocation of Funds

The urban allocation will be divided among the municipalities and unincorporated areas defined below, according to the population of each (per the 2010 U.S. Census*). Unincorporated areas that are located within the Urban Area will apply for grant funding through the Urban Grants Program. All unincorporated areas will be considered as a single land area and their total population used to determine the amount of their allocation.

Below is a table of the allocation of urban funds:

2018 Funds on Hand Urban Allocation			
Municipality	**Population (U.S. Census 2010)**	**Percent of Population**	**Urban Allocation**
Charleston	120,083	37.63%	$ 3,010,457
Folly Beach	2,617	0.82%	$ 65,608
Isle of Palms	4,133	1.30%	$ 103,613
James Island*	11,034	3.46%	$ 276,620
Kiawah Island	1,626	0.51%	$ 40,764
Lincolnville	1,139	0.36%	$ 28,555
Mt. Pleasant	67,843	21.26%	$ 1,700,811
N. Charleston	78,201	24.51%	$ 1,960,484
Seabrook Island	1,714	0.54%	$ 42,970
Sullivan's Island	1,791	0.56%	$ 44,900
Summerville	998	0.31%	$ 25,020
Unincorporated	27,930	8.75%	$ 700,200
Total	**319,109**	**100%**	**$ 8,000,000**

*The Town of James Island was not incorporated in 2010. 2013 population data from the Berkeley Charleston Dorchester Council of Governments is used to determine the town's allocation.

VII. Eligible Greenbelt Fund Recipients

Eligible Greenbelt Fund Recipient definition: Charleston County or a municipality in Charleston County; any agency, commission, or instrumentality of the County or municipality within Charleston

County; a not-for-profit charitable corporation or trust authorized to do business in this State and organized and operated for natural resource conservation, land conservation, or historic preservation purposes, and having tax-exempt status as a public charity under the Internal Revenue Code of 1986, and having the power to acquire, hold, and maintain interests in land for these purposes; an agency or instrumentality of the United States Government; and any other entities as may be approved at the discretion of County Council on a case-by-case basis.

VIII. Allowable Costs

In accordance with the Charleston County Comprehensive Greenbelt Plan, Charleston County will operate a rural grants program to promote rural land conservation, wetlands protection, historic and cultural preservation, parkland acquisition, greenway and trail acquisition, and waterway access acquisition. Except for the minor improvements stated below, rural funds can be used for the acquisition of land and/or purchase of development rights on property within the rural area.

Urban grants are to be used primarily for land conservation through acquisition or purchase of development rights on property within the urban area. However, some grant funds can be used to support the development of related minor improvements that in essence provide for public access and use of conservation lands.

Minor improvements that may be funded with Greenbelt funds will be limited to: boardwalks, foot bridges, unpaved trails, unpaved roadways, and unpaved small parking areas. The cost of these improvements must be included in the budget portion of the application form.

Beach municipalities (Folly Beach, Isle of Palms, Kiawah Island, Seabrook Island and Sullivan's Island) may submit applications to use their urban allocations to place allowable minor improvements on land they currently own. The municipality would have to agree to place the land under the same covenants and restrictions as all other lands protected with greenbelt funds. **The applications for minor improvements are limited to the beach communities listed above.**

In addition to the allowable minor improvements, funds from the Greenbelt Program may be used for administrative costs and expenses that are customary and reasonable to the acquisition of property.

IX. Disallowable Costs

Items that will NOT be funded with Greenbelt monies include, but are not limited to design fees, projects with NO endorsement from the appropriate municipality, and any other improvements outside the allowable minor improvements listed above. These other improvements may be included in a particular project but cannot be funded with Greenbelt proceeds.

X. Applicant and Landowner Disclosures

The application requests information from both the applicant and landowner. The applicant and landowner shall complete all information on the appropriate form. The landowner must sign the landowner disclosure form.

XI. Program Requirements

Rural Greenbelt Lands include "Resource Management Areas" that generally encompass undeveloped lands used for timber production, wildlife habitat, recreational and commercial fishing, and limited agriculture. According to the Charleston County Comprehensive Plan, rural areas also encompass significant acreage of fresh, brackish, and saltwater tidal marshes, as well as important habitat for non-game and endangered species. Typical uses for Rural Greenbelt Lands include rural parks, cultural/historic sites, productive lands, and water access.

Urban Greenbelt Lands contain the greatest population density and intensity of development, as well as the greatest concentration of jobs and economic activity. Conservation of greenspace for various uses will be crucial in offsetting the negative impacts of increased density. Typical uses for urban greenbelt lands include urban parks, cultural/historic sites, reclaimed greenspace, greenway corridors and water access.

A. An Eligible Greenbelt Fund Recipient independently or in conjunction with the landowner may apply for a grant from the Greenbelt Fund to acquire an interest in land identified in its application. Within five business days of the applicant's submittal to the Greenbelt Bank, the **applicant** must notify in writing any adjacent landowners and other property owners within 300 feet of the proposed parcel of the applicant's submittal to participate in the Greenbelt program. Contiguous landowners and other interested parties may submit in writing to the board their views in support of or in opposition to the application. Based on a review of these submissions, or in any instance where the board determines the public interest so requires, it may hold a public hearing on the application at which the Eligible Greenbelt Fund Recipient, contiguous landowners, and other interested parties may be heard.

B. Before an award to disburse greenbelt funds for the purchase of any interest in land, the Eligible Greenbelt Fund Recipient receiving the funds must notify the owner of the land, that is the subject of the Greenbelt Fund grant, of the following in writing:

    1. that interests in land purchased with greenbelt funds result in a permanent conveyance of such interests in land from the landowner to the Eligible Greenbelt Fund Recipient or its assigns; and
    2. that it may be in the landowner's interest to retain independent legal counsel, perform appraisals, create surveys, and seek other professional advice; and
    3. the application must contain an affirmation that the notice requirement of this subsection has been met.

C. Urban municipalities may submit applications for projects within their jurisdiction. The projects will be funded in accordance with the municipality's allocation based on population (see above). Conservation organizations and other entities meeting the definition of an Eligible Greenbelt Fund Recipient may apply for funding within an urban municipality ONLY if the project is endorsed by the appropriate municipality. A resolution from the municipality endorsing the project and authorizing the application to the Urban Program must be attached to the completed application form. The resolution must explain the municipality's rationale for endorsing the specific project.

D. All interests in lands acquired with Greenbelt Funds must be held by the Eligible Greenbelt Fund Recipient approved by the board to acquire the interest in land; except that an interest in land obtained with Greenbelt funds may be assigned from one Eligible Greenbelt Fund Recipient to another upon approval of all members of the Greenbelt Advisory Board by majority vote.

E. Except as provided above, no interest in land acquired by an Eligible Greenbelt Fund Recipient with Greenbelt funds may be extinguished, sold, transferred, assigned, alienated, or converted to a purpose or use other than that set forth in the grant award, without securing a:
    1. majority vote of all members of the Greenbelt Advisory Board, following a finding of fact that the land no longer exhibits the characteristic that qualified it for acquisition with funds from the Greenbelt fund; and
    2. majority vote of all members of Charleston County Council.

F. If any interests in lands, that have been acquired by an Eligible Greenbelt Fund Recipient with Greenbelt funds, are extinguished, sold, transferred, assigned, alienated, or converted pursuant to the above stipulations, the Eligible Greenbelt Fund Recipient extinguishing, selling, transferring, assigning, alienating, or converting the interests in land shall replace them with interests in land of substantially equal current fair market value, with any deficit being made up by contribution (cash or in-kind at the discretion of the board) to the Greenbelt fund. The replacement land must also exhibit characteristics that meet the criteria of this ordinance. The Greenbelt Advisory Board must verify that suitable replacement interests in lands have been identified and will be obtained before authorizing that any interest in land purchased with monies from the Greenbelt fund be extinguished, sold, transferred, assigned, alienated, or converted.

G. Interests in land acquired with Greenbelt Funds must be managed and maintained in order to perpetuate the conservation, natural, historical, cultural, open space, and recreational uses or values for which they were originally acquired. Uses which are adverse to the original purposes for which the interests in land were acquired with Greenbelt funds are not permitted without securing a:
   1. majority vote of all members of the Greenbelt Advisory Board, following a finding of fact that the use is one that furthers the original purpose of the Greenbelt Plan; and
   2. majority vote of all the members of the Charleston County Council.

H. Funds from the Greenbelt Program may not be used to acquire interests in lands or other interests in real property through the exercise of any power of eminent domain or condemnation proceeding that is contrary to the wishes of the landowner.

XII. Evaluating Applications

The Greenbelt Advisory Board (GAB) has assembled a subcommittee to evaluate applications for both the Rural and Urban Programs. The subcommittee will review the applications using the program criteria and present findings to the full Greenbelt Advisory Board. In addition, each application will be reviewed for completeness and to ensure all required attachments are included. **Applications missing information or any of the required attachments may be deemed incomplete and deferred until the next funding cycle.** Based on the availability of funding and application scores, projects will be recommended to Charleston County Council for funding. Any application with a score under 50 may be deferred.

XIII. Award of Urban Grants

Once applications are approved, grant agreements that outline the terms and conditions will be developed between the County and appropriate parties.

XIV. Distribution of Funds to Grant Recipients

Upon completion of a project that has met all of the funding requirements, reimbursement in the specified grant amount will be provided to the applicant at the time of closing, when the property is acquired and the deed is recorded.

XV. Evaluation of Awarded Grants

At least annually, County Greenbelt staff will conduct monitoring visits of Greenbelt properties to ensure compliance with all Greenbelt deed restrictions and program requirements.

NOTE: Charleston County and the Greenbelt Advisory Board(GAB) reserve the right to request additional information not included in the application or instructions. Additional appraisals, surveys, environmental assessments, etc. may be requested by Charleston County and/or the GAB. These Application Instructions may be revised or updated to correct errors, for clarification, and to reflect the GAB's and Charleston County's policies, conditions or requirements for Greenbelt Grants, or for other reasons that the GAB and Charleston County believes will best accomplish the mission of the Comprehensive Greenbelt Plan.