

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO. 2020-02

PROPOSED ORDINANCE NO. 2019-31

AN ORDINANCE TO AMEND TITLE 16 OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, THE LAND MANAGEMENT ORDINANCE (LMO), CHAPTERS 4 5, 6, 7, 10 AND APPENDIX B. THESE AMENDMENTS, COMMONLY REFERRED TO AS GENERAL 2019 AMENDMENTS - SET 1, AS NOTICED IN THE ISLAND PACKET ON OCTOBER 20, 2019, INCLUDE CHANGES THAT PROVIDE FOR GENERAL AMENDMENTS TO A VARIETY OF SECTIONS IN THE LMO DESCRIBED ON EXHIBIT "A" TO THIS ORDINANCE, AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on October 7, 2014, the Town Council did adopt a new Land Management Ordinance (LMO); and

WHEREAS, from time to time it is necessary to amend the LMO; and

WHEREAS, the LMO Committee held public meetings on October 16, 2019 and October 30, 2019 at which time a presentation was made by staff and an opportunity was given for the public to comment on the proposed amendments; and

WHEREAS, the LMO Committee recommended that the proposed amendments be forwarded to the Planning Commission with a recommendation of approval with the changes as discussed by Staff, the public and the LMO Committee; and

WHEREAS, the Planning Commission held a public hearing on November 20, 2019, and at that meeting a presentation was made by Staff and an opportunity was given for the public to comment on the proposed LMO amendments; and

WHEREAS, after consideration of the Staff presentation and public comments the Planning Commission voted 7-0 to forward the proposed amendments to the Public Planning Committee with a recommendation of approval with some changes; and

WHEREAS, the Public Planning Committee held a public meeting on December 3, 2019, and at that meeting a presentation was made by Staff and an opportunity was given for the public to comment on the proposed LMO amendments; and

WHEREAS, after consideration of the staff presentation and public comments, the Public Planning Committee voted 4-0 to recommend approval of the proposed LMO amendments with two changes related to the proposed amendments related to zero lot line residential subdivisions; and

WHEREAS, after due consideration of said LMO amendments and the recommendation of the Planning Commission, the Town Council, upon further review, finds it is in the public interest to approve the proposed amendments.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AND IT IS ORDAINED BY THE AUTHORITY OF THE TOWN COUNCIL:

Section 1. Amendment. That the *General 2019 Amendments – Set 1* are adopted and the Land Management Ordinance is amended as shown on Exhibit “A” to this Ordinance. Newly added language is illustrated with double underline and deleted language is illustrated with ~~strikethrough~~.

Section 2. Severability. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. Effective Date. This Ordinance shall be effective upon its adoption by the Town Council of the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS 7th DAY OF January, 2020.

THE TOWN OF HILTON HEAD
ISLAND, SOUTH CAROLINA



John McCann, Mayor

ATTEST:




Krista M. Wiedmeyer, Town Clerk

Public Hearing: November 20, 2019

First Reading: 12/17/2019

Second Reading: 01/07/2020

APPROVED AS TO FORM:



Curtis L. Coltrane, Town Attorney

Introduced by Council Member: Marc Grant

EXHIBIT "A" TO ORDINANCE

EXHIBIT A

Proposed General 2019 Amendments – Set 1

General Amendments

Chapter 16-4: Use Standards

Section 16-4-102. Principal Uses

B. Use-Specific Conditions for Principal Uses

1. Residential Uses

- a. – b. No Changes
- c. Recreational Vehicles

Use of a recreational vehicle for residential purposes, except within a Recreational Vehicle Park, is only permitted with the following conditions:

Chapter 16-7: Nonconformities

Section 16-7-104. Nonconforming Signs

B. Maintained in Good Condition

A legal *nonconforming sign* shall be maintained in good and working condition in accordance with Sec. 16-5-114.C.2.f. Painting, *repair*, and refinishing of the *sign face* or *sign structure* is permitted, as long as the appearance of the sign complies with Sec. 16-5-114, Sign Standards. ~~is maintained and complies with the approved Sign Permit.~~

C. Change to Nonconforming Sign Shall Comply with this Ordinance

If a legal *nonconforming sign* is changed in any way (its dimensional standards, message, or any other element) because of a change in *use*, change in business name ~~or location~~, or for any other reason, the sign shall comply with Sec. 16-5-114, Sign Standards with the exception of location. An *off-premises sign* may remain *off-premises* as long as it remains in the same location. Any modification that fails to comply with Sec. 16-5-114 shall render the prior Sign Permit void and shall result in the sign being in violation of this *Ordinance*.

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Appendix B: Maps and Tables

B-2: Critical Protection Area and Transition Area Maps

Map 16: Critical Storm Protection and Dune Accretion Areas from Port Royal Beach Club to North Port Royal Drive



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Proposed General 2019 Amendments – Set 1

Zero Lot Line Subdivision Amendments

Chapter 16-5: Development and Design Standards

Section 16-5-102: Setback Standards

B. Applicability

2. Exceptions

- a. For *development* within the CR District, see Sec 16-3-105.B.3.
- b. For *development* within a PD-1 District, adjacent street and use setback standards shall apply only along those *lot* lines and *street rights-of-way* located outside any *gates* restricting *access* by the general public to areas within the PUD, or constituting the boundaries of the district.
- c. For *development* within a PD-2 District, adjacent street and use setback standards shall apply only along those *lot* lines and *street rights-of-way* located within a Corridor Overlay District or constituting the boundaries of the district.
- ~~d. For zero lot line subdivisions, adjacent street and use setback standards shall apply only along those lot lines and street rights-of-way constituting the perimeter of the subdivision.~~

Section 16-5-103: Buffer Standards

B. Applicability

2. Exceptions

- a. For *development* within a PD-1 District, adjacent street and use buffer standards shall apply only along those *lot* lines and *street rights-of-way* located outside any *gates* restricting *access* by the general public to areas within the PUD, or constituting the boundaries of the district.
- b. For *development* within a PD-2 District, adjacent street and use buffer standards shall apply only along those *lot* lines and *street rights-of-way* located within a Corridor Overlay District or constituting the boundaries of the district.
- ~~c. For zero lot line subdivisions, adjacent street and use buffer standards shall apply only along those lot lines and street rights-of-way constituting the perimeter of the subdivision.~~
- d. c. Adjacent street buffers shall not apply to *development* within the CR District.

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Section 16-5-115: Subdivision Standards

D. Layout of Lots and Blocks

1. *Subdivisions* may be laid out in conventional, cluster, *zero lot line*, or a combination of block/*lot* designs.

E. Zero Lot Line Residential Subdivisions

1. *Zero lot line residential subdivisions* are permitted in the following zoning districts: RM-4, RM-8, RM-12, SPC, MS, WMU, S, MF, MV, NC, LC and RD.

2. All *lots* created in a *zero lot line residential subdivision* shall be buildable *lots* (the appropriate size to construct a home) and shall be a minimum of .05 acres in size with a minimum *lot* width of 20 feet.

3. All lots in a *zero lot line residential subdivision* shall have a 50% maximum impervious coverage.

4. All *zero lot line residential subdivisions* shall provide 16% minimum open space.

5. No structure shall be located closer than ten feet from adjacent property lines, with the exception of structures that have a wall that rests on a common property line.

6. Where a proposed *zero lot line residential subdivision* is adjacent to an existing single family detached residential neighborhood or use, a setback of 20 feet is required along the perimeter of the proposed subdivision.

7. Where a proposed *zero lot line residential subdivision* is adjacent to an existing single family detached residential neighborhood or use, a Type A buffer, Option 1, is required along the perimeter of the proposed subdivision.

8. A *zero lot line residential subdivision* is not permitted on existing *lots* of record that were not previously platted as a *zero lot line residential subdivision*, unless the entire previously platted subdivision is combined and re-platted to be a *zero lot line residential subdivision*.

~~E.~~ F. Street Access

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Chapter 16-10: Definitions, Interpretation, and Measurement

Section 16-10-103. Use Classifications, Use Types, and Definitions

A. Residential Uses

2. Use Types and Definitions

Multifamily - A *building, parcel, or development* containing three or more *dwelling units*. This *use* includes townhouse developments, if all units are on one *lot*, and manufactured housing parks.

Townhouse – A multi-story structure containing one *dwelling unit* which is attached to one or more similar structures by shared walls in a *development*.

Section 16-10-105 – General Definitions

Zero Lot Line Residential Subdivision – A *subdivision* which permits side by side, *single family dwelling units* that have a minimum of seventy-five percent of the total party wall adjoined together as a common wall on a common shared property line. This includes *townhouse* developments if each dwelling unit is on a separate *lot*.

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Buffer and Tree Protection Amendments

Chapter 16-5: Development and Design Standards

Section 16-5-103: Buffer Standards

F. Buffer Types

Table 16-5-103.F, Buffer Types, describes the five different buffer types in terms of their function, opacity, width, and planting requirements. The planting requirements should be used as a guide to achieve an aesthetically pleasing landscaped buffer and only apply if the existing buffer does not meet the intent of the prescribed buffer. Either of the options under a specific buffer type may be used at the option of the *developer/applicant*. If the square footage of an existing building on a site is being increased by more than 50% then the buffers must be brought into compliance with the standards in this table.

H. Existing Vegetation

1. If a buffer area has existing *trees* ~~that are protected under this **Ordinance**~~, they shall be preserved and be used as part of the buffer to comply with the buffer standards of this **Ordinance**. Where groupings of native shrubs are present, their preservation with minimum disturbance is ~~strongly encouraged~~ required. Any clearing or other work in buffers must have the prior approval of the *Official*.

~~2. In order to preserve existing vegetation and to restrict activities within a buffer, protective fencing shall be installed in accordance with Sect 16-6-104.J, Tree and Buffer Protection During Development Activity.~~

~~2- 3.~~

~~3- 4.~~

Section 16-5-115: Subdivision Standards

C. General Requirements

1. Layout of the *subdivision* shall be based on complete *site* analysis. *Streets* and *lots* shall be designed to preserve significant trees, stands of trees and understory vegetation and situated to minimize alteration of natural and historic *site* features to be preserved.

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2. The **subdivision** layout shall consider the practicality and economic feasibility of **development** of individual **lots** including the environmental characteristics, size of the **site**, and the requirements of this **Ordinance**.
3. The applicant is required to demonstrate that they have made all reasonable efforts to preserve Unique and fragile elements on site, including but not limited to wetlands, significant stands of **trees** and individual **trees** of significant size, shall be preserved where practical, with **development** reserved for environmentally stable areas. Where the applicant demonstrates that a **lot of record** would be rendered unusable by the strict application of this requirement, the **Official** may waive the standard. A request for such a waiver shall be accompanied by:
 - a. Written evidence that an applicant has explored all feasible alternatives to the standard for tree and wetland preservation;
 - b. Qualification of the request in a format consistent with that for a variance request (see Sec. 16-2-103.S, Variance); and
 - c. A plan showing the alternatives explored.

D. Layout of Lots and Blocks

2. The **lot** configuration and shape shall provide appropriate **sites** for **buildings**, and be properly related to topography, natural elements, existing significant trees and stands of trees, **access**, drainage and utilities, and conform to all requirements of this **Ordinance**.
4. The number of **lots** within a block shall be as appropriate for the location and the type of **development** contemplated, as practical. Visual monotony created by excessive blocks of **lots** which are not interrupted by intersections, **open space**, buffers, trees or features shall be avoided.

Chapter 16-6: Natural Resources Protection

Section 16-6-104: Tree Protection

B. Applicability

1. General
 - b. Consistent with the purposes of this section, all **persons** are ~~encouraged~~ required to make all reasonable efforts to preserve and retain any existing stands of **trees**, individual **trees**, and other self-supporting plants, whether or not such plants are protected under this section, as well as such other flora that make up part of the understory, shrub layer, or herb layer.

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2. Exemptions

a. The following activities are exempt from the standards in this section and the requirement for a Natural Resources Permit:

- iii. Removal of a *hazardous tree* ~~dead or naturally fallen *tree* or limb, or a diseased *tree* posing a threat to *adjacent trees*, or a *tree* that constitutes an imminent danger to the environment, property, public health, safety, or welfare due to the hazardous or dangerous condition of such *tree*~~, provided such removal is reported to the *Official* within five days after removal. Removal of a *hazardous tree* may require mitigation at the discretion of the Official;

D. Pre-Construction Underbrushing

4. Following the receipt of final *development* approval, the *applicant* shall work with the *Official* to preserve all existing understory vegetation throughout a site to the greatest extent practicable ~~in the front and side buffers.~~

6. Exemption

a. *Underbrushing* on *land* by a *property owner* in zoning districts RM4, RM8, RM12, RS3, RS5, RS6, MF, MV, S, and WMU is exempt from the requirements of Section 16-6-104.D; however, all significant trees and stands of trees shall be maintained on site and vegetation in required buffers shall be maintained except for a six-foot-wide path providing *access* to the interior of the property. Such buffer areas shall be clearly marked and protected prior to the commencement of the *underbrushing* activity. A Natural Resources Permit shall be required for such *underbrushing*.

F. Specimen and Significant Tree Preservation

1. Specimen and Significant Tree Defined

For purposes of this section, a specimen tree is any tree of a species designated by the State or federal government as an endangered, threatened, or rare species, or any tree of a type and with a DBH equal or greater than that indicated in Table 16-6-104.F.1, Specimen Trees, for the tree type. A tree that is within 20% of the size classified as a specimen, is considered a significant tree.

TABLE 16-6-104.F.1: SPECIMEN AND SIGNIFICANT TREES

TREE TYPE	SPECIMEN	SIGNIFICANT
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	DBH (INCHES)	DBH (INCHES)
Single trunk	35	<u>28</u>
Live oak		
Multiple trunks	60 (sum of all trunks)	<u>48</u>
Laurel oak	35	<u>28</u>
Water oak	30	<u>24</u>
Red oak	25	<u>20</u>
White oak	20	<u>16</u>
All hickories	20	<u>16</u>
American elm	15	<u>12</u>
Loblolly and slash pines	35	<u>28</u>
Longleaf and pond pines	25	<u>20</u>
Red bay	20-10	<u>8</u>
Southern magnolia	30	<u>24</u>
Bald cypress and pond cypress	15	<u>12</u>
Black gum and sweet gum	30	<u>24</u>
Red maple	30	<u>24</u>
Spruce pine	Any size	Any size
Red cedar	10	<u>8</u>
Sycamore	30	<u>24</u>
Black cherry	25	<u>20</u>
Sassafras	12-6	<u>5</u>

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G. Minimum Tree Coverage Standard

1. Applicability

- c. For the construction of any public **street**, pathway, drainage project, single family subdivision, athletic field, airport runway, golf course or minor utility the applicant is required to demonstrate that they have made ~~shall make~~ all reasonable efforts to save significant trees and stands of trees. In these cases, at the discretion of the official, a centerline field inspection may relieve the applicant of the tree survey requirement. Reasonable tree replanting ~~may~~ shall be required by the Official for these uses.

J. Tree and Buffer Protection During Development Activity

1. Tree and Buffer Protection Zones

- a. **Tree and buffer protection zones** shall include the areas of a **development site** that are within the drip lines of the all individual **trees** and stands of **trees** proposed to be retained and protected in accordance with Sec. 16-6-104.F, Specimen and Significant Tree Preservation, and Sec. 16-6-104.G, Minimum Tree Coverage Standard, ~~as well as~~ areas for any supplemental or replacement **trees** proposed to be provided in accordance with Sec. 16-6-104.G, Minimum Tree Coverage Standard, or Sec. 16-6-104.K, Tree Damage During Development, as well as buffer areas proposed to be protected in accordance with Sec. 16-5-103.D, Adjacent Street Buffer Requirements and Sec. 16-5-103.E, Adjacent Use Buffer Requirements.

- b. **Tree and buffer protection zones** shall be depicted on all **development** plans.

2. Responsibility

During any **development** activity (including demolition activity), the **property owner** or **developer** shall be responsible for protecting existing, supplemental, or replacement **trees** within **tree and buffer protection zones**.

3. Protective Fencing, Marking, and Signage

a. Protective Fencing

- i. Continuous **tree** protective fencing shall be provided along the boundaries of **tree and buffer protection zones**. The **Official** shall consider existing **site** conditions and the species and size of the **trees** to be protected in determining the exact location of **tree** protective fencing, and may require the fencing to be

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extended to include the critical root zones of **trees**. For buffer protection, the fencing shall be installed along the edge of the buffer on the interior of the site.

ii. Protective fencing shall consist of a bright orange plastic mesh or more durable material that is at least four feet high.

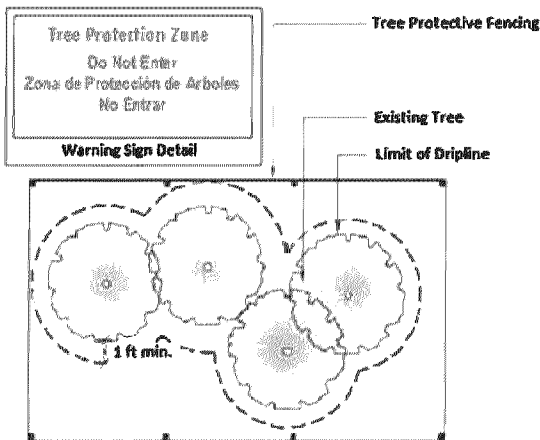


Figure 16-6-104.J.2: Tree Protective Fencing and Signage.

b. Warning Signage

Warning **signs** shall be installed along any required **tree** and buffer protective fencing at points no more than 150 feet apart. The **signs** shall be clearly visible from all sides of the outside of the fenced-in area. The size of each sign must be a minimum of two feet by two feet. The sign message shall identify the fenced or marked area as a **tree or buffer protection zone** and direct **construction** workers not to encroach into the area (e.g., "Tree or Buffer Protection Zone: Do Not Enter"). (See Figure 16-6-104.J.2: **Tree Protective Fencing and Signage**.)

c. Duration of Protective Fencing or Signage

Required protective fencing and signage shall be erected before any grading or other **development** activity begins and shall be maintained until issuance of a Certificate of Compliance following completion of all **development** in the immediate area of the fencing or signage.

4. **Tree and Buffer Protection Zone Encroachments and Protective Measures**

Encroachments into **tree and buffer protection zones** may occur only when no other alternative exists, and shall comply with landscaping **best management practices** and the following limitations and requirements:

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a. Construction Activity, Equipment, or Materials Storage

No *development* or demolition activity—including grading, the operation or parking of heavy equipment or the storage of material—shall be allowed within the *tree and buffer protection zone*.

b. Soil Compaction

Where compaction might occur due to *construction* traffic or materials delivery through a *tree and buffer protection zone*, the area must first be mulched with a minimum four-inch layer of wood chips. Equipment or materials storage shall not be allowed within a *tree and buffer protection zone*.

c. Fill, Retaining Walls, and Drywells

No fill shall be placed within a *tree and buffer protection zone* unless retaining walls and drywells are used to protect *trees* to be preserved from severe *grade* changes and venting adequate to allow air and water to reach *tree* roots is provided through any fill.

d. Chemical Contamination

Trees located within a *tree and buffer protection zone* shall be protected from chemical contamination from liquids or other materials, including but not limited to paint, chemical solvents, gasoline, oil, diesel fuel, hydraulic fluid, concrete spoils, or rinse water from vehicle cleaning, including rinsing of concrete truck tanks and chutes.

e. Impervious Surface

No *impervious surface* is allowed within a *tree and buffer protection zone*.

f. Trenching Prior to Clearing

The removal of *trees adjacent* to *tree and buffer protection zones* can cause inadvertent damage to the protected *trees*. Prior to clearing activities, trenches with a minimum width of one-and-one-half inches and a minimum depth of 12 inches shall be cut along the limits of *land* disturbance, so as to cut, rather than tear *tree* roots.

5. Inspections

a. All *tree and buffer protection* measures shall be inspected by the *Official* before start of any *land disturbing activities* and during the *development* process. The *Official* may continue to conduct random inspections to ensure that retained *trees*, supplemental *trees*, and replacement *trees* are maintained in a healthy state.

b. If any *tree* protected by this section is removed, dies, or is destroyed at any time during *development* activities or after completion of the *development*, it shall be

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replaced in accordance with Sec. 16-6-104.I, Standards for Supplemental and Replacement Trees.

Chapter 16-10: Definitions, Interpretation, and Measurement

Section 16-10-105. General Definitions

Hazardous Tree

A tree possessing physical faults that make the tree likely to fail, including, but not limited to rot in the tree's base, a leaning tree whose roots have heaved the soil, or a dead tree, along with the presence of an adjacent target.

Significant tree

Any native tree whose size is within 20% of specimen size or any native tree who is of an unusually large size for its species and for which no specimen size has been determined.

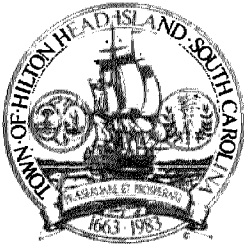
Significant stand of trees

A group of three or more trees, along with their associated understory, that have one or more of the following:

- The stand is made up of Category I trees;
- The stand is made up of one or more of the following species, which are considered uncommon or rare on the island: red bay, sassafras, spruce pine, pond pine and any of the native hickory species;
- The stand provides shading to a significant portion (20% or more) of the site that will become impervious surface.

Tree and Buffer Protection Zone

A defined area containing one or more healthy **trees** designated for preservation and protection in accordance with Sec. 16-6-104, Tree Protection, delineated generally by the outermost drip line of the **tree(s)** or a buffer area designated to be protected in accordance with Sect. 16-5-103.D, Adjacent Street Buffer Requirements and Sect. 16-5-103.E, Adjacent Use Buffer Requirements.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, ICMA~CM, *Town Manager*
VIA: Shawn Colin, AICP, *Director of Community Development SAC*
FROM: Teri Lewis, AICP, *Deputy Director of Community Development TBL*
CC: Nicole Dixon, AICP, CFM, *Development Review Administrator*
DATE: December 23, 2019
SUBJECT: 2019 LMO Amendments – Set 1
Proposed Ordinance #2019-31

Town Council reviewed the proposed 2019 LMO Amendments – Set 1 at their meeting on December 17, 2019. At that meeting, Town Council voted unanimously to approve the proposed amendments with the changes recommended by the Public Planning Committee related to zero lot line subdivisions. Per the Code of Laws of South Carolina Section 6-29-760 the revised language pertaining to zero lot line subdivisions must go back to Planning Commission for review and recommendation prior to second reading and adoption. The proposed Zero Lot Line amendments have been removed from this set and will have second reading at the January 21, 2019 Town Council meeting.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, ICMA~CM, *Town Manager*
VIA: Shawn Colin, AICP, *Director of Community Development SAC*
FROM: Teri Lewis, AICP, *Deputy Director of Community Development TBL*
CC: Nicole Dixon, CFM, *Development Review Administrator*
DATE: December 3, 2019
SUBJECT: 2019 LMO Amendments – Set 1
Proposed Ordinance #2019-31

Recommendation: The Public Planning Committee recommends that Town Council approve the proposed amendments.

On December 3, 2019, the Public Planning Committee reviewed the proposed 2019 LMO Amendments – Set 1 and voted unanimously to recommend that Town Council approve the proposed amendments with the changes listed below.

Summary: The proposed amendments were reviewed by the Public Planning Committee at their meeting on December 3, 2019. At that meeting the Committee voted to forward the proposed amendments to Town Council with a recommendation of approval with the following changes:

- amendments related to zero lot line subdivisions be revised to require 50% maximum impervious coverage per lot instead of being based on the entire development; and
- add the word 'Residential' to the definition "Zero Lot Line Subdivision".

Should Town Council recommend approval of the proposed amendments with these two changes, the revised language must go back to Planning Commission for review and recommendation prior to second reading and adoption of the amendments.

The proposed amendments were reviewed by the Planning Commission at their meeting on November 20, 2019. At that meeting the Commission voted to forward the draft amendments to the Public Planning Committee with a recommendation of approval with the following changes:

- amendments related to the elimination of the requirement for a resolution for the denial of text amendments, zoning map amendments and planned unit developments not move forward for adoption;
- an amendment related to commercial recreation uses to state that uses that are only listed as indoor commercial recreation uses are prohibited as outdoor commercial recreation uses not move forward for adoption; and
- amendments related to zero lot line subdivisions be revised to require a 50% maximum impervious coverage based on the entire development instead of per individual lot.

The LMO Committee met on October 16, 2019 and October 30, 2019 and recommended approval of the proposed amendments.

Background: The LMO is generally amended on a bi-annual basis. Newly added language is illustrated with double underline and deleted language is illustrated with ~~striketrough~~.

Attachment

A. Rationale – 2019 LMO Amendments – Set 1