



BEFORE THE  
SURFACE TRANSPORTATION BOARD

Beaufort Railroad Company, Inc., a subsidiary of  
the South Carolina Division of Public Railways –  
Modified Rail Certificate

Finance Docket: 34943

REPLY IN OPPOSITION TO PETITION FOR STAY

ENTERED  
Office of Proceedings

JUN 24 2009

Part of  
Public Record

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Dated: June 24, 2009

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SURFACE TRANSPORTATION BOARD

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**REPLY IN OPPOSITION TO PETITION FOR STAY**

Beaufort Railroad Company, Inc. (“BRC”), the South Carolina State Ports Authority (“SCSPA”) and the Beaufort-Jasper Water and Sewer Authority (“BJWSA” and collectively with BRC and SCSPA, the “South Carolina Parties”) submit their Reply in Opposition (the “Reply”) to the Petition for Stay (“Petition”) filed by Clarendon Farms, LLC (the “Petitioner”). In support of their Reply, the South Carolina Parties state the following:

**Background**

On March 19, 2008, the Surface Transportation Board (the “Board”) issued its decision<sup>1</sup> denying all petitions for reconsideration and a request for investigation of a December 2006 notice of filing of a modified certificate of public convenience and necessity under 49 C.F.R. §§ 1150.21-23 (the “Notice of Modified Certificate”) for operation of the Port Royal Railroad Line (the “Line”) in South Carolina. The Board found that the Line had not been abandoned, that the Line remained a part of the interstate rail system, and that the Board retained jurisdiction to authorize BRC’s operation pursuant to the modified certificate. *See* March 2008 Decision at 1. The Board also sanctioned possible interim trail use for the Line in the event that BRC (the operator on the Line) terminated its service obligations, so long as SCSPA (the owner of the Line) found an interested party to use the Line in a manner consistent with the statutory and regulatory requirements of the National Trails System Act (the “Trails Act”). *See* March 2008

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<sup>1</sup> The Board’s decision was served on March 19, 2008. The Decision hereinafter will be referred to as the “March 2008 Decision.”

Decision at 9. In April 2008, Clarendon Farms, LLC, Diane D. Terni, Greedy Children Land, LLC, Prodigal Son, LLC, Mr. and Mrs. William M. Mixon, Dekock SA, Trustee of the JC and AJ Harden Irrevocable Trust, and Ray Basso (collectively, the "Landowners") filed a petition for reconsideration of the Board's March 2008 Decision.

The South Carolina Parties determined that current need for service over the Line was unlikely and also found an interested party to use the Line for interim trail use. Therefore, on July 16, 2008, the South Carolina Parties filed a Notice of Intent to Terminate Service and Request for Issuance of Notice of Interim Trail Use/Rail Banking (the "Notice & Request"). In the Notice & Request, the South Carolina Parties sought termination of service over the Line and a concurrent issuance of a Notice of Interim Trail Use ("NITU") to rail bank the Line, pursuant to the Trails Act, 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29.

On May 20, 2009, the Board issued its decision<sup>2</sup> denying the Landowners' petition for reconsideration of the March 2008 Decision and granting the South Carolina Parties' request for a NITU. The Board found that there was no material error in its March 2008 Decision. *See* May 2009 Decision at 1.

On June 19, 2009, Petitioner filed the Petition, seeking a stay of the Board's May 2009 Decision pending judicial review.<sup>3</sup>

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<sup>2</sup> The Board's May 20, 2009 decision hereinafter will be referred to as the "May 2009 Decision."

<sup>3</sup> Petitioner is represented by a law firm located in Washington, D.C. Petitioner's counsel filed both the Petition and a certificate of service of the Petition with the Board on June 19, 2009, a month after the Board's May 2009 Decision. Despite Petitioner's counsel's representation that it placed copies of the Petition in the U.S. Mail for service on all interested parties on Friday, June 19, 2009, the undersigned counsel for SCSPA, located just blocks from Petitioner's counsel's firm in Washington, D.C., did not receive service of the Petition until Tuesday, June 23, 2009. Thus, the South Carolina Parties have been afforded only one day to prepare and file this Reply. *See* 49 C.F.R. § 1115.5(a) ("If a party elects to file a reply, the reply must reach the Board no later than 5 days after the petition is filed.").

### Argument

The Petition represents Petitioner's third attempt to challenge the South Carolina Parties' rights regarding the Line and demonstrates Petitioner's stubborn refusal to accept the Board's well-reasoned decisions in this case. Petitioner fails to present any arguments that support the granting of a stay of the Board's May 2009 Decision. For the following reasons, the Board should reject Petitioner's arguments and deny Petitioner's request for a stay of the May 2009 Decision pending judicial review.

#### **I. Petitioner's True Identity And Interest In This Case.**

The South Carolina Parties believe that Petitioner's true identity and interest in this case is worth the Board's attention and consideration, as it colors each of Petitioner's arguments for issuance of a stay. Petitioner is a wholly owned indirect subsidiary of Cox Enterprises, Inc., a multi-billion dollar communications, media and automotive services company headquartered in Atlanta, Georgia. Petitioner owns real property in Beaufort, South Carolina that Petitioner seeks to develop commercially.<sup>4</sup> The right-of-way corridor for the Line at issue in this case traverses a corner of Petitioner's real property holdings.<sup>5</sup> See Exhibit A, a copy of "Exhibit H" to Petitioner's Conceptual Master Plan/PUD, dated January 5, 2006 and

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<sup>4</sup> Upon information and belief, Petitioner seeks to develop the property adjacent to the right-of-way corridor for the Line for commercial and residential purposes. According to a proposed ordinance drafted by Petitioner in conjunction with its 2006 proposal to the City of Beaufort to enter into an agreement to develop Petitioner's real property, Petitioner seeks to develop twenty-one parcels of property on Port Royal Island, totaling approximately 4,115 acres. See [http://www.co.beaufort.sc.us/Public\\_Info\\_Officer/Clarendon\\_Mcleod\\_Anex/Clarendon%20Farms%20PU D.pdf](http://www.co.beaufort.sc.us/Public_Info_Officer/Clarendon_Mcleod_Anex/Clarendon%20Farms%20PU D.pdf) (last visited June 24, 2009).

<sup>5</sup> Petitioner implies that it owns the property on which the right-of-way runs; however, the Board conclusively determined that the SCSPA had not abandoned the Line under federal law, see March 2008 Decision at 7, and there has been no credible suggestion that the adjacent property owners have cognizable rights to the right-of-way corridor itself.

updated February 5, 2006, attached hereto.<sup>6</sup> In fact, Petitioner is apparently proposing to install a road at the intersection of Clarendon Road and the Line.<sup>7</sup> Petitioner's interest is not as the steward of pristine land, as it would like the Board to believe. It is a developer, and its stated interest in preserving the condition of the property is belied by its own representations to local authorities in South Carolina.

## II. Petitioner Fails To Establish The Elements Necessary To Justify The Issuance Of A Stay In This Case.

To justify the issuance of a stay of the May 2009 Decision, Petitioner must establish that: "(1) it will suffer irreparable harm in the absence of a stay; (2) there is a strong likelihood that it will prevail on the merits; (3) other interested parties will not be substantially harmed by a stay; and (4) the public interest supports granting the stay." *Canadian Nat'l Ry. Co. v. Grand Trunk Corp.—Control—Eje West Co.*, STB Finance Docket No. 35087, at 4 (Jan. 16, 2009)<sup>8</sup> (citing *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); *Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977); *Virginia Petroleum Jobbers Ass'n v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958)). Petitioner has the high burden of persuasion on all of the elements required for the issuance of such extraordinary relief. *Canadian Nat'l Ry. Co.*, STB Finance Docket No. 35087, at 4 (Jan. 16, 2009) (citing *Canal Auth. of Fla. v. Callaway*, 489 F.2d 567, 573 (5th Cir. 1974)).

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<sup>6</sup> Available at [http://www.cityofbeaufort.org/client\\_resources/pdf/cm/ClarendonMap111506.pdf](http://www.cityofbeaufort.org/client_resources/pdf/cm/ClarendonMap111506.pdf) (last visited June 23, 2009).

<sup>7</sup> See "Sketch Showing Possible Future Road Locations" prepared for Clarendon Farms, Inc. on March 25, 2009 by David S. Youmans of Beaufort Surveying, Inc., recorded at Book 128, Page 53 and Book 128, Page 52, each in the Beaufort County Recorder of Deeds Office (available via the internet at [http://rodweb.bcgov.net/nvtest/or\\_sch\\_1.asp](http://rodweb.bcgov.net/nvtest/or_sch_1.asp) (last visited June 23, 2009)).

<sup>8</sup> The Board's decision in *Canadian Nat'l Ry. Co. v. Grand Trunk Corp.—Control—Eje West Co.*, STB Finance Docket No. 35087 (Jan. 16, 2009) will hereinafter be cited as "*Canadian Nat'l Ry. Co.*"

Petitioner cannot justify the issuance of a stay in this case because Petitioner cannot establish that (1) it is substantially likely to succeed on the merits of its appeal, (2) it will suffer irreparable harm absent a stay, (3) a stay will not harm the interests of the South Carolina Parties, and (4) a stay of the Board's May 2009 Decision is in the public interest. Therefore, Petitioner's request for issuance of a stay in this case should be denied.

A. Petitioner Fails To Show That There Is A Substantial Likelihood That It Will Prevail On The Merits Of Its Challenge To The Board's Refusal To Reconsider The December 28, 2006 Issuance Of The Notice Of Modified Certificate.

Petitioner will not succeed on the merits of its claims on appeal. Twice now, and despite all of Petitioner's attempts to the contrary, this Board has reviewed Petitioner's contentions and has delivered reasoned decisions refusing to reconsider its issuance of the Notice of Modified Certificate. In both the March 2008 Decision and the May 2009 Decision, the Board engaged in "reasoned decisionmaking" and its decisions are explained and supported by the extensive record in this case.

Petitioner's arguments in support of its likelihood of success mirror Petitioner's previous arguments in its petitions for reconsideration, and Petitioner fails to offer any additional information in support of its claims. The Board has already considered and rejected Petitioner's arguments in its previous decisions, and nothing in the Petition suggests that an appellate court would view the circumstances differently than the Board.<sup>9</sup> The Petition is

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<sup>9</sup> The appellate courts review the Board's decisions under the "highly deferential arbitrary-and-capricious standard" of the Administrative Procedures Act. *See, e.g., City of South Bend, IN v. Surface Transp. Bd.*, -- F.3d --, 2009 WL 1492555, at \*2 (D.C. Cir. May 29, 2009) (internal citations omitted); *North American Freight Car Ass'n v. Surface Transp. Bd.*, 529 F.3d 1166, 1170-71 (D.C. Cir. 2008); *see also New York Cross Harbor R.R. v. Surface Transp. Bd.*, 374 F.3d 1177, 1181 (D.C. Cir. 2004) (stating that the court will uphold an STB decision so long as the STB "engaged in reasoned decisionmaking" and "its decision is 'adequately explained and supported by the record.'"). Petitioner's argument that it is likely to succeed on the merits of this case supposes, without any basis whatsoever, that the appellate court

merely Petitioner's attempt at a third "bite at the apple," and Petitioner should not be able to use the stay provision in 49 C.F.R. § 1115.5 to accomplish its objectives. *See Tri-State Brick & Stone of New York, Inc. & Tri-State Transp., Inc.—Petition for Declaratory Order*, STB Finance Docket No. 34824, at 3 (Feb. 12, 2008).

B. Petitioner Will Not Be Irreparably Harmed Absent A Stay.

The issuance of a stay is an "extraordinary remedy and should not be granted unless the requesting party can show that it faces irreparable injury that is 'both certain and great,' 'actual and not theoretical,' and 'will directly result from the action' that would be enjoined." *Canadian Nat'l Ry. Co.*, STB Finance Docket No. 35087, at 2 (Jan. 16, 2009) (citing *Wisconsin Gas v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985)). Damage to a financial interest is not sufficient to establish irreparable harm. *See The New York, Susquehanna & Western Ry. Corp.—Discontinuance of Service Exemption—In Broome & Chenango Counties, NY*, STB Docket No. AB-286 (Sub-No. 5X) (Sept. 30, 2008) ("monetary damages are generally insufficient to demonstrate irreparable harm") (citing *Suffolk & Southern Rail Road, LLC—Lease and Operation Exemption—Sills Road Realty, LLC*, STB Finance Docket No. 35036 (Nov. 16, 2007)).

Petitioner has failed to show that it will suffer the kind of irreparable harm that the extraordinary remedy of a stay seeks to prevent, and Petitioner's allegations to the contrary misrepresent, and in fact directly contradict, Petitioner's true goals in bringing this Petition. Specifically, Petitioner's allegations of irreparable harm cannot be reconciled with Petitioner's true interest in this case and its intentions for its property – namely, commercial development.

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would not take into account the fact that Petitioner has twice tried, unsuccessfully, to reverse the Board's issuance of the Notice of Modified Certificate.

According to the Clarendon Farms Conceptual Master Plan/PUD, dated January 5, 2006 and revised February 5, 2006 (the "PUD")<sup>10</sup>, Petitioner plans to develop over 4,100 acres of its property for commercial and residential purposes and intends to enter, or already has entered, into a development agreement with the City of Beaufort, South Carolina, to achieve this purpose. Many of Petitioner's plans for the property, as outlined in the PUD, directly conflict with Petitioner's fears of irreparable harm in this Petition.

Petitioner first argues that absent a stay, the South Carolina Parties will sell the Line to BJWSA and begin installation of water and sewer pipes. To do so, Petitioner alleges that the South Carolina Parties will enter Petitioner's property and undertake substantial construction that Petitioner will be hard-pressed to undo down the road. Petitioner also alleges that the supposed actions of the South Carolina Parties will destroy Petitioner's adjoining property, described by Petitioner as "pristine, beautiful land that is largely undeveloped and natural." See Petition at 7. However, according to the PUD, Petitioner has its own plans for constructing water and sewer lines on its own property. In fact, Petitioner has stated that it intends to negotiate an agreement with BJWSA, a responding party herein, for the provision of water and sewer services for the development.<sup>11</sup>

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<sup>10</sup> A copy of the updated PUD (without exhibits) is attached hereto as **Exhibit B** and is available at [http://www.cityofbeaufort.org/client\\_resources/pdf/cm/Clarendon%20PUD%20Revised%2002-05-06.pdf](http://www.cityofbeaufort.org/client_resources/pdf/cm/Clarendon%20PUD%20Revised%2002-05-06.pdf) (last visited June 24, 2009).

<sup>11</sup> Petitioner's plans to negotiate with BJWSA to arrange for the provision of water and sewer services on Petitioner's development suggests that this Petition may be nothing more than an opportunity for Petitioner to improve its negotiating position with BJWSA.

Also, Petitioner argues that conversion of the Line into recreational trail use<sup>12</sup> will create a public expectation of access to and use of the Line that will be difficult to reverse after Petitioner wins its appeal. However, as outlined in the PUD, Petitioner intends to establish its own system of over 180 acres of recreational, biking and equestrian trails as part of its commercial development of the property. Petitioner's argument that it will suffer irreparable harm if the South Carolina Parties convert the right-of-way into public recreational trails therefore only reflects Petitioner's apparent intention to exclude the public from its trails.

Furthermore, Petitioner's allegations of harm resulting from the South Carolina Parties' possible activities on the right-of-way are theoretical, not actual, and cannot support a finding of irreparable harm. The South Carolina Parties, and BJWSA in particular, have no plans to undertake any construction activities on the Line that would affect Petitioner's adjoining land. Even if the South Carolina Parties intended to work along the Line, such work would be confined to the Line, would be no more intrusive than maintaining the rail lines along the Line, and would have no conceivable effect upon the asserted "undeveloped and natural" state of Petitioner's property. Petitioner's own plans for large-scale commercial development of its property pose a much greater threat to the destruction of the "pristine" nature of Petitioner's property than the supposed future actions of the South Carolina Parties.

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<sup>12</sup> As the owner of the Line, SCSPA is entitled to preserve it as a rail line either by maintaining the Line as a railroad line for potential service to shippers under the modified rail certificate or by preserving the Line for future rail service by "rail banking" the Line pursuant to the Trails Act. SCSPA has determined that the better economic use of the Line, at the present time, is to terminate BRC's modified rail certificate and rail bank the Line, and SCSPA is entirely within its rights under federal statutory law and the Board's regulations and as owner of the Line to bank the Line and preserve it for future railroad use.

C. Issuance Of A Stay Will Harm The Interests Of The South Carolina Parties.

The issuance of a stay in this case will harm the interests of the South Carolina Parties. The South Carolina Parties have waited patiently for the conclusion of these proceedings and believe that the time has come to afford the Board's decisions in this case the finality that they deserve. Furthermore, the South Carolina Parties assert that an indefinite delay in this case, as will occur if the requested stay is granted, will prejudice the South Carolina Parties' interests.

D. Issuance Of A Stay Is Not In The Public Interest.

The issuance of a stay in the case does not further the public interest. This case and Petitioner's challenges to the Board's issuance of the Notice of Modified Certificate have been pending, in one form or another, since December 2006. Since that time, Petitioner has filed two petitions for reconsideration and the Board has issued two well-reasoned decisions on the issues presented by Petitioner. Petitioner has exhausted the resources of the Board on several occasions now. The issuance of a stay at this point merely delays the inevitable.

Furthermore, the issuance of a stay in this case unreasonably threatens the public interest in preserving rail lines for future use under the procedures outlined in the Trails Act. Apparently, Petitioner feels that building a road over the Line<sup>13</sup> is better for the public interest here than preserving the Line for future rail use, but Congress has disagreed. In enacting the Trails Act, Congress codified its determination that the public interest is advanced by the preservation of public access to, and enjoyment and appreciation of, outdoor areas such as those established along preserved rights-of-way, and furthers its national policy to "preserve established rights-of-way for future reactivation of rail service." *See* 16 U.S.C. §§ 1242 & 1247. And this Board has consistently recognized, and in fact has recognized in this case, that

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<sup>13</sup> *See* page 4, *supra*.

the interim trail use procedures advance "the congressional policy 'of placing the states at the forefront of the federal effort to preserve local rail service.'" March 2008 Decision at 5 (internal footnote omitted). This public interest outweighs any perceived harm to Petitioner and its development plans and supports a denial of a stay.

**Conclusion**

For the above stated reasons, the South Carolina Parties request that the Board deny Petitioner's request for the issuance of a stay of the Board's May 2009 Decision pending judicial review.

Respectfully submitted,



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Certificate of Service

I hereby certify that on June 24, 2009, I served the foregoing Reply in Opposition to Petition for Stay on the following individuals by U.S. First Class Mail:

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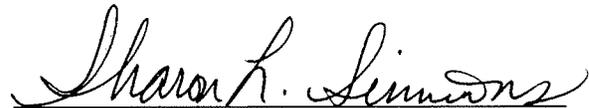
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Sharon L. Simmons

# EXHIBIT A

# Clarendon Farms

## Beaufort County, South Carolina

### Conceptual Master Plan/P.U.D.

#### Exhibit H

PREPARED FOR

Clarendon Farms, LLC  
Beaufort County, South Carolina

January 30, 2006

Revised August 23, 2006

Revised October 28, 2006

PREPARED BY:



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Lenoir County, North Carolina

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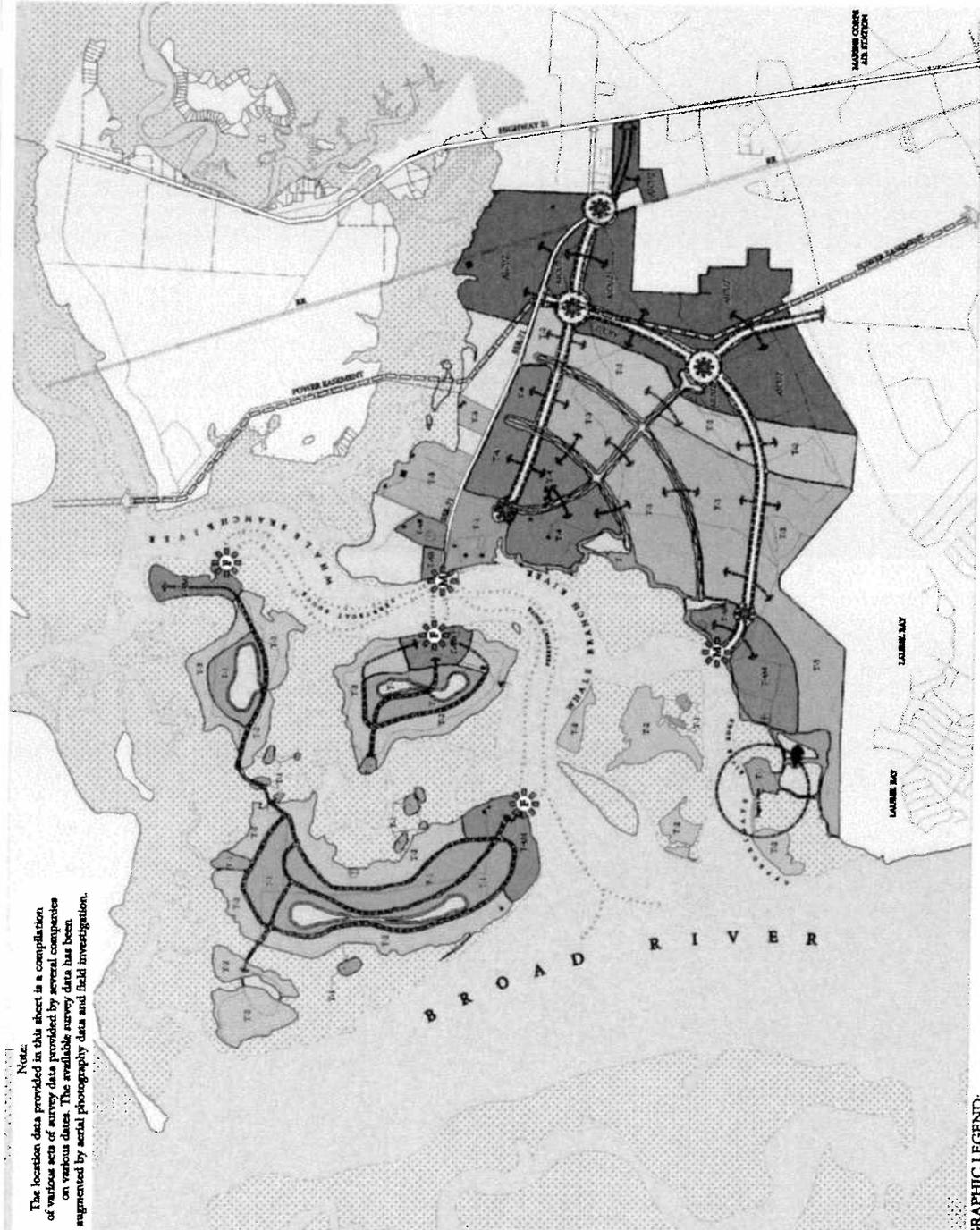


Vicinity Map: Not To Scale

#### LAND USE LEGEND BY DISTRICT:

District	Area (AC)
Recreational And Commercial District (T-1)	44,861.28 AC
The T-2 Residential District	44,189.48 AC
The T-3 Mixed Use District	44,702.76 AC
The T-4 Traditional Village District	44,261.24 AC
Village/Market District (T-4A)	44,331.77 AC
The Beyond Mixed Use District (T-4B)	44,333.37 AC
ARL2Z District	44,888.36 AC
TOTAL - Agricultural Districts **	44,413.13 AC

\*FOR TOTAL AVERAGE REQUIREMENTS ON SCHEDULE PARKS, POLICE AND FIRE LAND USE DISTRICTS SEE THE DEVELOPMENT AGREEMENT DOCUMENTS  
\*\*THIS USE SHALL REMAIN UNCHANGED



Note:  
The location data provided in this sheet is a compilation of various sets of survey data provided by several companies on various dates. The available survey data has been augmented by aerial photography data and field investigation.

#### GRAPHIC LEGEND:

- Power Road
- Potential Neighbored Access Road
- Potential Neighbored Access Road
- Permitted Land Use
- Mature Tree
- Existing Curbside Unimproved Trail
- Existing Boundary Stone Road (100')
- Adjacent Property

#### SCALE



NORTH

THIS IS A CONCEPTUAL MASTER PLAN FOR THE CLARENDON FARMS DEVELOPMENT. THIS CONCEPTUAL MASTER PLAN IS NOT INTENDED FOR CONSTRUCTION.

# EXHIBIT B

**CLARENDON FARMS  
CONCEPTUAL MASTER PLAN / PUD**

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Exhibit D	Aerial Photo
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**CLARENDON FARMS  
CONCEPTUAL MASTER PLAN / PUD**

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**APPLICANT AND PLANNING TEAM**

Applicant: ..... Clarendon Farms

Land Planner/Landscape

Architect: ..... J. K. Tiller Associates, Inc.  
Bluffton, SC  
Mr. Jim Tiller

Legal Counsel: ..... David L. Tedder, P.A.  
Beaufort, SC  
and  
Lewis J. Hammet, Esquire  
Bluffton, SC

Survey ..... Beaufort Surveying, Inc.  
Beaufort, SC



**CLARENDON FARMS  
CONCEPTUAL MASTER PLAN / PUD**

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**SECTION I. INTRODUCTION AND LAND USE INTENT**

**A. Introduction and Narrative of Land Use Intent**

Clarendon Farms, LLC., the Applicant is proposing a comprehensive land use plan for entitlements of its land holdings. A Conceptual Master Plan / PUD and Development Agreement consistent with the provisions of the Planned Unit Development Standards (PUD) of the City of Beaufort, South Carolina shall be introduced in this submission. Both the City of Beaufort and Clarendon Farms, LLC. see this PUD, Development Agreement and Annexation Petition as an extension of the City of Beaufort into an area considered as a growth area contemplated in the City's Comprehensive Plan. Further, this approximate 4,151 acres is consistent with the permitted developments for consideration as PUDs in Section 7.4, Planned Unit Development Standards of the General Development Standards of the Beaufort, SC, Unified Development Ordinance.

The Clarendon Farms, LLC. is a very scenic and picturesque parcel of land located off of Highway 21 in Northern Beaufort County, South Carolina, just north of Laurel Bay and south of the McLeod Farm and bounded on the west by the waters and marshes of both the Broad River and the Whale Branch River. The property has been preserved for many years a hunting retreat for its owners and their families. The main residence was originally designed about 1934 for Warren H. Corning of Cleveland, Ohio. He and his brother Henry began accumulating land after purchase of the then Woodward Plantation in 1927. Woodward was originally purchased as a hunting property for the family. The Cornings hired Willis Irvin of Augusta, a well known country house architect, to design the house. The house was ideal for the hunting enthusiasts as it was appointed with gun rooms, game rooms and a restaurant quality kitchen. The house was also designed with adequate and very comfortable bedroom suites.

Corning also commissioned a Long Island landscape designer by the name of Umberto Innocenti who was also, with Irvin, a popular artisan for the writer colonies of Aiken and the Lowcountry. Umerto's design complimented the home by opening large lawns facing the Whale Branch River and formal gardens and entry courts of the land entrance to the house. This entrance to the house was formed at the terminus of a long live oak allee that stretched to the house from the public road. There is a grove of oaks at the house and at the terminus of the oak avenue which provides evidence of the potential of an earlier building complex.

The Clarendon Farms name probably comes from early plantations purchased originally by the John S. Pylar Family in 1865.

Just as the early Corning Family were good stewards of this land, this Applicant seeks to establish responsible zoning and land use standards for the property. The Conceptual Master Plan / PUD and the Development Standards promulgated here reflect as much a plan of conservation as it is a development plan. Density of use is targeted near the hubs of activity and other areas near marshes and old growth forest are generally zoned for less intense residential density. At the more dense areas of development and particularly where the marina village may occur, strict site standards regarding stormwater runoff are



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included to protect sensitive coastal environments.

It is anticipated that the marina villages proposed would be reminiscent of the past coastal villages such as historic Charleston, SC, while capturing essences of more contemporary locations as Sea Pines' South Beach and Harbour Town. These opportunities to embrace with development the waters' edge will enhance the active community with the opportunity to interact with the waterside experience. This access provides the chance for recreation, transportation and sheer pleasure of water access. Just as transportation in the past was dependent on the water, this community will have similar opportunities. Just as communities have developed on Daufuskie Island so will the opportunity for similar development occur here on the outer islands. The intensity of development will reduce as you move away from the mixed use villages at the waters edge/access.

An accompanying Development Agreement proposes that land uses and standards be fixed for an extended period. The reasons for this extensive period are twofold. First, the present Owner has no plans to commence development at all in the immediate future. Second, the property is currently held for hunting, conservation and long term investment purposes. The PUD approval proposed by this Application, together with the Development Agreement, will allow the present Owners to be good stewards of the property and preserve its future development potential as an investment. Once approved, there will be no pressure to develop the property now, but simply to avoid future changes to zoning laws and standards that may affect the Applicant's long term financial plan. Both landowners and the City will be able to plan carefully and responsibly into the future achieving the best long term results.

The existing conditions of the site are set forth under this Narrative, and the exhibits which accompany this submission. Section II of this Narrative gives the details of the Land Use Plan proposed for the property. The Land Use Section of the Narrative, read together with the Conceptual Master Plan / PUD form the core of the PUD zoning district standards proposed for Clarendon Farms. Section III of this Narrative details the site standards, as modified, which will apply to any future development of the property.

This Narrative, together with the exhibits attached hereto, including the Conceptual Master Plan / PUD form the complete Application for PUD zoning for the Clarendon Farms property. The Applicant respectfully asks the City of Beaufort to approve this Application, together with the Annexation Petition and the Development Agreement submitted with this Application.

**B. The Property**

Clarendon Farms is made up of several farms, parcels and plantations that were and continue to be accumulated by both past property owners and this Applicant. The rich history of Clarendon Plantation/Farms has been documented in a study prepared by Sarah Fick, Preservation Consultants Inc., in 1998 (see Exhibit A).

The current property has been defined by a property description prepared for this submission (see Exhibit B) and is generally depicted by the Existing Location Plan and



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Existing Topography (See Exhibit C). This exhibit also indicates the present location of numerous buildings, unimproved roads, improved roads, cemeteries, utility corridors, railroad, etc.

The aerial photograph shows the property and its relationship to the water bodies (see Exhibit D), while the FEMA Maps for the site indicate flood zones for the property (see Exhibit E).

The Soils Map (see Exhibit F) provides a clear indication of the types of soils series and the table is referenced to the Soil Survey of Beaufort and Jasper Counties, South Carolina, prepared by the U.S. Department of Agriculture Soil Conservation Service, issued January 1980.

Over the years the property has been in agrarian use and in the past three quarters of a century has been predominantly a hunting property and tree farm. The land has been managed and cared for over these years and currently has a magnificent stand of long leaf pine.

There is an abundance of wildlife and is managed for quail and duck hunting. A nesting pair of eagles has been found on the site and care has been taken to preserve that location in accordance with wildlife management requirements (see Exhibit G).

There are a number of existing ponds on the site providing the opportunity for fishing as well as areas for wading and diving bird habitats.

**C. Conceptual Master Plan / PUD Process**

In accordance with the City of Beaufort, South Carolina, Article 3, Development Review Procedures, subsection 3.7, Planned Unit Development (PUD) the submission of the Conceptual Master Plan / PUD is the initial step in obtaining PUD Development District which is ultimately the City Council approval with recommendations from the Planning Commission. This Applicant wishes to obtain a Development Agreement and Petition for Annexation into the City, concurrently with the Conceptual Master Plan / PUD approval. The structures of the Master Plan and the written standards describe and establish land uses, densities, development standards, utility services, limited phasing and an approach to environmental quality. These Standards shall include a detailed Development Plan Approval Process as outlined in the PUD Application process.

After obtaining approval from City Council of this Conceptual Master Plan / PUD and Development Agreement, the Applicant shall come forward for Site Plan Review for each phase of development. It is understood that the standards established in the Conceptual Master Plan / PUD and Development Agreement shall be the standards for the life of the Development Agreement. This Application shall include Item I of Article 3.7 Planned Unit Development (PUD) as part of the approval for this Conceptual Master Plan / PUD and Development Agreement.

Throughout the submission of the documentation for each phase of the development, the



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criteria established in this process shall guide development of this land into the future.

**D. Conceptual Master Plan / PUD**

The Applicant's property is approximately 4,151 acres of land south of Highway 21, north of the City of Beaufort. It is anticipated that development of the property may occur over the next 20 to 40 years or longer. The development will be in accordance with the standards established in this Conceptual Master Plan / PUD. The future submissions to the City for approval will be reviewed in accordance with the standards established by this document. The Conceptual Master Plan / PUD, the Standards of this Clarendon Farms Planned Unit Development Ordinance and the Development Agreement shall govern the development of the Property, the boundaries as established herein. Where there may be conflicts between the documents the order of priority of the decision shall be governed as follows; the first order is the Development Agreement, then the PUD Standards and lastly the Conceptual Master Plan.

Clarendon Farms, LLC. currently manages the property and expects to do so until such time as they may transfer ownership of all or a portion of the land for development. The current land use is expected to continue until such time as a portion of the property may come forward to the City for development. Although the Beaufort County Assessor's Office makes determinations regarding Agricultural and Timberland exemptions, it is understood by the City of Beaufort and Clarendon Farms that the current land use and tax status should not change until a particular site may be identified for development and a site specific subdivision plan platting lots is recorded with the Beaufort County Register of Deeds all other land not under consideration for development at this time should remain in the current land use and tax status. Clarendon Farms, its successors and assigns may continue its hunting, fishing, silviculture and agricultural uses, including, but not limited to, bird breeding and accumulation, controlled burns and other activities currently engaged in on the property.

The Conceptual Master Plan (see Exhibit H) shows a total of 4,151 acres in various residential uses, which will be built in phases in accordance with market demand and preference. It is anticipated that land uses shall include residential communities built in relationship to various amenities which may include golf courses, lakes, open space, parks both active and passive. Portions of the property may include regional commercial, neighborhood commercial, office/commercial and office/commercial/residential mixed use. It is anticipated that some institutional and governmental uses may be incorporated.

The Conceptual Master Plan shall meet or exceed the minimum of twenty (20) percent gross area open space required by Article 7.4 Planned Unit Development Standards of the City of Beaufort Unified Development Ordinance, item 10 with the exception of subitem b. The buffer at the perimeter of the PUD shall be included as open space. Other open spaces which shall qualify are road rights-of-way with trails, sidewalks, bicycle paths and the like (excluding surface of road), tree parks adjacent to roads, landscaped areas between land uses, golf courses and practice areas, lagoons, ponds, lakes, drainage easements, utility rights-of-way, freshwater non-jurisdictional and jurisdictional wetlands and wetland buffers, bicycle and walking trails and adjacent space, parks, all active play



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areas, waterfront parks, all ancillary recreational amenities including swimming pools (including indoor pools), water splash park, tennis courts, basketball courts, playgrounds, fishing and crabbing docks, boat docks, garden plots, flower production areas, greenhouses, activity areas and other such recreational amenities which may be developed and attributed to the total open space requirement.

The PUD document, Conceptual Master Plan and Development Agreement amend the City of Beaufort Unified Development Ordinance adopted January 28, 2003 and revised September 1, 2005 as obtained on October 28, 2005 from the City Planning Department.

**E. Environmental Considerations and Responsible Storm Water Practices**

The Applicant is aware of the environmental qualities that are very much a part of the quality of life issues of the Lowcountry and are an important part of why investors find the Lowcountry of Beaufort County so interesting and inviting. The same characteristics that brought the original settlers here over 300 years ago, still lures the investors and home buyers here. The environment of coastal South Carolina is sensitive to development though very resilient. If development is done with an eye toward environmental responsibility and with regard for the proper safeguards the built environment can co-exist with the natural environment without detriment to either. No area is more important to the Lowcountry than protection of water quality. The creation of water bodies for stormwater retention and detention has provided a way to create value while also functioning as a management means to treat runoff into our tidal marshes. The engineering of stormwater runoff through management practices provided in the Best Management Practices (BMPs) for stormwater management model. The BMPs provide a method to quantify and design a system for stormwater treatment. For this system to meet the water quality and anti-degradation goals established by BMPs, the stormwater management system will be designed so that the stormwater quality delivered to the outfall from the site is mitigated to a level required by the current Standards.

It is this Applicant's intention to come forward with a stormwater management master plan. This plan will serve as the frame work for future development, and the details of that plan will, through a system of lagoons, provide for the treatment of the runoff and a control release rate appropriate for the design storm events. This plan shall be prepared and submitted after the PUD and Development Agreement approval and prior to the final development plans during the Site Plan Review process, prior to final Development Plans. All plan reviews shall be in accordance with the Conceptual Master Plan / PUD and the Development Agreement.

The freshwater wetlands are not atypical to such property throughout the Lowcountry. Clarendon Farms has lagoons and ponds on its' property. These existing lagoons or ponds may have to be filled or enlarged to facilitate future development as permitted under the laws of the State of South Carolina. These issues will be formulated during future development plan submissions.

All wetland impacts associated with development activities will be permitted by the U. S. Army Corps of Engineers and certified by several State and Federal agencies, including,



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without limitation, SCDHEC-OCRM. As is the case with such activities, if impacts occur, mitigation will be accomplished as directed by the agencies and may include, but are not limited to providing wetland buffers or preservation.

F. Cultural and Historic Resources

City Ordinance Section 3.12 Archeological Impact Assessment requires a determination by the City Zoning Administrator. During this Conceptual Master Plan / PUD Phase, it is the Applicant's desire to withhold any such requirement until such time as a development permitting is required. During Site Plan Review, as required in Section 3.8 of the City of Beaufort, Unified Development Ordinance (UDO), if required an investigative study shall be initiated and depending upon the outcome of the initial study, the management and development of further studies by a qualified research consultant will be prepared. These studies will be conducted prior to the Site Plan Review. These cultural resources studies and findings will be documented and the appropriate reports will be forwarded to the State Historic Preservation Office (SHPO). The long term management of the findings shall be presented to the SHPO. Once the proposed management has been reviewed and approved by SHPO, the Applicant and SHPO will execute a Memorandum of Agreement, as required, based on the qualifications of the site.

G. Water and Sewerage Services

It is anticipated that water and sewer services will be available to the development within this PUD. The long term development within this PUD will include a sewer system. It is anticipated that conditions may exist within the development whereby the design and implementation of sewer systems may be more detrimental to the environment that would the installation of a septic system. It is not the intent of this Applicant to develop the site with septic systems but, where permitted under State law, and other circumstances, a septic system may be utilized. Preliminary discussions with Beaufort Jasper Water and Sewer Authority (BJWSA) have indicated a willingness to serve the property. When installed and accepted, the sewer design and installation shall be approved by BJWSA. When accepted, BJWSA shall operate and maintain the water and sewer systems.

H. Electrical and Tele-Communication Services

The Applicant shall, as part of the subdivision design, provide electrical and tele-communication services. The Applicant shall obtain electrical service from South Carolina Electric and Gas Company.

The area is served by Hargray Telephone and Cable Services.

I. Road and Traffic

The Applicant is aware of the potential for impact to adjacent roadways and realizes this is an issue that should be addressed prior to beginning development, in accordance with the zoning regulations as defined in the Development Agreement. Any changes shall be prepared as provided and stipulated in this PUD document as defined in the Clarendon



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Farms, LLC Development Agreement. The fortunate issue in this case is that Highway 21, the adjacent roadway, has capacity and is currently under utilized. Traffic counts are currently running at  $\pm$  11,798 Annual Average Trips Per Day.

The plan for Clarendon Farms anticipates the development of commercial property within the site. This commercial development is intended to serve the community. This development of commercial uses will be designed to help forestall the need to travel outside the community for those daily needs. This plan will therefore reduce traffic entering onto Highway 21 for such daily trips. The Applicant is confident that the internal system of roadways will help to relieve the added pressure of development on the Highway 21 corridor. Creating an internal development of commercial, office, mixed use housing and single family residential housing uses that are convenient to one another and providing the needed uses to compliment one and other would help to reduce the flow of traffic onto Highway 21.

It is understood that Beaufort County and the City of Beaufort are working on studies to improve the highway system and it is hoped that these studies include these access potentials. All access and egress points must be permitted by the South Carolina Department of Transportation.

The roads within the Conceptual Master Plan / PUD will be constructed in accordance with the development standards included in this submission.

The Applicant may elect to deed to the State, Beaufort County or the City of Beaufort, SC, if accepted by one, that jurisdiction shall accept maintenance and repair of the roads. If not, the Developer or its successors or assigns shall accept the road maintenance and repair costs and responsibilities.

J. Land Development Standards

Planning for future development areas will be governed by the Development Standards provided as a part of this document. If a conflict exists within this document, it is understood that the hierarchy of governance is, first, the Development Agreement, and second the Conceptual Master Plan / PUD and attachments.



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SECTION II. SPECIFIC LAND USE DEFINITIONS

A. Introduction

This Applicant, Clarendon Farms, LLC., currently located in Northern Beaufort County is, through the presentation of this Planned Unit Development Conceptual Master Plan and accompanying Development Agreement, seeking annexation of into the City of Beaufort. The City of Beaufort has always considered that the area between its northern boundary and the Whale Branch River toward the north and the Broad River toward the west part of its growth area. The decision to move forward by the Applicant with this planning effort at this time is the result of long term discussions, both with the City and the internal discussions of the Clarendon Farms owners. It is the coming together of both the City's desire to include Clarendon Farms as part of its growth corridor, and the Owners of Clarendon Farms wish to find certainty for their future plans for the farm that this application is respectfully offered for consideration to the City of Beaufort for Annexation, PUD and Development Agreement.

The Conceptual Master Plan / PUD for Clarendon Farms, LLC., as outlined here, is a development concept built to allow the flexibility needed for the Applicant to fully utilize the site potential for residential growth with corresponding balance of work place and commercial development. The Applicant has a deep appreciation of the beauty of the property and wishes to assure that the site growth is done responsibly with an understanding of the environmental concerns for adjacent marine and estuary systems. The Applicant fully intends on providing for adequate environmental safeguards and to abide by the current requirements mandated by the state and federal agencies.

To further the enjoyment of the site for its future residents, the Conceptual Master Plan anticipates a pedestrian / leisure trail network as an important alternative transportation network connecting residential neighborhoods with parks, office space and commercial areas. It is anticipated that wetland areas, where permitted by the appropriate permitting authority, could be utilized for interpretative trails. These, along with other trails, could be important linkages between communities and commercial areas where appropriate and



permitted. It is desirous that these trails link a system of water courses and lagoons / ponds which would provide the community a system of open spaces and parks with the opportunity for recreational fishing and bird habitat. One of the important vista links that is a traditional part of the older communities of the

Lowcountry area are the streets linking directly to water or marsh edge. The idea of a lineal parkway along the water's edge is to provide access to the water's edge by the entire community. This parkway edge will provide pedestrian walkways along the marsh with opportunities to enjoy sun rises or the setting sun highlighting the marsh vista. It is anticipated that strategic locations will provide opportunities for seating areas, swings, rocking chairs, etc., affording the community a location to contemplate the natural beauty of this area of the Lowcountry.

The development of the Conceptual Master Plan / PUD as provided in this document is



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designed to provide flexibility for growth and development over many years and market cycles. The plan calls for the potential development of a light rail system which would utilize the current railway tracks which bisects a section of the property. The desire is to create a small rail transportation hub with associated train "depot". Here as the center of a small village center will develop a small commercial node with a traditional style village that may include a higher density core reminiscent of the small village town train stop. Here there could be a transfer system linked to the Community River Front Boatyard dock which may provide water transportation to the outer islands of Clarendon Farms. This link may include links to a water taxi system that could be developed as a water oriented travel system which may include other ports throughout the area, Savannah, Beaufort Waterfront Park, Harbor Town, Daufuskie Island, Charleston and beyond. These thoughts and ideas are, of course, dependent on others, either private or public, initiatives. This waterfront will afford the opportunity for an active water oriented facility reminiscent of the waterfront ports, but without the industrial commerce activities, but more reflective fo the New England fishing village. This village shall be linked to the rail depot over a roadway conveyance, affording the rail traveler to transfer to the water taxi or ferry service to the outer islands and communities beyond.

These ideas and systems are opportunities to provide a central focus and interest to the community, enriching the sense of community, while providing vital alternatives to the automobile. Light rail in combination with water taxi / ferry service is a way to provide an alternative to overcrowded roadways. The rail and water transportation are not without development challenges, but have to be considered and their opportunities explored.

Just as was the case in the past, these accesses to the waterway should be provided. These opportunities are being diminished as more and more waterfront is being lost to private use. This small port village will allow an opportunity to waterfront access.

The community riverfront "boatyard" will provide the public/private access to the river. Here a working waterfront will provide river access to the island community of Clarendon Farms. The ferry service and its associated uses will be housed here. Some parking and associated boat trailer parking will occur for the river access. There is potential here for community boat dry stack storage. Water associated amenities and commercial activities may also be developed here. Boat repairs and fueling facilities may be developed here for support to the community and ferry services. Sightseeing and dinner cruise services may also be accommodated from this location. Access to the facility will be via the existing road and river access will be accommodated.

Other opportunities for waterfront access will be provided under this plan, as illustrated by the village locations along the waterfront. These small "village" residential areas will have as its focus a water oriented public park area. This park front will provide opportunity for strolls along the waters edge. The plan is to provide dockage / marina where the water depth and widths provide the opportunity. Any such facility shall have to meet the requirements of the OCRM reviews. These waterfront villages will have the character of small waterfront villages of the past. The best example of these villages would be the Village at Palmetto Bluff in Bluffton, SC. Each village would take on a character of its own and will be of a traditional or reminiscent of a traditional theme. The residential character



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may vary but an underlying theme will be that of Lowcountry architecture and even though the interpretation of that style may be more contemporary.

As the community is developed these village areas will transition to more typical residential areas or amenity oriented areas. It is anticipated that the mainland area and the largest island can support an amenity oriented community. Here either golf courses or water will be the anticipated orientation. If permitted, there is the possibility of an inland harbor similar to those in Southern Beaufort County, such as Wexford and Windmill Harbour. If feasible, this development might also occur on the mainland site or the big islands of Clarendon Farms. Where such inland harbor occurs there may be the opportunity for a higher density and use associated to the harbor. This development would be buffered from the river edge with only the access to the lock harbor potentially impacting the river vistas. These inland lock harbors may provide the opportunity of more density at the waters edge while transitioning to a lower density residential use as you move away from the harbor.



The major amenity complex may be located in and around the family residence, the "Big House". The "Big House" original residence currently in use by the Owners/Applicant shall remain as the central fixture of the community and recreation complex. The building and grounds will remain as the main "River Club" for the development. Here will be the center of social activities. It is anticipated that the house could act as a social club while possibly functioning as a "bed and breakfast" for residents and their guests. It would also provide a center for the equestrian facilities. Portions of the grounds may function as a central amenity complex which may include but not limited to swimming pool(s), tennis complex, ballfields, open play areas, family reunion and wedding complex.

This main complex will remain the focal point to the community as it will remain at the terminus of the live oak allee which will form the main entrance road and at the heart of the community activity even though other areas shall be developed over time.

### B. Development Plan

Land uses for the Conceptual Master Plan are illustrated in Exhibit H of this document. These uses are illustrated as Districts and each District provides detailed land use categories that are permitted or not permitted within the District. The Conceptual Master Plan provides for a mix of uses within the Districts throughout the property. All land uses are conceptual and may change when development plans are brought forward to the City for development.

The land uses provided within the Districts provide the opportunity for each land use to occur, but does not obligate the Applicant at the development plan submission, to provide the use or facilities stated herein. Any conflict with this Conceptual Master Plan / PUD or Development Plan(s) with the Development Agreement, the Development Agreement will govern over the Plan.



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The Conceptual Master Plan provides for the following Land Use Districts. These Districts and Land Use Categories are discussed in greater detail later in this document:

1. Village / Commercial Use District
2. Village / Marina Use District
3. Traditional Neighborhood Use District
4. Golf Course / Lake Residential Use District
5. Residential Use District
6. Community Riverfront Boatyard Use District
7. Recreation / Equestrian / Trail / Activity Center Use District

The Conceptual Master Plan has an overall PUD density not to exceed three (3) dwelling units per acre for all Residential types, i.e., multi-family in all its forms, attached and detached single family residential. It is further contemplated that these densities may be moved from District to District, over time due to future Development Plans and Land Use Types. These density transfers, however, can not exceed the overall density stated here for the entire Conceptual Master Plan / PUD.

The Conceptual Master Plan for Clarendon Farms PUD consists of 3,851 acres to be developed as a residential land use and 300 acres or 3,300,000 square feet of commercial land use. The acreage is both the residential and commercial including wetland areas. These land uses are generally depicted on the Conceptual Master Plan and may be part of one or the mixed-use areas which is typical to the specific District. These areas of residential and commercial use will be modified but clarified at the time of Development Plan Approval. The Applicant or Developer reserves the right to convert up to fifty (50) percent of the commercial acreage or 150 acres (1,650,000 square feet) to residential acreage at a unit density of 3.0 units per acre. Conversely, the Applicant or Developer shall have the right to convert residential units to commercial acreage at a rate of one (1) commercial acre for three (3) residential units. In this conversion each commercial acre to residential shall result in a decrease of 11,000 square feet of commercial density per acre. With conversions, the overall density for Clarendon Farms shall not exceed a total density of 3.0 units per acre applied to the entire acreage of 4,151 acres.

This density for residential and commercial use will breakdown as follows: The total acreage of Clarendon Farm PUD as represented on the Conceptual Master Plan is 4,151 acres. That acreage is broken into a residential component and commercial component. Currently planned are 300 acres or 3,300,000 square feet of commercial based on 11,000 square feet per acre. The residential component acreage is therefore, 3,851 acres (4,151 acres - 300 acres). The density is based on the stated three (3) dwelling units per acre. Therefore the residential area shall equal 3,851 acres times three (3) units per acre or 11,553 units. The Development Agreement provides for the conversion of fifty (50) percent of the commercial area to residential use. Conversely, the Development Agreement provides for the conversion of residential units to commercial acreage of one (1) commercial acre (11,000 square feet) for three (3) residential units. The total commercial acreage is 300 acres or 3,300,000 square feet of which up to fifty (50) percent could be converted to residential use. Therefore 150 acres or 1,650,000 square feet of commercial could become residential, for a total conversion to 450 units (150 acres x 3



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units per acre). This would bring the total possible units to 12,003 units (11,553 + 450).

As to consideration for a breakdown of the commercial uses or other land use categories within each District that level of specificity is not available in this Conceptual stage. But, a general characteristic might be that development within the residential areas that may include clubs, activity areas, river club, community marina facilities and the like, not open to the general public would not be considered commercial. These areas as they relate to private community activity are not part of the commercial square footage. If, however, any commercial, waterfront activity, club open to membership to the general public, offices not related to community sales or services, retail and service business not within the community - accessible to the general public shall come out of the commercial square footage. This would include civic, school, fire and police services and considered part of the land provided in the Development Agreement."

Overall residential density shall include both attached and detached Single Family Residential. Detached guesthouse, "mother-in-law" apartments and garage apartments (for rent or not) on the same lot with a single family unit will be allowed as one structure per lot and the second structure will not be counted against the density cap, but shall be counted as 0.5 units for purposes of Development Fees. Fractional Ownership / Time Shares and Condo / Hotels count as 0.5 residential units for purposes of density. Condo / Hotels are defined as primarily transient, short term lodging facilities which have units owned by individuals / entities and may be under some type of common management / leasing program.

Multi-Family Residential shall have a density of 0.75 units per multi-family unit. Multi-Family in this case shall include apartments, condominiums, cottage use, under Single Family for further clarification) and other Multi-Family dwelling as defined under the Residential Use Categories, Item D of the City of Beaufort UDO Section 5.2 Use Categories.

At the time of Development Plan Review, the Commercial Uses as described in the various Districts other than within the Commercial District shall not be restricted except as each use must be in compliance with stormwater, parking, buffering, landscaping and other site design requirements of the UDO and PUD are met. All commercial development shall be subject to the provisions of the City of Beaufort UDO unless specifically exempted or modified by this document.

With future Development Plan submissions the individual Districts as defined herein land use area shall not exceed the following densities in any one district area:

<u>Land Use</u>	<u>Maximum Density*</u>
Multi-Family	16 Units/Acre
Single Family Attached	8 Units/Acre
Single Family Detached	4 Units/Acre



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\*The overall density for the PUD will not change - these represent density maximums within a sub-district.



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The Land Use Types, Acreage and Dwelling Units all tabulated in the following table:

Land Use	Acres (AC)	% by District
Village / Commercial District (VC)	± 249	6.25
Village / Marina Residential Use District (VR)	± 208	5.25
Traditional Neighborhood District (TN)	± 158	4.5
Golf Course / Lake Residential District (RG)	± 2325	56
Residential District (RES)	± 996	23
Community Riverfront Boatyard District (BY)	± 33	.08
Recreation/Equestrian / Trails / Activity Center	± 182	4.2
Total Acreage	± 4151	100

The Applicant has intentions of providing distinctive architectural and landscape architecture design through the development of Community Covenants that provide for a uniformity of scale, form, color, and architectural character while providing restrictions on aspects that may be of detriment to the community as a whole. The Applicant intends to integrate both a vehicular circulation system with pedestrian, leisure trails, bicycle trails and street side sidewalks for connecting neighborhoods to commercial, to offices, to marsh and riverfront lineal park and residential areas. Where appropriate and possible these systems may be separated, but a system may include routing along secondary roadways.



Throughout the Conceptual Master Plan / PUD it is the desire to develop the land with the natural characteristics and cultural history as an important foundation. It is anticipated that the existing wetland areas impacts will be avoided wherever possible. These wetland areas shall, where possible and permissible, continue to be used for drainage filtration systems, natural buffers between land uses, recreational uses (interpretive trails, bird watching areas, leisure trails, etc) and as habitat for important flora and fauna species.

The Property may be subjected to a future Traffic Impact Analysis ordinance when development plans are submitted for review, if the ordinance is adopted on a city wide basis, with any required mitigation to be those traffic improvements which are required on the site itself, or immediately adjacent to the site involving the interface with public roads. These immediately adjacent mitigation efforts may involve such improvements as acceleration and deceleration lanes and pro-rata contributions toward traffic signals or other adjacent intersection improvements. The Owner shall not be required to make general improvements to public roads and highways, other than those mentioned previously for near site mitigation, provided that the property may be subjected to contributions which are made pursuant to a Traffic Impact Fee ordinance, which is adopted and applied on a city wide basis.



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The roadway system shows the major road systems and will be supplemented with other secondary roads. These collector streets, which are illustrated, conceptually, on the Conceptual Master Plan, would be designed with the intent to carry heavier traffic capacities and leisure / bicycle trails by providing larger rights-of-way. These boulevards, when designed, may provide the future capacity necessary to sustain the traffic generated by the PUD community. As can be seen by showing the road way system, consideration has been given to disperse and calm traffic patterns. Although the streets within the PUD are to be designed to the standards and requirements mandated by the City of Beaufort, Unified Development Ordinance, streets, sidewalks, pathways and bikeway standards they will be owned and maintained by a Property Owners Association (POA), the POA may, at some future date, offer the common areas, pedestrian ways, utilities and streets for public dedication.



C. Permitted Land Uses Terminology and Density Interpretations:

The terms and conditions of this Development Plan shall be as defined in the Conceptual Master Plan / PUD and/or the Development Agreement with the City of Beaufort and the City of Beaufort Unified Development Ordinance included herein as an Attachment. These documents in total will apply to the interpretation of this Land Use Plan. The Conceptual Master Plan / PUD provides the approximate location and land use proposed for the area, each area is detailed in the descriptions which follow:

1. Village / Commercial District:

The Village / Commercial District allows for the development of concentrated commercial and office nodes located on primary vehicular routes and associated with other adjacent similar uses. These uses would be primarily related to community commerce, with some areas serving the region as well. Its purpose is for continuance of compatible and economical health environment for business financial services and professional uses which benefit from being located in close proximity to each other. Uses will also provide a full range of retail, service and professional / office uses that serve the adjacent residential neighborhoods, both vehicular and via pedestrian ways.



a. Permitted Uses:

- (1) Establishments engaged in selling goods or merchandise to the general public for personal or household consumption (e.g. shopping centers, supermarkets, department stores, convenience stores, gas stations, etc.) and rendering services incidental to the sale of such goods; establishments providing services or



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entertainment to the general public including, but not limited to, eating and drinking establishments, personal service and repair business and entertainment establishments (e.g. movie theaters, bowling alleys, etc); medical and health facilities/offices, office buildings and/or office for government, business, professional or general purposes, unless specifically prohibited under Prohibited Uses below.

- (2) Uses allowed in Commercial Zoning District as discussed under Article 5.2 Special Exceptions of the City of Beaufort UDO, 9/1/2005, both by-right and conditional uses, unless modified or specifically prohibited as noted below. This shall include all Uses in the Non-Residential Use shown on the chart of the Use Table Section 5.1 under NC, OC, CC, GC and HC.
- (3) Multi-Family
- (4) Schools, Open Space and Parks
- (5) Community Recreation
- (6) Maintenance and Utility Area
- (7) Government Facilities / Civic (police, fire and government services)
- (8) All Uses in Traditional Neighborhood District
- (9) Hotel / Inn
- (10) Bed and Breakfast (except in HC, above)
- (11) Recreational Vehicle Parks limited to self contained, motorized vehicles with a minimum length of twenty-six (26) feet (except NC, OC & CC)
- (12) Agricultural / Silviculture and current Land Use (see Development Agreement)
- (13) Water Oriented Facilities
- (14) Telecommunication towers
- (15) Roadway systems
- (16) On / Off street parking
- (17) Residential Use is allowed, such as, apartments and condominiums above commercial. A shared parking ratio shall be permitted as part of this Use. This shared parking shall be established with the Zoning Administrator at the Development Permit Phase using applied industry standards substantiated by the Developer.

b. Prohibited Uses:

The following commercial uses are specifically prohibited:

- (1) Junkyards or auto salvage yards
- (2) Campground and Recreational Vehicle Parks (not allowed in NC, OC & CC Non-Residential Uses)
- (3) Video Poker Parlors
- (4) Amusement Parks
- (5) Go-Cart Racing Facilities
- (6) Commercial Race Tracks / Facilities using automobiles, horses or dogs
- (7) Roller coasters



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- (8) Sexually oriented business
- (9) Body Piercing or Tattoo Facilities
- (10) Manufactured and Wheeled In Housing (except as approved by the Covenants and Restrictions).

2. Village / Marina Residential District:

This Village / Marina District provides for a more pedestrian friendly and residential scale of development. This District encourages continuance of a healthy



environment for commercial uses that are located and sized to provide the adjacent residential areas with retail and service, all the while promoting a mixture of housing, office and work place proximity that helps to promote pedestrian precinct and a community focal point. This in effect would promote a more village center with less focus on a parking lot atmosphere typical to the highway strip centers. A central village mall would be encouraged with the more European approach to the village with business or office at the second level with residential above. This can be experienced locally in the locations such as Harbour Town, Shelter

Cove, and Downtown Charleston. This tapestry of architecture will become the walls for tree shaded pedestrian corridors that are accented with a series of “agora”

assides which break from the pedestrian corridor with these business nodes accented with floral and fountain. A place to stroll and find a welcome rest in a quiet corner or enjoy a cool drink or dessert at a sidewalk café. These “agora” spaces could be designed to provide for sales carts and display areas where artisans and local farmers might sell their crafts and fresh produce. These areas could also provide locations for entertainers to have outdoor



entertainment promoting a festive atmosphere for fetes. The idea of being able to walk to a mixture of shops, restaurants, newspaper stands, coffee shops and open air markets within a mostly car free neighborhoods and work centers delivers the highest quality of life and adds great variety and vitality to a community. Jane Jacobs calls this “an intimate and close grained diversity of uses that give each other constant mutual support, both economically and socially”. The Village / Marina Residential District will carry some of the uses associated with the Village Commercial District but with some modifications to the potential scale of development.

a. Permitted Uses (See Article 5.0 of the City of Beaufort UDO for reference to uses)

- (1) Establishments engaged in selling goods or merchandise to the general public for personal or household and rendering services incidental to the sale of such goods; establishments providing services or entertainment to the general public including, but not limited to, eating and drinking establishments, personal service and



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repair business and entertainment establishments etc.); medical and health Facilities / offices, office buildings and/or office for government, business, professional or general purposes, unless specifically prohibited under Prohibited Uses below.

- (2) All Uses in Residential, Household living, Section 5.2.D of the City of Beaufort UDO. This shall include the live above residential use, for residential above Commercial Uses.
- (3) All Non-Residential Uses, including permitted and conditional use as are permitted in Section "E" and "F", and as defined under Section 5.1: Use Tables for NC, OC, CC and GC.
- (4) Hotel and Condo / Hotels (short term rentals including hotels and the investor owned hotel (condo / hotel).
- (5) Restaurants with drive through.
- (6) Parks and Open Space (drainage areas and ponds).
- (7) Roadway Systems.
- (8) Maintenance and Utility Areas.
- (9) Current Agricultural / Silviculture and Other Uses (See Development Agreement for Uses).
- (10) Water Oriented Facilities.
- (11) Telecommunication Towers.
- (12) Roads and Pedestrian Trails.
- (13) All Uses in Traditional Neighborhood District.
- (14) Community Recreation.
- (15) Passenger Terminals.
- (16) Marina Facilities.
- (17) All Uses in Residential Uses Section 5.2.D of the City of Beaufort UDO, Household Living Permitted or Conditional except as listed as Prohibited below).

b. Prohibited Uses:

- (1) All Uses prohibited in Village / Commercial District.
- (2) Radio and/or Television Stations.
- (3) Highway Commercial Uses.

3. Traditional Neighborhood District:

This District is designed to develop traditional neighborhood types typified by the culture, value and traditions exemplified in the New Urbanism movement. The principles of this include walkability, connectivity, mixed use and diversity, mixed housing, quality architecture and urban design, traditional neighborhood structures, increased density, smart transportation, sustainability, and quality of life. These qualities or principles provide a healthier lifestyle with a walking friendly environment, close



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proximity to sidewalks, trails, parks, etc. The style of living provides for opportunities to get to know your neighbors and Town, more freedom and independence for all age groups. Kids and adults can walk or bike to schools or shops.

- a. Permitted Uses (see Article 5, City of Beaufort UDO):
- (1) All Uses in Residential Uses Section 5.2.d of the City of Beaufort UDO, Household Living permitted or conditional except as listed as prohibited below.
  - (2) Governmental / Civic (police, fire and government services)
  - (3) Schools, Parks and Open Space
  - (4) Religious Institutions
  - (5) Maintenance and Utilities
  - (6) Community Restaurant with seating
  - (7) Agricultural and Silvicultural Uses (see Development Agreement for definition).
  - (8) Office
  - (9) Overnight Guest Accommodations
  - (10) Banks (drive through ATM - No drive through tellers)
  - (11) Small Bed and Breakfast (1 to 5 guest rooms)
  - (12) Retail Sales
    - (a) home and business goods (convenience items)
    - (b) books
    - (c) candy, cigars, hobby supplies
    - (d) drugs / pharmacy (no drive through)
    - (e) florist
    - (f) gifts
    - (g) liquor
    - (h) magazines, newspapers and stationary
    - (i) food sales
  - (13) Retail Services
    - (a) medical
    - (b) bakery
    - (c) barber / beauty shop
    - (d) seamstress, tailor
    - (e) laundry / dry cleaner
    - (f) photo studios, copier, print
    - (g) shoe repair
    - (h) repairs - clock, bicycle, watches, shoes, office equipment
  - (14) Community Recreation
  - (15) On / Off street parking
- b. Prohibited Uses (See Article 5, City of Beaufort UDO)
- (1) Manufactured Housing
  - (2) Live Aboard Boats



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- (3) Group Dwellings
- (4) All Retail Uses not defined above
- (5) Home Occupation
- (6) All Uses as prohibited in Village / Marina Residential District
- (7) Drive through restaurants (excluding pick up window restaurant)

4. Golf Course / Lake Residential District:

This District consists of residential development with lakes and/or new golf course(s) amenity as its major community focus. This community type is familiar to Beaufort County in that the communities with this prototype are common. These communities would resemble such communities as Belfair, Berkeley Hall, Hampton Hall, Hampton Lakes, Moss Creek and Colleton River. These communities may or may not be gated. This decision would be left to the market demand and Developer at the time it is presented in the next step of the Planning and Permitting process.

a. Permitted Uses (See Article 5.0, City of Beaufort UDO for definitions and reference)

- (1) All Uses in Residential, Household Living, Section 5.2.D of the UDO with exceptions as listed in Prohibited Uses.
- (2) Golf Course, practice area, golf maintenance, golf cart storage, clubhouse, restaurant / grill, golf pro shop sales, storage and other accessory uses
- (3) Community Recreation - parks, lakes, ponds, fishing, boating, docks, boat ramps, boat storage
- (4) Community lock / inland harbor
- (5) Water Oriented Facilities (includes clubs, hotels and condo hotels)
- (6) All Uses in Traditional Neighborhood District
- (7) Model Home(s) / Sales Offices including temporary construction offices
- (8) Maintenance and Utilities areas
- (9) Schools, Open Space and Parks
- (10) Agricultural and Silviculture Uses (see Development Agreement for Definitions)
- (11) Roads and Pedestrian Trails
- (12) On and Off Street Parking

b. Prohibited Uses

- (1) Manufactured Housing (houses delivered on wheels)
- (2) Live Aboard Boats
- (3) Group Dwellings
- (4) Home Occupation
- (5) All Prohibited Uses in Village / Marina Residential District

5. Residential District:



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This District is an area of somewhat larger lots and more upscale of single family residential. These homes, with an orientation to the marsh views, will have a direct relationship to what may become a River Club on one of the adjacent Islands. The desire is to provide an area of the PUD for those potential purchasers who wish to have a larger home with the possibility of additional living accommodations available or adjacent structure on the home site or residential quarters over garages. These units may be made available to older or younger family members as their place of residence or they may be a rental unit for other households.



- a. Permitted Uses (See Article 5.0 of the City of Beaufort UDO for definitions and references to the uses)
- (1) Community Recreation
  - (2) Schools, Open Space and Parks
  - (3) Single Family Residential
  - (4) All uses in Traditional Neighborhood Residential District
  - (5) Model Home / Sales Center - including temporary construction office
  - (6) Maintenance and Utility Areas
  - (7) Agriculture / Silviculture Use (See Development Agreement)
  - (8) Roads and Pedestrian Trails
  - (9) Water Oriented Facilities
  - (10) Governmental / Civic (police, fire and government services)

6. Community Riverfront / Boatyard District:

This section of the development is totally oriented to the river activities. This area can best be described by the Article 5.2, Paragraph H.2, Water Oriented Facilities of the City of Beaufort UDO. Here it is anticipated a link to the light rail transportation in Village / Commercial area near the railroad with this facility. Here it is anticipated that embarking on and disembarking from boats, ferries and water taxis will occur. The ferry system for the adjacent islands will be facilitated here as well as other ferries and water taxis to other communities up and down river. Accessory uses including boat fueling, pump out facilities, docks, ramps, marina stores, parking areas, boat storage areas, boat service areas, offices and ticket sales. Where permitted by the state and federal agencies this facility would include marinas, docking facilities, dry boat storage facilities, boat ramps, boat sales and facilities for tour boats. A riverfront restaurant and marina equipment sales area is anticipated. Facilities similar to this facility currently exist in Beaufort County on Hilton Head Island (i.e., Schilling's Boat Storage and Broad Creek Marina).



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- a. Permitted Uses (see Article 5.0 of the City of Beaufort UDO for references)
  - (1) Water Oriented Facilities
  - (2) Multi-family Dwellings
  - (3) Live Aboard Boats
  - (4) Cluster Development
  - (5) Zero Lot Line Dwellings
  - (6) Town House Dwellings
  - (7) All Uses in Village / Commercial District
  - (8) Roads and Pedestrian Trails
  - (9) Maintenance and Utility Areas
  - (10) Community Recreation
  - (11) Passenger Terminals
  - (12) Agricultural / Silviculture Use (See Development Agreement)

7. Community Recreation / Equestrian / Trails / Activity Center District:

This District allows for the recreational complexes and amenities within the Conceptual Master Plan / PUD. Land uses may consist of private and semi-private recreation, indoor and outdoor lighted and unlighted recreation facilities, establishments and services which include active and passive sports, entertainment and equestrian facilities, ancillary facilities such as restaurants and shops serving such public recreational facilities.

- a. Permitted Uses: Outdoor Recreational Facilities including but not limited to:
  - (1) Public and/or private golf courses.
  - (2) Golf learning and practice facilities.
  - (3) Golf cart storage barn and maintenance facilities.
  - (4) Swimming pools, pool bath houses and gazebos.
  - (5) Tennis courts.
  - (6) Lawn games such as bocci, croquet, volleyball, etc.
  - (7) Multi-use fields.
  - (8) Playgrounds.
  - (9) Neighborhood parks.
  - (10) Community parks.
  - (11) Leisure trails and bike trails.
  - (12) Other recreational uses:
    - (a) Equestrian Facilities:
    - (b) Barns.
    - (c) Paddocks, stables, riding rinks.
    - (d) Bridle trails.
    - (e) Equestrian learning/teaching facilities.
  - (13) Recreational building including but not limited to uses such as indoor recreation, meeting, assembly, banquet, fitness and hobby space.
  - (14) Accessory buildings.
  - (15) Community offices/administration buildings.
  - (16) Maintenance and storage facilities.



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- (17) Community service facilities which shall not be considered commercial uses and shall not be counted against the overall allowed acreage for commercial uses within the Conceptual Master Plan / PUD including:
  - (a) Public and/or private clubhouses.
  - (b) Pro shops, snack bars, grills, restaurants and lounges associated with clubhouses.
  - (c) Ancillary uses associated with community recreation facilities such as craft centers, fitness centers, etc.
  - (d) Water Oriented Facilities;
- (18) Agricultural and Silviculture Uses (See Development Agreement)

D. Other Definitions of the Land Uses within the Districts:

- 1. Dwelling Unit Calculations for the PUD:
  - a. Dwelling Units Per Acre (DU/AC):

A calculation which is based on the total residential units of a parcel or tract that may be brought forward at Development Permit Review. Each tract or parcel density shall be calculated based on the total acres for the parcel with exceptions to unit totals as follows:

    - (1) Hotel / Condo Hotels / Inns / Bed and Breakfast or Guesthouse Room (including cottage and cottage lock out units) shall be calculated as ½ of a dwelling unit per bedroom;
    - (2) Fractional Ownership Units (interval ownership / timeshare properties) shall equal ½ dwelling unit per unit;
    - (3) Multi-Family Units shall be calculated as 0.75 of a dwelling unit per unit.
  - b. Maximum Dwelling Units per Acre (DW/AC Max):

An indication of the maximum density allowed within any sub-area(s) or project(s) within an identified tract per acre with the following exceptions and clarifications:

    - (1) Hotel / Inn / Bed and Breakfast, Fractional Ownership Units (Interval Ownership / Timesharing Properties) or Guesthouse units shall not have a specified DU/AC maximum but shall meet the minimum required.
    - (2) Maximum Dwelling Units Per Acre for Single Family Attached Residential shall be eight (8) DU/AC maximum - Detached Residential is four (4) DU/AC maximum.
    - (3) Maximum Dwelling Units Per Acre for Multi-Family Residential shall be sixteen (16) DU/AC maximum
- 2. Governmental / Civic:

This designation allows for Governmental and Civic land uses which shall be allowed to occur as a Mixed Use throughout the entire Conceptual Master Plan / PUD. These land uses shall not count against the overall commercial acreage or residential density allowed for the Conceptual Master Plan / PUD.

  - a. Civic, cultural, municipal, governmental, educational (public or private),



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conference centers, research or other similar facilities which may include housing for staff, faculty and professionals. Other uses allowed in this category include student housing and employee dormitories, which count as ½ Dwelling Unit against the Conceptual Master Plan / PUD residential cap Dwelling Units. Housing for staff associated with a specific project will not count against the Conceptual Master Plan / PUD residential cap, provided that the housing is located within the project requiring the staff.

- b. Churches, synagogues, temple and other places of worship provided that such use is housed in a permanent structure.
- c. Cemeteries provided that such use does not include a funeral home or crematorium.
- d. Assisted Living facilities, nursing homes and congregate care facilities.
- e. Public emergency service facilities, library, museum, day care facilities, social / community centers, etc.

3. Hotel / Inn / Condo Hotel / Cottages:

This designation is for hotels, inns, bed and breakfast, guest houses, cottages, divisible Dwelling Units and time sharing properties (Interval Ownership) that consist of building or buildings with guest rooms for sleeping and kitchens and/or



a dining room to provide meals for guests. Divisible Dwelling Units (e.g. lock-out or lock-off units) will be defined using length of stay as a basis and used for sales guests only. Use of lock-outs will be limited to seven (7) days or less. Exceptions may be granted by the Planning Commission. Hotels, Inns, Bed and Breakfasts, Guesthouses and properties shall be considered a Residential Land Use and counted against the overall residential density cap at a rate of ½ DU

per room / key and as such shall not be considered a commercial use. The rooms shall be primarily designed for and occupied by transients. A conference facility may or may not accompany the hotel / inn and may be integral to the hotel / inn or detached. Included in these Uses are a somewhat new concept of condo / hotel which allows a buyer to purchase a hotel unit and either keep the unit off the rental market or place it into a managed rental under the hotel management. Another aspect is cottage units that may be made available for rental to guests or property owners. These units, like the condo / hotels will be owned by investors and either placed on or off the rental pool as managed by the developer / real estate management company.

4. Maintenance Areas:

The maintenance areas will contain the facilities, tools and equipment necessary to maintain the common properties and recreational facilities within the Conceptual Master Plan / PUD. These facilities may be congregated on a central site or located in separate convenient sites for different services such as general



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community maintenance, golf course maintenance, recreation area maintenance or individual property regime maintenance.

- a. Permitted Uses include:
- (1) Vehicle maintenance.
  - (2) Storage of vehicles and parts, boats, recreational vehicles and resident storage units.
  - (3) Fuel storage.
  - (4) Shops for woodwork, metalwork and painting.
  - (5) Greenhouses, plant propagation areas and holding yards.
  - (6) Mulching facility and mulch storage.
  - (7) Storage of chemicals and bulk materials as permitted by law.
  - (8) Offices associated with community and maintenance.

5. Model Home / Sales Center:

This designation allows for the model homes and office / administrative facilities associated with the primary sale of residential property and commercial property. The facility and/or facilities may be permanent in nature with the model homes or building(s) being sold as single family residences or office / commercial space in the future or the facility and/or facilities may be relocated from time to time during the period of development to meet the needs of development phasing.

6. Multi-Family Residential:

This designation is defined as a building or series of buildings on the same lot or portion thereof used or designed, leased, owned for the potential as a rented group of dwellings for three (3) or more families or individuals living independently of each other, with the number of units not exceeding sixteen (16) units per acre. Each unit shall represent 0.75 units for calculation of density for the lot or parcel as well as the density for the PUD. This definition shall include but is not limited to rooms within a residential unit for rent, apartments, apartment hotels, fraternity houses, sorority houses, YMCA, YWCA and the like.

Lot sizes referenced in Attachment 2 of this document is a minimum lot size for this use, lot sizes will vary. The allocation of density as specified allows for the clustering of development to optimize the protection of natural features and maximize open space. This does not guarantee that all property within individual planning areas can be developed at the identified maximum. Density may be transferred between the planning tracts.

7. Open Space

The Open Space requirement for the Conceptual Master Plan / PUD is a minimum of twenty (20%) percent of the gross area of the total acreage of the property. The open space shall be calculated for the PUD are based on the total PUD and not on a site specific basis as each development phase is brought forward for



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consideration. The UDO Ordinance Section 7.4 - Planned Unit Development (PUD) Standards require that fifty (50%) percent of the open space be improved for passive and/or active recreational use. The open space which shall qualify for this requirement shall be considered for the total PUD and not on a specific site basis. The open space which qualifies shall be as follows:

- a. Road rights-of-way which include trails, sidewalks, bike paths and the like.
- b. Roadside and median tree parks.
- c. Landscape areas between land uses.
- d. Golf courses and practice areas (active and passive play areas).
- e. Ponds, lagoons and drainage easements.
- f. Utility rights-of-way or easements.
- g. Freshwater and Kings Grant Saltwater non-jurisdictional and jurisdictional wetlands.
- h. Wetland buffers and perimeter buffers.
- i. Trails, bicycle and pedestrian (adjacent spaces).
- j. Active and passive park areas (including ancillary facilities).
- k. Indoor and outdoor pool, water splash parks (including decks).
- l. Tennis facilities (including ancillary facilities)
- m. Playground facilities.
- n. Fishing, crabbing and boat docks.
- o. Community garden plots.
- p. Flower and greenhouse production facilities.
- q. Other such recreational amenities.

Additionally, the developers of the private recreational communities within the Conceptual Master Plan / PUD shall be encouraged to develop internal recreational facilities as part of the open space and recreational requirement. The internal recreational facilities shall be for the use and enjoyment by the property owners and their guests. The private residential communities shall be encouraged to allow access to others such as neighboring school teams, soccer leagues, softball leagues, etc to utilize the recreational facilities.

8. Roads and Access

The Conceptual Master Plan / PUD roads, as shown, are schematic and may be relocated during the submissions of development plan. Final road design and widths of right-of-way shall become more definitive as final residential densities are located and plans for vehicular, pedestrian and bicycle circulation within those communities can be delineated. The Conceptual Master Plan / PUD represents what may become the major road circulation locations, but within the Land Use Designations as the Plan becomes refined these roads will probably change and additional roads for vehicles, as well as, pedestrian and bicycle circulation will evolve and be refined.

It is hoped that as the plans evolve there will be flexibility to mold the roadway system to nature, reducing roadway widths for tree or wetland preservation considerations. It is further understood that roads, bike paths, leisure trails, and



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pedestrian ways shall be allowed to permeate the setbacks and buffers as defined herein, to access properties of the Conceptual Master Plan / PUD. Where these systems impact waters or marshes of the State of South Carolina permitting through OCRM and the other State agencies acting in conjunction with OCRM, the permitting for uses shall be the governing decision on the locations of these matters and the City of Beaufort shall not deny land side access. The design of the land side accesses and the pathways and roads shall adhere to the Best Management Practices (BMP). The ordinance is referenced in the City's UDO Article 8.3 Improvement Requirements, subparagraph B-2 Drainage.

The Conceptual Master Plan / PUD shall provide necessary roadway, bicycle, leisure and pedestrian trails and/or sidewalks to and between commercial, residential and recreational uses where feasible and practical. There are areas or districts within the Conceptual Master Plan / PUD which, in whole or in part, may be developed as private with access restricted appropriately at the Applicant's / Developer's discretion.

The Conceptual Master Plan / PUD shall have roads designed to the standards as detailed in the Beaufort County Zoning and Development Standards Ordinance, Article XIII, Subdivision and Land Development Standards, Section 106-2797, Street Design Standards or as modified in Attachment 2 or as may be modified by the Developer at the time of the Development Permit Review. It is further understood that modifications due to specific soil conditions, environmental impact considerations, physical constraints and/or design parameters.

The Conceptual Master Plan / PUD shall provide roadway linkage of major land use areas including internal linkage to commercial, residential and recreational uses. Certain areas either whole or in part may be developed as private areas with access restricted appropriately at the Developer's discretion.

Roads will be designed to reduce rights-of-way when environmental and tree preservation considerations would be improved. The developers of the property shall be encouraged to design roads to protect water quality and preservation of trees.

All roads, bike paths, leisure trails and pedestrian pathways shall be allowed to penetrate the setbacks from the OCRM Critical Line to access the property, provided the stormwater is treated in accordance with Best Management Practice Standards.

9. **Setbacks and Buffers:**

Setbacks and buffers shall meet the minimum requirements established in this Conceptual Master Plan / PUD documents and shall apply only to the perimeter of the PUD boundaries, however, buffers related to PUD internal wetland mitigation buffers or setbacks shall apply in accordance with the Mitigation Agreement reached with the applicable Agency or by law.



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- a. Perimeter Setback and Buffers at Adjacent Creeks, Rivers, Internal Water Systems and Marsh:
- (1) Setbacks and buffers from the OCRM Critical Line shall be fifty (50) feet for Single Family Residential structures;
  - (2) Setbacks from the OCRM Critical Line shall be one hundred (100) feet for Multi-Family and Non-Residential structures, buffers shall be fifty (50) feet, other than areas noted below.
  - (3) Where associated with the waterfront village areas and Community Riverfront Boatyard District and at all waterfront development in the internal water system (non-jurisdictional) either residential, non-residential or non-residential with residential above their shall be no buffer requirements and setbacks shall vary to a minimum of twenty-five (25) feet with an average of forty (40) feet. This can only be approved with the development of a drainage system which captures runoff and directs it to an internal drainage system which meets BMP standards as established in the City's UDO resulting in a filtered runoff from the system.
  - (4) Setbacks and buffers for Golf Course Active Play Areas shall be fifty (50) feet. Active Play shall be those areas which are mowed and/or chemically treated daily, sand traps and accessory (non-habitable) structures and facilities such as storage sheds and ball wash machines. The Golf Course will be designed to drain away from critical areas and provide treatment (stormwater management BMPs) of stormwater prior to discharge. Treatment will be in accordance with Stormwater Management BMPs.
  - (5) Other than item 3 above selective pruning shall be allowed within the buffer and setbacks to provide views to the marsh and rivers from the Golf Course and residences.
  - (6) If runoff from the property flows toward the critical line, without being diverted and/or treated through engineered BMPs, then two-thirds (2/3) of the total buffer area shall remain in a naturally vegetated state, except as allowed below, in order to maintain the water quality function of the buffer.
  - (7) Other than in 3. above, each property owner is allowed to selective clear one third (1/3) of the total area, providing no more than a maximum contiguous area measuring seventy-five (75) feet in a horizontal distance parallel to the Critical Line.
    - (a) Selective clearing means: the clearing of tall trees except:
      - i) evergreen trees 16" or greater DBH,
      - ii) hardwood trees 8" or greater DBH
      - iii) Dogwood, redbud and Magnolia trees 4" or greater DBH.
      - iv) Selective landscaping means that the understory and groundcover can be replaced only with landscape vegetation, including grass, that requires no chemical treatment for survival or maintenance. In addition, non-permanent structures, (such as



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gazebos, trellises and decks) can be located with the one third (1/3) selectively cleared area if setback thirty-five (35) feet from the Critical Line.

- b. Perimeter Setback and Buffer (other than Highway 21 or waterfront):
- (1) All areas of the PUD not adjacent to the Critical Line or Highway 21 shall have a perimeter setback and buffer of twenty-five (25) feet.
  - (2) Buffers shall be fifteen (15) feet. Within these buffers existing trees and understory vegetation shall be retained wherever possible. If sufficient natural vegetation does not exist, plant back requirements shall be determined at the time of final development plan application. Required buffer planting shall be determined and installed on a phase by phase basis.
- c. Perimeter Buffer and Setbacks at Highway 21:
- (1) Setbacks and buffers shall be as stipulated in the Design District Standards which is fifteen (15) feet with no build to line. The side and rear setbacks shall conform to the PUD Standards for setbacks whichever is less.
  - (2) Buffer and landscape requirements in the Design District shall conform to the District requirements.
- d. General notes on development permitted within the buffers other than listed above:
- (1) Pedestrian and/or vehicular access ways to docks, fishing/crabbing piers, boat landings, other approved water/marsh uses, provided that only permeable or semi-permeable paving materials are used for vehicular access ways;
  - (2) That portion of docks, fishing piers, boat landings, or other approved water/marsh uses that by design must tie into the high ground adjacent to the marsh/water;
  - (3) Use of grass swales or other BMPs practices rather than drainage pipes are required unless a drainage pipe is an outfall from a detention, retention or filtration system;
  - (4) Approved flood control and erosion control devices and other activities related to soil and water conservation. Proper installation and maintenance is required;
  - (5) All utility lines provided that such lines are buried underground within the buffer and the area is replanted with vegetation. This requirement may be waved by the Zoning Administrator;
  - (6) Playground equipment, benches, picnic tables and other similar furniture related to recreation or incidental residential use provided the ground surface remains permeable;
  - (7) Roads leading to bridges or causeways that cross the waterway provided the road are configured to minimize disturbance into the buffer, provide all shoulders are grassed or runoff is effectively diverted away from the Critical line, i.e. curb and gutter and treated



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prior to discharge into adjacent water.

- (8) All structures and the like permitted through DHEC-OCRM Critical Area Permitting requirements shall be permitted with the buffer areas.

10. Silviculture:

This designation allows for continuation of managed forestry. Silviculture includes the practice of planting, culture and harvesting of trees for the purpose of producing wood fiber and timber. Generally accepted methods for forest management are permitted, including wildlife management, construction and use of forest roads and practices to promote health and growth of trees. This management shall include controlled burns. See the Development Agreement for further consideration of this practice. Silviculture uses may continue up to the time a subdivision plat is recorded.

11. Wetlands:

This designation allows the following uses within wetlands. Freshwater wetlands and saltwater wetlands on the property shall be those areas over which the U. S. Army Corps of Engineers claims 404 jurisdiction for freshwater wetlands and OCRM claims jurisdiction for saltwater wetlands. The use of these lands is regulated by the U. S. Army Corps of Engineers (USACOE) and the South Carolina Department of Health and Environmental Control Office of Ocean and Coastal Resource Management (SCDHEC / OCRM), and unless restricted via a future Memorandum of Agreement (MOA) to the contrary, the following are Permitted Uses:

- a. Open space and buffers.
- b. Conservation areas.
- c. Activities in all areas as permitted by the U. S. Army Corps of Engineers and the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management.
- d. Disposal of reclaimed water as permitted by SCDHEC.
- e. Storm water control and management.
- f. Boardwalks, trails, bridges and other permitted structures.
- g. Game Management.
- h. Silviculture.
- i. Causeways for road crossings, trails or others as permitted by the Agencies listed above.

12. Utilities:

- a. This designation allows for utility service to serve the planning tracts of the Conceptual Master Plan / PUD. The following land uses shall be allowed:
  - (1) Potable water supply and distribution.
  - (2) Wastewater collection, treatment and disposal.



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- (3) Stormwater collection, treatment and detention.
  - (4) Irrigation.
  - (5) Communication towers.
  - (6) Satellite antennas.
  - (7) Cable television facilities.
  - (8) Telephone facilities.
  - (9) Power transmission and distribution.
  - (10) Broad band multi-use transmission lines.
  - (11) Fiber optic lines.
- b. Certain community wide infrastructure is required for the development of any large, master planned community. This infrastructure may include, but is not limited to, the following:
- (1) Arterial streets and primary access roads.
  - (2) Water supply.
  - (3) Wastewater Treatment and Effluent disposal.
  - (4) Power sub-stations.
  - (5) Central telephone facilities.
  - (6) Storm water Management lagoons.
  - (7) Natural gas supply.
  - (8) Irrigation.

In the case of this Conceptual Master Plan / PUD, the community wide infrastructure may serve more than one planning tract. Infrastructure serving the community (on-site and off-site) is exempt from the Development Plan approval process. Infrastructure projects must receive a City of Beaufort Development Permit prior to construction, in accordance with the section of the PUD ordinance describing Development Permits.

13. Single Family Residential:

This designation allows for the development of single family residential units, up to a maximum of eight (8) units per acre on a site specific basis. Single Family Residential consists of attached or detached residential. Modular homes are not considered to be mobile homes and will be treated as single family housing. Product mix may include full size lots, attached zero lot line, patio homes sites and cottages. Product design shall be governed by the Architectural Design Standards as established and governed by the Community Covenants and Restrictions. Within the development, the market may warrant the development of a cottage area. These cottages may be used to house guests of the property owners or be utilized by property owners who may be wishing to stay in the development while awaiting the construction of their home or visiting. These cottages shall be considered single family, attached or detached and these single family cottages may include "lock out" units. This single family unit may be leased for short term or long term rental. Ownership may be via a fee simple lot or as a condominium. The cottage area may be developed with no minimum lot size and shall deviate from the minimum lot size stipulated under the Residential District Standards,



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Article 6.1 of the City of Beaufort UDO as modified in Attachment 2 of this PUD document. Because of the nature of the cottage units, no minimum street frontage shall be applicable in the cottage areas. Cottages may be developed on a site specific basis with environmental concerns being the primary constraint. When cottages are not "stick built" but modular construction the same standards as established for other areas shall be applicable.

The Architectural Guidelines as part of the Covenants and Restrictions shall govern the standards for design for all single family residences. Such standards shall also control other site constraints such as, but not limited to, the following:

- a. Screened trash service collection areas.
- b. Boats and recreational vehicles within communities will be stored in designated and screened areas per the covenants.
- c. Non-functioning vehicles will not be permitted .
- d. Paved access and circulation roads.
- e. Paved driveways and home pads.
- f. Covenants and declarations regarding landscaping, setbacks, buffers, out-buildings, maintenance buildings and yard appurtenance, such as clotheslines and recreation items.
- g. Common area amenities.
- h. Architectural Guidelines and Standards.

The allocation of density as specified allows for the clustering of development to optimize the protection of natural features and maximize open space. This does not guarantee that all property within individual planning areas can be developed at the identified maximum.

Lot sizes may range from the square footage of the foundation of cottage type product to two (2) acres or larger single family lots. Other than the cottage areas, lot minimums shall be in accordance with the standards established in the Article 6.1, Residential District Standards, with modifications under Attachment 2 of this PUD, City of Beaufort UDO.

As long as the overall density for the single family residential areas is not exceeded and the overall density for the PUD is not exceeded density transfers are permitted within the PUD.

Specific Performance Standards for this district may be modified to meet specific site conditions through the approval of the Zoning Administrator at the time of Development Plan submission and permitting.



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**Attachment 2  
Modifications to City of Beaufort UDO  
Articles 3.7, 5.1, 5.2, 6, 7, 8, 9, 10, 11 and Index and Appendix  
and  
Beaufort County ZDSO Article XIII, Section 106-2797 Street Design Standards**

The development standards for the Clarendon Farms Conceptual Master Plan / PUD shall be in accordance with the City of Beaufort Unified Development Ordinance (UDO) adopted January 28, 2003 and revised September 1, 2005 and as obtained on October 28, 2005 from the City Planning Department. Architectural Guidelines and Restrictive Covenants will set standards for all design and construction materials and will meet or exceed the City of Beaufort Unified Development Ordinance adopted January 28, 2003 and revised September 1, 2005 and as obtained on October 28, 2005 from the City Planning Department as attached and referenced herein as Attachment 1 of this document.

The Development Standards for the Clarendon Farms Conceptual Master Plan / PUD will meet or exceed the requirements of Articles 3.7, 5.2, 6, 7, 8, 9, 10 and 11 of the UDO, as of November 22, 2005, with certain modifications as enumerated in this Attachment 2. The Site Design and Development Standards proposed herein and referenced to the UDO as found in Attachment 1 will supersede the standards requirements outlined in the UDO.

The Development Standards for the Clarendon Farms Conceptual Master Plan / PUD shall also be in accordance with the Beaufort County Street Design Standards as provided as part of Attachment 1 to this document. The standard for Street Design for the PUD shall meet or exceed the standards of Section 106-2797 of the Beaufort County Zoning and Development Standards with certain modifications as enumerated in this Attachment 2. These standards shall supersede the standards provided in the ZDSO of Beaufort County.

**Modifications to UDO as follows:**

**Article 3      Development Review Procedures**

**Section 3.7   Planned Unit Development (PUD)**

Item J. Expiration of Approval - Delete in its entirety and refer to the Conceptual Master Plan PUD Development Agreement.

**Article 5      Use Regulations**

**Section 5.1   Use Table**

Add the following:

"D.      The Uses allowed within the Conceptual Master Plan PUD are identified by specific reference in each Land Use District. See Section I and II for the detailed Use Categories."

**Section 5.2   Use Categories**

Subparagraph H. Other Use Categories

Item 2. Water Oriented Facilities:



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Just under the heading and before Item A, add the following:

"All construction related to docks, ramps, water dependent buildings, railings, color, size, bulkhead design and type, rip-rap, and erosion control devices shall be controlled and governed by the Guidelines, Covenants adopted by the Applicant / Developer of the adjacent property and the requirements of South Carolina Department of Health and Environmental Control Division of Ocean and Coastal Resource Management (OCRM). This requirement and ordinance issue, here state, supersedes any other rule, regulation, policy or other requirements related to docks, ramps, water dependent buildings, railings, color, size, bulkhead design and type, rip-rap and erosion control devices. Any City Ordinance requirements in conflict with either or both the Covenant or OCRM ruling on the matter shall not apply to this PUD."

**Article 6.1 Residential District Standards**

- A. Residential Development Standards: - Delete entire section A. and add the following:

Residential lot widths, minimum yard, maximum height shall be established based on the following criteria. All setbacks standards and residential lots shall meet the following minimums:

- A. Single Family Residential: For All Districts which permit Single Family residential uses.
- (1) The designation allows for the construction of single family units both detached and attached. All residential areas must conform to the development standards established in the architectural guidelines and community covenants and restrictions.
  - (2) Where the Development of Fee Simple Condominium sites are developed the minimum lot shall be the size of the building unit and the relationship of that unit may be the surrounding regime of Property Owner property that shall have some relationship to shared access and parking. An example is proposed in the Conceptual Master Plan PUD as a cottage under the Single Family Use definition.
  - (3) The minimum lot size shall be 3000 square feet for single family residential whether attached or detached. The minimum setback shall be 15 feet front yard, 6 feet side yard and three feet rear yard.
  - (4) The maximum height for single family residential structures shall be 35 feet measured from finish grade adjacent to the structure to the eave of the roof. Roof pitch shall be as stipulated in the architectural guidelines established by the architectural covenants established at the Site Plan Review Phase.
  - (5) Multi Family Residential minimum lot size shall be 6,000 square feet with minimum lot width of 60 feet and 60 foot frontage.
  - (6) The maximum density shall be 16 units per acre.
  - (7) Maximum building height for multi-family residential shall be 50 feet as measured from finish grade to the eave of the roof.



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- (8) Reference here is Section 5.4 - Accessory Uses, Article 5 Use Regulations, Item G. "Setback and Other Yard Requirements for Accessory Uses"  
Delete Item G and add the following:  
"All accessory uses operated in structures above ground level, including in-ground or above ground pools shall observe all setbacks as established as follows:
- (1) Water oriented facilities such as docks, marinas, boat houses, etc., which shall be allowed to infringe into required setback areas along shorelines and into rivers, lakes, streams and other waterways.
  - (2) On single family and two family residential lots, the side and rear yard setbacks for non-habitable accessory structures less than 500 square feet in size and 15 feet in height may be reduced to 5 feet.
  - (3) In the Village / Commercial, Village / Marina and Traditional Districts, the side and rear yard setbacks for accessory structures may be reduced to 3 feet.
  - (4) On lots 4,000 square feet and smaller, the side and rear yard setbacks from non-habitable accessory structures less than 500 square feet in size and 15 feet in height may be reduced to 3 feet (height as measured to the eave).
- B. Average Prevailing Setback (Front Yard) (No Change)
- C. MHP Manufactured Home Park District (No Change)

**Article 6.2 Alternative Residential Development Options**

- A. Purpose (No Change)
- B. General (Delete)
- C. Zero Lot Line (No Change)
- B. [sic] Village House (Delete)
- C. [sic] Cluster Development (Delete)
- D. Townhouse (delete Item 4 and Item 6)
- E. Multi-Family Residential (Delete Item 4 - Design Standards and refer to Community Architectural Guidelines.)

**Article 6.3 Non Residential District Standards**

- Nonresidential Development Standards (Delete and add the following):
- A. Non-Residential Development Standards:



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1. Commercial Districts: Village / Commercial (VC), Village Marine (VR), Traditional Neighborhood (TN) and Community Riverfront Boatyard District (BY) District shall have the following required minimums:

Standard	VC District	VR District	TN District	BY District
<b>Lot Dimensions</b>				
Lot Area	4000 SF	4000 SF	2500 SF	4000 SF
Lot Width	25 Feet	25 Feet	25 Feet	50 Feet
<b>Minimum Yard</b>				
Front	10 Feet	10 Feet	3 - 10 Feet	10 Feet
Rear	10 Feet	10 Feet	10 Feet	10 Feet
Side	0 Feet	0 Feet	0 Feet	10 Feet
<b>Maximum Pervious Surface</b>	75%	75%	75%	75%
<b>Maximum Height*</b>	50 Feet	50 Feet	50 Feet	75 Feet

\*Measured from finish grade to the eave

**Article 6.4 Beaufort Historic District Standards (Delete)**

**Article 6.5 Measurement and Exceptions (Delete Items G, H, I, J and K)**

**Article 6.6 Design Districts**

Subparagraph C. Site Design

Item 1. - The second item "b" retention... - delete and add the following:

(sic) "b. Storm drainage shall be designed for the entire Conceptual Master Plan / PUD and on site detention / retention shall not be a site issue in the Design District of Highway 21. If retention or detention ponds are considered in the Design District strict adherence to aesthetic standards will be used and shall be part of the presentation to the City."

Item 2. - Subparagraph c - delete

Item 3. - Setbacks - delete Item B.

**Article 6.7 Air Installation Compatibility Use Zone (No Change)**

**Article 7. General Development Standards**

7.4 Planned Unit Development (PUD) Standards

Item D. General Design Criteria and Development Standards

Subparagraph 4. - Delete and add the following:

"4. Setbacks and buffer requirements for the Conceptual Master Plan / PUD are delineated in detail in Section II-9. Setbacks and Buffers of the PUD."



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Subparagraph 10. - Delete Item "A" and "B" - and replace with the following:  
"a. A minimum of one-half of the open space shall be improved and provided as outlined in Section II, Item 7 of the Conceptual Master Plan / PUD.

**Article 8.2 Subdivision Design Standards (Revise as follows):**

**8.2.A Streets (revised as follows)**

Subparagraph 11. Delete and Add the following:

**11. Sidewalks**

- a. Sidewalks shall be provided throughout the development. The Linear Trail that parallels the river at the mainland and at the island sites will link up with an internal Leisure Trail System through the residential areas. These residential trails will be designed to accommodate an overall trail system which will interconnect a system of trails with various neighborhoods, amenity areas, boatyard area, and the commercial areas. These systems, in conjunction with street side sidewalks that will be included in the commercial areas and traditional neighborhood will provide an alternative mode of travel for children to school, adults to commercial areas and family recreation.
- b. The sidewalks shall be placed as follows in the mixed use, traditional and commercial areas:
- c. delete
- d. delete
- e. delete
- f. delete and replace with the following:  
The PUD area shall develop a trail system that shall link major leisure trails to neighborhood trails. The system will tie neighborhood to other neighborhoods, schools, recreational amenities, parks and commercial areas. The conveyance and construction material may vary due to potential impacts either environmentally or relationship to architectural scale and type. The system shall be provided for review by the Zoning Administrator at the time of Development Plan review."

**8.2.C. Blocks (Delete)**

**Article 9. Nonconformities (No Change)**

**Article 10. Enforcement (No Change)**

**Article 11. Definitions (No Change)**

**Index (No Change - except as non applicable to this PUD)**



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**Appendix A** (No Change - except as non applicable to this PUD)



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Attachment 2-6

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**Modifications to Beaufort County ZDSO Article XIII as follows (note that no other Article of the Beaufort County ZDSO applies to this PUD):**

**Section 106-2797 Street design standards.**

Paragraph (B) General Requirements

Subparagraph (1) - Delete

Subparagraph (2) - Delete

Subparagraph (3) - Delete

Paragraph (C) General Requirements

Subparagraph (6) - Delete



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