

## TOWN COUNCIL

### STAFF REPORT

#### Growth Management Department



<b>MEETING DATE:</b>	July 11, 2023
<b>PROJECT:</b>	Certain Amendments to the Town of Bluffton Code of Ordinances Chapter 23 – Unified Development Ordinance, Including Amendments to Article 3 – Application Process, Sec. 3.2 (General Application Approval Process), Sec. 3.14 (Certificate of Construction Compliance), Sec. 3.17 (Certificate of Appropriateness-Highway Corridor Overlay), Sec. 3.18 (Certificate of Appropriateness-Historic District), Sec. 3.19 (Site Feature-Historic District Permit) and Sec. 3.25 (Designation of Contributing Resources); Article 4 – Zoning Districts, Sec. 4.4.(Conditional Use Standards); Article 5 – Design Standards, Sec. 5.8 (Lot and Building Standards), Sec. 5.11 (Parking), Sec. 5.13 (Signs) and Sec. 5.15 (Old Town Bluffton Historic District); Article 7 - Nonconformities; Article 9 – Definitions and Interpretations, Sec. 9.2 (Defined Terms); Sec. 9.3 (Interpretation of Dimensional Standards); Sec. 9.4.1 (Description of Land Use and Buildings) (First Reading)
<b>PROJECT MANAGER:</b>	Kevin Icard, AICP Director of Growth Management

**INTRODUCTION:** As set forth in Section 3.5.2 of the Unified Development Ordinance (UDO), “an application for a UDO Text Amendment may be initiated by a Town of Bluffton property owner, Town Council, Planning Commission, or the UDO Administrator when public necessity, convenience, State or Federal law, general welfare, new research, or published recommendations on zoning and land development justifies such action.”

**REQUEST:** The UDO Administrator requests Town Council approval of Certain Amendments to the Town of Bluffton’s Municipal Code of Ordinances, Chapter 23, Unified Development Ordinance, including:

Certain Amendments to the Town of Bluffton’s Municipal Code of Ordinances, Chapter 23, Unified Development Ordinance, including Amendments to the Following Sections: Article 3 – Application Process, Sec. 3.2 (General Application Approval Process), Sec. 3.14 (Certificate of Construction Compliance), Sec. 3.17 (Certificate of Appropriateness-Highway Corridor Overlay), Sec. 3.18 (Certificate of Appropriateness-Historic District), Sec. 3.19 (Site Feature-Historic District Permit) and Sec. 3.25 (Designation of Contributing Resources); Article 4 – Zoning Districts, Sec. 4.4.(Conditional Use Standards); Article 5 – Design Standards, Sec. 5.8 (Lot and Building Standards), Sec. 5.11 (Parking), Sec. 5.13 (Signs) and Sec. 5.15 (Old Town Bluffton Historic District); Article 7 - Nonconformities; Article 9 – Definitions and Interpretations, Sec. 9.2 (Defined Terms); Sec. 9.3

(Interpretation of Dimensional Standards); Sec. 9.4.1 (Description of Land Use and Buildings)

**PLANNING COMMISSION RECOMMENDATION:** The proposed amendments were heard by the Planning Commission over a four-month time period (March thru June, 2023). The Planning Commission recommendation for each month follows:

- **March 22, 2023:** The Planning Commission recommended approval, 7-0, of the staff recommendation with the following changes: 1) For the definition of carriage house garage, replace the word "bay" with "door"; 2) For Sheds under 121 square feet, including but not limited to gazebos, such structures are roofed improvements and shall be limited to three per lot and Garden Structures are unroofed improvements; and, 3) Spark arrestors on chimney caps shall be concealed from street view.

With regard to #1, staff recommends that the word "opening" be used in place of "door" as some vehicular bays may not have a door. The intent is to limit the number of garage openings as well as the width of the opening. Use of the word "door" excludes bays without doors and would not support the intent.

- **April 26, 2023:** The Planning Commission recommended approval, 5-0, with the following amendments and requests: 1) Revise Sec. 5.11.3.B. so that required parking spaces be a minimum requirement instead of a maximum requirement; 2) Follow-up with the Planning Commission regarding the reason for allowing compact parking spaces only when 25 or more parking spaces are required; 3) Revise Sec. 5.11.4.A.2. to not allow golf cart parking spaces to count towards the minimum parking requirement; and, 4) Identify how parking calculations resulting in a fraction will be interpreted.

With regard to #4, it has been the longstanding interpretation by Town Staff that any parking calculation resulting in a fractional number, such as 10.25 or 10.75, will require one additional parking space. Therefore, an amendment to the UDO is unnecessary and not included.

- **May 24, 2023:** The Planning Commission recommended approval, 6-0, of the staff recommendation without any amendments.
- **June 28, 2023:** The Planning Commission recommended approval, 7-0, of the staff recommendation with two additional amendments suggested by staff at the Commission meeting to: 1) Exempt real estate/leading, construction project and campaign temporary signs from the Sign Permit requirement (this is a correction); and, 2) Exempt Street Naming and Minor Subdivision Amendment applications associated with an active Development Plan from the public notification requirement.

**BACKGROUND:** From time to time, amendments to the UDO are necessary to address insufficient procedural processes and standards or that may allow development that is inconsistent with plans such as the Comprehensive Plan or Old Town Master Plan. These amendments also support the FY2023-2024 Strategic Plan Community Quality of Life focus area to assess the UDO to make any necessary amendments.

### **Amendments from March 22**

Below are highlights of proposed amendments that relate to both processes and standards in Old Town Bluffton Historic District. Prior to the Planning Commission recommendation, the Historic Preservation Commission discussed these amendments. Per the UDO, HPC is not charged with providing a recommendation to the Planning Commission regarding text amendments but wishes to be made aware of preservation-related amendments and provide comment.

- **Certificate of Appropriateness – Historic District (Sec. 3.18):** A COFA-HD is required for certain activities within Old Town Bluffton Historic District. The proposed amendments to this section identify those activities more specifically than presently exists, as well as the review processes and criteria to be applied to each activity. Activities include: New Construction, Alterations, Relocation and Demolition of a structure. For the latter three, procedures and criteria are provided for both contributing and non-contributing structures (i.e., whether the structure contributes historically to the district or not). These amendments will streamline the COFA-HD review process and will be supplemented by guidelines for relocation and demolition, which will be presented to Town Council for adoption by resolution. The guidelines will include supplemental information, such as documentation of a building to be provided to the Town before relocation and demolition, and how salvaged historic components are to be identified and stored.
- **Designation of Contributing Resources (Sec. 3.25):** The UDO includes a formal process for listing a structure, object or site as a contributing resource to the Old Town Bluffton Historic District. However, it does not include a process for removing the designation. Reasons for the removal may relate to an absence of those elements that were applied at the time of designation, or because it is desired by the property owner.
- **Accessory Structures: Carriage House Building Type, Sheds and Garden Structures (Secs. 3.19, 5.15.5 and 9.2):** Presently, the UDO is silent regarding accessory structures that are between 121 square feet and 249 square feet. Any accessory structure less than 121 square feet is a “garden structure,” and any accessory structure greater than 249 square feet is a “carriage house” building type (which could be a stand-alone accessory dwelling, garage or combination thereof). The proposed amendments would close this gap, including providing related and necessary definitions. Amendments to the Carriage House building type are also proposed to update its characteristics. UDO sections to be amended include: 3.19 (Site

Feature Historic District Permit); 5.15.5 (Old Town Bluffton Historic District, General Standards, various sub-sections); and 9.2 (Defined Terms).

- **Miscellaneous Standards (Sec. 5.15):** Amendments are proposed to revise front build-to zones for certain building types on the Neighborhood Center-HD and Neighborhood Core-HD districts, to add or update definitions, and correct typos.

### **Amendments from April 26, 2023**

- **Certificate of Construction Compliance (Sec. 3.14):** A Certificate of Construction Compliance is required to ensure that site improvements, including landscaping, are completed and comply with the approved Final Development Plan. Amendments are proposed to 1) distinguish between temporary and final certificates for residential and commercial (which includes multi-family residential); and, 2) require that a site or phase be at least 75% completed relative to the monetary value of the improvements for temporary certificates, and that the site or phase be in a safe and accessible condition.
- **Outdoor Sales, Definition and Conditions (Sec. 9.4.3):** Amendments include: 1) Refining the definition; 2) expansion of the types of merchandise that can be sold temporarily when not associated with a Retail Business (presently limited to agricultural goods, seafood and seasonal goods, such as Christmas trees); 3) improving conditions related to display, including location, time, and area size; 4) acknowledging plant nurseries as a type of outdoor sales use; and, 5) distinguishing temporary and seasonal sales, and allowing the UDO Administrator to determine appropriate use conditions.
- **Parking (Sec. 5.11) :** Amendments include: 1) a cross-reference to parking requirements in Old Town Bluffton Historic District; 2) removal of the allowance to apply parking at a public facility located within 500 feet of a property towards the required parking calculation; 3) a change of parking space requirements from maximum to minimum requirements (Table 5.11.3.c); 4) elimination of the ability to the UDO Administrator to reduce minimum parking requirements as a variance process is available; 5) a reduction of the percentage of parking spaces that may be identified as compact from 25% of all spaces to 10% of all spaces when at least 25 parking spaces are provided (and providing for dimensional requirements); 6) elimination of the ability to apply golf cart parking spaces towards the required parking calculation (and providing for dimensional requirements); 7) a requirement for accessory dwelling units to provide one parking space (presently, requirement is two spaces per dwelling unit); and, 8) correction of typos.
- **Nonconformities (Article 7):** Amendments include: 1) Removal of the requirement that the UDO Administrator make determinations that illegal nonconformities are illegal as the UDO

already states they such nonconformities are subject to removal and termination; and, 2) removal of conflicting text with regards to certain site improvements that may become nonconforming because of right-of-way dedication or acquisition.

- **Family and Single Household Definitions (Sec. 9.2):** Amendments include: 1) an update of the “Family” definition to expand the current definition to comply with changes in law, including a process to recognize non-blood or other legally recognized familial structures; and, 2) a new definition – Single Household Unit – to support the definition of “Family” by identifying the shared responsibilities, activities and interactions that are the basis for a single household unit, which may be recognized as a family.
- **Residential Use Descriptions (Sec. 9.4.1):** Primary amendments include: 1) an update to the definition of “Accessory Dwelling Unit” or ADU to indicate the elements/facilities required within the unit, and that the ADU can be detached or attached to a principal dwelling unit; and, 2) a revision to “Single-Family Attached Dwelling” to indicate that attached units within the same building do not have to be on separate lots of record and must have primary ground floor access.

### **Amendments from May 24, 2023**

- **Certificate of Appropriateness – Highway Corridor Overlay (HCO) District (Sec. 3.17):** The amendment would require that an application for a Certificate of Appropriateness – HCO be consistent with *approved* plans and agreements, including the recommended addition of a Final Development Plan. Requiring the approved Final Development Plan will be a time and financial savings for the applicant and Town Staff. Presently, an approved COFA-HCO may undergo one or more amendments because of changes to a development plan that has not been finalized.
- **Lot and Building Standards (Sec. 5.8):** These amendments include removing the Light Industrial (LI) District from Large Lot Types (Multi-family, Mixed Use and Large Commercial) and Adding the LI District to Medium Lot Types (Multi-family and Mixed Use). Nine of 12 LI-zoned properties are on southern Buck Island Road and Goethe Road north of Bluffton Parkway. All Large Lot Types allow buildings up to four stories, which would be uncharacteristic of these areas. The LI District would be more appropriate as the maximum height is three stories. A Medium Commercial lot does not exist in the UDO; the LI District is allowed in this lot type. The amendments would also reduce the maximum building height in the Large Commercial and Civic Lot Types from five stories to four stories. Additionally, the rear yard setback for the Large Commercial Lot Type would be increased for 10 feet to 30 feet (this lot type allows a building height up to four stories). Finally, there are several

“housekeeping” items, such as removing asterisks from Table 5.8.3.A. that have no associated footnotes, as well as correcting a typo.

### **Amendments from June 28, 2023**

- **Public Notice (Sec. 3.2.3):** Amendments include correcting typos; eliminating the published notice requirement for the demolition of any structure, whether a contributing resource or not, within Old Town Bluffton Historic Bluffton as a property posting requirement exists; and, removing the requirement that public notice be published on the Town’s website and posted at Town Hall as neither is required by state law. With regard to the latter amendment, meeting agendas are posted at Town Hall and also appear on the Town’s website together with related staff reports.
- **Signs (Sec. 5.13):** To identify the number of flags with non-commercial messages to be allowed within the Old Town Bluffton Historic District zoning districts, and to specifically call out “flutter signs” or “feather signs” as a prohibited sign type.
- **Cupolas and Towers (Sec. 5.15.6):** The amendments include correcting a typo, reformatting, and prohibiting cupolas extending above a roof line—as opposed to the zoning district height limit—as well as limiting the height to 50 feet above the adjacent grade level.
- **Medium House Building Type (Sec. 5.15):** A new building type is proposed for Old Town Bluffton Historic District that is similar to a Cottage Building Type but has a larger building footprint, can be two stories and must have a front porch. The Medium House is somewhat similar to a Village House Building Type but can be one-story and have a larger building footprint by 200 feet (1,300 sq.ft. vs 1,100 sq.ft.). Associated building standards, such as front-building to line, side and rear yard setbacks, and building height are proposed, as are the zoning districts in which it would be located (i.e., Neighborhood Conservation-HD, Neighborhood General-HD, and Neighborhood Conservation-HD).
- **Certain Setbacks in the NCE-HD and NG-HD Districts (Sec. 5.15.5):** The amendments include increasing the side yard setbacks for certain building types in the NCE-HD district from five feet to eight feet to allow for a larger side yard for building appurtenances, such as stoops, stairs and service yards. They also include extending the maximum setback for the Village House front build-to zone in the NG-HD district from 15 feet to 20 feet to be consistent the Cottage, Medium House and Vernacular House building types.
- **Temporary Signs (Sec. 5.3.7):** The amendments are a correction to not require a Sign Permit for the following temporary signs: real estate/leasing, construction projects and campaign.

- **Exceptions to Public Notice Requirement (Sec. 3.2.4):** The purpose of these amendments is to 1) eliminate the requirement for public notice related to naming a *new* street (renaming a street, as provided in Sec. 3.16, would continue to have a public notice requirement); and, 2) eliminate the public notice requirement for a minor amendment to a Subdivision Plan associated with an active Development Plan, as the Development Plan already has a public notice requirement.

**REVIEW CRITERIA & ANALYSIS:** When assessing an application for UDO Text Amendments, Town Council is required to consider the criteria set forth in UDO Section 3.5.3, Application Review Criteria. These criteria are provided below, followed by a Finding.

1. **Section 3.5.3.A.** Consistency with the Comprehensive Plan or, if conditions have changed since the Comprehensive Plan was adopted, consistency with the overall intent of the Plan, recent development trends and the general character of the area.

**Finding.** The proposed amendment has no relationship to this criterion.

2. **Section 3.5.3.B.** Consistency with demographic changes, prevailing economic trends, and/or newly recognized best planning practices.

**Finding.** The proposed amendment has no relationship to this criterion.

3. **Section 3.5.3.C.** Enhancement of the health, safety, and welfare of the Town of Bluffton.

**Finding.** The proposed amendment has no relationship to this criterion.

4. **Section 3.5.3.D.** Impact of the proposed amendment on the provision of public services.

**Finding.** The proposed amendment has no relationship to this criterion.

5. **Section 3.5.3.E.** The application must comply with applicable requirements in the Applications Manual.

**Finding.** The application complies with all applicable requirements of the Applications Manual.

**TOWN COUNCIL ACTIONS:** As granted by the powers and duties set forth in Section 2.2.6.C.4 of the UDO, Town Council has the authority to take the following actions with respect to this application:

1. Approval of the application as submitted;
2. Approval of the application with amendments; or
3. Denial of the application as submitted.

**NEXT STEPS:**

UDO Text Amendment Procedure	Date	Complete
Step 1. Planning Commission Public Hearing and Recommendation	March 22, April 26, May 24 and June 28, 2023	✓
Step 2. Town Council – 1st Reading	July 11, 2023	✓
Step 3. Town Council Meeting – Final Reading and Public Hearing	August 8, 2023	✓

**ATTACHMENTS:**

1. Presentation
2. Proposed Ordinance and Amendments
3. Suggested Motion