

MANAGEMENT OF TRANSITION ZONE WITHIN THE SULLIVAN'S ISLAND PROTECTED LAND

Guiding Principles and Written Fact Findings

1. The Town of Sullivan's Island owns the accreted land that is protected by the deed restrictions with the Lowcountry Land Trust. Every Town resident and property owner has a stake in the property, regardless of the location of that individual's residence or property.
2. The Accreted Land is protected for its aesthetic, scientific, educational, and ecological and safety value for all residents, as noted in the Deed Restrictions placed on this land with the Lowcountry Land Trust and within the Town of Sullivan's Island Code of Ordinances. This land was placed in trust for the benefit of all Sullivan's Island residents.
3. Nothing in this document or related Transition Zone policies shall create or confer any right on individual citizens. The Transition Zone plan is solely intended to memorialize the manner in which the Town, as property owner, desires to manage its own land.
4. Nothing in this Transition Zone document shall be interpreted in a manner which conflicts with the Deed Restrictions applicable to the Accreted Land.
5. The Town continues development of a comprehensive management plan for the Accreted Land, pursuant to ongoing public Town Council meetings, initiated in 2008 and continuing to the present. Ultimately the Town hopes to establish a well-balanced management plan that facilitates the successful co-existence of residents with flora and fauna on the Island.
6. The Transition Zone will be a discrete area of land within the Accreted Land parcel, predominantly running parallel to the ocean (east-west) for the length of the deed restricted property. This Zone shall be located generally between the most seaward residential property boundary extending one hundred feet in a southerly direction into the Protected Land. Where the most seaward residential property abuts the unimproved Bayonne Avenue right of way, that right of way shall be included in the Transition Zone and its depth will be part of the depth of the Transition Zone as described here. The Transition Zone shall also parallel town-owned boardwalks, generally for a distance measured ten feet from either side of the outer boardwalk edge.
7. The management of the Transition Zone Plan outlined herein shall be independent of the Town's management of the seaward balance of the Accreted Land. The Transition Zone

Plan is designed to complement a comprehensive Protected Land Management Plan expected to be developed later.

8. The establishment and maintenance of a Transition Zone described herein constitutes a Public Action as contemplated by Paragraph 3 of the Deed Restrictions. Council wishes to undertake this Public Action in order to effectuate a number of the Public Policies identified by that same Deed Restriction Paragraph. Council intends the fact findings herein to constitute written findings of fact in support of its actions.
9. A number of the Town's citizens live adjacent to, or in close proximity to, the Accreted Land. Dense vegetation on the Accreted Land in some instances abuts private property lines. Council believes that particularly close proximity between the most dense areas of shrub vegetation on the Accreted Land and the adjacent human environment can in some instances present issues that may be better balanced through adoption of the Transition Zone plan set forth herein.
10. After extensive study and debate, Council believes that thinning vegetation (See Deed Restriction Paragraph 3(f)) as described herein will facilitate mosquito abatement (See Deed Restriction Paragraph 3(b)) in areas close to adjacent residences to further public health, safety and welfare. See Deed Restriction Paragraphs 3(h) and (i). Council further believes that the creation of a transition zone will promote fire safety on the island by increasing physical separation between areas of relatively dense vegetation and adjacent residences.
11. Residents and visitors traverse through the Protected Land, with its nascent maritime forest and diverse flora and fauna, to access the Town's public beaches and the Atlantic Ocean via beach boardwalks and footpaths from public streets and rights-of-way. These footpaths and boardwalks greatly protect the overall natural plant and wildlife environment of the Accreted Land by channeling pedestrians and public safety vehicles into an extremely limited number of small size disturbed areas. Absent well maintained boardwalks and paths such traffic may spread across the Accreted Land resulting in large portions of it being altered by human activity. Consequently, maintenance of such conveyances is essential to environmental protection. Unfortunately, rapid growth of plants near boardwalks and paths can render the same unusable (or decrease utilization) if such growth is not kept in check frequently and effectively. Council believes that establishing a 10' area on either side of boardwalks will allow it to maintain boardwalks in an effective condition. See Deed Restriction Paragraph 3(c).
12. Council also finds that the proposed Transition Zone will result in scenic enhancement as contemplated by Paragraph 3(j) of the Deed Restrictions. Unmanaged growth along Boardwalks can quickly induce a claustrophobic atmosphere. Even along residential property lines, directly abutting unmanaged growth can create a wall that some find visually unattractive. Additionally, the density of unmanaged growth can quickly render it opaque, thus depriving visitors of any educational opportunity to peer into the Accreted Land ecosystem. The Transition Zone plan described herein addresses all such concerns. Progressive management in the zone will provide visual space and, at the same time,

allow for visibility into the Accreted Land. This is not only a scenic enhancement, but also an improved educational opportunity. See Deed Restrictions, Paragraphs 3(j) and (g). Additionally, Council has specifically considered whether the proposed Transition Zone activity would be visible from the beach, ocean or from within the Accreted Land. Council finds that the dune system and extensive seaward vegetation means that the establishment of the vast majority of the Transition Zone will not be visible from beach or ocean. The density of growth within the Accreted Land means that the Transition Zone is unlikely to be visible from within the Accreted Land even from just a few feet seaward of the edge. Consequently, Council finds that scenic enhancement will occur as a result of establishment of the Transition Zone.

13. The Town Council finds that the Transition Zone established herein is being undertaken solely for the purposes of furthering the Public Policies described above.
14. Town Council finds that the proposed Transition Zone is necessary to further the health, safety, and general welfare of the Town. The increase in visitors, increase in Accreted Land acreage, and increase in plant density and maturity over the years¹ since issuance of the Deed Restrictions are such that establishment of the Transition Zone is necessary today despite being unneeded in the 1990's or 2000's.
15. In making the findings above, Council has carefully considered and weighed whether the benefits anticipated from the Transition Zone are sufficient to outweigh any damage done to the aesthetic, ecological, scientific, or educational value of the property. Council believes that the loss of habitat from the proposed thinning along property lines and boardwalks is minimal relative to the size of the Accreted Land as a whole and the increases in its size over the years due to accretion. Moreover, as described above, Council finds that establishment of the Transition Zone would actually further the ecological sanctity of the property (and hence its ecological and scientific value) by encouraging use of boardwalks and that the Transition Zone would help minimize unintended wildlife / human encounters. Council finds that the proposed plan would make the property more attractive to residents and visitors inland and be undetectable from the beach and ocean. Having weighed these and other factors, Council unequivocally finds that the balancing test envisioned by Paragraph 3(3) of the Deed Restrictions is satisfied.
16. Council finds that there is no adverse cumulative effect that would occur from establishing the proposed Transition Zone in combination with all prior activities on the Accreted Land. Authorized activity on the Accreted Land from the time of the Deed Restriction to present has actually reduced. Additionally, the proposed Transition Zone is found to have a positive rather than deleterious effect on the Accreted Land and may lead to more diverse habitat. Thus, the combination of an improvement (Transition Zone) with historically lower levels of Accreted Land trimming (when compared to trimming

¹ Council has observed that as accretion has occurred, effectively making the most landward edge of the Accreted Land more distant from the ocean, that the habitat on the most landward edge of the Accreted Land has become relatively more sheltered from harsh ocean effects, allowing for the natural establishment of more substantial plant life.

permitted when the Deed Restrictions were established), poses no cumulative effect problem. See Deed Restriction Paragraph 3(4)(i)

17. Council has given due consideration to alternatives. First, Council concludes that the proposed plan does not impact adversely on the natural state of the Property, but in an overall sense enhances it. Second, Council has extensively debated for a period of years this and other alternatives and concluded that no other alternative offers the unique combination of management benefits described herein coupled with minimal disturbance to Accreted Land property. See Deed Restriction Paragraph 3(4)(ii).
18. A “No Action” alternative has been considered and rejected by Council. See Deed Restriction Paragraph 3(4)(iii). The Transition Zone was first proposed several years ago. Since that time Council has allowed time to pass, effectively testing the viability of “no action.” Now, some two years later, the concerns originally motivating consideration of the Transition Zone still exist and, if anything, have continued to grow.
19. The Town believes the above-described beneficial results shall be realized through active management of flora within the Transition Zone. Active management may include the spraying, cutting and pruning of trees, underbrush, shrubs and invasive plants. Such activities will be managed and conducted by Town Staff or their designee.
20. Implementation of the plan(s) described herein shall be contingent upon Council’s appropriation of sufficient funds. Should sufficient funds not be available to fully implement the plans described herein, Council may use its reasonable discretion in electing how to proceed. Council may elect to proceed in a piecemeal fashion or by way of smaller sub-zones.
21. Town Council finds that the Transition Zone plan described herein is within the authority retained by Town Council pursuant to Section 21-70(a) of the Code of Ordinances. Therein Council reserved for itself “full authority over RC-1 Area District land, subject to the conditions, restrictions and covenants set forth in the Title to Real Estate... conveying said land to the Town of Sullivan’s Island.” Council has received concurrence from the Low Country Open Land Trust that this proposed Transition Zone plan is permissible. Consequently, the proposed action is within the powers Council reserved to itself in adopting Chapter 21 of the Code of Ordinances.
22. Town Council further finds that the Transition Zone described herein is permissible pursuant to Chapter 4 (“Beaches”) of the Town Code of Ordinances. That Chapter specifically provides that Chapter 4 shall be read to be consistent with the Zoning Ordinance and subsequent changes thereto. See Section 4-5.2. Accordingly, specific authorization of this action under Section 21-70 satisfies any requirements of Chapter 4, “Beaches.”

Transition Zone Specifications

1. The Transition Zone will principally consist of two sub-bands totaling one-hundred feet (100'). The Zone shall be measured seaward from the end of residentially zoned land parcels into the Protected Land, through the unimproved Bayonne Avenue right of way where it exists. The Transition Zone shall run parallel to the Island, east-west, for the length of the Protected Land and, in addition, shall run parallel to the Town's beach boardwalks for the length of such boardwalks and for a distance extending ten (10') either side of the outermost edge of the boardwalk for such distance seaward as permitted by relevant governmental authorities.
2. The Transition Zone shall comprise two (2) sub-bands:
 - a. Band I: 0-40 feet, measured from the beginning of the Protected Land parcel (rear of residentially zoned land parcels)
 - b. Band II: 40-100 feet, measured from the end of Band I. Band II shall not extend eastward of Station 28 ½ Street

Active Management Directives²

1. Band I (0-40 feet):
 - a. All trees $\geq 6''$ DBH shall be retained, except cedar, pine and non-native invasive species trees
 - b. All understory, shrubs (including myrtles), cedar and pine species and small trees (defined as $< 6''$ DBH) shall be cut
2. Band II (40-100 feet):
 - a. All trees shall be retained within this band except non-native invasive species. Minimum threshold for consideration of a tree shall be 3'' DBH and 12 feet in height.
 - b. All understory and shrubs shall be cut
 - c. All myrtles within the landward 45 feet of Band II shall be cut
3. Boardwalks (10 feet on either side of the outer edge of town-owned boardwalks for such distance seaward as permitted by relevant government authorities).

² For purposes of this Transition Zone Plan all tree sizes in Transition Zone Band I and adjacent to Boardwalks shall be determined by reference to the engineering company tree survey presented to Council for information on or about June 25, 2015. In the event that a tree is encountered that is not reflected on the tree survey, the relevant tree size shall be determined by measurement taken at the time of discovery.

- a. All non-native species of flora shall be eliminated.
 - b. All trees ≥ 6 " DBH shall be retained, except cedar and pine species
 - c. All understory, shrubs (including myrtles), cedar and pine species and small trees (defined as < 6 " DBH) shall be cut
4. The Town's Transition Zone Plan activity and results shall be annually measured, reviewed and documented by Town Staff in concert with its contracted vendors. Thereafter, a report shall be remitted to Town Council, the Lowcountry Land Trust Conservancy and other agencies as required.
5. No cutting, vegetation management, or other Transition Zone activity shall occur within SC DHEC or Army Corps of Engineers jurisdictional areas without the Town first having received approval and/or guidance from any relevant body. Additionally, approval of regulatory authorities shall be secured for the proposed means of accomplishing proposed work (i.e. hand tools, bush hogs, herbicides, etc.)
6. No cutting, vegetation management, or other Transition Zone activity shall occur without the Town first having received approval from the Low Country Land Trust for this plan and the incorporated fact findings (including any subsequent modifications). Additionally, approval of the Low Country Land Trust shall be secured for the proposed means of accomplishing proposed work (i.e. hand tools, bush hogs, herbicides, etc.)
7. No cutting, vegetation management, or other Transition Zone activity shall occur without the Town's Tree Commission first having considered and made a non-binding recommendation to Council about this Transitional Zone Management Plan document.
8. No land within the Transition Zone shall be artificially leveled or otherwise topographically manipulated.