

**TOWN OF SULLIVAN'S ISLAND, SOUTH CAROLINA
PLANNING COMMISSION
REGULAR MEETING MINUTES**

Wednesday, July 11, 2018

A regular meeting was held immediately following the Comprehensive Plan Steering Committee Workshop (at 6:00PM), this date, at Town Hall, 2056 Middle Street, all requirements of the Freedom of Information Act satisfied. Present: Commissioners Gary Visser (Chair), Charlie Cole, Hal Currey and Carl Hubbard. Staff members: Joe Henderson, Director of Planning and Zoning, Asst. to Administrator Darrow and Building Official Robinson.

Call to Order. Chair Visser called the meeting to order, stated press and public were duly notified pursuant to state law and all Commissioners were present except Vice Chair Sydney Cook and Manda Poletti (excused absences) and Tim Watterson (recovering from medical illness, excused absence); special guest John Linton, Esq (attorney retained by Town); ten audience members (Councilmember Howard) present; no media.

I. APPROVAL OF AGENDA

**MOTION: Mr. Currey moved to approved the agenda; seconded by Mr. Cole.
MOTION UNANIMOUSLY PASSED.**

II. APPROVAL OF MINUTES

MOTION: Mr. Currey moved to approve two sets of minutes as presented: June 13, 2018 Comprehensive Plan Steering Committee and June 13, 2018 Regular Commission meeting; seconded by Mr. Cole. MOTION UNANIMOUSLY PASSED.

III. TEXT AMENDMENTS

Chair Visser noted that Town Council directed the Planning Commission to consider potential Zoning Ordinance text amendments to address non-conforming uses and structures, island-wide. Process tonight will include Staff report followed by Commission and then public questions to Staff. Thereafter Commission will hold discussion and open the floor for public comments on the following six agenda items:

- 1. Zoning Ordinance, Article 16, Section 21-149, General: Consider Town Council initiated text amendments to various subsections of §21-149: General Policy (B); Intent (C); Authority to continue (D).**

2. Zoning Ordinance, Article 16, Section 21-150, Nonconforming Uses: Consider Town Council initiated text amendments to various subsections of §21-150: Expansion (B); Moving (C); Two or more Principal Buildings on one lot (F. 1-4).

Director Henderson advised goal is to clarify regulations pertaining to non-conforming uses by modifying the following sections of the Zoning Ordinance:

- As to Section 21-150 B(1): Staff noted an example of this language could relate to a restaurant seeking seating/expansion inside building or expansion of a second nonconforming dwelling unit.
- As to Section 21-150 B(2): Staff noted an example of this language would be retail or commercial expansion outside.
- As to Section 21-150 B(3): Staff noted this language addresses commercial uses on a large tract of land. The Town's planning and zoning attorney, John Linton noted that this amendment would not apply, on a practical basis, to Sullivan's Island but was attorney recommended. Attorney Linton noted that case law motivated legal recommendation for this language change.
- As to Section 21-150 B(4): Staff noted an example of this language would regulate and restrict vacation rentals to increasing the degree and intensity of this non-conforming use (i.e. increasing number of bedrooms).
- As to Section 21-150 B(5): Staff noted an example of this regulation would prohibit a legal nonconforming second dwelling from expanding story decks in commercial structure and/or a second story dwelling (i.e. cannot expand volume and/or square footage, heated or non-heated, of structure).

3. Zoning Ordinance, Article 16, Section 21-151, Nonconforming Structures: Consider Town Council initiated text amendments to various subsections of §21-151: Structural alterations (B.2); and, Moving (C).

- Staff noted an example of this language would include limited expansions/additions where the side of the home encroaches into a side setback. Several nonconforming homes have used this provision to extend long additions along the entire buildable area of the lot.

4. Zoning Ordinance, Article 16, Section 21-153, Other nonconformities: Consider Town Council initiated text amendments to various subsections of §21-153: Increase prohibited (B). This amendment would include removal of existing language to relocate into 21-149.

5. Zoning Ordinance, Article 21, Definition of Terms: Consider Town Council initiated text amendments to page 100: Garage, private.

6. Zoning Ordinance, Article 21, Definition of Terms: Consider Town Council initiated text amendments to page 101: Living Space.

Chair Visser noted that Zoning Ordinance changes require the Planning Commission to hold a public hearing, at a future date, render recommendations to Town Council and then Town Council would have a 3-step review/approval process (first, second & final reading/ratification).

Asst. to Administrator Darrow advised the Commission received one (1) correspondence item from Paul Boehm (3209 Middle Street) on this topic, **attached as Exhibit B**.

Staff Report:

Director Henderson provided staff report and review of prospective language with assistance from John Linton, Esq. **Report attached as Exhibit A**.

- Potential text amendment goals are to clarify regulatory restrictions for non-conforming uses and structures, and, memorialize how Town currently handles such requests.
- Opportunity to create language the resident, or his/her architect, will clearly understand, and remove redundant language.

Public Questions/Comments:

Buddy Howle (2523 Goldbug) expressed desire to ensure draft language does not remove legal status of non-conforming uses.

Attorney Linton noted amendments will remove redundant language and seeks to provide clarity regarding non-conforming structures and uses.

Paul Boehm (3209 Middle) expressed concern that language will limit residential non-conforming structures by not allowing for increases.

Bruce Berlinksi, Esq. noted he represented a number of land owners (unidentified), and expressed reservation with blanket prohibition of alterations for legal non-conforming uses, especially with no carve-outs/exceptions, and, allowances for alterations.

Director Henderson noted Staff does allow latitude for access and maintenance of non-conforming structures.

Buddy Howle (2423 Goldbug) asked for clarification about non-conforming structures that are permitted to be rebuild in the event of a natural disaster or inadvertent accident. Mr. Howle expressed that it is inconsistent with the historic special exception because the historic cottage cannot be rebuilt. He expressed that the Zoning Ordinance should be addressed to enable all special exception structures to be rebuilt in the event of a natural disaster.

Director Henderson confirmed that the current provision of the historic accessory dwelling unit special exception differs from other Island-wide nonconforming structures in that the Z.O. 21-20 C. (2) prohibits the historic ADU from being rebuilt in the event of a fire/natural disaster:

He further clarified that if an historic or nonhistorical structure is also deemed as a non-conforming structure or use, it cannot be expanded by adding additional square footage.

Angela Jones (2067 Middle) noted almost everything on her property is non-conforming and expressed general concerns with the amendments as she learned of this situation yesterday.

Buddy Howle (2523 Goldbug) raised question regarding outdoor space on a residential lot with a non-conforming structure – how will that be interpreted? Would an outdoor kitchen be allowed for a nonconforming use?

Director Henderson noted that expansion of outdoor space on a residential lot with non-conforming structures would include attached decks or porches. He expressed that it is not the Town's intent to limit the recreational use of the yard for nonconforming residential uses.

Bobby Braddock (3013 Brownell) questioned temporary as opposed to permanent recreation uses on a residential lot with a non-conforming structure (temporary vs permanent corn hole games, basketball hoops, etc).

Director Henderson noted draft language regarding non-conforming outdoor uses on lots is primarily designed to address commercial area uses; flexibility should be given for residential accessory uses. **Staff advised the Commission it would review language as it relates to RS (residential) district.**

Staff further clarified the procedure for two buildings on one lot and determining the non-conforming structure:

- Staff assigns conforming status to the largest house on the lot
- Staff assigns non-conforming status to the smaller house on the lot

Chair Visser asked if all properties with two buildings on one lot have been designated accordingly by the Town. Director Henderson noted not all of these properties have a Certificate of Occupancy (CO). The current language would allow any building permit activity or Statement of Zoning Compliance to determine the status of a nonconforming use. Chair Visser asked if the sale of property would be the time to trigger clarification of the CO. Director Henderson stated that staff is typically not a part the real estate conveyance process and would have no opportunity to grant a Certificate of Zoning Compliance.

Hal Coste (322 Station 19) expressed support for homeowner making the decision on which buildings would be the conforming and non-conforming structures.

Paul Boehm (3209 Middle) recommended that the difference in Section 21-150 between RS and Commercial restrictions should be explicitly clear, as this is an opportunity to be specific between the two zoning designations.

Meg Howle (2423 Goldbug) expressed appreciation to the Commissioners as a former Planning Commissioner herself (served on Town Planning Commission circa 1976-1978). Requested consideration as to the character of the Island as a multi-generational residential community. Requested Town not limit the ability for some economic diversity by eliminating opportunity for use/expansion on the lots with non-conforming structures. Submitted gentrification on the Island is increasingly expanding to phase-out multigenerational texture of the community.

Commission Discussion: Chair Visser queried Commission on next steps. Mr. Hubbard recommended that the language be changed to address comments from the public regarding non-conforming uses residential lots (i.e. outdoor kitchens, recreational spaced). The revised language should allow residential nonconforming uses to continue enjoying the benefits of accessory uses and structures including accessory recreational uses. Mr. Cole asked if swimming pools would fit into this category. Director Henderson noted that a swimming pool would be an accessory recreational use and would not be allowed under the current proposal.

MOTION: Mr. Hubbard motioned for the Planning Commission to move text amendments to a public hearing on Wednesday, August 8, 2018, provided all of the Commission's comments are addressed for the following sections:

Zoning Ordinance, Article 16, Section 21-149, General: Consider Town Council initiated text amendments to various subsections of §21-149: General Policy (B); Intent (C); Authority to continue (D);

Zoning Ordinance, Article 16, Section 21-150, Nonconforming Uses: Consider Town Council initiated text amendments to various subsections of §21-150: Expansion (B); Moving (C); Two or more Principal Buildings on one lot (F. 1-4);

Zoning Ordinance, Article 16, Section 21-151, Nonconforming Structures: Consider Town Council initiated text amendments to various subsections of §21-151: Structural alterations (B.2); and, Moving (C);

Zoning Ordinance, Article 16, Section 21-153, Other nonconformities: Consider Town Council initiated text amendments to various subsections of §21-153: Increase prohibited (B);

Zoning Ordinance, Article 21, Definition of Terms: Consider Town Council initiated text amendments to page 100: Garage, private;

Zoning Ordinance, Article 21, Definition of Terms: Consider Town Council initiated text amendments to page 101: Living Space

Seconded by Mr. Currey. MOTION UNANIMOUSLY PASSED.

Chair Visser reiterated that Zoning Ordinance changes require the Planning Commission to hold a public hearing, at a future date, render recommendations to Town Council and then Town Council would have a 3-step review/approval process (first, second & final reading/ratification).

IV. NEW ITEMS FOR INFORMATION – N/A

V. PUBLIC INPUT – written and verbal comments referenced earlier in minutes

There being no further business, the meeting adjourned at approximately 7:40PM (Mr. Currey moved; Mr. Cole seconded; unanimously passed).

Respectfully submitted,
Lisa Darrow
Asst. to Administrator

Approved at the August 8, 2018 Planning Commission Meeting



Town of Sullivan's Island

PLANNING COMMISSION

STAFF REPORT

To: Planning Commission

From: Joe Henderson, AICP, Planning Department Staff

Meeting Date: July 11, 2018

Agenda Items: Article 16, C.1 through C.6 – Nonconformities

REQUEST:

Town Council has initiated several Zoning Ordinance text amendments to the Nonconformities chapter:

- | | |
|----------|--|
| Item C.1 | <u>Section 21-149, General:</u> General Policy (B); Intent (C); Authority to continue (D). |
| Item C.2 | <u>Section 21-150, Nonconforming Uses:</u> Expansion (B); Moving (C); Two or more Principal Buildings on one lot (F. 1-4). |
| Item C.3 | <u>Section 21-151, Nonconforming Structures:</u> Structural alterations (B.2); and, Moving (C). |
| Item C.4 | <u>Section 21-153, Other nonconformities:</u> Increase prohibited (B). |
| Item C.5 | <u>Definition of Terms:</u> Consider Town Council initiated text amendments to page 100: "Garage, private." |
| Item C.6 | <u>Definition of Terms:</u> Consider Town Council initiated text amendments to page 101: "Living Space." |

BACKGROUND:

Since the 2005 adoption of the Zoning Ordinance, Town Staff has taken a strict and very literal interpretation of all provisions of Article 16, "Nonconformities." This interpretation is required to achieve the ultimate goal of uniformity of property uses within each zoning district, which can only be accomplished by allowing uses to continue only under strict conditions while encouraging the elimination of uses that do not conform over time.

Several recent development trends have contributed to the increased number of requests to expand nonconforming uses and structures: increasing property values; real-estate speculation; and the Island's allure as a vacation destination. Typically, requests to alter or expand these uses/structures affect

nonconforming nonresidential uses (e.g. restaurants, governmental structures, erosion control structures, etc.) and residential uses (e.g. vacation rentals, multi-dwelling properties).

INTENT OF THE REGULATIONS:

Defined, nonconforming uses are structures, uses, lots, signs and other situations that came into existence legally, however, are permitted to continue to exist as noncompliant under current zoning requirements.
-TOSI Z. O.

The Town's nonconforming use provisions are contained in a separate section of the ZO and is intended to ensure protection of an owner's investment and ownership of developed land by allowing them continuation of the nonconforming or "grandfathered" use. Additionally, these ordinances allow the Town to avoid arguments of being confiscatory or unconstitutional. The Town's Z. O. contains provisions addressing *use, structures, multiple nonconforming dwellings*, and other nonconforming characteristics of a use (*parking lots, landscaping, fences, historic and archeological structures*).

Several recent staff interpretations have been challenged related to nonconforming use/structure expansions through the permitting decisions of the Building Department. Town Council has therefore requested that legal staff prepare the attached text amendments to more clearly describe the intent and directives of the Zoning Ordinance.

Staff comments can be found in comment margins beside each amended section of the ordinance (shown in "red" text).

STAFF RECOMMENDATION:

Staff recommends approval of legal counsel's recommendations.

ARTICLE XVI. Nonconformities.

Sec. 21-149. General.

A. Scope.

The regulations of this Article govern “nonconformities” which are uses, structures, lots, signs and other situations that came into existence legally but that do not conform to one or more requirements of this Zoning Ordinance. These are referred to in this Zoning Ordinance as “nonconformities.” ~~Nonconformities are legal situations and have legal status under this Zoning Ordinance.~~

B. ~~General policy.~~ **Authority to Continue. Increase Prohibited.**

~~In order to encourage development consistent with this Zoning Ordinance and provide landowners with reasonable use of their land, it is the general policy of the Town to allow uses, structures, signs, lots and other situations that came into existence legally, in conformance with then applicable requirements, to continue to exist and be put to productive use, but to bring as many aspects of such situations into compliance with existing regulations as is reasonably possible.~~ Any nonconformity that came into existence lawfully and continues to be a lawful use at the time of adoption of this Ordinance or that becomes nonconforming upon the adoption of any amendment to this Zoning Ordinance may be continued in accordance with the provisions of this Article. The extent, degree, size, frequency of any nonconformity shall not be increased in any manner.

C. Intent.

The regulations of this Article are intended to:

- (1) Recognize the interests of landowners in continuing to use their property;
- (2) Promote reuse and rehabilitation of existing buildings; and
- (3) ~~Place reasonable limits on~~ Prohibit the expansion and alteration of nonconformities that have the potential to adversely affect surrounding properties or the Town as a whole.

D. **Authority to continue. Reserved**

~~Any nonconformity that came into existence lawfully and continues to be a lawful use at the time of adoption of this Ordinance or that becomes nonconforming upon the adoption of any amendment to this Zoning Ordinance may be continued in accordance with the provisions of this Article.~~

E. **Determination of nonconformity status.**

The burden of proving that nonconformity existed prior to the adoption of this Ordinance or subsequent amendments rests with the subject landowner.

F. **Repairs and maintenance.**

- (1) Incidental repairs and normal maintenance necessary to keep a Nonconforming Structure in sound condition are permitted unless such repairs are otherwise expressly prohibited by this Zoning Ordinance.
- (2) Nothing in this Article will be construed to prevent Structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

G. **Change of tenancy or ownership.**

Commented [JH1]: This Section defines nonconforming uses and allows for their continuation, however, specifically prohibits increases by extent, degree, size, frequency of use.

Example: Vacation rentals can continue to be used however, no additional rooms can be built, stories added, etc.

Commented [JH2]: Move language to Section B.

Nonconformity status runs with the land and is not affected by changes of tenancy, ownership, or management.

H. **Historic buildings.**

Buildings designated as historic through the process set forth in the HP Historic Preservation Overlay District, ARTICLE XI shall be considered conforming to this Ordinance as hereinafter provided. This conforming status shall only apply to height, setback, yard, area and other dimensional requirements as found by the Design Review Board to be of historic significance in the designation process. Such finding shall supersede any conflicting standard set forth in the zoning district in which the building is located and shall be applied to the building and the site in making future determinations of conformity as to the existing building or any changes consistent with an approved Certificate of Appropriateness (see Historic Preservation Overlay District, Article XI). Notwithstanding anything to the contrary herein, alteration or removal of architectural features and/or historic fabric considered instrumental in the original designation by the Design Review Board may, at the option of the Design Review Board, result in the loss of historic designation and conforming status. (1/20/09)

Sec. 21-150. Nonconforming uses.

A. **Definition.**

A Nonconforming Use is a land use that was legally established but that is no longer allowed by the use regulations of the Zoning District in which it is located.

B. **Expansion.**

A Nonconforming Use shall not be expanded; ~~except to eliminate or reduce the nonconforming aspects.~~

- (1) A Nonconforming Use may not be extended to any portion of a completed building that was not occupied by that use when it became nonconforming, even if the building or portion of the building was specifically designed or arranged to accommodate such use.
- (2) A Nonconforming Use may not be extended to additional buildings, land outside the original building, additional patron space, or additional outdoor space.
- (3) A Nonconforming Use of land or outdoor space may not be extended to cover more land or outdoor space than was occupied by that use when it became nonconforming.
- (4) The extent, degree, intensity, or frequency of a Nonconforming Use may not be increased.
- (5) Physical alteration, expansion or extension of structures, expansion or increase of outdoor space, and expansion or increase of patron space are unlawful if they result in any increase in the total amount of volume, square footage, outdoor space square footage, or patron space square footage devoted to a nonconforming use.

C. **Moving.**

A Nonconforming Use shall not be moved in whole or in part to another location on the lot unless the movement or relocation eliminates or decreases the extent of nonconformity. ~~When moving or elevating a nonconforming use to meet FEMA compliance, said moving does not constitute an increasing in the degree of nonconformity, however, will still require conformance with Sections 21-149 through 21-151.~~

D. **Damage or destruction of a nonconforming use.**

- (1) When a building or structure containing a Nonconforming Use is damaged by intent or by neglect, not caused by natural disaster, civil strife or uncontrollable accident, to the extent of more than fifty percent (50%) of its assessed value based on the most recent property assessment, the use shall not be restored except in conformity with the regulations this Zoning Ordinance.
- (2) When a building or structure containing a Nonconforming Use is damaged by natural disaster, civil strife or uncontrollable accident to the extent of more than fifty percent (50%) of its assessed value based on the most recent property assessment, the use may be

Commented [JH3]: (1)Prohibits expansion within a structure
(2)Prohibits restaurants from expanding throughout the lot
(3)Prohibits expansion of outdoor spaces
(4)Prohibits increases in NCU
(5)Prohibits any expansion or extension of the structure.

Commented [JH4]: FEMA requires that use/structure be elevated if work exceeds 50% of the structure's value. If this occurs, the provision prohibits expansion or extension of the structure.

restored in as close conformity with the regulations of this Zoning Ordinance as possible. A Certificate of Zoning Compliance and a Building Permit shall be obtained within twelve (12) months of the date of occurrence of such damage, and once issued, construction shall be diligently pursued and completed within two (2) years from the date of the occurrence of such damage.

- (3) When a building or structure containing a Nonconforming Use is damaged by less than fifty percent (50%) of its assessed value, a Certificate of Zoning Compliance and a Building Permit shall be obtained within twelve (12) months of the date of occurrence of such damage, and once issued, construction shall be diligently pursued and completed within two (2) years from the date of the occurrence of such damage.

E. **Abandonment of a nonconforming use.**

- (1) A Nonconforming Use shall be considered abandoned when any of the following occurs:
 - (a) The intent of the owner to discontinue the use is apparent;
 - (b) The use has been discontinued for a period of twelve (12) months or more;
 - (c) A demolition permit has been applied for;
 - (d) The characteristic equipment and furnishings associated with the Nonconforming Use have been removed from the premises and have not been replaced by similar equipment within 90 days, unless other facts show intention to resume the Nonconforming Use;
 - (e) The Nonconforming Use has been replaced by a conforming use; or
 - (f) A Certificate of Zoning Compliance nor a Building Permit to reconstruct a damaged nonconforming use has been secured within twelve (12) months of the date of occurrence of such damage nor has construction been diligently pursued and completed within three (3) years from the date of the occurrence of such damage.
- (2) Once a Nonconforming Use is abandoned, the use's nonconforming status shall be lost and any subsequent use of the property shall comply with the regulations of the zoning district in which it is located.

F. **Two or more Principal Buildings on one lot**

In the event that two or more Principal Buildings occupy a single lot, said occupancy shall constitute a nonconforming use. ~~One structure shall be designated conforming and the other(s) shall be nonconforming under the following procedure:~~

- (1) ~~If a request to improve the property is received, the following procedure will be used. The use of the the Zoning Administrator shall designate the Principal Building with the greatest livable square footage, including porches, shall be a as a conforming use and the other Principal Buildings as nonconforming use.~~
- (2) ~~The designation of conforming and nonconforming use of the Principal Buildings shall be recorded on the Certificate of Occupancy that is on file in the Town Hall, or a zoning statement issued by the Zoning Administrator.~~
- (3) ~~A Building Permit for improvements to the designated conforming Principal Building may be considered favorably, provided all other requirements of the Town Ordinances are met. The Principal Building in which the use is nonconforming non-conforming structure(s) shall be regulated in accordance with Subsections A – E Sections 21-149 and 21-150.~~
- (4) ~~No Improvements or modifications to the Principal Building in which the use is nonconforming can be made unless a Building Permit is issued.~~

G. **Vacation rental.**

Commented [JH5]: Change to clarify language

Commented [JH6]: (2) Change to clarify language and process. Staff may document existence of two Principal Buildings by Certificate of Occupancy or Zoning Statement. (4) Building Permits are always required.

Nothing contained herein shall be construed to allow the continued use of a Vacation Rental after damage or destruction of greater than fifty percent (50%) of its assessed value, regardless of reason for such damage or destruction.

H. **Accessory uses.**

A use accessory to a principal Nonconforming Use may not be continued after the principal use has been abandoned, unless the use is a permitted Accessory Use in the base zoning district and any applicable overlay district.

Sec. 21-151. Nonconforming structures.

A. **Definition.**

A Nonconforming Structure is any building or structure that was legally established but no longer complies with the density, lot coverage, floor area, height and dimensional standards of this Zoning Ordinance. Nonconforming Structures may remain, subject to the regulations of this Article.

B. **Structural alterations.**

- (1) Structural alterations, including enlargements, are permitted if the structural alteration does not increase the extent of nonconformity.
- (2) When a structure is nonconforming because it encroaches into a required Side or Rear Yard Setback, this provision shall be interpreted as allowing other portions of the structure to be expanded out to the extent of the existing encroachment provided the expansion does not exceed the height of the existing structure and does not extend the distance of the encroachment by more than fifty percent (50%)., as long as there is no No greater encroachment into a required Setback shall be permitted.
- (3) When a structure is nonconforming because it encroaches into a required Front Yard Setback, this provision shall be interpreted as prohibiting other portions of the structure from being expanded out to the extent of the existing encroachment.

C. **Moving.**

A Nonconforming Structure may be moved in whole or in part to another location only if the movement or relocation decreases or eliminates the nonconformity. When moving or elevating a nonconforming structure to meet FEMA compliance, said moving does not constitute an increasing in the degree of the nonconformity, however, said moving will still require conformance with Sections 21-149 through 21-151.

D. **Damage or destruction of a nonconforming structure.**

- (1) When a Nonconforming Structure is damaged or destroyed by natural disaster, civil strife or uncontrollable accident, by more than fifty percent (50%) of its assessed value based on the most recent property assessment, the structure may be repaired in accordance with its pre-existing footprint, square footage, setbacks, and lot coverage. The Zoning Administrator shall rely on all credible information provided by the owner and/or available from the Town, to establish the damaged or destroyed structure's pre-existing condition and lot location. A Certificate of Zoning Compliance and a Building Permit shall be obtained within twelve (12) months of the date of occurrence of such damage, and once issued, construction shall be diligently pursued and completed within two (2)) years from the date of the occurrence of such damage. If FEMA regulations require the structure's foundation to be elevated over fifty percent (50%) above its original elevation, the Design Review Board shall determine whether or not the reconstruction shall be required to meet the current Zoning Ordinance's Setback requirements.
- (2) When a Nonconforming Structure is damaged by intent or by neglect, by more than fifty percent (50%) of its assessed value based on the most recent property assessment, the structure shall be restored in conformity with the Zoning Ordinance in effect at the time a building permit is issued.

Commented [JH7]: This section prevents large additions along a setback encroachment that may substantially impact neighboring uses.

Commented [JH8]: FEMA requires the structure be elevated if work exceeds 50% of the structure's value. If this occurs, the provision prohibits expansion or extension of the structure.

- (3) When a Nonconforming Structure is damaged by less than fifty percent (50%) of its assessed value based on the most recent property assessment, the structure may be reconstructed in accordance with its pre-existing footprint, height, square footage, setbacks, and lot coverage. The Zoning Administrator shall rely on all credible information provided by the owner and/or available from the Town, to establish the damaged structure's pre-existing condition and lot location. A Certificate of Zoning Compliance and a Building Permit shall be obtained within twelve (12) months of the date of occurrence of such damage, and once issued, construction shall be diligently pursued and completed within two (2) years from the date of the occurrence of such damage. If FEMA regulations require the structure's foundation to be elevated over fifty percent (50%) above its original elevation, the Design Review Board shall determine whether or not the reconstruction shall be required to meet the current Zoning Ordinance's Setback requirements.

E. **Abandonment of a nonconforming structure.**

- (1) A Nonconforming Structure will be considered abandoned when any of the following occurs:
 - (a) The owner has discontinued all use of the structure for a period of 12 months or more;
 - (b) A demolition permit has been applied for; or
 - (c) A Certificate of Zoning Compliance or a Building Permit to reconstruct a damaged Nonconforming Structure has not been secured within twelve (12) months of the date of occurrence of such damage, nor has construction under said permit been diligently pursued and completed within three (3) years from the date of the occurrence of such damage.
- (2) Once a Nonconforming Structure shall be deemed abandoned, its nonconforming status shall be lost and the structure, or any replacement, shall comply with the regulations of the zoning district in which it is located.

Sec. 21-152. Nonconforming lots.

A. **Definition.**

A Nonconforming Lot is a duly recorded lot of record established prior to adoption of the Town's first Zoning Ordinance that does not comply with the minimum Lot Area, lot width or lot depth requirements of this Zoning Ordinance.

B. **Use of nonconforming lots.**

- (1) A Nonconforming Lot may be developed to the extent that the development can be accomplished in accordance with the standards set out in this Zoning Ordinance.
- (2) This Article shall not protect Nonconforming Lots that have access only to a paper, unimproved street. Owners of such lots shall replat such lots in conformity with the subdivision regulations and the applicable regulations of this Zoning Ordinance before seeking a Certificate of Zoning Compliance and a Building Permit or otherwise seeking to use one or more of such lots.
- (3) No action shall be taken that further reduces the Lot Area of a Nonconforming Lot. Any such action may be prosecuted as a violation of this Zoning Ordinance and shall deprive the owner and any subsequent owner of the protection afforded by this Zoning Ordinance.

Sec. 21-153. Other nonconformities.

A. **Examples.**

The types of other nonconformities include but are not necessarily limited to: landscaping, screening, parking - and other nonconformities not involving structural aspects of a building, location of a building on a lot, lot dimensions or land or building use.

B. ~~Increase prohibited.~~

~~As buildings, lots or parking areas are redeveloped, it is the intent of this Zoning Ordinance to encourage the reduction of nonconformities to the maximum extent feasible. When redevelopment occurs, the extent of the nonconformity shall not be increased or modified in any manner that would increase the degree of nonconformance.~~

Sec. 21-154. Reserved.

Sec. 21-155. Reserved.

Sec. 21-156. Reserved.

Commented [JH9]: Combined with Section 21-149 B.
Authority to Continue. Increase Prohibited.

Garage, private. An accessory building or portion of a Principal Building used ~~only~~ Primarily for the private storage of motor vehicles, campers, boats, boat trailers, ~~and~~ lawn mowers, or other items as an accessory use.

Commented [JH10]: Leave open-ended...storage of many other items

Commented [JH11R10]:

Greenhouse. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants for personal enjoyment.

Historic Preservation Overlay District. An area, designated by the Town Council pursuant to the provisions of this Article. The District may contain one or more significant historic structures and landmarks and may have within its boundaries other property or structures that are not of such historic and/or architectural significance to be designated as landmarks, nevertheless, contribute to the overall visual characteristics of the district.

Historic Property. Any place (including an archaeological site or the location of a significant historical event), building, structure, work of art, fixture or similar object that has been individually designated by Town Council of Sullivan's Island or designated as a contributing property within a historic district.

Historic Sites Survey, 2003. A survey completed by David Schneider of historic structures on Sullivan's Island.

Home Occupation. Any business or occupational use conducted entirely within a Principal Building and carried on by the residents thereof, which use is clearly incidental and secondary to the use of the Principal Building for residential purposes.

HVAC. Heating, ventilation and air conditioning.

Impervious Coverage Area. That portion of the Lot Area covered by an impervious surface.

Impervious Surface. Any material or structure through which water cannot be absorbed or passed without limitation, including but not limited to roofed structures, compacted soil or stone, pavement consisting of asphalt, concrete, oil and stone, tar, or asphalt. Impervious surfaces also include building foundations, porches, decks, patios, sidewalks, play courts (tennis, basketball, etc.), pools, and other improvements that impede the absorption of water. Grassed or mulched areas are not considered impervious materials.

Improved Access. All driveways except natural grass or lawn areas.

Living Space. Any interior or exterior portion of a Dwelling used for residential or home occupation purposes including closets and hallways but excluding basements or attics used only for storage.

Commented [JH12]: The living space for nonconforming dwellings/uses should be more specifically defined. Exterior spaces, including accessory uses and structures also constitute part of the nonconforming use and should be prohibited form expansion.

Loading Space, Off-Street. Space logically and conveniently located for pickups and deliveries, scaled to delivery vehicles, and accessible to such vehicles when required off-street parking spaces are filled.

Long Term Rental. The use of a Principal Building(s) that is: (1) rented, leased, assigned for tenancies; or (2) made available for one or more persons in return for valuable consideration for any period of more than twenty-eight (28) continuous days duration.

Lot or Lot of Record. A land area designated as a separate and distinct parcel, tract or property on the most recent legally recorded plat filed and/or approved by the Town of Sullivan's Island, or in the absence of a legally recorded plat, that as described on the most recent legally recorded deed executed and delivered by the Town of Sullivan's Island, both or either as filed in the Office of Register of Mesne Conveyance of Charleston County; provided, however, that for the purpose of determining whether such lot is a separate, distinct building lot, or lot suitable for independent conveyance, any and all applicable restrictions and limitations in the chain of title shall be considered. (9-18-07)

Lot Line. A legal boundary line of a lot.

Lot, Corner. A lot located at the intersection of two or more streets.

CORRESPONDENCE
7-11-2018 SI
Planning Commission



RECEIVED

7/10/18 3:35 PM Hand delivered

7/10/18

Dear Planning Commission Members and Town Council:

As you contemplate changes to the zoning code regarding non-conforming use (NCU) buildings, please consider the following...

1) No enlargement of a non-conforming use building has ever harmed a neighbor, or a neighborhood, or the town.

As illustrated on the included list of NCU buildings (dwellings), there have been hundreds of enlargements of these structures over the town's life. They have been spread out over the 41 year history of the town and not concentrated in any particular time period. Everyone on the island must know of at least one NCU building that has been enlarged. Please take this list and drive around the island and see if you would have a problem with any of these as a neighbor.

2) No municipality in our area has outlawed the enlargement of non-conforming use dwellings, except Myrtle Beach.

Everyone else allows some type of enlargement including Isle of Palms, City of Charleston, Charleston County, Mt Pleasant, James Island, Folly Beach...

Even two of the places that Joe Henderson previously worked allow the enlargement of NCU dwellings. (see attachments)

Why would we want to be like Myrtle Beach?

3) The town needs to identify all of the NCU dwellings on the island.

As can be seen on my included Primer on Certificates of Occupancy for Sullivan's Island Properties, the town has never gone to adequate lengths to try to identify NCU dwellings. Why not settle this once and for all? What benefit is it to the town to be sued over this issue?

Why not make a proactive effort to identify them as was done with "historic" buildings? How hard could it be? There can't be that many of them left that have not been identified.

The town recently avoided another lawsuit with the approval of the extra dwelling at 2668 P'ou. I know of 3 more dwellings that will be seeking approval in the next few months that will certainly sue the town if not approved.

I understand that the town's insurance policy that covers such lawsuits has been increased by more than double and that the premium has more than doubled. I'm also betting that the town has been billed for more that \$200,000 over the last 4 years by its litigation attorneys.

Why not identify the extra dwellings and avoid such lawsuits?

4) Let larger historic homes be preserved

Why only allow a 1,200 sq ft home, or smaller, be allowed a Special Exception? There must be slightly larger ones that are deserving of preservation. Why not let the DRB decide if a larger home should be preserved and a 2nd home be built? What is sacrosanct about 1,200 sq ft?

5) Let our Special Exception historic homes be rebuilt, if destroyed

After we have gone to all the trouble of identifying a historic home and asking an owner to preserve it, why would we not want it rebuilt, if destroyed? We could easily require that the exact same structure be rebuilt with the same exterior, siding, roof, windows, etc. Why let a non-historic home be rebuilt, but not an historic one?

6) Let the DRB decide what enlargements can be made to a NCU building in order to improve its looks or functionality

Since it was created, the DRB has done an excellent job of architectural review. Why not give it the

responsibility of dealing with NCU buildings? In fact, why not give it the authority to review all architecture for the island.

7) Since my lawsuit with the town has drawn attention to the issue of enlargement of NCU structures, why not take the time to fix everything that is wrong with our zoning code regarding them and not just simply try to shut down any improvement to them?

Over the last 4 years, I have read numerous DRB and BZA minutes when both boards expressed frustration with how certain provisions of the zoning code were written in 2005. I don't remember all of them, but I'm sure some of your long time members do. Why not get their input into this?

One case I do remember is Jenny Sanford's request to enlarge a deck/ porch on her short term rental house. As you can see from the attached minutes, the BZA was confused and ended up seeking the advice of town council. If the BZA is confused, imagine how confusing this is to our owners.

This is an opportunity to fix the zoning code and end up treating all of our owners of NCU properties fairly. Please do more than put a bandaid on these problems as the zoning administrator's suggestions would do.

I really don't want my history on the island to be that I defeated the town in court. I'd like it to be that I helped my fellow property owners get back their property rights.

Lane Bochner

ENLARGED NON-CONFORMING USE DWELLINGS

1710 Atlantic PIN#5231200047

In 1977, there was a non-conforming use duplex on this lot and it remains one today. In 1985, a permit was issued to elevate the roof in order to change the pitch.

1719 Atlantic Ave PIN# 5231200016

In 1977, there was only one dwelling on this lot. It was originally 602 sq ft with a 168 sq ft porch. In 1978, that dwelling became a non-conforming use dwelling when a new conforming dwelling of 3,132 sq ft was built and the non-conforming dwelling was allowed to remain by a ruling of the BOA on Nov 8, 1979. By 1991, the non-conforming dwelling's heated footprint was further enlarged by 168 sq ft by enclosing the porch.

2068 Atlantic PIN# 5290900065

In 1977, there was only one dwelling on this lot. The current non-conforming use dwelling was originally a guest wing for the main house and was moved to its current location after Hugo. In 1993, the heated footprint of the non-conforming dwelling was enlarged 210 sq ft by enclosing the front porch. At the 1993 hearing, the BOA ruled that no variance was needed if it was enclosed with plexiglas.

2102 Atlantic Ave PIN# 5290900064

In 1977, there was a non-conforming use duplex on this lot and it remains one today. The smaller dwelling was originally 360 sq ft with a 180 sq ft porch. By 1985, its heated footprint was enlarged by 157 sq ft, the porch was enlarged by 245 sq ft and a deck of 198 sq ft was added. The larger dwelling was originally 1,358 sq ft with a front porch of 560 sq ft and a back porch of 152 sq ft. After 1989, it was enlarged to 4,730 sq ft and added 4 porches totaling 1,538 sq ft and 3 decks totaling 386 sq ft. Its three stairs were also enlarged.

2302 Atlantic Ave PIN# 5291000049

The separate non-conforming use dwelling on this lot was built prior to 1977. By 1988, its deck was enlarged by 160 sq ft.

2802 Atlantic PIN#

In 1977, this was a non-conforming use duplex. It was originally 1,606 sq ft and had 3 screened porches totaling 583 sq ft. Over the years it was enlarged and it is now 2,533 sq ft with 3 porches totaling 733 sq ft and 3 decks totaling 302 sq ft

2805 Atlantic Ave PIN#5291100049

In 1977, there was a separate non-conforming use dwelling on this lot. It was originally 200 sq ft of heated space with a 285 sq ft porch. In 1998, the BZA ruled that no variance was needed to enlarge it so it was elevated above parking and storage and more than doubled its heated footprint from 200 sq ft to 485 sq ft. A deck was converted into a porch and the two stairs were also enlarged.

1710 Blanchard St PIN# 5230800086

On Feb 1, 2001, this dwelling became a nonconforming use because it had a short term rental license. On Feb 1, 2001 it had a heated footprint of 933 sq ft and had a 216 sq ft porch and a ground level space of 528 sq ft that, according to the BZA and zoning laws, was not habitable because of its lack of heat and low ceilings. After Feb 1 2001, 2 new decks and new stairs were added and the porch was enlarged. The total sq footage of the porch and decks became 825 sq ft. On Feb 12, 2009, the BZA

* The circled dwellings occurred after 2005 (3 of 35)

approved enlarging the heated footprint by 675 sq ft by moving the non-habitable space to the main living level and adding another 143 sq ft. Two new porches and a new deck were also added totaling over 1,200 sq ft and the roof was elevated to allow for the future expansion of the attic into living space. Dormers were also added to enlarge the usable attic space.

1820 Central Ave PIN#5290500054

In 1977, there was a non-conforming use commercial building on this lot. It was not in use in 1977, so it did not receive a Certificate of Occupancy for its non-conforming use. In 1983, after being unoccupied for many years, a variance was granted by the BZA to move it, elevate it and turn it into a dwelling. It was moved to the back of the lot, elevated above the required flood elevation so it could have parking and storage underneath and was then converted into a non-conforming use dwelling. Its heated footprint was enlarged by 376 sq ft and had 520 sq ft of porches and 120 sq ft of decks added to it. New stairs were also added front and back thus increasing its staircase footprint. No variance was granted to enlarge its heated footprint, or to add porches and a deck and stairs. No CO was issued in 1983 for these improvements.

1856 Central Ave PIN#5290500056

In 1977, there was only one dwelling on this lot. In 2009, a new dwelling of 2,730 sq ft was allowed to be constructed on the property by "special exception" from the BZA and the original dwelling became a non-conforming use dwelling.

1908 Central Ave PIN#5290500058

In 1977, there was a separate non-conforming use dwelling on this property. After 1977, its heated footprint increased in size by 152 sq ft.

1851 Flag St PIN# 5290900082

In 1977, there was a separate non-conforming use dwelling on this property. It was single story, low to the ground and was demolished after Hugo. In 1990, a new two story non-conforming use dwelling was built. It was elevated above parking and storage and allowed to increase in size by 876 heated sq ft, including a heated footprint increase of 303 sq ft, and a second floor addition of 573 sq ft. The screened porch was allowed to increase by 73 sq ft and the deck was allowed to increase by 140 sq ft. In 2006, the town allowed a new deck of 432 sq ft to be added to the dwelling. Its stairs have also been enlarged.

1857 Flag St PIN# 5290900081

In 1977, there was an original separate non-conforming use dwelling on this property. It was single story, low to the ground and was demolished after Hugo. The new dwelling was elevated above parking and storage and was allowed to elevate the roof and to increase the interior ceiling height enough to add a loft. A dormer was also added to increase the headroom in the loft area. This increased the heated square footage by 410 ft.

2523 Goldbug Ave PIN# 5290600054

In 1977, there was a separate non-conforming use dwelling on this property. In 1979, a separate electric meter was added to the non-conforming dwelling by approval of the BOA. By 1991, two 32 sq ft decks were added to the non-conforming use dwelling.

2720 Goldbug Ave PIN# 5290700083

The current non-conforming use dwelling was under construction in 1982 and completed in 1988, according to Charleston County. A Certificate of Occupancy was issued by the town in 1989. In 2001, it was permitted to add an accessory structure slat house to be used as a deck. In 2010, it was permitted to add a roof over its garage doors and to screen in below its rear deck and slathouse. In 2013, it was permitted to add a roof over its side and rear walkways.

2002 Gull Ave PIN# 5290500068

The non-conforming use dwelling on this property was newly created in 2007. It was originally a 510 sq ft accessory structure that was moved earlier from another location on the island. In 2007, it was remodeled and a new porch, bath and kitchenette were added and it was turned into a non-conforming use dwelling. The stairs were also enlarged.

2824 Harvey St PIN# 5291100051

In 1977, this was a non-conforming use duplex and it remains one today. After 1986, the smaller dwelling was enlarged by 25 sq ft by enclosing a porch into the heated living area. A new deck and stairs were added. A new 72 sq ft deck and enlarged stairs were also added to the larger dwelling. After 1989, a new deck of 152 sq ft was added to the smaller dwelling and a new porch of 144 sq ft was added to the larger dwelling along with enlarged stairs.

2830 Harvey St PIN# 5291100052

This property did not have a non-conforming use dwelling in 1977. In 1984, a new dwelling was added to the existing dwelling thus creating a non-conforming use duplex. The new dwelling was two story and 1,232 sq ft with two bedrooms, 2.5 baths, a kitchen, living room, two covered porches and new stairs. It was connected to the main house by a new porch and the existing pool deck. By 1990, the pool deck had been enlarged by 330 sq ft. On June 12, 2001, the BZA granted a variance so that the newer dwelling could be rented short term.

1766 I'On A PIN# 5231200078

In 1977, this condo was part of a non-conforming use 11 unit apartment building, the majority of which were small efficiency apartments. Sometime after 1977, an additional apartment was added to the building making it 12 units and thus expanding the non-conforming use. In 2006, the town approved the building being turned into high-end condos and this unit being enlarged by incorporating sq footage from another dwelling and other parts of the building into its floor plan. The overall heated square footage for the 6 non-conforming dwellings has increased by some 1,200 sq ft divided between the 6 completely remodeled units. This condo is currently approximately 969 sq ft.

1766 I'On B PIN# 5231200079

(See above description for "A") This non-conforming use condo dwelling is approx 3,334 sq ft.

1766 I'On C PIN# 5231200080

(See above description for "A") This non-conforming use condo dwelling is approx 3,911 sq ft.

1766 I'On D PIN# 5231200081

(See above description for "A") This non-conforming use condo dwelling is approx 1,947 sq ft.

1766 I'On E PIN# 5231200082

(See above description for "A") This non-conforming use condo dwelling is approx 2,147 sq ft.

1766 I'On F PIN# 5231200083

(See above description for "A") This non-conforming use condo dwelling is approx 1,719 sq ft.

1814 A I'On PIN#5290900122

This non-conforming use dwelling is half of a duplex and was built prior to 1977. In 1989, it was approved by the BOA to add a 292 sq ft screened porch. It also added a 292 sq ft deck. In 2009, the DRB allowed the screened porch to be partially enclosed stating it was "to make the building more livable".

1814 B I'On PIN#5290900123

This non-conforming use dwelling is half of a duplex and was built prior to 1977. In 1989, it was approved by the BOA to add a 292 sq ft screened porch. It also added a 292 sq ft deck.

1850 I'On 5290900005

This non-conforming use dwelling was built prior to 1977. In 1992, it was approved by the BOA to add two decks totaling 353 sq ft. It also added 2 new stairs.

1856 I'On PIN# 5290600006

This non-conforming use dwelling of 933 sq ft was built prior to 1977. It was originally elevated on concrete piers with storage at the ground level. After 1977, the 933 sq ft ground level was enclosed with another non-conforming use dwelling making the structure a duplex. Two additional electric meters were also installed. The deck has also been enlarged by 138 sq ft and the 192 sq ft ground level below the deck has been enclosed into a screened porch.

1914 I'On PIN# 5290900009

In 1977, this was a non-conforming use duplex. In 1982, a new 288 sq ft deck was added to the front of the dwelling along with new stairs. In 1984, the deck was covered with a roof thus creating a porch. A 100 sq ft deck was also added to the rear of the dwelling on the Middle St side.

2068 I'On PIN#5290900018

In 1977, this property contained a non-conforming use duplex and a separate non-

conforming use dwelling. After Hugo, the separate non-conforming use dwelling was allowed to be elevated above storage and a deck of 48 sq ft was added. The entire deck and staircase was then covered with a roof of approximately 96 sq ft. Also after Hugo, the duplex was enlarged by 200 sq ft by enclosing the side porch. A new set of access stairs was also added to the rear of the duplex along with a screened porch at the 2nd floor level.

2102 I'On PIN#5290900019

This secondary non-conforming use dwelling was built prior to 1977. It was renovated in 1986 and enlarged its heated footprint by 250 sq ft. In 1990, it was elevated above parking and storage, added new enlarged stairs and its deck was expanded by 173 sq ft.

2211 I'On PIN# 5290900034

In 1977, this was a non-conforming use duplex and it remains one today. In 1988, a 300 sq ft deck was added. Sometime later, a 150 sq ft deck was added to the upper floor.

2263 I'On PIN#5291000051

The original secondary non-conforming use dwelling was built prior to 1977 and was demolished after Hugo. The new non-conforming use dwelling was 119 sq ft larger, was elevated above parking and storage and was allowed to raise its roof in order to have an interior vaulted ceiling and attic.

2302 I'On PIN#5291000005

This property did not have a non-conforming use dwelling in 1977. According to Charleston County, this non-conforming use 320 sq ft dwelling was built in 1980.

2320 I'On PIN#5291000008

This original house on this property was reduced in size so as to be allowed to add an additional dwelling. The BZA approved the addition of a new dwelling by Special Exception and a new house was completed on the property in 2017.

2402 I'On PIN# 5291000009

In 1977, this property was a non-conforming use duplex. The current separate non-conforming use dwelling was attached and part of the original 1920's house. In 1992, it was allowed by the BOA to be separated from the original house and became a separate non-conforming use dwelling. The original house was subsequently demolished and a new separate conforming dwelling of 2,022 sq ft was constructed.

2513 I'On PIN# 5291000037

This property was a non-conforming use triplex in 1977 and remains one today. After 1977, a 62 sq ft portion of a screened porch was enclosed into living area. In 1990, a dormer was added to the attic and the 400 sq ft attic was made into living area. A porch of 140 sq ft was added off the dormer.

2523 I'On PIN# 5291000035

In 1977, this property had a separate non-conforming use dwelling of 254 sq ft. In 1983, a separate electric meter was permitted for the non-conforming use dwelling. After Hugo, a 93 sq ft deck was added to the non-conforming use dwelling.

2624 I'On PIN# 5291000026

In 1977, this property was a non-conforming use duplex. In 1981, the town approved the enlargement of the small apartment. In 1983, the town approved the enlargement of the main dwelling.

Since 1983, there have been several more enlargements of the structure. The total size of the original structure was about 1,500 sq ft. Today, it is over 4,500 sq ft.

2630 I'On PIN# 5291000027

In 1977, this property contained a separate non-conforming use dwelling of 429 sq ft. In 1987, the ceiling/roof was elevated in order to allow for a 204 sq ft loft bedroom. After 1988, the deck was increased in size by 63 sq ft. In 2007, the deck and steps were enlarged by 11 sq ft.

2668 I'On PIN# 5291100004

In 1977, this property was a non-conforming use duplex and had 3,028 sq ft of heated space and a porch of 520 sq ft. By 1988, it had added 188 sq ft of heated space and a deck of 770 sq ft. After 1988, it expanded its heated sq footage by an additional 181 sq ft and increased its covered porch by 137 sq ft.

2824 I'On PIN# 5291100017

According to Charleston County records this was not a duplex in 1977, nor has Charleston County ever considered it a duplex. In fact, Charleston County records show that the ground floor was storage in 1993. There was no CO from 1977. Only after a new non-conforming use dwelling was constructed in 2016 was there a CO issued for this property. Since ~~the headroom in the downstairs dwelling was less than 7'~~, it was not even legally habitable space. In 2016, the BZA allowed the downstairs dwelling sq footage to be moved up to the main living level and be constructed as a separate dwelling. The heated footprint was allowed to be enlarged by 44 sq ft and both a screened porch and 2 decks and 2 stairs were added to the dwelling, thus further enlarging it. The new dwelling was also allowed to be constructed considerably higher than required by FEMA and code, so as to provide for parking and storage underneath and was allowed to elevate its roof in order to provide for an attic.

2308 Jasper Blvd PIN#5290600029

There was not a non-conforming use dwelling on this property in 1977. In 2013, by "special exception" from the BZA, a new conforming dwelling of 2,840 sq ft was then constructed and the original dwelling became a non-conforming use dwelling.

2520 Jasper Blvd PIN# 5290600041

In 1977, this dwelling was a non-conforming use duplex. By 1988, an 879 sq ft two story addition was added to the duplex along with a 96 sq ft porch and a 96 sq ft sundeck. By 1991, according to Charleston County's records, the garage on the property was converted into a separate non-conforming use dwelling. It has 544 sq ft of heated space and a porch of 192 sq ft.

2804 Marshall Blvd PIN# 5291100058

In 1977, this property contained four dwellings – a non-conforming use triplex of 3452 sq ft and a small non-conforming use separate dwelling of 465 sq ft. After 1977, the small dwelling enclosed its garage and added that 196 sq ft to its heated space. In 1982, a 120 sq ft screened porch was added to the small dwelling. After 1977, a new 2 story front porch of 115 sq ft per floor was added. New stairs were also added.

2810 Marshall Blvd PIN# 5291100057

In 1977, this was a non-conforming duplex and it remains one today. In 1982, it was permitted to add a 170 sq ft sundeck.

2872 Marshall Blvd PIN# 5291100085

In 1977, this dwelling was a non-conforming use duplex and it remains one today. It was approx 2,000 sq ft with a 300 sq ft screened porch. It has been expanded over the years and is now over

5,000 sq ft with over 800 sq ft of porches and a 1,642 sq ft deck.

2905 Marshall Blvd PIN#5291200066

In February 2001, this dwelling became a non-conforming use dwelling because it was being rented short term. In October 2001, the town issued a building permit for the construction of a new deck of 314 sq ft.

2907 Marshall Blvd PIN# 5291200067

In 1977, the original dwelling on this property was a non-conforming use triplex and was approximately 2,450 sq ft of heated space with 472 sq ft of covered porch. By 1989, it had enclosed its porches into heated space and added an addition and had grown to 3,675 sq ft with a 634 sq ft deck/porch. It was destroyed in Hugo and rebuilt in 1990. It is now a 4,320 sq ft triplex with 3 decks totaling 914 sq ft and a 208 sq ft covered porch.

3124 Marshall PIN#5291200097

In 1977, the original dwelling on this property was a non-conforming use triplex and had 2,569 sq ft of heated sq ft and a 444 sq ft porch. It is currently a non-conforming use duplex and has enlarged to 4,511 heated sq ft and added covered porches of 1,452 sq ft and decks of 1,372 sq ft. The BZA approved an enlargement of 700 sq ft in 1990 and an enlargement of 80 sq ft in 1998.

956 B Middle St PIN#5230600071

The original non-conforming use dwelling was built prior to 1977 and was demolished after Hugo. It was 1,139 sq ft and only one story. The new two story non-conforming dwelling with elevated ceilings was built in 1991, was elevated above parking and storage, expanded by 1,005 sq ft of heated space and added two decks totaling 773 sq ft. In 2000, the BZA allowed a portion of the rear deck to be covered and converted into a screened porch. After 2000, a new 156 sq ft deck was added.

1002 Middle St PIN# 5230600008

In 1977, there were two non-conforming use duplexes on this lot. By 1991, two 36 sq ft covered porches were added to the larger non-conforming duplex. In 2001, the larger duplex was demolished and a new 5,179 sq ft dwelling was constructed. The other non-conforming use dwelling remains.

1009 Middle St PIN#5230600064

This non-conforming use dwelling was built prior to 1977. In 2013, the enclosed porch was opened up to the interior of the house by removing a window and a door and adding heat and air thus enlarging the heated footprint by 220 sq ft.

1013 Middle St PIN# 5230600065

This non-conforming use dwelling was built prior to 1977. It was originally 807 sq ft with a 61 sq ft covered porch. By 1993, the porch was enclosed and made into a bath and added to the heated sq footage of the dwelling.

1111 Middle St PIN#5230700079

This non-conforming use dwelling was built prior to 1977. In approximately 1989, the screened porch was increased in size by 26 sq ft.

1121 Middle St #5 PIN#5230700123

This separate non-conforming use dwelling was built prior to 1977. After 1991, it was moved on the lot, elevated above parking and storage, had two decks added and raised its roof, ceiling and walls to allow for 252 sq ft of additional "livable space" on the 2nd floor. The two new decks totaled 360 sq ft.

1204 Middle St PIN# 5230700058

This is a group of non-conforming use buildings owned by the Catholic Diocese. In 1980, a 110 sq ft roof deck was added to the parsonage. In 1990, a 200 sq ft deck was added to a church out-building called the Shamrock.

1504 Middle St, Unit A PIN# 5230800058

This non-conforming use dwelling was part of a warehouse in 1977. In 1985, the BOA and the town council approved the warehouse being turned into a non-conforming quadruplex and allowed the addition of 4 new electric meters. The town also allowed the addition of decks front and rear and allowed their encroachment into the setbacks. The new decks for this unit totaled approximately 256 sq ft.

1504 Middle St, Unit B PIN# 5230800090

This non-conforming use dwelling was part of a warehouse in 1977. In 1985, the BOA and the town council approved the warehouse being turned into a non-conforming quadruplex and allowed the addition of 4 electric meters. The town also allowed the addition of decks front and rear and allowed their encroachment into the setbacks. The new decks for this unit totaled approximately 256 sq ft.

1504 Middle St, Unit C PIN#5230800091

This non-conforming use dwelling was part of a warehouse in 1977. In 1985, the BOA and the town council approved it being turned into a non-conforming quadruplex and allowed the addition of 4 electric meters. The town also allowed the addition of decks front and rear and allowed their encroachment into the setbacks. The new decks for this unit totaled approximately 256 sq ft.

1504 Middle St, Unit D PIN# 5230800092

This non-conforming use dwelling was part of a warehouse in 1977. In 1985, the BOA and the town council approved it being turned into a non-conforming quadruplex and allowed the addition of 4 electric meters. The town also allowed the addition of decks front and rear and allowed their encroachment into the setbacks. The new decks for this unit totaled approximately 256 sq ft. No COs were ever issued for these 4 apartments.

1618 Middle St PIN#5230800055

In 1977, this was a non-conforming use triplex. In 1981, it was allowed to enclose a rear porch into living area. In 1982, it was allowed to add a 160 sq ft sundeck on the roof. In 1995, it was allowed to add a 200 sq ft porch (deck) at the rear of the house. This new porch was allowed to encroach into the setbacks.

1814 Middle St PIN#5290500048

In 1977, this was a non-conforming use duplex. The upstairs residence was where the owner lived and the ground floor residence was rented out to tenants. In 1982, a 1200 sq ft addition was made at the 2nd floor level, along with a 248 sq ft porch addition. In 1986, the rental residence was moved into the newer addition and the owner incorporated the downstairs into his living quarters. In 1994, the BOA authorized the issuance of a CO.

1901 Middle St PIN#5290900007

The original 3 dwellings on this lot were built prior to 1977. Originally, there was a conforming dwelling of 1,271 sq ft and two non-conforming use dwellings of 819 sq ft and 780 sq ft, for a total of 1,599 sq ft of non-conforming use dwellings. In 2012, the BZA allowed the 1,271 sq ft conforming dwelling facing Middle St to be designated as a non-conforming dwelling and the 819 sq ft non-conforming dwelling facing I'On to be designated as the conforming dwelling. This swap resulted in the total size of the non-conforming dwellings being increased by 491 sq ft to 2,090 sq ft. The former non-conforming dwelling has been increased in size by a significant amount.

1902 Middle St PIN#5290500044

In 1977, there wasn't a non-conforming use dwelling on this property. Between 1979 and 1981, the town allowed the kitchen wing of the original house to be moved to the rear of the lot, be elevated above storage, be enlarged, add a bath and be turned into a non-conforming use dwelling. A separate electric meter was also added to the dwelling. In 2008/09, it was allowed by the DRB to be expanded further by adding 124 sq ft to the heated footprint and adding a new covered porch of 208 sq ft. The front deck was also enlarged by 32 sq ft and the front stairs were allowed to encroach further into the setback. The rear stairs doubled in size thus increasing the stair footprint.

1908 Middle St PIN#5290500043

In 1977, there was a separate non-conforming use dwelling on this lot that faced Middle St and a non-conforming use duplex that faced Central Ave. In 1991, a 483 sq ft addition was made to the non-conforming duplex. In 2002, the town issued a permit to convert the concrete patio on the non-conforming dwelling into a screened porch. In 2005, the duplex was demolished. In 2006, a new 3,800 sq ft dwelling was constructed on the lot by "special exception" from the BZA. A new rear 35 sq ft deck was also added to the non-conforming use Middle St dwelling.

1914 Middle St PIN# 5290500042

In 1977, there was only a conforming dwelling on this lot. In 2005, the town allowed

the existing dwelling to be extensively modified and reduced in size to 1206 sq ft in order to allow the construction of a new dwelling on the lot. In 2006, a new 4,150 sq ft conforming dwelling was constructed on the lot by "special exception" from the BZA, thus making the original dwelling a separate non-conforming use dwelling.

2008 Middle St PIN# 5290500039

In 1977, there was a non-conforming dwelling on this property. It was 295 sq ft with a 140 sq ft porch. In 2005, it was moved on the lot, elevated and its porch was enlarged by 49 sq ft.

2057 Middle St PIN# (20 of them)

In 1977, this was a 20 unit apartment complex. In 1980, the owners, Benjamin and Pearl Baker, sued the town because the town refused to approve the conversion of the apartments into condominiums. The Circuit Court ruled that they could convert them, so the town appealed to the SC Court of Appeals. The Court of Appeals ruled in favor of the Bakers for the conversion and also made another important ruling which was that the owners did not have to have a CO in order for the apartments to be legal non-conforming use dwellings and could be occupied by owners, or rented. The town appealed this ruling to the SC Supreme Court which denied the petition for review and thereby affirmed the lower courts ruling. No CO has ever been issued for these dwellings.

2256 Middle St PIN# 5290600022

In 1977, there was a non-conforming use dwelling on this lot. In 1983, the ^{BOA} BZA allowed a separate electric meter to be added to the non-conforming use dwelling.

2302 Middle St PIN#

In 1977, this was a more than 9,000 sq ft former church building. In 1978, in order to settle a lawsuit with the owner, the town agreed that the owner could convert the eastern side of the building, lot 320, into her residence and an additional "apartment" could be added, thus making it a duplex. The town also agreed that the western side of the building, lot 319, could be another "single family residence" as long as the division was down the property line (the building was built across the two lots) and a "firewall" was constructed down the property line between the two sides. In 2016, the town approved the addition of another apartment to the western side of the building on lot 319. In 2017, the town approved the enlargement of the two non-conforming use "apartments". In 2017, the BZA approved the further enlargements of the two western side apartments by allowing one of them to cross the property line and encroach into the space on the eastern side.

2314 Middle St PIN# 5290600018

In 1977, this was a 3,048 sq ft non-conforming use triplex in the main building with a separate non-conforming use dwelling located in the back yard. By 1985, a screened porch and storage area in the triplex were converted to 82 sq ft of heated footprint. By 1997, two decks were added to the triplex for a total of 288 sq ft of new decks.

2415 Middle St PIN# 5291000012

In 1977, this was a non-conforming use duplex. By 1998, a new deck was added off the 2nd floor

loft.

2714 Middle St PIN# 5290700062

In 1977, this was one dwelling, according to the zoning administrator. According to the CO issued Aug 15, 1978, the Board of Adjustment approved adding a second dwelling.

2802 Middle St PIN# 5290700066

In 2006, a new house was built on this property along with a detached garage with a dwelling above it. The non-conforming use dwelling above the garage is 480 sq ft and includes a bedroom and bath.

2830 Middle St PIN# 5290700071

In 2014, a new house was built on this property by "Special Exception" and the original house became a non-conforming use dwelling.

2424 Myrtle PIN# 5290600060

In 2006, the town allowed a non-historic accessory structure (a 96 sq ft shed) to be moved, elevated and expanded to 220 sq ft and turned into a non-conforming use dwelling. The ceiling was raised to allow for a loft (not counted in the sq ft), a new bath was added and a new covered porch of 120 sq ft was added.

2523 Goldbug PIN# 5290600054

In 1977, there was a separate non-conforming use dwelling on this property. In 1979, a new electric meter was permitted by the BOA for the non-conforming use dwelling. In 1990, two new porches were added to the non-conforming use dwelling totaling 64 sq ft.

1424 Poe PIN# 5230700088

In 1977, this was a non-conforming use duplex. In 1983, it was allowed to add a screened porch of 360 sq ft. In 1984, it was allowed to enclose an existing 119 sq ft side porch which became heated sq footage. In 1991, it was allowed to enclose the 144 sq ft front porch which became heated sq footage.

2413 Quarter St 5290600015

In 1977, there was a separate non-conforming use dwelling on this property. By 1987, the non-conforming dwelling had added a deck of 114 sq ft and a screened porch of 164 sq ft.

200 Station 18 PIN# 5290900085

In 1977, there were two dwellings on this property. A conforming use dwelling located on the I'On side of the lot and a separate non-conforming use dwelling located on the Atlantic Ave side of the lot. In 1990, after Hugo, the conforming use dwelling was elevated above parking and storage and in 1991 a new sundeck of 324 sq ft was added to it. There was no CO issued by the town in 1977. In 2006, the town swapped the designations of the two dwellings so that the former NCU dwelling now became the conforming dwelling. The purpose was to allow the enlargement of the "historic" conforming dwelling by about 100 sq ft and to allow it to be elevated and moved backwards on the lot.

In 2007, the BZA agreed that a new dwelling could be constructed on the lot under the "special exception" rule, despite the presence of the NCU dwelling. In 2010, the now non-conforming use dwelling was removed from the property and was replaced with a new 3,019 sq ft dwelling.

322 Station 19 PIN# 5290500089

This separate non-conforming use dwelling was built prior to 1977 and was 754 sq ft. By 1988, its heated footprint had increased by 387 sq ft, a 304 sq ft porch had been added and a 120 sq ft deck had been added. In 1991, it was granted a variance by the BZA and allowed to add an additional 224 sq ft of heated footprint and a 140 sq ft porch. Currently, it has 1,658 sq ft of heated footprint and 400 sq ft of deck.

On Jan 12, 2015, The Zoning Administrator, Joe Henderson, issued a Zoning Compliance Letter approving all the previous enlargements and stating that this was the non-conforming Principal Building on the lot.

405 Station 22 PIN#5290500016

In 1977, there was a non-conforming use duplex on this property. It was originally 2,814 sq ft. In 2011, the dwelling was reduced in size to 1274 sq ft and an additional dwelling of 2,952 sq ft was allowed to be constructed on the property by "special exception" from the BZA.

415 Sta 22...PIN# 5290500015

In 1977, there was only a conforming dwelling on this property. In 2003, a new house was constructed of 3,680 sq ft and the original house was allowed to remain as a non-conforming use dwelling. The town did not issue a CO for either dwelling in 2003.

425 Sta 22....PIN# 5290500014

In 1977, there was a non-conforming use dwelling on this property. In 1983, the non-conforming use dwelling enlarged its heated footprint by 303 sq ft and added a deck of 72 sq ft. In 1991, the 72 sq ft deck was converted into a screened porch. In 20??, the non-conforming use dwelling was allowed to be demolished and a new 6,686 sq ft dwelling was constructed in its place. The conforming use dwelling was gutted and remains as a garage/storage building.

306 Sta 22 ½....PIN# 5290600023

In 1977, this was a non-conforming use doctors office. It was 998 sq ft and single story. In 1980, the original building was removed and a new building was constructed with 2,784 sq ft on the first floor and a 446 sq ft drive thru canopy, plus an unfinished 2nd story. In 1992, the second floor of 886 sq ft was finished and turned into additional offices. It remains a doctors office today.

Subject: RE: Residential nonconforming uses
From: Adam Emrick (aemrick@cityofconway.com)
To: paulboehm0@yahoo.com;
Date: Wednesday, April 13, 2016 10:46 AM

I believe that I understand your question.

Section 6.2.2 of our UDO sets forth the regulations for Accessory Dwelling Units in the City of Conway. As they relate to your questions, the maximum height of the ADU is set by our dimensional standards for the zoning district or the maximum height of the principal structure. So long as the ADU does not exceed either of these regulations and so long as the non-conforming ADU does not increase the floor square footage or exceed either the height of the principal home or zoning district, there would be no reason to object to the height of the structure being increased. The cubic footage would be increased, but not the square footage.

The second part of your inquiry regarded enlarging the nonconformity with a deck or a porch. Adding a porch or deck should not add any livable square footage to the ADU, so it would not be increasing the non-conformity, however, should a porch be designed so as to allow for future enclosure or a deck be covered to allow for the same, we would be treading on pretty thin ice between an accessory to the ADU and increasing the ADU's non-conformity. While we would likely permit either a porch or a deck to be added, we would not permit it to add to the livable, "dwelling" space at a future time.

I hope that answers your questions. Good luck.

Adam Emrick, AICP

Planning Director

City of Conway

PO Drawer 1075

206 Laurel Street

Conway, SC 29528

(843) 488-9888

(843) 488-9890 (fax)

aemrick@cityofconway.com

15 of 35

500. - Nonconforming buildings or uses.

Nonconforming buildings or land uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. However, to avoid undue hardship, the lawful use of any buildings or land uses at the time of enactment or amendments of this ordinance may be continued even though such use does not conform with the provisions of the ordinance, except as follows:

500.1 The nonconforming building or land use shall not be changed to another nonconforming use.

500.2 Enlargements and alterations.

- a. The nonconforming building, if it houses an allowed land use, may be enlarged or altered to any degree provided that the enlargement or alteration meets all setbacks and other requirements of the district.
- b. Any building or structure, conforming or nonconforming which houses a nonconforming land use shall not be enlarged or altered in excess of twenty (20) percent of existing floor area. The twenty (20) percent expansion can only occur if all applicable district requirements (setbacks, height restriction, etc.) are met. If not, the twenty (20) percent expansion shall be prohibited.

500.3 Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

500.4 Replacement of structures. The intent of this section is to allow existing nonconforming buildings to be replaced or rebuilt if the following conditions are met:

- a. Reconstruction (including replacement) of existing buildings and swimming pools shall be allowed as long as the structures are not enlarged or expanded to the extent that the structure or structures exceed the gross square footage which existed on the lot before enactment of this ordinance. (The gross square footage of previously existing structures, in this case, does not include previously existing structurally enclosed parking spaces. In addition, new structurally enclosed parking which is developed to meet the parking requirements of the new principal use structure does not count against the gross square footage permitted in this replacement.)
- b. No reconstruction of a nonconforming building may be seaward of the existing building line (for oceanfront properties) nor shall it in any manner encroach farther into required setback areas than the existing nonconforming structure does that it is replacing. In addition, no reconstruction of a nonconforming building may encroach more than fifty (50) percent into required side yards, rear yards or front yards (with the exception of oceanfront).
- c. Such reconstruction is exempt from maximum building coverage and maximum height restrictions of the zone. The reconstruction or replacement of structures is allowed only if such new structures conform to all other development control and/or drainage regulations applicable at the time of reconstruction, redevelopment or replacement.
- d. When structures which are to be replaced contain nonconforming uses, the nonconforming uses are not permitted to be continued when the new structure is built.
- e. Single-wide manufactured homes may be replaced with double-wide units in any zoning district, provided all applicable district regulations can be met.
- f. Reconstruction seaward of the South Carolina Coastal Council (SCCC) 40-year setback line complies with SCCC requirements and has been approved, in advance, by the SCCC. In the event that conflicts exist between the requirements of this section and sections 500.4.a

Subject: Re: Residential non-conforming uses
From: Aaron Pope (apope@cityoffollybeach.com)
To: paulboehm0@yahoo.com;
Date: Wednesday, March 30, 2016 5:54 PM

For a duplex, please refer to sections:

168.02-03
168.02-07

The first is the section that allows you to alter the structure of the impact of the nonconformity is not increased. We would allow decks porches, Raised ceiling heights, but additional living space would be evaluated on a case by case basis. For example, expanding the kitchen onto an existing deck wouldn't change the net footprint could be acceptable. Adding three bedrooms and a new wing with both change the footprint and the impact and would probably not be acceptable.

The second is the section that prevents you from improving the structure for more than 50% of the value of the building over a ten-year period. This is what I was trying to explain to you as the major limiting factor.

Also if you're looking at a duplex or two single-family homes or residential lot you were probably looking at homes that do not meet the current flood code. They would also be subject to the 50% rule under our flood ordinance.

Sent from my iPhone

On Mar 30, 2016, at 5:14 PM, Paul Boehm <paulboehm0@yahoo.com> wrote:

Aaron, I didn't see an example of what we discussed, so let me just ask you. If you have a duplex in a single family area, or two houses on one lot, can they be enlarged, subject to the other regulations regarding lot coverage, height, etc? For example, would it be OK to add additional living area, additional decks and porches, or raise the roof height to increase the interior ceiling height?

Thank you,

Paul Boehm, BIC

Boehm & Haynes

East Islands Real Estate, Inc.

29 JC Long Blvd., Isle of Palms, SC 29451

(843) 886-8114 (office)

(843) 810-0571 (mobile)

(843) 886-8145 (fax)

17 of 35

Subject: RE: Non-conforming use dwellings
From: Fran Wilbanks (FWilbanks@charlestoncounty.org)
To: paulboehm0@yahoo.com;
Date: Wednesday, March 16, 2016 8:59 AM

Mr. Boehm,

Reference 10.3.3 states that you may go up as long as you do not exceed the limited height in our ordinance, you also have to follow the existing foot print if you decide to go vertically -no width change in the existing footprint of the existing structure if there is an addition to the structure going up. You may add decks and stairs provided that they stay within the setbacks.

Hope this helps you,

Fran Wilbanks

843-202-7238

From: Paul Boehm [mailto:paulboehm0@yahoo.com]
Sent: Tuesday, March 15, 2016 4:44 PM
To: Fran Wilbanks
Subject: Non-conforming use dwellings

Ms. Wilbanks,

Thank you for speaking with me today. My question concerns non-conforming use dwellings such as a duplex, or a second dwelling on a lot, in a single family zoned area. I understand that the living area cannot be enlarged, but is it permissible to enlarge a deck or porch, or add new ones, so long as they do not encroach into the setback? How about raising the roof in order to get additional interior headroom?

Thank you,

18 of 35

July 11, 2018

Exhibit B

Subject: RE: Non-conforming use dwellings

From: Douglas Kerr (dkerr@iop.net)

To: paulboehm0@yahoo.com;

Date: Tuesday, March 15, 2016 2:34 PM

Paul- the City code would allow decks and porches to be added to a nonconforming dwelling as long as they complied with the setbacks. Yes, the City would allow modification of walls and ceiling to allow an increase in ceiling height.

In terms of complete demolition, if a natural force caused the removal of the building, the code would allow an owner to rebuild a nonconforming dwelling. If the owner willing removes the structure, the new structure would have to comply with the code.

In terms of reconstruction, any nonconforming structure damaged fifty percent (50%) or more of its appraised value at the time of such damage may be rebuilt in its original footprint but shall not be repaired, rebuilt or altered in such a manner as to increase the extent of its predamage nonconformity.

From: Paul Boehm [mailto:paulboehm0@yahoo.com]

Sent: Tuesday, March 15, 2016 9:55 AM

To: Douglas Kerr

Subject: Non-conforming use dwellings

Douglas,

If you wouldn't mind, could you clarify for me how the Isle of Palms treats non-conforming use dwellings? For example, can a non-conforming duplex be demolished and then be rebuilt as a duplex as long as it keeps the same size footprint? Would there be any problem with increasing the height of the interior ceiling and the roof on a non-conforming use dwelling? Is it OK to increase the size of the decks and porches and even add new ones as long as the lot coverages are not exceeded?

Thank you,

19 of 35

Paul Boehm's Primer
on
Certificates of Occupancy
for
Sullivan's Island Properties

The history of the issuance of Certificates of Occupancy (COs) for non-conforming use (NCU) dwellings is important to understanding how the town viewed these extra dwellings on the single family residentially zoned lots and how they were identified. While other documents, such as building permits, rental licenses, building plans, BZA (BOA) minutes, etc add to the picture, COs are an indication as to which NCU dwellings the town thought existed on August 1, 1977, which NCU dwelling COs were approved after that date, which NCU dwellings were newly created after that date and which "extra" dwellings have never received a CO.

In the Aug 1, 1977 zoning code, the requirement was that owners apply to the Zoning Administrator (ZA) for a CO in order to identify which properties contained the rental of extra dwellings, or housed businesses in the dwellings. The code gave a 3 month grace period for owners to apply. When only two people applied within the 3 month period which ended on Nov 1, 1977 (2804 Marshall and 2302 Middle St) and only two COs were issued by Nov 30, 1977, the town realized it had a notification problem, so it sent out letters on Dec 12, 1977. The letters requested that owners identify extra dwellings that were rented and those that housed a business, so they could receive a CO. Included with the letter was a blank CO that the recipient was to fill out to the "best of your ability". If an owner didn't know how to describe the rental dwelling(s), or business, the town clerk was to do it. It is unknown today who the letters were sent to, how many were sent, or to what address. Although the zoning code only required the identification of "separate" extra dwellings and not buildings with more than one dwelling, the letter did request that owners report what "% of living space" in their residence was being rented.

The letter was sent because of confusion among the owners and the town staff as to what was required by the new zoning code, but the letter didn't help much. Because the zoning code didn't include the definition of apartment, duplex, triplex and other multi-family dwellings, it was up to the owner, the zoning administrator, or the town clerk to place a name on the extra dwellings and many descriptions were used. For example, the CO for a building containing 2 dwellings has alternately called them a "duplex", a "two family dwelling", a "residence with an apartment", a "Single Family Residence...Rental of apartment in residence", a "rental of apartment, 50% of house", etc.

Because the town didn't seem to want to recognize that it had any multi-family dwellings, it even stated that each dwelling on a multi-family lot could be rented as a "single family residence". (See Sec 21-26 of the 1977 zoning code).

On Dec 20, 1982, Sec 21-26 G. and H. were revised to state that rentals established as of that date, were legal. In 2008, a CO was issued for 2802 Atlantic calling it a "Duplex" based on this change in the wording to Sec 21-26.

In 2005, the zoning code was revised and Sec 21-20 replaced Sec 21-26. Sec 21-20 now only recognizes "Lots containing two occupied dwellings" and requires that "both dwellings have been continually occupied" since August 1, 1977. It also references "both buildings" and "two buildings". This, of course, does not account for lots with more than two dwellings, or buildings that contain multiple dwellings.

To further confuse matters, the town's request on Dec 12, 1977 was for the % of the living space that was rented out and did not require how many dwellings were included in that %. Renting 66% of a dwelling could have meant one, or more, extra dwellings within that building. For example, in the case of the 2804 Marshall application, the owner, Geraldine Miller, said she was renting "2/3 of the 3 units". The town put on the CO that she was renting "66% of space". According to her son, Mark Miller, the current owner, the property actually had 3 apartments in the main house, 2 of which were rented, plus 1 separate dwelling, so 3 of 4 spaces were rented and continue to be rented today. The 3rd apartment in the main house was the former garage which had been converted into living space. This apartment was where Kat Kenyon lived for a while.

Many property owners responded, but many did not, so the actual number of such properties was not determined by the end of 1977. Only 15 COs were issued in 1977 for NCU dwellings. In 1978, 41 COs were issued. Another 50, or so, COs have been issued since. (See list of CO dates)

It appears that this Dec 12, 1977 letter was the only effort that the town made to inform owners of the requirement to obtain a CO. As a result, over the last 40 years, owners have had to continue to request COs for properties that were "grandfathered" and COs, or their equivalent, Certificates of Zoning Compliance, have been issued for properties into 2018. Since Nov 1, 1977, over 100 COs have been issued for NCU dwellings that supposedly existed on Aug 1, 1977. There was no requirement in the letter to identify an extra dwelling on your property if you didn't rent it. Only three COs have ever been issued from 1977-2018 for multiple dwelling properties that existed, but were not rented. (A 4th has been recently approved for 2668 I'on) There are still properties on the island today that have multiple dwellings that have never had a CO for the extra dwelling(s).

Although there were many properties with multiple dwellings within one building, ie duplexes, triplexes, 6 plexes, etc, there is no specific mention of them in the code, nor a mention of how to deal with them. They are not defined and it seems that zoning officials were free to deal with their non-conformity as each official wished. Many of these structures have been allowed to be enlarged during the past 40 years which allowed the enlargement of any dwellings within the structure. In fact, Joe Henderson just recently approved the enlargement of 2 NCU dwellings in the building at 2302 Middle St and the BZA approved making one NCU dwelling at 2302 Middle St even larger. No CO, or Zoning Compliance Letter has been issued for this property identifying the conforming and non-conforming Principal Building dwellings, as required by the zoning code.

During the period from 1977-1985, the town had 3 different Zoning Administrators who issued these COs. Since there was no standard way to describe a NCU dwelling, many different descriptions were used. Although the words apartment, cottage, duplex, etc are not defined in the code, they are used at times to describe multiple dwellings within one building and even separate dwellings.

The new zoning code also prohibited the creation of new non-conforming use dwellings, however, the town continued to approve the creation of them including the approval of converting the warehouse at 1504 Middle St into 4 apartments, the cottage at 1902 Middle St, the cottage at 1820 Central, the duplex at 2830 Harvey, etc. (See list of dwellings approved after Aug 1, 1977)

In 1984, the SC Supreme Court affirmed an earlier SC Court of Appeals ruling that condos were a legal use on the island and also declared that extra dwellings on a lot did not have to have a CO from 1977 to be legal, or rented, but simply had to be present on Aug 1, 1977. I have been told by ZAs on numerous occasions that a property had to have a CO from 1977 in order to be legal and be rented. In fact, Joe Henderson made the statement at my BZA hearing regarding COs that "all of them were issued in

1977", which is false. At the BZA hearing for 2624 I'On, it is inferred by town staff that a property had to have a CO from 1977-1978 to be a legal non-conforming use, which is not correct. At the recent BZA hearing for 2668 I'On, which was held on May 10, 2018, Randy Robinson stated that the letter issued in 1977 asked for all owners to come in and identify their extra dwellings, but that is not correct. The letter only asked for owners to identify extra dwellings that were rented. Randy also stated that most COs were issued in 1977, which clearly incorrect.

In the case of multiple dwellings on a lot, the 1977 town code, under Sec 21-26, allowed the rental of each extra dwelling on a lot as a "single family dwelling". Many dwelling COs issued over the last 40 years have described an individual dwelling on a multi-family property as a "Single Family Dwelling". This designation obviously does not mean that there is only one legal dwelling on the property. The current ZA, Joe Henderson, continues to wrongly assert that a CO that says "Single Family Dwelling" means only one legal dwelling is allowed on a property. Joe himself has written several COs that say "Single Family Dwelling" when there are two dwellings on the property.

Certificates of Occupancy for Non-Conforming Use Dwellings from 1985 to 2005

In approximately 1985, the zoning code was modified and it became a requirement to issue a CO for a NCU dwelling if the owner wanted to "request to improve the property". The wording specified that it was for "two or more separate structures", and there is still no mention, or definition, of multiple dwellings within one building. It seems that zoning officials were again left to decide for themselves how to treat multiple dwellings within one building.

There is still no mention, or definition, of apartment, duplex, triplex, or other multiple dwellings within one building. Many of these structures were allowed to be enlarged during this period which also allowed the enlargement of any dwellings within the structure.

Because of damage done to properties by Hurricane Hugo in 1989, virtually every property on the island should have been issued a CO, yet relatively few were issued in this period following Hugo. The town now claims that many property files were lost in Hugo, yet no effort has been made by the town to reconstruct their files by contacting Charleston County and requesting copies of documents from them.

During this 20 year period, the town had 3 different zoning administrators who issued COs and again there was no standard way to describe a NCU dwelling; however, the code did specify that the conforming and non-conforming use dwellings were to be identified on each CO. All of the zoning officials ignored this requirement and almost all of the COs issued during this period do not identify which dwellings are conforming and which are non-conforming. My CO for 2720 B Goldbug, which was issued in 1989, did not mention that my dwelling is the non-conforming use and did not mention the conforming use dwelling at all.

In this period from 1985-2005, many COs were issued for properties that did not get a CO in the period from 1977- 1985 and were newly identified.

During this period, many enlargements of NCU dwellings occurred. At this time, it was the ZA's interpretation of the code was that the footprint of the NCU dwellings included porches and decks and couldn't be enlarged, but that raising a roof on a NCU dwelling and adding a floor, thus increasing the sq footage, was not a violation of the zoning code. Several new NCU properties that were destroyed in Hugo were enlarged this way and 2630 I'On and 1121 Middle St were enlarged this way prior to Hugo.

Certificates of Occupancy for Non-Conforming Use Dwellings from 2005 to Present

In approximately 2005, the zoning code was modified again and now the requirement was to identify separate NCU dwellings on COs by calling them Principal Building conforming dwelling and Principal Building non-conforming (dwelling).

During this period, the town has had 3 different zoning administrators and all have ignored this requirement to identify NCU dwellings on a CO this way.

There continues to be no definition of apartment, duplex, triplex, condominium, etc in the zoning code and no guidance as to how to deal with multiple NCU dwellings within one structure. These multiple NCU dwellings within one structure continue to be allowed to be enlarged at will by the town's zoning administrators.

Also, in 2004, the town created a new Design Review Board (DRB) which has the power to allow the enlargement, or reduction, in size of "historic" dwellings, including NCU dwellings. For a period of time, approximately 2005-2007, the DRB could also allow the addition of living space and a bathroom above a separate garage, or in a separate building, and several of these were approved in that time. None of these living spaces were historic and none received a CO from the town.

The DRB also has the power to declare a building historic which, along with other criteria, allows an extra separate dwelling to be approved on a property with the approval by the BZA of a special exception. About 15 of these "special exceptions" have been approved and about 8 have been completed. None of the COs for these completed properties mention Principal Building conforming dwelling and Principal Building non-conforming (dwelling).

On March 28, 2018, the SC Court of Appeals affirmed a Circuit Court ruling that the extra dwelling at 2720 B Goldbug was a Principal Building and could be enlarged. Both the ZA and the BZA had wrongly identified this dwelling as an accessory structure "garage", despite there being a CO from 1989 calling it an apartment (dwelling). The town asked the Court of Appeals for a re-hearing regarding the "enlarging" part of the ruling and they refused. The town did not appeal the CO ruling and the town has already issued a corrected CO. This should mean that any extra dwelling, whether present in 1977, or not, can have a CO as a Principal Building, since the ZA and the BZA had ruled that 2720 B Goldbug was not constructed until after 1989.

Sullivan's Island Certificates of Occupancy issued for Non-Conforming Use Dwellings 1977-1985

There was no standard description for the non-conforming use dwellings and they were referred to in a variety of ways. Although the word "apartment" does not appear in the zoning code, it was used more than 20 times below to describe the non-conforming use dwellings.

Descriptions	Address	Date	Administrator
"Apartment in residence"	1710 Atlantic	July 17, 1981	Blaine Miller
"Rental of apartment"	1761 Atlantic	Jan 21, 1980	Blaine Miller
"Guest House"	2068 Atlantic	Jan 18, 1978	Lloyd Fleming
1. "Apartment"	2118 Atlantic	Jan 18, 1978	Lloyd Fleming
2. "Small guesthouse"	2262 Atlantic	May 8, 1978	Lloyd Fleming
3. "Garage Apartment"	2302 Atlantic	Nov 7, 1980	Blaine Miller
4. "Garage Apartment"	2302 Atlantic	April 4, 1985	Joel Ford
5. "Apartment"	2824 Atlantic	Jan 18, 1978	Lloyd Fleming
6. "50% of house"	2667 Bayonne	Jan 26, 1978	Lloyd Fleming
7. "50% of living space"	2730 Bayonne	Dec 21, 1977	Lloyd Fleming
8. "Apartment"	2724 Brooks	Jan 18, 1978	Lloyd Fleming
9. "35% of living area"	2863 Brownell	Jan 30, 1978	Lloyd Fleming
10. "Annex"	1302 Cove	Dec 21, 1977	Lloyd Fleming
11. "Small Apartment"	2824 Harvey St	May 30, 1978	Blaine Miller
12. "Rental of Apartment 3"	1424 Hennessey St	Dec 15, 1977	Lloyd Fleming
13. "Ten rental apartments"	1766 I'On	March 8, 1978	Lloyd Fleming
14. "Duplex"	1814 I'On	Feb 14, 1978	Lloyd Fleming
15. "Two residences"	1802 I'On	May 8, 1978	Lloyd Fleming
16. "Cottage"	1856 I'On	Dec 23, 1977	Lloyd Fleming
17. "Two family residence"	1914 I'On	Dec 15, 1977	Lloyd Fleming
18. "Cottage"	2068 I'On	Dec 13, 1977	Lloyd Fleming
19. "Livable Space"	2114 I'On	Dec 28, 1977	Lloyd Fleming
20. "40% of living space"	2211 I'On	Jan 17, 1978	Lloyd Fleming
21. "2 Habitable Buildings"	2268 I'On	Nov 10, 1977	Lloyd Fleming
22. "Four (4) rental..apartments"	2307 I'On	Feb 23, 1978	Lloyd Fleming
23. "four rental...apartments"	2307 I'On	Mar 9, 1978	Lloyd Fleming
24. "Four(4) rental..apartments"	2307 I'On	Sept 9, 1981	Blaine Miller
25. "Apartment"	2320 I'On	Jan 12, 1978	Lloyd Fleming
26. "25% of living area"	2402 I'On	Jan 30, 1978	Lloyd Fleming
27. "Small Building"	2523 I'On	Feb 27, 1978	Lloyd Fleming
28. "alteration"	2624 I'On	Dec 15, 1978	Blaine Miller
29. "Apartment"	2256 Jasper	Jan 27, 1978	Lloyd Fleming
30. "Small Guest House"	2650 Jasper	Jan 23, 1979	Blaine Miller
31. "2 apartments"	2920 Jasper	Jan 17, 1978	Lloyd Fleming
32. "1 Small Building"	2804 Marshall	Oct 28, 1977	(no signature)
33. "66% of space"	2804 Marshall	Nov 1, 1977	Lloyd Fleming
34. "50% of residence"	2810 Marshall	Jan 18, 1978	Lloyd Fleming
35. "sundeck over porch"	2810 Marshall	Aug 10, 1982	Joel Ford
36. "50% of living area"	2872 Marshall	Feb 2, 1978	Lloyd Fleming
37. "50% of residence"	2907 Marshall	Jan 27, 1978	Lloyd Fleming
38. "2/3 of living area"	853 Middle St	Feb 2, 1978	Lloyd Fleming

39. "1 Duplex"	956 Middle St	Feb 21, 1978	Lloyd Fleming
40. "Servant's Quarters"	1009 Middle St	June 19, 1978	Blaine Miller
41. "Two apartments"	1010 Middle St	Jan 18, 1978	Lloyd Fleming
42. "Small Cottage"	1023 Middle St	Jan 19, 1978	Lloyd Fleming
43. "50% of living area"	1026 Middle St	Jan 31, 1978	Lloyd Fleming
44. "one single family dwelling"	1121 Middle St	April 7, 1978	Lloyd Fleming
45. "Smaller House"	1121 Middle St	Jan 17, 1978	Lloyd Fleming
46. "Sundeck on roof"	1204 Middle St	June 25, 1980	Blaine Miller
47. "one apartment"	1423 Middle St	Dec 27, 1977	Lloyd Fleming
48. "multi-family dwelling"	1504 Middle St	Nov 8, 1984	BOA – no CO
49. "Apartment"	1610 Middle St	Jan 18, 1978	Lloyd Fleming
50. "Construct sundeck"	1618 Middle St	March 5, 1982	Blaine Miller
51. "Enclose back porch"	1618 Middle St	June 19, 1981	Blaine Miller
52. "Small apartment"	1813 Middle St	May 17, 1978	Blaine Miller
53. "60% of living area"	1856 Middle St	Jan 30, 1978	Lloyd Fleming
54. "Two houses rented"	1901 Middle St	May 8, 1978	Lloyd Fleming
55. "Cottage"	1902 Middle St	June 25, 1981	Blaine Miller
56. "20 apartments"	2057 Middle St	Dec 29, 1980	Circuit Court Ruling
57. "small telephone..bldg"	2202 Middle St	Dec 21, 1977	Lloyd Fleming
58. "One apartment"	2302 Middle St	June 6, 1978	Blaine Miller
59. "Single Family Residence"	2302 Middle St	June 6, 1978	Blaine Miller
60. "Annex"	2320 Middle St	April 7, 1978	Lloyd Fleming
61. "New Construction"	2668 Middle St	Feb 11, 1985	Joel Ford
62. "Two (2) apartments"	2714 Middle St	August 15, 1978	Blain Miller
63. "Cottage"	2524 Myrtle	Nov.21, 1979	Blaine Miller
64. "Cottage"	1026 Osceola	Dec 19, 1977	Lloyd Fleming
65. "Cottage"	312 Sta 10	Dec 19, 1977	Lloyd Fleming
66. "5 apartments"	230 Sta 17	Dec 27, 1977	Lloyd Fleming
67. "Small house", "extra house"	425 Sta 22	April 3, 1984	Joel Ford
68. "Medical Offices"	306 Sta 22 ½	Dec 27, 1977	Lloyd Fleming
69. "Cottage"	1462 Thompson	Feb 14, 1978	Lloyd Fleming
70. "Four apartments"	1730 Thompson	June 19, 1981	Blaine Miller

In this time period from 1977 to 1985, there were a number of newly created non-conforming use dwellings.

1719 Atlantic was approved by the BOA to have a non-conforming use (NCU) dwelling in 1979

1820 Central was approved by the BOA to have a new NCU dwelling in 1982.

2830 Harvey St was approved to add a new dwelling in 1984.

1766 I'On added a new NCU dwelling after 1978. It was 11 dwellings in 1978 and 12 dwellings by 2007.

1504 Middle St was approved by town council and the BOA to have 4 new NCU dwellings in 1984.

1902 Middle St was approved to have a new NCU dwelling in 1981.

2302 Middle St was approved by town council to have a new NCU dwelling in 1978

2714 Middle St was approved by the BOA to have a new NCU dwelling in 1978.

Additional notes:

No CO has ever been issued for the 4 non-conforming use apartments at 1504 Middle St

No CO has ever been issued for the property at 2057 Middle St which contained 20 apartments in 1977
No CO has ever been issued for the duplex dwelling at 2830 Harvey St
No CO has ever been issued for the separate dwelling at 1719 Atlantic
No CO has ever been issued for the separate dwelling at 1820 Central
No Co has ever been issued for the separate dwelling at 2668 Middle St
No CO was ever issued for the separate dwelling at 2302 I'On (Now demolished)
No CO has ever been issued for the separate dwelling at 2413 Quarter St
No CO has ever been issued for the duplex, or the separate dwelling at 2520 Jasper
No CO has ever been issued for the separate dwelling at 2508 Jasper
No CO has ever been issued for the triplex at 2513 I'on
No CO has ever been issued for the quadruplex at 1504 Middle St

Sullivan's Island Certificates of Occupancy for Non-Conforming Use Dwellings 1985 - 2005

By 1985, the zoning regulations had changed. Now, if an owner wanted to improve the NCU property, a CO was required under the following section of the code:

Sec. 21-41 Non-conforming uses in all districts.

G. In the event that two or more residences (two or more separate structures) occupy a single lot, said structures constitute a non-conforming use. However, one structure can be designated conforming and the other(s) non-conforming under the following procedure:

- 1.If a request to improve the property is received, the Zoning Administrator shall designate the structure (residence) with the greatest livable area, including porches, as a conforming use and the other structure(s) as non-conforming.
2. The designation of conforming and non-conforming structures (residences) shall be recorded on the Certificate of Occupancy which is on file in the town hall.

”.

Many of the COs issued below were for properties that had not gotten a CO in the 1977- 1984 time period.

Description	Address	Date	Administrator
“New construction”	2102 Atlantic	Jan 31, 1991	Kent Prouse
1. “Secondary Structure”	2262 Atlantic	Dec 12, 1994	Kent Prouse
2. “New construction”	2302 Atlantic	July 30, 1992	Kent Prouse
3. “Carriage House”	2805 Atlantic	March 18, 1999	Kent Prouse
4. “Building A”	1851 Flag St	May 28, 1987	Brett Pielstick
5. “non-conforming use structure”	1851 Flag St	Dec 17, 1991	Kent Prouse

6. "Apartment above garage"	2720 Goldbug	Nov 29, 1989	David Cantey
7. "Duplex"	1814 I'On	July 22, 1991	Carolyn Kruger
8. "Two story CMU structure"	1856 I'On	March 18, 1993	Kent Prouse
9. "Secondary Structure"	2102 I'On	(no date)	(no signature)
10. "Single family residential"	2262 I'On	May 21, 1991	Kent Prouse
11. "Small House"	2262 I'On	March 18, 1997	Kent Prouse
12. "One Story Frame"	2402 I'On	July 15, 1993	Kent Prouse
13. "Accessory Structure"	2630 I'On	Feb 7, 1995	Kent Prouse
14. "New construction"	2907 Marshall	(no date)	(no signature)
15. "Two apartments"	3124 Marshall	Sept 10, 1987	Brett Pielstick
16. "2 Dwellings on one lot"	927 Middle	May 28, 1996	Kent Prouse
17. "Secondary Structure"	956 Middle	May 8, 1991	Kent Prouse
18. "New construction"	1002 Middle	June 7, 2001	Kent Prouse
19. "New construction"	1813 Middle	May 28, 1991	Kent Prouse
20. "Rental Apartment"	1814 Middle	Feb 22, 1994	Kent Prouse
21. "Accessroy (Sic) Structure"	2314 Middle	May 30, 1991	Kent Prouse
22. "Duplex"	2262 Myrtle	Feb 20, 1989	David Cantey
23. "Cottage"	2069 Pettigrew	April 11, 1991	Kent Prouse
24. "Secondary Structure"	1856 B Thee St	Jan 3, 1991	Kent Prouse

The Zoning Administrators ignored the requirement to identify conforming and non-conforming use properties on the COs and only one in this time period was issued with that designation.

The following COs were issued for "new construction" on properties with non-conforming use dwellings, yet there is no identification of the conforming/non-conforming use dwellings, as was required by the zoning code.

- | | | | |
|---|----------------|----------------|-------------|
| 1. "New Construction" | 2102 Atlantic | Jan 1, 1991 | Kent Prouse |
| (no CO was issued for this duplex at 2102 Atlantic in the 1977-1985 period) | | | |
| 2. "New Construction" | 2302 Atlantic | July 30, 1992 | Kent Prouse |
| 3. "New Construction" | 1002 Middle | June 7, 2001 | Kent Prouse |
| (no CO was issued for the two separate dwellings at 1002 Middle in the 1977-1985 period) | | | |
| 4. "New Construction" "cottage" | 2069 Pettigrew | April 11, 1991 | Kent Prouse |
| (no CO was issued for the two separate dwellings at 2069 Pettigrew in the 1977-1985 period) | | | |

The town has not issued a CO for 415 Sta 22 which added a new dwelling in 2003 when there was already an existing dwelling on the property.

No COs have ever been issued for 2102 I'On which had two separate dwellings on the property in 1977. Even though the conforming dwelling was destroyed in Hugo and rebuilt in 1991, no CO was issued upon its completion. There is a CO in the town's CO book for the newly built house, but it has never been signed and dated.

Sullivan's Island Certificates of Occupancy for Non-conforming Use Dwellings 2005 to Present

Since 2005, it has been a zoning code requirement under Sec. 21-150 F. that the town Zoning Administrator identify the conforming and non-conforming use dwellings on the COs as "Principal Buildings", whether for new dwellings, or new improvements requested, yet there has been only one COs since 2005 issued with that designation. (2720 B Goldbug)

Sec. 21-150

F. Two or more Principal Buildings on one lot

In the event that two or more Principal Buildings occupy a single lot, said occupancy shall constitute a non-conforming use. One structure shall be designated conforming and the other non-conforming under the following procedure:

- (1) If a request to improve the property is received, the Zoning Administrator shall designate the Principal Building with the greatest square footage, including porches, as a conforming use and the other Principal Building as non-conforming.
- (2) The designation of conforming and non-conforming Principal Buildings shall be recorded on the Certificate of Occupancy that is on file in the town hall.

Under Sec. 21-25, it specifically states "an historic structure used as an accessory dwelling unit" is a Principal Building, yet the town's ZAs have never identified historic accessory dwelling units as Principal Buildings on COs.

Since 2006, there have been 8 new Principal Building non-conforming use dwellings created by a "special exception" from the BZA. There have also been several new non-conforming use dwellings built, or "improved" and there is no mention of "Principal Building" on the COs for those properties.

The COs below were issued since 2005 for properties that include Principal Building conforming use dwellings and Principal Building non-conforming use dwellings. There have also been two Zoning Compliance Letters issued by the town for non-conforming use Principal Buildings which, according to Zoning Administrator, Joe Henderson, is equivalent to a CO. Only the Zoning Compliance Letter to Hal Coste for 322 Sta 19 mentions a "Principal Building"

Description on CO	Address	Date Issued	Administrator
"Duplex"	2802 Atlantic	Aug 6, 2008	Kent Prouse
1. "Single Family Residence" Sp Ex	1856 Central	June 2, 2009	Randy Robinson
2. "two dwelling units..small structure"	1908 Central	Feb 9, 2018	Joe Henderson
3. "Residential Condominium (sic)"	1766 I'On	Jan 1 2008	Randy Robinson
4. "Single Family Residence"Sp Ex	1801 I'On	Apr 21, 2011	Randy Robinson
5. "Single Family Residence"Sp Ex	1908 I'On	Dec 16, 2016	Joe Henderson
6. "Two dwelling units" Sp Ex	2320 I'On	Feb 3, 2017	Joe Henderson
7. "Two dwelling units" Sp Ex	2824 I'On	Apr 21, 2017	Joe Henderson
8. "Second Structure" Sp Ex	2308 Jasper	May 4, 2016	Randy Robinson
9. "Conforming Structure"	1902 Middle	June 8, 2009	Randy Robinson
10. "Non-conforming Structure"	1902 B Middle	June 8, 2009	Randy Robinson
11. "Single Family Residence" Sp Ex	1908 Middle	July 3, 2007	Kent Prouse
12. "Single Family Residence" Sp Ex	1914 Middle	Aug 14, 2007	Kent Prouse
13. " Zoning Compliance Letter"	2302 Middle	Dec 2, 2016	Joe Henderson

14. "Single Family Residence"	2802 Middle	May 29, 2009	Randy Robinson
15. "Two dwelling units" Sp Ex	2830 Middle	June 25, 2015	Joe Henderson
16. "Single Family Residence"	2424 Myrtle	Dec28, 2006	Randy Robinson
17. "Conforming/ non-conforming"	200 Sta 18	Nov 1, 2006	Kent Prouse
18. "Zoning Compliance Letter"	322 Sta 19	Jan 12, 2015	Joe Henderson
19. "Smaller home" Sp Ex	405 Sta 22	June 20, 2012	Randy Robinson

In the case of 1908 Central, the town issued a CO on 2/9/18 for the new house constructed on the lot and the extra dwelling. It is the first indication that an extra dwelling existed on this property 41 years after the passage of the 1977 zoning code.

In the case of 2824 I'On, the town finally issued a CO in 2017 for the non-conforming use of this property 40 years after the passage of the 1977 zoning code.

In the case of 322 Sta 19, the town issued a Zoning Compliance Letter in 2016, 39 years after the passage of the 1977 zoning code.

In the case of 2302 Middle St, the town issued a Zoning Compliance Letter (ZCL) in 2016, 39 years after the town issued 1978 COs for this building. The ZCL authorized the addition of a new non-conforming use dwelling on lot 319. This new non-conforming use dwelling did not exist in 1977, or 1978

In the case of 200 Sta. 18, a CO was issued for the two dwellings on this lot in 2006, 29 years after the passage of the 1977 zoning code. After one house was removed, a new house was built on the property and a new CO was issued for the "New Construction" at 1801 I'On, but there was no mention of the other non-conforming use Principal Building. In 2015, the owner asked Joe Henderson for a CO that reflected that both dwellings were Principal Buildings and Joe replied that the 2006 CO said they were Principal Buildings. In fact, the 2006 CO did not say that.

In the case of 2002 Gull, the house was a new construction in 2006. In 2007, an old shed that had been moved to the property was renovated and turned into a guest cottage. There was no CO issued for the NCU guest cottage.

In the case of 2424 Myrtle, a new house was built on the property and a shed was converted into a guest house. There is no mention of the guest house on the CO.

In the case of 2802 Middle St a new house and garage apartment were constructed on this lot. The CO does not mention the apartment above the garage.

In the case of 1901 Middle St, the BZA approved swapping the conforming use dwelling with a non-conforming use dwelling. Later, a "yuge" addition was made to the new conforming use building, yet the ZA says no new CO is needed for this property.

In 2003, a new house was constructed at 415 Sta 22 and the old house was allowed to remain as a NCU dwelling. No CO has ever been issued for either dwelling

In spite of the incredible confusion caused by the town's inadequate zoning code regarding the treatment of it's non-conforming use dwellings, the town refuses to correct the code and refuses to make a concerted effort to identify all it's non-conforming use dwellings and make sure they have properly worded Certificates of Occupancy. Additionally, the town has failed to treat all it's non-conforming use dwellings the same as regards additions and enlargements. Finally, the town discriminates against the historic dwellings that have been allowed to have extra dwellings built on the same lots, by Special Exception. If one of these historic non-conforming use dwellings is destroyed, it cannot be rebuilt, according to the zoning code.

Paul Boehm's Primer
on
Certificates of Occupancy
for
Sullivan's Island Dwellings

Dates of Issuance of Non-Conforming Use Certificates of Occupancy 1977- 1985

Date	Address	Zoning Administrator
Nov 1, 1977	2804 Marshall	Lloyd Fleming
Nov 10, 1977	2268 I'On	Lloyd Fleming
Dec 13, 1977	1914 I'On	Lloyd Fleming
Dec 15, 1977	1424 Hennessey	Lloyd Fleming
Dec 15, 1977	1914 I'On	Lloyd Fleming
Dec 19, 1977	1026 Osceola	Lloyd Fleming
Dec 19, 1977	312 Sta 10	Lloyd Fleming
Dec 19, 1977	230 Sta 17	Lloyd Fleming
Dec 21, 1977	2202 Middle	Lloyd Fleming
Dec 21, 1977	1302 Cove	Lloyd Fleming
Dec 21, 1977	2730 Bayonne	Lloyd Fleming
Dec 23, 1977	1856 I'On	Lloyd Fleming
Dec 27, 1977	306 Sta 22 1/2	Lloyd Fleming
Dec 27, 1977	1423 Middle	Lloyd Fleming
Dec 28, 1977	2114 I'On	Lloyd Fleming
Jan 12, 1978	2320 I'On	Lloyd Fleming
Jan 17, 1978	2211 I'On	Lloyd Fleming
Jan 17, 1978	2920 Jasper	Lloyd Fleming
Jan 17, 1978	1121 Middle	Lloyd Fleming
Jan 18, 1978	1610 Middle	Lloyd Fleming
Jan 18, 1978	2824 Atlantic	Lloyd Fleming
Jan 18, 1978	2068 Atlantic	Lloyd Fleming
Jan 18, 1978	2118 Atlantic	Lloyd Fleming
Jan 18, 1978	2724 Brooks	Lloyd Fleming
Jan 18, 1978	2810 Marshall	Lloyd Fleming
Jan 18, 1978	1010 Middle	Lloyd Fleming
Jan 19, 1978	1023 Middle	Lloyd Fleming
Jan 26, 1978	2667 Bayonne	Lloyd Fleming
Jan 27, 1978	2256 Jasper	Lloyd Fleming
Jan 27, 1978	2907 Marshall	Lloyd Fleming
Jan 30, 1978	2863 Brownell	Lloyd Fleming
Jan 30, 1978	2402 I'On	Lloyd Fleming
Jan 30, 1978	1856 Middle	Lloyd Fleming
Jan 31, 1978	1026 Middle	Lloyd Fleming
Feb 2, 1978	853 Middle	Lloyd Fleming
Feb 2, 1978	2872 Marshall	Lloyd Fleming
Feb 14, 1978	1462 Thompson	Lloyd Fleming
Feb 14, 1978	1814 I'On	Lloyd Fleming
Feb 21, 1978	956 Middle	Lloyd Fleming

Feb 23, 1978	2307 I'On	Lloyd Fleming
Feb 27, 1978	2523 I'On	Lloyd Fleming
March 8, 1978	1766 I'On	Lloyd Fleming
March 9, 1978	2307 I'On	Lloyd Fleming
April 7, 1978	1121 Middle	Lloyd Fleming
April 7, 1978	2320 Middle	Lloyd Fleming
May 8, 1978	2262 Atlantic	Lloyd Fleming
May 8, 1978	1802 I'On	Lloyd Fleming
May 8, 1978	1901 Middle	Lloyd Fleming
May 17, 1978	1813 Middle	Lloyd Fleming
May 30, 1978	2824 Harvey	Lloyd Fleming
June 6, 1978	2302 Middle-319	Lloyd Fleming to settle lawsuit
June 6, 1978	2302 Middle-320	Lloyd Fleming to settle lawsuit
June 19, 1978	1009 Middle	Lloyd Fleming
Aug 15, 1978	2714 Middle	Blaine Miller
Oct 4, 1978	1908 Central	Blaine Miller
Dec 15, 1978	2624 I'On	Blaine Miller
Jan 23, 1979	2650 Jasper	Blaine Miller
Nov 21, 1979	2524 Myrtle	Blaine Miller
Jan 21, 1980	1761 Atlantic	Blaine Miller
June 25, 1980	1204 Middle	Blaine Miller
Nov 7, 1980	2302 Atlantic	Blaine Miller
Dec 29, 1980	2057 Middle	Circuit Court Ruling – no CO required
June 19, 1981	1618 Middle	Blaine Miller
June 19, 1981	1730 Thompson	Blaine Miller
June 25, 1981	1902 Middle	Blaine Miller
July 17, 1981	1710 Atlantic	Blaine Miller
Sept 9, 1981	2307 I'On	Blaine Miller
Mar 5, 1982	1618 Middle	Blaine Miller
Aug 10, 1982	2810 Marshall	Blaine Miller
April 1982	C.G. Westendorff	appointed ZA
June 1982	C.G. Westendorff	resigns as ZA
August 1982	Joel Ford	appointed ZA
April 3, 1984	425 Sta 22	Joel Ford
Nov 8, 1984	1504 Middle	Board of Adjustment
April 4, 1985	2302 Atlantic	Joel Ford
Feb 11, 1985	2668 Middle	Joel Ford

Dates of Issuance of Non-Conforming Use Certificates of Occupancy 1985- 2005

January 1987	Joel Ford resigns as ZA
Feb 1987	Don Youngblood appointed ZA
April 1987	Don Youngblood resigns as ZA
May 1987	Brett Pielstick appointed ZA
May 28, 1987	1851 Flag Brett Pielstick
Sept 10, 1987	3124 Marshall Brett Pielstick
Feb 1988	Brett Pielstick resigns as ZA
March 1988	David Cantey appointed ZA

Feb 20, 1989	2262 Myrtle	David Cantey
Nov 29, 1989	2720 Goldbug	David Cantey
??	David Cantey resigns as ZA	
June 19, 1990	Kent Prouse appointed ZA	
Jan 31, 1991	2102 Atlantic	Kent Prouse
Apr 11, 1991	2069 Pettigrew	Kent Prouse
May 8, 1991	956 Middle	Kent Prouse
May 21, 1991	2262 I'On	Kent Prouse
May 28, 1991	1813 Middle	Kent Prouse
May 30, 1991	2314 Middle	Kent Prouse
July 22, 1991	1814 I'On	Caroline Kruger
Dec 17, 1991	1851 Flag	Kent Prouse
July 30, 1992	2302 Atlantic	Kent Prouse
Mar 18, 1993	1856 I'On	Kent Prouse
July 15, 1993	2402 I'On	Kent Prouse
Feb 22, 1994	1814 Middle	Kent Prouse
Dec 12, 1994	2262 Atlantic	Kent Prouse
Feb 7, 1995	2630 I'On	Kent Prouse
May 28, 1996	927 Middle	Kent Prouse
Mar 18, 1997	2262 I'On	Kent Prouse
Mar 18, 1999	2805 Atlantic	Kent Prouse
June 7, 2001	1002 Middle	Kent Prouse

Dates of Issuance for Non-Conforming Use Dwelling Certificates of Occupancy 2005- Present

Nov 1, 2006	200 Sta. 18	Kent Prouse
Dec 28, 2006	2424 Myrtle	Randy Robinson (Shed converted into guest cottage)
July 3, 2007	1908 Middle	Kent Prouse (Sp Except)
Aug 14, 2007	1914 Middle	Kent Prouse (Sp Except)
Jan 1, 2008	1766 I'On	Randy Robinson
Aug 6, 2008	2802 Atlantic	Kent Prouse
May 29, 2009	2802 Middle	Randy Robinson (Dwelling above garage)
June 2, 2009	1856 Central	Randy Robinson (Sp Except)
June 8, 2009	1902 Middle	Randy Robinson
June 8, 2009	1902 B Middle	Randy Robinson
Apr 21, 2011	1801 I'On	Randy Robinson (Sp Except)
June 20 2012	405 Sta 22	Randy Robinson (Sp Except)
Jan 12, 2015	322 Sta 19	Joe Henderson (Zoning Compliance Letter)
June 25, 2015	2830 Middle	Joe Henderson (Sp Except)
May 4, 2016	2308 Jasper	Randy Robinson (Sp Except)
Dec 2, 2016	2302 Middle	Joe Henderson (Zoning Compliance Letter)
Feb 3, 2017	2320 I'On	Joe Henderson (Sp Except)
Apr 21, 2017	2824 I'On	Joe Henderson
Feb 9, 2018	1908 Central	Joe Henderson

April 8, 2010

The Board of Zoning Appeals for the Town of Sullivan's Island met on the above date at Town Hall, all requirements of the Freedom of Information Act having been satisfied.

Present were: Jimmy Hiers
Thom Hiers
Susan Middaugh
Susan Romaine

Acting Chairman Jimmy Hiers called the meeting to order. Mr. Hiers expressed sympathy for the death of Board member Betsy Richardson, and commended her service to the Board. Jimmy Hiers then introduced Thom Hiers, who is serving as a member to fill the unexpired term of Ms. Richardson. Jimmy Hiers announced that the application for 2928 Jasper was being deferred until the next meeting.

Motion was made by Susan Middaugh, seconded by Susan Romaine, to approve the minutes from the February 11, 2010 meeting, carried unanimously.

Jimmy Hiers administered the applicant and participant oath.

Jennifer Sanford, 1725 Atlantic Avenue. Variance from Section 21-118 (C) to enlarge porch and add covered deck. Jimmy Hiers asked Building Official Randy Robinson to present. Mr. Robinson commented on the submitted plans, and stated that this house is a vacation rental, and it has a current vacation rental license. The applicant is requesting a variance from Section 21-118 (C) which states the certificate of zoning compliance shall not be granted, even if the principal building otherwise qualifies for a certificate of zoning compliance, if subsequent to the ratification of this ordinance, that principal building has been enlarged or raised or otherwise destroyed. The requested variance is for a deck of approximately 475-500 sq ft.

Jimmy Hiers asked Attorney Bill Barr, representing Ms. Sanford, to present. Jimmy Hiers inquired about the late supplement submitted today to the application – as to clarify whether the applicant was asking to overrule the Zoning Administrator instead of asking for a variance? Mr. Barr stated this was not an application to overrule the Zoning Administrator. He continued that this was a variance application to add a deck, but to not lose the vacation rental. He requested a ruling from the Board as to if the applicant built the deck, how would the Board interpret 21-118 (C) for purposes of her vacation rental. Susan Middaugh questioned if Mr. Barr was looking for the Board's definition of enlargement. He responded yes, and that 21-118 (C) provides that the certificate of zoning compliance will not be granted if that principal building has been enlarged. Section 21-203 defines principal building as a building in which the principal use of the lot is conducted. Building square footage principal is defined as not to include exterior porches and decks. This language is also in Section 21-27. Mr. Barr's position was that the term "enlarge" should follow the principal building square footage and not necessarily the principle building on lot with the principle use; and asked for the Board's interpretation. He added that if porches and decks in calculating principal building square footage are excluded, then a deck should not be considered an enlargement.

Mr. Jimmy Hiers stated that this application is to be heard as a variance, and the Board agreed. Susan Middaugh stated that the last variance request heard by the Board concerning a vacation rental was based on how many people are allowed to stay in the house; that if more people could not be added, it should not be considered an enlargement. After further discussion, Susan Middaugh stated at this point the Board should assume enlargement in the broadest sense, meaning its definition is bigger. She suggested the Board could write a letter to Town Council to ask them to review the ordinance and ask them to clarify the language of enlargement.

Mr. Barr stated that there is no immediate remedy for the applicant. He informed the Board that the applicant does not have a hardship, and asked the Board to make a ruling on enlargement; and added that the house now accommodates as many guests as it can as a vacation rental. Mr. Barr asked to withdraw the application at this time.

Motion was made by Susan Middaugh, seconded by Thom Hiers, to ask the Acting Chairman to write a letter to Town Council and request clarification of enlargement for vacation rental home purposes, carried unanimously.

Motion was made by Thom Hiers, seconded by Susan Romaine, to adjourn at 7:40 p.m., carried unanimously.

Respectfully submitted,

Ellen McQueeney

Approved: _____

Date: _____