

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 ) FOR THE FOURTEENTH JUDICIAL CIRCUIT  
 COUNTY OF BEAUFORT ) CIVIL ACTION NO. 2016-CP-07-2712

**RECEIVED**  
**Apr 15 2020**  
**SC Court of Appeals**

Beachwalk Hotel & Condominiums )  
 Association, Inc. and Beachwalk )  
 Hilton Head, LLC., )

Appellants/Petitioners, )

vs. )

The Town of Hilton Head Island )  
 and/or The Town of Hilton Head )  
 Island Board of Zoning Appeals, and )  
 SDC Properties, Inc. )

Respondents/Defendants. )

**ORDER**

PURSUANT TO S.C. Code Annot. Section 6-29-820, Beachwalk Hotel & Condominiums Association, Inc. and Beachwalk Hilton Head, LLC (collectively, the “Appellants”) timely appealed the decision of the Board of Zoning Appeals (the “BZA”) of the Town of Hilton Head Island, South Carolina (the “Town”) dated November 28, 2016 to uphold the determination made by Nicole Dixon, CFM, Senior Planner for the Town in her determination letter of August 23, 2016 to Chester C. Williams, Esq., that the proposed development of the Spinnaker Welcome Center as contemplated by the Development Plan Review Application DPR-001056-2016 (the “DPR Application”), is permitted under applicable Town requirements of the Town’s Land Management Ordinance (the “LMO”).

Following the filing of this appeal by the Appellants, SDC Properties, Inc. (“SDC”), the owner of the tract of land referred to as Parcel E that is the subject of the DPR Application, by motion filed on February 5, 2017, moved to intervene in this appeal, and upon consent of all

parties, SDC was joined as a party defendant in this appeal on March 28, 2017. In the interim, the Respondent BZA filed its Answer on March 9, 2017, and thereafter, on April 18, 2017, the Appellants filed an Amended Notice of Appeal and Petition, which was answered by SDC on June 27, 2017. Subsequently, the Appellants filed their Second Amended Notice of Appeal and Petition on July 24, 2017, which was answered by the BZA and SDC on August 8, 2017 and September 1, 2017, respectively. Following briefing by all parties and the submission to the Court of a certified copy of the proceedings held before the Board of Zoning Appeals, including the hearing by the BZA on Application for Appeal APL-001673-2016 on November 28, 2016 and the hearing before the BZA on the Appellants' Petition for Reconsideration on January 23, 2017, a hearing pursuant to S.C. Code Annot. Section 6-29-840 was held before the undersigned, sitting as a Special Circuit Judge, on December 18, 2017. Present for the Appellants were Thomas C. Taylor and Chester C. Williams; present for SDC was Barry L. Johnson; and present for the BZA was Gregory M. Alford. All counsel having been heard and persuasive arguments having been made, I determine and find as follows:

Despite extensive presentations and questioning at the hearing before the BZA on November 28, 2016, I find the record is unclear as to certain issues that I believe are important for appropriate judicial review of this appeal, including the basis for the BZA's decision. Thus, I determine that the certified record of the proceedings before the BZA in Application for Appeal APL-001673-2016 is insufficient for review, and I hereby remand this matter to the BZA for a rehearing and direct the BZA to specifically focus upon and answer the following questions for the Court's further consideration:

- a. Is Parcel E in a PD-2 Overlay District established by the LMO?

- b. If Parcel E is in a PD-2 Overlay District, is Parcel E subject to the LMO's PD-2 Overlay District regulations?
- c. If Parcel E is subject to the LMO's PD-2 Overlay District regulations, what effect does that have on the development of Parcel E, and must the existing development on the other parcels within that PD-2 Overlay District be taken into account in connection with any proposed development of Parcel E?

AND IT IS SO ORDERED this \_\_\_\_\_ day of March, 2018.

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Marvin H. Dukes, III  
Beaufort County Master In Equity and  
Special Circuit Judge



Beaufort Common Pleas

**Case Caption:** Beachwalk Hotel & Condominiums Association Inc , plaintiff, et al VS  
Town Of Hilton Head Island , defendant, et al

**Case Number:** 2016CP0702712

**Type:** Order/Other

So Ordered:

s/Marvin H. Dukes III #3069

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