

TOWN OF HILTON HEAD ISLAND
The Planning Commission
Minutes of the Wednesday, July 15, 2009 Meeting **APPROVED**
3:00pm – Benjamin M. Racusin Council Chambers

Commissioners Present: Chairman Al Vadnais, Tom Crews, Jack Docherty,
 Terence Ennis, Tom Lennox, Gail Quick and David White

Commissioners Absent: Vice Chairman Loretta Warden and Therese Leary, Excused

Town Council Present: Bill Ferguson, John Safay and George Williams

Town Staff Present: Steve Riley, Town Manager
 Mike Roan, Urban Design Administrator
 Sarah Skigen, Natural Resources Associate
 Jayme Lopko, Senior Planner & Planning Commission Coordinator
 Heather Colin, Development Review Administrator
 Kathleen Carlin, Administrative Assistant

I CALL TO ORDER

Chairman Vadnais called the meeting to order at 3:00pm.

II PLEDGE OF ALLEGIANCE TO THE FLAG

III ROLL CALL

IV FREEDOM OF INFORMATION ACT

Public notification of this meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

V USAGE OF CELLULAR TELEPHONE

Please turn off all cellular phones so that the meeting is not disturbed. Use of the cellular phone is allowed in the hallway outside of Council Chambers.

VI APPROVAL OF THE AGENDA

The agenda was **approved** as presented by general consent.

VII APPROVAL OF THE MINUTES

The minutes of the June 17, 2009 meeting were **approved** as presented by general consent.

VIII SWEARING IN OF RETURNING PLANNING COMMISSIONER

Mr. Steve Riley, Town Manager, performed the swearing in ceremony for returning Planning Commissioner, Mr. Thomas Crews. Mr. Riley expressed his appreciation to Mr. Crews for his continued service to the community. Chairman Vadnais reported that Vice Chairman

Loretta Warden and Commissioner Therese Leary will be sworn in as returning Planning Commissioners on August 5, 2009.

IX APPEARANCE BY CITIZENS ON ITEMS UNRELATED TO TODAY'S AGENDA
None

X UNFINISHED BUSINESS
None

XI NEW BUSINESS
PUBLIC HEARING

ZMA090003: Public Hearing to receive comments and to consider and make a recommendation to Town Council on a request to amend the Sea Pines Master Plan and its accompanying text, by changing the specific use designation of approximately 2 acres of property located on Cordillo Parkway, referred to as Parcel "A" and identified as Parcel 218 on Beaufort County Tax Map # 18, from Institutional and Recreational.

Chairman Vadnais reported that there has been a very recent change in the staff's position on this application. The Planning Commission was provided with the (*attached*) staff memo on Monday, July 13, 2009. This memo is a supplement to the staff report which was included in the meeting packet. Chairman Vadnais briefly described the memo and requested that the staff make their presentation.

Mr. Mike Roan made the presentation on behalf of staff. The staff recommended that the Planning Commission recommend that Town Council *deny* the addition of Residential use to Parcel "A" Cordillo Parkway, as part of the application for this zoning map amendment.

Mr. Roan provided the history of the application. On May 26, 2009, the applicant and property owner, Ms. Louanne LaRoche, applied to have Commercial and Residential uses added to the currently allowed uses of Institutional and Recreational for Parcel 'A' Cordillo Parkway.

The staff originally determined that the application met the criteria for approval per the Land Management Ordinance for both uses. However, after further consideration of the application, the staff concluded that the addition of Residential use to this parcel would be in conflict with the Comprehensive Plan.

The Town has no jurisdiction over freshwater wetlands located on single-family parcels. Should this parcel be rezoned to add the use of residential, the applicant will be allowed to build a single-family structure on the site. At that point, as part of the development the applicant could fill the .402 acre wetland without mitigating it. Creating this situation would be in direct conflict with the following goals from the Comprehensive Plan:

- 1. LAND USE GOAL 1B:** Improve the water quality of all waterways and marshes in and around Hilton Head Island through appropriate regulation of stormwater runoff.

2. **NATURAL RESOURCES GOAL 1B:** The Town should continually monitor the results of regulatory policies and, where appropriate, improve the protection of natural resources in the Town.
3. **NATURAL RESOURCES GOAL 1C:** The Town should research the application of natural resources regulations on single family lots which are not subject to regulatory controls (eg, property owners association rules). This could include stormwater management, tree protection, wetland protection, and wetland buffers.
4. **NATURAL RESOURCES GOAL 2A:** By preventing and controlling urban runoff, Hilton Head Island should become a model for coastal environmental protection. The Town should protect and improve the water quality of all waterways and marshes in and around Hilton Head Island through appropriate regulation of stormwater management.

In the original staff report the staff recommended that the Planning Commission recommends to Town Council that Commercial and Residential uses be added to Parcel "A" Cordillo Parkway. The uses currently allowed on this parcel are Institutional and Recreational.

While the staff still feels that the application meets the criteria for the addition of Commercial Use, the addition of Residential use is clearly in conflict with the Comprehensive Plan. Therefore, the staff has changed their recommendation regarding the addition of Residential use to this parcel.

Mr. Roan reviewed the history of the application as well as the zoning map, the vicinity map, the applicable LMO Section (Sec. 16-4-209), the boundary survey and the wetland survey. The staff also reviewed the Conclusions of Law and Findings of Fact. The Planning Commission and the staff discussed the boundary survey, the wetland survey, the land uses, and the availability of sewer and water for this parcel. At the completion of the staff's presentation, Chairman Vadnais requested that the applicant make her presentation.

Ms. Louanne LaRoche, presented statements in support of her application. The applicant discussed the history of the property and presented statements in regard to the land use. The applicant stated her concern with the insufficient amount of time that was given to her to address the change in the staff's position on this issue. The Planning Commission also stated concern with the lack of sufficient time to properly address the staff's change in recommendation.

At the completion of the applicant's presentation, Chairman Vadnais requested comments from the public. Statements from the following citizens were received: Mr. Stephen Birdwell, President of Sea Pines Resort; Mr. Cary Kelly, Executive Vice President, of CSA; Ms. Sigred Carlson, resident, and Chester C. Williams, Esquire.

At the completion of these public comments, Chairman Vadnais stated that the public hearing for this application is closed.

After discussion by the Planning Commission, Chairman Vadnais recommended that this application be continued to the next Planning Commission meeting on August 5, 2009 to allow

sufficient time for everyone to review the staff's change in recommendation. The Planning Commission and the staff agreed with this recommendation.

Chester C. Williams, Esq., reported that the applicant has just requested his legal assistance with the application. Mr. Williams stated that he will be out of town on August 5, 2009 and requested that the application be continued to the Planning Commission meeting on August 19, 2009. The Planning Commission and staff agreed to this change in date. The Planning Commission will continue their review of Zoning Map Application ZMA090003 on August 19, 2009. Chairman Vadnais requested that a motion be made.

Commissioner White made a **motion to continue** the Planning Commission's review of Zoning Map Application, ZMA090003, to August 19, 2009 at 3:00pm. Commissioner Ennis **seconded** the motion and the motion **passed** with a vote of 7-0-0.

LMO Amendments - The Town of Hilton Head Island is proposing Shoreline Protection Amendments which will amend Chapters 3, 4, 5, 6 and 10 of the Land Management Ordinance (LMO) to revise various articles and sections, including:

Chapter 3, Section: 16-3-302. The term OCRM Beachfront Baseline is being replaced by the Beachfront Line.

Chapter 4, Sections: 16-4-201. The Critical Storm Protection and Dune Accretion Area and the Transition Area (CSPDAA & TA) Overlay District is being added to the Designation of Districts table under the Overlay Districts. 16-4-(New Article). This new article establishes the CSPDAA & TA Overlay District. The new sub-sections under this article will include Purpose and Applicability, Delineation of the District, CSPDAA & TA District Regulations, Prohibited and Permitted Activities and Uses in the CSPDAA, Permitted Activities and Uses in the TA and Nonconforming Structure regulations.

Chapter 5, Section: 16-5-806. The term OCRM Beachfront Baseline is being replaced by the Beachfront Line.

Chapter 6, Section: 16-6-305. Revisions are being made to this section to include removing the reference of primary and secondary dune systems and referring to them as dune and dune systems.

Chapter 10: Dune or Dune System. The definition in the Municipal Code is being revised and added to the LMO. **Beachfront Line.** The term OCRM Beachfront Baseline is being replaced by the Beachfront Line; the definition describes the location of this line. The terms Primary Dune and Secondary Dune are being removed from Chapter 10. **Mean High Water Line.** The definition will be added to describe the location of this line.

Ms. Sarah Skigen made the presentation on behalf of staff. The staff recommended that the Planning Commission review and recommend *approval* of the CSPDAA and TA to Town Council. Please see Ms. Skigen's staff report dated July 15, 2009 for complete details.

The staff presented the text and the maps for the proposed CSPDAA and TA to the Land Management Ordinance Committee on April 1, 2009. The LMO Committee voted to forward the amendments to the full Planning Commission for appropriate action. The Planning Commission held a public hearing for the proposed amendments on May 6, 2009. The Planning Commission voted unanimously to recommend approval of the amendments to Town Council. The staff presented the proposed CSPDAA and TA to the Planning and Development Standards

Committee on May 26, 2009. As a result of that meeting, minor revisions were made to the proposed ordinance language, which created the need to bring the amendments back to the Planning Commission. In response to the specific concerns of the Planning and Development Standards Committee, the following changes were made to the proposed ordinance: the term strand parcel line has been stricken; the term mean high water has been added to the CSPDAA and TA District Regulations; a definition for mean high water has also been added. No changes have been made to the maps.

Ms. Skigen provided a brief history of the proposal. The staff was directed by Town Council to develop a method for beachfront protection, as it was identified as a top priority on the 2008 policy agenda. In an effort to duplicate the adopted method used for Central and South Forest Beach, the staff created language and maps for shoreline protection to encompass the entire beachfront. This text includes previously adopted language that is being moved from the Municipal Code to the Land Management Ordinance.

Ms. Skigen discussed the minor changes to the proposal. At the completion of the staff's presentation, Chairman Vadnais requested statements from the public and none were received. Following final comments by the Planning Commission, Chairman Vadnais requested that a motion be made.

Commissioner White made a **motion** to recommend **approval** of the CSPDAA and TA District Regulations to Town Council as presented by the staff. Commissioner Quick **seconded** the motion and the motion **passed** with a vote of 7-0-0.

LMO Amendments - The Town of Hilton Head Island is proposing to amend Chapters 3, 4 and 5 of the Land Management Ordinance (LMO) to revise the following articles and sections:

Sections 16-3-108, 16-3-110, 16-3-111, 16-3-117, 16-3-303, 16-3-309, 16-3-310, 16-3-311, 16-3-403, 16-3-501 and 16-3-607: 16-3-108. This increases the review period of an application to allow staff more time to do a thorough review and also provides for an extension by mutual agreement for an applicant to complete an application. 16-3-110 and 16-3-111. This will allow mailed notices for public notice requirements to be sent via U.S. mail instead of certified mail. 16-3-117, 16-3-309 and 16-3-607. This will clarify that appeals dealing only with the approval or denial of subdivisions and development plans will go to the Planning Commission. 16-3-303. This requires the FAA Advisory Form 7460-1 be submitted to the FAA prior to the issuance of any Town approvals for properties located within the Airport Hazard Overlay District (AHOD). 16-3-310. This clarifies that the regulations regarding the expiration of a Development Plan Review approval comes into play after the allowed extensions have been exhausted. 16-3-311. This adds the requirement of setbacks and buffers to the complete application requirements for an ADPR application. 16-3-403 and 16-3-501. This provides an expiration date for non-development tree removal and wetland alteration permits.

Sections 16-4-105, 16-4-1004, 16-4-1111, 16-4-1234 and 16-4-1239: 16-4-105. This allows an applicant to choose any use permitted in the applicable zoning district regardless of whether one use would require a variance from the design and performance section and another use would not require a variance. 16-4-1004. This allows utility easements to be located within buffers if certain provisions are met for properties going through the Redevelopment Floating Zone process. 16-4-1111. This removes language that would restrict short term rentals in residential uses. 16-4-1234

and 16-4-1239. This revises the way distance separation requirements are measured between liquor stores and for bars and nightclubs.

Sections 16-5-602, 16-5-806 and 16-5-1208: 16-5-602. This clarifies storm water retention and detention requirements on re-development projects. 16-5-806. This allows the 20' adjacent street setback to be reduced to 10' for one street on corner lots. 16-5-1208. This replaces the term Residential Above Commercial with the term Mixed-Use in the parking table.

Ms. Nicole Dixon made the presentation on behalf of staff. The staff presented the proposed 2009 General LMO Amendments to the Land Management Ordinance Committee on June 17, 2009. The LMO Committee voted to forward the amendments to the full Planning Commission for appropriate action. The proposed set of amendments includes changes to Chapters 3, 4, and 5.

At the LMO Committee meeting, there was significant discussion about the proposed amendment to change the way the liquor store separation is measured. The staff is proposing to change the way the 500-foot separation requirement is measured in order to be consistent with the way we measure the separation of other uses (i.e. nightclub uses). The staff is not proposing to remove the 500-foot separation requirement.

Several liquor store business owners spoke at the last LMO Committee meeting expressing their concern with changing the current regulations and stating that this same issue was brought up in the past and was never approved. Ms. Dixon briefly discussed the minutes from previous public meetings regarding the liquor store separation issue.

It was noted that in 2002 and 2003, the issue regarding liquor stores was not the 500-foot separation between them, but the reason why the 500-foot separation was required. At that time, the staff was proposing to remove the separation requirement because its purpose was unclear. According to the minutes, it was determined that the 500-foot separation requirement between liquor stores was needed.

In 2006, the liquor store issue came up again, but this time the discussion was about whether there was a need to have a separation requirement between liquor stores and nightclubs. According to those minutes, it was determined that there was a need to have a separation requirement between liquor stores and other liquor stores (but not between liquor stores and nightclubs). At the February and March 2009 meetings, a citizen appeared before the Planning Commission requesting that the Planning Commission revise the way the 500-foot separation requirement between liquor stores is measured.

Ms. Dixon and the Planning Commission discussed the separation requirements as they exist now. The Planning Commission and the staff agreed upon the need for consistency in the Land Management Ordinance (i.e. the use should be treated the same as nightclub use).

Commissioner Lennox stated his concern that while property lines do not necessarily change, the configuration within the property lines can change (this could result in problems meeting the 500-foot requirement).

At the completion of the discussion, Chairman Vadnais requested public comments. Statements from the following business owners of local liquor stores were received: Ms. Susan Kelsey and

Mr. Bob Prust. Both citizens presented statements in opposition to changing the current LMO requirements. Ms. Kim Lucian, business owner of another local liquor store, presented statements in support of changing the distance separation requirements for liquor stores. Chester C. Williams, Esq., presented statements in regard to State law.

At the completion of these public comments, Chairman Vadnais recommended that the Planning Commission make a motion to address the amendments that are mainly procedural changes.

Commissioner Crews made a **motion** to recommend **approval** of the proposed amendments related to Section 16-3-108 through Section 16-3-607 to Town Council as presented by staff. Commissioner White **seconded** the motion and the motion **passed** with a vote of 7-0-0.

The next section of the proposed amendments related to Section 16-4-105, Section 16-4-1004, Section 16-4-1111, pertaining to liquor stores Section 16-4-1234 and Section 16-4-1239. Commissioner Crews made a **motion** to recommend **approval** of the above referenced proposed amendments to Town Council as presented by staff. Commissioner White **seconded** the motion and the motion **passed** with a vote of 7-1-0.

Commissioner Lennox was opposed to changing the way distance separation requirements are made because he believes that the 500-foot distance requirement is too close and many business models have been predicated and based upon the existing definition between liquor stores.

Chairman Vadnais stated that three remaining sections of proposed amendments need to be approved. They are: Section 16-5-602; Section 16-5-806; and Section 216-5-1208. Chairman Vadnais requested that a motion be made.

Commissioner Ennis made a **motion** to recommend **approval** of the above referenced proposed amendments to Town Council as presented by staff. Commissioner White **seconded** the motion and the motion **passed** with a vote of 7-0-0.

XII COMMISSION BUSINESS

Chairman Vadnais reported that the Planning Commission's committee assignments for 2009/2010 remain the same as 2008/2009 with the exception of the LMO Committee. Commissioner Quick will be the chairperson of the LMO Committee for 2009/2010. Commissioner Docherty will continue as a member of the LMO Committee.

Chairman Vadnais reported that the Planning Commissioners have received copies of the draft reports on the Neighborhood Meetings. Chairman Vadnais requested that any additions/comments/corrections to the reports be submitted to Ms. Kathleen Carlin a minimum of 48-hours prior to the next Comprehensive Plan Committee meeting on August 5, 2009.

XIII COMMITTEE REPORTS

1. The Comprehensive Plan Committee will meet on August 5, 2009 at 10:30am
2. The LMO Committee will meet on August 5, 2009 at 6:00pm. The LMO Committee will discuss the proposed OCIL (Office/Light Commercial/Light Industrial) Zoning District Amendments to the Land Management Ordinance.

XIV STAFF REPORTS

Ms. Teri Lewis reported that Mrs. Jayme Lopko has assumed the duties of staff coordinator for the Planning Commission. The Planning Commissioners welcomed Mrs. Lopko.

Mrs. Lopko reported that, according to the Planning Commission's Rules of Procedure, the Planning Commission is required to vote on the appointment of a Secretary for 2009/2010.

Chairman Vadnais requested that a motion be made to re-appoint Ms. Kathleen Carlin as Planning Commission Secretary for 2009/2010. Commissioner Crews made the **motion**. The motion was **seconded** by Commissioner White and **passed** with a vote of 7-0-0.

XV ADJOURNMENT

There being no further business, the meeting was adjourned at 4:45pm.

Submitted By:

Approved By:

Kathleen A. Carlin
Administrative Assistant

Al Vadnais
Chairman