

**THE TOWN OF HILTON HEAD ISLAND**  
**Planning Commission**  
**Minutes of the Wednesday, November 3, 2010 Meeting**      **APPROVED**  
**9:00a.m. – Benjamin M. Racusin Council Chambers**

Commissioners Present:            Chairman Al Vadnais, Vice Chairman Loretta Warden,  
Tom Crews, Jack Docherty, Terence Ennis, Therese Leary,  
Tom Lennox and Gail Quick

Commissioners Absent:            Charles Young, Excused

Town Council Present:            Bill Ferguson

Town Staff Present:                Anne Cyran, Senior Planner; Nicole Dixon, Senior Planner  
Jeff Buckalew, Town Engineer  
Charles Cousins, Community Development Department Director  
Jill Foster, Community Development Department Deputy Director  
Heather Colin, Development Review Administrator  
Shawn Colin, Comprehensive Planning Department Manager  
Shea Farrar, Senior Planner  
Kathleen Carlin, Administrative Assistant

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1.    **CALL TO ORDER**  
Chairman Vadnais called the meeting to order at 9:00a.m.
2.    **PLEDGE OF ALLEGIANCE TO THE FLAG**
3.    **ROLL CALL**
4.    **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.
5.    **APPROVAL OF THE AGENDA**  
The agenda was **approved** as presented by general consent.
6.    **APPROVAL OF THE MINUTES**  
The minutes of the October 6, 2010 meeting were **approved** as presented by general consent.
7.    **APPEARANCE BY CITIZENS ON ITEMS UNRELATED TO TODAY'S AGENDA**  
Chester C. Williams, Esq., stated that he believes the Town is in violation of public notice requirements for Public Project Review applications PPR100002 and PPR100003. The LMO states that a telephone number must be included in legal advertisements published by the Town. This was not done in the legal ad for these applications. Mr. Williams further stated his opposition to the Town's decision not to publish a second legal ad stating the new meeting date and time for the continuance of Zoning Map Amendment application, ZMA090003. The

Planning Commission continued this application from their October 20, 2010 meeting to the November 17, 2010 meeting. Regarding the legality of ZMA090003, Mr. Williams stated that State law requires that a second legal ad be published advertising the change in review date. Mr. Williams stated that he had requested that the Town staff publish a second legal ad for the November 17<sup>th</sup> meeting, but the staff declined to do so. Mr. Williams stated that he believes that Zoning Map Amendment ZMA090003 is, therefore, invalid because it does not comply with State law.

Next, Mr. Williams stated that he objected to Application for Appeal, APL100006, having to do with the construction of a tabby pathway at Edgewater on Broadcreek not being included on today's agenda. The Planning Commission had continued their hearing on this application. Mr. Williams stated that the State Enabling Act requires that the Planning Commission act on this application no later than November 8, 2010. Since APL100006 was not included on today's agenda, the Town is in violation of published notice requirements for this application as required by law.

Chairman Vadnais stated that he would like to address these and any other concerns from Mr. Williams under today's Staff Reports. The staff should be prepared to respond to these issues at that time.

Mr. Williams then stated his objection to an additional issue with regard to today's agenda. Mr. Williams stated that the Town staff has refused to accept four applications for appeal that he has filed on behalf of his clients, St. James Baptist Church and Edgewater at Broadcreek. Mr. Williams stated that these four appeals were filed in a timely and proper manner. The staff, however, decided not to accept the four applications. The Planning Commission should make their own decision on these applications for appeal. Mr. Williams stated the staff has usurped that power on behalf of the Planning Commission; and they are not legally allowed to do that.

Commissioner Ennis stated his concern with the procedural issues being raised today. The Planning Commission may not be able to review today's applications based on these procedural issues.

Chairman Vadnais stated that today's agenda has already been approved by the Planning Commission, and the Planning Commission will proceed with today's reviews. Following discussion under the Staff Report portion of the agenda, the Planning Commission may need to re-evaluate these issues. They will make that decision at that time.

## **8. UNFINISHED BUSINESS PUBLIC HEARING**

### **PPR100002**

Application for public Project Review from the Town of Hilton Head Island to construct a multi-use pathway in the Mathews Drive Tax Increment Financing (TIF) District. The pathway will run along the south side of William Hilton Parkway between Mathews Drive and Gardner Drive.

Ms. Anne Cyran made the presentation on behalf of staff. Staff recommended that the Planning Commission find this application to be compatible with the Town's Comprehensive Plan for location, character, and extent based on the Findings of Facts and Conclusions of Law as determined by the LMO Official. Ms. Cyran presented an in depth review of the application.

The purpose of the project is to improve pedestrian connectivity along William Hilton Parkway by providing a new multi-use pathway along the south side of William Hilton Parkway from Gardner Drive to Mathews Drive.

The need for pathway links in key areas along William Hilton Parkway is listed as a Moderate Priority goal on Town Council's 2010 Policy Agenda. The project was scheduled for 2014 in the CIP budget; but funding for construction was made available for this winter. Town staff anticipates that construction will begin in January and will end by May 2011.

In considering the design of the pathways, Town engineers observed existing pedestrian and bicycle traffic and studied vehicular traffic data. The staff solicited input from adjacent property owners. Palmetto Electric and the Hilton Head Public Service District have reviewed the plans and have provided comments. A pathway will be constructed along the south side of William Hilton Parkway between Gardner Drive and Mathews Drive. A new crosswalk will cross William Hilton Parkway at the intersection of Gardner Drive, connecting the proposed pathway with the existing pathways on William Hilton Parkway and Beach City Road. The crosswalk will be the same as those at Coligny Circle, with stamped asphalt between white stripes with slight ramps and tactile warning surfaces on either end. The areas where the pathway crosses non-named curb cuts, such as entrances to commercial properties, will be striped.

Landscaping will be installed between the pathway and the road to provide a visual separation. The project will include as many environmentally-sensitive elements as possible, including filtering storm water runoff using existing vegetated swales and wetland buffers. Ms. Cyran reviewed the required Findings of Fact and Conclusions of Law.

The Planning Commissioners discussed the application with staff. In regard to pedestrian safety, several Planning Commissioners stated their concern with the safety of existing crossovers that are at non-traffic lighted intersections. It will be very important for the staff to evaluate and improve the safety of these existing crossovers. Following the discussion, Chairman Vadnais requested public comments.

Mr. Frank Babel, cyclist, complimented the project and the staff's efforts to address safety concerns. Public education and public awareness of the areas that are dangerous to cross and the areas safe to cross will be important to the success of the project.

Chester C. Williams, Esq., stated that, while this application is a great idea, the Planning Commission should not approve it because of the defective public notice. Following these public comments, Chairman Vadnais stated that the public hearing for Public Project Review Application, PPR100002, is closed.

Following final comments, Chairman Vadnais requested that a motion be made stating that Public Project Review Application, PPR100002 is compatible with the Comprehensive Plan for location, character and extent as presented by staff today. Commissioner Quick made the **motion** as stated by Chairman Vadnais. Commissioner Crews **seconded** the motion and the motion **passed** with a vote of 8-0-0. Chairman Vadnais stated that the motion includes a notation for the staff to study the safety issues discussed today.

## **PUBLIC HEARING**

### **PPR100003**

Application for Public Project Review from the Town of Hilton Head Island to construct a multi-use pathway in the Pope/Palmetto Area Tax Increment Financing (TIF) District. Beginning at Arrow Road, the pathway will run along the south side of Dunnagan's Alley, cross Dunnagan's Alley, and then continue on the north side of Palmetto Bay Road to Target Road.

Ms. Anne Cyran made the presentation on behalf of staff. The staff recommended that the Planning Commission find this application to be compatible with the Town's Comprehensive Plan for location, character, and extent based on the Findings of Facts and Conclusions of Law as determined by the LMO Official.

Ms. Cyran presented an in depth review of the application. The purpose of this project is to improve pedestrian connectivity in the Dunnagan's Commercial Walking District by providing a continuous multi-use pathway along the south side of Dunnagan's Alley from Arrow Road to Palmetto Bay Road and along Palmetto Bay Road between Dunnagan's Alley and Target Road.

The need for an additional pathway in the Dunnagan's Commercial Walking District was stated in the *Bridge to the Beach Redevelopment Advisory Report*. Funding for construction of the pathway is currently available, and Town staff anticipates that construction will begin in November 2010 and end by February 2011.

In considering the design of the pathways, Town engineers observed existing pedestrian and bicycle traffic and studied vehicular traffic data. The staff received input at a public meeting for adjoining property owners on September 23, 2010. Palmetto Electric and the South Island Public Service District have reviewed the plans and have provided comments.

A pathway will be constructed along the south side of Dunnagan's Alley from Arrow Road to Palmetto Bay Road and the north side of Palmetto Bay Road between Dunnagan's Alley and Target Road. A new crosswalk will cross Dunnagan's Alley at the intersection of Palmetto Bay Road. The crosswalk will be the same as those at Coligny Circle, with stamped asphalt between white stripes with slight ramps and tactile warning surfaces on either end. The areas where the pathway crosses non-named curb cuts, such as entrances to commercial properties, will be striped.

Landscaping will be installed between the pathway and the road to provide visual separation. The project will include as many environmentally-sensitive elements as possible, including filtering storm water runoff using existing vegetated swales.

Mr. Jeff Buckalew presented statements on behalf of the Engineering Department. Mr. Buckalew discussed the specific location of the project including on street parking and pedestrians and bicyclists' safety concerns. The Planning Commission and the staff discussed safety concerns with regard to bicyclists trying to navigate Palmetto Bay Road and Sea Pines Circle. At the completion of the discussion, Chairman Vadnais requested public comments.

Mr. Frank Babel complimented the project and the staff's efforts to address safety concerns. Public education and public awareness of the correct areas to cross will be very important. Mr. Babel and the Planning Commission discussed safety concerns with pedestrians and bicyclists

particularly at the location of existing intersections. The Planning Commission thanked Mr. Babel for his presentation and statements regarding safety issues. Mr. Jeff Buckalew stated his agreement with Mr. Babel's statements and the staff's efforts to address safety concerns

Chester C. Williams, Esq., stated that, while this application is a great idea, the Planning Commission should not approve it because of the defective public notice. Following these public comments, Chairman Vadnais stated that the public hearing for Public Project Review Application, PPR100003, is closed.

At the completion of final comments by the Planning Commission, Chairman Vadnais requested that a motion be made stating that Public Project Application, PPR100003, is compatible with the Comprehensive Plan for location, character and extent as presented by staff today.

Commissioner Ennis made the **motion** as stated by Chairman Vadnais. Vice Chairman Warden **seconded** the motion and the motion **passed** with a vote of 8-0-0. Vice Chairman Warden stated that, as a result of today's discussion, particularly on this project, a number of Planning Commissioners, as well as a member of the audience have raised issues that are beyond this project; and in our future deliberations with respect to CIP projects, that we are aware of the potential, or the problems that we do have, in terms of Sea Pines Circle navigation by pedestrians and cyclists, as well as the Publix parking lot. Chairman Vadnais agreed with Vice Chairman Warden's statements and asked that they be included in today's minutes.

## **PUBLIC HEARING**

### **ZMA090003**

Ms. Louanne C. LaRoche has requested to amend the Official Zoning Map by amending the Sea Pines Master Plan to add a Single-Family Residential use to a property that currently allows uses of Institutional and Recreational. The property is referred to as Parcel 'A' Cordillo Parkway and further identified on Beaufort County Tax Map 18 as parcel 218.

Chairman Vadnais stated that the review of this application is postponed to November 17, 2010 at 9:00a.m.

## **9. NEW BUSINESS**

### **PUBLIC HEARING**

#### **Street Name Request**

Sea Pines Plantation has applied to modify the name of the portion of Greenwood Drive that is accessed from Willow Oak Road. Properties affected by this application are addressed 251-275 Greenwood Drive. The proposed street name is Spruce Wood Lane.

Chairman Vadnais stated that this application is withdrawn. With regard to the application, Mr. Edward Tate, adjacent property owner, requested additional clarification from the staff and the Planning Commission on the Town's policy for notifying property owners of this type of street name application. Ms. Heather Colin reviewed the Town's policy for public notification requirements. Ms. Colin stated that this street name request application complied with public notification requirements.

## **10. Commission Business**

### **Town Council Goals**

The Planning Commission will develop a list of recommendations that will be forwarded to Town Council to consider at their annual retreat included will be the 2011 Targets for Action.

The Planning Commission reviewed a list of recommendations submitted by the Comprehensive Plan Committee that summarized the key steps that the Town should focus its efforts on in the next 1 to 2 year period. The recommendations were derived from the Comprehensive Plan, the Task Force Advisory report and other adopted plans. Senior Planner, Shea Farrar, presented an overview of the recommendations to the Planning Commission which included six main focus areas and a detailed narrative for each that included strategies and tactics to address the needs. The Planning Commission reviewed the list and offered some suggestions and minor revisions to the recommendations.

Ms. Farrar noted that the revisions would be incorporated into the final list to submit to Town Council to consider when outlining the Town's year 2011 Targets for Action. In addition, the Planning Commission asked staff to develop a one-page summary of the six focus areas, and include a bulleted list of specific actions, initiatives, or programs deemed as priority steps for the Town to focus on taking for each before submitting to Town Council to consider. Shawn Colin, the Town's Comprehensive Planning Manager, stated that an outline would be developed and distributed to the Planning Commission for final review. Upon receiving general consent, the final draft would be submitted to Town Council to consider during its December retreat to develop the Targets for Action for 2011.

At this time, Chairman Vadnais called a 10 minute recess in today's proceedings; a motion on the recess was not taken; and the meeting reconvened 10 minutes later.

## **11. Chairman's Report**

Chairman Vadnais reported that the LMO Committee is scheduled to meet on Tuesday, November 16, 2010 at 6:00p.m. The Planning Commission is scheduled to meet on Wednesday, November 17, 2010 at 9:00a.m. instead of 3:00p.m. due to the run-off election. A CIP presentation is scheduled to be reviewed by the Planning Commission on November 17, 2010 at 9:00a.m.

## **12. Committee Reports**

With regard to the upcoming LMO Committee meeting, Commissioner Quick requested additional details from the staff on the proposed amendments. Ms. Nicole Dixon stated that the LMO Committee is scheduled to review one amendment on changes to the Density Conversion.

The Planning Commission and the staff discussed the proposed amendment. Chairman Vadnais stated that, in light of the Planning Commission's rather heavy meeting schedule this month, perhaps the LMO Committee meeting could be canceled, and the full Planning Commission could review the proposed amendment at their regular meeting. Vice Chairman Warden stated that the Rules of Procedure would allow for this change in procedure. The Planning Commission discussed the issue and decided to review the proposed amendment at the full Planning Commission level. Chairman Vadnais requested that the staff cancel the LMO Committee meeting on Tuesday, November 16, 2010 at 6:00pm, and the staff agreed.

### 13. Staff Reports

Chairman Vadnais stated that the Planning Commission will now address Mr. Williams' objections to Public Project Review Applications, PPR100002 and PPR100003. Chairman Vadnais stated that, for the record, the Planning Commission unanimously approved these applications earlier this morning.

Chester C. Williams, Esq., stated that, on a substantive basis, these two projects are a good idea, and they should be approved at some point; however, the proper process was not followed for their approval at this time.

Mr. Williams reviewed LMO Sections 16-3-110, Summary of Notice Required, for Public Project Reviews. Mr. Williams and the Planning Commission discussed the publication requirements for public project reviews. Mr. Williams stated that the staff did not include a telephone number in the legal ad for these applications. Mr. Williams also claimed that there was no published notice of the public hearing held today.

Mr. Williams stated that the staff did publish a notice for these applications to be reviewed on October 20, 2010; and these items were later continued to the November 3, 2010 meeting. However, because a telephone number to contact the Town was not included in the legal ad, that legal ad is void. Chairman Vadnais requested a response from the staff on this issue.

Mr. Charles Cousins presented statements on behalf of staff. Mr. Cousins stated that he believes that the staff did publish the public notice. The legal advertisement for these applications was published on Sunday, September 12, 2010 for the Planning Commission's meeting on October 20, 2010. The Planning Commission's review of the applications was later continued to today's meeting. Mr. Cousins stated that a telephone number for the Town was not included in this legal ad. The staff will consult with legal counsel and, if these applications need to be heard again, the staff will notify the Planning Commission.

Following final comments on the issue by the Planning Commission, Chairman Vadnais stated that he will not overrule the decisions made today by the Planning Commission with regard to applications PPR100002 and PPR100003 based on the lack of a telephone number. Chairman Vadnais stated that this issue is now closed. Mr. Williams stated his objection to this ruling. Mr. Williams stated that he would like to debate the issue further, and Chairman Vadnais denied the request.

Next, Mr. Williams stated that he objected to the staff's policy for continuing the review of Application for Zoning Map Amendment, ZMA090003. Mr. Williams claimed that the continuance of this application to the November 17, 2010 meeting was not given proper public notice as required by law.

Mr. Williams and the Planning Commission discussed the change in meeting time for the November 17, 2010 meeting from 3:00pm to 9:00am. Chairman Vadnais stated that Town Council had requested this change in meeting time several weeks ago due to an anticipated runoff election.

Mr. Williams stated that he objected to the change in meeting time not being properly advertised. When asked for the staff's response to this issue, Mr. Cousins presented evidence that the staff had notified the media of the change in meeting time. A public notice stating the change in meeting time was also posted outside (along with the other Town public notices). The public notification was made on October 13, 2010. Mr. Williams stated that, as of this morning, the Town's website has not been updated to reflect this change in meeting time.

Following final comments, Chairman Vadnais stated that he believed that proper notification has been made by the staff to the media and to the public on this issue. Mr. Williams objected to the Chairman's ruling. Mr. Williams stated that his law firm has mailed 70 + notification letters on behalf of his client (ZMA090003). These notification letters include an incorrect meeting time because he was unaware of the change until today. The Town's website is incorrect because it does not reflect this change in meeting time. Mr. Cousins stated that the staff will update the Town's website if this is the case.

Chairman Vadnais and Mr. Williams then reviewed case law with regard to public notification requirements. Mr. Cousins reviewed LMO requirements for public notifications and the Town's procedure for continuing applications to another meeting date.

At the completion of the discussion, Chairman Vadnais stated that he believes that the change in meeting time from 3:00pm to 9:00am for the Planning Commission meeting on November 17, 2010 has been properly noticed. Chairman Vadnais stated that Mr. Williams' objection on this issue is over ruled. Mr. Williams stated his objection to the Chairman's ruling. Mr. Williams stated that he would like to debate the issue further. Chairman Vadnais stated that his ruling on the issue stands.

Mr. Williams then stated that he feels he has no choice but to ask for a continuance on the review of ZMA090003 to a later meeting. Mr. Williams stated that he needs sufficient time to publish a new notice of the public hearing. Mr. Williams requested that a new date and time be set today.

Chairman Vadnais stated that he is inclined to deny this request for continuance, but he will leave the decision up to a majority of the Planning Commission. The Planning Commission discussed the issue, and decided to grant Mr. Williams' request for continuance of ZMA090003.

At the completion of final comments, Chairman Vadnais requested that a motion be made to continue the review of ZMA090003 from the November 17, 2010 meeting date to a new meeting date.

Vice Chairman Warden made a **motion** that the Planning Commission should reschedule the public hearing on Application for Zoning Map Amendment, ZMA090003, to a future date. Proper notification to the press and to the public will comply with LMO requirements. Commissioner Ennis **seconded** the motion and the motion **passed** with a vote of 8-0-0.

Next, Mr. Williams stated that he objected to the staff's decision to deny acceptance of four applications for appeal filed on behalf of his clients, St. James Baptist Church and Edgewater at Broadcreek. Mr. Williams stated that all four appeals were timely and properly filed with the Town. Mr. Williams stated that the Planning Commission should make these types of decisions, and not the staff.

Chairman Vadnais stated that Mr. Williams had selected his forum for the review of these applications for appeal when he made his presentation before the Board of Zoning Appeals. Mr. Williams stated his objection and presented his position on this matter.

Chairman Vadnais and Mr. Williams then discussed the procedure for setting the Planning Commission's agenda. Mr. Williams asked Chairman Vadnais how he can be sure that his items are included on the agenda when he believes that they should be. There was no response to this question from the Chairman. Chairman Vadnais stated that this concludes today's discussion on these issues.

**14. ADJOURNMENT**

The meeting was adjourned at 11:50a.m.

Submitted By:

Approved By:

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Kathleen Carlin  
Administrative Assistant

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Al Vadnais  
Chairman