

THE TOWN OF HILTON HEAD ISLAND
Planning Commission

Minutes of the Wednesday, February 3, 2010 Meeting
9:00am – Benjamin M. Racusin Council Chambers

APPROVED

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

Commissioners Absent: None

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

Town Staff Present: Teri Lewis, Land Management Ordinance Administrator
Charles Cousins, Community Development Department Director
Sally Krebs, Natural Resources Division Administrator
Jayme Lopko, Senior Planner & Planning Commission Coordinator
Kathleen Carlin, Administrative Assistant & Commission Secretary

I CALL TO ORDER

Chairman Vadnais called the meeting to order at 9:00am.

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.

VI APPROVAL OF THE AGENDA

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

VII APPROVAL OF THE MINUTES

The Minutes of the January 16, 2010 meeting were **approved** as presented by general consent.

VIII APPEARANCE BY CITIZENS ON ITEMS UNRELATED TO TODAY'S AGENDA

None

IX UNFINISHED BUSINESS

None

**X NEW BUSINESS
PUBLIC HEARING**

LMO Amendments to amend Chapters 3, Article IV (Tree Protection) and 4, Article IV (Airport Overlay District) of the Land Management Ordinance (LMO), specifically Sections 16-3-402 and 16-4-403 to provide for changes to tree pruning and removal requirements in the approach path of the Hilton Head Island Airport.

Chairman Vadnais presented opening statements regarding the procedure for today's public hearing. The staff will make their presentation first and then the Planning Commission will discuss the staff's proposal. Following this discussion, the Chairman will invite public statements. After public statements are received and the Planning Commission has completed their discussion, a motion and vote on the issue will be taken. Chairman Vadnais then requested that the staff make their presentation.

Ms. Teri Lewis made the presentation on behalf of staff. The staff recommended that the Planning Commission consider the proposed changes to the Airport Overlay District section of the LMO. The proposed amendments create additional flexibility for pruning and removing trees in the Hilton Head Island Airport approach path.

Town Council adopted the amendments via pending ordinance doctrine on January 5, 2010. As part of the motion to approve, Town Council asked the staff to look at ways that special protection could be provided to specimen live oak trees located within the Hilton Head Island Airport approach path. Town Council also asked the staff to review the concerns mentioned by Mr. Paul Andres, Hilton Head Island Airport Director.

At their November 17, 2009 meeting, Town Council held a public hearing to receive comments on proposed changes to the Town's Land Management Ordinance (LMO) related to tree pruning and removal in the Hilton Head Island Airport approach path. The Mayor suggested that staff should revise the amendments to treat on and off airport property the same and to only prune or remove trees that are currently in the approach path or have the potential to be within ten years.

At the December 7, 2009 Public Safety Committee meeting, the Committee voted 2-1 to meld the amendments considered at the November 17, 2009 Town Council meeting with the revised amendments considered at the Public Safety meeting. The recommendation from the Committee is to once again separate the requirements for tree pruning and removal for on and off airport properties.

The staff presented these amendments at the December 15, 2009 Town Council meeting. At that meeting the staff was requested to make additional changes increasing the buffers on airport property, allowing the removal of all trees and vegetation on airport property in non-buffer and non-wetland areas and allowing slow growing trees only to be pruned to a 5-year growth interval.

At the Town Council meeting on January 5, 2010, Council adopted the amendments but asked that staff take information regarding the following issues to the Planning Commission for consideration at their January 20, 2010 meeting: (1) the number of specimen live oak trees located within the 1:34 slope of the Hilton Head Island Airport approach path; (2) a method or

methods for providing special protection to these trees; (3) a review of the concerns stated by the Hilton Head Island Airport Director and the staff's position regarding those concerns.

For the past few years, the Hilton Head Island Airport has pursued the pruning and removal of trees within the approach path. The trees on the south end of the approach path were pruned or removed starting in late 2007 and the mitigation project associated with that tree removal is nearly complete.

Despite several meetings between County and Town representatives, the County has been unable to complete the steps necessary to apply for tree removal for the north end of the approach path. These amendments were drafted to make the process as easy as possible for the County to follow.

These amendments would do the following: (1) eliminate the need for a detailed tree survey; (2) eliminate the need for the Town's Board of Zoning Appeals to grant a variance to remove specimen trees; (3) eliminate the need for the Town's BZA to grant a variance to remove trees in wetland buffers; (4) eliminate the need for a wetland alteration permit from the Town; (5) change the process to allow an arborist that is jointly hired by the Town and the County to direct all tree work in the field; (6) require a 75' street buffer and adjacent use buffer on airport property and require an additional buffer area between the wetland and St. James Baptist Church and the wetland and Beach City Road; (7) allow the County to remove all trees and vegetation in the 1:34 slope in non-buffer and non-wetland areas on their airport property to allow for easier maintenance and eliminate the need to address tree removal on their property in the future; (8) allow trees within the 1:7 slope both on and off airport property, and that have reached the height limits of the approach path or have the potential to reach it within five years (slow growing) or ten years (fast growing) to be pruned or removed based on the recommendation of the arborist; (9) require that the Town and County work together to develop a plan to protect water quality, this plan will include the planting of low growing native plants on the cleared portions of airport property; (10) require that the Town and County work together to develop a landscape mitigation plan; (11) require that tree mitigation on airport property will occur in buffers only and tree mitigation off airport property will occur in both buffer and non-buffer areas; (12) require that all previous projects be completed prior to a new project beginning; (13) require that avigation easements must be in hand or the filing of condemnation papers must occur on any parcel where work is proposed.

Ms. Lewis presented several overhead maps of the site for review by the Planning Commission. Following this presentation, the Planning Commission and the staff discussed the issue of clear cutting the site. The Planning Commission discussed the trees on airport property that are located in the 34:1 slope (or within ten feet of the slope).

A couple of Planning Commissioners discussed concern with the proposed amendments' elimination of some of the Town's "checks and balances" (as exist in the LMO). These "checks and balances" are important in preserving the natural beauty and character intrinsic to Hilton Head Island.

Mr. Charles Cousins then presented statements in regard to tree removal. Ms. Sally Krebs presented statements on behalf of the Natural Resources Department in regard to the important natural services provided by forests. A few of these natural benefits are: (1) visual and sound

barrier for surrounding homes and businesses; (2) filters small particles of air pollution out of the air; (3) soils and wetlands help to store and filter stormwater; (4) the tree's canopy deflects the force of rain, and the trees' roots anchor the soil and help prevent erosion.

Ms. Krebs and the Planning Commissioners discussed the issues of clear cutting and storm water runoff. They also discussed the need to protect an active eagle nest located on airport property. The Planning Commission discussed the function of an arborist and the need to control noise.

The Planning Commission stated their appreciation to the staff for their excellent work and presentation. At the completion of the Planning Commission's discussion, Chairman Vadnais requested statements from the public.

Mr. Paul Andres, Director of the Hilton Head Island Airport, presented statements on behalf of the airport. Mr. Andres stated that he has safety concerns with regard to tree obstruction on airport property and non-airport property. Mr. Andres stated that the Hilton Head Airport needs to fully comply with all FAA requirements. Mr. Andres discussed the issue of the tree survey with the Planning Commissioners. Mr. Andres stated that the critical component that applies to the airport is the vertical height of the obstruction.

Commissioner Ennis asked Mr. Andres about the FAA safety requirements of the airport and the cost of tree maintenance for the airport. Mr. Andres responded that FAA requirements for safety were being exceeded by the proposed LMO amendments and that the Airport could not afford \$1 million dollars every five years for tree maintenance.

Several Planning Commissioners stated concern with Mr. Andres' presentation as they believe that the FAA requirements for the Hilton Head Island Airport are being met at this time by the current Land Management Ordinance.

Several Planning Commissioners stated concern with the proposed amendments based on their negative impact to the environment. The Commissioners stated concern with the loss of trees, impact to the wetlands, noise and air pollution, stormwater and the filtering of water. Following final discussion by the Planning Commissioners, Chairman Vadnais requested public statements.

The following citizens presented statements in opposition to the proposed LMO amendments: Ms. Cynthia McAllister, Mr. Bob Richardson, Mr. Bob Lynch, Mr. Ron Smedick, Mr. Jim Fisher, Mrs. Fran White, Mr. Charles Young, III, and Chester C. Williams, Esquire.

These citizens reported concern with noise and air pollution related to the loss of tree and vegetation. Several citizens reported the need for additional information such as an environment assessment study and noise control study. A mater plan for the airport is also needed.

Citizen, Mr. Will Dopp, presented statements in support of the proposed amendments (as well as the additional needs stated by the airport manager) as necessary to make the airport safe. This concluded all public statements and the public hearing for this issue was closed.

Chairman Vadnais excused himself from the remainder of the meeting at this time (11:15am). Vice Chairman Warden assumed the role of chairperson for the remainder of the meeting. The Planning Commission discussed several issues including noise control, a possible need for additional information (airport master plan and environment assessment study).

The Planning Commission reported the need to recognize the value of the Hilton Head Island Airport as an important asset to the community. The airport is fundamental to the Island's economy. The Planning Commissioners stated that this is a very difficult issue to deal with. Achieving some sort of balance between Hilton Head Island's quality of life, safety, and economic concerns will be necessary.

A couple of Planning Commissioners reported that the proposed amendments go above and beyond the FAA requirements. The 34:1 slope seems reasonable based on airport safety. The Planning Commission recognized the efforts of staff and Town Council in trying to resolve this very difficult issue. The Planning Commissioners discussed Town Council's Management Targets for 2010 (Airport Master Plan Policies and Recommendations for Airport Trees).

The Planning Commission and staff also discussed the possibility of lighting the specimen live oak tree that is located at St. James Baptist Church. The Planning Commission is hopeful that the FAA will approve this solution.

Mr. Charles Cousins then presented statements on the issue of this specimen tree. A meeting was recently held in Atlanta with the FAA, the Mayor, the County, and Mr. Andres in attendance. Based on the outcome of that meeting, the FAA appears to be willing to work with the St. James Baptist Church with regard to the specimen live oak tree. A final decision on this matter has not yet been reached.

The Planning Commission and Mr. Cousins discussed the current Town requirements and the impact of the proposed changes with regard to the proposed elimination of requiring a detailed tree survey, the involvement of the BZA with regard to the need for variances, and obtaining a wetland alteration permit.

Several Planning Commissioners stated that the proposed eliminations appear to be based on the desire to expedite the solution to the Airport's north end problem. If the proposed eliminations become finalized, however, these requirements would then become part of the "forever guidance" for airport properties and non-airport properties. The existing LMO is sufficient to meet the requirements of the FAA with regard to airport safety.

The Planning Commission and the staff discussed the pending ordinance doctrine that is already in place. They also discussed the Planning Commission's role in reviewing today's proposed amendments. The Planning Commission again stated their difficulty in coming to a decision on this issue. It is a very sensitive problem and achieving the necessary balance will not be easy or perhaps even possible. At the completion of final comments, Chairman Warden requested that a motion be made.

Commissioner White made a motion that the Planning Commission recommend **denial** of the proposed amendments to Town Council as presented today by staff. Commissioner Ennis **seconded** the motion with a request to modify the motion.

Commissioner Ennis stated that there is some benefit to streamlining the process with regard to BZA requirements. Some elements may need to be placed on hold due to the need for additional information regarding the airport master plan. Following this discussion, Commissioner White declined accepting the modification to his motion and Commissioner Ennis **withdrew** his second to the motion. Chairman Warden requested clarification from the staff regarding the issue of legality in the making of a motion.

Mr. Charles Cousins stated that according to the LMO, the Planning Commission can take one of three actions: (1) recommend approving the application; (2) recommend denying the application; or (3) recommend approving the application with modifications.

Chairman Warden then requested a new second to the motion and none was received. The motion **died** for lack of a second. Chairman Warden then requested that a new motion be made.

Commissioner Quick questioned if the Planning Commission can make a new motion that addresses the FAA's concerns without having to wait another 3-1/2 years. Commissioner Crews requested clarification on this issue as well. Mr. Charles Cousins stated that a motion to modify needs to include very specific language. After additional discussion regarding the content of a motion, the following final motion was made:

Commissioner Lennox made a **motion** that the Planning Commission recommend **approval** of the proposed LMO amendments to Town Council with the following **modifications**: (1) these amendments would pertain to the north end project only; (2) the specimen trees located at St. James Church should be lighted if possible. If the FAA rejects the lighting of these specimen trees, these trees would be governed by the same treatment as the other specimen trees in the 1:34 slope; (3) the clear cutting would be stopped at the 50-foot line for the area to the east of the large wetland on the property.

Commissioner White stated concern that the core values of Hilton Head Island have not been considered in this motion. Commissioner White stated his opposition to the motion. Following final comments, Chairman Warden asked if there was a second to the motion. Commissioner Leary **seconded** the motion and the motion ultimately **passed** with a 5-3-0 vote.

Commissioners White, Quick, and Ennis were opposed to the motion for the following reasons: (1) the scope of the original LMO Sec. 16-4-403 meets all FAA approach path and safety requirements; (2) exceeding FAA requirements is not a reason to amend the LMO; and (3) the transfer of maintenance costs from the County to federal taxpayers is not an equitable reason for amendment an ordinance.

XI COMMISSION BUSINESS
None

XII CHAIRMAN'S REPORT
None

VIII COMMITTEE REPORTS

Commissioner Crews, on behalf of the Comprehensive Plan Committee, briefed the Planning Commission on the proposed draft to update the Recreation Element of the Comprehensive Plan. Following this presentation and discussion, Chairman Warden requested that a motion on this issue be made.

Commissioner Crews made a **motion** to **accept** the Recreation Element as part of the Comprehensive Plan. Commissioner Lennox **seconded** the motion and the motion **passed** with a vote of 8-0-0.

XIV STAFF REPORTS

None

XV ADJOURNMENT

There being no further business, the meeting was adjourned at 12:15pm.

Submitted By:

Approved By:

Approved By:

Kathleen A. Carlin
Secretary

Al Vadnais
Chairman

Loretta Warden
Vice Chairman