

**THE TOWN OF HILTON HEAD ISLAND**  
**Board of Zoning Appeals**  
**Minutes of the Monday, March 28, 2011 Meeting**  
**2:30p.m– Benjamin M. Racusin Council Chambers**

**APPROVED**

Board Members Present: Chairman Roger DeCaigny, Vice Chairman Peter Kristian,  
Alan Brenner, Michael Lawrence, Jack Qualey and Bob Sharp

Board Members Absent: Stephen Murphy, Excused

Council Members Present: Bill Ferguson

Town Staff Present: Nicole Dixon, Senior Planner and BZA Coordinator  
Curtis Coltrane, Attorney for the Town  
Brian Hulbert, Staff Attorney  
Teri Lewis, LMO Official  
Kathleen Carlin, Board Secretary

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**1. CALL TO ORDER**

Chairman DeCaigny called the meeting to order at 2:30p.m.

**2. ROLL CALL**

**3. INTRODUCTION TO BOARD PROCEDURES**

Chairman DeCaigny stated the Board's procedures for conducting today's business meeting.

**4. APPROVAL OF THE AGENDA**

Ms. Nicole Dixon reported that Application for Variance VAR100005 is **withdrawn** from the agenda at the applicant's request. The applicants involved in this case are trying to work out their issues instead of coming before the Board. Vice Chairman Kristian made a **motion to approve** today's revised agenda as presented without VAR100005. Mr. Lawrence **seconded** the motion and the motion **passed** with a vote of 6-0-0.

**5. APPROVAL OF THE MINUTES**

Vice Chairman Kristian made a **motion to approve** the minutes of the special February 21, 2011 meeting as presented. Mr. Lawrence **seconded** the motion and the motion **passed** with a vote of 6-0-0.

**6. UNFINISHED BUSINESS**

**APL100010**: Request for Appeal from Chester C. Williams on behalf of Ephesian Ventures, LLC. The Community Development Department issued a letter stating that an appeal application filed by the appellant should not be heard by the Planning Commission since the subject of the appeal was an administrative determination. The appellant contends that the Community Development Department erred in its decision and is requesting that Town staff be directed to accept the previously submitted appeal to the Planning Commission.

Ms. Dixon stated that the staff was notified last Friday, March 25<sup>th</sup>, that the appellant would like to request a postponement of both APL100010 and APL100007. Chairman DeCaigny reported that he received a conference call from Mr. Williams and Mr. Mogil last Friday, March 25<sup>th</sup> requesting the postponement of both appeals. Chairman DeCaigny informed the parties that they should appear before the Board on Monday, March 28<sup>th</sup>, to make this request. Chairman DeCaigny then requested statements from the two attorneys.

Chester C. Williams, Esq., and Michael Mogil, Esq., presented statements in support of the request for postponement until end of June 2011. Mr. Williams presented comments regarding the extension of the Tolling Agreement until June 30<sup>th</sup>. The request extension was approved by Planning Commission Chairman Al Vadnais. Following final comments, the Board requested a response from staff on the request for postponement.

Curtis Coltrane, Esq., stated that he spoke with Mr. Williams and Mr. Mogil on Friday, March 25<sup>th</sup> concerning this matter. The Town is prepared to go forward today; however, staff recommends that the matter be postponed to a time concurrent with the Planning Commission's review of the application. The staff has no objection to allowing the appellant's time to work their issues out.

Brian Hulbert, Staff Attorney, presented statements regarding the applicant's request for a continuance on these two appeals. The Board discussed the deadline requirement and the fact that the applicant did not follow the correct procedure for a 15-day notice requirement. The appellant will need to show good cause for any additional postponement requests. In this case, the notice requirement would need to be received no later than Wednesday, June 15<sup>th</sup> for the Monday, July 25, 2011 meeting. Following final discussion, Chairman DeCaigny requested that a motion be made for the request for postponement of APL100007 and APL100010.

Mr. Qualey made a **motion** that the Board **accept** the postponement of these two appeals regarding the Edgewater/Ephesians' dispute regarding the permits to extend the time period for the appeals to be heard through our meeting in July. And, if any further extension of the time for hearing of these appeals is requested, the request must be made to the Chairman of the BZA not later than Wednesday, June 15<sup>th</sup> and the Chairman will have the authority to extend the time on adequate cause shown, if shown by June 15<sup>th</sup>, if not, we will have to hear these two matters at our July meeting. Vice Chairman Kristian **seconded** the motion and the motion **passed** with a vote of 6-0-0.

## 7. NEW BUSINESS

*(Mr. Brenner recused himself from review of the following application due to a personal association with the applicant. A Conflict of Interest Form was completed by Mr. Brenner and attached to the record.)*

### **Public Hearing**

**SER110002:** Request for Special Exception for an Other Retail Service use in the Office/Institutional Low Density (OL) Zoning District. Mark R. Sertl of S & C 278 Associates, Inc. is proposing to operate a cellular phone service business in an existing building at the subject location. The property is located at 3 Regency Parkway, and is further identified as Parcel 155A on Beaufort County Tax Map 11.

Ms. Nicole Dixon made the presentation on behalf of staff. The staff recommended that the Board **approve** the application based on the Findings of Fact and Conclusions of Law contained in the Staff's Report dated March 28, 2011.

Mr. Mark Sertl is requesting special exception approval for an Other Retail Service use in the OL Zoning District per the requirements of LMO Section 16-4-1204, Use Table. The applicant states in the narrative that the business will operate in an existing vacant building. The applicant believes the proposed use will be compatible with surrounding uses because all activities will take place in the building and the proposed use will not generate noise, glare, smoke, dust, odor, fumes, water pollution or general nuisance.

The applicant is proposing to operate a cellular phone service business in a vacant building, formerly known as Ronnie's Bakery. There is gas station/convenience store also located on the subject property. The property is surrounded by a hotel, a restaurant, a bank and the South Island Square shopping center across William Hilton Parkway.

Ms. Dixon reviewed the application including the vicinity map and required Findings of Fact and Conclusions of law. Based on the Findings and Conclusions of law, the LMO Official determines that the request for a special exception should be granted to the applicant for the proposed cellular phone service business in the OL Zoning District because it is in conformance with the Comprehensive Plan and the Land Management Ordinance. This completed the staff's presentation. Following final comments by the Board, Chairman DeCaigny requested that a motion be made.

Vice Chairman Kristian made a **motion** to **approve** Request for Special Exception, SER110002, based on the Findings of Fact and Conclusions of Law contained in the staff's report and presented today. Mr. Qualey **seconded** the motion and the motion **passed** with a vote of 5-0-0.

**8. BOARD BUSINESS**

None

**9. STAFF REPORT**

- a. Waiver Report - Ms. Dixon stated that there are no new waivers to report this month.
- b. Ms. Dixon distributed copies of two new LMO Amendments recently passed by Town Council. Staff requested that the Board members insert these new amendments into their Land Management Ordinances.

**10. ADJOURNMENT**

The meeting was adjourned at 3:15p.m.

Submitted By:

Approved By:

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Kathleen Carlin  
Board Secretary

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Roger DeCaigny  
Chairman