

TOWN OF HILTON HEAD ISLAND
Regular Planning Commission
Wednesday, December 5, 2012 Meeting
9:00a.m – Benjamin M. Racusin Council Chambers

APPROVED

Commissioners Present: Chairman Gail Quick, Vice Chairman Tom Lennox, David Bennett, Alex Brown, Jack Docherty, Terry Ennis, Bryan Hughes, Barry Taylor, and Brian Witmer

Commissioners Absent: None

Town Council Present: George Williams

Town Staff Present: Shawn Colin, Manager of Comprehensive Planning
Charles Cousins, Director of Community Development
Jayme Lopko, Senior Planner & Planning Commission Coordinator
Kathleen Carlin, Secretary

1. Call to Order

2. Pledge of Allegiance to the Flag

3. Roll Call

4. Freedom of Information Act Compliance

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 Agenda

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

6. Approval of Minutes

The Planning Commission **approved** the minutes of the November 21, 2012 meeting as presented by general consent.

7. Appearance by Citizens on Items Unrelated to Today's Agenda

None

8. Unfinished Business

None

9. New Business

Public Hearing

PPR120007 – Application for Public Project Review from the Town of Hilton Head Island to construct a linear park connecting the proposed Shelter Cove Waterfront Park with Collier Beach Park that will include multi-purpose pathways and boardwalks, parking improvements, restroom facilities and emergency access. Chairman Quick introduced the application and opened the public hearing. Chairman Quick then requested that the staff make their presentation.

Mr. Shawn Colin 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. Mr. Colin reminded the Planning Commission that they are reviewing this project for compatibility with the Town's Comprehensive Plan for location, character and extent based on the Findings of Facts and Conclusions of Law.

Mr. Colin stated the definition of a linear park. The linear park is a greenway primarily made up of open space along waterways taking advantage of water features that includes both planned pathways, planned connections and linking other parks together with residential and business components.

Mr. Colin stated that the concept of developing a linear park mid-island in the Chaplin area has been recommended in multiple plans adopted by the Town as a guide to development. The Chaplin Area Initiative Plan was adopted in 2002 and recommends that the Town create a passive linear park system linking the Town-owned lands to provide access to residential and commercial developments along Broad Creek to extend to Shelter Cove.

The 2002 Broad Creek Management Plan also recommends acquiring properties along Broad Creek for open space and recreation purposes. In 2010, when the Town adopted the most recent Comprehensive Plan, Chaplin Linear Park was identified as a future park facility in the Chaplin area. As a result, the Town has acquired the majority of properties needed to develop the linear park.

The redevelopment of the Mall at Shelter Cove offers the opportunity to leverage public and private investment to create Chaplin Linear Park. The proposed Shelter Cove Waterfront Park, approved as PPR120003, would anchor the park on one end and Collier Beach Park, approved as PPR01-99 on the other and provide a unique beach to creek experience. In pursuit of this opportunity, Town Council identified Chaplin Linear Park as a "2012 Target for Action" and approved moving forward with the design, permitting and construction of the park.

Mr. Colin presented an in-depth overhead review of the application including a site map and project map. The project is located in the Shelter Cove and Chaplin areas. It would link the proposed Shelter Cove Waterfront Park with Collier Beach Park through the use of multi-purpose pathways, boardwalks and pedestrian bridges that take advantage of the natural resources of the project area, highlighting scenic views and increasing access to open space that creates the opportunity for environmental education and recreational experiences. The project will also include parking and restrooms at various locations, including Shelter Cove Lane and off Burkes Beach Road. An at-grade crosswalk is proposed at the road crossing at Singleton Beach Road. The project will be designed to minimize impacts on natural resources and enhance the quality of open spaces and character of the Chaplin area.

The staff finds the application to be compatible with natural resources, community facilities, transportation, and recreation elements of the Comprehensive Plan. The staff has received a good deal of public comment on this application. The majority of the comments were related to the area of Collier Beach Park. Some comments regarding the boardwalk connection between Collier Beach Park and Burkes Beach Road were also received. Most comments regarding the boardwalk connection have been positive. At the completion of staff's presentation, Chairman Quick requested public comments and the following were received:

(1) Mrs. Julie Hallquist, resident of the Singleton Beach neighborhood and member of the

Folly Inlet Initiative, presented statements in concern of the 1999 Collier Beach Park approval and environmental impacts. Mrs. Hallquist stated that that the group is in agreement with plans for Chaplin Linear Park; the boardwalk is great, but the impact to Collier Beach Park cannot be excluded from the discussion. There are three main points of concern with the development of Collier Beach Part. The first is the environmental impact and potential for point source pollution from toilets, parking, and turnaround, particularly during flood and tidal surge events. Second is safety – the large amount of pedestrian and bicycle traffic along Singleton Beach Road to Collier Beach will be at increased risk with the added vehicular traffic that will result with the proposed turnaround and handicap parking. The third concern is the waste of taxpayer dollars due to the redundant facilities that are proposed for Collier Beach Park when the same set of facilities will be built 800-feet away at the new Burkes Beach parking lot.

(2) Mr. Frank Babel, citizen, presented statements in support of the proposed pathway project. The program opens up the vista to Broad Creek; the boardwalk will be a great addition for bicyclists.

(3) Chester C. Williams, Esq., presented public comments on behalf of his client, Singleton Place Homeowners Association. Mr. Williams stated that he believes the scope of the Planning Commission’s review is not limited to location, character and extent for conformance with the Comprehensive Plan. According to State Statutes for the review of public projects, the Planning Commission is charged with the review of public projects for conformance with the Comprehensive Plan once the location, character, and extent of the projects has been presented. The Planning Commission is not limited to what the location, character, and extent are. The Planning Commission’s authority extends to compliance for the total project with the Comprehensive Plan.

Mr. Williams discussed the history of the application including the Planning’s Commission approval of the original plan in 1999. Mr. Williams requested that this information be included in the minutes of the December 5, 2012 meeting. Staff agreed to include this information in the official record of the December 5, 2012 meeting. The scope of this project has changed since the introduction of the Chaplin Linear Park. Today’s application is deficient in not including the Collier Beach Park because it includes a great deal more than the pathway. Mr. Williams discussed his client’s concerns with tidal flooding in the area. Mr. Williams presented several photos of flooding in the area which occurs several times a year. Mr. Williams also presented a site plan and several documents resulting from the Planning Commission’s review and approval dated 1999. Mr. Williams stated that the Planning Commission needs to restudy the scope of what is being planned because what is being proposed today is very different. The Linear Park does have some great elements to it but the Planning Commission needs to receive additional information from staff as it relates to the character and the extent of this project, and the effect that it will have on Collier Beach Park. This application should not be allowed to move forward until all of the necessary information is received by the Planning Commission.

(4) Ms. Helen Ford, area property owner, presented statements in concern of how the application will affect her property, particularly related to the location of the sidewalk. Mr. Colin presented an overhead map of the area showing the location of Ms. Ford’s property. The application is not expected to impact Ms. Ford’s property because all of the proposed changes and improvements, including to the sidewalk, are within the existing DOT right-of-

way. Chairman Quick encouraged Ms. Ford to meet with the staff on site for a better understanding of any potential impact.

(5) Mr. Reid Armstrong, member of the Coastal Conservation League, presented statements regarding the Planning Commission's need for additional information on the application, particularly as it relates to impacting the Collier Beach area.

(6) Mr. Terry Herron, property owner in the area, presented statements in concern of the regular flooding in this area and the potential for contaminates to the area.

(7) Ms. Theresa Baker, resident of Palmetto Dunes, presented statements in concern of the loss of natural beauty in this area, the negative impact on natural resources, and effects on the ecosystem in the folly. This area is pristine, beautiful and should not be contaminated.

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

Chairman Quick then stated that the question before the Planning Commission is whether or not this application is compatible with the Comprehensive Plan as it relates to location, character, and extent. Chairman Quick invited comments from each Planning Commissioner and the following statements were received:

Commissioner Bennett stated that he has several concerns with this application. It is difficult to separate this application from the access to Collier Beach Park. Commissioner Bennett discussed his concerns with the narrow road conditions, the additional traffic, the parking lot, problems with flooding to the area, and with environmental issues. Commissioner Bennett stated that the Planning Commission needs to receive additional information from the staff in order to have a better understanding of the pros and cons. The Planning Commission should ask Town Council to reconsider the plan and improvements for this park as there are some serious concerns at this time.

Commissioner Hughes agreed with the comments and concerns presented by Commissioner Bennett. Commissioner Brown presented statements in concern of safety issues in the area, particularly related to the additional vehicular traffic, pedestrians, and bicyclists.

Commissioner Docherty presented statements in support of the Planning Commission's approval of the application, particularly as it relates to handicap access to the water. Chairman Quick requested clarification from Mr. Shawn Colin regarding the approval process and next steps for the application. Mr. Colin stated that Town Council has already approved the Conceptual plan, and the application does not go back to Town Council. The next steps for this project are the design and permitting phase.

Mr. Colin stated that most of the public comments that have been received today seem to point to concerns with the validity of the 1999 Collier Beach Park plan. The staff has not heard anything today that is inconsistent with approval of the public project application as it relates to location, character, and extent. Mr. Colin stated that the comments from the Planning Commission are valid and they relate more to the Collier Beach Park than the Chaplin Linear Park.

The Planning Commission and the staff discussed the approval process for public project review applications. Mr. Colin reminded the Planning Commission that applications for public project review are decided by the Planning Commission and are not forwarded to Town Council for their approval.

Commissioner Ennis presented statements regarding the Planning Commission's role in deciding whether or not this application is consistent with the Comprehensive Plan. Commissioner Ennis presented statements regarding his involvement in serving on the Comprehensive Plan Committee. The Comprehensive Plan is not a precise goal relative to the points being discussed today. It is conceptual – there is no precision. Commissioner Ennis stated that he looks at these ideas and then breaks them down to their individual components. Conceptually the proposed connectivity from the mall and down to the beach is a very good idea, and it is consistent with the Comprehensive Plan. However, when you start breaking it down to individual components, it becomes more complicated.

Commissioner Ennis stated that elevation would be a good idea, and the towers are a good idea for views of the water. But when we split the proposal down further, and we start to look at the boardwalk across the marsh, it becomes iffy. Commissioner Ennis stated that there may be a better way of connecting to the beach. These questions go beyond the conceptual level and become much more specific. Commissioner Ennis stated that from an idea standpoint, it does not seem like a good idea to place restroom facilities on Collier Beach.

Commissioner Ennis stated that he agrees with Commissioner Bennett's comments in that the concepts are good and the connectivity makes sense. Except when you talk about connectivity, where does it connect to? This is another issue and crossing the marsh is not a good idea. Also, putting facilities on Collier Beach is not a good idea, even though it has been passed. Commissioner Ennis asked where does the Planning Commission go from here? The simple answer is since the Planning Commission is only looking at the connectivity issue, and at the conceptual level, they could approve the application based on location, character and extent, but that doesn't seem quite right either. Chairman Quick stated that she agrees with Commissioner Ennis' concerns.

Commissioner Bennett stated that he agrees with Commissioner Ennis regarding trying to break the application down to its component parts. The first category seems to be the improvements, the trail and the pathway connecting Shelter Cove up to Chaplin Park. The second category seems to be the improvements proposed for Chaplin Park, and the third category seems to be the connection from Chaplin to Collier. It is the third category that is troublesome due to concerns with the environment. Hopefully, there is a better way to make the connection from Chaplin to Collier. The pathways connection is a good idea. However, one significant concern is the 300-foot segment that abuts Highway 278. The sidewalk is too narrow in this location and not wide enough for two-way passage. There should be some sort of buffer and the pathway should be a minimum of eight feet wide for safety.

Commissioner Witmer stated that he hopes the staff has heard all of the Planning Commission's concerns that have been presented today. Additional information is needed from the staff and Town Council should be made aware of the Planning Commission's concerns.

Commissioner Taylor presented statements with regard to next steps for the application. The Planning Commission is not charged with the task of looking at the details for the project. Commissioner Taylor stated that community input will be considered in the design of the project.

Vice Chairman Lennox stated that the public project review application gets its genesis in the Land Management Ordinance. This is where the Planning Commission is given the charge in determining whether the application is consistent given the location, character, and extent of the project. However, it goes beyond that. Under some of the submission requirements, the public project review application is to be judged as to its compatibility with the neighborhood in which it is proposed and the pre-development characteristics of the site or sites on which it is to be located. So the Planning Commission should take into consideration all of the sites, including the 300-foot pathway mentioned earlier by Commissioner Bennett, in which this Linear Park will come into contact with. It is this consideration that gives me cause to think more about Collier Beach – is the application compatible with that neighborhood? The Planning Commission is hearing a good deal of public concern on this issue. Vice Chairman Lennox also presented statements regarding the OCRM baseline and the setback requirements. The most recent information we have to deal with on this issue suggests that a lot of the concerns that we have about Collier Beach may be prohibited from being constructed.

If so, and if Collier Beach would remain as it exists, the access to Collier Beach from Chaplin seems to be more acceptable now than it would have been before. Perhaps the focus should be specifically on the linear park connectivity that we are being asked to consider and move on as it is proposed given what we currently have for the OCRM baseline. Vice Chairman Lennox agreed with Commissioner Docherty's comments regarding the need to move this application forward.

Chairman Quick stated that she shares many of the concerns that have been brought forward today. Chairman Quick stated that her overall concern is protection of the environment. The Planning Commission needs to protect the users of this project and we need to protect the Town. Chairman Quick stated that she also has concerns with safety issues and with the connectivity between Chaplin Park and Collier Beach. Chairman Quick stated that she is opposed to putting any type of boardwalk or bridge across the marsh. Instead we should consider placing pedestrian connectivity as close as possible to the hard land around the folly to get to Collier. Any structure that is put over the marsh will damage the animal life and natural vegetation that exists there. This area is almost spiritual in nature and it is the last view we have of the marsh. This environment needs to be protected as existing. The concept needs to change from connecting people from Shelter Cove Mall to the beach to an experience of environmental education for visitors and residents alike. The pedestrian pathways should be made specifically for that in that they follow the land as much as possible. The connectivity to Collier Beach is of concern and what happened back in 1999 needs to be revisited.

Chairman Quick also stated that she is concerned about next steps for this project. The Planning Commission is asking the staff to consider today's comments and concerns. The Planning Commission does not have sufficient information today to determine if this project is compatible with the existing Comprehensive Plan. The Planning Commission needs to have more detail in order to be sure that all of the points discussed today are included in the Town's Request for Proposals that will go out for this project.

Mr. Charles Cousins presented statements in clarification of the next steps for this project. Mr. Cousins stated that Town Council has asked that this public project be brought forward. The application does not go back to Town Council. The application is brought before the Planning Commission as a procedure step in this process. The Planning Commission needs to decide whether or not the application meets the requirements of the Comprehensive Plan.

Mr. Cousins stated that if the Planning Commission does not believe the application meets the Comprehensive Plan, they need to state that. The staff needs to respect the property rights of Ms. Ford with regard to the narrow sidewalk. The staff understands the safety concerns and they will work with Ms. Ford on this issue. Mr. Cousins recommended that if the Planning Commission has concerns regarding Collier Beach, they should write a letter to Town Council stating their concerns and request that this situation be analyzed. Mr. Cousins stated that the Planning Commission should make a ruling on what is before them today which is the connectivity project. Mr. Cousins stated that Town Council is well aware of the public's concerns with Collier Beach, and has directed the staff to move forward with the application that is presented today. The issue before the Planning Commission is the connectivity project. Mr. Cousins requested that the Planning Commission comment on the application that is before them so that staff has a determination of how to move forward.

Chairman Quick stated that she disagrees with Mr. Cousins' statement that Town Council has already heard all of the information and all of the concerns that are being presented at today's meeting. Chairman Quick did agree that a letter to Town Council from the Planning Commission that includes all of their concerns with Collier Beach is an appropriate action.

Chairman Quick stated that the Planning Commission needs to make a decision on their difference of opinion with the staff. Chairman Quick stated that, in her mind, the Town Council has approved the conceptual plan, and the role of the Planning Commission is to hear public comments, ask questions, and receive information regarding the validity of the project, and how to carry out the project. The Planning Commission is not supposed to just rubber stamp the project. Chairman Quick stated that while this is a wonderful project in many ways, she believes that it is the role of the Planning Commission to ask the questions and obtain the information that the public has a right to know. It is important to remember that this is the last time that the Planning Commission and the public will have an opportunity to comment on this project other than if there are open hearings by the design charettes.

Commissioner Hughes stated that since there is no objection to the pathway up to the 300-ft. area, would it be possible for the Planning Commission to approve the application up to that point and leave the rest to another time?

Commissioner Ennis stated that the Planning Commission is being asked to make a determination on a Qualitative Assessment. The conceptual level is not that precise. The connectivity all of the way up to Chaplin Park is consistent with the Comprehensive Plan. However, once you go beyond that from Chaplin Park to Collier Beach, it becomes very iffy. Commissioner Ennis stated that he agrees with Commissioner Hughes' comment regarding a partial approval of the application. This might be an appropriate action for the Planning Commission to take.

Commissioner Bennett stated that he does not believe that the Planning Commission has enough data to measure the character and the extent. Commissioner Bennett then read a portion of the Comprehensive Plan, and stated that what is before the Planning Commission today is not compatible with the Comprehensive Plan due to safety concerns with the 300-ft. of sidewalk.

Mr. Shawn Colin then read a portion of the Land Management Ordinance, Section 16-3-1204, which states that at the close of the public hearing, the Planning Commission shall determine whether the public project proposal before them is compatible with the Comprehensive Plan with regard to location, character, and extent. This determination shall include written findings. If the Planning Commission finds that the proposal conflicts with the Comprehensive Plan, the Planning Commission should provide written findings that explain their reasoning. Depending on which way the Planning Commission decides, the staff will need to have documented findings on why the application is not compatible with the Comprehensive Plan at this point.

Chairman Quick responded to Mr. Colin by stating that under Article II Authority for the Planning Commission, it states that the Planning Commission shall have jurisdiction over all the lands within the Town and that is what the Planning Commission is operating on.

Mr. Chet Williams suggested that the Planning Commission could table the matter and tell the Town staff that they need additional information. When the Planning Commission receives the additional information from the staff, the Planning Commission could then take it up for further action.

At the completion of all comments by the Planning Commission, Chairman Quick requested that a motion be made.

Commissioner Hughes made a **motion** that the Planning Commission **approve** the pathway up to its terminal point once it crosses the waterway at the Cracker Barrel to the art park, and send the Collier Beach plan back to Town Council for a second look since it hasn't been reviewed since 1999.

Commissioner Bennett requested clarification on the motion. Is the motion to approve the pathway from Shelter Cove Park to the art statues located across from the Hilton Head Resort, and send the Collier Beach plan back to Town Council for a for a second review since its last review was in 1999? Commissioner Hughes stated that this is the correct motion. Commissioner Bennet then **seconded** the motion.

Mr. Shawn Colin stated that this action is clearly outside the scope of the Planning Commission's jurisdiction. The Planning Commission's authority is simply to determine whether or not the application before them is compatible with the Comprehensive Plan based on location, character, and extent. If there are specific items of the plan that are problematic (i.e. the 300-foot section of the sidewalk along Highway 278) that the Planning Commission feels makes it inconsistent with the Comprehensive Plan, that point should be stated. If the Planning Commission has issues related to other elements of the project that they find inconsistent with the Comprehensive Plan, those points should also be stated. The Planning Commission needs to determine the basic components of the proposed application. The determination is not to change the limits of the project.

Commissioner Hughes and Mr. Colin discussed the actions that can be taken by the Planning Commission. Mr. Colin stated that the Planning Commission does not have the authority to segment the project as stated in the motion. The second item is a completely different issue. If the Planning Commission feels that additional consideration needs to be made at Collier Beach Park, the Planning Commission can certainly raise that issue. The Planning Commission can document their concerns to the Town Council as recommended earlier. Town Council can then direct Mr. Steve Riley to have the staff review that component.

Mr. Colin reiterated that Collier Beach Park is not a part of the public project review application before the Planning Commission today. Whether or not there is a valid permit is a determination that needs to be made. If the Town has a valid permit, they can move forward with construction without any additional review.

Commissioner Ennis stated that he is struggling with the idea that at the concept level you have to connect Collier Beach Park with Chaplin Park. Commissioner Ennis stated that going across the marsh is a bad idea and that whole point of destination becomes very questionable. That question can be raised by the Planning Commission without arguing the specific design within Collier Beach Park.

Chairman Quick stated that Commissioner Ennis' point is well taken. The Planning Commission has said that this project goes from Shelter Cove Mall and connects to Collier Beach Park; therefore, Collier Beach Park has to be part of this discussion. Chairman Quick stated that she disagrees with Mr. Colin on the authority of the Planning Commission. Chairman Quick stated that, in her review of the South Carolina Code, and she has an attorney's review of that, it does not say that the Planning Commission is restricted in its authority.

The Planning Commission discussed the motion that was made by Commissioner Hughes and seconded by Commissioner Bennett. Vice Chairman Lennox recommended that the motion be amended by expanding upon it. The Planning Commission needs to be concerned about Collier Beach, but only in the context that it is an adjacent property to the project. Vice Chairman Lennox recommended that the motion be expanded to include all of the way down to the beach. The Planning Commission should prepare a letter to Town Council itemizing all of the Planning Commission's concerns pertaining to any and all adjacent properties including Collier Beach. The Planning Commission asks that Town Council and the Town staff respond appropriately back to the Planning Commission and answer all of their concerns, including the 300-feet that parallel Highway 278, as well as any other concerns that the Planning Commission has with this project. Vice Chairman Lennox stated that he is not in favor of voting for the current motion because of its limits. Vice Chairman Lennox stated that he would be in favor of expanding the motion all of the way down to the beach with the caveat that the correspondence go to Town Council with regard to the Planning Commission's concerns.

Chairman Quick agreed and added that the staff should return to the Planning Commission with a report to these issues. Commissioner Docherty also agreed with this action. Commissioner Ennis stated that he would **second** the amended motion. Commissioner Hughes asked if the amended motion includes all of the way down to which beach – Collier or Burkes? Vice Chairman Lennox stated that it is as proposed. Chairman Quick stated that she would like to have this made part of the motion and recorded as such, in addition to

writing a letter to Town Council. The Planning Commission agreed with this recommendation.

Commissioner Taylor requested clarification on the amended motion. Commissioner Ennis stated that he thought that the amended motion stated that the connectivity be from Shelter Cove all of the way down to the beach. Commissioner Ennis stated that he believes this meets the Comprehensive Plan along the reservations discussed today. Chairman Quick stated that the Planning Commission should have their concerns listed. The staff is to come back to the Planning Commission with their response on these issues. Commissioner Taylor asked if the Planning Commission is in agreement with the connectivity as proposed today by the staff. The Planning Commission stated that they are in agreement.

Commissioner Bennett questioned the motion because the application either is or is not in conformance with the Comprehensive Plan. If some portion of the walkway is not safe, or if you think it is not safe, how can you make the determination that the entire pathway is compatible? Commissioner Ennis stated that while he agrees with Commissioner Bennett on this point, until he sees the design of the sidewalk, he cannot know whether it is safe or is not safe. Commissioner Bennett stated that the Planning Commission has concluded that there is no more right-of-way to work with to expand the width of that portion of the pathway, and we know that it is directly adjacent to Highway 278. The Planning Commission can also conclude that we should make the pathway at least eight feet wide and create a needed separation between Highway 278 and the edge of the pathway. Commissioner Ennis stated that this is a design issue. Chairman Quick stated that this should be one of the concerns included in the minutes and in the Planning Commission's letter to Town Council.

Following final discussion by the Planning Commission, Chairman Quick requested that a vote be taken on the amended motion. Prior to the vote on the amended motion being taken, Mr. Chet Williams requested that the motion be repeated because it is confusing.

Mr. Charles Cousins stated that there is an amendment to the motion on the floor. The Planning Commission needs to vote first on the amendment, and then they need to vote on the motion.

Vice Chairman Lennox clarified his amendment to the motion. The amendment is to take the existing motion and expand it to include the connectivity from Chaplin all the way down to the ocean and approve that and require that the Planning Commission submit a letter to Town Council clearly defining and delineating any and all concerns that it has with regard to compatibility and safety as those concerns were mentioned at this meeting, and ask that the Town Council either directly or through the staff respond back to the Planning Commission on those concerns.

Mr. Chet Williams asked if the amended motion and the motion include a finding that this public project application is in conformance with the Comprehensive Plan or not? Vice Chairman Lennox responded that the Planning Commission would find that this application is in conformance with the Comprehensive Plan. Chairman Quick added that this is with the reservations that need to be addressed.

Chairman Quick then requested a vote from the Planning Commission on the amendment to the motion. The Planning Commission voted in **favor** of the amendment by a vote of 7-2-0. Commissioner Bennett and Commissioner Hughes were in opposition to the amendment.

Chairman Quick stated that according to the Rules of Procedures, those not in favor of the motion need to state their reasons why. Commissioner Hughes stated that he is opposed to the amended motion because he is concerned with what happens once you cross Highway 278. Commissioner Bennett stated that he is opposed to the amended motion because in his opinion the application does not conform with the Comprehensive Plan.

Chairman Quick then requested a vote from the Planning Commission on the motion itself. The Planning Commission voted in **favor** of the motion by a vote of 7-2-0. Commissioner Taylor and Commissioner Bennett voted in opposition to the motion.

Commissioner Taylor stated that he is opposed to the motion because the motion is not compatible with what was presented by staff. Commissioner Bennett stated that he agrees with Commissioner Taylor; the motion is inconsistent with the responsibilities of the Planning Commission.

10. Commission Business

Chairman Quick recommended that a Coligny Plaza site visit be arranged for the Planning Commission prior to the public hearing for the Coligny public project review application on December 19, 2012. Mr. Charles Cousins reported that staff has been asked by the Town Manager to postpone the public hearing for this application until a later date. The application will not appear on the agenda for the December 19, 2012 meeting.

11. Chairman's Report

Chairman Quick requested that the staff establish a workshop for the Planning Commission to review the initial design of the Chaplin Linear Park. Before the Chaplin Linear Park project goes before the Town Council, Chairman Quick would like a presentation to the Planning Commission. When the design is complete, staff should provide it to the Planning Commission like they did with the Shelter Cove Mall. Mr. Cousins presented statements regarding the plan's presentation to the community for public input.

12. Committee Reports

None

13. Staff Reports

None

Prior to adjournment, Mr. Chet Williams asked Chairman Quick about the timeline for the Planning Commission's drafting a letter to Town Council detailing their concerns with PPR120007. Chairman Quick presented comments regarding next steps including the staff's preparation of the meeting minutes.

Chairman Quick stated that she believes the Planning Commission can form a sub-committee for the purpose of drafting a letter to Town Council. Chairman Quick recommended that Vice Chairman Lennox assist with this task. All Planning Commissioners are encouraged to provide their input in the draft letter to Town Council. Mr. Chet Williams stated that he would like to know when the meeting is planned so that he may have an opportunity to attend.

Mr. Charles Cousins stated that the Planning Commission does not have the authority to form a sub-committee without the Mayor's approval. Mr. Cousins stated that the staff would be happy to draft a letter on behalf of the Planning Commission based on today's meeting minutes. The staff could then forward the draft letter to Chairman Quick and the Planning Commission for their input. Chairman Quick agreed with the staff's suggestion.

14. Adjournment

The meeting was adjourned at 10:30a.m.

Submitted By:

Approved By:

December 19, 2012

Kathleen Carlin
Secretary

Gail Quick
Chairman



TOWN OF HILTON HEAD ISLAND

Planning Department

Application for Public Project Review #PPR-11-98

APPLICANT	AGENT	PARCEL DATA
<p>I. Kent Langley South Island Public Service District</p>	<p>Michael R. Eckmann Thomas & Hutton Engineering Co</p>	<p><i>Tax Map ID</i> 0 Map 15, Parcel 216 <i>Street Address</i> 0 106 Cordillo Parkway <i>Zoning District</i> 0 PD-1 <i>Overlay District</i> 0 Corridor</p>

APPLICATION SUMMARY

This application is for a Reverse Osmosis Treatment plant and discharge piping. The plant is located on a parcel surrounded on 3 sides by the Sea Pines Forest Preserve and on the fourth side by a multi-unit residential complex. The discharge piping runs through Sea Pines Plantation from the plant to Calibogue Sound. The project will treat water from a new well drilled to the Cretaceous Aquifer. This new water supply will enable the PSD to meet state requirements to reduce use of the Ocala Aquifer.

STAFF RECOMMENDATION

The staff finds that there is a need for the facility and that its location, character and extent are appropriate. Additionally we believe it to be compatible with the Comprehensive Plan and recommend that the Planning Commission make such a determination.

BACKGROUND

The State of South Carolina Department of Health and Environmental Control (DHEC) has placed limitations on use of the Ocala Aquifer. As a result the South Island PSD has drilled a well to the Cretaceous Aquifer to meet water supply demands for its jurisdiction. This water must be treated before use. The discharge from this treatment will be piped below ground to

Calibogue Sound DHEC has issued a National Pollutant Discharge Elimination System (NPDES) permit for this discharge.

LOCATION

The location of the plant is on a parcel owned by the PSD that currently contains an existing well, storage tank, pump house and storage building. The PD-1 Master Plan allows for a water distribution facility at this location. The site is accessed from Cordillo Parkway by easement. The new facility is approximately 600 feet from Cordillo Parkway and is buffered on three sides by the Sea Pines Forest Preserve. The fourth side borders a multi-unit residential complex known as the Sea Cabins. The new facility is located approximately 200 feet from this property line. The area between the plant and the Sea Cabins property is heavily wooded and is to remain undisturbed except for limited access drives. An aerial view of the existing site is attached for reference.

The discharge piping will run along Cordillo Parkway then through the forest preserve to Plantation Drive, then along Calibogue Cay Road to a discharge structure at the edge of Calibogue Sound. An existing section of pipe in the forest preserve will be used for a portion of the distance. Existing roads and right of ways will be utilized for location of the pipe so as not to disturb any existing tree. The Town's Natural Resources staff has reviewed the location in the field and has approved the layout.

CHARACTER

The character of the facility is appropriate for this type of use. The new building will have split face concrete masonry unit walls and a hipped standing seam metal roof. Since it is isolated from view of any public way the Town's Design Review Board granted the project a waiver from review. A security fence similar to the existing fence will enclose the site. Photos of the site are attached for reference.

EXTENT

The total size of the site is 4.662 acres of which .985 acres contain the existing facilities. The new plant will occupy a 5,345 sq. ft. building. Four parking spaces are being provided for staff use. Drive aisles will connect to the existing paving for the current facility. In addition to the plant a new storage shed is proposed and renovations to two existing buildings.

COMPATIBILITY TO COMPREHENSIVE PLAN

The 1991 Comprehensive Plan *State Well Pumpage Goals Policy* encourages the state to limit use of the upper Floridian (Ocala) aquifer in order to not shorten its potable life. The state has since the adoption of this policy set such limits. This public project by the South Island PSD is compatible with this goal since it will provide a significant new water source, the Cretaceous Aquifer, and enable the PSD to adhere to the limits established.

PUBLIC HEARING SCHEDULE

Planning Commission
April 7, 1999

Final Disposition

PREPARED BY:



Edwin B. Drane, AIA, AICP
Senior Planner

5 30 99

DATE



David L. Recor, CZA

Manager of Current Planning

5 35 99

DATE

**TOWN OF HILTON HEAD ISLAND
PLANNING COMMISSION MEETING
April 7, 1999- 9:00 A.M.
Town Council Chambers**

AGENDA

I. CALL TO ORDER

II. ROLL CALL

III. FREEDOM OF INFORMATION COMPLIANCE

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.

IV. APPROVAL OF AGENDA

V. APPROVAL OF MINUTES

Minutes of the March 17, 1999 Planning Commission Meeting

VI. APPEARANCE BY CITIZENS

VII. OLD BUSINESS

VIII. NEW BUSINESS

1. Presentation of the Town of Hilton Head Island's Capital Improvements Program for approval and recommendation to Town Council.
2. Request for Public Project Review from the Town of Hilton Head Island, represented by the Long Range Planning Division to construct a public park consisting of a parking area and restroom facility. The affected 1.8 acre of property is located at the end of Collier Beach Road, adjacent to "The Folly" which empties into the Atlantic Ocean and is further identified on Beaufort County Tax Map 12, Parcel 374. The Planning Commission will receive comments and consider this request in compliance with LMO Sec. 16-3-1201, PPR-01-99.
3. A public hearing on an application for Zoning Map Amendment from The Melrose Company, represented by Wood and Partners, Inc., to amend a

FINAL

REGULAR MEETING OF THE TOWN OF HILTON HEAD ISLAND PLANNING COMMISSION

MINUTES

DATE: April 7, 1999

TIME: 9:00 A.M.

Members Present: Robert L. Manson, Arnold L. Windman, Mark A. Moore,
James Kelly, Andrew B. Shapiro, Kenneth R. James,
John A. Rowley, Gilbert T. Calhoun

Members Absent: Robert W. Siker, Jr., (excused)

Staff Present: C.O. Hoels, Assistant Town Manager/Director of Public
Projects and Facilities; Charles Cousins, Director of
Planning; Jill Foster, Manager of Long Range Planning;
David Recor, Manager of Current Planning; Matt
Margotta, Senior Planner; Ed Drane, Senior Planner;
Karan Cullen, Senior Planner; Curtis Coltrane, Town
Attorney

I. CALL TO ORDER

Mr. Manson called the meeting to order at 9:00 a.m.

II. ROLL CALL

III. FOIA COMPLIANCE

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.

IV. APPROVAL OF AGENDA

Staff noted proposed changes to the agenda, stating that the applicant for ZMA-01-99 had asked that his application be removed from this agenda. Staff also stated that the applicant for ZMA-03-99 did not meet the required deadline for proper notification to adjacent property owners and, therefore, could not move forward on this request.

Mr. Rowley moved to approve the agenda as amended. Mr. Moore seconded, and the Commission voted unanimously in favor of the motion.

FINAL

V. AI PROVAL OF MINUTES

The Minutes of March 17, 1999 were approved with the following changes:

Page 2, Paragraph 2 under New Business, Item 1, corrected the spelling of Mr. Shapiro's name and changed the word "relationship" to "relationships."

Page 3, Item 3, Paragraph 3, changed the word "Staff" to "Fire and Rescue."

Page 4, Paragraph 2, deleted the comma after "board" and added the word "and".

Mr. Rowley moved that the minutes be approved as corrected.
Mr. Moore seconded the motion, and the vote was unanimous.

V. APPEARANCES BY CITIZENS

None

VI. OLD BUSINESS

1. Presentation of the Town of Milton Head Island's Capital Improvements Program for approval and recommendation to Town Council.

Mr. Windman read the Capital Improvement Program 1999/00-2003-04 transmittal letter dated 4/1/99 from the CIP Committee to the Planning Commission.

Mr. Hoelle presented details of the Town's Proposed Capital Improvement Program (CIP) 1999-2000 as outlined in the FY 99/00 Funding Summary.

Mr. Hoelle stated that Staff received a letter from the Squire Pope Property Owners Association Chairman, asking that the Town defer development of the Old Elementary School Park and, instead, develop a park in the Squire Pope or Green Shell area.

Mr. Cathoun asked what were the legal issues on pathways and Mr. Hoelle stated that land acquisition for right-of-ways was a problem.

FINAL

Mr. Moore suggested that the Staff work with the POA's to resolve some of the right-of-way issues.

Mr. Windman recommended that the CIP be transmitted to Town Council as submitted. Mr. Colhoun seconded the motion and the vote was unanimous.

2. Request for Public Project Review from the Town of Hilton Head Island, represented by the Long Range Planning Division, to construct a public park consisting of a parking area and restroom facility. The affected 1.8 acre of property is located at the end of Collier Beach Road, adjacent to "The Folly" which empties into the Atlantic Ocean and is further identified on Beaufort County Tax Map 12, Parcel 374. The Planning Commission will receive comments and consider this request in compliance with LMO Sec. 18-3-1201. PPR-01-88.

Ms. Cullen presented details of this request from her memorandum to the Commission dated 3/29/99, highlighting data that reflected the Town's long term interest in this site as a beach park.

Mr. Moore asked about an out parcel on the site plan. Mr. Coltrane stated that the parcel in question is a residential property owned by Ms. Agatha Cooper.

Chester Williams, partner of the law firm of Novit, Schaminach & Williams and counsel to the Singleton Place Owners Association, presented documents showing another out-parcel owned by Greenwood Development near the proposed beach park site. Mr. Williams also asked that a copy of his letter to the Planning Commission dated 4-5-99 which outlined his/applicant's concerns with the proposed development be entered into the record.

Mr. Scott Richardson, Councilman Bill Ferguson, Dean Jacobsen, General Manager of Hilton Head Resorts Four Seasons Center, Ms. Betty Weissman, Chairman of the Parks and Recreation Commission, Mr. Jim Campbell, President of Marshland, Gardner Chaplin POA, made comments in support of Staff's recommendation for a park at this site.

Mr. Eugene Launch, property owner adjacent to the park gate, said he was never involved in dialogue with Town on this park. Mr. Launch also gave reasons why he felt that the plan is shortsighted.

FINAL

Betty Weseman, Chairman of the Town's Park and Recreation Commission, stated that the park had been before the public since last fall and that the Park and Recreation Commission did have a public meeting on February 22, 1999 to which the public was invited.

Tad Segars, a property-owner at Singleton Beach as well as Burkes Beach, stated that he is familiar with the conceptual plan for the beach park and that he is in full support of beach access but he said that he was concerned about the this project being on what he called the "fast tract."

Mr. Myron Dot, owner of lot 40 which is on the other side of the gate, felt that the property is unsuitable for a parking lot.

Mr. Windman moved that the Planning Commission approve the application for a Public Project Review of Project # PPR-01-99, stating that it is in compliance with the Comprehensive Plan, based on the findings and conclusions outlined in the Staff report. Mr. Moore seconded the motion.

Mr. Rowley asked that Staff meet with Mr. Williams to respond to his questions and concerns as outlined in his letter. Mr. Kelly and Mr. Shapiro expressed similar comments.

The Commission then voted unanimously in favor of the motion.

3. A Public Hearing on an application for Zoning Map Amendment from The Mize Company, represented by Wood and Partners, Inc., to amend a portion of the PD-1 Zoning District, Hilton Head Plantation Master Plan, in the following ways:

To change the land use designation on two areas currently designated as Golf Course (Coyman Holes # 1 and 8) to single family residential. The affected property is located adjacent to Seabrook Drive: Golf Hole #1 is on the west side of Seabrook Drive, between the road and the Village at Skull Creek; Golf Hole #8 is located on the east side of Seabrook Drive between Parcels 4 and 5. Golf Hole #1 is further identified on Beaufort County Tax Map 3, Parcels 64B and 64E, and consists of 8.48 acres. Golf Hole 8 is further identified on Beaufort County Tax Map 3, as a portion of Parcel 77.

To change the land use designation on a portion of Tract U from Utilities & Support & Seabrook Stables to single family residential. The affected property is located between the parking



TOWN OF HILTON HEAD ISLAND
NOTICE OF ACTION

ONE TOWN CENTER COURT HILTON HEAD ISLAND, SC 29928 843-341-6601 FAX 843-842-6908

APPLICATION NUMBER: PPR-01-9/02 PROJECT NAME: Collier Beach Park
 TAX DISTRICT: TAX MAP: 12 TAX PARCEL(S): 374
 MASTER PLAN: MASTER PLAN PARCEL(S):
 ORDINANCE NUMBER: PROPOSED ORDINANCE NUMBER:

Pursuant to Land Management Ordinance (Chapter 3, Article XII, Article XIII, Article XV, or Article XVI), the Planning Commission has reviewed your project and has determined that:

- it is in accordance with the Land Management Ordinance and the Comprehensive Plan for
 it is not in accordance with the Land Management Ordinance and the Comprehensive Plan for
 Zoning Map Amendment Public Project Review Traffic Impact Analysis

Motion and Findings of Fact:

Moved for approval and it passed unanimously

The Town Council reviewed your ZMA application in accordance with LMO Sec. 16-3.1(a) and (b) and has determined that:

- it is in accordance with the Land Management Ordinance and the Comprehensive Plan (See enclosed ordinance)
 it is not in accordance with the Land Management Ordinance and the Comprehensive Plan

Motion:

By: *Jill Foster*
 Jill Foster, Manager of Long Range Planning

Date: 6/13/99



TOWN OF HILTON HEAD ISLAND

Planning Department

Application for Public Project Review – PPR-01-99

APPLICANT

Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

AGENT

Mr. Steven Hayward
Senior Long Range Planner
One Town Center Court
Hilton Head Island, SC 29928

PARCEL DATA

Tax Map ID
◊ Map 12, Parcel 374
Street Address
◊ 20 Collier Beach Road
Zoning District
◊ RM-8, Residential
Moderate Density District
Overlay Districts
◊ COR

APPLICATION SUMMARY

The applicant proposes a beach park with parking and a small restroom facility at the end of Collier Beach Road.

STAFF RECOMMENDATION

Planning staff recommends that the PC make a finding that this Application for a Public Project Review is in compliance with the Comprehensive Plan, based on the findings and conclusions outlined in the staff report.

BACKGROUND INFORMATION

This proposal is to construct a beach park on Town owned land at the end of Collier Beach Road adjacent to The Folly. The Town has recognized a need for such a facility in this location since 1988, and studies done as early as 1978 have shown a need for it. The applicant has submitted a list of supporting documentation, please see attached. The 1999-2000 Capital Improvements Program has obligated \$150,000 for the construction of this park. It will provide public access to the beach south of the Folly; the only other public beach access south of the Folly is located at Coligny. This park will allow users to access the tidal marsh or the ocean, and can be used for launching non-motorized watercraft (kayaks, etc.), bird watching, fishing, or gaining access to the beach for walking, running, biking, picnicking, etc.

ANALYSIS OF REQUIRED FINDINGS

LMO Chapter 3, Article XII, *Public Project Review*, requires that the Planning Commission review all proposed public projects, except for minor utilities, for location, character, and extent.

1. Project Location:

This mid-island project is located at the end of Collier Beach Road, off of Singleton Beach Road, in the Chaplin area of the Island. It is adjacent to the Folly, and will eventually be a part of the community park being planned for the Town owned Ferguson Tract (see attached copy of Conceptual Master Plan for this tract). The 1991 Comprehensive Plan states: "The Town should provide appropriate sites for adequate public beach access and parking...and should provide daytime beach access for the launching of small non-motorized watercraft." The recently adopted Ward One Plan also supports the use of this site as a beach park.

2. Project Character:

This site was utilized as a staging area during the 1997 beach renourishment project, which disturbed much of the area. The proposed beach park development will take place in this disturbed area. The proposed project will consist of one paved entry road with pervious parking on both sides, a turn around loop and drop off area, and a small restroom facility (approximately 250 square feet). The beach park will be similar to but much smaller than those developed at Folly Field, the new Islanders, and Driessen beach parks. Beach access will be provided via an existing on-grade breach of the dune supported by geo-web material. This access will be utilized by both pedestrians and Fire and Rescue emergency personnel. A future phase calls for the construction of a dock for use by people for fishing or crabbing, to be located on the tidal marsh.

3. Project Extent:

The proposed beach park is a small facility which will provide public access to the beach and tidal marsh. Due to the swift currents in the area of The Folly, the majority of users will likely be parking here to walk on the beach or launch their small non-motorized watercraft. There are 34 parking spaces proposed.

4. Project Maintenance:

This beach park will be maintained by the Town of Hilton Head Island's Facility Management Department, consistent with existing policy and practice.

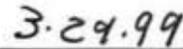
PUBLIC HEARING SCHEDULE

Planning Commission
Wednesday, April 7, 1999

PREPARED BY:



Karen M. Cullen, AICP
Senior Planner

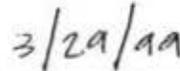


DATE

REVIEWED BY:



David L. Recor, CZA
Manager of Current Planning



DATE

Attachments:

- A. Written Narrative
- B. Vicinity Map of the Property
- C. Ferguson Tract Conceptual Master Plan
- D. Collier Beach Park Site Plan

Attachment A

Application Narrative

Submission Requirements

An application for public project review shall include, but not be limited to, the following information:

- A.** An application form as published by the Administrator.
Attached.
- B.** Documentation in the form of a deed showing public ownership of the subject parcel, a lease indicating a public tenancy or a notarized affidavit that more than 50 percent of the proposed project is funded with public monies.
Attached
- C.** A written narrative addressing:
 - 1.** The need for the project, with supporting documentation.

Identifying Need

The Town of Hilton Head Island's 1999-2000 Capital Improvement Program (CIP) has obligated \$150,000 for the construction of the Collier Beach Park. The Beach Park will provide 34 of the 50 spaces that the Town has committed to constructing during 1999 with the September 15, 1998 adoption of the Beach Access Plan. The facility will allow public access to The Folly and its associated tidal marsh in a manner consistent with the Design and Performance Standards of 1998 Land Management Ordinance.

Collier Beach Park will be unique in the fact that it will not be designated a swimming area due to swift currents in the vicinity. This will also allow for the use of the area by people wishing to fish or utilize non-motorized watercraft (kayak, surf, etc.). This is a specific need identified within the 1995 Parks and Recreation Plan.

Supporting Documentation

August 25, 1988	Year 2003 Conceptual Plan completed by the Venable Group and presented to the newly formed Town of Hilton Head Island showing the utilization of the land surrounding The Folly as a beach park.
February 10, 1989	Island Greenway Final Report submitted to Town Council. Includes Year 2003 Conceptual Plan showing the utilization of the land surrounding The Folly as a beach park.
July 8, 1991	Town adopts Comprehensive Plan which states, "The Town should provide appropriate sites for adequate public beach access and parking...and should provide daytime beach access for the launching of small non-motorized watercraft.
November 15, 1993	The Town of Hilton Head Island passed Resolution 93-21 which authorized the purchase of the Singleton Beach Tract to further the Town's stated policies of providing for public parks and public beach access.
October, 1995	Town Council adopts the Recreation and Open Space Plan.

- October 5-9, 1995 The American Institute of Architects' Regional/Urban Design Team prepares the Hilton Head Island R/UDAT report which states that, "While the Town has begun to make significant investment in recreation facilities, additional facilities are needed...we recommend that the Town pursue the following initiatives:...Increase beach public access, including both creating more beach access points, and providing both convenient pedestrian and bicycle pathways as well as additional parking facilities at key beach access points."
- August 14, 1997 Nanci Polk-Weckhorst, representing the North Island Beach Access Committee, presented the need for beach access for non-motorized watercraft and surfing on Singleton Beach at The Folly.
- August 4, 1998 Town Council amends the Recreation and Open Space Plan identifying the need for the Collier Beach Park.
- September 15, 1998 Town Council adopts the Beach Access Plan, further establishing the need for beach parking and water access at this site.
- January 19, 1999 Town Council adopts the Ward One Master Land Use Plan which further identifies the need for providing public access to the Atlantic Ocean within the Chaplin Community.
- March 16, 1999 Town Council has first reading of Comprehensive Plan which states as one of seven Critical Planning Activities, "To Protect Hilton Head Island's diverse natural resources, the Town will continue to acquire property of high ecological value, promote innovative land and water management, support low impact economic development, and provide for public use and enjoyment of open spaces."

2. A reference to and, where practical, graphic depiction of the location of the proposed development on Beaufort County tax map with parcel number; any overlay zoning districts as defined in Chapter 4; and any freshwater wetland or conservation district boundary line.

See attached application, tax map and site plan.

3. The character of the proposed development as to its compatibility with the neighborhood in which it is proposed and with the pre-development characteristics of the site on which it is to be located.

Neighborhood Compatibility

Collier Beach Park will be comparable in nature and orientation with the Town of Hilton Head Island's three existing Beach Parks that are located within residential areas. These specifically being Folly Field Beach Park (52 parking spaces), Islander Beach Park (100 parking spaces) and Driessen Beach Park (212 parking spaces). However, Collier Beach Park will be 153%, 294% and 623% smaller respectively than the three existing beach parks.

Pre-Development Characteristics

This site was utilized as a staging area during the 1997 Beach Re-nourishment Project. Photographs are attached which show the significant area disturbed during the Re-nourishment Project. In addition to that project's disturbance, the site is currently littered with household and construction debris. In developing the site as a Beach Park, the Town will nearly exclusively use the areas that has already been disturbed utilizing the undisturbed area as a mechanism to buffer the site and facilitate new plant growth.

Additionally, due to its proximity to the tidal marsh of The Folly, is prone to high, high tide infiltration. The proposed Beach Park will not preclude this from happening, but by providing enhanced native coastal plantings, should minimize the erosion effects occurred during these times (approximately twice yearly).

4. The extent of the proposed development in terms of number of buildings, height of structures, total amount of square footage, number of parking spaces, site acreage, and other pertinent items as may be applicable, or as may be required by Article XIII for traffic impact evaluation.

The site will consist of 1 250 square foot, one story restroom building that will include a facility for both male and female patrons; 1 250 square foot, one story weather shelter connected to the restroom facility; 34 impervious parking spaces (includes two barrier free spaces) totaling approximately 7,000 square feet; pervious access drive with turn around and drop of area totaling approximately 14,000 square feet; and pervious trailer/unloading area measuring approximately 1,680 square feet on approximately 1.8 acres of upland. Additional information can be found on the attached maps.

- D. Description of maintenance responsibility for all improvements including, but not limited to, streets, parking areas, paths, storm drainage facilities, water and sewer systems, open space areas, solid waste disposal.

All maintenance responsibilities will conducted by the Town of Hilton Head Island's Facility Management Department consistent with existing policy and practice.

- E. If applicable, a dimensioned site development plan showing name of project, graphic scale, north arrow, date of drawing and any revision dates, proposed location of all structures and facilities (e.g. parking, drainage, etc.), development uses of contiguous lots, or other applicable items.

See attached.

F. Comments or approvals of affected agencies and committees as specified in Sec. 16-3-303.N.

DHEC	Water and sewer service is available within Collier Beach Road. Town of Hilton Head Island's responsibility for associated cost.
Palmetto Electric	Electric service is available in the Collier Beach Road right of way and can be extended to serve the Beach Park.
Fire Marshall	Existing fire hydrant located at the intersection of Collier Beach Road and Singleton Beach Road is adequate to serve the site.

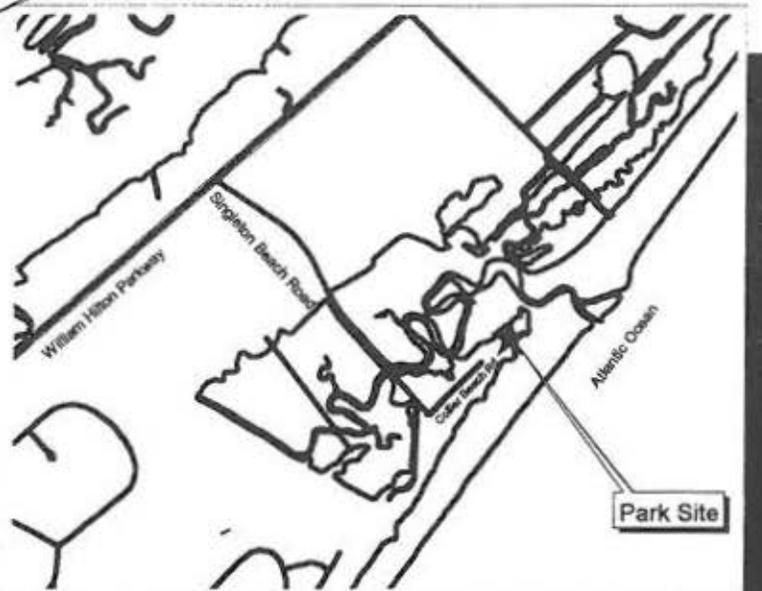
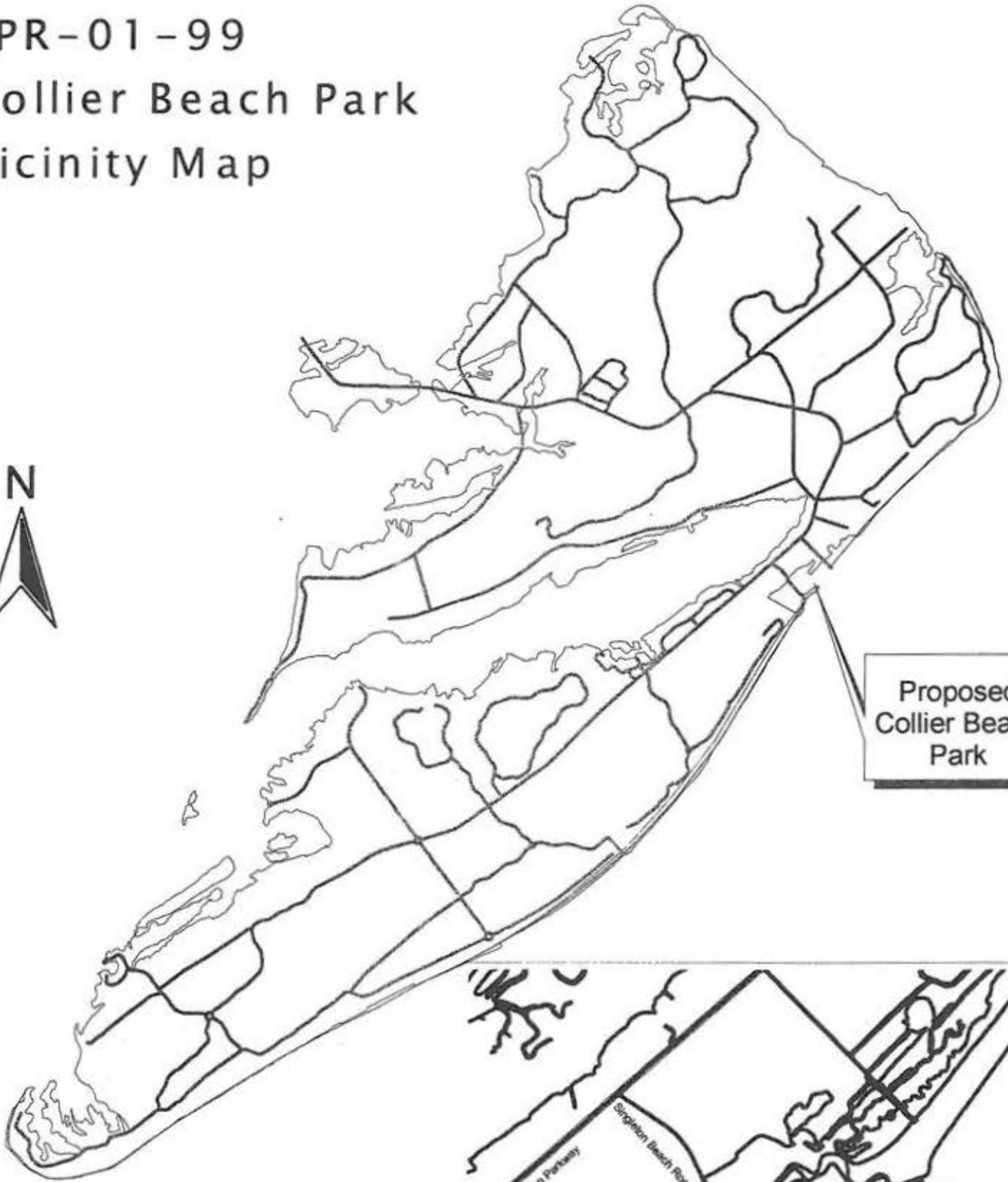
Parks and Recreation Commission reviewed and approved this location for a beach park at its January 22, 1998 meeting and subsequently reviewed the present development plan with no comments on January 14, 1998.

No other applicable agency comments or approvals required.

Attachment B

Vicinity Map of the Property

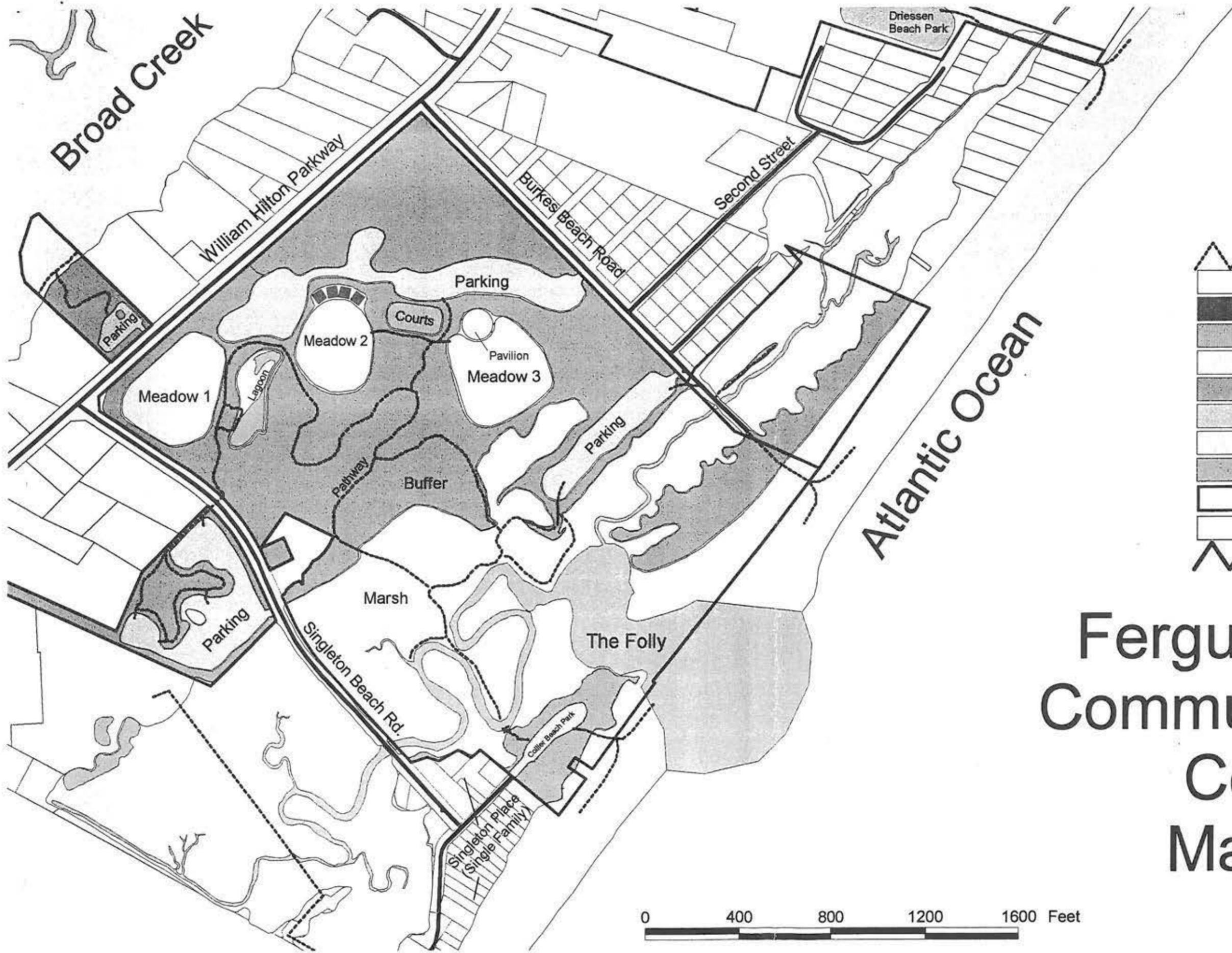
PPR-01-99
Collier Beach Park
Vicinity Map

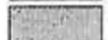
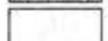
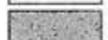
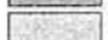
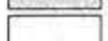


Prepared by Karen M. Cullen, AICP
Senior Planner
March 29, 1999

Attachment C

**Ferguson Tract Conceptual Master Plan
(Draft)**



-  Pathway
-  Pavilion
-  Picnic Shelters
-  Tennis/Basketball Courts
-  Multi-Purpose Fields
-  Buffer/Undisturbed Land
-  Parking
-  Wetland/Marsh/Tidal
-  Water
-  Town Property
-  Parcels
-  Road

Ferguson Tract Community Park Conceptual Master Plan



DRAFT

March 22, 1999

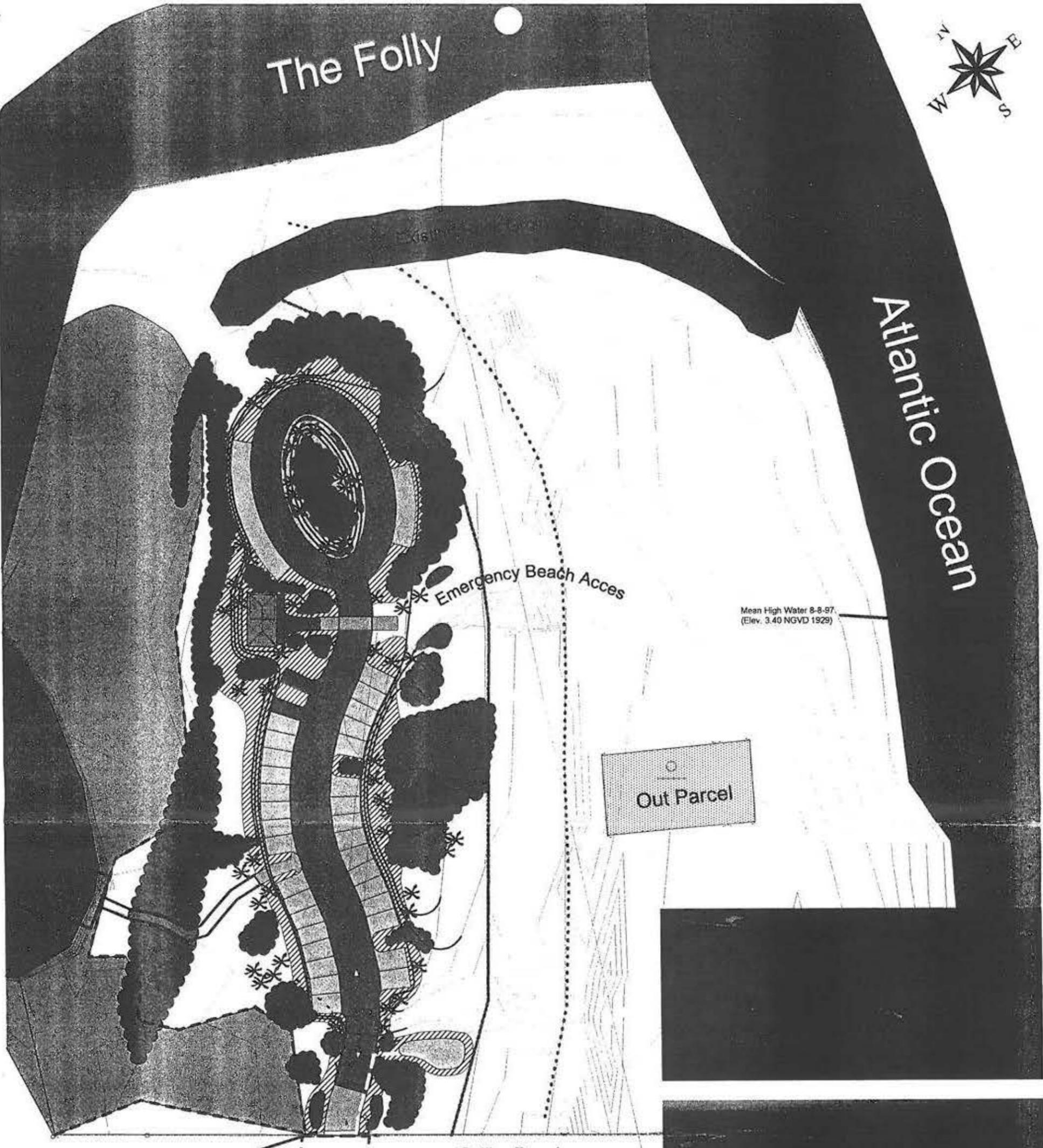
ATTACHMENT D

COLLIER BEACH PARK SITE PLAN

The Folly



Atlantic Ocean



Mean High Water 8-8-97
(Elev. 3.40 NGVD 1929)

Out Parcel

Gate Location (New)

Collier Beach Road R.O.W.

- Existing Vegetation
- Topography
- Out Parcel
- Atlantic Ocean
- Existing Cut Through
- Rock Groin
- Tidal Marsh
- The Folly
- OCRM Critical Line
- OCRM Baseline
- OCRM Setback Line
- Impervious Area
- Pervious Area
- Proposed Bathroom & Shelter
- Storm Drainage
- Storm Water Retention Area
- Proposed Native Plantings
- Oyster Shell Crossing
- Sand Cordgrass
- Blanket Flower
- Dock & Boardwalk (Phase II)
- Proposed Contours

PLANT SCHEDULE	
Common Name	Botanical Name
Trees	
Live Oak	<i>Quercus virginiana</i>
Red Cedar	<i>Juniperus virginiana</i>
Palmetto	<i>Sabal palmetto</i>
Shrubs	
Wax Myrtle	<i>Myrica cerifera</i>
Groundsel-tree	<i>Baccharis halimifolia</i>
Yaupon	<i>Yaupon vomitoria</i>
Grasses / Perennials	
Sand cordgrass	<i>Spartina bakeri</i>
Broomsedge	<i>Andropogon virginicus</i>
Blanket Flower	<i>Galliardia pulchella</i>

All plants selected are native to the coast of South Carolina. Intent of the planting plan is to utilize native plant species to stabilize areas disturbed by the recent beach re-nourishment project and are tolerant to the harsh environmental conditions of the site (wind, salt spray, infertile soil).



Collier Beach Park

March 22, 1999

TOWN OF HILTON HEAD ISLAND

One Town Center Court, Hilton Head Island, S.C. 29928

(843) 341-4600 Fax (843) 842-7728

<http://www.ci.hilton-head-island.sc.us>

April 6, 1999

Mr. Robert L. Manson
Chairman
Planning Commission
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

RE PPR-1-99 (Collier Beach Park) - C. Williams' letter dated April 5, 1999

Dear Mr. Manson,

I am in receipt of the April 5, 1999 letter addressed to you, prepared by Mr. Williams, regarding the Collier Beach Park. I would like to take this opportunity to address the letter's contents.

First and foremost, I must apologize to you and Mr. Williams if there is any perception that staff is non-responsive to the issues that have been raised in the past public meetings and within Mr. Williams' correspondence. Mr. Williams' October 26, 1998 letter was not responded to in writing since the Town of Hilton Head Island withdrew the application which the letter referenced four days after our receipt of the letter. Since 21 of the 27 points addressed the old application (PPR-2-98), which was under the 1987 Land Management Ordinance, and the new application (PPR-1-99) is under the 1998 Land Management Ordinance, there was no pertinent reason to respond. Additionally, of the 6 remaining points, 1 was a statement not requiring a response, while the other 5 were points addressed in the new PPR application summary or within its corresponding file at Town Hall.

Second, I am perplexed that Mr. Williams feels that he and his clients are at a disadvantage due to a lack of information and the substantial changes between PPR-2-98 and PPR-1-99. As we have stated in the last 3 public meetings since February 22, 1999, the redesign of the Beach Park filed under PPR-1-99 was influenced by Mr. Williams' previous letters, the Singleton Place Property Owner Association's input, and by the Chaplin/Marshland Property Owners Association.

Finally, I am surprised that Mr. Williams waited until one day prior to the scheduled public hearing to submit his current letter addressing issues that the Singleton Place Property Owners Association feel are "vital" in the

Town of Hilton Head

Mayor

Mayor E. Carter

Mayor Pro Tem

Board of Members

Mayor E. Carter

Mayor Pro Tem

Mayor E. Carter

Mayor Pro Tem

Mayor E. Carter

Mayor E. Carter

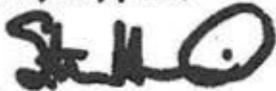
Mayor Pro Tem

Planning Commission's review. This is especially confusing since Mr. Williams has had 45 days prior to the public hearing to review the completed application and associated file. A more timely approach would have caused less confusion, and allowed staff the ability to address the issues in a more logical manner.

Be this as it may, our initial answer to his current letter is that 13 of the 14 points are Design and Performance standard items, which are completely outside the purview of the Planning Commission during the Public Project Review process. The PPR process is established by the 1994 South Carolina Local Government Comprehensive Planning Enabling Act (S. C. Code § 6-29-540), and by the Town of Hilton Head Island LMO Article XII, Public Project Review, neither of which give the Planning Commission the right to review site specific design standards. The 14th point (#11) is a legislative decision established by Town Council, and once again outside of the purview of the PPR process.

I regret that these issues were received by yourself and your fellow Commission members in the "11th hour." I also hope that Mr. Williams can comprehend why a written response to his October 28, 1998 letter became obsolete by the Town's November 4, 1998 action. I also will encourage Mr. Williams, through a copy of this letter, to address the points found within his April 5, 1999 letter to the Administrator of the LMO for Current Planning's consideration during the Development Plan Review (DPR) process.

Very truly yours,



**Steven Hayward
Senior Planner**

**Cc: Charles Cousins
Karen Cullen
David Recor
Planning Commission Members (7)
Mr. Chester Williams**

LAW OFFICES
NOVIT, SCARMINACH & WILLIAMS, P. A.
ATTORNEYS AT LAW

DALE E. AKINS +
ELIZABETH B. MAYO*
THOMAS L. REED + +
CHARLES A. SCARMINACH**
CHESTER C. WILLIAMS**
OF COUNSEL
ROBERT E. STEVENS**

HERBERT L. NOVIT
(Retired 1996)

THE JADE BUILDING, SUITE 400
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April 5, 1999

Mr. Robert L. Manson
Chairman
Planning Commission
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

VIA FACSIMILE 681-5139

RE: Collier Beach Park -- Public Project Review Application No. PPR-01-99 -- Our
File No. 14735-2

Dear Mr. Manson:

As you will recall from our appearances before the Planning Commission at its April 1, 1998 and November 4, 1998 meetings, we represent Singleton Place Homeowners, Inc., the association of property owners at Singleton Place subdivision.

To refresh your memory, Public Project Review Application No. PPR-01-99 ("PPR-01-99") is the Town's second public project review application for its proposed development of a parking lot on the tract containing 6.8 acres, more or less, located at the end of Collier Beach Road (the "Parking Lot Tract"). The Planning Commission originally was to take up consideration of this proposed development at its April 1, 1998 meeting pursuant to Public Project Review Application No. PPR-02-98 ("PPR-02-98"). Prior to that meeting, in our March 18, 1998 letter to Scotty F. Brooks, P. E., Assistant Town Engineer, we raised certain questions and concerns regarding the Town's development of the Parking Lot Tract. Mr. Brooks responded to our letter on March 27, 1998, and addressed some, but not all, of our questions and concerns. Then, at that meeting, the Planning Commission deferred any action on the Town's request pending the Planning Commission's receipt and review of a proposed master plan for the entirety of what is generally referred to as the Singleton/Ferguson tract.

During the April 1, 1998 Planning Commission hearing on PPR-02-98, prior to the Planning Commission's decision to table any final action on PPR-02-98, C. O. Holle, the Assistant Town Manager, advised the Planning Commission that the facility to be developed by

the Town on the Parking Lot Tract would provide public access to the beach for anyone who wants to use it.

Subsequently, under cover of the October 22, 1998 memorandum from Steven L. Hayward, Senior Long Range Planner to the Planning Commission, the Town Staff came forth with its Conceptual Master Plan for the Singleton/Ferguson tract, then designated as the Chaplin Area Park Conceptual Master Plan, and a request for public hearing on the Chaplin Area Park Conceptual Master Plan was placed on the agenda for the Planning Commission's November 4, 1999 meeting. However, we also noted that Mr. Hayward's October 22, 1998 memorandum to the Planning Commission requested that the Planning Commission once again bring PPR-02-98 back to the table and proceed with a favorable review.

By way of our October 26, 1998 letter to Mr. Hayward, on behalf of our client, we objected to the Planning Commission's further review of PPR-02-98 because there was inadequate public notice to advise the general public that the Planning Commission would again take up PPR-02-98.

Thereafter, in our October 28, 1998 letter to Mr. Hayward, a copy of which is enclosed, we again put forth certain questions and concerns on behalf of our client with respect to the Town's proposed development of the Parking Lot Tract. Then, at the November 4, 1998 Planning Commission meeting, the Town Staff withdrew PPR-02-98. The minutes of the November 4, 1998 Planning Commission meeting reflect that Mr. Hayward presented details of the conceptual plan for the Chaplin Area Park, and stated that PPR-02-98 had been withdrawn. Those minutes also reflect that we, as counsel for the Singleton Place Owners Association, did not make a presentation, but asked that our October 28, 1998 letter to Mr. Hayward be entered into the record.

Of particular interest to us and our client, however, even though it is not specifically mentioned in the minutes of the November 4, 1998 Planning Commission meeting, was a brief dialogue between you and Mr. Hayward where you specifically asked Mr. Hayward if he had or would address with us the issues, questions and concerns we raised in October 28, 1998 letter, and where Mr. Hayward indicated that he would be working with us to resolve those issues. However, unfortunately, to date, we have never received any formal response from either Mr. Hayward or any other member of the Town Planning Staff with respect to the issues raised in our October 28, 1998 letter. By way of our November 24, 1998 letter to Mr. Hayward, a copy of which is also enclosed, we reminded him that we were at that time still awaiting his response to the issues and questions we raised in our October 28, 1998 letter, yet we still have received no such response.

Now, we find ourselves and our client in the position of having to attempt to deal with PPR-01-99 without the benefit of any response from the Town regarding the issues we have previously raised. Compounding our concern over this matter are numerous changes between

PPR-02-98 and PPR-01-99. Now, we would again raise the issues mentioned in our October 26, 1998 letter, together with the following items:

1. The Town's proposed development of the Parking Lot Tract has, at this point, resulted in one variance application by the Town to the Board of Zoning Appeals (the "BZA"), which was heard by the BZA at its March 22, 1999 meeting. At that meeting, the BZA denied the Town's variance application on the basis that the variance requested "... fails to meet the criteria for variances with a view particularly [to] the substantial change in character of the neighborhood and the impact this will have, the negative impact it will have on the neighborhood." This finding by the BZA clearly contradicts the Town Staff's statement that the Town's proposed development of the Parking Lot Tract is compatible with the neighborhood in which it is proposed. See LMO §16-3-1202(C)(3). Because the BZA has already made a determination and finding that the Town's proposed development of the Parking Lot Tract will not be compatible with the neighborhood, it would be difficult for the Planning Commission to find otherwise. Therefore, the Planning Commission should decline to approve PPR-01-99 because it is not compatible with the neighborhood.
2. The Town Staff indicates that comments or approvals of applicable agencies or committees specified in LMO §16-3-1202(F) and 16-3-303(N) have been received regarding the proposed development of the Parking Lot Tract, yet the application for PPR-01-99 refers only to comments or approvals from DHEC, Palmetto Electric and the Town's fire department. The application includes a letter from Palmetto Electric Cooperative, Inc. and from Hilton Head No. 1 Public Service District (but not DHEC). We are concerned that the application still does not reflect any comments or approvals from DHEC, the Beaufort County Health Department, OCRM, the Army Corp or other applicable agencies or committees, and is therefore incomplete. Accordingly, the Planning Commission should defer any further action on PPR-01-99 until the application is complete.
3. PPR-01-99 purports to be an application regarding only a site containing only 1.8 acres. Somehow or another, the Parking Lot Tract seems to have shrunk from 6.8 acres, as contemplated by PPR-02-98, to 1.8 acres, as stated in PPR-01-99. To our knowledge, the Parking Lot Tract is not a separate, discrete, subdivided parcel of land, separate and apart from the remainder of the Singleton/Ferguson tract, but rather is a small part (approximately 10%) of the acreage which comprises the Singleton/Ferguson tract. The Beaufort County tax maps show the Parking Lot Tract as being a portion of the entire Singleton/Ferguson tract. Accordingly, PPR-01-99 should properly take into account the entirety of the Singleton/Ferguson tract of which it is a part, unless and until the Parking Lot Tract is properly subdivided out from the remainder of the Singleton/Ferguson tract. We know of no instance or scenario where a private land owner or developer would be allowed to submit an

application for development of only a portion of a large, un-subdivided tract, without first going through the subdivision approval process. In this regard, the Town should be held to the same standard as others, and should be required to comply with the provisions of the LMO. Therefore, the Planning Commission should either defer further action on PPR-01-99 until the Parking Lot Tract is properly subdivided, or decline to approve PPR-01-99 until the remainder of the Singleton/Ferguson tract is included in the application.

4. Given the scope of the Conceptual Master Plan for the Chaplin Area Park, and the fact that the Parking Lot Tract is only a small portion thereof, we disagree with the Town Staff's position that the Parking Lot Tract can be looked at, standing on its own, as a "special purpose park". Instead, given the scope and size of the Chaplin Area Park, it, and the Parking Lot Tract as part of it, clearly and undeniably is a community park or recreation complex park. One must ignore the Town's own clearly stated long range plans for the Singleton/Ferguson Tract, *i. e.*, the development of the Chaplin Area Park, in order to look solely at the Parking Lot Tract and agree with the determination that PPR-01-99 is an application for a "special purpose park". The problem this presents for the Town, however, is that a community park or recreation complex park is not a permitted use in the RM-8 zone. Accordingly, the Planning Commission should decline to approve PPR-01-99 because it is not a permitted use in the applicable zoning district, and the LMO prohibits any proposed use of land that is not permitted as a by right use, conditional use or special exception use within a specific district. See LMO §16-4-105(E).
5. We continued to maintain the position on behalf of our client that the Town and the general public as a whole do not have an unfettered right to use the right-of-way of Collier Beach Road for access to the Parking Lot Tract. Assuming, however, for the sake of argument, without agreeing, that the general public does have a right to use Collier Beach Road for access to the Parking Lot Tract, considering the Town's own figures, Collier Beach Road does not meet the requirements of LMO §16-4-404 for access to the Parking Lot Tract. The "old" Parking Lot Tract, which contains 6.8 acres as set forth in PPR-02-98, will generate 203 average daily traffic trips. The right-of-way of Collier Beach Road from its intersection with Collier Court is 40 feet in width, and currently serves at least two and possibly three single-family residences. Under LMO §16-5-404, there are only two street types which may have a minimum right-of-way of 40 feet or less, *i. e.*, a lane (which must have a minimum right-of-way of 30 feet) or a cul-de-sac (which must have a minimum right-of-way of 40 feet for residential service and 50 feet for non-residential service). Therefore, under LMO §16-5-404, Collier Beach Road, from its intersection with Collier Court, must be considered either a lane or a cul-de-sac. However, in order to be considered a cul-de-sac, the roadway right-of-way must have a minimum right-of-way radius of 65 feet and a minimum outside edge-of-pavement radius of 55 feet for residential service, or a minimum right-of-way radius of 75 feet and a minimum outside edge-of-pavement

radius of 65 feet for non-residential service. Collier Beach Road does not have any such turning radius at the end. It follows, then, that Collier Beach Road, from its intersection with Collier Court, must be considered a lane under LMO §16-5-404. Because a lane can support only a maximum of 50 average daily traffic trips, Collier Beach Road does not meet the requirements of LMO §16-5-404 so as to support or enable the Town's proposed development of the Parking Lot Tract. Even if the Parking Lot Tract is considered to be only 1.8 acres, according to the Town's own figures, the proposed development on the Parking Lot Tract will generate 54 average daily traffic trips, which still exceeds the standards for a lane under LMO §16-5-404, especially considering the fact that at least two single-family residences are also served by that portion of Collier Beach Road. Therefore, the Planning Commission should decline to approve PPR-01-99 because the proposed development fails to conform with the provisions of LMO §16-5-404.

6. We believe the Town's proposed development of the Parking Lot Tract also fails to meet the requirements of LMO §16-5-408 regarding access to streets, and the Planning Commission should further decline to approve PPR-01-99 on this basis.
7. Assuming the Town's proposed development of the Parking Lot Tract is to be considered a parking lot, it appears many of the requirements of LMO §16-5-1206 are not met by the Town's proposed site plan, in that there is no stacking area provided, the minimum drive aisle widths are insufficient, and there are no wheel stops shown on any of the parking spaces. Accordingly, the Planning Commission should decline to approve PPR-01-99 because of its failure to comply with LMO §16-5-1206.
8. The original application for development of the Parking Lot Tract, PPR-02-98, contemplated 20 parking spaces. The Town's new proposal for the development of the Parking Lot Tract, PPR-01-99, contemplates 34 parking spaces, a 70% increase in the number of parking spaces. When we originally raised the issue of how the Town determined the required number of parking spaces for its proposed development of the Parking Lot Tract, the response was, in essence, that 20 parking spaces is an arbitrary number the Town Staff came up with, considering budgetary constraints, impacts and access needs. Obviously, this is an insufficient response, and our concerns are not compounded by at least 70%. As with all other types of development within the Town of Hilton Head Island, there should, and must, be some sort of objective standard which is used in determining the minimum required number of parking spaces and the maximum permitted number of parking spaces for this project, and we would again call upon the Town to provide a rational explanation for the number of parking spaces to be built on the Parking Lot Tract. In our October 28, 1998 letter to Mr. Hayward, we asked that Charles Cousins, in his capacity as the LMO Administrator, make a formal determination as to the number of required off-street parking spaces required by the Town's proposed development of the Parking Lot Tract. To our knowledge, such a formal determination has never been made, and,

if such a determination has been made, then we were never advised of it. Until such a determination supporting the Town's proposed development of the Parking Lot Tract is actually made, the Planning Commission should decline to approve PPR-01-99.

9. Going back, again, to our concerns regarding what appears to be the shrinking of the size of the Parking Lot Tract, we would question whether or not the Town is required to comply with the traffic impact analysis plan requirements of Chapter 3, Article XVIII of the LMO before approval of this project, and we would ask that the Planning Commission decline to approve PPR-01-99 until this issue is resolved.
10. We see nothing in the application for PPR-01-99 which would calm or otherwise ease our concerns regarding the potential for the buildup of environmental contamination on the Parking Lot Tract as a result of the Town's proposed development thereon. The response we have received from the Town on this issue, that the development will be sloped so as to retain all pollutants within the storm water retention area on the parking lot, provides no comfort for our clients, the adjacent property owners. As will be seen from photographs of the Parking Lot Tract, which we will put into the record at the Planning Commission's hearing on PPR-01-99 this Wednesday, April 7, 1999, the Parking Lot Tract is subject to periodic inundation such that virtually all of the proposed improvements to the Parking Lot Tract will at times be under tidal waters. Such being the case, any pollutants which are supposedly to be retained on site would quickly and easily wash out into The Folly and the Atlantic Ocean, and also possibly onto adjacent properties, as a result of such flooding. The Planning Commission should, therefore, decline to approve PPR-01-99 until the environmental issues and concerns of our client are more fully and properly addressed.
11. The application for PPR-01-99 indicates that the beach area in the vicinity of the Parking Lot Tract will not be a designated swimming area under the provisions of §8-1-111, *et sec.* of the Town Code, due to swift currents in the vicinity. The application also indicates, however, that the development of the Parking Lot Tract will allow for the use of the area by people wishing to fish or utilize non-motorized watercraft. We remain curious as to why the Town would consider encouraging persons to use an area which is not a designated swimming area for water-oriented related uses, especially watercraft.
12. As mentioned above, one of the Town's stated purposes for the development of the Parking Lot Tract is to allow for the use of the area by people wishing to utilize non-motorized watercraft. This intended use, together with the intended use of the area by people wishing to fish, clearly appears to call for a classification of this proposed development as a water-oriented facility, which is not a permitted use under any circumstances in the RM-8 zone under LMO §16-4-704. Accordingly, the Planning Commission should decline to approve PPR-01-99 because it is not a permitted use in the applicable zoning district, and the LMO prohibits any proposed use of land that is

not permitted or a by right use, conditional use or special exception use within a specific district. See LMO §16-4-105(E).

13. We had previously requested in our October 28, 1998 letter to Mr. Hayward a copy of the wetlands survey of the Parking Lot Tract which was approved by OCRM. To date, we have not received that survey, and we would ask that the Planning Commission refrain from further consideration of PPR-01-99 until we have been provided with a copy of the wetlands survey and had an opportunity to review same.
14. With respect to the minimum wetlands buffers required by LMO Section 16-6-204(A), the Town, at this point, is unable to comply with those buffers because of the BZA's refusal last month to grant the Town's requested variance for an encroachment into the wetlands buffer. Accordingly, the Planning Commission should refrain from further consideration of PPR-01-99 until the Town is able to demonstrate its ability to comply with the wetlands buffers requirements of the LMO.

As you can see, our client believes there are still many, many outstanding issues which should be addressed before the Planning Commission grants approval for PPR-01-99, and we would ask that the Planning Commission would require the Town Staff to address all of the issues we raise herein and which we have previously raised before the Planning Commission further considers approval of PPR-01-99.

With best regards, we are

Very Truly Yours,

NOVIT, SCARMINACH & WILLIAMS, P. A.

Chester C. Williams

CCWreg/files\147352

Enclosures

cc: Mr. Gilbert T. Calhoun
Mr. Mark A. Moore
Mr. James Kelly
Mr. John A. Rowley
Mr. Andrew B. Shapiro
Mr. Robert W. Siler, Jr.
Mr. Arnold L. Windman
Mr. Kenneth R. James
Charles F. Cousins, AICP
David L. Recor, CZA
Mr. Steven L. Hayward
Karen M. Cullen, AICP
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HERBERT L. NOVIT
(Retired 1996)

October 28, 1998

Mr. Steven L. Hayward
Senior Long Range Planner
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

HAND DELIVERED

RE: Singleton Beach Access Circle – Our File No. 14735-2

Dear Steven:

In our letter to you of October 26, 1998 regarding the above matter, we, on behalf of our client, Singleton Place Homeowners Association, have gone on record with respect to our objection to the Planning Commission undertaking any further consideration of the proposed Singleton Beach Access Circle to be located on a portion of the Town's Singleton/Ferguson Tract situated at the end of Collier Beach Road (the "Parking Lot Tract") pursuant to Public Project Review Application No. PR-02-98 at its November 4, 1998 meeting. Without waiving any rights on behalf of our client in connection therewith, or otherwise agreeing to or acquiescing in the Planning Commission's further review of this project at its November 4, 1998 meeting, out of an abundance of caution, we feel it is appropriate to raise certain issues, some again, some for the first time here, with respect to the Town's proposed development of the Parking Lot Tract, in case the Planning Commission ignores our stated objection and moves forward with its Public Project Review of the Singleton Beach Access Circle at its November 4, 1998 meeting. Given the fact that we were unaware until last Friday, October 23, 1998 that the Town Staff would attempt to bring this matter back before the Planning Commission for further action at its November 4, 1998 meeting, giving us only twelve (12) days to prepare for a possible hearing on this matter, we reserve the right to raise other issues and matters over and above those stated herein.

Initially, we refer you to our letter of March 18, 1998 to Scotty F. Brooks, and Scotty's response letter to us of March 27, 1998.

Regarding this matter, we have at this time the following questions and comments:

1. The original application for this Public Project Review was filed prior to the July 21, 1998 amendment of the Town's Land Management Ordinance (the "LMO"). Please provide us with a copy of the full Public Project Review application submitted to the LMO Administrator regarding the Singleton Beach Access Circle, as required by old LMO Section 16-7-637 and new LMO Section 16-3-1202, so we may review same for conformance with LMO requirements.
2. We previously asked what documentation, if any, is available which supports the need for this project, as required by old LMO Section 16-7-637(3)(a) and new LMO Section 16-3-1202(C)(1), and Scotty's response was that the Town received a petition for development of a beach access in this area. Please provide us with a copy of this petition.
3. In response to a question put to him, Scotty advised us that the Town Staff believes that this proposed project is compatible with the neighborhood and the pre-development characteristics of the site. For the record, we disagree with this position.
211110. 4. In our March 18, 1998 letter to Scotty, we asked if this project had been submitted to DHEC, Hilton Head No. 1 Public Service District, the Beaufort County Health Department, the Town's Fire Department, OCRM, local utility providers, the Army Corps, or other applicable agencies or committees specified in old LMO Sections 16-7-637(6) and 16-7-661(b)(4) and new LMO Sections 16-3-1202(F) and 16-3-303(N), and if any comments had been received regarding this project from any of them. Scotty's response was that this "project will be submitted to all applicable agencies for their review and approval." This response seems to render the Public Project Review application submitted by the Town Staff regarding the Parking Lot Tract incomplete, as the comments or approvals from such governmental agencies and committees must be included (the old LMO and the new LMO both use the term "shall" a mandatory term) as part of the application. Accordingly, the Planning Commission should refrain from further review of this application until it is complete.
5. We are aware that the Town's Corridor Review Commission (now known as the Design Review Board) previously rejected the Town Staff's attempt to claim an exemption for this project from corridor review approval pursuant to old LMO Section 16-7-481(d), which has been continued in the new LMO as Section 16-4-502(E). We are also aware that the Town has not yet sought any further formal corridor review approval for this project. Why is the Town Staff anxious to move this project forward prior to attempting to obtain final DRB approval, which may not be forthcoming, or which may include requirements or conditions which could have a bearing on the Planning Commission's decision as to whether or not to grant Public Project Review approval for the construction of the parking lot? In particular, we are aware that the DRB has generally required visual screening of parking lot areas, and

we note the proposed site plan for the Parking Lot Tract contains no such visual screening at all. We therefore believe there is a good chance that the DRB may require substantial changes to the proposed site plan for the Parking Lot Tract. These issues should be explored and finally determined prior to presenting this project to the Planning Commission for further Public Project Review approval.

6. Under the provisions of the LMO which were in effect at the time of the filing of this project's application, there was no land use category which authorized the establishment of a "special purpose park" in the R-8 zoning district. Instead, the only type of park which was permitted in the R-8 zoning district (now known under the new LMO as the RM-8 zoning district) was a "park and recreational facilities serving primarily the neighborhood within which they are located". See old LMO Section 16-7-430(b)(1). At the April 1, 1998 Planning Commission meeting, were this application was originally taken up, C. O. Hoelle, Jr., the Assistant Town Manager, indicated that the facility to be located on the Parking Lot Tract was intended for use by anyone who wants to use it. Clearly, then, the intended scope of use for the Parking Lot Tract is way above and beyond that which might be required for the neighborhood within which it is located. Because this application was originally filed under the old LMO, why is it not to be judged on its merits based upon the standards, requirements and limitations in place at the time of the filing of the application, *i. e.*, the provisions of the old LMO?
7. Assuming, solely for the sake of argument, without admitting such, that the provisions of the new LMO (*i. e.*, the LMO as revised effective July 21, 1998) are applicable to this application, we disagree with your characterization that the proposed development of the Parking Lot Tract will qualify as a special purpose park. As is evident from the Planning Commission's action on this application on April 1, 1998, the entirety of the Town's Singleton/Ferguson Tract is to be taken into account in reviewing this application. The Parking Lot Tract is only a small part (approximately 10%) of the acreage which comprises the Singleton/Ferguson Tract, which is itself the vast majority of the property included within the Chaplin Area Park Conceptual Master Plan. Because Beaufort County tax maps show the Parking Lot Tract as being a portion of the entire Singleton/Ferguson Tract, the Parking Lot Tract is not, to our knowledge, a separate, discrete, subdivided parcel of land, separate and apart from the remainder of the Singleton/Ferguson Tract (if we are mistaken in this regard, we would appreciate receiving copies of the appropriate documentation by which the subdivision of the tract was approved). This application must properly take into account the entirety of the tract of which it is a part. To our knowledge neither the old LMO nor the new LMO makes any provision or allowance for the consideration of an application of any nature for only a portion of a piece of property. When the entirety of the Singleton/Ferguson Tract is taken into account with respect to this application, then the scope of the project clearly and undeniably is such that a community park or recreation complex park (which are new concepts under the new

LMO) is what is actually intended, as is further evidenced by the Chaplin Area Park Conceptual Master Plan. One must resort to putting form over substance, and to ignoring the Town's own now clearly stated long range plans for the Singleton/Ferguson Tract, in order to look solely at the Parking Lot Tract and agree with the determination that this application is one for a special purpose park. A park of the scope and nature as proposed by the Town under the Chaplin Area Park Conceptual Master Plan was not a permitted use under the old R-8 zone and is not a permitted use in the new RM-8 zone. The Planning Commission should decline to grant Public Project Review approval for the Singleton Beach Access Circle because it is not a permitted use in the applicable zoning district, and both the old LMO and the new LMO prohibit any proposed use of land that is not permitted as use by right, conditional use, or special exception use within a specific district. See old LMO Section 16-7-404(a) and new LMO Section 16-4-105(B).

8/28/98
CW:RIS

8. We have previously raised the issue of access to the Parking Lot Tract. As you know, access is by way of Singleton Beach Road, which is a public right-of-way, and Collier Beach Road, which is a privately owned right-of-way. While we have seen no evidence whatsoever to support the Town's position, both you and Scotty have indicated that the Town has unfettered access to this tract from Collier Beach Road. Historically, access to the Collier Memorial Beach Tract (the old name of the Parking Lot Tract) was by way of an old causeway which crossed The Folly, running generally parallel to what is now Singleton Beach Road. However, assuming solely for the sake of argument, without admitting such, that the Town does have some sort of undefined easement for access to the Parking Lot Tract across Collier Beach Road, this does not, in and of itself, grant to the general public the right to use Collier Beach Road for access to the Parking Lot Tract. Any attempt on the part of the Town to allow the general public to use Collier Beach Road for access to the Parking Lot Tract will, in essence, result in the *de facto* public dedication of Collier Beach Road, thereby depriving the owner thereof and the Singleton Place Homeowners Association of valuable property rights in and to Collier Beach Road and the right to the use thereof. The Town cannot fairly or equitably require JJ Development, Inc., the developer of Singleton Place subdivision and the owner of Collier Beach Road, to install that roadway as part and parcel of its development work in connection with Singleton Place, and then thereafter allow the general public to use Collier Beach Road, while JJ Development, Inc. and Singleton Place Homeowners' Association are charged with the maintenance and upkeep of what was, and should still be, a private road. As an analogy, would the Town Staff have us believe that the Town could purchase a piece of property inside Sea Pines, Indigo Run, Hilton Head Plantation, or any other similarly community on Hilton Head Island, declare it to be a park of some sort, and then allow the general public to freely utilize the private roadways in that development for access to the Town-owned parcel? We think not, and we see no distinction here. Unless and until the Town can clearly and unequivocally show that the general public has the right to free use of Collier Beach Road, the Planning

Commission should decline to grant Public Project Review Approval for the proposed development of the Parking Lot Tract.

9. Assuming, for the sake of argument, without agreeing, that the general public does have the right to use Collier Beach Road for access to the Parking Lot Tract, does Collier Beach Road meet the requirements of new LMO Section 16-5-404?
10. Do the proposed improvements to the Parking Lot Tract meet the requirements of new LMO Section 16-5-408(C), *i. e.*, is the access point at least 100 feet away from the center line of the closest existing street?
11. Please advise us as to whether or not the improvements to the Parking Lot Tract are to be considered a cul-de-sac under the provisions of old LMO Section 16-7-827 or new LMO Section 16-5-406, and, if it is, if it meets the requirements thereunder for a non-residential cul-de-sac.
12. Assuming the proposed improvements to the Parking Lot Tract are not considered a cul-de-sac, it appears it must be classified as a parking lot. Does the Town Staff consider the improvements to the Parking Lot Tract to be a parking lot?
13. Assuming your proposed site plan for the improvements to the Parking Lot Tract does, in fact, show a parking lot, it appears many of the requirements of old LMO Section 16-7-850 and new LMO Sections 16-5-1206 are not met, in that there is no stacking area provided, the minimum drive aisle widths are insufficient, and there are no wheel stops shown on any of the parking spaces. How does the Town Staff plan to reconcile its proposed site plan with the requirements of old LMO Section 16-7-850 and new LMO Section 16-5-1206?
14. We previously raised the question as to how the Town determined that twenty (20) parking spaces is the required number of parking spaces for this project, and Scotty's response was, in essence, that twenty (20) parking spaces is an arbitrary number the Town Staff came up with, considering budgetary constraints, impacts and access needs. As with all other types of development within the Town of Hilton Head Island, there should, and must, be some sort of objective standard which is used in determining the minimum required parking spaces for this project, and we call upon the Town to provide a rational explanation for the number of parking spaces to be built on the Parking Lot Tract. Old LMO Section 16-7-851(b) and new LMO Section 16-5-1208(a) both contain a table describing the minimum number of off-street parking spaces required by various land uses, and old LMO Section 16-7-851(c) and new LMO Section 16-5-1208(C) both provide that the LMO Administrator shall, for specific uses not set forth in those tables, apply the unit of measurement set forth in those tables which is deemed to be most similar to the proposed use. By way of his copy of this letter, we ask that Charles Cousins, in his capacity as the LMO

Administrator, make a formal determination as to the number of required off-street parking spaces required by this project.

15. We previously raised the question of the purpose of the parking spaces to be developed on the Parking Lot Tract, and Scotty's response was that the parking spaces are to provide parking for users of non-motorized watercraft. This response, then, would lead one to believe that the proposed use for the Parking Lot Tract is actually as that of a water-oriented facility. Under old LMO Section 16-7-405(15), water-oriented embarkation facilities is a restricted land use, allowed only in a zoning district which expressly permits its use, which the R-8 zone does not. Under new LMO Section 16-7-704, water-oriented uses other than marinas are permitted as a conditional use only, and then only in the CON, the PR and the WMU zones. So, following Scotty's response, one is again lead to believe that the intended use for the Parking Lot Tract was not a permitted use under the old R-8 zone and is not a permitted use in the RM-8 zone.
16. In response to our previous question to him regarding the estimated traffic trip generation rate for this project, Scotty sent to us a print out showing the ITE trip generation rate for a beach park containing 6.8 acres. We assume this is the area of the Parking Lot Tract. If we read this information supplied to us by Scotty correctly, it appears the Parking Lot Tract, as proposed by the Town Planning Staff, will generate 203 average daily traffic trips. However, as mentioned above, we believe the proper way to look at this project from a development standpoint is a part and parcel of the entire Singleton/Ferguson Tract which is approximately 68 acres. Therefore, if one takes into consideration the entire Singleton/Ferguson Tract, the average daily trips generated increases to over 2,000. Using either count, this would require that the project be subject to the traffic impact analysis plan requirements of Article VII, Part B of the old LMO or Chapter 3, Article XIII of the new LMO before approval. Has the Town started the Traffic Impact Analysis Plan Approval process for the Parking Lot Tract?
17. Further regarding the traffic to be generated by the development of the Parking Lot Tract, the access provided by Collier Beach Road is insufficient under the provisions of the old LMO Section 16-7-827 and new LMO Section 16-5-404, so access would be non-conforming. How does the Town plan to address this issue?
18. We previously have asked what provisions, if any, have been made for the filtration of oil, grease and other petroleum-based pollutants, as well as other pollutants, which one would normally expect to find in a roadway, driveway, or parking lot environment, before those pollutants drain into The Folly. Scotty's response was that the project is slopped to retain all pollutants within the storm water retention area on the parking lot. It would seem to use that this plan would, over a period of time, lead to a substantial amount of built-up environmental contamination on the site. This

does not seem to be an acceptable solution to the problem of dealing with such pollutants. What other alternatives, if any, are available to the Town?

19. We have previously raised the issue of the lack of restroom facilities for users of the Parking Lot Tract. As shown on the proposed site plan, and as confirmed by Scotty, no restroom facilities will be provided. Clearly, the lack of restroom facilities presents a serious potential problem. We know of no development activity which would be permitted through the building permit phase on the Town of Hilton Head Island which provides for absolutely no restroom facilities. Why should this project be an exception?
20. Further regarding the lack of restroom facilities on the Parking Lot Tract, the beach protection provisions of both the old LMO (old Article IX, Part C) and the new LMO, (new Chapter 6, Article III) appear to be applicable to the development of the Parking Lot Tract. In particular, old LMO Section 16-7-921(3) and new LMO Section 16-6-302 both require that any development or site alteration adjacent to the beach shall only be approved if the applicant can demonstrate that the proposed development or site alteration will not result in the discharge of treated or untreated sewerage or human waste from land or water born sources, with the exception of tertiary treated effluent irrigation systems approved by DHEC. How does the Town propose to comply with these provisions of the old LMO and the new LMO with respect to users of the Parking Lot Tract who are in need of restroom facilities, especially given the fact that there is not, to our knowledge, any public restroom facilities anywhere near the Parking Lot Tract, and certainly not within walking distance thereof?
21. We assume the site lighting standards of old LMO Section 16-7-857 and the new LMO (Chapter 5, Article XIV) regarding are inapplicable to the proposed development of the Parking Lot Tract, as there are no planned night-time hours of operation. Is our assumption in that regard correct?
22. What provisions, if any, have been or will be made to secure the area at night, so as to discourage visitors to the Parking Lot Tract after hours? We note your proposed site plan shows no lighting whatsoever, so there appears to be no reason why anyone should be visiting the site at night. Obviously, this particular problem is of great concern to our clients, as they are concerned about unwanted nighttime traffic in their neighborhood.
23. As we have previously mentioned, it is well known that there are frequently swift and dangerous currents and riptides in the generally vicinity of The Folly. In response to our question as to what provisions, if any, have been made in order to insure the safety of citizens of and visitors to the Town who may use this proposed facility, Scotty replied that the project will include signage to advise users of the nearby tidal currents. This proposed use of warning signs is, in our opinion, inadequate as they

would seem to contradict the implicit approval of the use of the beach in the area of the Parking Lot Tract for swimming and related activities. In other words, why would the Town invite, and even encourage, persons to utilize what is generally considered to be a dangerous area of the Hilton Head Island beach?

24. With further regard to safety issues, is the beach in the general area of the parking lot a designated swimming area under the provisions of Section 8-1-111, *et seq* of the Town Code? If not, why would the Town consider encouraging persons to use an area which is not a designated swimming area for swimming and other water-oriented related uses?
25. Has the Town completed a wetlands delineation of the property? If so, please provide us with a copy of the wetlands survey approved by OCRM; if not, why not?
26. Do the proposed improvements to the Parking Lot Tract meet the average and minimum wetlands buffers required by old LMO Section 16-7-918(a)(1) and new LMO Section 16-6-204(A)?
27. What is the size, and acreage, of the entire area encompassed by the Chaplin Area Park Conceptual Master Plan?

As you know, this matter is scheduled to come before the Planning Commission in just one week. Accordingly, we would appreciate your prompt response to our questions and comments.

With best regards, we are

Very Truly Yours,

NOVIT, SCARMINACH & WILLIAMS, P. A.


Chester C. Williams

CCWreglfiles\147352b

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November 24, 1998

FILE COPY

Mr. Steven L. Hayward
Senior Long Range Planner
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

HAND DELIVERED

RE: Singleton Beach Access Circle – Our File No. 14735-2

Dear Steven:

Following-up regarding the above matter, as we are sure you realize, we are still awaiting your response to the issues and questions we raised in our October 28, 1998 letter to you. We would, of course, appreciate receiving a response from you in due course.

As assume you will specifically advise us of any forthcoming action on the part of the Town regarding the Singleton Beach Access Circle or the Chaplin area park, and we would appreciate your cooperation in that regard.

Thanking you for your cooperation and assistance, and wishing you and yours a safe and happy Thanksgiving holiday, we are

Very Truly Yours,

NOVIT, SCARMINACH & WILLIAMS, P. A.



This signature is an electronic reproduction
Chester C. Williams

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