



**Town of Hilton Head Island
Board of Zoning Appeals
Regular Meeting
December 14, 2015 2:30 p.m.
Benjamin M. Racusin Council Chambers
AGENDA**

- 1. Call to Order**
- 2. Pledge of Allegiance to the Flag**
- 3. Roll Call**
- 4. Freedom of Information Act Compliance**
Public notification of the Board of Zoning Appeals meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the requirements of the Town of Hilton Head Island Land Management Ordinance.
- 5. Welcome and Introduction to Board Procedures**
- 6. Approval of Agenda**
- 7. Approval of the Minutes – Regular Meeting November 16, 2015**
- 8. New Business**
APL-001971-2015: Request for Appeal from Randy Downing. The appellant is appealing the Town's decision to deny a tree removal request at 100 Shipyard Drive, Unit 805 in Tennis Master.
Presented by: Nicole Dixon
- 9. Board Business**
- 10. Staff Reports**
Waiver Report
- 11. Adjournment**

Please note that a quorum of Town Council may result if four or more Town Council members attend this meeting.

TOWN OF HILTON HEAD ISLAND
Board of Zoning Appeals
Minutes of the November 16, 2015 2:30pm Meeting **DRAFT**
Benjamin M. Racusin Council Chambers

Board Members Present: Chairman Glenn Stanford, Jerry Cutrer, David Fingerhut,
Steve Wilson, John White, and Lisa Laudermilch

Board Members Absent: Vice Chairman Jeffrey North

Council Members Present: None

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator
Anne Cyran, Senior Planner
Brian Hulbert, Staff Attorney
Teri Lewis, LMO Official
Jill Foster, Deputy Director of Community Development
Heather Colin, Development Review Administrator
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 the Board of Zoning Appeals meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the requirements of the Town of Hilton Head Island Land Management Ordinance.

5. Welcome and Introduction to Board Procedures

Chairman Stanford welcomed the public and introduced the Board's procedures for conducting the business meeting.

6. Approval of Agenda

Mr. Fingerhut made a **motion** to **approve** the agenda as presented. Mr. White **seconded** the motion and the motion **passed** with a vote of 6-0-0.

7. Approval of the Minutes

Mr. Cutrer made a **motion** to **approve** the minutes of the October 26, 2015 meeting as presented. Ms. Laudermilch **seconded** the motion and the motion **passed** with a vote of 6-0-0.

8. Board Business

None

9. **New Business**

Public Hearing

A. VAR-1942-2015: Gregory Wynn with GW Services, Inc., on behalf of the Woodbine Villas Regime, is requesting a variance from Land Management Ordinance Section 16-6-104.F, Specimen Tree Preservation, to remove a specimen tree. The tree is located behind Unit 52 at 2 Woodbine Place, further identified as Beaufort County Tax Map parcel number R550 017 00A 0120 052A. Chairman Stanford introduced the application, opened the public hearing, and requested that the staff make their presentation.

Ms. Anne Cyran made the presentation on behalf of staff. The staff recommended that the Board of Zoning Appeals approve the application based on the Findings of Fact and Conclusions of Law contained in the staff's report with the following conditions: (1) the applicant shall apply for a Natural Resources Permit to remove the subject tree; and (2) the applicant shall plant four, Category I mitigation trees per LMO Section 16-6-104.I.3. Ms. Cyran presented an in-depth overhead review of the application including a site plan and aerial view of the site.

The Woodbine Villas were built in 1966 using plans approved by Beaufort County. Current LMO standards would not allow the construction of a building so close to a tree. Given the growth rate of live oak trees, the subject tree, which is now 40 inches DBH, was probably not specimen size (35 DBH) at the time of construction. In mid-October, the property management company submitted a natural resources application to remove the tree. Mr. Rocky Browder, the Town's Environmental Planner, examined the tree and determined that it is healthy. Mr. Browder denied the application to remove the tree because removing a healthy specimen-size tree would be a violation of LMO Section 16-6-104.F, Specimen Tree Preservation. Mr. Browder recommended that the applicant explore alternatives to removing the tree or to seek a variance per LMO Section 16-6-104.F.

Shortly after the application to remove the tree was denied, the property management company submitted the application for a variance to remove the tree. The applicant states that the Woodbine Villas regime supports the removal of the tree. Ms. Cyran presented the staff's Findings of Fact and Conclusions of Law. Following the staff's presentation, Chairman Stanford requested that the applicant make his presentation.

Mr. Gregory Wynn presented statements in support of the application. Mr. Wynn presented comments regarding the tree's size and location as well as his concern with potential further damage to the roof and the foundation of Unit 52. Following Mr. Wynn's presentation, Chairman Stanford requested public comments and the following were received: (1) Mr. Paul Cardinale, resident of Woodbine Villas, presented comments in support of the staff's recommendation for removal of the tree. Following public comments, Chairman Stanford closed the public hearing for this application and invited discussion by the BZA.

The Board discussed the application for variance, the staff's recommendation, and the proposed mitigation plan. The Board agreed with the staff's recommendation for approval of the application, with conditions, based on the Findings of Fact and Conclusions of Law contained in the staff's report. Following final comments, Chairman Stanford requested that a motion be made.

Mr. White made a **motion to approve** application for variance, VAR-1942-2015, with the following conditions: (1) the applicant shall apply for a Natural Resources Permit to remove the subject tree; and (2) the applicant shall plant four, Category I mitigation trees per LMO Section 16-6-104.I.3. This

motion is based on the Findings of Fact and Conclusions of Law contained in the staff's report. Mr. Cutrer **seconded** the motion and the motion **passed** with a vote of 6-0-0.

Chairman Stanford then stated the following two procedural matters are before the Board:

B. Request from Tai Scott: Tai Scott is asking for the Board of Zoning Appeals to make a motion to issue subpoenas in conjunction with an upcoming appeal.

C. Request from Tai Scott: Tai Scott is requesting his appeal be scheduled for the January 25, 2016 Board of Zoning Appeals meeting as he will be unavailable for the December 14, 2015 meeting.

Chairman Stanford stated that these procedural matters are related to Mr. Scott's application for appeal which is currently scheduled to be heard on December 14, 2015. Mr. Scott is requesting that his appeal be rescheduled to the January 25, 2016 meeting as he is unavailable to attend the December 14th meeting. Mr. Scott is also requesting that the Board issue subpoenas to witnesses to attend the rescheduled meeting. Following this introduction, Chairman Stanford invited Mr. Scott to present statements to the Board. Chairman Stanford requested that Mr. Scott limit his remarks to the procedural matters that are before the Board today.

Mr. Scott presented his reasons for requesting that his appeal be heard at the January 25, 2016 meeting instead of at the December meeting. Chairman Stanford confirmed with Brian Hulbert, staff attorney, that the BZA has the jurisdiction to grant one postponement request. Mr. Hulbert confirmed that the BZA has the power to grant one postponement request. Chairman Stanford **granted** Mr. Scott's request to postpone his appeal to the January 25, 2016 meeting. This appeal will appear on the BZA's January 25, 2016 agenda.

Mr. Tai Scott then requested that the Board of Zoning Appeals make a motion to issue subpoenas in conjunction with his upcoming appeal. At the Chairman's request, Mr. Scott named the individuals that he would like to have subpoenaed stating that their testimony is crucial to his case. The named town staff members are: Ms. Heather Colin, Ms. Teri Lewis, Ms. Jill Foster, Ms. Donna Horsman, Ms. Sarah Wallace, and Ms. Kisha O'Donnell. In addition, Mr. Scott stated that he would also like to subpoena his neighbors, Mr. and Mrs. David Arnal.

Chairman Stanford confirmed with Brian Hulbert that the BZA has the jurisdiction to grant the requested subpoenas. Mr. Hulbert confirmed that the BZA has the power to grant the requested subpoenas. Since the list of town staff names was incomplete when provided to the BZA, Chairman Stanford requested that Mr. Scott provide the Board with a complete list of individuals that he would like to subpoena.

Chairman Stanford, the Board, and Mr. Hulbert discussed the proposed form that the BZA might use for their issuance of the subpoenas. Mr. Fingerhut and other Board members discussed the option of allowing the town to direct the staff members named in the subpoena to attend the BZA meeting on January 25 2016 instead of issuing subpoenas to these individuals. Chairman Stanford and Mr. Hulbert stated that the legal costs associated with issuing the subpoenas will be assumed by Mr. Scott.

Chairman Stanford, Mr. Scott and Mr. Hulbert discussed this option and Mr. Hulbert stated that the town will ensure that the named staff members will attend the BZA's January 25, 2016 meeting with the possible exception of Ms. Kisha O'Donnell, who may be out of town and unavailable. Mr. Hulbert stated that an affidavit from Ms. O'Donnell would be provided to the BZA, if she is

unavailable to attend the meeting. Mr. Scott agreed that an affidavit from Ms. O'Donnell would be sufficient if she is unavailable to attend the January 25th meeting.

Mr. Wilson suggested that it might be better for the BZA to wait until the January 25, 2016 meeting to decide if the issuance of subpoenas is even necessary. The outcome of that meeting will determine if subpoenas are necessary. Chairman Stanford and the other Board members agreed that this might be a better solution.

Mr. David Arnal, Mr. Scott's neighbor, stated that he is not in support of Mr. Scott's application. Mr. Arnell stated that he is represented by legal counsel, Dean Bell, Esq. This completed the discussion on these procedural issues.

10. Staff Reports

Ms. Dixon presented the Waiver Report to the Board

11. Adjournment

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

Submitted By:

Approved By:

Kathleen Carlin
Secretary

Glenn Stanford
Chairman



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Nicole Dixon, CFM, Senior Planner and Board Coordinator
DATE: December 1, 2015
SUBJECT: APL-001971-2015

Staff has received an appeal from Randy Downing, on behalf of Gary and Zella Halstead. Mr. Downing is appealing staff's decision to deny a tree removal request at 100 Shipyard Drive, Unit 805 in Tennis Master.

Findings of Fact

1. Teri Lewis is the LMO Official for the Town of Hilton Head Island.
2. As the LMO Official for the Town of Hilton Head Island, Teri Lewis has the authority to delegate the review of tree removal permits to Rocky Browder, the Town's Environmental Planner.
3. A tree removal request was submitted to the Town on August 12, 2015 to remove a Laurel Oak tree at the back of the unit to allow sun light in and extend the life of the exterior of the unit. According to the applicant, when it rains they have an issue with mold and mildew on the house, the patio and the roof.
4. After a site visit, Rocky Browder denied the request to remove the tree because it is a large healthy tree and its removal would result in the loss of a significant amount of tree canopy that wouldn't be rectified by mitigation plantings for decades.
5. In his determination, Rocky suggested other feasible alternatives such as trimming and pruning the tree to open up the canopy and allow more air flow and sun light to reach the home, which would address the moisture, mold and mildew concerns.
6. In the appeal application, the appellant states that trimming the tree will not eliminate the issues they have. The appellant also states they received approval from Shipyard Property Owners Association to remove the tree.

Conclusions of Law

1. Appendix A, A-1 states that, "The Official is the LMO Official who is designated by the Town Manager as the person who administers and enforces the Ordinance."
2. According to LMO Section 16-6-104, Tree Protection, all persons are encouraged to make all reasonable efforts to preserve and retain any existing stands of trees, individual trees, and other self-supporting plants, whether or not they are protected under the LMO.
3. LMO Section 16-6-104, Tree Protection, also states that no person shall cut, destroy, cause to be destroyed, move or remove, transplant, prune, or limb any protected tree in the Town without first receiving approval of a Natural Resources Permit.
4. LMO Section 16-2-103.K, Natural Resources Permit, gives staff the authority to approve, approve with conditions, or deny a natural resource permit application, based on review standards. The permit shall only be approved if the applicant demonstrates the proposed tree removal complies with the standards in LMO Section 16-6-104. After a site visit, staff determined the tree protection standards were not met. Staff finds that removing the tree would be in conflict with the tree protection standards in LMO Section 16-6-104.A, Purpose and Intent.

5. Staff is concerned about establishing a precedent for removing significant trees for shading issues, especially when there are other feasible alternatives.

The record as attached consists of the following documents:

Attachment A - Appellant Submittal:

- (1) Appeal Application
- (2) Appellant's narrative dated October 19, 2015
- (3) Denial from Rocky Browder dated August 12, 2015
- (4) Shipyard POA approval to remove the tree
- (5) Original Tree Removal Request dated August 12, 2015

Attachment B - Staff Submittal:

- (1) Denial from Rocky Browder dated August 12, 2015
- (2) Pictures of tree
- (3) Copy of Appendix A, A-1 from the LMO
- (4) Copy of LMO Sections 16-2-103.K and 16-6-104.A-C.

Staff reserves the right to submit additional documents.

If you have any questions, please contact Nicole Dixon at 843-341-4686 or nicoled@hiltonheadislandsc.gov.

ATTACHMENT A



Town of Hilton Head Island
Community Development Department
One Town Center Court
Hilton Head Island, SC 29928
Phone: 843-341-4757 Fax: 843-842-8908
www.hiltonheadislandsc.gov

FOR OFFICIAL USE ONLY	
Date Received:	_____
Accepted by:	_____
App. #: APL	1971-15
Meeting Date:	_____

Applicant/Agent Name: Randy Dawney Company: Carolina Coastal Services LLC
Mailing Address: 17 Hunter RD STE A City: HHI State: SC Zip: 29926
Telephone: 843-247-0373 Fax: 855-787-7679 E-mail: Randoy@CCSHHI.com

APPEAL (APL) SUBMITTAL REQUIREMENTS

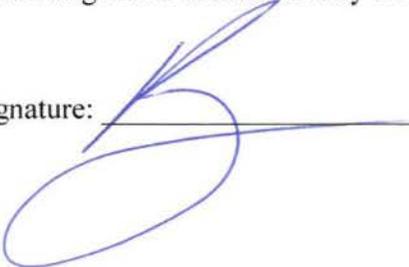
If you are interested in submitting your appeal electronically please call 843-341-4757 for more information.

The following items must be attached in order for this application to be complete:

- _____ A detailed narrative stating the Town Official or Body who made the decision, the date of the decision being appealed, the decision being appealed, the basis for the right to appeal, the grounds of the appeal, cite any LMO Section numbers relied upon; **and** a statement of the specific decision requested of the review body.
- _____ Any other documentation used to support the facts surrounding the decision.
- _____ Filing Fee - \$100.00 cash or check made payable to the Town of Hilton Head Island.

To the best of my knowledge, the information on this application and all additional documentation is true, factual, and complete. I hereby agree to abide by all conditions of any approvals granted by the Town of Hilton Head Island. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale.

I further understand that in the event of a State of Emergency due to a Disaster, the review and approval times set forth in the Land Management Ordinance may be suspended.

Applicant/Agent Signature:  Date: 10/19/15

ATTACHMENT A



Carolina Coastal Services

17 Hunter Rd
Suite A
Hilton Head Island, SC 29926

Phone: 843.247.0373
Fax: 855.787.7679

General Contractor
Comercial & Residential
Licensed & Bonded

Email: Randy@CCSHHI.com

October 19, 2015

RE: Gary and Zella Halstead
100 Shipyard Drive
Unit 805
Hilton Head Island, SC 29928

To whom it may concern:

The owners of the above property would like to appeal the decision of denying the removal of the Laurel Oak tree at the back of their home. The concern of the tree is that it overhangs their unit and prevents a majority of sun light from at the back of their home, which has caused issues with mold and mildew on the house, the patio, and the roof. And trimming the tree the allotted amount will not eliminate the issue.

Prior to applying to the Town for an approval, we contacted the HOA of Tennis Master and also the POA of Shipyard plantation and meet with them and aired the concerns and issues with the tree, and requested the approval to remove the tree, and both administrations approved the removal of the tree. They both indicated that we would possible have mitigation, for the trees removal, which the owners agreed to do once approved.

Any questions please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randy E. Downing', is written over a horizontal line.

Randy E. Downing

Please input agency related information you want to display on the generated reports

Cellphone: XXX-XXX-XXXX. Address: XXX XXXXX BLVD XXXX

Case Number:	NAT-001510-2015	Case Module:	Plan
Inspection Date:	08/12/2015	Inspection Status:	Failed
Inspector:	Rocky Browder	Inspection Type:	Natural Resource
Job Address:	100 SHIPYARD DRIVE Suite/Unit 805 Hilton Head, SC 29928	Parcel Number:	R550 015 000 0268 0005

Contact Type	Company Name	Name
Owner		SOUPLY, RONALD
Applicant		[CAROLINA COASTAL SERVICES LLC - GC] DOWNING, RANDY

Checklist Item	Passed	Comments
Comments - Comments	NO	Request to remove tree DENIED for the reasons stated. There are no health issues with the tree that would warrant its removal and its removal would result in the loss of a sufficient amount of tree canopy. To address the reasons stated, tree trimming and pruning could be done to open up the canopy to allow more air flow and light. If you should choose to trim and prune, please notify me to modify the request.


 Browder, Rocky (Inspector)

ONE 25. 0

Shipyard Plantation

Serial No. IR 16

BUILDING & WORK PERMIT

To be posted with valid Beaufort County permit when necessary.

Lot Location 805 TENNISMASTER

Approved Materials 1 LAUREL

Property Owner HAL STEAD

OAK - AS

Contractor _____

ARB Approval MARKEY

Emergency Phone No. 618-406-9416

~~611 614 621~~ 618 624-2037
618 624-2037

Permit No. IR 16

Issued: Date 6/15 By [Signature]

This permit expires one year after the above date of issuance and must be reissued if construction has not started. The Covenants require completion of construction with one year after construction has started.

ATTACHMENT A

ATTACHMENT A



Town of Hilton Head Island
Community Development Department
One Town Center Court
Hilton Head Island, SC 29928
Phone: 843-341-4757 Fax: 843-842-8908
www.hiltonheadislandsc.gov

FOR OFFICIAL USE ONLY
Date Received: 8/12/15
Accepted by: _____

NAT 1510-2015

Applicant/Agent Name: Randy Downing Company: Carolina Coastal Services LLC
Mailing Address: 17 Hunter RD, STE A City: HHI State: SC Zip 29926
Telephone: 843-247-0373 Fax: 855-787-7679 E-mail: Randy@cshhi.com
Property Owner Name if different from Applicant/Agent: Gary and Zella Halstead

Project Name: Tennis Master Project Address: 805 A Tennis Master - 100 Shipyard Dr.
Parcel Number [PIN]: R550-015-000-0268-0041
Zoning District: _____ Overlay District(s): _____

NATURAL RESOURCE REQUEST

TREES	BUFFERS	BEACHFRONT	MISCELLANEOUS
<input checked="" type="checkbox"/> Removal	<input type="checkbox"/> Adjacent Use	<input type="checkbox"/> View Corridors	<input type="checkbox"/> Docks/Bulkheads
<input type="checkbox"/> Trimming/Pruning	<input type="checkbox"/> Street	<input type="checkbox"/> Vegetation Trimming	<input type="checkbox"/> Utilities
<input type="checkbox"/> Emergency/Hazard	<input type="checkbox"/> Wetland	<input type="checkbox"/> OCRM Permitting	<input type="checkbox"/> SW Maintenance
<input type="checkbox"/> Other	<input type="checkbox"/> Other	<input type="checkbox"/> Dune Re-vegetation	<input type="checkbox"/> Other

Provide narrative/description of project

Remove Laurel Oak at back of the unit to allow light in and extend life of the exterior of the unit, when it rains it never dries out, have had issued with mold and mildew

TREE REMOVAL INFORMATION

Tree location on site 805 Tennis Master

Size (DBH) _____ Species _____

Reason for Removal Allow natural light to back of the unit

Proposed Mitigation(replacement) TBD

Photos are highly suggested to be attached to expedite the approval process.

Are there recorded private covenants and/or restrictions that are contrary to, conflict with, or prohibit the proposed request? If yes, a copy of the private covenants and/or restrictions must be submitted with this application. YES NO

To the best of my knowledge, the information on this application and all additional documentation is true, factual, and complete and authorized by the property owner(s). I hereby agree to abide by all conditions of any approvals granted by the Town of Hilton Head Island. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale.



7/24/15

SIGNATURE

DATE

Tree location on site _____

Size (DBH) _____ Species _____

Reason for Removal _____

Proposed Mitigation(replacement) _____

Photos are highly suggested to be attached to expedite the approval process.

Tree location on site _____

Size (DBH) _____ Species _____

Reason for Removal _____

Proposed Mitigation(replacement) _____

Photos are highly suggested to be attached to expedite the approval process.

Tree location on site _____

Size (DBH) _____ Species _____

Reason for Removal _____

Proposed Mitigation(replacement) _____

Photos are highly suggested to be attached to expedite the approval process.

INSPECTION WORKSHEET (010761-2015)

Please input agency related information you want to display on the generated reports

Cellphone: XXX-XXX-XXXX. Address: XXX XXXXX BLVD XXXX

Case Number:	NAT-001510-2015	Case Module:	Plan
Inspection Date:	08/12/2015	Inspection Status:	Failed
Inspector:	Rocky Browder	Inspection Type:	Natural Resource
Job Address:	100 SHIPYARD DRIVE Suite/Unit 805 Hilton Head, SC 29928	Parcel Number:	R550 015 000 0268 0005

Contact Type	Company Name	Name
Owner		SOUPLY, RONALD
Applicant		[CAROLINA COASTAL SERVICES LLC - GC] DOWNING, RANDY

Checklist Item	Passed	Comments
Comments - Comments	NO	Request to remove tree DENIED for the reasons stated. There are no health issues with the tree that would warrant its removal and its removal would result in the loss of a sufficient amount of tree canopy. To address the reasons stated, tree trimming and pruning could be done to open up the canopy to allow more air flow and light. If you should choose to trim and prune, please notify me to modify the request.



Browder, Rocky (Inspector)







Appendix A: Advisory and Decision Making Bodies and Persons

A-1. Official

The **Official** is the LMO Official who is designated by the Town Manager as the **person** who administers and enforces this **Ordinance**. The **Official** shall have the following powers and duties under this **Ordinance**:

A. Powers and Duties

1. Review and make decisions on:
 - a. Subdivision Reviews (Minor and Major) (Sec. 16-2-103.F);
 - b. Development Plan Reviews (Minor and Major) (Sec. 16-2-103.G);
 - c. Small Residential Development Reviews (Sec. 16-2-103.H)
 - d. Minor Corridor Reviews (Sec. 16-2-103.I);
 - e. Natural Resources Permits (Sec. 16-2-103.K);
 - f. Wetlands Alteration Permits (Sec. 16-2-103.L);
 - g. Certain Sign Permits (Sec. 16-5-114.E);
 - h. Development Project Name Reviews (Sec. 16-2-103.N);
 - i. Certificates of Compliance (Sec. 16-2-103.P);
 - j. Minor Deviations to PUD Master Plans (Sec. 16-2-103.D.8).
2. Review and prepare a staff report with a recommendation on:
 - a. Text Amendments (Sec. 16-2-103.B);
 - b. Zoning Map Amendments (Rezoning) (Sec. 16-2-103.C);
 - c. Planned Unit Development (PUD) Districts (Sec. 16-2-103.D);
 - d. Special Exceptions (Sec. 16-2-103.E);
 - e. Major Corridor Reviews (Sec. 16-2-103.I);
 - f. Certain Sign Permits (Sec. 16-5-114.E);
 - g. Street/Vehicular Access Easement Name Reviews (Sec. 16-2-103.O);
 - h. Public Project Reviews (Sec. 16-2-103.Q);
 - i. Variances (Sec. 16-2-103.S).
3. Make Written Interpretations of this **Ordinance** (Sec. 16-2-103.R).
4. Enforce the provisions of this **Ordinance** (Sec. 16-8-105)
5. Maintain the **Official Zoning Map** (Sec. 16-1-107).
6. Provide expertise and technical assistance to the **Town Council, Planning Commission, Board of Zoning Appeals, and Design Review Board**, upon request.

Chapter 16-2: Administration
Sec. 16-2-103. Application Specific Review Procedures

K. Natural Resources Permit

1. Purpose

The purpose of this subsection is to establish the procedures and standards for the review and decision on an **application** for a Natural Resources Permit.

2. Applicability

Except as exempted in Sec. 16-6-104.B.2, Exemptions, no **person** shall cut, destroy, cause to be destroyed, move or remove, transplant, prune, or limb any **tree** in the Town without first receiving approval of a Natural Resources Permit in accordance with the procedures and standards of this subsection—provided that no Natural Resources Permit shall be required where the proposed **tree** removal or alteration is reviewed and authorized in accordance with an approved Subdivision Review (Minor or Major) (see Sec. 16-2-103.F), Development Plan Review (Minor or Major) (see Sec. 16-2-103.G), Small Residential Development Review (see Sec. 16-2-103.H) or Project Review (see Sec. 16-2-103.Q).

3. Natural Resources Permit Review Procedure

a. Application Submittal

An **application** for a Natural Resources Permit may be submitted by **persons** identified in Sec. 16-2-102.C.1, and shall be submitted in accordance with Sec. 16-2-102.C. On receiving an **application**, the **Official** shall conduct an inspection of the site to assess the accuracy of the **tree survey** or related materials, check the condition of **trees** to be preserved, and inspect the site for any unusual features or **specimen trees**. Following the inspection, the **Official** shall advise the **applicant** of any recommended changes that should be made to the **application** to ensure compliance with the standards of this subsection.

1. Staff Review and Action

On receiving a final **application**, the **Official** shall review and make a final decision on the **application** in accordance with Sec. 16-2-102.D. The **Official's** decision shall be based on the standards in Sec. 16-2-103.K.4, Natural Resources Permit Review Standards, and shall be one of the following:

- i. Approve the **application**;
- ii. Approve the **application** subject to conditions of approval; or
- iii. Deny the **application**.

c. Post-Decision Actions and Limitations

i. Notice of Decision

The **Official** shall provide notice of the final decision on the **application** in accordance with Sec. 16-2-102.H.1.

ii. Appeal

Appeals from the final decision of the **Official** on an **application** for a Natural Resources Permit are governed by Sec. 16-2-103.T, Appeal of Administrative Decisions and Written Interpretations to Board of Zoning Appeals, and S.C. Code Ann. § 6-29-800.

ATTACHMENT B

4. **Natural Resources Permit Review Standards**

A Natural Resources Permit shall be approved on a finding the **applicant** demonstrates the proposed **tree** removal complies with the standards in Sec. 16-6-104, Tree Protection.

5. **Effect of Approval**

Approval of a Natural Resources Permit authorizes only the particular **tree** removal or other activity approved, and not any other **tree** removal. In the event that a Natural Resources Permit is a prerequisite to another permit or approval that is required prior to commencement of **development**, then no **development** may take place until all required approvals are obtained. Approval of a Natural Resources Permit does not necessarily guarantee approval of any subsequent **application**.

6. **Expiration**

A Natural Resources Permit is valid for a period of one year, unless the **Official** approves an extension for good cause in accordance with Sec. 16-2-102.J.2.b, Extension of Expiration Time Period.

7. **Amendment**

A Natural Resources Permit may be amended only in accordance with the procedures and standards for its original approval.

Chapter 16-6: Natural Resource Protection
Sec. 16-6-104. Tree Protection

Sec. 16-6-104. Tree Protection

A. Purpose and Intent

The purpose and intent of this section is to provide standards for the management of **trees** and forest areas, including the **tree** canopy and **specimen trees**, that contribute to the ambience, economy, and quality of life on Hilton Head Island by adhering to principles of sustainable management and use of forests, forest **lands**, and **trees** in a way that protects the ecosystems supporting the forests and **trees**, maintains their biodiversity, productivity, and ability to regenerate, and maintains their overall health and potential to fulfill, now and into the future, relevant ecological, economic, and social functions. Specifically, the standards in this section are intended to:

1. Lessen air pollution and promote clean air quality by increasing dust filtration;
2. Prevent soil erosion;
3. Improve surface drainage and minimize flooding, and minimize the cost of constructing and maintaining drainage systems necessitated by the increased flow and diversion of surface waters;
4. Conserve energy by reducing heating and cooling costs;
5. Ensure that noise, glare, and other distractions originating in one area do not adversely affect **adjacent** areas;
6. Reduce noise, heat, dust, and glare;
7. Provide a visual buffer between **adjacent** developments and ensure that distractions of movement and other aspects of any **development** do not adversely impact activity in **adjacent development**;
8. Beautify and enhance improved and undeveloped **land** and views from the **Town's** entryways, public **lands** and **streets**; and,
9. Maintain the ambience of the **Town** and enhance property values.

B. Applicability

1. General

- a. Except as exempted in subsection 2 below, no **person** shall cut, destroy, cause to be destroyed, move or remove, transplant, prune, or limb any protected **tree** in the **Town** without first receiving approval of a Natural Resources Permit in accordance with the procedures and standards of Sec. 16-2-103.K, Natural Resources Permit, and the standards in this section.
- b. Consistent with the purposes of this section, all **persons** are encouraged to make all reasonable efforts to preserve and retain any existing stands of **trees**, individual **trees**, and other self-supporting plants, whether or not such plants are protected under this section, as well as such other flora that make up part of the understory, shrub layer, or herb layer.
- c. Failure to comply with the standards of this section shall be a violation of this **Ordinance** and subject to the remedies and penalties specified in Chapter 16-8: Enforcement.

2. Exemptions

- a. The following activities are exempt from the standards in this section and the requirement for a Natural Resources Permit:

ATTACHMENT B

- i. Removal of damaged protected **trees** during an emergency such as a hurricane, tornado, ice or wind storm, **flood**, wildfire or any other such act of nature;
- ii. The removal of invasive species;
- iii. Removal of a dead or naturally fallen **tree** or limb, or a diseased **tree** posing a threat to **adjacent trees**, or a **tree** that constitutes an imminent danger to the environment, property, public health, safety, or welfare due to the hazardous or dangerous condition of such **tree**, provided such removal is reported to the **Official** within five days after removal;
- iv. The selective and limited pruning and removal of **trees** or vegetation within **sight triangles** (see Sec. 16-5-105.H.4, Sight Triangles) as necessary to obtain clear visibility at **street** and **driveway** intersections;
- v. Necessary **tree** removal by a utility company consistent with plans submitted periodically to the **Official** for approval in accordance with Sec. 16-5-110, Utility Standards, provided such plans include appropriate provision for removal of any felled **trees**;
- vi. Topping of healthy **trees** is only permitted on **land** of the Hilton Head Island Airport, and only for the **maintenance** of the slope approaches to the airport as referenced in Sec. 16-3-106.E, Airport Overlay (A-O) District;
- vii. **Tree** removal associated with forestry activities shielded from local **development** regulation in accordance with S.C. Code Ann. § 48-23-205, subject to the limitations on subsequent **development** in Sec. 16-6-104.E, Limitations on Development Applications Subsequent to Exempt Forestry Activity; and
- viii. Routine or seasonal pruning (see Sec. 16-5-103.H, Existing Vegetation, for restrictions on limbing **trees** in adjacent street and use buffers), subject to the following requirements and conditions:
 - Pruning shall be done according to the guidelines of the International Society of Arboriculture, as published in the *Arborist Certification Guide*.
 - No more than ten percent of the **tree's** leaf surface shall be removed.
 - Climbing spikes shall not be used on **trees** that are not being removed.
 - **Property owners** bear the burden of proving that they have met the above requirements.
- ix. Removal or pruning of trees in the PD-1 zoning district under the following conditions:
 - On the Common Property owned by a Property Owners Association, to which all landowners of property located behind the security gate must belong, that is behind any security gate or access point that is manned a minimum of eight (8) hours per day, or at any point within the Spanish Wells PD-1, where the **tree** or **trees** to be removed or pruned are:
 - a) Damaged, dead or dying or a fall hazard; or,
 - b) Causing an actual, imminent hazard to pedestrian, bicycle or vehicular travel because roots of any **tree** or **trees** have uplifted pavement, or because branches and foliage are impeding travel sight lines, or because branches and foliage impede travel areas for pedestrians, bicycles and vehicles, and no feasible alternative to removing or pruning the **tree** or **trees** exists.

- b. No Natural Resources Permit is required where the proposed **tree** removal or alteration is reviewed and authorized in accordance with an approved Subdivision Plan (see Sec. 16-2-103.F), Development Plan (Minor or Major) (see Sec. 16-2-103.G), Small Residential Development (see Sec. 16-2-103.H) or Public Project (see Sec. 16-2-103.Q)—though compliance with the standards in this section is required.

C. Tree Protection Information in Applications

1. General

- a. Except as otherwise provided in subparagraph b below, all **applications** for a Natural Resources Permit or for new **development** shall include at least the following information:
- i. A complete **tree survey**, as described in paragraph 2 below;
 - ii. A brief written narrative of proposed plans for **tree** protection and replacement;
 - iii. A complete **tree** tally sheet listing **trees** by category (See Sec. 16-6-104.H, Tree Equivalency Table);
 - iv. A complete **site development** plan showing utility lines, grading activities, and **building** elevations in relation to existing **trees** and denoting **trees** to be removed with an "X"; and
 - v. A replacement **tree** planting schedule, if required by Sec. 16-6-104.I.5, Timing.
- b. **Applications** for redevelopment or alteration of existing **development** may include a sketch plan showing the **trees** on the **site** and the proposed **buildings** in lieu of the information in provisions i, iii, iv, and v above.

2. Tree Survey

- a. The **tree survey** shall be in the form of a map or a **site plan** prepared and sealed by a registered **land** surveyor within two years of the date of **application**. The **tree survey** shall be at the same scale as the required **site development** plan and shall include the following information:
- i. The location of all Category I, II and IV **trees** with a **DBH** of 6 inches or greater and Category III **trees** with a **DBH** of 12 inches or greater within the areas to be developed and within areas 25 feet beyond such area in each direction, or extending to the property line, whichever is less;
 - ii. The location of any **trees** with a **DBH** less than 6 inches that the **applicant** wishes to count toward the minimum standard of **tree** coverage on the **site**; and
 - iii. The species and **DBH** of all **trees**.
- b. In conjunction with the **tree survey**, **trees** shall be marked with color ribbons, using blue ribbons to mark **trees** to be preserved, red ribbons for **trees** to be removed, and orange ribbons for hazardous **trees** that are proposed to be removed (hazardous **trees** will not count towards the overall required **tree** replacement). In heavily wooded areas, the **Official** may allow large groups of **trees** to be preserved or removed to be marked with the appropriately colored ribbon extending around the perimeter of the group of **trees**.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Nicole Dixon, CFM, *Senior Planner*
DATE: December 1, 2015
SUBJECT: Substitutions of Nonconformities for Redevelopment

The Board of Zoning Appeals (BZA) requested that staff keep them informed of substitutions of nonconformities for redevelopment that are granted by staff. A memo is distributed every month at the regular BZA meetings and is discussed under staff reports on the agenda. Even if there have been no waivers for the month, a memo will be included in the packet to inform the BZA members.

The following language is contained in Section 16-7-101.F, Substitutions of Nonconformities for Redevelopment, which gives the Administrator the power to grant such substitutions for existing nonconforming structures and site features.

LMO Section 16-7-101.F:

“To provide flexibility and encourage redevelopment of sites with nonconforming features or structures, the Official is authorized to approve a Development Plan for such sites if the proposed development:

1. Will not include any new development that increases the amount of encroachment into any required buffer or setback;
2. Will not increase the impervious cover on the site over the maximum allowed for the district or the existing impervious cover, whichever is greater;
3. Will not result in a density in excess of what is allowed under this Ordinance, or the existing density, whichever is greater;
4. Will lessen the extent of existing nonconforming site features to the greatest extent possible;
5. Will not have an adverse impact on the public health, safety or welfare; and
6. Will lessen the extent of nonconformities related to any existing nonconforming structure on the site to the greatest extent possible.”

There have not been any Substitutions of Nonconformities for Redevelopment granted by staff since the November 2015 Board of Zoning Appeals meeting.