

Due to schedule conflicts,
this meeting was moved
from July 22 to the date
and time noted herein.



Town of Hilton Head Island Public Planning Committee Meeting

Wednesday, July 21, 2021 – 3:00 p.m.

Benjamin M. Racusin Council Chambers

AGENDA

The Public Planning Committee meeting will be held in-person at Town Hall in the Benjamin M. Racusin Council Chambers. The outside doors will be opened to the public at 2:00 p.m., seating will be limited to no more than 80 individuals.

1. Call to Order

2. **FOIA Compliance** – Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.

3. Approval of Agenda

4. Approval of Minutes

a. Special Meeting of June 16, 2021

5. Appearance by Citizens

6. Unfinished Business

a. A Workshop on E-Bike regulations has been scheduled for August 10, 2021 at 10 a.m.

7. New Business

a. Discussion related to 2021 LMO Amendments – First Set

i. Temporary and Seasonal Signage – Staff will be presenting a concept that can be used for the temporary and seasonal signage in Historic Neighborhoods

ii. Waivers – Staff will be presenting a list and description of the various waiver types currently in the LMO, specifically, Sections 16-5-102.C – Adjacent Street Setbacks, 16-5-102.D – Adjacent Use Setbacks, 16-5-102.D.4 – Adjacent Use Setbacks, 16-5-103.E.2 – Adjacent Use Buffers, 16-5-103.F – Adjacent Street Buffers, 16-3- (all zoning districts standards for height), 16-5-105.I.8 – Access to Streets, 16-5-107.D.1 – Minimum Number of Parking Spaces, 16-5-109.D.2 – Drainage Design Standards, 16-6-102.D.2.b – Wetland Buffer Width, 16-6-104.G.1.c – Minimum Tree Coverage Standard, 16-7-101.F – Substitution of Nonconformities for Redevelopment, and 16-10-102.C.2.b – Height

iii. Dwelling Unit Definition – Consideration as to what constitutes a dwelling unit

8. Staff Reports

- a.** Update on Standalone 2021 LMO Amendments
 - i.** Short-Term Rental Ordinance
 - ii.** Wetland Mitigation Requirements for Projects with a Community Benefit (Airport, Gateway Corridor, Parks)
 - iii.** Changes to Massing and Height of Buildings (DRB Concerns)
 - iv.** Airport Approach Path and Incompatible Uses

9. Adjournment

Please note that a quorum of Town Council may result if four (4) or more of their members attend this meeting.



Town of Hilton Head Island
Public Planning Committee Special Meeting
June 16, 2021 at 9:00 a.m. Virtual Meeting
MEETING MINUTES

Present from the Committee: Chairman David Ames, Tamara Becker, Alex Brown, Glenn Stanford

Absent from the Committee: None

Others Present from Town Council: Bill Harkins, Tom Lennox

Present from Town Staff: Marc Orlando, Town Manager; Jennifer Ray, Interim Community Development Director; Teri Lewis, Deputy Community Development Director; Diane Busch, Staff Attorney; Nicole Dixon, Development Review Administrator; Anne Cyran, Senior Planner; Curtis Coltrane, Town Attorney; LaQuin Andrus, Legal Intern; Cindaia Ervin, Senior Administrative Assistant; Karen D. Knox, Senior Administrative Assistant

1. Call to Order

Chairman Ames called the meeting to order at 9:00 a.m.

2. Freedom of Information Act Compliance – Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the Town of Hilton Head Island requirements.

3. Roll Call – See as noted above.

4. Approval of Agenda

Chairman Ames asked for a motion to approve the agenda. Mr. Stanford moved to approve. Ms. Becker seconded. By way of roll call, the motion passed by a vote of 4-0-0.

5. Approval of Minutes

a. Special Meeting of June 2, 2021

Chairman Ames asked for a motion to approve the minutes of the Regular Meeting of June 2, 2021. Mr. Stanford moved to approve. Ms. Becker seconded. By way of roll call, the minutes were approved by a vote of 4-0-0.

6. Citizen Comments

Public comments concerning agenda items were to be submitted electronically via the Town's Open Town Hall portal. Those comments were provided to the Committee and made part of the official record. Citizens were also provided the option to comment on agenda items during the meeting by phone and four callers signed up to speak at today's meeting regarding E-Bikes.

7. Unfinished Business - None

8. New Business

a. Regulation of E-Scooters

Diane Busch, Staff Attorney stated staff has identified multiple concerns stemming from motorized or electric powered devices traveling on Town pathways and roads. She explained this came up as a result of a businessman applying for a business license to provide rentals of such devices. She noted the following concerns in reviewing the business license application: rider safety, pedestrian safety, bicyclists and motorist's safety; crowded pathways; enforcement of the requirement of a helmet; and the need for safe access to Town pathways for individuals with disabilities. She informed the Committee there is no Federal or South Carolina law that specifically addresses motorized scooters. Ms. Busch explained Town Code defines motor scooters within the definition of motor vehicles which means they are not lawful on our pathways. Ms. Busch stated many gated communities on Hilton Head Island have or are looking to enact regulations on their pathways.

The Committee expressed their concerns and the following comments were made regarding the subject: the addition of E-scooters would add to the already crowded bike paths; excessive speed concerns; safety concerns; and enforcement of any rules and regulations. Ms. Busch recommended the Committee consider an Ordinance that the Town prohibit them on pathways and Town-owned properties such as parks, parking lots, etc.

Curtis Coltrane provided additional clarification about how E-Scooters are in their own category. He referred to text in the SC Code that an electronic bicycle is not a moped and not a motorcycle. He stated there is a separate section in the Code that says all regulations pertaining to bicycles also pertain to E-Bikes. He added the introduction of motorized vehicles on the pathways is going to create a very dangerous situation.

After lengthy discussion, Mr. Stanford moved that staff prepare an Ordinance prohibiting E-Scooters. Ms. Becker seconded. By way of roll call, the motion passed by a vote of 4-0-0.

b. Regulation of E-Bikes

Frank Babel, Jason Bullock, Patsy Brison and Jim Hall called in to the meeting to speak on their opposition to operation of E-Bikes on Town pathways.

LaQuin Andrus, Legal Intern for the Town, stated that in 2002, U.S. Congress enacted a law which established how electric bicycles are regulated as consumer products under the Consumer Product Safety Act, and are subject to the same regulations that govern traditional, human-powered bicycles. He added that it does not preempt the Town's ability to regulate traffic laws and vehicle codes. He noted these bikes are expressly stated to have the same rights and duties as a traditional bike. Mr. Andrus informed the Committee there is a State law that says municipalities may exercise their police power to regulate the operation of bicycles on streets and highways under their jurisdiction as long as they do not conflict with State Code. He explained the Municipal Code does not define bicycles which would mean that the E-Bikes are allowed on sidewalks and pathways. He stated there is an Ordinance that prohibits the use of motor vehicles on the pathways. Mr. Andrus said many gated communities on Hilton Head Island have or are looking to enact regulations on their pathways regarding E-Bikes.

Mr. Andrus concluded that under State Law, E-Bikes are bicycles and the Town should adopt the State definition; and under that definition, the Town would be permitted to adopt the class definition that would distinguish the bikes in terms of their characteristics and their capabilities. He stated that under State law, the Town is able to limit the speed of bicycles, however, it would apply to all bicycles and not just E-Bikes. Mr. Andrus reviewed options available to the Town regarding regulation of E-Bikes through business license requirements.

Chairman Ames and the entire Committee thanked Mr. Andrus for his very well researched and thorough presentation.

The Committee made comments and inquiries regarding: the State definition of E-Bikes; the inability to prohibit E-Bikes on the pathways; consideration of adoption of regulations limiting speed; safety concerns; interest in seeing how the State model Ordinance adopted in other States might work in South Carolina; improvement of the pathways from a safety standpoint; consideration of weight limitations on E-Bikes; restricting pathway usage to Class 1 E-Bikes; and requiring rental companies to have liability insurance.

Chairman Ames said it is his recommendation that the Town Manager make a recommendation of how stakeholders can contribute to the conversation regarding additional research and a potential Ordinance.

c. Trolley Service Update

Mary Lou Franzoni, Executive Director and General Manager of Palmetto Breeze Transit reported Trolley ridership has increased this year with a count to date of over 20,000 passengers. She reported the addition of a route to the Westin and traversing on Folly Field Road.

The Committee made comments and inquiries regarding: the intention of the second route; marketing considerations; funding regulations; Trolley stop improvements; passenger safety and behavior; increased ridership; opportunities to educate riders of bike path rules, beach rules, etc.; possibility of electric trolleys; possibility of the addition of a transportation service for employers; coordinating efforts with the Sea Pines trolleys; adhering to the time schedule for the service; the speed of the trolley; the need for shade at the stops; consideration of improvements on reporting ridership; and consideration of the addition of an airport route.

9. Staff Reports - None

10. Committee Business - None

11. Adjournment

With no other business before the Committee, Chairman Ames asked for a motion to adjourn. Mr. Stanford moved to adjourn. Ms. Becker seconded. The meeting was adjourned at 11:41 a.m.

Submitted by: Vicki Pfannenschmidt, Secretary

Approved: [DATE]



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Public Planning Committee
VIA: Jennifer Ray, ASLA, *Interim Community Development Director*
FROM: Sheryse DuBose, PhD, *Historic Neighborhoods Preservation Administrator*
CC: Teri Lewis, AICP, *Deputy Community Development Director*
DATE: July 14, 2021
SUBJECT: Seasonal and Temporary Signs

The Public Planning Committee reviewed the proposed first set of 2021 LMO Amendments at their meeting on June 2, 2021. The Community provided input on the proposed amendments and requested that additional information be shared related to seasonal and temporary signs prior to moving the proposed amendment forward.

In 2019, Town Council approved the Gullah Geechee Preservation Project Report, drafted by The Walker Collaborative (TWC), which was based on community input. One of the recommendations listed was **PP-14: Establish a program providing temporary and seasonal signs that are compliant with Town regulations to be used within the proposed Historic Conservation Overlay District to expand economic opportunities for Gullah residents and businesses.**

Implementing a program for seasonal and temporary signs was introduced as a top priority project by the Gullah Geechee Land & Cultural Preservation Task Force, which was also approved by Town Council in 2019.

The Town Legal Department has verified the signs proposed are not violative of First Amendment or Fourteenth Amendment protections as the signs at issue are compliant with both the Town of Hilton Head Island Comprehensive Plan to support preservation of Gullah Geechee culture and the sign standards set forth in Section 16-5-114 of the Land Management Ordinance (LMO).

The potential issue concerns content-neutral regulations, commonly referred to as “time, place, or manner” regulations which place limits on when, where, and how a message may be displayed or conveyed.

Pursuant to United States Supreme Court jurisprudence, set forth in *Ward v. Rock Against Racism*, 491 U.S. 781 (1989), to be constitutional, the content-neutral regulation must pass a three-point test: (1) it must be justified by a substantial governmental interest; (2) it must be “narrowly tailored” (although not “least restrictive”) to achieve that interest; and (3) leave open “ample alternative avenues of communication.”

The purpose for the enactment of a temporary and seasonal sign program is specifically stated: The temporary and seasonal signs are part of the Town Council approved “Gullah Geechee Culture

Preservation Project Report,” which, among other things, recommended “a program providing temporary and seasonal signs that are compliant with Town regulations” to be used within the Historic Neighborhoods “to expand economic opportunities for Gullah residents and businesses.” As a program offering prefabricated, reusable signs, the proposed ordinance is sufficiently precise so that individuals know exactly what forms of expression are restricted. Lastly, the proposed program provides alternative channels of communication, in terms of location, for display of signs.

Notwithstanding the above legal analysis, the temporary and seasonal signs are part of a program meant to provide Gullah residents an option to overcome existing regulatory barriers and challenges related to the signage approval process and not, per se, prohibit or regulate speech.

Proposed conditions for the use of seasonal and temporary signs are as follows:

- The signs are only allowed within the Historic Neighborhoods.
- Signs can be used to promote locally grown produce, freshly caught seafood, homemade dishes and baked goods, fruit and vegetable preserves, and Gullah arts and crafts.
- Signs will be designed by the Town in conformance with LMO standards included in the Design Guide and will reflect the character of neighborhood signs, including a consistent logo.
- Signs will be distributed to applicants by NIBCAA.
- A limited number of signs will be available for distribution based on the historic requests for this type of signage.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Public Planning Committee
VIA: Jennifer Ray, ASLA, *Interim Community Development Director*
FROM: Teri Lewis, AICP, *Deputy Community Development Director*
CC: Nicole Dixon, AICP, CFM, *Development Review Administrator*
DATE: July 12, 2021
SUBJECT: 2021 LMO Amendments – 1st Set - Update

The Public Planning Committee reviewed the proposed first set of 2021 LMO amendments at their meeting on June 2, 2021. The Committee provided input on the proposed amendments and requested that additional information be shared related to the removal of staff granted waivers. Staff also added modification of the definition of dwelling unit to the proposed first set of amendments. Staff will facilitate discussions related to these amendments at the meeting.

The review of the proposed list of amendments by the Public Planning Committee will allow staff to move forward with the next steps in the process which include review of the list by the LMO Committee. Once the amendments are drafted and have a public hearing at the Planning Commission they will be brought back to the Public Planning Committee for further consideration.

Exhibits

- A. Summary of Waiver Types
- B. Dwelling Unit Definitions
- C. Updated List of Proposed General LMO Amendments – 1st set

Exhibit A – Summary of Waiver Types

Type of Waiver	Effect	LMO Section #
Adjacent Street Setbacks	The adjacent street setback may be reduced by a percentage depending on the zoning district if specific criteria are met.	16-5-102.C
Adjacent Use Setbacks	The adjacent use setback may be reduced by a percentage depending on the zoning district if specific criteria are met.	16-5-102.D
Adjacent Use Setbacks	The adjacent use setback for non-single-family properties may be waived upon determining that the proposed development and the adjacent development function as a single development.	16-5-102.D.4
Adjacent Use Buffers	The adjacent use buffer for non-single-family properties may be waived upon determining that the proposed development and the adjacent development function as a single development.	16-5-103.E.2
Adjacent Street Buffers	The adjacent street buffer may be reduced by a percentage depending on the zoning district if specific criteria are met.	16-5-103.F
Adjacent Use Buffers	The adjacent use buffer may be reduced by a percentage depending on the zoning district if specific criteria are met.	16-5-103.F
Height	The height may be increased by a percentage depending on the zoning district if specific criteria are met.	16-3- (all zoning districts standards for height)
Access to Streets	The access to street standards, including access separation, median cuts, frontage and gate requirements, may be waived upon demonstration that a lot of record would be rendered unusable by the strict application of the standards in this subsection and that the vehicular access point is otherwise optimally located.	16-5-105.I.8

Exhibit A – Summary of Waiver Types

Minimum Number of Parking Spaces	The minimum number of parking spaces may be reduced by a percentage depending on the zoning district if specific criteria are met.	16-5-107.D.1
Drainage Design Standards	The post-development peak discharge rate requirement may be waived upon demonstration that a suitable means of flow into a downstream tidal discharge point is accessible; or that the development includes a drainage system with adequate capacity to carry site flows to an ultimate downstream tidal discharge point.	16-5-109.D.2
Wetland Buffer Width	The average or minimum wetland buffer width may be reduced by up to ten percent on determining that pollution of the wetlands due to adjacent land disturbance is comparably reduced due to site-specific conditions (e.g., the buffer area drains away from the wetlands) or because the adjacent development is designed to reduce the flow, and maximize the filtration, of stormwater runoff towards the wetlands beyond the extent required by stormwater management regulations.	16-6-102.D.2.b
Minimum Tree Coverage Standard	For the construction of any public street, pathway, drainage project, single family subdivision, athletic field, airport runway, golf course or minor utility the applicant is required to demonstrate that they have made all reasonable efforts to save significant trees and stands of trees. When demonstrating this is not feasible, this requirement may be waived.	16-6-104.G.1.c
Substitution of Nonconformities for Redevelopment	To provide flexibility and encourage redevelopment of sites with nonconforming features or structures, instead of requiring a site be brought fully into compliance with current LMO standards, some non-conformities can remain when an applicant demonstrates it is not feasible to bring the site fully into compliance but they are making changes that bring the site more into compliance with the standards of the LMO.	16-7-101.F
Height	Architectural elements such as church steeples, spires, and chimneys are allowed to exceed the zoning district height limits as long as they do not exceed it by more than 20 percent.	16-10-102.C.2.b

Community	Definition
Hilton Head Island	a building or a portion of a building providing complete and independent living facilities for a family, including permanent provisions for living, sleeping, eating, cooking, and sanitation
Bluffton, SC	a single unit providing complete independent living facilities for one family or household including permanent provisions for living, sleeping, eating, cooking, and sanitation
Charleston, SC	one or more rooms arranged for the use of one (1) or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities
Key West, FL	a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation
Kiawah, SC	one or more connecting rooms, designed, occupied or intended for occupancy as a separate living quarter for occupancy by a single household, which have direct access to the outside or to a common hall, with cooking, sleeping and sanitary facilities provided within the dwelling unit
Mt. Pleasant, SC	a building or portion of a building arranged or designed to provide complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation
Palm Beach County, FL	one or more rooms designed, occupied or intended for occupancy as separate living quarters, with only one kitchen plus sleeping and sanitary facilities provided within the unit, for the exclusive use of a single family maintaining a household.
Tybee Island, GA	one or more rooms in a dwelling, apartment, boardinghouse, hotel or motel, designed primarily for occupancy by one family for living, eating, and sleeping purposes

2021 LMO Amendments – First Set

1. Make changes identified as necessary as a result of the new flood maps.
2. Add a definition for Nano Brewery and add to use classifications.
3. Allow outdoor screened bike storage in the LC and CC zoning districts and provide more specificity related to screening.
4. Make changes to allow temporary or seasonal signage as recommended by the Gullah Geechee Preservation Report.*
5. Replace June traffic counts with July traffic counts for Traffic Impact Analysis Plan Standards.
6. Strengthen the language as it relates to trunk offsets and tree protection zones of specimen trees and significant trees during construction.
7. Remove staff granted waivers.
8. Modify the definition of dwelling unit.*

*PPC will provide direction on moving this proposed amendment forward.