

THE PALMETTO PLANNER

APA
SC
American Planning Association
South Carolina Chapter
Making Great Communities Happen

A Publication of the South Carolina Chapter of the American Planning Association

Volume 31 Issue II

Summer 2010

Presidents Message

UPCOMING IN 2010

AWARDS PROGRAM

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ELECTION OF OFFICERS

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Results of both will be presented at the Fall Conference in October.

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Congratulation is extended to Charlie Compton of Lexington County for being inducted into the College of Fellows of the American Institute of Certified Planners on April 10! Charlie has done so many things for SCAPA and APA over the years – it was nice to see him honored for his dedication to the profession.

The grace period for logging AICP CM credit has closed. Remember that you have until December of 2011 to complete your 32 hours of CM credit. For those of you that are interested in additional certifications, AICP is offering Advanced Specialty Certification in Transportation and Environmental Planning. In order to sit for the exam, you must have at least eight years of experience in that field and ten of the 32 CM credits must be in the subject area. Over the next few years, three additional programs will be offered in Urban Design, Community Development and Economic Development.

Our organization has been blessed with great leadership over the years. If you are a member of SCAPA, have a passion for planning and a keen eye for detail, you are a perfect candidate to run for an office in our organization. Contact President Elect Susan Britt, AICP as soon as possible if you are interested or if you would like to nominate someone. Be on the lookout for your ballot over the summer with each of the candidates' position statements.

2010 is also the year where we identify the State's most notable planning projects and individuals at the SCAPA Awards Ceremony at the Fall Conference. Information will be distributed to the membership by email and posted on our website for you to submit a nomination. The Awards Ceremony will be held on October 22 at the Litchfield Beach and Golf Resort on Pawley's Island. If you have a recently completed project that is innovative and applicable to other locations, consider submitting it for recognition.



Lastly, much conversation has emerged on the listserv about a recent court case out of Charleston County concerning planned development districts. Our own Tyson Smith, AICP of White and Smith LLC has been covering this issue for us. Enclosed in this issue are his detailed comments concerning the case and potential outcomes for your community. If you have any follow up questions or comments concerning this issue or anything else, please post on the SCAPA listserv so that we may all comment.

SCAPA'S 2010 CONFERENCES

SUMMER CONFERENCE

Teneleven Galleria

1011 Broad Street, Suite E, Camden, SC

Don't miss this exciting one-day event on **JULY 16** in beautiful historic Camden. Chartered in 1732, Camden, South Carolina is known as the "Oldest Inland City," in the state. Renowned for its history and equine industry, the area is home to several Revolutionary War battle sites, while also being known as the "Steeplechase Capital of the World" with the Colonial and Carolina Cup Races in the Fall and Spring, respectively.

SUMMER CONFERENCE AGENDA

Attendees will be able to acquire at least 5 hours of continuing education credits as required by SC Code 6-29-1310.

Light Imprint: A Tool for Stormwater Management (1.25 CE/CM)

Session participants will understand the organization of the Light Imprint Handbook and the interactive database on the Light Imprint website. They will gain knowledge of unique Light Imprint characteristics of historic and new communities through case studies that focus on sustainable design and good urban planning techniques. They will be able to specify and use the sixty-four tools that make up the Light Imprint matrix for projects ranging in size from the lot to the block to the neighborhood to the region. They will be able to organize treatment trains for stormwater using Light Imprint paving, channeling, filtration, and storage tools

Using Livability as an LRTP Project Ranking Criteria (1.25 CE/CM)

In response to the ranking criteria developed by SCDOT pursuant to the requirements Act 114 (2007), the ARTS MPO (Aiken County) developed a revised set of project prioritization criteria and added one additional criterion, Livability. This session will include a demonstration of a quantitative ranking tool created to manage the project ranking process.

A Streetcar Case Study: Stop Location and Sprawl Repair (1.25 CE/CM)

The Charlotte Streetcar project includes an analysis of new techniques for locating streetcar stops through a four step process including: Cool Spots Spatial Analysis, the City's Future as Transit Metropolis, Emerging Transit Oriented Developments (TOD's), and Economic Scenario Modeling. The session will also explore implementing Light Imprint strategies as a tool to sprawl repair the new streetcar corridor.

Camden Vision Plan and Form-Based Code (1.25 CE/CM)

The Vision Camden plan and Form-Based Code highlight the process of revitalizing a small town by using new ideas, technologies, and innovative strategies. The two charrettes that have been completed for the City of Camden have encouraged community participation and have helped direct the overall goals for the community.

The Comfort Inn & Suites, 220 Wall Street, in Camden will have a special rate of \$85.00 per night for our attendees. Please mention "SCAPA" when making your reservations. Please call 803-425-1010. Deadline for this special rate is **July 1, 2010**.

Registration forms will be available on line at scapa.org or contact Pat Collins at jpcol44@bellsouth.net or 864-221-1433

Note: Space is limited, deadline for registration is July 10, 2010

FALL CONFERENCE

Litchfield Beach and

Golf Resort

Pawley's Island, SC

Join your planning colleagues on **OCTOBER 27-29** at The Litchfield Beach & Golf Resort on Pawley's Island in examining how the profession is preparing to meet the challenge of sustainability in a changing climate. The theme of this conference is "Planning for Natural Challenges & the Environment". What better location for this topic than the coast of South Carolina which has experienced such unprecedented growth during the last decade. Sessions will explore strategies for balancing ecology, public safety, quality of life, and economic development.

Please visit our website at www.scapa.org for more detailed session and registration information.



Session Proposals

If you are interested in proposing a session for one of our future conferences please complete the Session Proposal Form located on our website and forward to Susan Britt, AICP at susan.britt@yorkcountygov.com

Membership News

SCAPA's Summer Vacation Photo Contest

Are you going on vacation this summer? Of course you are. And none of us planners are ever really able to take our mind off of our jobs



when we go on vacation. That mouse is always on the wheel even while you are sunning on the beach or hiking along a mountain trail. So, why not take your camera along and take some photos of the most interesting planning –related item you come across? It could be a photo of a superb street, sprawl from out of your airplane window or a “unique” residential development like this example. Submit your photo along with a catchy title to Pat Collins by August 15. Your photo and title may be used in the next edition of the *Palmetto Planner* and you may even be able to win a prize!

2010 SCAPA ELECTIONS

Call for nominations

WANT TO BE MORE INVOLVED WITH SCAPA? THIS IS YOUR OPPORTUNITY!

Elections for SCAPA officers will be held this summer! Positions available include President-Elect, Secretary-Treasurer and three Directors-at-Large! If you are interested in running for an office and have not yet contacted the Nominations Committee, please contact the following individuals and let them know which office you are interested in by June 15, 2010.

Susan Britt – 803.324.0700 or

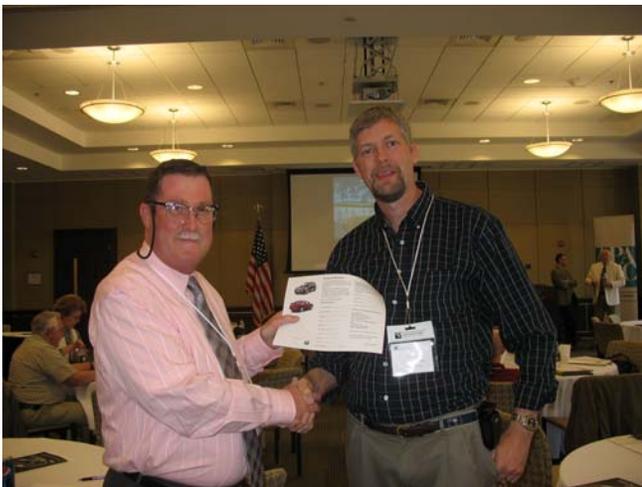
scfrazier@comporium.net

Jennifer Vissage – 864.242.9733 or

vissage@scacog.org

Wayne Shuler – 803.376.5390 or

wshuler@centralmidlands.org



Glenn Pace, City of Greer, presents the certificate for the BMW for a week end won by Russell B. Hawes, City Administrator, Simpsonville at the Winter Spring Conference. Our thanks to Glenn and his entire staff for a great conference at a truly beautiful facility.

Join the SCAPA Listserve

More and more professionals are joining this community every month to help you answer the proverbial question, "What are they doing in _____ [insert City or County name here]?" Visit www.groups.google.com and search on "SC Planners". Be sure to use the quotation marks. Also, joining the List gives you access to previous questions and responses from the past year.

For questions or comments about the List, contact:

Marc Mylott, AICP at (803) 545-3333

or mmylott@columbiasc.net.

Cont. Membership News

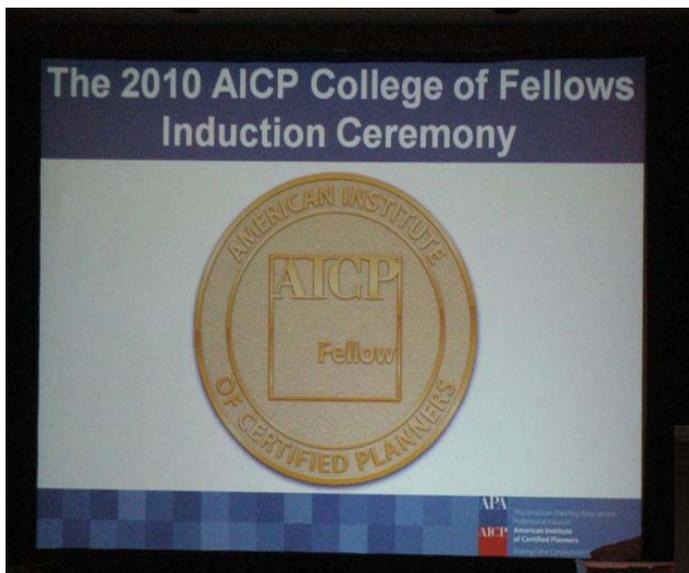
Charlie Compton Inducted into the AICP College of Fellows

On Saturday, April 10, 2010, SCAPA member Charles M. “Charlie” Compton was inducted as a Fellow in the American Institute of Certified Planners at the National Planning Conference in New Orleans. SCAPA would like to congratulate Charlie on this achievement!

Reprinted here is the narrative from the ceremony:

“For over three decades, Charles M. Compton has exemplified dedicated and professional leadership in the planning field at the community, state and national levels. He is a true visionary who confronts challenges with creativity and innovation—whether for local regulatory solutions, educating citizen planners, developing smart growth strategies or creating a new APA division. His enthusiastic contribution of time and energy yields a legacy of civic involvement and public service well beyond the profession. A dedicated planning ambassador and advocate, Charlie tirelessly advances the understanding and practice of sound planning among practitioners, allied professions, government officials and the public.”

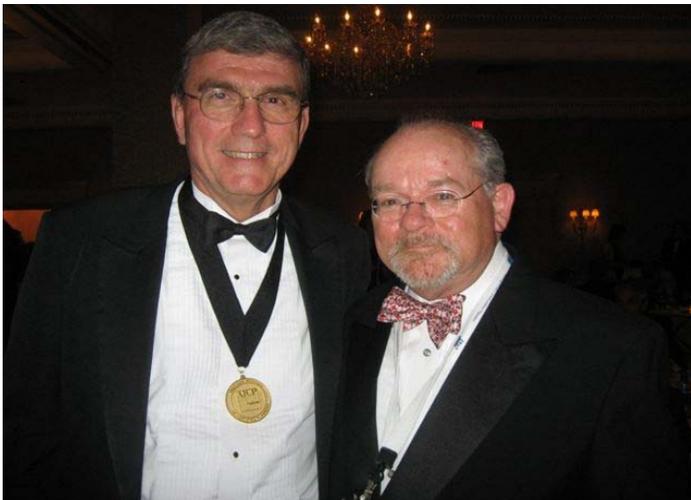
Fellows of AICP are “honored in recognition of the achievements of the planner as an individual, elevating the Fellow before the public and the profession as a model planner who has made significant contributions to planning and society.”



AICP Induction Ceremony Introduction



APA President, Bruce Knight FAICP, congratulates Charlie and his wife, Nancy at the FAICP reception.



Charlie with Dwight Merriam, FAICP at the FAICP reception.

Cont. Membership News

Welcome to our new members

SCAPA would like to extend a welcome to our new members. The following have joined since May 31, 2010:

Keith R. Brockington	Transportation Planner	Greenville County
Paul M. Cheezem		
Thomas E. Delage Jr.	Comprehensive Planner	Richland County
Michael E. Doles	Building & Zoning Administrator	City Of Woodruff
Grafton G. Dowling IV	Masters of City Planning Candidate	Franklin and Marshall College
Ellen C. Hoj		Hoj and Associates
Chris Inglese	Associate Planner	City of Charleston
Stephanie M. Johnson		Clemson University, PLA
Melissa Ladd	Project Manager	TBG NOAA Coastal Ser Ctr
Joseph R. Otterbine		
Randy M. Pierce	Town Administrator	Town of Seabrook Island
Claudia C. Rainey		Sumter City-Cnty Plng Office
Jared M. Reilly		Modulant
Diana M. Seydlorsky	Community Development Director	Horry County Government
Jacqueline A. Sorrentino		York County Planning
Steve A. Springs	Owner	Two Springs Consulting Llc
Chad Tumblin		Greenville County
Andre J. White		Town of Bluffton
Daniel Wilson	Planner	Town of Bluffton

Chapter Only Memberships

Chapter Only memberships are available through APA. Join SCAPA without joining APA for \$35.00 annually. To become a chapter only member please go to the APA website under membership.

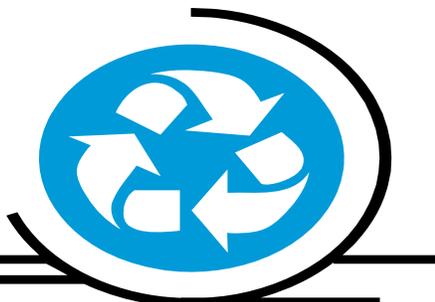
Benefits of a chapter only membership include:

- Reduced rates to all SCAPA conference
- Quarterly Newsletter
- Training Workshops
- Participation on SCAPA committees

Does APA have your correct information?

SCAPA distributes all informational materials electronically. In order to ensure receipt of these materials you need to make sure that your email address in the APA record is up to date. All members can access their APA profiles and make changes online. These changes become effective immediately (mailed or faxed changes requiring manual entry will take longer to appear). To access your APA profile go to www.planning.org/myprofile. Enter your APA ID (from the Planning magazine mailing label or invoice) and password (click on "create new password" if you have forgotten it or do not have one). If you need assistance contact Webmaster@planning.org.

ARE YOU DOING YOUR PART?





News from Clemson University Graduate Program in City & Regional Planning

The academic year has come to a close, with graduation at Clemson on May 7. There were 12 students graduating now and another six finishing up over the summer. The job market remains difficult and only a few graduates have jobs, with some others continuing their school year placements over the summer. It is indeed a difficult time for graduates. Please contact me if you are aware of positions for our grads—they all have an excellent planning education, some professional experience and are well prepared to succeed in the planning field.

Graduating students in May include: Stephen Burr, Tee Coker, Kyle Flanders, Samantha Jackson, Kathy Johnson, Stephanie Johnson, Louis Lacio, Matt Manley, Glenda Matute, Leah Sirmin, Andrew Strickland and Brad West.

For the third consecutive year one of our students is receiving a NOAA fellowship to support two years of on-the-job education and training. Kathy Johnson just received word that she will be working in Madison, Wisconsin with the NOAA office there as a Coastal Management Fellow after being selected from a national pool of applicants and emerging as one of the six selected out of a week of interviews of the 12 finalists. Last year, Leigh Wood received this fellowship and is in her second year working in New Jersey at the NOAA facility there. Prior to that, Courtney St. John received a NOAA Marine Policy Fellowship. Courtney was in the Office of the Oceanographer of the Navy, and she now has a permanent position in that office, in charge of “Climate Change & Interagency Coordination” for the Task Force Climate Change. Dr. Caitlin Dyckman advised each of these students and deserves substantial credit for their success in obtaining these fellowships.

Our first year class of 24 students is getting ready to begin their internships over the summer. A number have placements in a variety of agencies around the country.

These include a number of local agencies as well as positions with the state of Wisconsin, Burlington, VT and the National Fish & Wildlife Center in Chicago. Some students are still looking and any opportunities would be welcome. We are also looking for school year placements in agencies for our students for next year.

Speaking of next year, while we are still in the recruiting process, I am pleased to report that we received a record number of applications for next year: 72 and counting. To date, we have commitments for 18 entering students with additional students either on a waiting list, in the process of applying, or not yet having committed to attend. We continue to seek a quality entering class of 20-25 students. I look forward to reporting the actual entering group in the next newsletter, when we see them at orientation in August.

Twenty (almost half) of our students attended the APA conference in New Orleans a few weeks ago. They were at a variety of sessions and found time to make sure that the French Quarter remained vibrant. Two faculty members (Grant Cunningham and I) were also there. It was wonderful to see alumni and fellow SC APA members at the conference.

The student chapter has elected new leadership. Stephen Julka is president, Marshall Brown VP, Kelly Larkins Secretary, Jackie Coates Treasurer, Kaylen Francis and Chuck Lathan social chairs and Stephen Williams media chair. We are looking forward to another active year for the student chapter.

Special thanks are due to this year’s student chapter leadership. Samantha Jackson and Andrew Strickland did a wonderful job in coordinating the student chapter for the SCAPA annual conference as well as organizing the APA conference trip.

June 2010 Legislative Update

Tyson Smith, AICP, Esq.
Vice Chair, SCAPA Legislative Committee

2010 Legislative and Case Law Update

The Legislative Committee of SCAPA continues to monitor pending and proposed legislation pertinent to planners in the state. The 2010 Legislative Session has been dominated by matters related to the economy, the budget, and the job crisis. Nonetheless, several bills are pending or have passed that affect the planning landscape.

In addition, this year we are reviewing several legal cases that have been resolved over the last year due to their significance to the planning professional. Other cases related to land use and the environment have been decided, of course, but it was our feeling that those discussed here are of particular note and warrant the attention of planners and local counsel.

Please note that legislative amendments change frequently. If there is pending legislation that interests you, please follow the legislation at www.scstatehouse.gov and both the SC Association of Counties and the Municipal Association of South Carolina provide excellent summaries of pending legislation as well.

2009 - 2010 Passed and Pending Legislation

Passed

H.B. 4445, "The Permit Extension Joint Resolution Act of 2010" extending certain government approvals affecting the development of real estate was signed into law on May 19, 2010. All state and local permits in effect as of January 2008 are extended and remain valid until December 31, 2012. It should be noted that this act "revives" previously expired permits, so long as they were valid on January 2008. The act excludes certain state permits, including DHEC bridges to marsh islands permits, and all federal permits. Local development permits are subject to the act as well, however, "revived" county and city building permits must comply with rules and regulations in effect at reissuance and be reissued at no charge. Finally, the legislation requires state agencies to publish notices in the State Register regarding all permit extensions. No analogous notice requirements are required for local governments.

Pending

H.B. 4827 would increase from 30 to 60 days the period of time the Planning Commission has to submit its report or recommendations on a zoning change to the governing body. This legislation was introduced on April 14, 2010, read for the first time and was referred to the Committee on the Judiciary. No further action has been reported.

H.B. 3862, "The South Carolina Inclusionary Zoning Act" was introduced on April 1, 2009 and was referred to the Committee on Ways and Means. This legislation would address counties' and municipalities' use of inclusionary zoning strategies to expand the availability of affordable housing. No action was reported in 2010 and the bill remains in committee.

Recent Court Decisions

This year's cases cover the waterfront – literally – touching on planned developments, rezonings, staff communications with applicants, and wetland regulation.

Cont. Legislative Update

Planned Developments

Two opinions related to Planned Developments (PDs) have been issued by the state Supreme Court since December. The implications of these cases are far-reaching, as the PD technique has often been used more aggressively than these cases may suggest is allowed, particularly with respect to the limitation of PD to mixed use developments. Planners in the state should consult with their land use attorneys to ensure local compliance with the holdings of these cases, including:

- Limiting use of Planned Developments to mixed use developments of diverse design and land uses, and not as a "catch-all" for individual issues or desired deviations from the zoning or land development regulations;
- The expansive grant of authority set out in the last sentence of S.C. Code Ann. § 6-29-720(C) allows techniques other than those listed to be used, but does not allow listed techniques to be used in a manner other than as set forth in the statute; and
- The PD process may not result in density increases greater than any "maximums" expressly set forth in the zoning or land development regulations.

An overview of each case follows.

Mikell v. Charleston County, 386 S.C. 153, 687 S.E.2d 326 (S.C. 2009)

In the Mikell case, significantly simplified, Charleston County adopted a 1999 Comprehensive Plan (Plan) and 2001 Zoning and Land Development Regulations (ZLDR) that established a base agricultural density of 1:10 (on a portion of the parcel), but each allowed an increase to 1:5 using the statutory Planned Development procedure. In 2003, the County passed a Planned Development Ordinance that resulted in a density allowance of 1 unit per 2.4 acres on a portion of the property, clearly in excess of the Plan and ZLDR cap of 1:5. In litigation, the Master-in-equity held against the County's action; the Court of Appeals sided with the County; and, in December, the Supreme Court reversed the County's approval of the PD, finding the resulting density inconsistent with the 1:5 PD density cap contained in the ZLDR.

Interestingly, the tribunals that would have upheld County Council's decision would have done so because they regarded the rezoning as merely another legislative act of the local government, which could as easily as any other, reverse a prior legislative action. The tribunals reversing, including the state Supreme Court, on the other hand, appeared to have regarded the rezoning differently; as the implementation of prior policy with which the rezoning must conform. As mentioned, this confusion is understandable as small-scale and large-scale rezonings are regarded equally as legislative acts in this state.

Sinkler v. Charleston County, —S.E.2d —, 2010 WL 915827 (S.C. 2010)

In addition to Mikell, the Supreme Court decided another PD case on March 15th. Here, the Charleston County Council, by ordinance, rezoned an AG-15 parcel to PD so that the minimum lot size of the 750-acre tract could be reduced to 1 acre. No other changes resulted from the rezoning. The circuit court found the rezoning to PD unauthorized and reversed, the Court of Appeals reversed the circuit court, and the state Supreme Court reversed the Court of Appeals, based largely on the reasoning of the circuit court.

First, since the only result of the PD rezoning was to reduce lot size for a "residential-only" project, the Court found this an unauthorized use of the PD statute, which defines PDs as "development projects of housing of different types and densities and of compatible commercial uses, or shopping centers, office parks, and mixed-use developments. ... characterized by a unified site design for mixed use development." S.C. Code Ann. § 6-29-720(C) (4). Second, the Court rejected the landowner's argument that S.C. Code Ann. § 6-29-720(C) allowed the use of Planned Development rezonings for the limited purpose of reducing lot size in a single-use development.

Cont. Legislative Update

This section of the statute lists various authorized zoning techniques, including Planned Developments, but goes on to say that the failure to list a particular technique "does not cause use of that technique to be viewed as beyond the power of the local government choosing to use it." S.C. Code Ann. § 6-29-720(C). However, the Court found that once a zoning authority purports to engage a particular technique, it may do so only in accordance with the parameters set out by the legislature for that technique. Therefore, PDs can be used, according to the Court, only to facilitate mixed-use developments as specified in the statute.

Liability Related to Erroneous Zoning Information

With the emergence of increasingly complex and interconnected government computer networks and the increased reliance on web-based information systems by citizens, comes the challenge of keeping it all straight. It is typical, for example, for property assessor and planning departments to share information related to zoning on a shared network and, once assembled, for that network to be relied upon by employees of the government as well as citizens. The Quail Hill case provides useful insight into how liability will now be allocated when errors occur within this vast system.

Quail Hill, LLC v. County of Richland, 2010 WL 1027911, (S.C. 2010)

Quail Hill approached the Richland County Development Services Counter to determine a parcel's zoning classification. Planning department staff informed the developer that the property in question was zoned RU. Since this zoning classification permitted manufactured homes, Quail Hill purchased the property and commenced development of a twenty-unit project. Later, the County Planning Commission approved the site plan based on the RU zoning. With development underway, the County Zoning Administrator discovered the property's zoning was actually RS-1 which prohibited manufactured homes. As a result, he ordered that development cease and recommended Quail Hill apply for a rezoning to proceed with the project. The County denied the rezoning and Quail Hill brought a lawsuit against the County claiming several causes of action, most notably negligent misrepresentation and equitable estoppel.

At trial, the judge dismissed all claims against the County. However, the Court of Appeals held that a question of fact, namely justifiable reliance, existed on both the negligent misrepresentation and equitable estoppel claims. Specifically, the Court of Appeals held that the jury should have the opportunity to decide whether Quail Hill was justified in relying on statements on the planning department's website; specifically, that,

"The Development Services Counter is the key point of public contact for the planning and zoning functions of the County. It is the primary information resource of property owners and land use professionals who often need to know "What can and can not be done with a piece of property."

The Supreme Court granted certiorari and reinstated the trial court's complete dismissal, arguing that despite the website and staff representations Quail Hill's failure to consult the official zoning map and zoning administrator (the ultimate authorities on zoning matters according to statute) precluded justifiable reliance as a matter of law.

Note that the facts in Quail Hill ought to be distinguished with those in Richland County v. Carolina Chloride, Inc., 382 S.C. 634, 677 S.E.2d 892 (S.C. App. 2009), rehearing denied May 28, 2009, where the County Zoning Administrator was the one who tendered the erroneous information. In that case, the Court of Appeals ordered various tort claims proceed to trial based on the erroneous information. The Carolina Chloride decision was not disturbed in any way by the Supreme Court in the Quail Hill matter.

Quail Hill holds developers to a high standard regarding knowledge of planning and zoning rules and requires they go to the source for information – in this case, the zoning map itself. However, the court in this case noted that the applicant was a real estate professional. Had the case involved a nonprofessional citizen, the court may have found that reliance on staff representations was justifiable. Therefore, local governments ought to ensure that procedures are in place to ensure that current, correct zoning information is communicated to the public. After all, Carolina Chloride recognizes that local governments are potentially liable for various claims associated with erroneous statements on zoning matters under the SC Tort Claims Act. In Carolina Chloride, the County's argument that misstatements on zoning matters fell under the "execution of laws" exception of the Tort Claims Act was rejected. This appears to remain good law considering the Supreme Court in Quail Hill did not disturb the Carolina Chloride case. However, the Court in Quail Hill did not have to address the SC Tort Claims Act having found no underlying grounds for liability.

Cont. Legislative Update

Standard of Review for Denial of Rezoning Application

Harbit v. City of Charleston, 382 S.C. 383, 675 S.E.2d 776 (S.C. App. 2009), rehearing denied May 4, 2009.

Individuals often purchase property with the hopes of obtaining a rezoning similar to those previously secured by neighboring property owners. However, in South Carolina, local rezoning decisions will stand if there is any rational basis for the decision, often despite a history of prior rezonings of a similar nature. In other words, as the needs and concerns of a community change, the governing body is allowed to change course when there is a valid and rational basis for doing so.

In this case, Harbit purchased property zoned single family residential, which was located within the Savannah Highway Overlay Zone. The overlay allowed limited commercial use, including professional office use. Accordingly, Harbit applied for a rezoning to allow for commercial use. The city denied the application despite the fact that neighbors had been similarly rezoned. Harbit brought suit claiming the decision denied him due process and equal protection. At trial, the judge dismissed Harbit's claims against the city. Harbit appealed and the Court of Appeals upheld the trial court's dismissal.

In finding for the city, the Court of Appeals characterized the city's decision as a legislative act. Therefore, the decision must be presumed valid and a court may overturn only if the decision was based on no evidence or arbitrary and capricious. Consequently, the Court of Appeals accepted the city's findings in the record that Harbit's property was inappropriate for commercial use, based on other studies citing the negative impacts of residential conversions to commercial uses in the area. In light of the deferential standard of review, the Court did not closely scrutinize or second-guess the city's justifications because the justifications in the record easily passed the "fairly debatable" test.

This case follows authority in South Carolina that treats *all* zoning decisions as legislative acts whether applied to one person or the community in general. Other states distinguish between "small-scale" and general zoning decisions and apply a heightened standard of review for the former. However, neither the legislature nor the Supreme Court has recognized this distinction. Therefore, in rezoning matters, local governing bodies possess considerable flexibility regardless of local precedent. If there are reasonable grounds for the denial, a court will uphold the decision and not second-guess the local government.

DHEC Isolated Wetlands Regulatory Authority

Spectre, LLC v. S.C.D.H.E.C., 386 S.C. 357, 688 S.E.2d 844 (S.C. 2010).

While this case does not directly pertain to local government planning and zoning matters, the implications are far reaching and will impact future development in the coastal zone counties. Specifically, local governments in the coastal counties may want to keep Spectre in mind when developing comprehensive plans and exercising land use regulations affecting isolated, freshwater wetlands.

Spectre, LLC applied for a DHEC stormwater/land disturbance permit to fill close to 32 acres of isolated, freshwater wetlands in Horry County. DHEC staff denied the permit based on inconsistency with policy provisions contained in the Coastal Management Program (CMP) that discourage such filling. The DHEC Board unanimously upheld the staff's determination, but on appeal the Administrative Law Judge (ALJ) reversed and ordered the permit be issued because, the ALJ held, the CMP did not apply to isolated, freshwater wetlands, and the CMP was not validly promulgated and lacked the force of law. The Supreme Court granted certiorari and overturned the ALJ's decision finding that the CMP did apply to the area in question and was valid.

Over the last few decades, there has been much confusion at the state and federal levels over the regulation of freshwater wetlands. The recent Supreme Court decision, Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers, 531 U.S. 159 (2001), held that federal regulation under the Clean Water Act did not extend to isolated bodies of water. This development caused DHEC to issue an emergency regulation informing the public that it would no longer submit development impacting these areas to consistency review under the CMP. Nonetheless, the South Carolina Supreme Court has now held that the South Carolina Coastal Zone Management Act and the CMP extended broad regulatory authority covering all waters in the coastal counties, including isolated freshwater wetlands.

SCAPA 2010 AWARDS PROGRAM

CALL FOR NOMINATIONS

The South Carolina Chapter of the American Planning Association conducts an awards program every two years. The Chapter awards program recognizes outstanding efforts and achievements that advance the art and science of planning in the Palmetto State. Each of the plans, projects, organizations and individuals recognized will demonstrate a contribution to the improvement of the quality of life for South Carolinians.

Awards are a valuable public awareness tool for local governments, agencies, and community organizations. SCAPA awards offer one of the few opportunities that South Carolina planners and communities have to highlight the virtues of planning and recognize those who contribute to the profession. Seven SCAPA 2010 Awards are offered, one in each of the following categories. Except for the Distinguished Planner category, the SCAPA 2010 Awards are for efforts and achievement occurring from August 2008 through August 2010.

A. Outstanding Planning Project – Large and Small Jurisdiction, and Multi-jurisdictional

Large jurisdiction are those with a service area of 50,000 population or greater. Small jurisdictions are those serving a population base of less than 50,000. A multi-jurisdictional project is a partnership of two or more local governments or two or more levels of government. Awarded in each of the three categories for a policy, plan, study, inventory, program, development project, implementation strategy, ordinance, or other product of planning practice based on the following evaluation criteria:

1. **Innovation:** originality of concept or appreciable refinement of existing techniques.

2. **Transferability:** potential application to other geographic areas, jurisdiction, or to other projects.

3. **Quality:** excellence of thought, analysis, writing, graphics, presentation, or communication.

4. **Implementation:** success and effectiveness of project or potential for such if not already implemented.

5. **Comprehensiveness:** consideration of planning principles and broad range of public and private objectives.

6. **Significance:** overall importance at local, regional, and/or state planning level.

7. **Sustainability:** degree to which the plan, policy, project, etc. is designed to achieve economic, social and environmental sustainability.

B. Outstanding Planning Project – Innovative Use of Technology

Awarded for the innovative use of technology in planning practice to improve the efficiency, effectiveness, and accuracy of planning efforts. Efforts can include the use of telecommunications, information technology, the Internet, information management and software resources, and other technology tools. The preceding evaluation criteria for the other planning project categories also apply.

C. Distinguished Planner

Awarded to a planning professional who has demonstrated outstanding contributions to the planning field within South Carolina over an extended period of time, and exhibits qualities which have led to successful accomplishment of planning goals, programs, or projects. Review and evaluation criteria include planning leadership and creativity, professional commitment, community service, recognized expertise, and ethical conduct.

D. Planning Advocate

Awarded in recognition of an individual or a group for an outstanding contribution to the advancement of quality planning in South Carolina and the exhibition of qualities which have led to successful accomplishment of planning goals, programs or projects. Nominees would have promoted the cause of planning in the public arena and can include members of planning commissions, boards of zoning appeals, economic development boards, or other appointed or elected officials. Nominations can also include neighborhood leaders, conservationists, and other citizen planners or organizations. Persons earning their living as planner are not eligible for this award. Criteria include the extent of support for planning and planners, the effectiveness of advocacy, and the broader potential for benefiting planning in South Carolina.

E. Planning Reporter

Recognizes a journalist or reporter for insightful and in-depth coverage of planning issues at the local, regional, and /or state levels that promote public understanding of, and participation in, the planning process. Evaluation criteria include effective communication of planning principles and concepts, depth of coverage, presentation style, the audience(s) reached, and impact on public awareness.

SCAPA 2010 AWARDS PROGRAM NOMINATION PACKAGE

Please review the Call for Nominations evaluation criteria for each award category and complete a separate nomination package for each nomination. Answer all items relevant to the nomination category. Except for the Distinguished Planner category, the SCAPA 2010 Awards are for efforts and achievement occurring from August 2008 through August 2010. Nomination packages must include all of the following information. The information can be summarized in a submittal letter with additional supporting information included in the nomination package.

1. Nomination category:

- Outstanding Planning Project – Large Jurisdiction
- Outstanding Planning Project – Small Jurisdiction
- Outstanding Planning Project – Multi-jurisdictional
- Outstanding Planning Project – Innovative Use of Technology
- Distinguished Planner
- Planning Advocate
- Planning Reporter

2. Information on the nominee project or individual including:

Name

Organization or Agency

Contact Name and Title

Phone, Fax and Email address

Mailing Address

3. The achievements of the project or person nominated for the award.

4. Why the nominee's achievements are exceptional and deserve recognition.

5. Total cost of the project (real or estimated).

6. Number of persons impacted by the project.

7. Population of the jurisdiction(s) in which the project is or was located or conducted.

8. A narrative that details the project or individual with respect to the specific award category evaluation criteria. This narrative should not exceed three pages, with a minimum of 11-point type and 1-inch margins. A list of all attachments should also be included for juror reference.

9. Information related to the person or organization submitting the nomination:

Name

Mailing Address

Phone, Fax and Email address

Signature of person submitting the nomination

Date of the nomination

SUBMISSION INSTRUCTIONS

Nomination fees are \$10.00 for planning project awards and \$5.00 for individual awards. The individual or organization submitting a nomination will be billed by SCAPA for the fee upon receipt of the nomination.

Complete nomination packages must be received at the North Augusta address shown below no later than 5:00 pm on Monday, September 6, 2010 to be considered. Submissions received after the deadline will be returned unopened. The Awards Jury has final determination as to the evaluation criteria, the selection of award recipients, and whether an award is made in each category. Award recipients will be notified by October 8, 2010.

Presentations will be made during the Awards Luncheon at the SCAPA Fall Conference in Litchfield Beach and Golf Resort on Friday, October 29, 2010. Award recipients will be asked to bring either a printed summary or PowerPoint display (including computer) of the nomination package for inclusion on the SCAPA Awards table display.

Mailing Address:

Skip Grkovic, AICP Phone: 803-442-3880

City of North Augusta Fax: 803-442-4232

PO Box 6400 skipg@northaugusta.net

North Augusta, SC 29861

Delivery Address:

Skip Grkovic, AICP

Director of Planning and Economic Development

North Augusta Municipal Center, 2nd Floor

100 Georgia Avenue

North Augusta, SC 29841

2008 Award Winners

Outstanding Planning Project Small Jurisdiction: Southeast/Lower Richland Subarea Transportation Study

Outstanding Planning Project Large Jurisdiction: Johns Island Community Plan

Award of Merit Large Jurisdiction: Richland County Transportation Study

Outstanding Planning Project Multi-Jurisdictional: York County/Rock Hill

Outstanding Planning Project Innovative Use of Technology: Cherrydale Area Plan

The Distinguished Planner: Nathaniel "Chip" Land, AICP



American Planning Association
South Carolina Chapter

Making Great Communities Happen

SCAPA
 PO Box 683
 Clemson, South Carolina 29633

Chapter Administrator
 Pat Collins

The Palmetto Planner is the official newsletter of the "South Carolina Chapter of the American Planning Association. Newsletter contributions are encouraged from SCAPA members and others. Material selected for publication may be edited to conform to space or other requirements. Please email contributions to the Newsletter to jpcol44@bellsouth.net. Please include your name, organization and contact information.

Advertise in the Palmetto Planner and on the SCAPA webpage for one low fee.

The Palmetto Planner is a quarterly publication of the South Carolina Chapter of the American Planning Association with over 475 members. The newsletter provides information on current planning topics, chapter conferences and activities and job opportunities.

Advertisement space in the Palmetto Planner and the SCAPA webpage is available on a yearly basis.

The fee for a Business Card Advertisement is \$200.00 per year.

For further information contact Pat Collins at 864-221-1433 or email jpcol44@bellsouth.net



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