

TOWN OF HILTON HEAD ISLAND
Regular Planning Commission
Wednesday, May 1, 2013 Meeting **APPROVED**
9:00a.m – Benjamin M. Racusin Council Chambers

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

Commissioners Absent: Brian Witmer, Excused

Town Council Present: None

Town Staff Present: Jayme Lopko, Senior Planner and Planning Commission Coordinator
Brian Hulbert, Board Attorney
Darrin Shoemaker, Traffic & Transportation Engineer
Shawn Colin, Deputy Director, Community Development Department
Kathleen Carlin, Secretary

1. Call to Order

2. Pledge of Allegiance to the Flag

3. Roll Call

4. Freedom of Information Act Compliance

Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

5. Approval of Agenda

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

6. Approval of Minutes

The Planning Commission **approved** the minutes of the April 17, 2013 meeting as presented by general consent.

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

Mrs. Fran White presented public statements on behalf of the Baygall Community POA. In 2005 the Baygall Community Property Owners Association sent a letter to the Planning Commission detailing their concerns with existing and proposed development rights on small, undeveloped parcels in the Baygall Community. The Baygall Community believes that some of the allowed uses and some of the proposed uses greatly impact the character of the Baygall Community. Mrs. White discussed the Baygall Community's concerns and urged the Planning Commission to reduce the allowed uses in the existing LMO and to eliminate the uses that are proposed in the new LMO. Chairman Quick thanked Mrs. White for her statements. Chairman Quick recommended that Mrs. White attend the LMO Rewrite Committee meetings to present her thoughts and concerns to the committee.

8. Unfinished Business

None

9. New Business

Public Hearing

STRNM130002: The Town of Hilton Head Island has applied to re-name Mall Boulevard. The proposed name is Shelter Cove Lane. Chairman Quick stated that the public hearing for this application is postponed to the May 15th meeting.

Mrs. Jayme Lopko reported that application STRNM130002 has been removed from the May 15th agenda because the staff is concerned that public notice requirements have not been fully met. Application STRNM130002 will be re-advertised and will appear on the Planning Commission's June 19, 2013 agenda. Chairman Quick thanked Mrs. Lopko for the update.

Public Hearing

ZMA130003: A request from Chester C. Williams on behalf of 217 Beach City Road, LLC proposing to amend the Official Zoning Map by changing the zoning designation of the property located at 1-16 and 20-70 Circlewood Drive from the RM-4 (Low Density Residential) Zoning District to the RM-12 (Moderate to High Density Residential) or WMU (Water Front Mixed Use) Zoning District. The properties are further identified on Beaufort County Tax Map 5, Parcels 8, 336 through 342, and 344 through 375. Chairman Quick introduced the application and opened the public hearing. Chairman Quick requested that the staff make their presentation.

Mrs. Lopko, case manager, stated that Chester C. Williams, Esq., agent for the applicant, would like to request that the Planning Commission allow the public hearing for application ZMA130003 to remain open until the May 15, 2013 meeting. Chairman Quick asked that Mr. Williams address the Planning Commission regarding this request.

Mr. Chet Williams requested that the Planning Commission allow the public hearing for application ZMA130003 to remain open until the Planning Commission's May 15, 2013 meeting. Mrs. Althea White Jackson, the property owner of parcel 8, is unavailable to attend today's meeting. The applicant requested an opportunity to be present and is available to attend the next Planning Commission meeting on May 15, 2013.

Chairman Quick recommended that the Planning Commission go into an Executive Session so that Mr. Williams' request can be discussed with legal counsel, Mr. Brian Hulbert. Chairman Quick stated that the Planning Commission needs to be fully aware of the circumstances surrounding this application and Mr. Williams' request to keep the public hearing open until the May 15th meeting. The Planning Commission agreed with the recommendation for an Executive Session. Chairman Quick then requested that a motion for this purpose be made.

Vice Chairman Lennox made a **motion** for the Planning Commission to take a recess from the business meeting for the purpose of going into Executive Session to seek legal guidance on Mr. Williams' request. Commissioner Docherty **seconded** the motion and the motion **passed** with a vote of 8-0-0.

Following the Executive Session, the business meeting was reconvened. Chairman Quick stated that the Planning Commission has discussed Mr. Williams' request and they have

received legal advice from Mr. Brian Hulbert. The Planning Commission will vote on Mr. Williams' request to keep the public hearing for ZMA130003 open until the May 15, 2013 meeting. Chairman Quick requested that a motion be made.

Commissioner Ennis made a **motion** that the Planning Commission **should not continue** the public hearing for ZMA130003 until the May 15, 2013 meeting. Review of application ZMA130003 should be completed today. Commissioner Bennett **seconded** the motion and the motion **passed** with a vote of 8-0-0. Following this vote, Chairman Quick requested that the staff make their presentation.

Mrs. Lopko began her presentation on ZMA130003 by reporting that the applicant has withdrawn the WMU (Water Front Mixed Use) zoning district from the application. Today's review is solely for the purpose of changing the zoning designation of the subject property from RM-4 to RM-12.

A request from Chester C. Williams Esq., on behalf of 217 Beach City Road, LLC proposing to amend the Official Zoning Map by changing the zoning designation of the property located at 1-16 and 20-70 Circlewood Drive from the RM-4 (Low Density Residential) zoning district to the RM-12 (Moderate to High Density Residential) is under review. The affected properties are identified on Beaufort County Tax Map 5 as Parcels 8, 336 through 342, and 344 through 375.

Mrs. Lopko presented an in-depth overhead review of ZMA130003 including a review of the Vicinity Map, the Zoning Map, the Use Table, the applicant's narrative, and a list of public comments received by staff prior to today's meeting. Mrs. Lopko reported that the permitted uses and maximum impervious coverage requirements would not change as a result of rezoning the property from RM-4 to RM-12. However, there are other requirements that will change as a result of this rezoning such as open space, density, height, and parking requirements. The biggest change is to the amount of density that is allowed.

The staff determines that Application for Zoning Map Amendment ZMA130003 is *inconsistent* with the Comprehensive Plan and *does not* serve to carry out the purposes of the LMO as based on the Findings of Fact and Conclusions of Law detailed in the staff's report. Mrs. Lopko reviewed the Findings of Fact and Conclusions of Law.

The applicant states in their narrative that the Beach City Place subdivision is a failed single-family residential development. The properties have been in default for an extended period of time and an Order of Foreclosure has been rendered against the property owner by the lender. The property owner has secured a commitment to refinance the loan for the redevelopment of the property into a multi-family residential project, but only if the permitted density is increased.

The purpose of this application is to rezone the properties to support the successful redevelopment of the property. The applicant currently has the right to redevelop the property for multi-family residential at a density of 4 units per net acre. However, this scenario is not seen as any more economically viable than the failed single-family residential development. The effect of this rezoning will increase the permitted density to 12 units per net acre in the RM-12 zoning district. This is a significant increase in density per net acre. Mrs. Lopko stated that staff is concerned with the increase in density based on safety issues related to the location of the airport. Staff is also concerned with the impact on the character

of the existing neighborhood as outlined in the Ward 1 Master Plan. Low to moderate density in this area is preferred.

Commissioner Ennis presented statements with regard to the increased density in residential use within the airport's flight path. Vice Chairman Lennox presented statements regarding the height of the structures and the issue of safety. Increased density does not increase the risk of a catastrophe based on the location of the flight path at the airport. The market should be allowed to make the determination in increased density. The Planning Commission discussed the issue of increased traffic on Beach City Road and other roads. Mrs. Lopko stated that the Town's Traffic Engineer has reviewed this issue and has determined that the roads are capable of serving the additional traffic. Following this discussion, Chairman Quick requested that the applicant make his presentation.

Chester C. Williams, Esq., agent for the applicant, presented statements in support of the application. Mr. Williams introduced several members of the White family who are present at today's meeting and who have a financial interest in 217 Beach City Road, LLC.

Mr. Williams reviewed the history of the application including details of the failed single-family residential development and foreclosure. Mr. Williams presented an overhead review of several items related to the application including a couple of supplements to the application as well as Exhibits # 1 – 5. Mr. Williams requested that these supplements and exhibits be entered as part of the record. Following Mr. Williams' presentation, Chairman Quick requested public comments and the following were received:

Mrs. Rosa White Cromwell, family member, presented statements in support of the application on behalf of herself and three of her sisters seated in the audience; (2) Mr. John Van Horn, representative of The Spa Property Owners Association, stated the POA's opposition to the application; (3) Ms. Victoria Reimke, property owner, stated her opposition to the application; (4) Mrs. Fran White stated that she is appearing on behalf of Mrs. Alethea White Jackson, who is not present at today's meeting. Mrs. Jackson is the property owner of Lot # 8, Beach City Subdivision and she is opposed to the application; (5) Rand Hannah, III, Esq., presented statements on behalf of his client, Dr. Harindeyit Singh, who has a financial interest in 217 Beach City Road, LLC. Dr. Singh is in support of the application. Mr. Hannah detailed the bank's position on the property. This completed all public comments.

The Planning Commission stated that the issues surrounding application ZMA130003 are very complex and there are no easy answers. The Planning Commission needs to be sensitive to the concerns of all parties. Commissioner Ennis stated that he agrees with the staff's position on this issue; however, not for the reasons that were presented by staff. Commissioner Ennis stated that the airport is in the wrong place for the increase in density from RM-4 to RM-12. While the risk does not increase with the increased density, the consequences of a catastrophe are greatly increased with the increased density. Commissioner Bennett stated that he agrees with Commissioner Ennis' statements. Commissioner Bennett stated that he is also sympathetic to the position of Mr. and Mrs. David (Alethea White) Jackson, the property owners of parcel 8.

Commissioner Brown stated that the Planning Commission needs to pay particular attention to this location in Ward 1. Commissioner Brown encouraged the Planning Commission to be sensitive to the concerns of the neighborhood with regard to maintaining the community's

existing character. The Planning Commission discussed the criteria needed for consistency with the Comprehensive Plan.

Chairman Quick stated that the overriding point is an increase in density from RM-4 to RM-12 places more people at risk in the event of a catastrophe. Chairman Quick stated that she is not convinced that the change in zoning will make the property more lucrative. Following final comments by the Planning Commission, Chairman Quick requested that a motion be made. Chairman Quick reminded the Planning Commission that they are voting on whether or not they agree with the staff's recommendation to deny application ZMA130003.

Commissioner Ennis made a **motion** that the Planning Commission **agrees with staff's recommendation to deny** application ZMA130003. Commissioner Bennett **seconded** the motion and the motion **failed** by a vote of 3-5-0. Chairman Quick then requested that another motion be made.

Vice Chairman Lennox made a **motion** that the Planning Commission **disagrees with the staff's recommendation to deny**. The Planning Commission **should approve** application ZMA130003 as submitted by the applicant. Application ZMA130003 should be **forwarded** to Town Council with a recommendation of **approval**. The application is consistent with the Comprehensive Plan and serves to carry out the purposes of the Land Management Ordinance. Commissioner Hughes **seconded** the motion and the motion **passed** with a vote of 5-3-0. Vice Chairman Quick, Commissioner Ennis and Commissioner Bennett were in opposition to the motion.

Vice Chairman Quick stated that she is opposed to the motion because the increase in density from RM-4 to RM-12 places more people at risk in the event of a catastrophe. In addition, she is not convinced that the change in zoning will make the property more lucrative. Commissioner Ennis stated that he is opposed to the motion because he believes the airport is in the wrong place for the increase in density from RM-4 to RM-12. While the risk does not increase with the increased density, the consequences of a catastrophe are greatly increased with the increased density. Commissioner Bennett stated that he agrees with Commissioner Ennis' statements. Commissioner Bennett stated that he is also sympathetic to the position of Mr. and Mrs. David (Alethea White) Jackson, the property owners of parcel 8.

Annual Traffic Report

Mr. Darrin Shoemaker presented the Annual Traffic Report on behalf of staff. Following the staff's presentation, Chairman Quick requested that a motion be made for the Planning Commission to forward the Annual Traffic Report to Town Council with a recommendation of approval.

Commissioner Taylor made a **motion** that the Planning Commission should **forward** the Annual Traffic Report to Town Council as presented by the staff with a recommendation of **approval**. Commissioner Brown **seconded** the motion and the motion **passed** with a vote of 8-0-0.

10. Commission Business

None

11. Chairman's Report

Chairman Quick stated that LMO Rewrite Committee meetings are now held once every week (at least through the month of June). These meetings are held at on Thursday mornings for the most part and begin at 8:30a.m in Council Chambers.

12. Committee Reports

Commissioner Ennis presented a status update on the Economic Development Commission.

13. Staff Reports

a) Mr. Shawn Colin presented a status update on Chaplin Linear Park.

B) Mrs. Lopko stated that staff has no agenda items for the Planning Commission meeting on May 15, 2013. Chairman Quick approved cancellation of the May 15th meeting. The next regular meeting will be held on June 5, 2013 at 9:00a.m.

14. Adjournment

The meeting was adjourned at 11:00a.m.

Submitted By:

Approved By:

June 5, 2013

Kathleen Carlin
Secretary

Terry Ennis
Acting Chairman for June 5, 2013 meeting