



Town of Hilton Head Island
Planning Commission
LMO Rewrite Committee Meeting

August 29, 2013

8:30 a.m.

Benjamin M. Racusin Council Chambers

AGENDA

As a Courtesy to Others Please Turn Off All Cell Phones and Pagers during the Meeting.

- 1. Call to Order**
- 2. 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.
- 3. Approval of the Agenda**
- 4. Approval of the Minutes** – August 22, 2013
- 5. Unfinished Business**
 - a. Discussion of Draft Chapter 7 - Nonconformities
- 6. New Business**
 - a. Draft Corridor Overlay District section review
 - b. Proposed Definitions
- 7. Adjournment**

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

TOWN OF HILTON HEAD ISLAND
Planning Commission
LMO REWRITE COMMITTEE MEETING

Draft

August 22, 2013 Minutes
8:30a.m. – Benjamin M. Racusin Council Chambers

Committee Members Present: Chairman Tom Crews, Vice Chairman Gail Quick, David Ames, David Bachelder, Irv Campbell, Chris Darnell, Jim Gant, Walter Nester, Kim Likins, *Ex-Officio*, and Charles Cousins, *Ex-Officio*

Committee Members Absent: None

Town Council Members Present: Bill Harkins

Planning Commissioners Present: None

Town Staff Present: Teri Lewis, LMO Official
Kathleen Carlin, Administrative Assistant

1) Call To Order

Chairman Crews called the meeting to order at 8:30a.m.

2) Freedom of Information Act

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

3) Approval of the Agenda

The committee **approved** the agenda as presented by general consent.

4) Approval of the Minutes

The committee **approved** the August 14, 2013 (AM) meeting minutes as presented by general consent. The committee **approved** the August 14, 2013 (PM) meeting minutes as amended by general consent.

5) Unfinished Business

a) Develop direction for the consultant related to the subdivision of property
(specifically the provision of access and other infrastructure)

Chairman Crews presented background statements regarding the committee meetings held on Wednesday, August 14th. The committee held two public meetings on that date with the consultants.

Ms. Lewis stated that the committee needs to consolidate some of their thoughts and recommendations to give to the consultant. The consultant needs clear direction from the committee in order to move forward.

The committee stated that most of their discussion revolved around the timing issue. Everyone agrees that access to roads, water, and sewer is needed. The question is when is the infrastructure required? Is it at the time of subdividing the land or is it at the time of development?

The committee stated the need to consider State requirements for landlocked parcels. The Town cannot enact an ordinance that is restricted by State law.

Mr. Cousins and Ms. Lewis presented statements regarding the Town's position in requiring that access and other infrastructure be provided at the time of subdividing land.

Mr. Irv Campbell presented statements in opposition to the Town's requirement for infrastructure to be provided at the time of subdividing land. The Town needs to have a better understanding of Native Island communities and the desire to subdivide heirs' property. The existing requirement for access and other infrastructure at the time of subdividing the land is too much of a financial hardship for many community members. Mr. Nester presented statements regarding State law requirements for subdividing land. Land locked parcels are not allowed.

Chet Williams, Esq., also presented a legal opinion of State law requirements regarding the subdivision of land. Mr. Campbell presented comments regarding Municipal law and State law requirements for infrastructure in rural communities outside of PUDs.

Mr. Campbell stated that the person who owns the land should be responsible for the infrastructure. This was the original concept in rural areas on Hilton Head Island -- as you build you add infrastructure.

The committee discussed public right of ways and the use of public money for making improvements to private property. The committee presented statements regarding last week's discussion of dirt roads on private property. The staff and the committee also discussed the Town's policy to acquire rights of ways that currently exist to service homes or businesses located at the end of roads.

Mr. Campbell reiterated that there has to be a way to better address some of these issues. We need to communicate the importance of roads, the importance of infrastructure, and why we need to turn some of these private roads over to the County. Mr. Campbell referenced the information that was provided by Mr. David White and requested that staff distribute this information to the committee and to the consultant.

Mr. Campbell stated that this is an opportunity to bridge the gap for lost neighborhoods. We need to make a whole community a reality. We need to make a concerted effort to put in the needed infrastructure through grants and others ways.

Mr. Nester stated that the concern that the committee heard is that I can't subdivide my property and give it to my children. Perhaps we can provide a manner in which the land can be subdivided by putting everyone on notice that the piece of land cannot be improved until the access easement is improved in accordance with State standards. Mr. Campbell stated that he supports this idea.

Mr. Nester stated that dealing with existing neighborhoods is beyond the capabilities of the Land Management Ordinance; these issues need to be brought before Town Council. Mr. Nester presented comments regarding a possible LMO provision that deals with the subdivision of five parcels or less (minor subdivision) that still required access in compliance with state law, but did not require improvements to that access. It would require that the subdivision plat have a warning or notice that no improvements can be constructed on any of these lots until such time as the access easement is improved pursuant to state standards. What implications might this have?

The committee discussed a legal warning notice that would allow the division of property to take place with the paperwork but would have a legal notice telling anyone that bought one of the titles

to the property that before anything can be done to develop the property, infrastructure must be in place. The applicant (landowner) would come to the Town stating that he has a subdivision plat and the subdivision plat would contain restrictive covenants that would say that no improvements can be made until the road is built. When the road is built, the owner of all of these lots would have to participate in the costs.

Mr. Campbell presented comments regarding the creation of a structure to subdivide land to give to family members. Mr. Campbell stated that the Town needs to be involved on some financial level.

The committee discussed the issue of a restrictive covenant. The subdivision requirements would still apply as it applies to the size of the lot. Should it apply to minor and major subdivisions? The committee agreed that it should probably be restricted to minor subdivisions (5 lots or less) regarding of the size of the individual lots. The consultant should consider the use of restrictive covenants.

Mr. Ames presented comments in concern of the 30-ft. road width because it seems very narrow. A wider easement may be needed. Who will maintain the road? The public should not have to purchase the right of way like they are doing at this time.

Mr. Nester stated that 30-ft. road width should be the minimum. We're allowing for the subdivision and we are not land locking any property. Nothing can occur on those lots until such time as the road is constructed. Mr. Darnell stated that the road can be constructed on the easement and the easement would still be a private easement. This is the problem that we have at this time - easements that are not properly maintained - versus having an established right of way.

Ms. Lewis stated that the owners are requiring payment for the purchase of the right of way along a dirt road. Chairman Crews asked if it was possible for the Town to fix the existing 91 private sub-standard roads (for an estimated combined length of 10 miles). Perhaps Town Council should raise this as a goal to go in to do what is legally and publically correct to take care of these roads.

Mr. Chet Williams stated that there is a way for the Town to put the infrastructure in (Municipal Improvement District) and then the Town levies taxes on those lots to pay for the cost.

In conclusion of the discussion, the committee agreed to allow an owner of property to create separate tax parcels subject to a restricted covenant that requires no building on those lots until the road is built. We should ask the consultant to address three issues: (1) width of the easement; (2) maintenance of the easement; (3) ownership of the easement. Whoever is recording the plat perhaps would agree to convey that easement property to a municipality when the road is constructed. There are many additional issues involved in this idea.

6) **New Business**

Discussion of Draft Chapter 7 - Nonconformities

Ms. Lewis stated that the committee has been discussing the issue of non-conformities for quite some time. Referring to the staff's memo, the following issues were discussed by the staff and the committee:

Town Council Directive:

- Address nonconformities
 - Evaluate policy on nonconformities
 - Develop framework to facilitate improvement of existing nonconforming sites

Committee's LMO Revision Objectives:

- Create an environment that enables improvement of existing non-conforming properties.
- Minimize nonconforming uses through a more comprehensive integrated zoning approach that reduces specificity of uses and has fewer districts and employs a mix of uses.
- Improve communication on what property owners can do to improve nonconforming site features.
- Implement incentives to reduce or eliminate nonconforming site features.
- Provide education and brochure to improve communication with property owners.

Consultant Tasks:

- Consider using flexible regulations and identify incentives to reduce the number of nonconformities and encourage redevelopment of nonconforming sites/structures/features.
- Throughout the discussions that the committee has had related to their review of the other chapters, nonconformities have always been mentioned. The majority of the development that the Island will continue to experience is likely to be redevelopment rather than new development. This means taking a look at nonconforming sites and figuring out a balance that encourages them to redevelop while trying to bring some parts of the site or structure into conformance.
- The committee has mentioned several times that they expect the changes to the nonconforming chapter to provide the ease and flexibility for nonconforming properties; a review of the proposed nonconforming chapter finds that:
 - The majority of the chapter remains the same as it exists today; and
 - Some language has been added related to the percentage of value of remodeling costs – this seems very confusing and more difficult than the current ordinance.
- Overall it does not appear that the changes to this chapter meet the goals of the committee.

Ms. Lewis stated that some of the consultant's recommendations make the LMO more difficult to understand. Chairman Crews and Vice Chairman Quick agreed with staff's observations on the consultant's proposed formulas. The committee stated that there needs to be some guidance and not so much flexibility given.

The staff and the committee discussed several issues including Flood Elevation Standards and Building Codes. Mr. Bachelder stated it would be helpful if the staff would provide the committee with a list of their concerns. The committee agreed that this is a good idea. Ms. Lewis stated that the staff will prepare a list of their concerns with non-conformities for the committee's review. Chairman Crews presented statements on a couple of issues including abandonment of use, change of use, and non-conforming structures.

Ms. Lewis stated that she will discuss these issues with the consultant and ask for their recommendations.

The consultants are scheduled to be back in town on September 5th – the committee is scheduled to talk about trees – and non-conformities. Trees and nonconformities might be a lot to handle in one meeting. Mr. Cousins recommended that the committee finish reviewing the document that staff will prepare on nonconformities before the consultant meets with them on September 5th.

The committee agreed that this would be a good idea. The staff and the committee will finish their discussion on non-conformities on August 29th. They will also discuss Corridor Overlay Review and Definitions on August 29th if there is time. Vice Chairman Quick asked about the committee's presentation to the Planning Commission which will probably take place sometime in October. Following final comments, the meeting was adjourned.

7) **ADJOURNMENT**

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

Submitted by:

Approved by:

Kathleen Carlin
Administrative Assistant

Tom Crews
Chairman

DRAFT



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: LMO Rewrite Committee
FROM: Teri Lewis, *LMO Official*
DATE: August 26, 2013
SUBJECT: Review of Draft Chapter 7 - Nonconformities

Staff adopted significant changes to Chapter 7 – Nonconformities in 2009. The purpose of these changes was to make it easier for nonconforming sites to redevelop – the goal of simply working to eliminate nonconformities was changed to one of working to lessen nonconformities. Over the four years that these changes have been in place, they have been working very well.

The pros of the current nonconforming chapter include:

- Provides a great deal of flexibility through the waiver process
- Allows smaller redevelopment projects (nonconforming site features and structures) to go forward without going through the Redevelopment Floating Zone process
- Allows expansion/enlargement as long as the footprint doesn't get bigger and there is no further encroachment into buffers or setbacks and the impervious does not increase
- As part of the waiver process can now eliminate some nonconformities or provide site improvements
- Allowed accessory structures to be considered site features

The cons of the current nonconforming chapter include:

- The only way a nonconforming use can be expanded is by going through the Redevelopment Floating Zone process (a 4-6 month public meeting process)
- The footprint of the nonconforming structure cannot increase

Staff Recommendations Relevant to Chapter 7 – Nonconformities

- Include an introduction paragraph to 16-7-101.G. This paragraph will provide more information about the waiver process and the purposes of the process.
- Figure out how to allow the footprint of nonconforming site features or structures to be increased as long as the nonconformity is not increased.
- Eliminate 16-7-101.H.3.
- Add specificity to 16-7-101.H.5.a.
- Change 'gas' to 'sewer' in 16-7-101.H.5.b
- Make it clear that the section referred to in the last sentence of 16-7-101.I is the Waiver by Official section.
- 16-7-102 (Footnote 455): Recommend allowing an accessory structure to be expanded, enlarged, extended if the accessory structure is conforming.

- 16-7-102 (Footnote 457): Clarion needs to provide additional information (i.e. would there be criteria used to make the determination, could the determination be made by the BZA).
- 16-7-103.A: change 'this Ordinance to Chapter 16-7'. Reference the Waiver by Official section here also.
- 16-7-103.B: make it clear that this section covers intentional human destruction as well.
- Eliminate 16-7-104.E.
- 16-7-105.B.1 – make it clear that the list provided in a-e is not inclusive.
- Eliminate 16-7-105.B 2 and 3.
- 16-7-105.C 1-3 seem very confusing – recommend eliminating or asking Clarion to provide more information about how this would work.
- 16-7-105.C.5 – If 16-7-105 1-3 are retained then #5 needs to include the option for a private appraisal to be used.
- 16-7-105.D – same concerns as 16-7-105.C 1-3.
- 16-7-105.E – If retained, there needs to be better criteria for staff to use to make this determination.

Staff Recommendations Relevant to Administrative Adjustments – Section 16-2-103.S

- Table 16-2-103.S.2: clarify whether it is the street setback or adjacent use setback; clarify why the planting rate would be reduced if the buffer is reduced (staff believes that the intent was to make the buffer more opaque if the width was reduced); need criteria for all adjusted standards so they do not become the new minimum.
- 16-2-103.S.4.c.ii: Clarion needs to review the purpose and intent statements for each zoning district are thorough enough to be used to review the administrative adjustment.
- 16-2-103.S.4.e: This is too broad.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: LMO Rewrite Committee
FROM: Teri Lewis, *LMO Official*
DATE: August 26, 2013
SUBJECT: Review of Draft Corridor Overlay District (COD) and Definitions

Corridor Overlay District (COD) Review

The LMO Rewrite Committee Chairman thought that it would be appropriate for the committee to review and comment on the proposed Corridor Overlay District as part of the LMO rewrite review process.

The draft language provided by Clarion is very similar to the existing language with a few notable exceptions:

- 16-3-106.F.2.a.iv: All parcels in certain zoning districts are required to receive Design Review Board (DRB) review. This list of zoning districts will need to be re-studied once Clarion has finished the Committee requested changes to the zoning districts.
- 16-3-106.F.2.f: The current LMO states that if a project will not be visible from the corridor the DRB may waive review of the development. The proposed language states that if a project will not be visible from the corridor, the DRB may delegate review to the Official through the Minor Corridor Review Procedure. [**Note: the Committee discussed this delegated review during their review of the Chapter 2 draft and agreed that this approach was acceptable.**]
- 16-3-106.F.4.c: The current LMO allows the DRB to place further restrictions on signs – the draft language eliminates this ability.

Definitions

Earlier this summer, the committee received a copy of Chapter 10, Definitions. It was determined at that point that the committee would not go through every definition at a committee meeting but that if individual committee members had concerns about any definitions they would send them to me. I have not received any information from any committee members related to definitions. This is simply a reminder that if there are any definition that you have concerns with, please send them to me and if necessary the committee will discuss these concerns at their meeting on August 29th.

F. Corridor Overlay (COR) District¹⁸⁸

1. Purpose

- a. The purpose of establishing this overlay district is to protect the aesthetic and visual character of lands on Hilton Head Island adjacent to the major roads, the waterfront, and the marshfront, as defined in this section. All development proposed within this Corridor Overlay (COR) District shall be subject to the procedures, standards and guidelines specified in the following paragraphs, in addition to those standards pertaining to the particular base district in which the development occurs. In particular, the purpose of the COR District is to:
 - i. Encourage and better articulate positive visual experiences along the Island's major roads, the beachfront, and the marshfront;
 - ii. Provide for the continued safe and efficient utilization of these roads; and
 - iii. Provide for the continued preservation and conservation of the beachfront and marshfront.
- b. This is accomplished through evaluation of development within the COR District by the Design Review Board (DRB), which is authorized to review the location, character, and appearance of new development and redevelopment. It is the purpose of such review to determine, in a cooperative fashion with the applicant, whether the proposed plan for development complies with the guidelines and other standards of this district.

2. Delineation of District

- a. The COR District shall include:
 - i. The rights-of-way and all parcels lying in whole or in part within 450 feet of each side of the rights-of-way of any road designated as a major or minor arterial in Sec. 16-5-105.B, Street Hierarchy;
 - ii. All parcels lying in whole or in part within 500 feet landward of the OCRM Base Line within the Town;
 - iii. All parcels lying in whole or in part within 500 feet of the OCRM Critical Line; and
 - iv. All parcels in the RD District, I-MX-C District, and I-MX-Coligny District.
- b. The approximate boundary of this COR District shall be shown on the Official Zoning Map.
- c. There shall be no alteration of the existing condition of land, uses, structures, landscaping, or lighting within the COR District, except in accordance with the requirements of this section and all other relevant provisions of this Ordinance.
- d. All proposed new development and changes to existing development located in the COR District shall be reviewed by the DRB in accordance with Sec. 16-2-103.I, Corridor Review (Minor and Major) , and receive DRB approval before proceeding with development, unless exempted in accordance with subparagraph e below.

¹⁸⁸ This section carries forward Chapter 4, Article V – Corridor Overlay District, from the current LMO, with minor formatting and grammatical changes to conform it to the changes made in the revised draft of the LMO.

- e. All public projects, with the exception of pathways, roads, and underground utilities, are subject to review by the Design Review Board.
- f. If a proposed development will not be visible from the corridor once the project is completed, the DRB may delegate review of the development to the Official through the Minor Corridor Review Procedure (Sec. 16-2-103.I.3).

3. Design Review Guidelines

The intent of the design review is not to stifle innovative architecture but to assure respect for and reduce incompatible and adverse impacts on the visual experience. To accomplish this, the DRB shall utilize the latest edition of the Hilton Head Island Design Guide, which is incorporated into this ordinance by reference, in reviewing and making decisions on development.

4. Streetscape Improvement Guidelines

Streetscape improvements include those architectural or functional facilities or structures that occur on site but are not part of the building, and that encourage and facilitate human interaction with the environment. Examples include, but are not limited to, decorative light fixtures, fountains, sculpture, benches and tables, planters, retaining walls, pedestrian and bicycle paths, bicycle parking structures, trash receptacles and enclosures, vendor areas, bollards and fences. These improvements shall be designed to be consistent with all guidelines of this section, and shall be reviewed for aesthetic functionality and compatibility with the Island character.

a. Lighting

- i. Decorative, low-level intensity, non-concealed source lighting that defines vehicular and/or pedestrian ways may be acceptable if not used as general lighting for a development.
- ii. All interior lighting shall be designed to prevent the light source or high levels of light from being visible from the corridor.
- iii. Exterior architectural, display and decorative lighting visible from the corridor shall be generated from a concealed light source or low level light fixtures. Color lamps shall not be used.
- iv. Site lighting shall conform to the provisions of Sec. 16-5-107, Site Lighting Standards.

b. Landscape Plans

Landscape plans for the proposed development shall provide visually harmonious and compatible settings for structures on the same lot and on adjoining or nearby lots and shall blend with the surrounding natural landscape. Natural appearing landscape forms are strongly encouraged; formal plans and the appearance of uninterrupted lines are discouraged. Landscaping may be required between buildings and sidewalks, parking lots and driveways. The scale of the proposed landscaping shall be in proportion to the building.

c. Signs

- i. New signs, replacement signs, or alterations to existing signs shall receive approval from the DRB (major signs) or the Official (minor signs), as provided in Sec. 16-5-113, Sign Standards, prior to installation.
- ii. Signs will be reviewed for compliance with the guidelines of this section and for compatibility with the Island character.
- iii. All signs shall meet all requirements of Sec. 16-5-113, Sign Standards.

5. Requirements Following Project Completion

- a. All appearance features, lighting, and landscaping required by the DRB and/or shown on the approved application shall be maintained by the present owner and all subsequent owners of the property.
- b. Changes beyond the owner's control shall be restored by the owner, unless otherwise provided.
- c. Any changes proposed by the owner shall require approval by the DRB.

G. Planned Development Overlay (PD-2) District¹⁸⁹

1. Purpose

This Planned Development Overlay (PD-2) District is intended to encourage creativity in design and planning in the development of parcels between five and 249 acres by allowing greater design flexibility than the underlying base zoning district so that natural features may be protected and development concentrated in more suitable or less environmentally sensitive areas.

2. Designation of District

A PD-2 Overlay District may be established in any base district other than the CON district using the provisions set forth in Sec. 16-2-103.D, Planned Unit Development (PUD) District/Master Plan.

3. Permitted Uses

Any use permitted by right, subject to use-specific conditions, or as a Special Exception in the underlying base district is permitted. Where multiple base districts are incorporated in the PD-2, the uses shall remain proportional to the area of the underlying base district(s).

4. PD-2 Listed Master Plans

The following PUDs are included in PD-2 Overlay Districts and their Town-approved master plans including associated text and any subsequent amendments are hereby incorporated by reference as a part of the Official Zoning Map and LMO text.

TABLE 16-3-106.G.4: PD-2 LISTED MASTER PLAN

FILE NAME	NUMBER	PARCEL	TAX MAP #
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¹⁸⁹ This section carries forward Chapter 4, Article VI – Planned Development Overlay District, from the current LMO, with minor formatting and grammatical changes.