

**TOWN OF HILTON HEAD ISLAND**  
**The Planning and Development Standards Committee**  
**Minutes of Special Meeting – Monday, April 13, 2009**  
**4:00pm – Benjamin M. Racusin Council Chambers**

**APPROVED**

Committee Members Present: Chairman Drew Laughlin, John Safay and George Williams

Committee Members Absent: Bill Ferguson

Council Members Present: None

Town Staff Present: Charles Cousins, Community Development Department Director  
Gregg Alford, Town Attorney  
Teri Lewis, LMO Official  
Steve Riley, Town Manager  
Kathleen Carlin, Administrative Assistant

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**I CALL TO ORDER**

**II 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.

**III UNFINISHED BUSINESS**

**Development Agreement**

A development agreement has been proposed between the Town of Hilton Head Island and PVI Shelter Cove Limited Partnership. The property subject to the agreement is that certain 42.45 acre tract known as The Mall at Shelter Cove, located at 24 Shelter Cove Lane, and further identified as Beaufort County Tax Map # 12B Parcel 26. The uses proposed in the agreement include all Commercial Uses, except as limited by LMO Section 16-4-209, Cinema Complex and Community Services.

Mr. Charles Cousins presented opening statements on behalf of staff. Mr. Cousins briefly discussed the agreement's revised timing which indicates a three-year time frame with the potential for an extension of one year based on reasons of financing or other types of hardships. This is the main change in the Development Agreement. Mr. Cousins also briefly discussed the provisions for bonding to make sure that the building is complete (added under section J-3). Mr. Cousins and the Committee briefly reviewed the 20-year term for community service use. Mr. Safay stated that the Development Agreement should also contain language that would allow the Town to terminate the lease at their discretion with appropriate notification to the lessor.

Gregg Alford, Esq., presented statements in regard to the lease agreement being limited to no more than twenty years even though the Development Agreement is limited to five years by State law. The Committee and Mr. Alford discussed the addition of an out clause for the Town in the lease.

Based on notice from the Town, a termination provision can be added to the lease agreement. The Committee and Mr. Alford discussed this issue; the Committee requested that it be added to the lease agreement. The Town should have the right to terminate the lease upon reasonable notice to the lessor . At the completion of Mr. Alford's presentation, Chairman Laughlin requested that Chester C. Williams, Esq., make his presentation.

Chester C. Williams, Esq., presented statements on behalf of his client, PVI Shelter Cove Limited Partnership, the owners of the Mall. Mr. Williams stated that his client (Mr. Walt Petrie) is out of town at this time. Mr. Williams cannot, therefore, commit to a decision today. Mr. Williams stated that today is the first time that he has heard about the option for the early termination of the lease. Hopefully, this will not be an issue for his client.

Mr. Williams stated that the two main issues are the condition of the lease space and the development timing. His client's main concern is being able to get financing in order to be able to complete construction within the three-year timeframe. The ability to extend that timeframe for another year should be helpful. At the completion of Mr. Williams' presentation, Chairman Laughlin requested public comments and none were received. Chairman Laughlin suggested that the Committee send the Development Agreement and Lease up as a package to Town Council for their consideration.

Mr. Steve Riley presented statements regarding the timing issue. The expectation is that this issue will be before Town Council for first reading on May 5, 2009. The rest of the associated documents should be included at that time as well. Mr. George Williams and Mr. Alford discussed the issue of tenant obligations associated with the lease agreement.

The Committee discussed forwarding this item to Town Council for their review with the understanding that the staff and legal counsel still needs to fine tune the issues that were discussed today (the lease agreement will continue to be worked on.) At the completion of the discussion, Chairman Laughlin requested that a motion be made.

Mr. Safay made the **motion to forward** the development agreement and the shopping center lease agreement to Town Council with a recommendation of **approval** with the caveats discussed. It is understood that much of this is yet to be negotiated and finalized with the hope that everything will be accomplished so that Town Council can review the completed package. Chairman Laughlin **seconded** the motion and the motion **passed** with a vote of 2-1-0. Mr. George Williams was opposed to the motion.

## VI ADJOURNMENT

The meeting was adjourned at 4:25pm.

Submitted By:

Approved By:

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Kathleen Carlin  
Administrative Assistant

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Drew Laughlin  
Chairman