

9. NEW BUSINESS

Proposed Ordinance No. 2010 – 15 Community Standards – Appearance Code

Ms. Jill Foster made the presentation on behalf of staff. The staff recommended that the Planning Commission provide a recommendation of approval on the (*attached*) municipal code amendment to Town Council.

Even though this is a municipal code amendment which does not require any type of review or public hearing by the Planning Commission, the Mayor has asked the staff to seek input from the Planning Commission for Town Council. The Mayor has requested that the Planning Commission recommend a motion on this issue following today's presentation.

At its 2009 annual workshop, Town Council discussed the lack of maintenance to existing non-residential development and the negative impact this can have on the community. Some of the items discussed were commercial buildings in disrepair, parking lots and driveways with pot holes, and tattered awnings. In January 2010, Town Council adopted a goal "*Commercial Appearance-- Town Role and Direction*" as part of their Policy Agenda for 2010: Targets for Action.

The municipal code amendment presented today includes changes to Municipal Code Title 9, Chapter 1 on "Public Nuisance." These Island-wide changes will affect only non-residential and multi-family buildings and structures, property and equipment. The proposed changes expand the definition of *Nuisance* to include properties, buildings and structures and outdoor equipment which negatively affect the economic value preservation of property and the surrounding properties with unmaintained conditions. These include a variety of enforcement actions that can be taken by the Town:

Describe the minimum maintenance and aesthetic standards on: (1) the exterior of buildings (selective items focusing on the aesthetics of the building and not its safety, which is currently regulated through other codes); (2) service equipment located on the exterior of the building (propane tanks, HVAC systems); and (3) property areas (eroded grading; hazardous drainage, sidewalks, driveways, drive aisles, parking spaces, streets & access easements; and deteriorating accessory structures such as fences & walls).

Ms. Foster stated that during subsequent discussions with the staff, Town Council directed staff to stay within the following parameters: (1) address only those situations which deal with aesthetics and maintenance and not those which deal with safety issues; (2) model the ordinance after parts of the International Property Maintenance Code; (3) regulate only non-residential structures & multi-family complexes and sites Island-wide; (4) regulate only the exterior of buildings (selective items focusing on the aesthetics of the building and not its safety).

Examples to be regulated could be: (a) deteriorating stucco, roofs, gutters, awnings, decorative features, chimneys & towers, handrails & guards; (b) equipment located on the exterior of the building (propane tanks, HVAC systems); and (c) property areas (eroded grading; hazardous drainage, sidewalks, driveways, drive aisles, parking spaces, streets & access easements; weeds; and deteriorating accessory structures such as fences & walls).

Ms. Foster discussed these concerns and presented several photographs of commercial property as examples: (1) Heritage Plaza with a sink hole/broken sidewalk; (2) a south end building - the former Technical College of the Lowcountry building - with a broken stairway; and (3) a south

end shopping center with a number of pot holes. Pot holes are a particular problem on Hilton Head Island. The Town's current Building Code regulations are not able to catch some of these problems. Ms. Foster and the Planning Commission discussed a number of aesthetics concerns with regard to peeling paint and excessive mold on buildings.

Mayor Tom Peebles stated that the full Town Council has not seen today's proposal (it has only been reviewed by the Planning & Development Standards Committee).

Ms. Foster and the Planning Commission then discussed several issues with regard to aesthetics. They also discussed issues with regard to safety, code enforcement, and the appeal process.

Brian Hulbert, Staff Attorney for the Town, provided statements in clarification of code enforcement issues. Mr. Hulbert and the Planning Commission discussed several issues including code violation, the notification process, and the appeal process. The staff anticipates a joint effort between Building Inspectors and Code Enforcement Officers.

Chairman Vadnais asked why concerns with aesthetic issues, such as peeling paint and excessive mold, were excluded from today's proposal by the P&DS Committee (staff was unable to speak for the committee). Ms. Foster reviewed staff's method of research, some of which was gleaned from other municipalities. The staff and Planning Commission discussed concerns with the huge enforcement effort that is associated with aesthetic issues (because they are often subjective and difficult to enforce).

Ms. Foster stated the amendments regulate the exterior of a commercial building and the site itself. They do not regulate the interior of a building. The staff and the Planning Commission discussed the Purpose Statement, responsibilities, negative economic impacts, enforcement issues, and safety issues.

Commissioner Crews presented statements regarding the sensitivity of the issue and the desire to deal with these problems. We might be trying to 'cure a symptom' rather than 'dealing with the cause'. Commissioner Crews stated that the notion of an 'appearance police' is somewhat troubling (as far as government regulation goes). Chairman Vadnais stated that he believes just the opposite – the proposal does not go far enough.

Commissioner Leary and Commissioner Docherty presented statements in agreement with Chairman Vadnais. The proposed effort will provide needed protection for property values both commercial and residential values.

The Planning Commissioners discussed this issue at length. They also discussed economic values and economic incentives, as well as code enforcement. It will be important to define negative impact.

Mr. Charles Cousins presented statements regarding Town Council's direction to the staff and the staff's efforts in not being 'heavy handed'. Mr. Cousins and the Planning Commission discussed concerns with current economic conditions and the level of commitment shown by some commercial property owners in properly maintaining their property.

The staff and the Planning Commission discussed the standard of ‘public nuisance’ and the subjective term, ‘negative impact’. They also discussed compliance issues associated with notices of action provided by the Design Review Board.

Chairman Vadnais stated that today’s amendment does not go far enough. It’s a start, but it should be broader. Rather than code enforcement, for example, ‘writing a ticket for too much mold’ Commissioner Crews recommended that group of individuals (like a Design Review Board) makes these types of aesthetic determinations.

At the completion of the discussion, Chairman Vadnais requested public comments: Mr. Kumar Viswanathan, citizen, presented statements regarding the regulation and the need to address the long-term cause and trends (rather than just short term). Chester C. Williams, Esq., presented statements with regard to the need for objective standards. There is too much subjectivity with today’s proposal. Mrs. Mary Amonitti presented statements in regard to code enforcement in other municipalities.

Mr. Brian Hulbert provided details regarding the Town’s current code enforcement process. Ms. Foster presented details regarding the staff’s method of research in developing the proposal including details regarding similar efforts by other municipalities.

At the completion of final discussion by the Planning Commission, Chairman Vadnais requested that a motion be made on Proposed Ordinance No. 2010 – 15 Community Standards – Appearance Code that returns this item to the staff for additional review. The staff should broaden the proposed appearance code standards; and, look into the administrative process for the appeal procedure.

Commissioner Leary **made** the motion as stated by Chairman Vadnais. Commissioner Docherty **seconded** the motion. The motion **passed** with a vote of 6-0-0.

10. COMMISSION BUSINESS

None

11. CHAIRMAN’S REPORTS

Chairman Vadnais stated that he will present the Planning Commission’s Semi-Annual Activity Report (January – June 2010) to Town Council on Tuesday, September 21, 2010.

12. COMMITTEE REPORTS

Mr. Shawn Colin presented a summary of the Comp Plan Committee meeting on September 13th.

13. STAFF REPORTS

1. Mrs. Jayme Lopko presented the Quarterly Report to the Planning Commission.
2. Mrs. Lopko presented the Project Update to the Planning Commission.

Chet Williams, Esq., stated that the Planning Commission Minutes from the September 1, 2010 meeting contain an error with regard to the applicant’s postponement of APL100006.

14. ADJOURNMENT

The meeting was adjourned at 5:10pm.

Submitted By:

Kathleen Carlin
Administrative Assistant

Approved By:

Al Vadnais
Chairman