

THE TOWN OF HILTON HEAD ISLAND
Planning Commission
LMO REWRITE COMMITTEE MEETING
August 4, 2011 Minutes

1:00p.m. – Benjamin M. Racusin Council Chambers

APPROVED

Committee Members Present: Chairman Tom Crews, David Bachelder, Jim Gant, Walter Nester, Councilwoman Kim Likins, *Ex-Officio*; and Charles Cousins, Director of Community Development, *Ex-Officio*

Committee Members Absent: Vice Chairman Gail Quick, David Ames, Irv Campbell, and Chris Darnell

Planning Commissioners Present: Loretta Warden and Tom Lennox

Town Council Members Present: Bill Ferguson

Town Staff Present: Jill Foster, Deputy Director of Community Development
Heather Colin, Development Review Administrator
Kathleen Carlin, Administrative Assistant

1) CALL TO ORDER

Chairman Crews called the meeting to order at 1:00p.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 agenda was approved as presented by general consent.

4) APPROVAL OF THE MINUTES

The minutes of the July 28, 2011 meeting were approved as presented by general consent.

5) NEW BUSINESS

A. Public Comment – Chairman Crews requested public comments and none were received.

B. Discussion of Nonconformities – The directive from Town Council on dealing with nonconformities is: (1) to evaluate the policy; and (2) to develop a framework to facilitate improvement of existing non-conforming sites. The three types of nonconformities are: (1) Nonconforming Use; (2) Nonconforming Structure; and (3) Nonconforming Site Feature.

The staff will begin their presentation with the Nonconforming Use category. A Nonconforming Use is defined as: (1) a use that was legally established but now is not

allowed in the current zoning district; and (2) a use that was legally established but does not meet any required specific use requirements.

As a starting point to the presentation, Mr. David Bachelder stated that nonconformities have over time traditionally been viewed as a bad thing. Nonconformities should really be viewed as opportunities for the Town. The goal should be to improve and advance nonconformities. The committee briefly discussed this point and then Chairman Crews requested that staff make their presentation on nonconformities.

Ms. Heather Colin presented a couple of examples of nonconforming use. Currently someone cannot get a variance to allow a nonconforming use to be extended or enlarged. Nonconforming uses do not qualify for the existing waiver process which is only designed to work for nonconforming structures and site features. Currently the only way to redevelop (expand or enlarge), a nonconforming use is to go through the redevelopment floating zone process.

The committee and staff reviewed the following list of possible solutions for nonconforming use: (1) allow uses to go through a modified waiver process; (2) extend the grandfathering of a nonconforming use beyond the current 12 months; (3) change the zoning map to make it more reflective of the uses that exist; (4) make the use table more general and have fewer conditions for uses; (5) Change the LMO to allow the BZA to grant use variances; (6) have a codified broader interpretation of nonconforming uses; (7) make changes to the redevelopment floating zone process so that the flexibility can be granted at the staff level and so that a rezoning is no longer needed.

The committee stated that nonconforming uses will never be eliminated altogether. The goal should be to reduce the number of nonconformities. New language should be drafted that emphasizes what is allowed rather than what is not allowed. One of the nonconformities should be able to be brought up to standards without having to bring all nonconformities up to standards.

The committee suggested that the use issue should be treated in a waiver-like process rather than a floating zone process. The committee discussed extending the grandfathering of a nonconforming use beyond the current 12 months. The committee stated that this is a good idea. The committee discussed changing the LMO to allow the BZA to grant use variances.

The committee and staff discussed the two processes for dealing with nonconformities: (1) administrative waiver; and (2) floating zone. Town Council has directed that administrative waivers be improved. A process that will allow more waivers at the staff level is recommended. A floating zone is defined in the text of a zoning ordinance, but is unmapped, and requires approval by the local legislative body. Upon approval, the parcel is rezoned to reflect the new designation and becomes a zoning district. Ms. Colin reported that only one property has redeveloped so far under the floating zone (a dog kennel located on Fish Haul Road).

Following this discussion, Ms. Colin presented the Nonconforming Structure category. A nonconforming structure is a structure that does not conform to any LMO standards including height, density, setback from any lot line or from the street, building coverage, or building

design. It is also a structure that fails to conform to any applicable provision of an approved development plan as to height, density, setback from any lot line or from the street, building coverage, building size, or building design. Ms. Colin reviewed a couple of examples of nonconforming structure with the committee. The LMO states that nonconforming structures shall not be expanded, enlarged or extended unless the result is to bring the structure in conformance with the LMO, or if the waiver process is used. Ms. Colin stated that staff tries to be very flexible with the waiver process and works closely with applicants to ensure that it is a win-win for everyone involved.

The committee and staff reviewed the following list of possible solutions for Nonconforming Structure: (1) clarify that height and density are the only things that can make a structure nonconforming; (2) better public education so that the public understands what this waiver section offers and that one can make changes to a nonconforming structure without bringing everything into conformance; (3) offer more densities using an incentive program; (4) make changes to the redevelopment floating zone process so that the flexibility can be granted at the staff level and so that a rezoning is no longer needed. The committee stated that better public education with regard to what the waiver section offers will be important. Following this discussion, Ms. Colin presented the Nonconforming Site Feature category.

A Nonconforming Site Feature is a site feature that does not conform to current LMO standards such as lack of or size of buffers/setbacks, lack of or inadequate parking, lack of or inadequate landscaping and fence height or location. Ms. Colin presented a couple of examples of Nonconforming Site Feature, including encroachments into the required street setbacks and buffers, and parking and drive aisles that are not in conformance with current LMO standards.

The LMO states that nonconforming site features should be brought into conformance to the extent practicable when that feature is altered. Ms. Colin stated that staff tries to be very flexible with the waiver process and works closely with applicants to ensure that it is a win-win for everyone.

The committee and staff discussed a list of possible solutions to Nonconforming Site Feature: (1) create more flexibility within the design standards; (2) better public education so that the public understands what this waiver section offers and that one can make changes to a portion of a nonconforming site without bringing the entire site into conformance; (3) make changes to the redevelopment floating zone process so that the flexibility can be granted at the staff level and so that a rezoning is no longer needed.

The committee stated that the waiver process needs to be improved and made clearer.

Public Comments: Chester C. Williams, Esq., presented statements with regard to State Code and Use Variances. Mr. Williams and Mr. Charles Cousins commented on building code issues including the 50% Rule.

C. Discussion of PD-1 Zoning District Issues

The directive from Town Council on dealing with PD-1 Zoning District Issues is: (1) to evaluate the use of master plans for zoning purposes; (2) consider more broad designations of allowed uses and densities; (3) develop a framework to establish consistent development regulations for all PUDs; (4) evaluate the 'use it or lose it' clause and determine appropriate applications.

The committee and staff discussed the 'use it or lose it' clause at length. They also discussed the development of a framework to establish consistent development regulations for all PUDs. The committee discussed allowing PUDs to handle internal land use issues without going through a ZMA.

Public Comments: Chester C. Williams, Esq., presented statements with regard to master plans in PUDs (density issues).

Please see the LMO Committee Working Notes dated August 4, 2011 for the complete list of issues.

Following final comments by Chairman Crews, the meeting was adjourned at 3:10p.m.

Submitted by:

Approved by:

August 11, 2011

Kathleen Carlin
Administrative Assistant

Tom Crews
Chairman