

THE TOWN OF HILTON HEAD ISLAND
Planning Commission
LMO REWRITE COMMITTEE MEETING
September 1, 2011 Minutes

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

APPROVED

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

Committee Members Absent: None

Planning Commissioners Present: Loretta Warden

Town Council Members Present: Bill Ferguson

Town Staff Present: Jill Foster, Deputy Director of Community Development
Teri Lewis, LMO Official
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 August 25, 2011 meeting were approved as presented by general consent.

Before moving to New Business, Chairman Tom Crews stated that the Greater Island Council held their monthly meeting this morning, and Ms. Jill Foster was the featured speaker. Ms. Foster's presentation on the Town's new permitting process was very well received by the public.

Vice Chairman Gail Quick agreed with Chairman Crews and stated that the most exciting part of the meeting was the fact that several of the Town's most vocal critics stood up and praised the staff, not only for their presentation, but for what they personally have experienced interacting with the Town since the new process began. These individuals reported how much they appreciate the many improvements that have been made by the Town including the streamlined process and the helpful attitude of staff. Vice Chairman Quick stated that these testimonies had a big impact on the audience. The physical display of the permitting process

(across the stage showing where the process had been to where it is today) was also very well received. For the record, Vice Chairman Quick also recognized Mr. Terry Ennis for his many valuable contributions and countless volunteer hours working with staff to help make the new process a success. Vice Chairman Quick recommended that the new information be published for public review. The Town should consider having a Public Information Officer who is responsible for keeping the public informed in a pro-active and positive way. The Town's many accomplishments should be communicated effectively to the public. The LMO Rewrite Committee thanked Vice Chairman Quick for her statements.

5) **NEW BUSINESS**

Public Comment:

Chairman Crews then requested public comments from the audience and none were received.

Chairman Crews stated that the next business item is the committee's review and discussion of the revised Objectives and the tasks earmarked for a consultant and the staff for the four remaining issues: (1) Nonconformities; (2) Ward One Issues; (3) PD-1s; and (4) Revitalization and investment areas. Chairman Crews requested that Mr. Jim Gant begin his presentation (*on the attached LMO Report*).

Nonconformities:

Background: The three types of nonconformities (use, density, and site features) are confusing. These regulations limit the ability for redevelopment in that they require conformance to the extent possible: (1) the number of zone types, specific uses and development history create many nonconformities; (2) nonconforming uses do not qualify for the existing waiver process, requiring exceptions to use the floating redevelopment zone process which is complex; (3) commercial owners need the assurance that in the event of a single-building disaster, they will be allowed to rebuild the 'as is' building in the same manner they would if the building was destroyed in a major disaster; (4) the 12-month abandonment rule appears to be too short; (5) design criteria in certain areas were established for a more suburban feel and make the sites nonconforming, when they probably should be drafted for a more urban setting.

Mr. Gant and the committee reviewed their List of LMO Revision Objectives for nonconformities: (1) create an environment that enables improvement of existing non-conforming properties; (2) eliminate nonconforming uses through a more comprehensive integrated zoning approach that reduces specificity of uses and has fewer districts and employs a mix of uses; (3) improve communication on what property owners can do to improve nonconforming site features; (4) provide education to improve communication with property owners.

The committee then reviewed their list of Tasks for a Consultant: (1) consider what methods can be used to continue to allow non-conformities (or to make the non-conformities conforming without making changes to the site/structure); (2) identify possible incentive approaches to encourage nonconforming sites/structures/features; (3) review the ordinance as it relates to nonconformities in an effort to encourage redevelopment (examples: allow for flexibility in buffers & allow for flexibility in parking design standards); (4) identify ways to reduce the number of nonconformities; (5) determine if Priority Investment Areas should have different non-conforming provisions to enhance redevelopment and private investment.

Mr. Gant and the committee then reviewed the list of Staff Tasks: (1) research whether to allow the Board of Zoning Appeals (BZA) to grant use variances. The State allows for use variances, but it isn't considered a good practice; (2) consider allowing nonconformities through some sort of vesting or waiver process (allow uses to be 'waived' versus going through a rezoning; (3) research if we have the ability to produce a letter guaranteeing a grandfathering of nonconformities (site, building, use).

As part of their discussion, the committee recommended removing and replacing the word "relax" throughout the document due to possible misunderstanding by the public. The committee will consider other wording. The committee discussed Transfer of Development Rights (TDR) as well as the RFQ (Request for Qualifications) with the staff. Ms. Lewis stated that staff is preparing a draft RFQ which will be presented to the committee in advance of the September 15th meeting. Following final comments, Mr. Gant and the committee moved to Ward One issues.

Ward One Issues:

Background: Some individual issues identified in the R/UDAT study and the Native Island Committee Response to the R/UDAT may be beyond the scope of the LMO Rewrite Committee.

The following issues are addressed by the LMO: (1) subdivision of property into five lots or fewer and related infrastructure issues creates problems with who puts in the infrastructure (title issues & other legislative issues relating to heirs property). In some cases the need to subdivide is driven by estate settlement versus any desire to actually build on property at the current time. What infrastructure is actually needed during subdivision to avoid creating problems later when some lots want to develop; (2) existing road standards are viewed as too rigorous for family-based development; (3) setback requirements in Stoney and Chaplin limit the ability to develop on the small, narrow lots located there; (4) need for public education and understanding as to why and what residents of Ward One have to do to develop their property; (5) need flexibility to remove trees from the interior of active cemeteries; (6) lack of sewers and other infrastructure might be outside scope of LMO and solved through other methods.

Mr. Gant and the committee reviewed their list of LMO Revision Objectives for Ward One: (1) improve and simplify process for subdivision of family and heirs property for estate planning purposes and family-based development (residential only); (2) identify ways to educate people about the challenges facing development in Ward One; (3) Consider if there should be a different definition for development as it pertains to the subdivision of heirs or family property for residential purposes.

Mr. Gant and the committee reviewed the Consultant Tasks: (1) explore development of reduced residential road requirements for family subdivision and heirs property; (2) explore applicability of "family compound" regulations to ease setback and buffer requirements; (3) consider use of restrictive covenants regarding long term acceptance of minimal road standards to alleviate installation cost being borne by first property owner to build; (4) investigate if there are State and Federal regulations impacting heirs' property.

The committee discussed the requirements for infrastructure in developing fewer than five lots. The committee also discussed the need to fine tune some of the wording in this section.

Chester C. Williams, Esq., spoke regarding the Town's requirements for developing five or fewer lots. Following final comments by the committee, Mr. Gant moved to the next issue.

Council Directive - Address PD-1's:

Background: (1) Lack of consistency in Master Plans in allowed uses and densities makes it difficult to understand the zoning and master plans; (2) Property Owners Associations desire the ability to manage Natural Resources in common areas as they do in their larger communities; (3) the "use it or lose it clause" is applied to individual lots within Planned Unit Developments (PUDs) in addition to the large tracts of land that it was intended to address. The result is an equity issue between lots in a PUD and a lot outside which does not lose its density when developed; (4) current LMO limits redevelopment of property to originally-built density even if the Master Plan defined larger density.

Mr. Gant and the committee reviewed their list of LMO Revision Objectives for PD-1s: (1) standardize nomenclature and explore increased flexibility in use designations within Master Plans; (2) create flexibility for redevelopment in Planned Unit Developments by reviewing "use it or lose it" clause and other restrictions.

Mr. Gant and the committee then reviewed the Consultant Tasks. These items are not related to the LMO, but could be researched by a consultant: (1) determine if the existence of the "use it or lose it" clause is a negative to redevelopment on the island; (2) consider how much density existing PUDs should have in terms of the 'use it or lose it' clause; (3) 'use it or lose it' issue deals with small lots within PUDs that 'lost' its unused density. The intent of the 'use it or lose it' clause was to catch very large tracts and their unused density. There is an equity issue since this clause applies only to PUDs and not non-PUD areas; (4) does it make sense to eliminate the clause at least in terms of commercial development – fairness issue between the PUDs and areas outside of PUDs; (5) explore options to incent redevelopment of major hotels (all are located in PUD's), including increased density; (6) consider having consistent broader regulations among all PUDs; (7) develop standardized nomenclature and expanded use designations within master plans; (8) explore how to have a successful TDR program in PUDs despite the 'use it or lose it clause'.

Next, Mr. Gant and the committee reviewed the Staff Tasks: *Legal Discussion* (1) consider if PUDs can handle internal land use issues without going through the master plan amendment (rezoning) process; (2) consider whether some PUDs should be allowed to manage their own open space and some other internal projects with very limited Town review -- specifically design standards & natural resources regulations.

As part of the discussion, Chester C. Williams, Esq., spoke regarding the amendment of the master plan, zoning and re-zoning. The committee discussed the use of master plans and the 'use it or lose it' clause. The committee reviewed the directives received from Town Council (specifically, items # 1 & 2). The committee also discussed the transfer of densities within a PUD.

Chairman Crews and Ms. Jill Foster discussed (the Town's) seeking permission from some State Agencies to take over some regulatory functions at the Town level. Ms. Foster stated

that staff is currently working on this issue. Following final comments, Mr. Gant move to the next issue, Identify and prioritize revitalization and investment zones:

Revitalization and Investment areas:

Background: Town Council directive - Identify and prioritize revitalization and investment zones: (1) ensure that the LMO enables specific development uses in key areas (including density, parking, etc); (2) develop area-specific plans (Design Standards or Neighborhood Master Plan) to address specific redevelopment zones.

Mr. Gant and the committee discussed their list of LMO Revision Objectives: (1) ensure that the LMO enables specific development uses in key areas (including density, parking, etc); (2) propose the following key re-development/revitalization areas based on their opportunity to leverage additional redevelopment and overall impact to the community – (a) i.e. Bridge to the Beach and Coligny area (existing Tax Incremental Financing district); (b) Shelter Cove and Shelter Cove Mall area including Chaplin (existing Tax Incremental Financing district); (c) Mitchelville historical area, Mathews/Highway 278 intersection including Pineland Mall and Northridge areas; (d) Island entrance (including Stoney).

Mr. Gant and the committee then reviewed the Consultant Tasks: (1) create more flexibility for redevelopment projects instead of using the redevelopment floating zone to create an easy process; (2) identify incentives for redevelopment in key areas: (a) more density; (b) shift the focus of zoning use restrictions; (c) design standard flexibility; (d) shift the focus of regulations on redevelopment; (e) identify other tools; (f) brownfield development before greenfield development; (6) for hotel/tourism development/redevelopment; (3) define language to create ‘economic development’ priority zone; (4) consider using Transfer of Development Rights (TDR) as a tool to encourage redevelopment. Need to think about how far densities can be bumped up or down without negatively affecting property rights. Need to identify those areas where we want to transfer from and transfer to; (9) ensure that any proposed zoning changes help not hinder redevelopment efforts in the five identified areas.

Mr. Gant and the committee then reviewed the list of Staff Tasks: (1) Non-LMO Issues - Attract a 1500 seat stand along convention center; (2) encourage a center for performing arts for children to learn; (3) five-star hotels (most likely within the PUDs); (3) Address certain impediments associated with the revitalization of the Mall at Shelter Cove and Coligny Plaza; (4) additional community space may be needed to develop a true sense of community; (5) advance Hilton Head Island as a leader in comparison to other municipalities; (6) need to figure out a way to assist older buildings with redevelopment within confines of the FEMA floodplain requirements. *Research:* (1) research and develop financial incentives; (2) identify areas that can and cannot support density (a) focus redevelopment on a small number of areas with attainable results in moderate timeframe; (b) emphasize and encourage cultural, corporations, historical aspects to enhance economic development; and (c) encourage private investment of new businesses with public infrastructure.

The committee discussed their views on revitalization and investment areas. Some larger investment areas and some smaller investment areas were discussed at length. The committee stated that some hotels are looking for ways to renovate right now. Needed flexibility in height and density could assist them to redevelop quickly. The committee discussed the hierarchy of things to identify. How is the choice made? The committee may develop a tier of

possibilities for the consultant. Some of these possibilities will take time - others are very quick. Area hotels are looking for incentives right now. The committee discussed the issue of raising densities in PUDs. Who makes that choice? The committee discussed a more limited approach as well as the restricted budget and restricted resources.

The committee discussed the role of the consultant at length. The consultant will work closely with the staff and the LMO Rewrite Committee throughout the process. The committee reviewed their upcoming meeting schedule. Ms. Lewis stated that Mr. Todd Ballantine will speak to the committee on September 22nd.

Chairman Crews presented brief comments regarding the recent Clemson Study. The committee stated that they would review their final report.

Following final comments by Chairman Crews, the meeting was adjourned at 2:35pm.

Submitted by:

Approved by:

September 15, 2011

Kathleen Carlin
Administrative Assistant

Tom Crews
Chairman