

TOWN OF HILTON HEAD ISLAND
Regular Planning Commission
Wednesday, June 6, 2012 Meeting
9:00a.m – Benjamin M. Racusin Council Chambers

APPROVED

Commissioners Present: Chairman Loretta Warden, Vice Chairman Tom Lennox, David Bennett, Alex Brown, Jack Docherty, Bryan Hughes, Gail Quick and Barry Taylor

Commissioners Absent: Terence Ennis, Excused

Town Council Present: None

Town Staff Present: Randy Lindstrom, Administrative Battalion Chief
Lavarn Lucas, Fire Chief
Anne Cyran, Senior Planner
Teri Lewis, LMO Official
Jayme Lopko, Senior Planner & Planning Commission Coordinator
Kathleen Carlin, Secretary & Administrative Assistant

- 1. Call to Order**
- 2. Pledge of Allegiance to the Flag**
- 3. Roll Call**
- 4. 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 Town of Hilton Head Island requirements.
- 5. Approval of Agenda**
The agenda was **approved** as presented by general consent.
- 6. Approval of Minutes**
The Planning Commission **approved** the minutes of the May 16, 2012 meeting as presented by general consent.
- 7. Appearance by Citizens on Items Unrelated to Today's Agenda**
 - A. Mr. Peter Ovens presented comments regarding the location and intent of the third lane of Highway 278 between Spanish Wells Road and Jarvis Park Road. Mr. Ovens stated his concern with proposed plans to change the third lane. Mr. Ovens requested that the Planning Commission place this item on a future agenda for additional review. Chairman Warden presented statements regarding this issue on behalf of the Planning Commission and thanked Mr. Ovens for his comments. Chairman Warden requested that staff forward these comments to the Traffic Engineer.
 - B. Chester C. Williams, Esq., stated that he has been appointed legal representative to Ms. Frances (Bolin) Marscher, co-property owner, for Zoning Map Amendment Application ZMA120005. Mr. Williams requested that the Planning Commission take a 15-minute recess prior to the public hearing for this application. Chairman Warden stated that there are

potential changes to this application that may affect the Planning Commission's review. Chairman Warden agreed to take a brief recess prior to opening the public hearing for ZMA120005.

8. Unfinished Business

None

9. New Business

Public Hearing

ZMA120004: A request from Michael Kronimus with KRA Architecture & Design, on behalf of Stewart Kittredge Collins, to amend the Official Zoning Map by increasing the allowed density and revising the allowed uses on eight properties located at 421, 424, 425 and 427 Squire Pope Road, collectively known as Salty Fare. All of the properties are located in the PD-1 (Planned Unit Development) Zoning District in Hilton Head Plantation, and the request proposes to maintain the PD-1 zoning classification. The properties are further identified on Beaufort County Tax Map 3 as Parcels 121, 126, 127, 128 and 089A.

Chairman Warden reported that the review of this application is postponed to the Planning Commission meeting on June 20, 2012 at 3:00p.m.

STRNM120001: The Town of Hilton Head Island Fire and Rescue has applied to name a new street that will be located off Queens Folly Road in Palmetto Dunes. This new street will provide access to the new fire station. The proposed name is Dalmatian Lane. Chairman Warden opened the public hearing for this application and requested that the staff make their presentation.

Mr. Randy Lindstrom made the presentation on behalf of staff. Staff recommended that the Planning Commission *approve* the application based on the review criterion outlined in the Land Management Ordinance and contained in the staff's report. Dalmatian Lane is the proposed street name for the road leading to the new fire station in Palmetto Dunes. The name was selected by a poll from the fire department. All fire staff was asked to submit names they would like to see for the new street. A list was created and staff voted. The name is unique and does not conflict with other road names in the county. The Planning Commission and Mr. Lindstrom discussed the application. Fire Chief Lavarn Lucas presented additional comments regarding the intent of the application on behalf of Fire & Rescue.

Following staff's presentation, Chairman Warden requested public comments and none were received. Chairman Warden then stated that the public hearing for this application is closed. Following final comments by the Planning Commission, Chairman Warden requested that a motion be made.

Vice Chairman Lennox made a **motion** to **approve** new street name application STRNM120001 as presented by staff. Commissioner Docherty **seconded** the motion and the motion **passed** with a vote of 8-0-0.

Based on Mr. Williams' request to take a brief recess prior to opening the public hearing for the next application, ZMA120005, Chairman Warden stated that the Planning Commission will take a 10-minute recess at this time. The recess began at 9:18a.m and Chairman Warden reconvened the meeting at 9:28a.m. The Planning Commission then proceeded with their review of application for Zoning Map Amendment ZMA120005.

Public Hearing

ZMA120005: A request from Ernest Marchetti proposing to amend the Official Zoning Map by changing the zoning designation of three properties located at 120 and 118 Mathews Drive and 7 Shrimp Lane from the IL (Light Industrial) Zoning District to the CC (Commercial Center) Zoning District. The properties are further identified on Beaufort County Tax Map 8, as Parcels 154, 162 and 111. Chairman Warden opened the public hearing for this application and requested that the staff make their presentation.

Ms. Anne Cyran made the presentation on behalf of Ms. Nicole Dixon, case manager for the application. Staff recommended that the Planning Commission find this application to be *inconsistent* with the Town's Comprehensive Plan and does not serve to carry out the purposes of the LMO, based on those Findings of Facts and Conclusions of Law as determined by the LMO Official. Based on these findings, the staff recommended that the application be *denied*.

The staff received a zoning verification request for two adjoining properties located at 120 Mathews Drive and 7 Shrimp Lane. In the request, it was mentioned that there was someone interested in purchasing the properties to open an Auto Parts sales business. In the response letter back to the applicant, Town staff informed them that an auto parts sales use, which is classified as retail sales, is not a permitted use in the IL zoning district.

Mr. Ernest Marchetti, representing the interested buyer, came in to meet with Town staff regarding their options. He was made aware that the use was, in fact, not permitted in the IL district. He decided to apply for a rezoning of the two properties, in addition to the property across Shrimp Lane at 118 Mathews Drive. The applicant is proposing to change the zoning designation of the subject properties from IL to the CC zoning district.

There are currently two vacant buildings at 120 Mathews Drive and 7 Shrimp Lane, which used to be a furniture store. The applicant wishes to tear down the building at 7 Shrimp Lane to use for parking and open an auto parts store at 120 Mathews Drive. There is currently a furniture store in operation at 118 Mathews Drive. One property is conforming and the other two are vacant but were previously conforming to the existing IL zoning district.

The area surrounding the properties subject to the rezoning contains a mix of uses: a vacant property to the south, warehouse type buildings to the west, shopping center and Palmetto Electric building across Mathews Drive to the east, and multi-family residential to the north.

When reviewing a rezoning request, one of the things staff looks at is why the applicant is making the request. There have been several rezoning requests within the last year where an applicant wishes to rezone, not because the zoning district isn't functioning properly in that area, but because they have a particular use they want for a particular property, even though it isn't currently zoned for that use. The only option they pursue is to request to rezone to a district that allows their proposed use. For example, the Verizon business and the adjacent vacant property were rezoned from OL to CC in June 2011 because the applicant stated they had someone interested in purchasing the property for auto parts sales and a drive through restaurant. The property is still vacant a year later.

Another example is the South Island Square rezoning from OL to CC that was approved in November 2011. The applicant stated they needed to rezone to allow a mattress store to occupy the vacant building in South Island Square, which was previously occupied by a doctor's

office. The property was rezoned to CC, but the vacant building is now occupied by a doctor's office, a use which was permitted in OL zoning district.

Town Council recently denied a rezoning request for someone wishing to occupy the old Hargray building with a mattress store; that is one more example of a business owner wishing to change the zoning of a property to fit a very specific use and tenant rather than trying to find available commercially zoned property.

Another problem staff foresees is that just because an applicant states they have someone interested in purchasing a property should it be rezoned, it doesn't mean it is necessarily going to happen, as we can see from the examples stated above. It is important to keep in mind that once rezoned from IL to CC, any use allowed in the CC zoning district is now available to those particular properties. Should the vacant furniture store not be occupied by an auto parts store, it is now open to any use in the CC district; some of these uses may not be appropriate in that area.

It needs to be stressed to these applicants that instead of trying to rezone properties to suit particular uses, they need to look for available properties within zoning districts where the requested use is permitted so that the Town doesn't establish a surplus of CC zoned property, or any other district for that matter, and too little IL zoned property.

While staff finds the application meets most of the criteria required for a rezoning, the staff is recommending *denial* of this rezoning request for the reasons stated. The Town should not continue to rezone properties for one particular business or use when there are other CC zoned properties available.

The applicant states in the narrative that the proposed application to rezone the subject properties from IL to the CC zoning district is more in character with the existing commercial uses on Mathews Drive. The applicant feels that the requested CC zoning is in conformance with the objectives of the Comprehensive Plan, to have commercial property situated where it serves the Island residents and guests in a safe and efficient manner and to focus future development on infill development.

The applicant also states that the Land Use Element of the Comprehensive Plan provides that infill development of the commercial context should be the focus of future development, and that this rezoning request allows that to happen. Ms. Cyran briefly reviewed the Findings of Fact and Conclusions of Law. Following staff's presentation, Chairman Warden requested that the applicant make his presentation.

Chester C. Williams, Esq., stated that he has been appointed legal representative to Ms. Frances (Bolin) Marscher, a co-property owner, for this application. Chairman Warden requested verification of Mr. Williams' appointment as his name does not appear on this application. Mr. Williams stated that Ms. Frances Marscher is present in the audience. Ms. Marscher provided a verbal verification of Mr. Williams' appointment as her representative. Chairman Warden then requested that Mr. Williams make his presentation.

Mr. Williams stated that he disagrees with the staff's recommendation for denial of the application. Mr. Williams stated that there are many similarities between this application and several other zoning map amendment applications recently reviewed by the Planning Commission. Much like several other zoning map amendment applications, this application

seeks to rezone property that has long functioned as a commercial area. Mr. Williams presented an overhead review of the site and the zoning map. Mr. Williams stated that economic development and redevelopment is a large part of the Town's goals. Mr. Williams stated that Auto Parts Sales is a permitted use by right in the IL district. The retail accessory component to a wholesale use is allowed as a conditional use.

Mr. Williams completed his presentation by stating that he is hopeful of working with staff to provide them with the necessary paperwork that will enable this to be either a by-right use or conditional use application in the IL district. Mr. Williams stated that he believes this application is in conformance with the Comprehensive Plan. Mr. Williams stated that he will pursue the possibility that the wholesale business with accessory retail component is already permitted under the current zoning. However, just to be sure, Mr. Williams is also asking the Planning Commission to proceed with today's rezoning application. At the completion of Mr. Williams' presentation, the Planning Commission discussed the application.

Commissioner Quick requested written notification of Mr. Williams' appointment as legal representative to Ms. Marscher. Commissioner Quick presented statements in concern of this zoning map amendment application (as well as other zoning map amendment applications referred to that have appeared before the Planning Commission). Commissioner Quick, Vice Chairman of the LMO Rewrite Committee, stated that the LMO Rewrite Committee recognizes that the current Land Management Ordinance is outdated and needs to be fixed. Today's discussion is a perfect example of why the LMO needs to be rewritten.

Commissioner Quick stated concern that much of today's discussion is speculative. Piece meal rezoning is of concern to the LMO Rewrite Committee. We are at the threshold of developing an Economic Development Commission that will recruit businesses that are appropriate to the island. Given the dual track that Mr. Williams has laid out before the Planning Commission, and his last-minute representation, it's difficult to support this application. Following this discussion, Chairman Warden requested public comments and the following were received:

Ms. Frances Marscher, co-property owner, presented brief comments in support of the application. Ms. Marscher stated that she will provide written notification of Mr. Williams' appointment as requested. Mr. Ernest Marchetti presented brief statements in support of the application on behalf of his client, Ms. Mary Janet Hennesy. Ms. Hennesy is the other co-property owner on the application and is not present at today's meeting.

Mr. Colin Hartsog, with Hartsog Holdings, presented statements with regard to his business interest in Advance Auto Parts. Mr. Hartsog discussed the age and the renovation of the two buildings. The Planning Commission and Mr. Hartsog discussed Mr. Hartsog's efforts to find available commercial sites on the island. Mr. Hartsog stated that he looked at about 10 commercial properties most of which were cost prohibitive for Advance Auto Parts. Mr. Hartsog discussed the site size that is required by Advance Auto Parts.

Following all public comments, Chairman Warden stated that the public hearing for this application is closed.

The Planning Commission discussed the application. Commissioner Docherty stated that he is in favor of approving the application because this business owner is interested in the site and it seems to be a good fit. Commissioner Bennett agreed that the application should be approved. Commissioner Bennett stated that these small parcels are not very conducive to light industrial

use and they run the risk of remaining vacant. This is a good opportunity to improve an existing vacant building and improve the island. Commissioner Hughes also agreed that the application should be approved as the use is appropriate to the site.

Vice Chairman Lennox also presented statements in support of the application. Vice Chairman Lennox discussed the compatibility issue, the existing use, and proposed use. The proposed use is close enough that we have to talk about an alternative. This is an appropriate use. We want to encourage redevelopment on the island without the LMO rewrite getting in the way. It is unfortunate that the LMO is not ready to go at this time, but we should still be open for business.

Chairman Warden stated her concern with the rapidly changing issue of two rather than one property owner for this application. If the Planning Commission approves the rezoning of these two parcels to commercial, it will be only a matter of time before the Planning Commission is asked to rezone everything between that property and the existing CC on Mathews Drive - that is where we are heading. Chairman Warden stated that she does not think that if we choose at this time not to rezone that property commercial, we are precluding development on those parcels.

Chairman Warden stated that the Planning Commission needs to look at this application in terms of the 'big picture'. Chairman Warden stated that upon further investigation, this application will most likely find that Advance Auto has every right under the current zoning to go into that property. Commissioner Quick agreed with Chairman Warden's statements regarding the application.

Commissioner Quick inquired if the Planning Commission can postpone action on this application until they receive the additional information that has been discussed. Ms. Teri Lewis responded that the Planning Commission can remand the application until they receive the information that they need. However, if the applicant is able to provide staff with the information that staff needs, forwarding this application on to the Planning & Development Standards Committee may not be needed. Ms. Lewis stated that the staff is trying to provide good customer service and does not want to hold the application up.

Chairman Warden stated that she hopes there will be a resolution to this problem. If not, however, the Planning Commission needs to be careful of how they proceed with the rezoning of this area. The Planning Commission needs to consider their actions in terms of the 'big picture'

Following final discussion by the Planning Commission, Chairman Warden requested that a motion be made.

Commissioner Bennett made a **motion** to **approve** Application for Zoning Map Amendment ZMA120005 based on the appropriateness of the application. CC zoning is appropriate for these two parcels. Commissioner Docherty **seconded** the motion and the motion **passed** with a vote of 6-2-0. Chairman Warden and Commissioner Quick were opposed to the motion based on statements already made.

10. **Commission Business**

Appointment of Nominating Committee for the Election of New Officers 2012-2013 Chairman Warden reported that the Nominating Committee comprised of Chairman Warden,

Commissioner Docherty, and Commissioner Hughes met recently for the purpose of nominating officers for the new term, July 1, 2012 – June 30, 2013. The election of officers typically takes place at the second meeting in June; however, the Planning Commission will suspend that rule in order to allow the election of officers to take place at today’s meeting. The Planning Commission agreed by general consent to suspend the rule and move forward with the election today. Chairman Warden requested that Commissioner Hughes present the report on behalf of the Nominating Committee.

Commissioner Hughes stated that the Nominating Committee would like to nominate Commissioner Gail Quick to serve as Chairman for the new term. Commissioner Quick accepted the nomination. The Nominating Committee also recommended that Commissioner Tom Lennox continue serving as Vice Chairman for the new term. Vice Chairman Tom Lennox agreed to serve as Vice Chairman for the new term. Chairman Warden then requested that a motion be made to confirm these appointments.

Commissioner Taylor made a **motion** that the Planning Commission **approve** the nominations for Chairman and Vice Chairman as stated. Commissioner Bennett **seconded** the motion and the motion **passed** with a vote of 8-0-0.

11. Chairman’s Report

None

12. Committee Reports

Commissioner Quick stated that the LMO Rewrite Committee will meet on Monday, June 18th and Tuesday, June 19th in Council Chambers. Both meetings will begin at 9:00a.m. and conclude at 12:00p.m. The LMO Rewrite Committee is scheduled to meet with the consultants to discussed Code Assessment.

Chairman Warden stated that the Planning Commission will hold a special meeting on Friday, June 8th at 9:00a.m. in Council Chambers. The Planning Commission will review the conceptual plans for redevelopment of the Mall at Shelter Cove.

13. Staff Reports

None

14. Adjournment

The meeting was adjourned at 10:40a.m.

Submitted By:

Approved By:

June 20, 2012

Kathleen Carlin
Administrative Assistant

Loretta Warden
Chairman