

**TOWN OF HILTON HEAD ISLAND
Planning and Development Standards Committee
Minutes of the Wednesday, April 25, 2012 Meeting
4:00pm – Benjamin M. Racusin Council Chambers**

APPROVED

Committee Members Present: Chairman Bill Ferguson, Mayor Pro Tem Ken Heitzke and Bill Harkins

Committee Members Absent: None

Council Members Present: George Williams

Town Staff Present: Shea Farrar, Senior Planner
Nicole Dixon, Senior Planner
Teri Lewis, LMO Official
Kathleen Carlin, Administrative Assistant

1. CALL TO ORDER

Chairman Ferguson called the meeting to order at 4:00p.m.

2. 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.

3. APPROVAL OF MINUTES

Mayor Pro Tem Heitzke made a motion to **approve** the minutes of the March 28, 2012 meeting as presented. Mr. Harkins **seconded** the motion and the motion **passed** with a vote of 3-0-0.

Chairman Ferguson stated that the committee would like to change the review order of the agenda. The committee would like to review Application for Zoning Map Amendment ZMA120003 first; the proposed LMO Amendments second; and Application for Zoning Map Amendment ZMA110007 third. Chairman Ferguson requested that a motion be made to approve the agenda as revised.

Mr. Harkins made a **motion** to **approve** the revised agenda as stated by Chairman Ferguson. Mr. Heitzke **seconded** the motion and the motion **passed** with a vote of 3-0-0.

4. UNFINISHED BUSINESS

None

5. NEW BUSINESS

ZMA120003: A request from Chester C. Williams, on behalf of the Miller Family Limited Partnership VI, to amend the Official Zoning Map by changing the zoning designation of a property located at 807 William Hilton Parkway from OL, Office/Institutional, to PD-1 as part of the Palmetto Dunes Resort Master Plan with a land use designation of Commercial. The property is identified as Parcel 16A on Beaufort County Tax Map 12.

Ms. Shea Farrar made the presentation on behalf of staff. The staff recommended that the committee forward ZMA120003 to Town Council with a recommendation of *approval*.

The purpose of the rezoning application is to change the zoning designation of a property located at 807 William Hilton Parkway (commonly known as Plantation Center) from OL to PD-1 as part of the Palmetto Dunes Resort Master Plan with a land use designation of Commercial. The property is identified on Beaufort County Tax Map 12 as Parcel 16A. Plantation Center is a shopping center located near the entrance to Palmetto Dunes Resort that offers a mix of retail sales and services.

The property was developed with six buildings during the 1970's under Beaufort County Ordinances, before the incorporation of the Town. When the Land Management Ordinance (LMO) was adopted in 1987, the property was included in what is now the OL Zoning District. This District was oriented more toward office and institutional uses than retail sales and services, which had been the historic uses of the property.

Under the OL Zoning District regulations shopping centers are not permitted, making the existing shopping center a legally nonconforming use. According to the applicant, this has created problems for securing tenants and making improvements to the property. Also, the amount of square footage that was built on the property exceeds what was allowed by the new district making the site nonconforming for density. OL Zoning District regulations permit up to 19,840 square feet of development on the property depending on the use; however, the property is currently developed with 38,161 square feet.

To help resolve these issues, the applicant is requesting to rezone the property into the PD-1 Zoning District as part of the Palmetto Dunes Resort Master Plan, with an assigned land use of Commercial, but excluding Eating Establishments with a drive-thru, Auto Repairs, Kennel/Boarding, Water Park, Taxicab Service and Towing Service. The following uses would only be allowed by Special Exception: Indoor Recreation, Indoor Entertainment and Outdoor Recreation.

Because the permitted uses for properties within PD-1 District are primarily governed by the use(s) assigned by the master plan, there is more flexibility with the assignment of land uses than in the OL District. As a result of the approval of this application, the shopping center use would be considered conforming. The only use on the property that will remain nonconforming is the liquor store. LMO Section 16-4-409E identifies certain uses that must be specifically stated as a permitted use on master plans within the PD-1 Zoning District and a liquor store is one of those uses. The change to specifically allow the liquor store on the property was not requested as a part of this application.

In addition to changes in permitted uses, the applicant is also requesting to change the permitted density. Master Plans within the PD-1 Zoning District are also used to assign a maximum amount of development that can be built on a property, so the applicant is requesting that the existing 38,161 square feet of development become the maximum permitted density assigned to the property. In addition, the applicant proposes to limit the maximum size of any one commercial establishment on the property to 10,000 square feet and the maximum height of any structure to 45 feet to allow for two habitable stories over parking.

As a result of this amendment, the maximum impervious coverage allowed on the site will be increased from 60% in the OL Zoning District to 65% in the PD-1 Zoning District and the height restriction on the property will be increased from 35 feet to 45 feet. Ms. Farrar briefly reviewed the staff's Findings of Facts and Conclusions of Law. Ms. Farrar stated that the Planning Commission met on April 18, 2012 to review ZMA120003 and after a public hearing voted 8-0-0 to recommend that Town Council approve the proposed application for rezoning.

At the completion of staff's presentation, Chairman Ferguson requested that the applicant make his presentation.

Applicant, Chester C. Williams, Esq., presented statements in support of the application. Mr. Williams presented an overhead map review of the Palmetto Dunes Master Plan approved by the Town in May 1986. Mr. Williams discussed the legal nonconforming liquor store, the limitation of 10,000 sq. ft. of commercial space with a maximum height limit of 45-ft., and the prohibited uses for the property. The committee and Mr. Williams discussed the prohibited uses for the property and the legally nonconforming liquor store. Following their discussion, Chairman Ferguson requested public comments and none were received.

Following final comments by the committee, Chairman Ferguson requested that a motion on the application be made.

Mr. Harkins made a **motion** to forward Application for Zoning Map Amendment ZMA120003 to Town Council with a recommendation of **approval**. Mr. Heitzke **seconded** the motion and the motion **passed** with a vote of 3-0-0.

LMO Amendments: The Town of Hilton Head Island is proposing to revise and amend Chapter 3, Article IX and Chapter 5, Article XIII of the Land Management Ordinance (LMO). The proposed amendments will move the following sections from Chapter 3, Article IX, Sign Permits, into Chapter 5, Article XIII: Section 16-3-901, Applicability; Section 16-3-902, Signs Exempt from Permit; Section 16-3-903, Sign Alterations Exempt from Permit; and Section 16-3-904, Submission Requirements. The proposed amendments will revise the language in each affected section. The proposed amendments will clarify the purpose of the sign regulations, bring the regulations into conformance with recent judicial decisions, reorganize the regulations into a more intuitive order, and update the regulations to reflect changes in advertising and to provide reasonable accommodation of some previously prohibited signs.

Ms. Teri Lewis made the presentation on behalf of Ms. Anne Cyran, Senior Planner. The staff recommended that the committee forward the proposed LMO Amendments to Town Council with a recommendation of *approval*.

In 2010 Town Council directed staff to rewrite the LMO sign standards, which were enacted as part of the original LMO in 1987. The revision was meant to ensure the standards would stand up to legal challenges and to address trends in sign technology. The amendments also meet a Top Priority of Town Council's Policy Agenda for 2011 – Amending the LMO to Foster Greater Flexibility, Simplicity and Revitalization.

The staff proposes to amend Chapter 3, Article IX: Sign Permits and Chapter 5, Article XIII: Sign Standards, of the Land Management Ordinance (LMO). The proposed changes are to clarify the purpose of the sign regulations, bring the regulations into conformance with recent judicial decisions, reorganize the regulations into a more intuitive order, update the regulations to reflect changes in advertising, and to provide reasonable accommodation of some previously prohibited signs.

Chairman Ferguson requested that Ms. Lewis present an abbreviated overview of the proposed LMO amendments (*please see the attached staff report for complete information*). Ms. Lewis stated that the main reasons for the proposed amendments are to bring the regulations into conformance with recent judicial decisions, reorganize the regulations into a more intuitive order, and provide some flexibility in signs for business owners. Town Attorney, Gregg Alford, has reviewed the staff's proposed

amendments. The staff has legal concerns with regulating the content of signs, which is not allowed. The proposed changes are designed to make regulations for signs legally defensible.

The staff is trying to be more business-friendly in providing a little more flexibility with real estate signs. More flexibility is provided to 'for lease' signs. The staff has provided a little more guidance and flexibility for special event signage. The staff has provided some flexibility in the use of holiday decorations. Staff has received a number of requests from the public for use of holiday decorations for times of the year besides Christmas (i.e. Halloween and St. Patrick's Day). Also, based on public request, the staff is proposing to allow small white lights to be used for ambient lighting for outside dining areas. The use of colored lights will be permitted only during the Christmas holidays.

The staff is proposing to allow some flexibility with flags (the content of flags cannot be regulated). The staff recommends allowing a message substitution clause for a free standing sign.

The staff is proposing to allow sandwich boards (to be limited to a wood frame with no plastic or white board allowed). The staff proposes to permit businesses to designate parking in their parking lots as long as they are not a shopping center.

Ms. Lewis stated that the staff has held several public information meetings with sign contractors, real estate agents, and business owners. The proposed amendments were well received by those in attendance. Ms. Lewis stated that the LMO Committee met twice to review the proposed amendments. The Planning Commission held a public hearing for the proposed amendments on April 10, 2012 and voted 6-0-0 to recommend that they be approved by Town Council.

The committee discussed the proposed amendments with Ms. Lewis. Mr. Heitzke and Mr. Harkins stated that the proposed revisions are too radical, and they are not comfortable approving them. Mr. Heitzke stated his concern that we are at risk for ruining the atmosphere of the island by allowing too much change too quickly. An example of this is the removal of shrubbery along Highway 278. Signs are suddenly becoming too visible along Highway 278. Sandwich boards and chalkboards should not be permitted.

Mr. Harkins stated that he agrees with the concerns voiced by Mr. Heitzke. The island will become inundated with sandwich boards and chalkboard signs. This is not the image that we want for Hilton Head Island. With regard to a suggested use of small white lights for ambient outdoor lighting, Mr. Harkins recommended that restaurants who are interested in creating outdoor lighting should do so with a good electrical contractor instead.

Mr. Harkins and Mr. Heitzke stated that staff needs to make a more cogent argument with regard to changing what we already have in the LMO. The staff should go back and isolate only the items that are not legally defensible; everything else should remain the same. The committee stated that the public feedback that they have received indicates that the public wants to keep things the way that they are.

Mr. Heitzke requested that staff investigate the excessive cutting of shrubbery along Highway 278. This practice should be stopped as soon as possible because we are losing semblance of who we are. At the completion of the discussion, Chairman Ferguson requested comments from the public and the following were received:

Chester C. Williams, Esq., presented comments regarding the legality of political signs. The use of political signs is protected under free speech. Under the law you can regulate the time, the place, and the manner of signs, but you cannot regulate the content of signs. Also, off-premises signs are content based; therefore, off-premises signs should not be regulated. Citizen, Ms. Jocelyn Stagier presented statements in support of the proposed LMO amendments. At the completion of public comments and final discussion by the committee, Chairman Ferguson requested that a motion be made.

Mr. Harkins made a **motion** that the committee should forward the proposed LMO amendments to Town Council with a recommendation of **denial**. Mr. Heitzke **seconded** the motion and the motion **passed** with a vote of 2-1-0. Mr. Ferguson was opposed to the motion.

ZMA110007: A request from Mr. Joe Ryan, on behalf of several property owners, proposing to amend the Official Zoning Map by changing the zoning designation of five properties located at 840, 852, and 862 William Hilton Parkway, and 1 and 2 Regency Parkway, from the OL (Office Institutional Low Intensity) Zoning District to the CC (Commercial Center) Zoning District. The properties are further identified on Beaufort County Tax Map 11, Parcels 132A, 77, 153, 155A and 154.

Ms. Nicole Dixon made the presentation on behalf of staff. Staff recommended that the committee forward the application to Town Council with a recommendation of *approval*. Ms. Dixon stated that the Planning Commission met on April 10, 2012 to review ZMA110007 and after a public hearing voted 4-3-0 to recommend that Town Council approve the proposed application for rezoning.

Ms. Dixon presented a detailed review of the application including an overhead review of the site. The properties proposed to be rezoned contain a Hargray building, Savannah Bank, a vacant building (former Ronnie's bakery), Stack's restaurant and the Atrium building.

The Town received the request for rezoning application from Mr. Joe Ryan, with Weichert Realtors, on behalf of the property owners, to rezone the five parcels from OL to CC. Mr. Ryan has a client who is interested in occupying the Hargray building with a Mattress Firm business, which is currently not permitted in the OL Zoning District. Staff reviewed this request and determined that the application is consistent with the Comprehensive Plan and the Land Management Ordinance.

The existing OL zoning district in this area was established after many of the properties had already been developed with commercial uses. The intent of the creation of the OL district was that once these commercial uses were no longer in business, the area would develop with office uses, and concentrate the development of commercial uses in other areas of the island. However, the commercial uses never left and the area does not function as an OL zoning district. The proposed rezoning will improve the marketability of the properties and will meet current market demands by permitting uses that are already developed on the properties and uses that are more common in this vicinity. The rezoning will also allow for existing space to be redeveloped or leased with new expanded use opportunities while still allowing office type uses. Following staff's presentation, Chairman Ferguson requested that the applicant make his presentation.

Mr. Joe Ryan, with Weichert Realtors, presented statements in support of the application. Mr. Ryan stated that several different property owners (Hargray, Prime Property Investments, Savannah Bank, S&C 278 Associates, and the Romano Group Development) have joined in requesting that the Official Zoning Map be amended by changing the zoning designation of the five properties. Mr. Ryan discussed the new business owner who is interested in opening a mattress store at this location. Mr. Ryan stated

that he believes the application is consistent with the Comprehensive Plan and is compatible with the requested zoning and conforming uses of nearby property.

Following the applicant's presentation, the committee discussed several issues including their concern with the excess commercial space that exists on the island as well as the many broad uses that are currently allowed in the CC Zoning District. The committee stated their concern that the application may be unsuitable with the Town's vision for the future utilization of this property.

Following their discussion Chairman Ferguson requested public comments and the following were received:

Residents, Mr. Gerry Grimm, Mr. Declan McMullen, and Mr. Jack Holland presented statements in opposition to the application. Councilman George Williams also presented statements in opposition to the application. Councilman Williams stated that the application is not in the best interest of the Town due to the broad number of potential uses in the CC Zoning District as well as the 'piece meal' nature of the application.

Mr. Harkins stated that he agrees with the concerns stated by Councilman Williams. Mr. Harkins stated that he also agrees with the concerns stated by Planning Commission Chairman Loretta Warden, Planning Commissioner Quick, and Planning Commissioner Ennis (at the application's public hearing on April 10, 2012). Mr. Heitzke stated that he also agrees with these concerns. Mr. Heitzke stated that there does not seem to be a compelling reason to approve this application at this time. At the completion of the discussion, Chairman Ferguson requested that a motion be made.

Mr. Harkins made a **motion** that the committee should recommend **denial** of Application for Zoning Map Amendment ZMA110007 to Town Council. Mr. Heitzke **seconded** the motion and the motion **passed** with a vote of 3-0-0.

6. ADJOURNMENT

The meeting was adjourned at 5:15pm.

Submitted By:

Approved By:

May 23, 2012

Kathleen Carlin
Administrative Assistant

Bill Ferguson
Chairman