

TOWN OF HILTON HEAD ISLAND  
Planning Commission  
**LMO REWRITE COMMITTEE MEETING**  
September 4, 2013 Minutes  
5:00p.m. – Benjamin M. Racusin Council Chambers

Approved

Committee Members Present: Chairman Tom Crews, David Ames, David Bachelder, Irv Campbell, Chris Darnell, Jim Gant, Walter Nester, and Charles Cousins, *Ex-Officio*

Committee Members Absent: Vice Chairman Quick and Kim Likins, *Ex-Officio*

Planning Commissioners Present: None

Town Staff Present: Teri Lewis, LMO Official  
Kathleen Carlin, Administrative Assistant

Town Council Member Present: None

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1) **CALL TO ORDER**

Chairman Crews called the meeting to order at 5:00p.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 committee **approved** the agenda as presented by general consent.

4) **UNFINISHED BUSINESS**

None

5) **NEW BUSINESS**

a. Discussion of Nonconformities

Chairman Crews welcomed the public to the meeting and requested that Ms. Teri Lewis make her presentation on behalf of staff.

Ms. Lewis stated that today's meeting will focus on a discussion of Nonconformities, Administrative Adjustments, and the build-to line that is being proposed for the Coligny District. Ms. Lewis introduced the consultants, Mr. Craig Richardson and Mr. Stephen Sizemore, from Clarion & Associates.

Ms. Lewis presented brief comments with regard to the committee's previous review of Nonconformities. The consultants had previously asked the committee if they would be interested in allowing a nonconforming use to change to another nonconforming use that was less nonconforming. The committee seemed amenable to this idea and wanted additional information – how has this worked in other communities? What type of criteria would be used to make that

judgment? Was it something that would potentially go to the Board of Zoning Appeals? Ms. Lewis requested that the consultants respond to these questions.

Mr. Stephen Sizemore began the discussion on behalf of Clarion & Associates. Mr. Sizemore explained the concept of lessening a nonconforming use. About half of the development codes that the consultant has seen do have provisions that allow for a change from one nonconforming use to another nonconforming use if it is a lesser nonconforming use. Most of the regulations that do that can probably be split into two categories. One way is to have a review by the Administrative Official and the other way is to have the issue reviewed by the BZA.

Typically those kinds of provisions will have some general principles in terms of what makes a use less nonconforming. Based on the intent and based on use classifications in the district. Things like traffic impact or a retail use that would generate less traffic or going from a light industrial use to a retail use. The consultants stated that they will need to look at the current Use Table. It will require some type of interpretation. If you allow staff to make the decision, that decision could be appealed to the BZA.

Mr. Sizemore stated that the other issue is the expansion of a nonconforming use. There are a number of communities that allow the expansion of a nonconforming use to varying degrees. One provision that is used by other communities is the provision that would allow for the expansion of a nonconforming use in an existing building that was originally designed for that use in that building. This is fairly straight forward and is handled administratively.

Another way to handle it is to require a special exception from the BZA. The BZA looks at issues related to the impact to make sure that the expansion is consistent with the character.

The criteria are going to be measureable – there will have to be some judgments involved. There might be a couple of uses that are nonconforming that you would not want to have expanded (a gas station, for example). The expansion can be tailored.

The committee and the consultant discussed a couple of potential examples on the island. The committee and Ms. Lewis discussed the process compared to the Redevelopment Floating Zone concept. Ms. Lewis stated that the biggest difference is the time requirement. BZA would be a 45-day process instead of a four to six-month process involved with the Redevelopment Floating Zone.

Mr. Gant presented statements regarding changes to the Use Table – some will be fairly simple (for example, light industrial use to retail or office use). A process for the others may require BZA review.

Mr. Darnell asked how appropriate the expansion of a nonconforming use will be. The longer review process may be appropriate. Chairman Crews stated that the public will have an opportunity to speak to the issue. The staff will have an opportunity to review and speak to the degree of the relative expansion. Chairman Crews stated that this should probably not be a problem.

Ms. Lewis stated that the committee needs to provide direction to the consultant if they want to change the current process. The Redevelopment Floating Zone is the only process in place at this time. If the committee wants to add a review by the BZA, they will need to direct the consultant to do that. Mr. Darnell stated that this is a pretty significant change in nonconforming uses and maybe it should go continue to through the public hearing process. Chairman Crews stated that some benign things that should be able to go through the BZA process. The committee discussed the issue with Ms. Lewis.

Mr. Nester stated that the purpose of a zoning ordinance is to eliminate nonconformities and to direct the development to take place in certain areas. This is in contrast with the committee's task - if a business is successful in a particular location, why would the government interfere with that?

Chairman Crews stated that if the proposed guideline is adopted, would it be appropriate to keep the Redevelopment Floating Zone. Ms. Lewis stated that the Redevelopment Floating Zone will remain in place because it is there for other reasons, too.

The Floating Zone was developed to make it easier for someone to redevelop their site. The consultant made a good case for keeping the Redevelopment Floating Zone in place. This is just another way for the expansion of a nonconforming use (BZA). There are some uses that are nonconforming that are not a problem.

Mr. Gant stated that the first tier should be changing a nonconforming use to a less nonconforming use. The second tier should be the expansion of a nonconforming use (BZA review process) and the third tier would be the more complicated nonconforming cases which would fall into the Redevelopment Floating Zone classification.

The committee stated that they generally agree with allowing a nonconforming use to expand with a review by the BZA and special exception process. Chet Williams, Esq., presented comments regarding a nonconforming use as related to the State Enabling Act. Following this discussion the committee and consultants moved to a discussion of Sec. 16-7-105 B & C. Remodel Costs 25 Percent or less Structure Value.

Mr. Stephen Sizemore presented statements regarding the proposed sliding scale. The committee discussed the issue and ultimately decided to eliminate the sliding scale shown in "C" & "D". The committee decided that the Waiver will continue to work on nonconforming sites and the proposed sliding scale is not needed.

Following final comments, the staff, the committee and the consultants moved to a discussion of Administrative Adjustments.

#### b. Discussion of Administrative Adjustments

An Administrative Adjustment is intended to allow minor variations, or adjustments, to certain dimensional or numerical standards of this Ordinance based on specific criteria, with the intent of allowing minor modifications where application of a standard creates practical difficulties in allowing development that otherwise advances the purposes served by the standards of this Ordinance and the Comprehensive Plan, and is compatible with surrounding development. An Administrative Adjustment is also intended to provide limited flexibility, in specific areas, to allow alternative design that is better than that afforded by strict application of certain dimensional or numerical standards. The purpose of this subsection is to establish procedures and standards for review of applications for Administrative Adjustments.

Mr. Sizemore and the committee discussed Table 16-2-103.S.2: Allowable Administrative Adjustments. An Administrative Adjustment may be approved only for the standards identified in the above referenced table. Allowable Administrative Adjustments, up to the limits set forth in the table for the zoning district within which the adjustment is requested. The committee and the consultants briefly discussed the Adjusted Standard, the Districts, and the Allowable Adjustment and Special Criteria contained within the table.

The committee and the consultants discussed item #4. Administrative Adjustment Review Standards. The committee stated that the standards need to be made specific enough so they do not cause a problem. Some flexibility is shown in the proposal; the intent is to allow just enough flexibility but not too much.

#### c. Discussion of proposed Coligny Resort District standards

Ms. Lewis presented brief background comments on Chapter 16-3: Zoning Districts – Sec. 16-3-105 Mixed Use and Business Districts B. Coligny Island Activity Center (I-MX-Coligny) District.

Ms. Lewis requested that Mr. Sizemore make his presentation on the staff's handout, Page 3-27, # 3 - Development Form and Parameters – Build-To Zone. Along all streets in the I-MX-Coligny District except those that form or contain the boundary of the district, building facades adjacent to the street shall be located within a build-to-zone extending between 5 and 30 feet from the street right-of-way. Mr. Sizemore and the committee discussed the Build-To Zone in the Coligny District.

Ms. Lewis presented an overhead review of the Coligny zoning district. The committee, the staff, and the consultant discussed the intent of the district. Mr. Charles Cousins presented statements regarding the purpose of the district. The purpose of the Coligny District is to recognize and promote further growth of the area near Coligny Circle as an activity center and a core high-energy and visitor-oriented place that encourages people to live, work, and recreate within a compact area. The district is intended to accommodate relatively high-intensity, commercial, office, residential, and mixed-use development that is pedestrian-friendly and human scale, and integrates civic and public spaces into the development.

The committee stated concern that the boundaries of this district may be too large. The consultant presented statements regarding set-back regulations. Mr. Chet Williams presented statements in support of an Overlay District.

The committee discussed how this model works along both sides of Pope Avenue. Mr. Cousins stated that the space between the buildings and the sidewalk (build-to line) needs to be treated in a special way. The committee and the staff discussed several issues including density, design and neighborhood character. Where does the incentive come from to redevelop the Coligny area? Maybe the area needs to have its own classification of design standards (a Floating Zone perhaps that allows the option of a build-to line).

The committee stated concern that the Coligny area is too big at this time. Maybe two separate districts are needed for Coligny. Mr. Chet Williams presented statements regarding the need for incentives for redevelopment of Coligny to occur. The committee agreed with the need for incentives for redevelopment of Coligny. The committee and Ms. Lewis reviewed the increased density in Coligny. The committee agreed that there is a difference between the southwest side of Pope Avenue and the northeast side. The two sides should be treated differently. What should the character of this area be? The committee and Ms. Lewis briefly discussed the Resort Development District and its applicability in the Coligny area.

The consultants stated that they need more direction from the committee regarding what they would like to see in the way of two separate base districts, density, and use of the Hotel Resort District. Allow for build-to line – the unknowns are do you want incentives for developments that come in? If so, what kind? The committee and staff discussed setback requirements for buildings with parking located behind the building. The committee and staff also commented on bonus density as related to infrastructure. The consultants responded to several questions from the committee regarding an increase in residential density. Mr. Cousins presented statements regarding base density. Ms. Lewis presented comments regarding the existing and proposed increases in density in the CCW zoning district and CFB zoning district. Ms. Lewis requested that the committee give staff a chance to break up the district as recommended by the committee. The committee and staff discussed the recommended parameters including both sides of Pope Avenue.

Ms. Lewis stated that the committee will meet again with the consultant tomorrow morning at 8:30a.m. The committee will complete their review of Tree Regulations at tomorrow meeting. Following final comments, the meeting was adjourned.

## **6) ADJOURNMENT**

The meeting was adjourned at 7:00p.m.

Submitted by:

Approved by:

September 12, 2013

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Kathleen Carlin  
Administrative Assistant

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Tom Crews  
Chairman