

**SPECIAL JOINT MEETING OF
CITY COUNCIL & PLANNING COMMISSION**
5:30 p.m., Wednesday, September 16, 2009

A Special Joint Meeting of the City Council and the Planning Commission was held at 5:30 p.m., Wednesday, September 16, 2009 in Council Chambers of City Hall, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Council members Bergwerf, Bettelli, Buckhannon, Duffy, Loftus, Piening and Mayor Cronin; attending from the Planning Commission were Campbell, Cohen, Safford, Stevens, Stone, Watson and Chairman Denton, as well as Director Kerr. Also in attendance were City Administrator Tucker, Attorney Sottile, Fire Chief Graham, Police Chief Buckhannon, Livability Sergeant Meekins, Assistant to the Administrator Dziuban and City Clerk Copeland.

1. Mayor Cronin called the meeting to order and acknowledged that the press and the public had been duly notified of the meeting in accordance with the Freedom of Information Act.

Mayor Cronin stated that the purpose of the meeting was for members of both the City Council and the Planning Commission to clarify their positions taken, needs to be met and goals to reach. He stated that he would cover two (2) topics, zoning and livability, separately; he would provide City Council with the material that the Planning Commission had used to arrive at the decisions that were presented to Council and then ask Council to comment on what more they wanted or expected.

2. Review of Zoning Issues

Mayor Cronin noted that the first issue for zoning matters was jurisdiction; for areas other than setbacks, floor-to-area ratios, etc, in the Planned Development District, PDD, i.e. Wild Dunes, the City's zoning regulations apply to the entire island. As the City Council begins to consider changes to the zoning ordinances, they must consider unintended consequences of their actions; frequently zoning changes create non-conforming properties, existing properties that do not conform to the change; non-conformity carries with it a new set of property limitations for the owner.

Two (2) much-discussed zoning topics are building size and lot coverage. When an islander discusses the size of homes, the four (4) issues that most frequently come up are setbacks, floor-to-area ratios, minimum and maximum home size and the height limit. On the subject of lot coverage, additional topics at issues are pools and decks and driveways and parking.

Mayor Cronin presented the information given to the Planning Commission that indicated the average square footage of homes built each year beginning with 2003 and going through October 2008; the average for the six (6) years was thirty-eight hundred square feet (3,800 sq ft). The smallest homes averaged thirty-five hundred square feet (3,500 sq ft) and were constructed in 2005; the largest homes averaged four thousand square feet (4,000 sq ft) and were constructed in 2008.

For the same six (6) year period, the number of new homes built was presented as well; construction was at its lowest in 2008 with only seventeen (17) new constructions on the island, and the highest in 2005 with sixty-two (62) new constructions. The average number of new homes built between 2003 and 2008 was thirty-nine (39).

Another illustration showed that, of the seventy-three (73) homes on the island that exceed five thousand square feet (5,000 sq ft) in floor area, only sixteen (16) are rental homes and nearly all of them are ocean front homes. Maps of the island were also presented that depicted the exact location of these same larger residences.

An additional piece of information showed the number and percentage of residences constructed each year that were rental units. Of the two hundred thirty-six (236) residences constructed in the six (6) years between 2003 and 2008, eighty-two, or thirty-five percent, (82, or 35%) were built as rental units.

Mayor Cronin explained that the foregoing was the information provided to the Planning Commission on which they had based their decision that no changes needed to be made in terms of short-term rental ordinances. He, therefore, turned to City Council members to get their input on what issues had not been addressed or addressed to his/her satisfaction.

The first Council member approached was Councilman Bettelli, who stated that his concerns were on the livability issues more than zoning. Councilman Buckhannon, the second council member, praised the Planning Commission for their recommendations to City Council and the work they had put into the recommendations.

Councilwoman Bergwerf expressed concern over the size of homes that were being constructed in residential neighborhoods that could become rental units later; she remarked that the IOP Neighborhood Association had stated their concern over the density created by the rentals in residential neighborhoods. She added that, in a meeting with island realtors, the realtors had noted their concern over large homes being built as rental units in residential neighborhoods.

Councilman Loftus agreed that density was an issue in neighborhoods that have large rental units based on the City's Comprehensive Plan; he stated that, in addition, the larger units tax the City's infrastructure. Councilman Loftus expressed his opinion that any new construction should fit into the neighborhood and his concern about the increasing number of rentals on the island. He related that, when he had served on the Planning Commission in 2002, rental housing comprised about thirty-two percent (32%) of the residences on the island; today rental units make up forty percent (40%) of the total. The increasing number has led to worries that the City will lose its residential character. Councilman Loftus referred to "mini-hotels" that are on the island, i.e. one residence on Yacht Harbor has six (6) bedrooms and six (6) baths and very little else. With a property like the one (1) on Yacht Harbor, parking has become a problem. The Councilman stated that, in comparing the City of Isle of Palms to other communities on the East Coast, few communities allow homes of seven thousand square feet (7,000 sq ft). He, also, wanted to review floor-to-area ratios one (1) more time; he thinks the maximum should be smaller than the seven thousand square feet (7,000 square feet) presently allowed.

Councilman Duffy was interested in maximizing green space, pervious versus impervious surfaces and vegetation requirements on a residential lot.

Ms. Safford, a Planning Commission member, asked Councilman Duffy if he was referring to green space on the island or a landscaping ordinance.

Councilman Duffy explained that he was referring to driveways, pool decks and the use of impervious tiles versus concrete; he commented that there was no historical data to prove that the pervious tiles or bricks were as good as a pervious surface as touted. Mayor Cronin added that the City Council had not accepted the recommendation for fifty percent (50%) of a lot to remain vegetative or natural. Councilman Loftus commented that, after about a year, the pores in the concrete become clogged with dirt, grit and grime creating an impervious surface; Mr. Campbell of the Planning Commission reported that he and Councilman Loftus could find no substantiation to their speculation that pervious surfaces can become impervious.

Mayor Cronin's uneasiness related to the number of pools that have been installed, which are impervious, but the decking surrounding the pool, assuming uncovered, and the slatted deck material is considered pervious. Yet this adds to the mass one sees and reduces green space; therefore, the entire structure and complex looks larger on the lot and substantially increases the lot coverage. Director Kerr confirmed to Councilman Buckhannon that a slatted deck is considered to be one hundred percent (100%) pervious.

Mayor Cronin now turned to the Planning Commission to provide a means of resolving the issues and concerns that Council members have voiced, assuming the situation can be resolved.

Planning Commission Chairman Denton stated that the Commission had come to this meeting with the understanding that it was about short-term rentals, but the subject has turned to zoning issues. He commented that, to look at zoning, outside the umbrella of short-term rentals, one would approach zoning from a different perspective. He clarified comments from Councilwoman Bergwerf stating that the Commission had received letters from the IOP Neighborhood Association asking that the Commission address the maximum size of allowable homes then the density of the properties, which led to a special meeting with lengthy discussion concluding that the true concern was the behavior occurring at a residence, not its size. Through this and other discussions, the Planning Commission concluded that it was not merited to limit the size of a home based strictly on the potential for noise creation, size and density were irrelevant to noise complaints.

Councilman Duffy countered that there was only one perspective at issue because, when one discusses short-term rentals, one is referencing the usage of single-family residential homes, which is a different perspective. The zoning is about what can be put on the lot.

Mr. Denton related that he, Mr. Campbell and Councilman Loftus had spent a good deal of time studying ways to alter the numbers – floor-to-area ratios, setbacks, maximum house sizes – and ran into complications when they looked at lots on Forest Trail where the lots are extremely large. The floor-to-area ratios for those lots cannot be reduced enough to keep houses built on them from being allowed to be enormous. He pointed out that there had been a logic applied to reach the decision to allow a maximum house size of seven thousand square feet (7,000 sq ft); Mr. Denton noted that it would be arbitrary to choose another size short of changing a lot density; the seven thousand square feet (7,000 sq ft) size was predicated on forty percent (40%) of the average largest sized lots on the island. He added that “any home that is going to replace a home at grade is going to be more massive just by its nature; it must be elevated out

of the flood; if you do a two (2) story structure, you have a thirty plus foot (30"+) wall before you get to a roof – irrespective of the size, it is going to look big.”

Councilman Duffy then asked what was the vision for what the island should look like, both from a residential perspective and from a commercial area perspective; was the perspective welcoming to a community lifestyle?

At this point, Councilman Buckhannon interjected that the property owner’s rights perspectives were being overlooked. To which Councilman Duffy responded that the property rights do not give the owner a *carte blanche* to do what he chooses with his property.

3. Review of Livability Issues

To open the discussion on Livability topics, the Mayor reviewed the issues of jurisdiction and conforming versus non-conforming status as related to livability. The other matters to be covered were occupancy limits, both overnight and anytime, parking limits and posting requirements.

Mayor Cronin displayed rental information by zoning district and type of rental that was current through May 12, 2009; the total number of rental units, both long- and short-term is seventeen hundred eighty-seven (1,787). The total number of rentals further breaks out as fifteen hundred twelve (1,512), or nearly eighty-five percent (85%) as short-term rentals and two hundred seventy-five (275), or fifteen percent (15%) as long-term rentals. The data showed that, of the total short- and long-term rental units, forty-eight percent (48%) of rental units were located in Wild Dunes; eighteen percent (18%) were in commercial districts and thirty-three percent (33%) were in the single-family residential district.

Following a discussion on the increase in the number of short-term rentals in recent years, Mr. Campbell clarified certain misconceptions about that increase as follows:

- Initially the City’s records did not differentiate between short- and long-term rentals;
- Efforts toward better code enforcement led to locating the rent-by-owner properties; and
- Construction of The Village added a large number of short-term rentals at one time.

In response to Mr. Campbell’s question, Councilman Loftus stated that there are approximately forty-five hundred or forty-six hundred (4,500 – 4,600) residential units on the island.

Councilman Loftus asked the question about the long-term vision for the island – Will the Isle of Palms be a residential island with rental units or a rental island with residential units? Mayor Cronin expressed the need to keep the numbers in perspective; namely that there are three hundred sixty-six (366) short-term rental units in the total of approximately two thousand (2,000) residential units in the single-family residential zoning district.

Mr. Denton noted that residents are, generally, not displeased when the residence next door becomes a long-term rental unit; he speculated that there would be fewer problems between the residential and the rental communities if there were many more long-term rental properties.

Councilwoman Bergwerf was quick to respond, "Yes, because the long-term renter is a member of the community."

Mayor Cronin presented more livability-related data, including that there were one hundred eleven (111) founded noise complaints through August 15, 2008 and ninety-three (93) from then until July 31, 2009. For the timeframes referenced, the number of noise complaint calls attributed to Wild Dunes are eleven (11) and thirteen (13) respectively, and the calls attributed to the single-family zoning district were ninety-seven (97) through August 15, 2008 and sixty-seven (67) through July 31, 2009. The Mayor provided the group with a breakdown of the addresses that had multiple founded noise complaints in both Wild Dunes and the single-family residential zoning district. Responding to Councilman Duffy's query, Mayor Cronin noted that when he had asked Wild Dunes Security about the number of noise complaints they respond to in a year, their answer had been two to three (2-3).

Following the procedure initiated earlier in the meeting, Mayor Cronin asked the members of City Council and the Planning Commission to comment on their individual opinions about solutions to the livability issues that exist on the island.

Councilman Bettelli expressed the opinion that more citations and fewer warnings needed to be issued for livability complaints; he stated the belief that, once people realized that the violators were being prosecuted, their actions would fall into line. Councilman Buckhannon agreed with Councilman Bettelli, but was complimentary of the Police Department and the way they perform their jobs.

Mayor Cronin commented that the Planning Commission had studied the correlation between the size of rental units and noise violations. Mr. Denton explained that the results were that the average size of rental unit on the island is between thirty-five hundred to four hundred square feet (3,500-4,000 sq ft), and that is where the majority of noise complaints are generated.

Councilman Piening asked if enforcement only occurred when a complaint was made, because he expressed the opinion that violations involving too many vehicles at a short-term rental residence or vehicles parked in such a way as to totally block the sidewalk should be obvious violations to officers patrolling the island. He indicated that he sees the violations every day in the summer months, but he does not stop to report them.

Mayor Cronin noted that, when vehicles are parked in the rights-of-way, the City has no recourse because the ordinance does not apply to the public rights-of-way.

Chief Buckhannon agreed with the Mayor about public rights-of-way; as far as the other violations described by Councilman Piening, the Chief stated that the officers were expected to write citations when they see violations on the island.

Councilwoman Bergwerf considered that there were two (2) separate issues, i.e. 1) the rental agencies and owners of rental properties have worked hard to adhere with the noise ordinance been successful and 2) the issue before the Planning Commission is the future – what will happen in the island's neighborhoods. As a point of consideration, she asked how many of the

older, small homes will be sold, torn down and replaced with large, short-term rental properties rather than a home for permanent residents.

Councilman Loftus communicated his feeling that the noise issue is much deeper than statistics show because many people do not want to report the problems or because the complaint cannot be justified when the police arrive. He stated that there needed to be a campaign to encourage residents to be diligent to report noise complaints and that officers should issue more citations.

Councilman Duffy introduced another element to the noise issues – that of rooftop decks, which led him to ask what restrictions the City could place on structures. Director Kerr reported that the Planning Commission had spent four to six (4-6) months on this issue, and the conclusion was that the overall mass of the structure was not limiting pervious decks or the square footage on the top house. The Commission found it difficult to arrive at a logical way to scale structures appropriately to fit into the neighborhoods.

Councilman Loftus recalled that the discussion referenced above was tabled because a more pressing issue came before the Commission; Mr. Denton added that the Planning Commission had also been unable to come to a consensus opinion. Mr. Denton stated that photographs had been taken of every structure in SR-1 and SR-2 on the island that had a flat-roof deck, a porch with stacked decks or an observation deck at a height of thirty-seven feet (37'); he noted that there had been quite a few of them, but they were not large in scale. Mr. Denton noted that the Commission agreed that it did not require a lot of square footage to create the noise that would warrant a noise complaint; the Commission agreed, too, that to eliminate them would take away from people in the interior of the island the ability to get peaks of the beach. Mr. Campbell supported Mr. Denton's statements that the Planning Commission had been unable to come up with reasonable and logical formulas for taking action; he suggested that the noise complaints be checked against the addresses with these rooftop decks.

Members of the group brainstormed briefly, but were unable to arrive at a solution that did not create non-conforming residences.

Mr. Campbell commented that the Planning Commission and the City Council here seated were sworn to uphold the City's laws, therefore, have a responsibility to see that those laws were upheld. He noted that, if they were running into circumstances where situations were not being reported or know they were not being reported, the Commission and Council members then had a responsibility to report them. Mr. Campbell related that he had spent three (3) summers driving every street on the island, outside of Wild Dunes, on Thursday through Sunday nights just listening and looking; through this endeavor, he learned what truly happened on the island and it was not raging parties and housing properties full of cars.

Mayor Cronin asked Chief Buckhannon whether officers issued citations for noise violations that they encounter in patrolling the island, and the Chief answered in the affirmative. Chief Buckhannon stated that officers are proactive in knocking on doors of houses from which loud noise is emanating and issue citations to vehicles that had the loud boom boxes blaring as they cruise the island.

In looking to the future, the Mayor asked if, on new construction, the City should consider a different process for limiting occupancy regardless of the square footage or number of bedrooms in the residence? Mr. Denton reported that a discussion on that subject had occurred as a result of a special meeting of the Planning Commission with the IOP Neighborhood

Association; the Association was under the impression that limiting the number of people would reduce noise. Mr. Denton related that a proposal had been offered to step back from the ocean into the neighborhoods with a limitation on the number of occupants, but the members of the Planning Commission agreed that they would not take any action, but keep this idea available because they also agreed that the short-term rental ordinance and the Livability Court were doing what they were designed to do without creating more restrictions.

Mr. Denton added that the Planning Commission's focus had been on noise and not the future of the island, and the statistics they had indicated that the numbers of livability offenses were coming down. He noted that the Commission would be happy to look at and review the issues with a focus on the future since the Planning Commission typically focused at the intent of the discussion.

Mayor Cronin suggested that should homes constructed after "X" date ever apply for a short-term rental license they would be limited in occupancy to, for example fourteen (14), people; Mr. Denton clarified the Mayor's suggestion in stating that occupancy would then be limited by permit only. Director Kerr said that such an action would create another administrative layer of verification, but it would not be insurmountable.

Mr. Stone recalled from Planning Commission discussions that they wanted to know what the problem was that they were being called upon to resolve; he noted that the perception was that "numbers are loud." He expressed the opinion that, were the noise complaints to be reviewed by addresses, the problems are not emanating "from large or small, but across the board;" therefore the question is what problem limiting the occupancy would solve. Mr. Stone explained that this was the question the Commission had put before Council when it asked for direction in its letter of July 9, 2009.

Councilman Buckhannon responded to Mr. Stone that he understood that the issue went back to density where residents in the neighborhoods did not want houses next door with a capacity to accommodate twenty or more (20+) people at any given time. Councilman Duffy pointed out these large structures put a strain on the infrastructure as well.

Ms. Safford asked for clarification on the subject of density as it was used here – was it density as it relates to short-term rentals or density in terms of any home built on the island? She was informed that Council was interested in both situations. Councilman Buckhannon suggested that the density discussion could be limited to the single-family residential zoning districts.

Councilman Loftus expressed his feeling that, for the long-term future of the island, if the City could control the number of persons in a residence, it would shutdown the "mini-hotels" that residents tell him they are concerned about. This will, in turn, ensure that Isle of Palms remains a residential island and attract residents to grow the community.

Following a break for attendees to eat, Director Kerr stated there was a proposal before the Planning Commission to limit anytime occupancy to two and one-half (2½) times the maximum nighttime occupancy, which correlates to the number of bedrooms. Mayor Cronin explained that the uniform number of forty (40) would be replaced with a number specific to the residence.

The group had nothing to add or to recommend to the subject of "Parking Limits" on the Mayor's list. The final item on the list was "Posting Requirements" that has been addressed by Council with first reading of the ordinance at the September meeting.

Director Kerr commented that the short-term rental placard has changed and been distributed; the ordinance to be considered is to require that the short-term rental placard must be conspicuously posted within fifteen feet (15') of the main entrance to the residence.

Feeling that the Livability issues had been covered, Mayor Cronin re-directed the discussion to zoning matters to determine if there were any directions that Council wanted to give to the Planning Commission. One request was for the Commission to look at the percentage of lot coverage allowed for pervious/impervious surfaces.

Councilman Bettelli was interested in finding a way to provide a sense of openness between the street and the ocean. Councilman Loftus suggested requiring a minimum of green space on a lot and encouraging natural vegetation. Ms. Safford questioned that the City could legislate what can and cannot be grown on private property.

Councilman Duffy expressed a concern relating to density where two (2) side-by-side lots are purchased then subdivided into three (3) lots on which large homes are constructed; he noted again that this practice would put added strain on the infrastructure. He emphasized his feeling that the island has a finite capacity. Director Kerr indicated that the Planning Commission had looked at every combination of two (2) lots that could potentially become three (3), and they could not find an efficient way to determine it.

Director Kerr addressed the Council members stating that the Planning Commission would have no difficulty looking at green space and rooftop decks, but he expressed the opinion that the Commission had done all in their power on maximum house size and reducing floor-to-area ratio. If Council wanted changes on these subjects, the Director suggested that he and the City Attorney be given the specifics of said change to write an ordinance for Council consideration; if the ordinance passes first reading, it could go to the Planning Commission to make whatever recommendations they deem necessary.

Councilman Buckhannon asked that the Planning Commission study limiting short-term rental occupancy to, possibly, twelve (12) for all new rental licenses issued beginning January 1, 2010 without regard to date of construction. Councilman Duffy suggested that any residence, not currently in the rental market, would be limited in occupancy.

Mayor Cronin thanked everyone for participating and contributing at the meeting. Administrator Tucker re-stated the overall theme that had come from tonight's meeting as one of the future vision of the Isle of Palms; she stated this to remind the Planning Commission that it was the viewpoint from which they should approach issues directed to them from City Council.

Mayor Cronin took the opportunity to thank the Police Department as they have, over the past two (2) years, stepped up to the challenges presented by the livability issues facing the island. He voiced his impression that significant progress has been made and the hope that progress would continue toward becoming “a quiet, peaceful community that’s welcoming to everybody.”

4. Adjourn

MOTION: Councilman Bettelli moved to adjourn at 7:45 p.m.; Councilman Duffy seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland
City Clerk