

MINUTES OF THE ISLE OF PALMS
PLANNING COMMISSION MEETING
November 11, 2015

The Isle of Palms Planning Commission met in the City Hall Conference Room, 1207 Palm Boulevard on November 11, 2015 at 4:30 p.m. Members attending included Richard Ferencz, Vince DiGangi, Lewis Gregory, Bill Mills, Lisa Safford and Noel Scott; the Director of Planning Douglas Kerr was present as well. Ron Denton was absent. The press had been notified of the meeting, and the agenda for the meeting was posted in City Hall and the Building Department to comply with the Freedom of Information Act.

Chairman Noel Scott called the meeting to order and welcomed the newest member of the Planning Commission, Lewis Gregory.

APPROVAL OF MINUTES

The next item on the agenda was the approval of the October 14th, 2015 minutes. Mr. Mills made a motion to approve the minutes as submitted, and Mr. Ferencz seconded the motion. The vote was unanimous in favor of the motion.

Mr. Scott asked for the Commission to consider re-ordering the agenda to move the discussion of septic systems up on the *AGENDA*. A motion was made, seconded and unanimously approved to reorder the agenda.

DISCUSS SEPTIC TANKS ON THE ISLAND

Mr. Kerr reported that several owners on the island had approached members of City Council about the issue of septic tanks malfunctioning and asked that consideration be given to expanding the public sewer lines. He stated that an idea that had come out of the Public Works Committee of City Council was to create a requirement to tie properties into a sewer system when they are sold outside of the family. The idea being that this requirement would not be a burden to current owners and that, over time, all of the properties on the island would be served by a public sewer system. He noted that Bill Jenkins with the Water and Sewer Commission had attended the meeting to talk about the history of sewer lines on the island and to answer questions.

Bill Jenkins said that, in 1990, the Water and Sewer Commission had Thomas and Hutton analyze what it would take to provide public sewer to the entire island. He said that they created different areas and assigned each property in the areas a cost per property to tie into the sewer system. He explained that the Sewer Commission had Thomas and Hutton update the report in 2005 to reflect current costs and, according to that plan, the cost per property ranged from \$9,000 to \$12,000, excluding the cost of work that would be necessary on each individual's property to connect the house to the sewer line.

He said that he expected that the Sewer Commission would have to fund the project with a bond that would have to be repaid within 20 years.

Mr. Gregory asked Mr. Jenkins if he had an estimate of the additional cost to tie the house into the sewer line. Mr. Jenkins answered around \$1,600.

Mr. Mills stated that he knew owners were currently using grinder systems to connect to the line and asked what a project like this typically costs. Mr. Jenkins replied anywhere between \$11,000 and \$22,000 for the work and an additional \$2,400 to \$5,800 for impact fees. He stated that, in these arrangements, the property owners are responsible for the maintenance of the pump and the Sewer Commission is responsible for the piping.

Mr. Scott asked what the capacity of the new wastewater facility was and how much it can be expanded. Mr. Jenkins responded that the current facility could handle up to 350,000 gallons per day and that it is designed to allow for additional cassettes to be added to increase the capacity to 750,000 gallons per day. He added that on the busiest summer days, the facility is close to treating 350,000 gallons per day.

Mr. Ferencz asked if the expansion of the sewer lines could be done in phases. Mr. Jenkins answered that it would be the intention of the Commission to expand the system in phases to address the areas of most need first. He presented a map of soil types of the island that showed areas with soils that are not ideal for septic systems.

Ms. Safford asked if there were grants available to help fund the expansion of sewer lines based on the health concerns. Administrator Tucker responded that there were grants, but they are generally targeted to low income areas and to areas with wells supplying drinking water. She added that typically these grants also include a provision that would make tying into the system mandatory.

Mr. Scott stated that the time allotted to discuss the issue was up, but that the issue would continue to be put on the Planning Commission's agenda for discussion.

CONSIDER AMENDMENTS TO CREATE SR3 AND P3 ZONING DISTRICTS

Mr. Kerr explained that the this topic was on the *AGENDA* because the restrictive covenants controlling development between 53rd Avenue and 56th Avenue had expired, leaving those properties unprotected from undesirable development. When the City staff discovered this issue, several alternatives were considered including renewing the existing, expired covenants, creating new covenants or extending an existing zoning

district to cover the properties. Each of these alternatives appeared to be illegal, impractical or undesirable; therefore, the staff is suggesting that a new residential district be created, which would be as similar to the existing requirements as possible. He stated that he had distributed the proposed amendment, but he would like to focus the discussion on a handout with 15 points for discussion, that highlight points of the amendment. The Commission agreed to go through the handout and discuss each point.

The inclusion of a Floor to Area Ratio (FAR) requirement would be a new requirement taken from the other residential zoning districts of the island, and the drafted amendment sets the standard at 35%. He explained that owners have requested that 40% be considered since it is the standard for the other residential districts on the island. He added that at least 11 houses would be made legal nonconforming by implementing a 35% requirement.

After discussion and consideration of the smaller lot sizes and the number of properties that would become nonconforming, the Commission recommended that the requirement be set at 40%

The second point to discuss was lot coverage that the draft amendment established at 35%. He explained that this was the percentage previously enforced by the Wild Dunes Community Association (WDCA), but the rest of the island is 40% and several owners have requested that 40% be considered.

After discussion of the smaller lots, the Commission agreed to recommend that the lot coverage requirement be set at 40%.

The third item for discussion was the establishment of the front setback requirement, which was proposed at 20 feet to match the standard previously enforced by the WDCA. Mr. Kerr stated that at least 6 houses will be made legal nonconforming by this provision that is partially due to the fact that the City's code stipulates that all road sides be considered a front yard, while the WDCA has allowed owners to choose which yard would be their front yard in many situations.

After general discussion, the Commission agreed to recommend that the front yard setback be set at 20 feet.

The fourth item for discussion was the establishment of a rear yard setback requirement that was proposed at 30 feet to match the standard previously enforced by the WDCA. Mr. Kerr stated that at least 9 houses will be made legal nonconforming by this provision and this could be partially due to a difference in interpretation between the City and

WDCA about which yard is the rear yard. Property owners have requested that 20 feet be considered.

The Commission discussed the fact that 9 properties would be nonconforming and the fact that owners in the area would prefer 20 feet. Mr. Gregory stated that he struggled to find the logic in sometimes going with the requirement previously enforced by the WDCA and other times going with the will of a group of owners. He felt the Commission should try to be consistent.

Mr. Kerr stated that owners in the area have made the case that while the WDCA did have requirements; they varied from those requirements more frequently than the City would.

Mr. Scott explained that he used to be on the Wild Dunes Architectural Review Committee and they did not frequently vary from the standards. Ms. Safford stated that a sheet had been circulated highlighting the areas where properties did not meet the standards and she felt that the sheet showed that there was a lot of variation from the standards. Mr. Kerr stated that some of the variations could be accounted for in the difference of interpretation of which yard was the front, rear and side; but some variations did not appear to comply the WDCA standards.

The group generally agreed to follow the current WDCA standards as published and recommend that the rear yard setback be set at 30 feet.

The establishment of a side yard setback requirement was proposed to be set at 15 feet to match the standard previously enforced by the WDCA. Mr. Kerr stated that at least 10 houses will be made legal nonconforming by this provision. He added that owners have requested that the City consider 10 feet.

The group generally agreed to follow the current WDCA standards as published and recommend that the side yard setback be set at 15 feet.

The sixth item for discussion was the additional side setback above 25 feet in height, but he explained that this was a moot point if the side setback is established at 15 feet.

In the discussion about the minimum lot size for the SR3 district, Mr. Kerr explained that the WDCA requirement states that there shall be no subdivision without written consent from the WDCA. He stated that the proposed SR3 minimum lot size requirement of 17,500 square feet was borrowed from the SR1 zoning district and that this limit was chosen to ensure that no subdivision could occur in the area. He stated that owners have raised concerns about lots becoming nonconforming, which he did not feel had

impact on their ability to use and develop the properties. He stated that all lots in the area are between 10,000 and 14,000 square feet.

Ms. Safford explained that she could understand owner concerns about being categorized as nonconforming. Mr. Kerr voiced the belief that, if the standard were set at 10,000 square feet, it would have same effect of not allowing any future subdivisions. The Commission agreed to recommend that the lot size be established at 10,000 square feet.

The eighth point for discussion was how setbacks on corner lots would be treated Since the WDCA allows owners to choose which yard is the front and the corner lot is deemed to have one front, one rear, and two sides; but the City code stipulates that corner lots have two front yards, which are the two sides adjacent to the road, and the other two yards are considered sides.

The Commission discussed this difference and made no recommendations to change the existing language in the code regulating corner lots.

Mr. Kerr explained that the WDCA requires all accessory structures to meet the house setbacks, and the City code stipulates accessory structures go in the rear yard and be 6 feet from the line. He stated that the current draft of the SR3 requirements follows WDCA's requirements for the setback of accessory structures.

The Commission recommended that the SR3 standards remain as drafted to follow the WDCA requirements.

The tenth issue for explained that WDCA allows accessory structures to have living areas as long as they are not separately rented and they do not have a kitchen; however, the City code does not allow living space in accessory units. He stated that the current draft of SR3 standards follows WDCA's requirements of allowing living space.

Mr. Kerr voiced concerns over this requirement and specifically the potential for abuse. He stated that he believed that owners would be tempted to create an additional rental unit if they are allowed to have living areas in detached structures.

Ms. Safford explained that she did not want to deprive owners of rights they currently have, but she agreed that the temptation to create illegal rental units would be significant if this is left in the amendment.

Mr. Mills asked if any of these existed in the area now. Mr. Kerr stated that he did not know. Administrator Tucker stated that she felt like there may be at least one in the area already.

Mr. Kerr suggested that he research how many structures like this have been built to aid the Commission in making a recommendation on this standard. The Commission agreed to take this issue up at their next meeting.

On the subject of beach views, the Director stated that the WDCA requires that 5 feet on either side of the property line of beach front properties be kept free of fences and other structures and that the proposed SR3 language proposes to prohibit fences within 5 feet of the side lines of an ocean front lot. He explained that owners have requested that this provision be deleted.

The Commission recommended that the amendment be left as drafted to include this provision to keep continuity with the WDCA requirement.

Mr. Kerr explained that the WDCA and proposed SR3 code require at least 1,600 square feet as the minimum house size, but the other residential districts on the island require 1,000 square feet.

The Commission recommended that the amendment be left as drafted to include 1,600 square feet, to stay consistent with the WDCA requirement.

Mr. Kerr explained that, in all other zoning districts, ocean front lots have a maximum building line towards the beach, but that the proposed SR3 language includes a rear setback of the ocean front line of 30 feet. Additionally, he stated that the OCRM setback line is the controlling factor for lots on 55th and 56th Avenue.

He asked that the Commission delay considering this issue to allow for more study on where existing structures were built and what provision would work best. The Commission agreed to delay this action until next month.

WDCA has historically provided architectural review, but that the SR3 standards would not include these provisions. Mr. Kerr stated that this was a point that was given considerable discussion by the staff and the WDCA, and it was determined that a new provision could not be enacted that would allow the WDCA to continue providing this service. He explained that the only legal way the staff could see to do this would be to create a new City board in compliance with the SC Code, with additional staffing, which the City is not in a position to do.

The Commission acknowledged that the City was not in a position to create a new board for this purpose.

The last issue for discussion was the language in the P3 standards relating to beach front open space. He explained that the expired covenant stated that "Open space, Beach Conservation and Pedestrian Beach Accesses shown on the plat are held in trust for the use and benefit of lot owners. These spaces will not be subdivided, sold or otherwise disposed of under conditions which would permit its use for the erection of any structure without permission of contiguous ocean front owners. Pathways and beautification measures are allowed. No warranty of exclusive use for lot owners."

Mr. Kerr explained that this open space was currently owned by WDCA and that the amendments included adding a P-3 preservation overlay district to the City Code. He stated that this district would require that no structure could be erected in this open space or beach access path areas. He explained that owners have expressed concerns about the amendments allowing beach renourishment projects in this area.

The Commission generally discussed the need to carry out beach renourishment projects and recommended that the amendment remain as currently drafted.

Mr. Scott explained that the Commission would reevaluate the amendment next month once additional research is done on outstanding issues.

DISCUSSION OF MARINA MASTER PLAN PROJECT

Mr. Kerr reported that, at the last Real Property Committee of Council, ATM reviewed a Limited Conditions Assessment of the marina site, which had been distributed. He explained that the purpose of this document was to highlight areas that are in good condition and worth working around and those areas that are in poor condition and should be considered priorities for replacement and/or alterations. The primary areas identified as being in poor condition and not worth keeping are the older docks in the Morgan Creek Harbor.

Mr. Ferencz explained that the assessment included a list of Immediate Life Safety Concerns, which he hoped would be dealt with quickly to limit liability exposure. Mr. Kerr responded that the City and the tenant were actively working to address the items on the list. Mr. Ferencz suggested that, after the repairs are made, the City be given reassurance from a third party that the conditions are safe and no longer an immediate life safety concern.

MISCELLANEOUS BUSINESS

Mr. Kerr explained that the Commission members needed to complete the required 3 hours of continuing education training outlined in the SC code. He asked if a joint meeting with the Board of Zoning Appeals members on December 1st at 3:00pm worked for everybody, which it did.

ADJOURNMENT

With there being no further business, the meeting was adjourned at 7:15 p.m.

Respectfully submitted,
Noel Scott, Chairman