



**TOWN OF SULLIVAN'S ISLAND, SOUTH CAROLINA
LAND USE & NATURAL RESOURCES COMMITTEE OF COUNCIL**

Thursday, November 20, 2014

The Land Use & Natural Resources Committee of Council met at 4:05 p.m. on November 20, 2014 at Town Hall, 2050-B Middle Street, all requirements of the Freedom of Information Act having been met. Present were Committee members Pat O'Neil, Chair, Council member Jerry Kaynard and Council member Mary Jane Watson (first meeting); Staff, Administrator Benke, Zoning Administrator Henderson, Building Official Robinson and Asst. to Administrator Darrow.

There were approximately ten (10) members of the public present, including Council members Chauncey Clark and Susan Middaugh; no media representatives present. Jeff Jackson, Town naturalist consultant, was present too.

1. Call to Order. Chair O'Neil called the meeting to order, stated the press and public were duly notified pursuant to state law and noted all members were present. Committee agreed to re-order the agenda to place item 7, General Discussion of Planning Commission discussion of Station 19 and Conquest Street properties, as the 2nd business item to accommodate the schedule restrictions of Planning Commission Chair Visser, present for this matter.

2. Accessory Structures and Conservation Easement in RS Zoning District

Chair O'Neil noted a resident had approached the Town interested in potentially placing a private lot in conservation easement status, a new request for the Town. While the resident in question has not pursued the conservation easement, the Committee felt it prudent to review conservation easements in general and, specifically, relating to small, privately held lots.

Staff Report

Zoning Administrator Henderson provided a review of conservation easements and deed restrictions, their intent and the RS District zoning, jurisdictional comparisons, information from conservation groups regarding deed restrictions in general, a review of the Town's privately owned vacant properties and current Town zoning code regarding accessory structures within the RS District. **Zoning Administrator Henderson's report is attached as Exhibit A.**

Committee Questions

Committee began discussion of structures or improvements allowed on vacant lots or conservation spaces (zoned RC2) at present, some of which include:

- Fences on vacant lots (RS District)
- Docks on vacant lands (RC2 district)

Staff clarified that docks are allowed in the RC2 district and are not accessory structures.

Council member Clark (audience) questioned the garages remaining on vacant lots after Hurricane Hugo. Zoning Administrator Henderson clarified that these garages are legal nonconforming structures.

Public Questions

Wayne Guckenberger, 2105 Pettigrew, SI

- Questioned the tax consequences when a property is conservation deed restricted.

Zoning Administrator Henderson noted the property owner does receive some type of tax credit from the County with the zoning change.

Mr. Guckenberger

- Clarified that the Town loses future tax revenue when the property is converted to a deed restricted conservation space, as it becomes a platted lot removed from future tax rolls.

Frances Johnson, 2301 Atlantic Avenue, SI

- Noted a lot with deed restriction/conservation space has a reduced market value (reduced potentially by half of the value) once deed restriction are placed on a lot.

Council member Middaugh, 2420 Raven Drive, SI

- Clarified the Town would forfeit value of ad valorem taxes for future deed restricted lots in addition to the reduced market value of the lots.
- Noted she is owner of a side lot next to her home upon which she has erected a fence. She noted the Town's zoning ordinance is structured to prevent her, for example, from combining lots and creating a type of "compound" estate.
- Expressed concern that if the Town made zoning amendments to allow accessory structures on vacant conservation deed restricted lots, one could create a de facto combination of lots and erect a family compound, for example:
 - Place side lot in deed restricted trust and install a pool or tennis court on the lot;
 - Trust property could be sold with deed restrictions in place to a new owner with the two lots acting as a compound.

Council member Kaynard asked, in Council member Middaugh's example, whether a dock could be placed on a vacant land if it had water access. Building Official Robinson clarified that a dock would be possible as it is allowed in the zoning ordinance.

Zoning Administrator Henderson noted that the only thing that could be put on a RS District lot, at present, would be a single-family dwelling pursuant to the zoning ordinance.

Council member Kaynard noted that trees could be planted on a vacant lot. Staff agreed that lots could be maintained through cutting, landscaping and tree planting.

Zoning Administrator Henderson reviewed the Town of Kiawah policies, noting Kiawah has a land conservancy committee. The Committee expressed surprise that Kiawah had a significant number of conservation lots.

Cheryl Clark, 2119 Pettigrew, SI

- Asked how small of a single-family residential house could be built in the RS District on Sullivan's Island.

Zoning Administrator Henderson clarified that 1000 sf is the smallest size single-family residential structure that can be built on the Island.

There being no other public or Committee questions or comments, Chair O'Neil reiterated the Committee identified this topic for research and review only, with no intention to recommend action to Council. Zoning Administrator Henderson noted he would make his presentation available to the public by having it posted on the Town's website, as requested by Chair O'Neil.

NO ACTION

3. General Discussion and Review of Planning Commission Comments Regarding Deed Restricted Properties at Station 19 and Conquest Streets.

Chair Visser, Planning Commission Chair, provided an overview of discussion at the November 12, 2014 Planning Commission meeting:

- Planning Commission is instructed to develop a Town Comprehensive Plan, reviewed every 10 years with an interim update every 5 years.
- Planning Commission conducted and completed the 5 year update in 2013, which was approved by Town Council.
- Commission uses Comprehensive Plan as its guiding document for planning purposes and work schedule.
- Commission is examining each approved Element and particularly the Needs & Goals strategies to review assignments to the appropriate group or department within the Town. He noted the Commission understands the Town's budget constraints do not allow for all action items to be accomplished immediately.
- The first element the Commission has begun reviewing is the Natural Resources element.
- Initial Commission discussion included questions about deed restrictions on the Island and the need for a better understanding of it. Two trusts hold Town land on the Island:
 - Lowcountry Open Land Trust (LOLT): accreted beach front land;
 - East Cooper Land Trust (formerly Mt. Pleasant Land Trust): two properties abutting Intracoastal Waterway, specifically Station 19 (Old Dump) and Conquest Avenue (Cove Street bridge area).
- Noted the Town owns the properties, with the Trusts reviewing activity on the properties for compliance. Like Kiawah and Beaufort, the Town has placed restrictions on the lot to protect waterway access and vistas for future generations.
- Committee sought in its last meeting to understand the limitations of the East Cooper Land Trust (ECLT) deed restrictions and had ECLT Executive Director Catherine Main available to provide information and answers to the Commission.

- Chair Visser characterized his understanding of the deed restrictions and Commission questions:
 - Use: Passive recreation, allowing for temporary organized activity (ie soccer goals)
 - Commission questioned conflicting language: no structures are allowed on lots except for an open air shelter. Commission was unclear what would constitute an open air shelter.
- Residents near the Station 19 (Old Dump) lot were present at the November Commission meeting and expressed their concerns with public abuse of the lot:
 - Noise and late night vehicular traffic on the lot;
 - Partying and inebriated visitors on the lot, late at night;
 - Debris on the lots, to include a number of kayaks and canoes left at the water line.
- Commission offered some recommendations to Council regarding the two lots based upon its meeting:
 - Signage – potentially no visitors on lots after dark
 - Potentially chaining off the lot access
 - Garbage cans curbside
 - No personal property on the lot overnight
 - Examine Conquest Street (Cove) bridge – recommended by ECLT Executive Director Main

Committee reviewed Planning Commission’s recommendations and questions. Administrator Benke noted the Town is waiting for signage input from the East Cooper Land Trust. Committee members indicated they wanted to study the Planning Commission recommendations on the two lots before making any recommendations to Council. **NO ACTION**

Administrator Benke noted there are other areas on the Island where boat use or storage is allowed and the Committee might want to treat those areas equally with the two deed restricted lots. He specifically cited the Station 26 boat landing (deep water access) and boat storage, with permit, on the beach (RC1).

Planning Commission Chair Visser commented on the kayaks on Station 19 lot: some appear derelict, not necessarily Island resident property, and appear to obstruct cutting on the lot. He noted that fishing pre-dawn is something he enjoys doing and would not like to see the water access obstructed until dawn.

Council member Watson suggested notifying kayak owners that the Station 19 lot is under discussion, by placing stickers on the kayaks. Zoning Administrator Henderson noted a sign could be placed on the lot indicating that the Town would discuss the kayak issue in the future.

Council member Kaynard questioned sailboat storage on the beach. Administrator Benke noted that overnight storage of Hobie Cats and Catamaran boats are restricted by Town ordinance to residents aged 55 years or older. He noted there are approximately 6 boats on the beach at present.

Addison Ingle, 1719 Atlantic Avenue, SI

- Noted there has been a Catamaran near his house, partially buried under a new beach dune near a public beach path, for 5-6 years and has never been moved.

4. Charleston County Urban Greenbelt Grant Program: Station 16 Nature Trail

Administrator Benke provided an overview of the changes for Station 16 Phase I Nature Trail. **(Construction details and changes outlined in Exhibit B herein)**

Staff clarified that the combination matting and boardwalk system is being constructed to provide safe passage-way through the trails, onto the beach and to keep visitors on the recommended trail for the mutual benefit of the visitors and flora in the protected land.

Chair O'Neil noted the Station 16 path has been paired down, reducing the hardscape in the protected land and expense for the trail.

Luke Lewis, 2010 Pettigrew, SI

- Questioned who is paying for the trail, the Town?

Administrator Benke clarified that funding is from the Charleston County Urban Greenbelt fund (\$198,000 for Sullivan's Island use), awarded in the past 3 years, and some funds from a SC DHEC grant (used for Station 21 path).

Frances Johnson, 2301 Atlantic Avenue, SI

- Asked about vertical paths and Town financing the cost to build those paths to the beach.

Administrator Benke noted that the Town has paid for some path enhancements from the Town's General Fund. He noted that, because the Town's beach is growing, the paths have to be extended every few years. He noted Urban Greenbelt funds are being used to offset costs for vertical paths too. The next projects are Station 22 ½ (approximately \$16,000) and Station 23. Urban Greenbelt funds are being used for both vertical beach access and parallel walking paths.

Mr. Johnson:

- Stated that funding vertical beach path improvements should be the Town's first and highest priority for the funds.

Council member Kaynard noted that the program to repair and build vertical paths did exist before the Urban Greenbelt Grant funding was made available.

Administrator Benke noted that not all residents are interested in 100% boardwalks. The Town is striving to find a balance between unimproved and improved (boardwalk) paths.

Chair O'Neil asked if the Committee needed to provide a recommendation to Council to bid the project again. Administrator Benke clarified that the project has already been bid out. Chair O'Neil clarified this report only to the Committee updating Council on the path status.

NO ACTION

5. Sullivan's Island Elementary School Nature Trail

Administrator Benke reviewed the school's educational nature trail. Council member Watson provided the following input:

- Intent is to open trail to other CCSD schools in the future;
- Install signage to allow students to use QR codes/readers to access data on nature trail highlights through smart phones.

Chair O'Neil noted that the path is meant to be used by students with adult supervision and asked about foliage cutting.

Council member Watson noted that the trail is wide enough for teachers to see students running toward the front of the beach and a gate/key helps monitor path access from the beach.

Administrator Benke clarified that no vegetation was damaged to clean up the path.

Luke Lewis, 2010 Pettigrew, SI

- Noted when he was at the school playground, the foliage abutting the playground was very thick and unsafe.
- Submitted that the Town needs to have the vegetation near the playground, and the accreted land in general, be managed.

Council member Watson noted that the area behind the playground was intended to be left natural, but sees the value now of managing the foliage. Chair O'Neil suggested he could potentially support thinning of trees around the playground.

Mr. Lewis offered additional feedback on the merits of cleaning and managing the foliage.

Catherine Guckenberger, 2105 Pettigrew, SI

- Noted the vegetation near the elementary school is overgrown and the playground comes right up to the vegetation.
- Submitted the children should be able to see glimpses of the beach and/or the oaks in the vegetative swath. The school should have a view corridor to the beach.

Council member Watson commented she sees the vegetation from her classroom window daily.

Council member Kaynard noted that CCSD had a 99-year lease (since 1955) for land going all the way to the high water mark. When the Town negotiated a new lease with CCSD a few years ago, CCSD gave up 5-6 acres of land in the accreted/protected area. During Town and CCSD negotiations, Council set aside provisions to work with SIES on future educational related opportunities within the accreted/protected land for SIES and CCSD students. This is a legal obligation the Town has made to CCSD and SIES. He noted the school just opened and anticipates future activity in the area.

6. FEMA Insurance Rebates and Biggert Waters Reform Review

Building Official Robinson reviewed the 2012 Biggert Waters Flood Reform (BW12). As FEMA began implementing BW12, rates increased substantially and the federal legislature received an outpouring of public outcry. Congress passed the Homeowner Flood Insurance Affordability Act of 2014, which is being implemented now. There are refunds available to some qualified residents who paid a higher fee.

Public outreach regarding flood premium rebates and general flood insurance information: Staff has provided a link to the rebate on the Town's website Home Page and through Town E-Newsletters. Additionally, Staff has developed a one-stop portal for resident resources for flood plain management and insurance questions. Staff stressed the need for residents to get an elevation certificate.

Chair O'Neil asked, generally, which residents might expect to get rebates. Building Official Robinson noted it will likely be residents who are existing primary owners of a pre-firm (below base flood elevation, BFE) construction house (prior to Town flood maps or flood map change). He noted FEMA is supposed to issue new maps in 2015.

Committee noted the impact BW12 had on homeowners trying to pay the high premium increases. Additionally there are homeowners who were trying to sell homes in an uncertain environment, negatively impacting residents. Secondary home sales and businesses will be impacted negatively too.

Building Official Robinson commented that the best thing the community can do is lower flood rates through improved ISO ratings. Currently the Town enjoys a 25% reduction in community rates due to the Town's good ISO rating.

Zoning Administrator Henderson and Building Official Robinson indicated they would like to get the Planning Commission involved in studying the ISO rating structures and help identify specific local community outreach strategies. Developing a local community-centric committee would provide a significant bonus with the ISO rating

Committee generally agreed the proposed activity was good and asked Staff to keep the Committee informed. **NO VOTE**

Public Questions/Comments

Wayne Guckenberger, 2105 Pettigrew, SI

- Suggested implementing improved construction codes/standards to increase FEMA rating.
- Individual hurricane preparation plans for homes

Building Official Robinson noted that the Town has higher regulatory standards to deal with flood related issues (i.e. breakaway lattice under elevated homes) that helps with FEMA rating. Additionally, the Town's significant deed restricted open land provides additional favorable rating points.

Building Official Robinson noted Mr. Guckenbergers's suggestion for individual property owner hurricane preparation plans for homes would be a good idea for a community workshop/project.

Gail Nixon, 1611 Atlantic, SI

- Suggested windows able to withstand storm surge would be preferred over boarding windows. This is something the Town should encourage.

7. Accreted Land Management Plan Status Update

Administrator Benke provided an overview of the projects in the Accreted Land:

- Jeff Jackson has lead 4-5 workshops in the area near Station 16 path to remove invasive plants. These workshops have been hands-on and instructional for residents.
- In the FY16 budget, Council might want to look at funding a more aggressive strategy to deal with the invasive plants throughout the 93 acres of Accreted Land.

Jeff Jackson noted the goal is to kill the mature invasive trees (ie popcorn trees) to prevent pollination and proliferation of invasive trees.

Frances Johnson, 2301 Atlantic Avenue, SI

- Asked if Council has considered allowing property owners abutting the accreted land to have the authority to eradicate invasive species plants and trees, by hiring qualified professionals under the advice and guidance of Mr. Jackson.

Committee noted this would be a policy matter to be discussed by the entire Council.

Luke Lewis, 2010 Pettigrew, SI

- Suggested Town needs to provide guidance to residents who can and should be part of the management of property near their homes, particularly related to invasive species eradication.

Council member Kaynard noted that Council is moving at a very measured pace with work in the Accreted Land. He observed it took the Town from 1991-2013 to identify and itemize 15 invasive species for targeted eradication in the Accreted Land. It would be another step for Council to put into ordinance the ability for licensed contractors to go into the Accreted Land to clear invasive species. This option could be on the table for Council discussion.

Mr. Lewis:

- Continued to express concern about a growing forest along the beach.
- Submitted that the Town did not have a forest the length of the Island in its original vision.

Chair O'Neil noted that every measure or decision the Town makes on this matter affects a resident/property owner on the Island. This is why the Town is taking a measured, careful approach with its activity.

Council member Middaugh noted that volunteer efforts at invasive species eradication was successful, albeit limited in scope. She expressed initial support for an aggressive treatment of invasive species island-wide.

Council member Watson noted that the October 15, 2013 Land Use & Natural Resources Committee meeting provides an itemized list of the Phase I protected land management projects.

There being no further business, the meeting was adjourned at approximately 5:35 p.m. (Council member Kaynard motioned; Council member Watson seconded; unanimously passed).

Respectfully submitted,
Pat O'Neil, Chairman
Land Use & Natural Resources Committee