

**TOWN OF SULLIVAN'S ISLAND
SOUTH CAROLINA
PLANNING COMMISSION MINUTES
Wednesday, April 11, 2007**

The regular meeting of the Town of Sullivan's Island Planning Commission was held at 6:30p.m. on Wednesday, April 11, 2007, in Town Council Chambers, 1610 Middle Street, all requirements of the Freedom of Information Act having been satisfied. Present were Committee members Hal Currey, Chairman, Aussie Geer, Pat Votava, John Winchester, Anne Kilpatrick (arrived late as noted herein), Bobby Thompson and Elaine Fowler; Kent Prause, Zoning Administrator, Randy Robinson, Building Inspector, and Lisa Darrow, Assistant to the Administrator.

I. Call to Order. Chairman Currey called the meeting to order and stated that members of the press and public were duly notified in accordance with state law. He noted that all Commission members were present and Administrator Benke was absent (out-of-town). Ms. Kilpatrick arrived during this time at 6:38 p.m.

II. Approval of Previous Month's Minutes

Ms. Fowler noted a typographical error in the March 14, 2007 minutes and observed that Ms. Kilpatrick arrived at 7:05 p.m., not 6:05 p.m.

MOTION: Ms. Fowler made a motion to approve the March 14, 2007 minutes amended to show that Ms. Kilpatrick arrived at the meeting at 7:05p.m.; seconded by Ms. Votava; MOTION UNANIMOUSLY PASSED.

III. Approval of Agenda

MOTION: Ms. Votava made a motion to approve the agenda; seconded by Ms. Fowler; MOTION UNANIMOUSLY PASSED.

IV. Correspondence - Staff indicated there was none.

V. General Public Comment

Mr. Kaynard, a member of the audience present, asked that the Commission explain the public hearing items tonight before accepting public comment.

VI. Public Hearing

Chairman Currey reviewed the Commission's procedures for a Public Hearing: The Commission would accept comments from the public on an agenda item then Commission members would have the opportunity to ask questions of the public and make comments amongst themselves. Chairman Currey noted that the Commission would then render a recommendation to Council on ordinance language, but noted that

Town Council was the only body authorized to enact an ordinance. He noted that the Planning Commission was the first step in a multi-step process that culminated with Council.

1. Amendment to Chapter 21, Section 21-3: Definition of Lot or Lot of Record

Staff Comments:

Zoning Administrator Prause reviewed the proposed language changes for Section 21-3. He noted this matter originated from Staff's efforts to better clarify a Lot of Record for property owners who might rely upon old historical plats of record and/or family documentation (**draft language attached hereto as Exhibit A**).

Mr. Thompson noted that there are at least three (3) cases on the island, to his knowledge, where property lines were abandoned and taxed as one lot, but 50+ year old County plats show an "historical" division of property.

Public Comment

Susan Middaugh, 2420 Raven Drive, Sullivan's Island

Mrs. Middaugh noted she was a member of the Town's Board of Zoning Appeals. As a member of this board and an island resident, Mrs. Middaugh expressed her support for the Town's efforts to better define a Lot of Record. She noted that the Board of Zoning Appeals has been faced with questions from applicants seeking clarification of the most accurate Lot of Record. She submitted that the current Lot of Record definition needed to be updated in a reasonable manner and acknowledged that Staff's recommended language changes accomplished both objectives.

Larry Middaugh, 2420 Raven Drive, Sullivan's Island

Mr. Middaugh expressed his appreciation for the clarification and submitted that he could foresee a future need for the Town to be able to clarify Lots of Record for other properties.

MOTION: Mr. Winchester made a motion to recommend approval of the alternate definition of a Lot of Record as follows (Exhibit A):

Lot or Lot of Record: A land area designated as a separate and distinct parcel, tract or property on the most recent legally recorded plat, or in the absence of a legally recorded plat, that as described on the most recent legally recorded deed, both or either as filed in the Office of Register of Mesne Conveyance of Charleston County; provided, however, that for the purpose of determining whether such lot is a separate, distinct building lot, or lot suitable for independent conveyance, any and all restrictions and limitations referenced in the chain of title shall be considered."

Motion seconded by Ms. Kilpatrick.

Discussion:

Ms. Fowler submitted that the word “contained” should be substituted for the word “referenced,” for clarity. She noted that some restrictions or covenants in a chain of title could be eliminated or added throughout the property’s history, but not necessarily referenced in a current deed or on a recorded plat.

Mr. Winchester and Ms. Kilpatrick indicated they would entertain adding this language in an amended motion. The Commission sought Staff input on the proposed change.

Zoning Administrator Prause noted that there are situations in which licenses or written instruments incorporating prohibitive language could prevent a lot from being subdivided. He noted that his intent was to require that all documents impacting a property be comprehensively researched to determine the chain of title and restrictions on a property.

Ms. Fowler noted that, as a real estate attorney, she and her firm research many chains of title as part of real estate transactions. Thereafter, she provided the Commission with an overview of deed restrictions, covenant restrictions, probate actions, trusts and other matters which might impact a chain of title.

The Commission and Staff continued discussion for some time and Ms. Fowler further suggested revising the definition to read, “.....any and all *currently applicable* restrictions and limitations (strike *contained* or *referenced*) in the chain of title shall be considered.” The Commission members debated the common understanding of the term “currently applicable,” with Ms. Votava expressing concern that the term “currently” could be misleading to laypersons not either attorneys or real estate professionals. Ms. Kilpatrick suggested the term “currently” could actually work against the Town’s goal to ensure property owners incorporate comprehensive and exhaustive research into the chain of title to determine the true lot of record prior to presenting applications.

After further discussion the following amended motion was made.

MOTION (Amended): Mr. Winchester made a motion to amend the original motion to revise the following phrase, “.....lot suitable for independent conveyance, and any and all applicable restrictions and limitations in the chain of title shall be considered.” Seconded by Ms. Kilpatrick; MOTION UNANIMOUSLY PASSED.

2. **Amendment to Chapter 21, Section 21-138: Accessory Structures**

Staff Comments:

Building Official Robinson reviewed the proposed language for Section 21-138 Accessory Structures (**attached hereto as Exhibit B**) for which Council passed a Resolution and Enacted Pending Ordinance at the March 20, 2007 Council Meeting. Building Official Robinson noted that some of the language proposed by Staff in this Resolution needed to be “tweaked,” to incorporate Planning Commission’s input.

Public Comment:

Susan Middaugh, 2420 Ravens Drive, Sullivan's Island

Ms. Middaugh expressed desire for additional clarification on the maximum square footage calculation.

There being no further comments, the Public Hearing was closed.

Commission Questions:

Building Official Robinson reviewed the information set out in item A(2) regarding maximum square footage of an accessory structure (**Exhibit B**). He clarified that the Town used as a guideline the restrictive language found in the Town of Mount Pleasant ordinances for accessory structures, but acknowledged that this section needed additional work by Staff after input from the Commission.

MOTION: Ms. Geer made a motion to recommend approval of the proposed language as a Town ordinance regarding Section 21-138 (Accessory Structures) as outlined in Exhibit B herein; seconded by Mr. Thompson.

Discussion:

The Commission decided to go through each item in Exhibit B to discuss the proposed changes and make recommendations. Chairman Currey suggested the Commission work toward identifying and garnering consensus on various issues or areas of concern, to enable Staff to make directed changes to the draft ordinance language.

MAXIMUM SQUARE FOOTAGE (Item A 2):

Building Official Robinson noted that the existing ordinance restricted an accessory structure to no more than twenty-five percent (25%) of the Principal Building's square footage. He cited the example that, under existing language, a 5,000 s.f. primary residence could theoretically allow for a garage up to 1,250 s.f., almost the size of a small residential home.

The Commission spent some time discussing issues related to maximum size for an accessory structure, intermingling discussion regarding the height and roof pitch as well as plumbing allowances, particularly for the second floor of two-story accessory structures (i.e. two-story garage).

Building Official Robinson noted that new structures on the island are elevated for flood reasons and, as such, provide some storage in the bottom level for tools or a vehicle. Zoning Administrator Prause clarified that Staff has more concern with rooms over the garage which, when finished with insulation, drywall, electrical wiring, flooring and/or plumbing, could act as a second dwelling (i.e. carriage house or apartment), not in keeping with the purpose of an accessory structure.

Chairman Currey noted that a 750 s.f. garage would be a significantly large garage. Building Official Robinson noted that a typical, standard two-car garage is twenty-four feet by twenty-four feet (24' x 24'), or 600 s.f., large enough to accommodate two vehicles and a small space for a workshop bench or tool area.

Commission members agreed that a 750 s.f. garage would be very generous in size and Mr. Winchester commented on building trends to incorporate second-floor offices above the garage space. Various Commission members expressed concern that a second-floor space above the ground garage not be allowed to become living space. Chairman Curry suggested that a height restriction, possibly twenty-five feet (25') maximum, might help address concerns about potentially unapproved apartments in accessory structures.

Mr. Thompson expressed support for considering a lower maximum square footage, Ms. Votava suggested 600 s.f. as an alternate maximum allowable square footage and Mr. Winchester expressed the need for an accessory structure to remain in proportion to the primary residence.

Building Official Robinson clarified that 750 s.f. would represent the total building area of the structure, including the roof and roof pitch, roof overhang and similar considerations. He commented that 750 s.f. would allow for diversity in the shape and size of accessory structures. He noted that, depending upon the footprint of the structure, a homeowner could build a two-story building or a big garage with a small office above. Building Official Robinson presented the Commission with pictures to illustrate the diversity in size and shape of accessory structures throughout the island.

Ms. Kilpatrick clarified that the Town allows a primary structure height of up to thirty-eight (38') feet. Building Official Robinson noted that, depending upon the roof pitch and proportion, an accessory structure could be as low as eighteen feet (18'). He noted that the language regarding roof pitch was taken from the Town of Mount Pleasant ordinances too.

The Commission briefly touched upon impervious surface limitations, setbacks and density relative to an accessory structure. Ms. Votava opined that a 750 s.f. accessory structure would be very significant in size and stressed the importance that accessory structures remain compatible with the size of neighboring properties. She supported a smaller maximum square footage for accessory structures.

Chairman Currey expressed support for reducing the accessory structure size to 625 s.f. but noted that the building height should remain in proportion with the primary structure. Mr. Winchester noted that he could support a 750 s.f. accessory structure that was in proportion to the primary structure.

Building Official Robinson suggested the following compromise: allow for a 750 s.f. maximum building with a footprint no larger than 625 s.f. He noted that a footprint of 625 s.f. would allow for a structure slightly larger than the standard 600 s.f. two-car garage (24' x 24') structure. He clarified for the Commission that an extended overhang

if constructed, similar to those sometimes built over a patio, would be counted as part of the 625 s.f. total.

Commission members generally expressed support for this suggestion and Ms. Fowler inquired about historical structures. Zoning Administrator Prause noted that Item B of Section 21-148 addressed this matter. He commented that this section needed to be addressed too. Thereafter the Commission briefly discussed accessory structures for historical houses and particular proportions for such structures.

MAXIMUM HEIGHT RESTRICTION (A3):

The Commission spent some time discussing the proposed maximum height language in Exhibit B, most particularly in how it related to the maximum building size, the ability for a structure to incorporate livable apartment-type space on a second floor and how the pitch of the roof line would be in proportion to the primary structure.

Commission members expressed the desire for diversity in roof pitches tempered with a pitch built in proportion to the primary structure. No motion was made, but general Commission consensus was to retain the current proposed language for maximum building height in Exhibit B.

LOCATION OF ACCESSORY STRUCTURE ON LOT (A1, A5 and A6):

Building Official Robinson noted that historic homes with garages were historically built toward the back of the property line. The Commission discussed the placement of garages on historical home sites, the construction of new garages, whether for a new or historic home, and the impact of proposed setback requirements on garages being rebuilt.

Zoning Administrator Prause noted that an accessory structure destroyed due to natural causes could be rebuilt in its current location at its current footprint, including structures on the lot with historic primary residences.

Some Commission members expressed the desire for new garage structures to conform to current setback requirements and others expressed support for increasing the minimum setback to ten (10') feet. No motion was made, but general Commission consensus was for a minimum setback of ten (10') feet.

After the Commission segued to discussion regarding plumbing for accessory structures, the Commission returned to consideration of accessory structure placement on a lot in relation to the primary structure (item A1 in Exhibit B). Mr. Winchester asked Staff if they had any suggestions regarding setbacks and Building Official Robinson requested direction on item A1 in Exhibit B (locate structure a minimum twenty feet from rear of Principal building's Primary Front Façade). Building Official Robinson noted that some accessory structures (i.e. garages) would logically be set back from the front façade of the primary structure along the street front while other structures would logically be set back from the rear of the house (i.e. cabanas for pools) along the ocean front.

The Commission briefly discussed various accessory structures, such as pool cabanas, garages, carriage houses and historic garages, and their logical location on a site, particularly in relation to the primary structure. Mr. Winchester was joined by other Commission members in expressing the need to establish minimum setback requirements balanced with the placement of the structure relative to the primary structure. Mr. Winchester noted that the Town should not establish an ordinance which would cause an accessory structure to be placed in the middle of a lot or an illogical location. After some further discussion, the Planning Commission referred this matter to Staff to draft some appropriate recommended language.

OTHER ACCESSORY STRUCTURES (Pools, fences, recreation facilities, etc):

Ms. Fowler asked about other accessory items, such as pools and fences. Zoning Administrator Prause noted that another part of the ordinance, Section 21-138 (B) addressed other accessory structures such as pools, fences, home occupation businesses and recreation facilities (like baseball and tennis courts, outdoor storage parking, etc). Ms. Fowler submitted that the Town needed to tighten up language regarding pools and other items.

CONTIGUOUS WALLS (A-4):

Building Official Robinson noted that Section 21-138 (A) (4) of the Town's ordinance currently restricted any one (1) wall to a maximum of twenty-five (25') feet in length or shorter. He noted, however, that an owner could circumvent the spirit of the restriction but stay within the limits of the code by designing walls that incorporate a divot or "jog." This would technically create two (2) walls both twenty-five (25') feet long which would act as essentially one fifty (50') foot wall. Commission members generally agreed that this language needed to be "tightened up" and requested Staff to provide them with some recommended language revisions at next month's meeting.

PLUMBING PIPES OR FIXTURES (A7):

The Commission spent some time discussing the issue of allowing plumbing pipes or fixtures in an accessory structure. Staff noted that the inclusion of plumbing could be a precursor to creating living quarters in an accessory structure, like a carriage apartment. Building Official Robinson clarified that the Town currently does not allow a plumbing meter, but remains silent on the matter of plumbing or bathroom fixtures.

The Commission expressed mixed views regarding the restriction of plumbing in an accessory structure. Chairman Currey expressed support for allowing some water in accessory structures, noting that many people would like to have sinks near their workshops. Other Commission members expressed support for allowing an outside shower attached to a pool cabana or garage. Building Official Robinson noted that the question would arise as to where the water would flow and, if allowed to tap into the water/sewer system, a homeowner could more easily retro-fit a space into living quarters without the Town's knowledge. Mr. Winchester echoed Chairman Currey's comments. He noted a deep sink in a garage would be acceptable and suggested some water flow to the yard might be an alternative to tapping into the sewer system.

After some further discussion on allowing plumbing fixtures at flood level of an accessory structure only, the Commission moved toward discussion of allowing hot water on the site. Ms. Fowler expressed support for allowing hot water for a cabana shower, for example, while Mr. Thompson dissented. He noted that the Town would have to draw the line somewhere on the plumbing issue and submitted hot water would be a step closer to a fully inhabitable accessory structure. Ms. Votava suggested the Town could limit the viability of a homeowner establishing an inhabitable residential structure in another way and suggested restricting heating and air conditioning to the unit. Commission members noted that a homeowner could bring in space heaters and portable air conditioners to work around such a restriction and cited enforcement problems.

Zoning Administrator Prause noted that Staff's primary concern with plumbing related to the second floor of accessory structures as this is where many carriage apartments would most likely be created.

Ms. Geer supported allowing hot or cold water in cabanas but no sewer connection. After some further Commission discussion on this topic, Building Official Robinson suggested compromise language to A(4): prevent the installation of plumbing and plumbing fixtures (hose bibs, sinks and exterior showers) with connections to the sewage system.

After some brief discussion and clarification, the Commission generally agreed to include Building Official Robinson's suggested revisions for A(4).

Call for the question: MOTION UNANIMOUSLY FAILED.

MOTION: Mr. Winchester made a motion to recommend Staff revisit and rework Section 21-138 (A) as outlined in Exhibit B herein and provide the Commission with language to address the following considerations: definition of specific accessory structures to which this proposed ordinance would be applicable; (A1) location of accessory structure to principal building; (A2) include language to establish a 750 s.f. maximum structure with a maximum 625 s.f. footprint; (A4) staff include restrictive language to address the maximum length of any one wall; (A5) adjust six (6') foot setback to ten (10') feet; and (A7) provide consideration to allow sinks, hose bibs and/or outdoor showers at flood level provided there are no connections to the sewer system; seconded Ms. Votava.

Discussion:

Ms. Fowler suggested including language to allow Staff to make further refinements to the proposed language as long as the revisions would be consistent with discussions the Commission had this evening. She noted that the Commission had discussed the need for consideration regarding other accessory structures, such as pools and fences.

Mr. Winchester and Ms. Votava agreed to the proposed amendment language.

Call for the question (amended); MOTION UNANIMOUSLY PASSED.

Chairman Currey directed Staff to advertise for another public hearing at the May 9, 2007 meeting and distribute the recommended changes to the Commission as soon as possible.

VII. New Business

Easement Plat Approval – 1401 Middle Street

Zoning Administrator Prause reviewed the plat with the Commission, noting that the appropriate department heads, Town Attorney and Town Staff have reviewed and approved the plat.

MOTION: Ms. Fowler made a motion to approve the easement plat at 1401 Middle Street; seconded by Mr. Winchester; MOTION UNANIMOUSLY PASSED.

VIII. Unfinished Business

Continued discussion regarding Comprehensive Commercial District Master Plan – Communication with Council

The Commission continued discussion initiated last month regarding a written recommendation to Council to move forward in developing a Comprehensive Commercial District Master Plan. Chairman Currey noted that Mr. Winchester has drafted a letter to Council of which all members received a copy. Thereafter, the Commission spent some time discussing the letter's verbiage, making minor changes to wording. Mr. Thompson noted that, regardless of Council's reception of the Comprehensive Commercial District concept, he wanted to see the Town move forward to provide some relief on parking issues within the hospitality/restaurant commercial corridor on Middle Street. Mr. Thompson indicated he would present his request for parking relief to Council on his own initiative.

MOTION: Mr. Winchester made a motion that the Planning Commission would present a letter to Town Council at its April 17, 2007 Regular Meeting, seeking support for the development of a Comprehensive Commercial District Master Plan; seconded by Ms. Kilpatrick; MOTION UNANIMOUSLY PASSED.

There being no further business, the meeting was adjourned (motion by Ms. Kilpatrick; seconded by Chairman Currey and unanimously passed) at approximately 8:18 p.m.

Respectfully submitted,

Lisa Darrow
Asst. to Administrator

Approved at the May 9, 2007 Regular Planning Commission Meeting