

# MINUTES

## ISLANDS PLANNING COMMISSION

**JANUARY 18, 2011 - 6:00 P.M.**

**The Casino Bldg, 530 Beachview Drive, SSI**

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**MEMBERS PRESENT:** Preston Kirkendall, Chairman  
Desiree Watson, Vice Chairman  
John Dow, Jr.  
Patricia Laurens  
William Lawrence  
Paul Sanders  
Joan Wilson

**STAFF PRESENT:** David Hainley, Community Development Director  
York Phillips, Planning Manager  
Janet Loving, Admin/Recording Secretary

**ALSO PRESENT:** Commissioner Clyde Taylor, BOC

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Chairman Kirkendall called the meeting to order and the invocation was given, followed by the Pledge of Allegiance. He then gave a brief recap of the rules, voting procedure and audience participation in discussing agenda items.

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## MINUTES

**November 16, 2010 Regular Meeting**

**December 14, 2010 Regular Meeting**

Upon a motion made by Mr. Paul Sanders and seconded by Mr. William Lawrence, the Minutes of the *November 16<sup>th</sup>* IPC Regular Meeting were approved and unanimously adopted.

Chairman Kirkendall advised that the December 14<sup>th</sup> Minutes should reflect that there was a change in the 2011 Meeting Schedule as follows: IPC Meeting of December 20<sup>th</sup> was changed to December 13<sup>th</sup> due to the Holiday Season. A motion was then made by Ms. Joan Wilson and seconded by Mr. Paul Sanders to approve the Minutes of the *December 14<sup>th</sup>* Regular Meeting with the noted correction. Voting Aye: Mr. Dow, Mr. Kirkendall, Ms. Laurens, Mr. Lawrence, Mr. Sanders and Ms. Wilson. Ms. Desiree Watson did not attend the December 14<sup>th</sup> meeting and therefore abstained from voting.

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### **ZM1968 (I) Red Barn Development**

Consider a request to amend a Planned Development for property consisting of 14.62 acres located on the southeast corner of Frederica Road and South Harrington Road. The property has 656 ft. of frontage on Frederica and 632 ft. of frontage on South Harrington. The purpose of the request is to allow a combination of Local Commercial and mixed-residential uses. Parcel ID 04-05348, 04-09952, 04-05347, 04-05399, 04-05411. Ussery/Rule Architects, agent for Don Gentile, owner. *This item was considered by the Islands Planning Commission on September 21, October 19, and November 16, 2010. On December 2<sup>nd</sup> the item was referred back to the Islands Planning Commission by the Board of Commissioners for ACTION ONLY; NOT FOR PUBLIC HEARING.*

Mr. Hainley explained that at the November 16<sup>th</sup> IPC Meeting, the motion on the floor for this item was an affirmative motion but it failed to carry a majority vote, making it necessary to amend the motion or submit a negative motion. Either way, a majority vote is needed on the motion in order to submit a recommendation to the Board of Commissioners. Thereupon, a motion was made by Mr. William Lawrence recommending that the Board of Commissioners deny zoning request application **ZM1968 (I)**. The motion was seconded by Ms. Joan Wilson. Discussion continued, during which time Mr. John Dow referred to a document submitted by the applicant comparing development provisions from 2005 to 2010. He then asked staff if there is anything erroneous in the comparison of this document. Mr. Hainley stated that staff did not find anything erroneous in the comparison. Initially, they had a question about the landscape sales in the green area for 2005, but during their research they verified that it is included in the text.

Continuing, Mr. Dow stated that his interpretation of this document is that there is nothing in the comparison where 2010 is less than 2005, which means that everything in the 2010 proposed development is better than the comparative that exists in the 2005. Mr. Hainley agreed and added that staff had discussions about the maximum commercial square footage but there is no cap on it. There is sort of a reverse performance cap regarding coverage and parking; however, they have ascertained a way around that, which is probably not economically feasible but it is allowed under the zoning that deals with the use of a parking structure that would allow a lot more than the 65,000 sq. ft. of commercial area capped under the proposal.

Mr. Hainley pointed out that the existing trees and the proposed trees are easily calculated. The 169 trees to be planted are based on what staff imposed on the applicant relative to buffers and other requirements upon reviewing the text. The road improvements are per the reports and the parking lots, as well as setbacks, are per the text.

Regarding the parking in accordance with the document under 2010, which lists 4 spaces for each 1000 sq. ft. commercial, 66 required for the Red Barn, Mr. Dow asked if this is a higher standard than what exists for 2005. Mr. Hainley stated that it is actually quite comparable.

Mr. Dow stated that at the last meeting he had a lot to say, and after the meeting he was accused of a lot of things. He pointed out that for the record his whole purpose for saying the things that he said was because he thinks that “the character of the neighborhood has long since been changed from what it was from what it is today.” He stated that “this zoning predates all of the conversations, 2005 is already here and there is nothing that anyone in this room can do about it; it exists.”

Mr. Dow stated that his comments, while they were tangential, they still spoke to what he felt which was that the change in the community had already taken place in the beginning of 2000. In his opinion, “the 2010 text is far better for the neighborhood and for the community than the 2005” and it was for that reason he made the motion to approve this request. Mr. Dow stressed that “we need to forget the politics and forget the emotions and just look at the quantifiable information.” He pointed out that the traffic issue isn’t going to be solved by defeating this request. The drainage is going to be the same whether it’s 2005 or 2010, and all of the issues are going to be the same except the things that are going to be quantifiable in the PD Text. Mr. Dow stated that “2010 far exceeds what was required by the same applicant in 2005.”

Ms. Desiree Watson stated that in previous meetings, particularly the last meeting when the vote was taken on this item, she went into a bit of history of why we have zoning laws, which has to do with planning a community. “If we’re just looking at the table that the applicant submitted, we’re not actually comparing apples with apples because the 2010 zoning takes away the residential area in Area C and makes it commercial, and that is a significant change from 2005.” Ms. Watson agrees that there doesn’t appear to be a plan for this kind of commercialization at this particular area on Frederica. She also feels that the Planning Commission should not ignore the input from the citizens in the community. One of their really large subject matters is the traffic issue and it needs to be addressed. Another one of their concerns is that this request doesn’t follow the Comp Plan. “If you begin expanding commercialization in this area, what plan is there to accommodate that; there is no plan.” Ms. Watson stated that it is inappropriate to begin to expand commercialization at this particular area because we would be using residential streets instead of major roads.

Mr. Paul Sanders stated that “any rezoning impacts all public services. When a rezoning application is filed with the staff, all county services involved have to sign off on the application in order to follow the rules and regulations. Individual applicants for rezoning property cannot control things that are relegated to public control. It is the duty of the county government to control streets, traffic, police, water, sewer, firemen and schools. Applicants for a rezoning are responsible that the ingress and egress to their property is as safe as possible from public streets. Also, the applicant is responsible to not cause a diminution of value to a common neighbor.”

Mr. Sanders stated that one of his greatest concerns is the possible loss of value from an adjoining neighbor. He stated that this has been his position for a number of years, and in recent rezoning cases on Demere Road and Arnold Road he voted against the application for this very reason.

Mr. Sanders pointed out that before the first hearing on this matter, one adjoining property owner called him and he explained to the caller that it would influence his opinion if she were to get an opinion from a certified appraiser that the proposed use would harm her property. During these long public hearings, there was one certified appraisal report presented to this Planning Commission and it stated “no loss of value to the neighbors.” Mr. Sanders stated that he is also a certified appraiser and he does not think that it would be any loss of value to an adjoining neighbor.

Mr. Sanders stated that in the third public hearing on this item, the Planning Commission was presented with a voluminous report by an attorney from Savannah who was opposed to this rezoning. The members of the Islands Planning Commission did not have time to review the content of this report before the end of the meeting. Mr. Sanders stated that he has now reviewed this report and “found that it contained errors or misstatements of facts.” For instance, the report stated that Frederica Road has a 50 ft. right-of-way at the Red Barn. It listed incorrect information pertaining to the right-of-way for the Winn Dixie Shopping Center on Frederica Road. The fact is the right-of-way for Winn Dixie on Frederica Road is 50 ft. just like the Red Barn. “This report was wrong.”

Mr. Sanders stated that the report also states that Winn Dixie Shopping Center and the Shops at Sea Island do not impact residential subdivisions, which is not so, because had they undercut the embankment next to Harrison Point any further, a row of houses would have fallen into the subdivision.

Mr. Sanders stated that “zoning is not a matter of public opinion. Decisions are not made on the common good for the public or for the most good for the most people. Our system of government supports the protection of individual rights, which extends to private property rights. Historically, social critics have complained of private property rights too often taking precedence over group rights which results that people are treated unequally or have unequal opportunities. Inequality exists in any society; however, the purported conflict between property rights and group rights is a mirage. Property rights are group rights. By protecting the individual you thereby protect the several; not vice versa. The reverse is socialism at best.” Mr. Sanders stated that he believes in private property rights. He does not believe in any socialistic form of government, and for this reason he will not support defeating this request. He would however support passage of this zoning.

This ended the discussion and Chairman Kirkendall called for a vote on the motion recommending denial of **ZM1968 (I) Red Barn Development**: Voting Aye (in favor of denial): Mr. Preston Kirkendall, Mr. William Lawrence, Ms. Desiree Watson and Ms. Joan Wilson. Voting Nay (against denial): Mr. John Dow, Ms. Patricia Laurens and Mr. Paul Sanders. The motion carried for denial.

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### **Comprehensive Plan Amendment and Future Land Use Plan Amendment**

(1) Consider an amendment to the Adopted Glynn County Comprehensive Plan (adopted October 16, 2008), “Future Development Narrative,” “St. Simons/Sea Island,” “Recommended Development Pattern,” by adding thereto the following provision: “No retail, commercial, or restaurant uses shall be permitted in the area along the north side of Demere Road, between Plantation Village and the Observation Park adjacent to the Waffle House.” (2) Consider an amendment to the Comprehensive Plan Appendix A: Future Land Use Text (adopted March 19, 2009), “Corridor Mixed Use Classification” and the “Community Mixed Use Center (Village Center) Classification” by adding to each classification description the following guideline: “No retail, commercial, or restaurant uses shall be permitted in the area along the north side of Demere Road, between Plantation Village and the Observation Park adjacent to the Waffle House.” (3) Consider an amendment to the Future Land Use Map (adopted March 19, 2009) referencing the amended guidelines.

On behalf of Glynn County, Mr. David Hainley explained that the purpose of this amendment is to incorporate language into the adopted Glynn County Comprehensive Plan to prevent more specific development in a specific area on the north side of Demere Road. He stated that it denotes the areas that the Commission, back in 1995 when they approved the rezoning for the Waffle House, visualized and committed to the neighborhood that under their recommendation designated areas would remain as residential. Mr. Hainley stated that staff is now taking the proper steps to put this information into the record to document the facts. He stressed that this amendment does not change any zoning and it is not a legally binding element; it is part of the Comprehensive Plan, which is a guide to the rezoning of properties.

For the record, the following report from staff was included in the packages for the Planning Commission’s review:

A general consensus of agreement has been reached that certain additional commercial uses there are inadvisable and if allowed, could possibly have negative life safety impact for residences. The reasons to prevent certain types of commercial uses in that area include but are not limited to the intensity and volume of traffic generated by existing commercial and residential development, the proximity of a traffic roundabout and its integration of through traffic vehicles combined with traffic circulation in that area, the configuration of and intersection of existing traffic ways such as the convergence of driveway cuts across Demere Road, and the presence and location of traffic generating residential development in relation to the immediate area.

The overall provision of utilities, fire and police services, transportation levels of service, and ultimately life safety measures can be negatively affected when an area reaches a saturation point such that people, goods and services cannot move because they are unable to enter and exit existing businesses and residences. The Community Development Department and subsequently the Islands Planning Commission was alerted to the issue for the subject area. Added commercial zoning in the aforementioned area is not desired by the residents. The public was alerted to their concerns most recently when

a property on the north side of Demere Road, located to the west of a natural marsh, was attempted to be rezoned.

Its history revealed that various attempts to rezone property in that immediate area to fast food restaurant use has been made over the years at various times but that the rezoning was repeatedly denied. Based on this background and at the public's request, the Islands Planning Commission seeks a Comprehensive Plan amendment as a concrete solution to express the public's general consensus for the area - "no added retail, commercial, restaurant use."

Mr. Hainley stated that during previous discussions, Ms. Desiree Watson suggested that a change be made in the proposal in order to have specific clues as to what parcels are involved. This should therefore be included in the recommended motion for amendments 1 & 2 as follows: "...Observation Park adjacent to *parcel #04-02256 and currently occupied by* the Waffle House."

Mr. Hainley explained that the procedure in this case would be for the Islands Planning Commission to render a recommendation on the proposal, which would then go to the Mainland Planning Commission for its recommendation, and subsequently forwarded to the Board of Commissioners for final adoption. The Department of Community Affairs considers this to be a minor amendment, and as such, their approval is not required.

In conclusion, Mr. Hainley stated that staff's recommendation is that the Islands Planning Commission recommend approval of the proposed above described Comprehensive Plan Amendment, which will establish specific limits on development in that certain area, limits that have been reached in workshops that included Citizen Participation and were duly advertised and available to the public, now to be endorsed at duly advertised Public Hearings.

For clarification, Mr. Paul Sanders asked Mr. Hainley if he stated that this proposed amendment is considered a guideline rather than a law, and if so, the heirs to the property in perpetuity are not bound by law but rather by a guideline. Mr. Hainley replied yes; it holds no legal standings. He stated that it is one of the items required by the Ordinance for review to determine its conformity. It is in fact one of the recommendations of the Comprehensive Plan.

The floor was opened at this time for public comments. Ms. Leah Curtis asked for additional clarification as to why this is merely a guideline rather than an actual law. Mr. Hainley explained that this is basically due to Georgia Law which defines the Comprehensive Plan as a recommendation statute only. It is not a Code of Ordinance that can be zoned.

Mr. John Teramo suggested that the parameters in this case be a little more defined. Mr. Hainley stated that the point on the backside of the parcel adjacent to the Waffle House which runs parallel to Demere Road is about 300 ft. deep. He agreed that the distance off-set can be defined and included as an amendment if deemed necessary.

There being no further discussion, a motion was made by Mr. William Lawrence to recommend that the Board of Commissioners approve the Comprehensive Plan Amendment as written to include that no retail commercial or restaurant use shall be permitted in the area along the north side of Demere Road between the Plantation Village and the Observation Park adjacent to parcel #04-02256 and currently occupied by the Waffle House, with the distance being defined at approximately 300 ft. from Demere Road. The motion was seconded by Mr. John Dow and unanimously adopted. For the record, this motion includes the Comp Plan and Appendix A.

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Ms. Joan Wilson has completed her term of service on the Islands Planning Commission. On behalf of staff and the members of the Islands Planning Commission, Chairman Kirkendall took this opportunity to thank Ms. Wilson for her many contributions and dedicated service to the citizens of Glynn County, and for all of her efforts to make St. Simons Island a better place to live and work. He wished her continued success in her future endeavors.

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There being no further business to discuss, the meeting was adjourned at 6:35 p.m.

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