

MINUTES

ISLANDS PLANNING COMMISSION

JULY 16, 2013 - 6:00 P.M.

The Casino Bldg, 530 Beachview Drive, SSI

MEMBERS PRESENT: John Dow, Chairman
Paul Sanders, Vice Chairman
Stan Humphries
Preston Kirkendall
William Lawrence
Oliver Seabolt
Robert Ussery

STAFF PRESENT: David Hainley, Community Development Director
Iris Johnston, Planner III
Eric Landon, Planner II
Janet Loving, Admin/Recording Secretary

Chairman Dow 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.

MINUTES

June 18, 2013 Regular Meeting

A motion was made by Mr. Stan Humphries to approve the Minutes of the *June 18th Regular Meeting* with a minor correction. The motion was seconded by Mr. Paul Sanders and unanimously adopted.

ZM2621 Cantrell Properties, Inc.: Consider a request to revise the text of a PD, Planned Development Zoning District, for setbacks that apply to 11,570 sq. ft. property located on the southeast corner of the intersection of Demere Road with Quamly Wells Drive. Parcel #04-09093. Kevin M. Higgins, Architect, P.C., agent for Jack Cantrell of Cantrell Properties, Inc., owner.

Mr. Higgins was present for discussion.

In presenting the staff's report, Ms. Iris Johnston explained that this rezoning request was initially to allow a building addition towards Demere Road, for a tenant. However, the applicant has reconsidered the premise of the request because the entire building is in the 100 ft. buffer for Triangle Planning Area PD Zoning District. Also, private covenants, restrictions and available space bind the property to its present footprint & parking. The request is now to cure its "illegal non-conforming" status by revision of the Master Plan and PD Text to match existing location and setbacks for this particular parcel only.

Ms. Johnston stated that staff recommends approval of **ZM2621** to revise the Master Plan and the Planned Development Text for Parcel ID 04-09093 only to allow setbacks at 40 ft. on the north side along Demere Road, 9 ft. on the west side along Demere Village Drive, 4 ft. on the south side, and 9 ft. on the east side.

Elaborating on the background of the area, Mr. Robert Ussery explained that at the time when the shopping center was approved Demere Road was a 50 ft. right-of-way, which adds another 25 ft. to the measurements. He stated that the original triangle tract was done in 1973. It was anticipated that Demere Road would need to expand and because the owner wanted to build the shopping center, there was a promise to dedicate 25 ft. to Demere Road. Looking at Demere Road now, it resembles a "checker board" in that it goes 75 ft. for a while, back to 50 ft. and then 75 ft. again. He believes the reason for this is because some of the property owners put in their plans to also dedicate 25 ft. Mr. Ussery pointed out that this however does not affect the fact that the non-conforming use exists.

Chairman Dow stated that originally this request came about because the applicant wanted to expand into the buffer area, but the applicant has since withdrawn that request. Chairman Dow then asked "why would the Planning Commission opt to allow the applicant to adopt a non-conforming PD, because if they do it for one, they have to do it for all." Mr. Hainley explained that if there is an illegally non-conforming structure and something happens to it, the structure cannot be legally re-built. Chairman Dow reiterated his concerns about approving one PD Text change when there are so many others. He feels that the county should look at the entire area collectively and come up with an overall plan. However, Mr. Sanders disagreed. He stated that the other property owners have not made an application and this particular property owner has, and as such, "this applicant deserves a fair hearing on his issue and his issue alone."

Mr. Ussery stated that under the category of *Exceptions* and *Variances*, it appears that a variance can be determined jointly with the staff and the officials of the Joint Planning Commission during preparation and consideration of final development plans. He pointed out that he finds it hard to believe that the other buildings were just built and no one knew what was going on. For that many buildings to be non-conforming he believes that there was some type of action taken that would have allowed it to happen. Chairman Dow stated that perhaps there is something that's been adopted that would preclude this PD amendment. Mr. Ussery suggested that staff put together some sort of acknowledgement that the buildings are there and bring it back for the Planning Commission's acknowledgement.

Mr. Humphries stated that he finds it hard to believe that people are constructing buildings that obviously are within the 100 ft. setback and in essence, we're saying that they're just there. Mr. Humphries stated that he does not understand how this could happen. Chairman Dow stated that the history of the property needs to be researched and from there a decision needs to be made on this particular property, and then consideration should be given to all other property.

During a brief presentation, Mr. Kevin Higgins stated that the entire PD Text is actually labeled "Preliminary PD Text." He stated that he is not sure if a final version exists. He stated that his client paid the fee to get the property into compliance, originally planning to do an addition, but with local covenants of the area the request was impossible. Mr. Higgins stated that at this point, he is not sure about how to proceed.

Mr. Bob Miles, representing A&J Investments who own property in the area, stated that he was prepared to oppose the original request. However, the applicant has withdrawn the idea of expanding the building toward Demere Road, which would have been in violation of the covenants. Mr. Miles elaborated on why his client would have opposed the original request. Mr. Kirkendall asked if the covenants are the same for every building. Mr. Miles stated that the 40 ft. line is the same for most of the buildings. He pointed out the buildings that are covered and those that are not covered under the covenants. Mr. Sanders asked Mr. Miles if his clients would have any objection to the applicant expanding one of the buildings into the second floor. Mr. Miles stated that as part of the restrictions, none of the buildings would be increased in size or height.

Chairman Dow asked Mr. Higgins if he would have any objection to a deferral to allow the Planning Commission to look at everything collectively. Mr. Higgins replied no, he would not have a problem with a deferral.

Mr. Ussery asked if the Planning Commission could take action based on the *Exceptions* and *Variances* as listed in the text. Mr. Hainley stated that he would prefer to have a legal opinion because most of the time action cannot be taken as such when it affects the condition of zoning. Mr. Ussery stated that he would like for staff to get a legal opinion based on the variance to see if something can be done through the site plan procedure.

Following discussion, a motion was made by Mr. Robert Ussery to defer action on this request to a later date to allow staff to research as to whether or not the Islands Planning Commission can legally act under the *Exceptions* and *Variances* listed under the current Development Text, and to also determine if there has been any past actions based on site plan approval indicating that this is acceptable. The motion was seconded by Mr. Preston Kirkendall and unanimously adopted.

ZM2638 Wesley United Methodist Church: Consider a request to rezone from R-12 Single-Family to PD Planned Development for a 9.31 acre property located at 6520 Frederica Road. The purpose of the request is to continue single-family uses and define church related permitted uses. Parcel ID 04-08230. Wesley United Methodist Trustees, owner.

Attorney Bob Cunningham and Mr. Bill Edenfield were present for discussion.

The following report from staff was included in the packages for review and was presented by Mr. Landon:

This site is located in the Islands Future Development Area and is shown as Low Density Residential on the adopted Future Land Use Map.

A church is allowed only as a Special Use in R-12 zoning. This request is an attempt to bring the existing Wesley UMC into compliance with its zoning. It will also allow future growth of church related uses, including a columbarium.

In conformance with Section 1103 of the Glynn County Zoning Ordinance, the following findings of fact are to be considered in making a decision on a request for rezoning:

- Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

The proposed zoning is consistent with the existing use of the site as a church.

- Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

The proposed change will be consistent with the exiting use.

- Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

Yes, the property is currently zoned for a single-family.

- Whether the zoning proposal will result in a use, which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

None

- Whether the zoning proposal is in conformity with the policy and intent of the Comprehensive Land Use Plan.

Yes, this area is designated for Low Density Residential, which will still be a permitted use.

- Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for approval or disapproval.

The proposed request will bring the existing use into conformance.

Mr. Landon stated that staff recommends approval of **ZM2638** to rezone from R-12 Single-Family to PD Planned Development.

Mr. Humphries noted that there doesn't seem to be enough space on the site for residential. Mr. Landon stated that some churches are careful of that to ensure that they have a residence for a pastor or a caretaker of the property. He is not sure if that's the case with this property.

Mr. Sanders wanted to know if changing the zoning of the property would change the tax status. Mr. Hainley replied no.

Mr. Edenfield explained that he prepared the application which he stated was modeled after St. William's. Although it is not likely that there would be a residential use, he stated that it seemed logical to preserve the existing uses to protect the interest of the church. Mr. Edenfield stated that it is not fundamental to the application, but they would like to preserve the use if possible.

There was no one present to oppose this request and there was no other discussion. A motion was then made by Mr. Oliver Seabolt to recommend approval of **ZM2638** to the Board of Commissioners to rezone property located at 6520 Frederica Road from R-12 Single-Family to PD Planned Development. The motion was seconded by Mr. Paul Sanders and unanimously adopted.

VP2652 621 Ocean Boulevard: Consider approval of three new signs at 621 Ocean Boulevard. The request consists of two wall signs and a single free standing sign. The property is located on the northeast corner of Ocean Boulevard and Twelfth Street in the Island Preservation District. Parcel ID: 04-04748. Property owned by Brand Mortgage.

Ms. Tara Stephens was present for discussion.

According to the staff's report, the applicant is proposing to add three signs. The two wall signs are 16.92 sq. ft. and 23.36 sq. ft. The applicant is also asking for a 23.03 sq. ft. ground sign.

Section 709.4 in the Island Preservation District gives the standards for review, as follows:

(a) Construction, or remodeling or enlargement of an existing building in a manner inconsistent with the existing building massing (the three-dimensional bulk of a building: height, width, and depth), articulation (the pattern of the building base, middle and top, created by variations in detailing, color and materials or stepping back or extending forward a portion of the facade) and fenestration (the arrangement, proportioning, and design of windows and doors in a building) in the immediate area; or

(b) An absence of unity or coherence in composition which is in opposition to the character of the present structure in the case of repair; or

(c) Violent contrasts of materials or intense colors not representative of the existing buildings in the immediate area; or

(d) A multiplicity or incongruity of details resulting in a disturbing appearance.

Mr. Landon stated that all three signs meet the requirements and therefore staff's recommendation is for approval.

Following review, a motion was made by Mr. William Lawrence, seconded by Mr. Preston Kirkendall and unanimously adopted to approve application **VP2652** to allow three new signs at 621 Ocean Boulevard.

There being no further business to discuss, the meeting was adjourned at 6:55 p.m.