

# MINUTES

## ISLANDS PLANNING COMMISSION

**JANUARY 21, 2014 - 6:00 P.M.**

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

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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  
Eric Landon, Planner II  
Janet Loving, Admin/Recording Secretary

ALSO PRESENT: Commissioner Dale Provenzano, BOC

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Chairman Dow called the meeting to order and the invocation was given, followed by the Pledge of Allegiance.

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As a point of order, Chairman Dow granted a request from Mr. William Lawrence to make the following comments before proceeding with the agenda items:

“I’d like to ask all of you here this evening to please give some thought as to where we’re headed. What are we trying to accomplish on this Island? What are our objectives? How do you see us moving forward? Each month we’re getting changes or requests for changes on things that we’re working on; even though we have guidance, even though we have regulations. If something is supposed to be 45 ft. someone’s coming in asking for a change or an exception to enable us to move towards 46 ft. We do have guidance and regulations that we’re trying to follow. Invariably, there are those who try to increase the density. We may have something that’s R-6, residential single-family developments, and someone will come in and say hey, let’s increase this density. But they’re not saying it directly to us, but the objective is let’s change the PD Planned Development as another means of getting more for their buck. We have guidance

pertaining to pets and animals, normally three in a house-hold that includes dogs and cats, but inferably you see someone walking around with five dogs but the cats are not with them. We need your assistance in helping us to maintain the regulations that we have on board. Quite often people are talking about the roundabout. If you think back ten years ago there was talk about a possibility of our having a new causeway. Where is that now? We have 12,500 people living on St. Simons Island and another 1500 possibly on Sea Island. If we were to have a major catastrophe, hurricane, how are we going to get all of these people off the Island? Something to think about; we need to be proactive rather than reactive. We need to begin thinking how we can operate by objectives instead of by crisis...Thank you.”

Chairman Dow and the audience members thanked Mr. Lawrence for his comments. Afterward, the chairman gave a brief recap of the rules, voting procedure and audience participation in discussing agenda items.

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**Agenda - Additions, Deferrals, Deletions, Postponements**

Upon a request from Mr. Hainley, Election of Officers was added to the agenda. Also, due to the number of citizens present to discuss application **PP2713**, a motion was made by Mr. Preston Kirkendall, seconded by Mr. Paul Sanders and unanimously adopted to move this item up on the agenda.

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**PP2713 Cloister Residences East:** Consider approval of a preliminary plat for an 8 lot subdivision on 7.3 acres. The property is located on the southern end of Dune Avenue between Black Banks River and the Atlantic Ocean on Sea Island. Parcel ID: 05-01241, 05-00872. Sea Island Acquisition, owner.

Attorney Jim Gilbert was present for discussion.

According to the staff’s report, the proposed subdivision will extend/modify Dune Avenue, a private right-of-way, and create 8 new single family lots. This is a permitted use within the Cloister PD Text.

The following are preliminary plat requirements (and staff’s comments) in accordance with Section 703 of the Glynn County Subdivision regulations - The preliminary plat shall consist of a map or maps, drawn at a scale of not less than one inch, two hundred feet, depicting the following:

1. The proposed name of the subdivision and proposed street names shall not duplicate or too closely approximate phonetically the name of other subdivisions or streets in Glynn County. If shown to the contrary, the Planning Commission or Geographic Information System (GIS) office may refuse to accept such subdivision and street names; must indicate whether the streets are to be public or private.  
**Staff Comment: Provided by applicant on plat.**
2. Name and address and telephone number of the owner of record.  
**Staff Comment: Provided by applicant on plat.**
3. Name, address, and telephone number of the Subdivider.  
**Staff Comment: Provided by applicant on plat.**
4. Date of survey, north point and graphic scale, source of data, date of plat drawing, and space for revision dates.  
**Staff Comment: Provided by applicant on plat.**
5. Preliminary Plat Certificates and Statements.  
**Staff Comment: Provided by applicant on plat.**
6. A vicinity map locating the subdivision in relation to the surrounding area with regard to well-known landmarks such as major streets and thoroughfares, railroad rights-of-way, rivers, streams and other named bodies of water. Vicinity maps may be drawn in freehand and at a scale sufficient to show clearly the information required, but not smaller than one inch to one mile.  
**Staff Comment: Provided by applicant on plat.**
7. Name of former subdivision(s), if any.  
**Staff Comment: None.**
8. Exact boundary lines of the tract or parcel to be subdivided, indicated by a heavy line giving length and bearings, and total subdivision land area in acres. The boundary lines shall apply to the entire tract to be subdivided.  
**Staff Comment: Provided by applicant on plat.**
9. Natural features within the proposed subdivision, including drainage channels, bodies of water, flood plain, wetlands and other significant features.  
**Staff Comment: Provided by applicant on plat.**
10. Cultural features within the proposed subdivision, including rights-of-way widths, and names of existing and proposed streets and alleys, existing structures, existing easements, buildings, city and county lines, zoning districts and boundaries, and other significant information.  
**Staff Comment: Provided by applicant on plat.**

11. Proposed layout including lot lines with rough dimensions, lot numbers, block letters, street and alley lines, sites reserved through covenants, dedication or otherwise for public uses.

**Staff Comment: Provided by applicant on plat.**

12. Location of existing water and sewer utilities, if a connection to these public systems is proposed.

**Staff Comment: Utilities do not exist at this location presently.**

13. Proposed unit division or stage of development, if any, by the subdivider.

**Staff Comment: Provided by applicant on plat.**

14. The names of owners of record and zoning of land adjacent to the tract to be subdivided.

**Staff Comment: Provided by applicant on plat.**

15. FIRM Panel Number and flood zone designation.

**Staff Comment: Provided by applicant on plat.**

16. Building setback information per Zoning Ordinance including setback lines on odd shaped lot.

**Staff Comment: Setbacks are standard. There are no odd shaped lots.**

Mr. Landon stated that staff recommends approval of application *PP2713*, Cloister Residences East, subject to meeting all requirements during the development process.

Mr. Robert Ussery wanted to know how much acreage of the 7.2 acres is actually in the development. Mr. Landon stated that the lots are 4.731 and the right-of-way is 2.597. He stated that the application does not indicate a breakdown of the developable area.

Chairman Dow referenced a detailed report from Dr. Fred Marland to which staff submitted a response. Dr. Marland is a retired Marine Scientist with Georgia DNR. Chairman Dow asked Mr. Hainley if there was anything in Dr. Marland's report that would have resulted in the applicant not meeting the preliminary plat requirements. Mr. Hainley stated that the only issue in the report that staff has control of is the mapping, which has been resolved. Chairman Dow asked if there was anything in the report that speaks to the preliminary plat not satisfying county regulations. Mr. Hainley replied no. (Dr. Marland's report is contained in application file *PP2713*)

During a brief presentation, Attorney Jim Gilbert stated that in his 46 years of practice, he has never given a presentation on a preliminary plat submittal. He then expounded on the normal process of a plat submittal which he stated is generated by professional county staff under specific guidelines of the ordinances.

Mr. Gilbert stated that there have been volumes of objections to this plat process; however, with one notable exception, most of the objections are unrelated to what the applicant or the Planning Commission is required to do. Most of the objections should be raised in a different forum, i.e. the court system or perhaps with a state agency. He pointed out that one of the concerns was the assertion that if this plat is approved, it would affect flood insurance rates of every citizen in Glynn County, which he stated is inaccurate and incorrect. He then addressed a list of eight specific questions directly related to this proposal that Mr. David Kyler submitted on behalf of the Center for a Sustainable Coast (which is also contained in the file and on the DVD labeled 1-21-14 Part 1).

Mr. Gilbert stated that this request was deferred twice, but one of the primary reasons for the deferral was so that Sea Island could respond to the concerns of Attorney Joe Odachowski on behalf of approximately 23 adjacent residents of the Cloister Ocean Residences (COR) who were displeased with the original plan to take the access through a common area of their condominium project. Mr. Gilbert stated that it was not a good plan, and as a result, Sea Island presented a third plan which seems to be acceptable to the residents who submitted their approval in writing. Their response states in part that "...having reviewed three interactive proposals from Sea Island for the proposed development, we do not oppose the most recent plan...We would like to thank Sea Island for its efforts and responsiveness to the concerns of the COR Homeowners concerning this development."

Mr. Gilbert reiterated that the technical objections to this request, i.e. the public notice, advertisement, etc. should be argued in another forum. He explained that staff is charged with interpreting the ordinances for the Planning Commission to determine whether or not the requirements have been met. Based on the staff's review, the Planning Commission should then determine whether or not the requirements have been met, and ultimately vote to approve the preliminary plat. Mr. Gilbert stressed that he will not argue the technical aspects of this request with the attorneys or any individuals at this level. "Let the attorneys fight the technical points in court."

Mr. Ussery wanted to know how much of the area dedicated in the lots is actually set aside for development versus the total size of the lot. Mr. Gilbert stated that according to the surveyor, it is estimated to be approximately half. He stated that half is essentially in a jurisdictional area. The requirement for the first floor elevation of any house would be 12 ft. Mr. Ussery stated that the floodplain delineation line shows that a good portion of the property is in an X-Zone which would imply that it is outside of the area for flooding.

Before opening the floor for public comments, Chairman Dow reminded everyone to please stay focused on the 8 lot, 7.3 acres of land and direct all questions and comments to the Planning Commission who will either provide answers or obtain the answers from the proper source. Chairman Dow asked Attorney Odachowski if he had any comments to add on behalf of the 23 Cloister Ocean residents, to which he replied no; the letter has been entered into the record and stands for itself.

There were a number of people present to oppose this request. Mr. Steve Caley, Senior Attorney for “GreenLaw” of Atlanta was present to speak on behalf of the Center for Sustainable Coast and the Altamaha Riverkeeper. He stated that a preliminary plat approval is governed in part by the Subdivision Regulations. On the other hand, this body (IPC) is also governed by the Glynn County Zoning Ordinance, which clearly provides that any change in land use, street access or alignment shall be deemed a substantial change in the development of the district and shall be treated as requiring an amendment for the process in Article XI, which refers to the public notice and public hearing requirements. He stated however that this has not happened with this preliminary plat and the Planning Commission needs to go through the proper notice procedures under the Zoning Ordinance.

Mr. Caley pointed out that the key change that he wants to focus on is Dune Avenue, which he stated is a change in land use because the road and its required right-of-way is encroaching on the existing condominium. The Text, prior to its modification at the September 17<sup>th</sup> IPC meeting, would not have allowed the road and the right-of-way to encroach on the condominium. He further stated that Sea Island Acquisitions may not rely on the amendment to Section 601 of the Text because the amendment was not properly noted as such. Additionally, the Minutes of the September 17<sup>th</sup> IPC meeting clearly shows that the amendment was actually characterized as no amendment at all; “a clear misrepresentation.”

Mr. Caley stated that according to the latest plat relative to Dune Avenue, the route has been changed. It goes through substantial valuable wetlands and marsh areas, which will require a lot of filling and a lot of bulkheads along the road. He stated that this would also violate the Coastal Marshland Protection Act, which clearly provides that a private road is not a public use that can justify going through the marsh, as indicated in Section 618 of the Glynn County Zoning Ordinance.

Mr. Caley urged the Planning Commission to look at the big picture. This proposal would negatively impact the water & sewage treatment plant and put potential property owners at risk in the event of a major storm. It is not the proper place for a development and he is asking that it be denied.

During a brief rebuttal, Mr. Gilbert pointed out that Mr. Lawrence made some excellent points at the beginning of the meeting about seeking exceptions. Mr. Gilbert clearly stated that they are not seeking any exceptions. The property in question was already zoned and the Zoning Text for this property is not the Zoning Ordinance. The PD Text is the Zoning Ordinance for this property, which was already zoned for multi-family. The applicant is asking that the plat be approved for 8 lots; not multi-family. Dune Avenue is not in violation of its placement or bulkheads that might be necessary to create the route or the access back into the 8 lots. Not in one place will they violate state or federal law, corps regulations or DNR regulations. It’s been stated that the marsh delineations are not correct, but Mr. Gilbert emphatically stated that the marsh delineations are in fact correct; they were carefully done and are still fully enforced. He pointed out that the Planning Commission should not make a decision about whether or not this request complies with the ordinances based on technical arguments such as the corps regulations, which he reiterated should be argued in court. Instead, he stated that

the Planning Commission should rely on what Mr. Hainley says about whether or not this request complies with the ordinances.

At this time, County Commissioner Dale Provenzano, Chairman of the JWSC, gave a brief update on the Dunbar Creek Water Treatment Plant by setting the record straight that “the facility is not at capacity.” He also reported that consultants will examine the long-range plans for the facility and report back to the Commission.

Ms. Alice M. Keyes was present to oppose this request. Ms. Keyes is the Associate Director of One Hundred Miles, Inc., a coastal advocacy organization working to preserve, protect and enhance Georgia’s 100 mile coast. Ms. Keyes stated that this organization is opposed to this project for the following reasons:

- 1) The dynamic nature of the area and the trends in the sea level rise make the land unsuitable for permanent residential buildings;
- 2) Developing dynamic, high-risk areas could increase flood insurance rates for all residents of Glynn County; and
- 3) The proposed development would disturb the last remaining natural beach and dynamic dune system on Sea Island.

Ms. Keyes also added that this proposed development would be in violation of regulations protecting the sea turtles. Mr. Gilbert stated that they have full-time personnel to monitor the endangered and threatened animals; they are not in harm’s way. Chairman Dow wanted to know what the residents of Glynn County would incur in the event of a major storm. Mr. Gilbert replied nothing because a major storm would be a universal problem. “To suggest that eight houses would be a burden is ludicrous.”

Also present to speak in opposition to this request were Mr. James Holland, retired Altamaha Riverkeeper and Mr. David Kyler, Executive Director of the Center for Sustainable Coast. Mr. Kyler presented opposing views from Dr. Chester Jackson, Assistant Professor of Geology from Georgia Southern University. Additionally, staff received a letter of opposition from Mr. Joe Fulcher, adjacent property owner. (All written comments and aerial photos are contained in application file **PP2713**).

During discussion among members of the Planning Commission, Mr. Paul Sanders asked staff if this application meets the requirements of the ordinances, to which Mr. Hainley replied yes. Thereupon, a motion was made by Mr. Robert Ussery to approve application **PP2713**, Cloister Residences East, subject to meeting all requirements during the development process. The motion was seconded by Mr. Preston Kirkendall. Voting Aye: Messrs. John Dow, Preston Kirkendall, William Lawrence, Paul Sanders, Oliver Seabolt and Robert Ussery. Voting Nay: Mr. Stan Humphries.

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**ZM2753 Shops at Sea Island West:** Consider a request to amend the PD Planned Development for the Shops at Sea Island West PD. The purpose of the request is to reduce the buffer along Sea Island Road. Parcel ID: 04-12292. Bill Edenfield, agent for William Stembler, owner.

Mr. Edenfield was present for discussion.

According to the staff's report, the Shops of Sea Island West is a mixture of commercial and service establishments that is not proposed to be changed. The current PD Text requires a 50 ft. buffer in front of the Theater Parcel, but a 30 ft. buffer on the parcel to the west (hotel). The request is to reduce the buffer to 30 ft. for the entire length of the PD along Sea Island Road. The proposed PD Text amendment will add the following language: "Parcel A (Movie Theatre) shall remain unchanged *with the exception that the buffer along Sea Island Road shall be reduced from fifty feet (50') to thirty feet (30').*"

**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 will not change the use and the proposed requirement is consistent with the adjacent property.*

- 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 adjacent parcel, both requiring a 30 ft. buffer.*

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

*Yes, the use of the property is not proposed to be changed.*

- 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 Corridor Mixed-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.

*None*

Mr. Landon stated that staff recommends approval of **ZM2753** to amend the PD Planned Development for the Shops at Sea Island West.

Mr. Humphries wanted to know why staff is recommending approval of this request. Speaking in terms of the bike path, Mr. Hainley stated that there is a request to build a bike path on Sea Island Road. If the buffer is such that we cannot intrude into it, there would be a potential issue with the bike path fitting in the right-of-way. The 50 ft. and the 30 ft. are arbitrary numbers. Mr. Hainley stated that staff is seeking to get a uniform buffer across the frontage of the property.

Mr. Kirkendall stated that in reducing the 50 ft. buffer to 30 ft., if this is taken off of the back of the property it does nothing for a bike path. Mr. Hainley stated that staff does not have an exact proposal about which way the buffer will be taken off other than reducing it, but according to the graphics, it appears that it is coming off of the back side. Mr. Ussery stated that there is an 80 ft. right-of-way on Sea Island Road and the decel lane appears to be right on the property line. However, Mr. Hainley stated that it is some distance off of the property line.

During a brief presentation, Mr. Bill Edenfield explained that this is a Planned Development that is divided into two parcels; parcel A and parcel B. Parcel A is owned by Island Sites, LLC, Bill Stembler. Mr. Stembler was approached by Ben Slade to request access for a bike trail along Sea Island Road. Mr. Edenfield pointed out the area of the proposed bike trail in relation to the property. However, Mr. Kirkendall stated that Exhibit B in his packet of information shows 50 ft. to the west of the entrance to the hotel, which is in contrast to what Mr. Edenfield has pointed out on the map.

Mr. Edenfield explained that in planning this particular site in 2009, the master plan of the site revealed that there was potentially a parcel that would be a companion to a potential hotel, which is currently under construction. A request was made and granted to reduce the buffer to 30 ft. The other buffer remains at 50 ft. and is in place for concealment purposes. Mr. Edenfield stated that the canopy of trees in the area is much more pronounced and in healthy condition. The planted trees and the shaded trees are not nearly as healthy as the canopy of trees. This proposal would not affect those trees at all

and they will remain as a green veiled buffer to give relief to the commercial zone. The PD Text did not envision the area to be an opaque buffer, but it did envision a reservation of trees and greenery.

Chairman Dow asked Mr. Edenfield how close is the edge of the pavement and the shopping center to the edge of the parking. Mr. Edenfield replied that the existing building is 90.1 ft. from the edge of the pavement and the existing buffer is roughly 61 ft.

The floor was opened at this time for public comments. Ms. Joann Cook of SSI stated that she is concerned about the area of the PD where the 30 ft. buffer has seemingly been removed. The buffer has been cut down to the ground and this is very disturbing to the residents. She stated that Mr. Hainley has indicated that he was unaware of this issue and that it could possibly be a violation but he would have to inspect it. This has not been done, and on that basis, Ms. Cook suggested a deferral until removal of the buffer can be assessed. She also wanted to know if there is actually going to be some change to the movie theater structure.

Mr. Daniel Parshley of Brunswick stated that the notice listed on the county's website was not for the property in question. The information on the website appeared to be for the property next door and it designated the 50 ft. section at the end as being the topic of tonight's discussion. Also, there are two different plats; one shows the wetlands and one shows that the wetlands have been removed. Mr. Parshley stated that there are too many inconsistencies. This request has not been properly posted for public hearing, and therefore it should be deferred as suggested by Ms. Cook.

Mr. James Holland, retired Altamaha Riverkeeper, stated that the presentation on this item was convoluted, inconsistent and the request should be denied. Ms. Jane Fulcher of SSI was also present to express concerns about the bike path and she stated that accurate information is a necessity.

During a brief rebuttal, Mr. Edenfield stated that he is not exactly clear on how he should respond in terms of the adjacent parcel. He reiterated that parcel A is owned by his client, Bill Stembler, parcel B is owned by Sea Island. The issue of the wetlands on parcel B is not germane to his client's application. He stated that he doesn't know how to address the comments about the improper notice, but that could have possibly happened. He stated that he sent an e-mail to county staff explaining the request. It was pointed out that there had been a request from the Land Trust to find a corridor for a bike trail. The reasons were precipitated by that particular request. However, the request is not exclusively for a bike path and it does leave the possibility that the bike path might not happen. Mr. Edenfield stated that his client is simply asking to trim the buffer to 30 ft. He is also willing to plant more trees as a condition, and he is willing to restrict the buffer so that it dictates the location of the buildings.

Regarding the concerns about the information posted on the website, Mr. Hainley explained that staff has consistently used the same parcel numbers for this property, and the public hearing notice was properly posted. He stated however that he was unaware of the buffer situation until tonight but it will be investigated. He also pointed out that public hearing signs are occasionally moved and sometimes disappear from the property site. Mr. Ussery stated that he has been a victim of this type of activity where his public hearing signs have occasionally disappeared.

Mr. Edenfield stated that in order to find a route for the bike trail, there needs to be at least 20 ft. to maneuver the bike trail around the trees. Therefore, he would like to reserve the ability to have a bike trail through the designated area, which is 20 ft. inside the 50 ft. buffer. If there is a concern about the building expansion, he is willing to limit the expansion to 10 ft. Mr. Seabolt stated that he is very familiar with the bike trail project. He stated that perhaps some type of condition could be put in place to indicate a reduction for the purpose of the bike trail. Mr. Edenfield stated that there are logical concerns and there is room for negotiations, therefore he doesn't have a problem with requesting a deferral to clear up the confusion. The Planning Commission concurred.

At the end of discussion, a motion was made by Mr. Paul Sanders, seconded by Mr. William Lawrence and unanimously adopted to defer application **ZM2753**, Shops at Sea Island West, to the February 18<sup>th</sup> IPC Meeting, beginning at 6:00 p.m.

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#### 2014 Election of Officers

- a) Chairman*
- b) Vice Chairman*
- c) Second Vice Chairman*
- d) Recording Secretary*

The Nominating Committee selected the following Officers for 2014: Mr. John Dow, Chairman; Mr. Paul Sanders, Vice Chairman; Mr. William Lawrence, Second Vice Chairman; and Mrs. Janet Loving, Recording Secretary. There were no other nominations from the floor and therefore nominations were closed. Afterward, a motion was unanimously adopted to elect Mr. John Dow as Chairman; Mr. Paul Sanders as Vice Chairman; Mr. William Lawrence as Second Vice Chairman; and Mrs. Janet Loving as Recording Secretary of the Islands Planning Commission for 2014.

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There being no further business to discuss, the meeting was adjourned at 8:25 p.m.