

TOWN OF SEABROOK ISLAND

Planning Commission Regular Meeting

January 8, 2020 – 1:30 PM

Town Hall, Council Chambers
2001 Seabrook Island Road



MINUTES

Present: Ken Otstot (Chair), Stan Ullner (Vice Chair), Wayne Billian, Jim Newton, Sharon Welch, Joe Cronin (Town Administrator)

Absent: None

Guests: Cathy Patterson

Acting Chairman Otstot called the meeting to order at 1:34 PM and welcomed everyone in attendance. Town Administrator Cronin confirmed that the requirements of the Freedom of Information Act were fulfilled, and the meeting agenda was properly posted.

Acting Chairman Otstot welcomed the newest members of the Planning Commission, Mr. Jim Newton and Ms. Sharon Welch.

ELECTION OF CHAIR & VICE CHAIR FOR 2020

Acting Chairman Otstot opened the floor for nominations for the position of Chairman. Mr. Billian nominated Mr. Otstot for the position of Chairman. Mr. Newton seconded the nomination. There being no further nominations, Acting Chairman Otstot called for a vote. The vote in favor of electing Mr. Otstot as Chairman was **APPROVED** by a vote of 5-0.

Chairman Otstot then opened the floor for nominations for the position of Vice Chairman. Mr. Billian nominated Dr. Ullner for the position of Vice Chairman. Mr. Newton seconded the nomination. There being no further nominations, Chairman Otstot called for a vote. The vote in favor of electing Dr. Ullner as Vice Chairman was **APPROVED** by a vote of 5-0.

APPOINTMENT OF SECRETARY FOR 2020

Chairman Otstot opened the floor for nominations for the position of Secretary. Dr. Ullner nominated Town Administrator Cronin to serve as Secretary to the Planning Commission for 2020. Mr. Newton seconded the nomination. There being no further nominations, the vote in favor of electing Town Administrator Cronin as Secretary was **APPROVED** by a vote of 5-0.

APPROVAL OF MINUTES

1. **Regular Meeting: December 4, 2019:** Dr. Ullner made a motion to approve the minutes from the December 4, 2019, meeting as submitted. Mr. Billian seconded the motion. The motion was **APPROVED** by a vote of 5-0.

OLD BUSINESS ITEMS

There were no Old Business Items.

NEW BUSINESS ITEMS

1. **PUD Amendment: Village at Seabrook:** Town Administrator Cronin provided a brief overview of the draft ordinance to amend the Planned Unit Development (PUD) for the Village at Seabrook. He stated that the original PUD for the Village at Seabrook, previously known as "Area Six" or the "Lake Entry Tract," was originally adopted by Town Council on February 22, 2000 (Ord. 2000-01). The PUD ordinance was subsequently amended by Council on June 5, 2000 (Ord. 2000-08). A final subdivision plat was recorded in December of 2001, and construction of new residential units began shortly thereafter.

Because the Village was developed as a PUD, it is subject to a variety of project-specific zoning requirements. Among these are the following setback requirements, which were incorporated into the concept plan attached as Exhibit B to Ordinance 2000-08:

- Front Yard Setback: 30 feet
- Side Yard Setback: 15-foot separation between structures
- Rear Yard Setback: 25 feet (15 feet for open decks when abutting open space)

Town Administrator Cronin stated that one of the primary concerns raised by some residents in the Village has been the absence of a defined side yard setback requirement. In June of 2019, the Zoning Administrator issued a written determination that the current PUD ordinance does not establish a minimum side yard setback, and instead requires only a 15-foot separation between structures. A resident of the Village at Seabrook regime subsequently filed an appeal of this determination. The Board of Zoning Appeals considered this appeal on August 15, 2019, at which time they unanimously upheld the Zoning Administrator's determination.

The existing Village PUD contains a provision that in the event of conflict between the PUD ordinance and the DSO, the more restrictive requirements shall prevail. Over time, there have been several text amendments to loosen the requirements of the DSO. One of these amendments allows uncovered steps to encroach up to 10' into the required front yard setback. Another amendment allows a reduced front yard setback along secondary frontages for corner lots. Because the Village PUD was never amended to incorporate these changes, the PUD is more restrictive and, at least technically, should control. However, previous Zoning Administrators have applied these changes to new development within the Village, even though it conflicts with the PUD ordinance.

The Village PUD also contains a provision which incorporates the private covenants and

restrictions for the regime into the ordinance as Exhibit C. This is a highly unusual situation which has caused additional confusion. For example, the covenants and restrictions require architectural review and approval by the Planning Commission, even though detached single-family residences are exempt by ordinance. Inclusion of the covenants and restrictions into the PUD ordinance also creates confusion as to whether the regime can unilaterally amend its covenants, or whether the town must also amend the PUD ordinance.

For these reasons, Town Council requested in late 2019 that the Planning Commission review and prepare a draft ordinance to amend the requirements of the Village PUD. The attached ordinance, if adopted, will accomplish the following:

- Incorporates a provision from the current DSO to allow corner lots to take advantage of a reduced front yard setback (20 feet) along the secondary street frontage;
- Incorporates a provision from the current DSO to allow uncovered front steps to encroach into a front yard setback;
- Establishes a minimum side yard setback of 7.5 feet, unless, however, a structure on a neighboring lot is situated less than 7.5 feet from the shared side property line. In such instances, an additional setback will be required to ensure that no two structures are situated less than 15 feet apart;
- Incorporates a provision from the current DSO to allow a reduced rear yard setback for uncovered decks when the lot abuts an open space area;
- Clarifies the rear yard setback requirement for pie-shaped lots which do not have a defined rear property line;
- Clarifies that corner lots are defined to have two front yards and two side yards, consistent with the requirements of the DSO;
- Removes the private covenants and restrictions for the Village at Seabrook regime from the text of the PUD ordinance;
- Exempts detached residential units in the Village from the architectural review requirements of Section 14 of the DSO, as long as the architectural plans have been reviewed and approved by a duly constituted architectural review board (similar to all other single-family homes); and
- Specifies that in the event of conflict between the PUD ordinance and the Town Code and/or DSO, the provisions of the PUD ordinance shall prevail.

Chairman Otstot asked how many buildable lots would be affected by the amendments. Town Administrator Cronin stated that of the 57 lots which have been built upon to date, there are currently 15 lots (26.3%) which have at least one non-conformity; of these, 6 lots (10.5%) have a significant non-conformity of at least 10%. If the proposed amendment is adopted, a total of 29 lots (50.9%) would become non-conforming; of these, 23 lots (40.4%) would have a significant non-conformity of at least 10%, and a total of 23 lots would also have a non-conforming side-yard setback. He added that there are currently 7 unbuilt lots which would be required to observe a greater side yard setback due to a structure on a neighboring lot being situated less than 7.5 feet from the shared property line.

Chairman Otstot asked if these amendments would make any lots unbuildable. Town

Administrator Cronin stated that he didn't feel as though any lots would become "unbuildable" per se; however, some lots would be more restricted than they otherwise would be today. He added that in instances where the ordinance creates an undue burden, the property owner may apply for a variance from the Board of Zoning Appeals.

A discussion then took place regarding the definition of a cul-de-sac, particularly as it relates to Seabrook Village Drive. Town Administrator Cronin stated that the DSO does not define a cul-de-sac, but that they are generally defined to include a dead-end street with a vehicular turnaround. He stated his opinion that Seabrook Village Drive was not a cul-de-sac, but rather a loop street. He added that the PUD could be amended to apply the reduced secondary front yard setback to *any* corner lot, rather than only lots fronting a cul-de-sac street. Ms. Welch made a motion to include this amendment in the draft ordinance. Dr. Ullner seconded the motion but requested additional discussion. Mr. Newton and Ms. Welch asked if there would be any downside of including this amendment. Town Administrator Cronin responded that there wouldn't be an impact to neighboring property owners, as those encroachments would take place along the street, rather than a shared property line; however, it may impact the consistency of building setbacks when viewed from the street.

A discussion then took place regarding the impact of this ordinance on non-conforming structures. Town Administrator Cronin confirmed that the DSO would allow a non-conforming structure to be rebuilt within its pre-existing footprint if it is destroyed by a natural disaster; however, any other reconstruction, addition or modification to an existing non-conforming structure would be required to meet the new setback requirements. As the draft ordinance is written, this would also apply to accessory structures, including HVAC and generator stands. He then stated that the current DSO requires a non-conforming structure to be brought into conformity with the current setback requirements if it is expanded or modified and the value of the work is 50% or more of the existing structure's value. He added that the DSO Advisory Committee has discussed removing this requirement; however, the new DSO is not expected to be adopted until later this year, at the earliest. Ms. Welch commented that council may want to table this ordinance until the DSO is amended to modify the requirements for non-conforming structures. Town Administrator Cronin stressed that the draft ordinance, if adopted, would not adversely impact any existing structure. The only potential impact may be if the owner of a non-conforming structure seeks to expand, modify or reconstruct the structure after the ordinance is amended.

Chairman Otstot asked why the side yard setback requirement couldn't just be 7.5 feet across the board, arguing that the owners of undeveloped lots shouldn't be penalized if a neighboring property owner built too close to the property line. Town Administrator Cronin stated that the recommended language requiring the greater of 7.5 feet from the side property line or 15 feet between structures was written to ensure consistency with existing development. If the setback was set at a flat 7.5 feet, then it would be possible to have new homes less than 10 feet from existing homes. He added that this approach would also allow the owners of existing homes to potentially add-on to their structures and may result in existing homes being significantly less than 15 feet between apart. He stated that this would ultimately be a policy decision of Town Council. Dr. Ullner questioned whether this could also become a fire safety hazard.

Dr. Ullner made a motion to recommend in favor of the PUD amendment, as written. Mr. Newton seconded the motion. The motion was **APPROVED** by a vote of 5-0.

ITEMS FOR INFORMATION / DISCUSSION

1. **Salty Dog Café Patio and Fire Pit:** Town Administrator Cronin provided an update on the request from the Salty Dog Café to install a patio and fire pit at Bohicket Marina. He informed members of the Planning Commission that the applicants modified their plans to use a pervious paver system for the and that the project will conform to the requirements of the DSO. Consistent with the motion approved by the Planning Commission during the December meeting, Town Administrator Cronin stated that he had issued a zoning permit for the revised plans.
2. **Text Amendment: LED Signs:** Town Administrator Cronin stated that he was still working on a draft text amendment related to LED signs. He stated that he was attempting to schedule a meeting with the Town Attorney to discuss legal issues but was unable to coordinate schedules due to the holidays. He added that a draft ordinance would be presented to the Planning Commission for review at a later date.

Chairman Otstot asked for confirmation of the next meeting date. Town Administrator Cronin stated that the next meeting was scheduled for Wednesday, February 12th at 1:30 PM.

There being no further business, Chairman Otstot asked for a motion to adjourn. Dr. Ullner made a motion to adjourn the meeting. Ms. Welch seconded the motion. The motion was **APPROVED** by a vote of 5-0, and the meeting was adjourned at 3:17 PM.

Minutes Approved: February 12, 2020



Joseph M. Cronin
Town Administrator