

MINUTES OF THE ISLE OF PALMS  
PLANNING COMMISSION MEETING  
May 13, 2009

The Isle of Palms Planning Commission met in the Building Department conference room, 1301 Palm Boulevard on May 13, 2009, at 4:30PM. Members attending included Barbara Bergwerf, Pat Campbell, Ron Denton, Lisa Safford, David Stevens and Dick Watson; also the Director of Planning, Douglas Kerr was present. Sandy Stone was absent. The press had been notified of the meeting and the agenda for the meeting was posted in City Hall and the Building Department to comply with the Freedom of Information Act.

Chairman Ron Denton called the meeting to order.

#### APPROVAL OF MINUTES

The next item on the agenda was the review of the minutes of the April 8<sup>th</sup>, 2009 meeting. Mr. Stevens made a motion to approve the minutes as written and Ms. Bergwerf seconded the motion. The vote was unanimous in favor of the motion.

#### DISCUSSION OF SAFETY ISSUES WITH FIRE AND POLICE CHIEFS

Mr. Denton explained that the Commission had decided that it would be helpful to discuss the issues of safety at rental houses with the Fire and Police Chiefs and he thanked them for attending.

Chief Buckhannon addressed the Commission and handed out a summary of noise complaint calls for the past three years. He explained that there had been 334 founded complaints and 57 unfounded complaints involving noise in the past three years. He explained that of those founded complaints, 290 had occurred at rental properties. He added that the number of citations issued for noise has been relatively stable at around 20 to 25 per year.

Mr. Watson asked what the process was for an officer responding to a noise complaint. Chief Buckhannon responded that when they go out to a noise call, they stop up the road and listen for a couple of minutes, they then proceed to the house and listen at the house and then approach the house, if noise is heard. Mr. Watson explained that he and his wife often dealt with noise issues on their own and asked if the Chief preferred that they called or dealt with the issue themselves. Chief Buckhannon responded that he did not want anybody to hesitate to call the Police, but he understood that some people did not want to take the time to call. Mr. Watson asked in situations where a resident sees someone shoot fireworks and they call the Police, but when the Police arrive there were no fireworks being discharged, if the resident could be used as an eyewitness to issue a citation. Chief Buckhannon explained that the only way a citation could be issued, without the officer seeing the violation, would be to

involve the magistrate the next day, which by that time would typically be too late to cite a renter. Mr. Watson asked if a new livability officer had been hired. Chief Buckhannon answered yes, that an officer would soon be moving up to this position.

Mr. Campbell explained that there had been some issues raised about the accuracy of some of the data that had been presented earlier and asked if this would be improved. Chief Buckhannon explained that they are now writing a report on every call, which they have not always done, so they should have better data now than in the past. Mr. Kerr asked if the Chief felt that the short term rental program that was put into place a couple of years ago was working or if there were any glaring flaws. Chief Buckhannon answered that he did feel that it was working. He added that there is probably no perfect solution, but that he felt it was having a positive effect.

Mr. Watson explained that he felt that sometimes responding officers felt that the complainers were the problems and asked if the Chief felt that this had improved. The Chief explained that he was aware of this issue and he felt that the officers were improving and understanding that noise from rentals can be a true problem. The Chief added that as the program takes hold, the Police are less tolerant of infractions each year. The Commission thanked the Chief for attending the meeting.

Chief Graham addressed the Commission and stated that she had read in the minutes that the Commission was interested in EMS calls. She explained that about 70 percent of EMS calls are for non-residents, but she can not determine what percent of those can be attributed to a rental, as many of the calls are on roadways or beaches. Ms. Safford asked how she generally felt about the subject of safety in rentals. Chief Graham answered that they are called to rentals and full-time residences where stairs may be rickety, but they are able to deal with the conditions.

Mr. Campbell asked how frequently the Fire Department is called to situations that can be attributed to over-crowding of a house. Chief Graham answered that it is rare, but they were called to a house with a collapsed deck several years ago. Ms. Safford asked if she had any suggestions to make the rentals safer. Chief Graham answered that she thought that having a certified inspector look at each rental and certify that it is safe as part of the application process would be helpful. Mr. Campbell stated that he thought this was part of the original recommendation from the Planning Commission, but it was pulled out for some reason. Mr. Kerr explained that he thought there were some liability issues, but

he would try to research what happened to this provision in the original program. The Commission thanked both Chiefs for coming.

#### DISCUSSION OF DAYTIME MAXIMUM OCCUPANCY IN RENTALS

Mr. Kerr explained that at the last meeting Mr. Stone expressed concern about the fact that the daytime maximum in rentals is set at 40 regardless of size. His point was that 40 people in a Seacabin was too many at any time. He explained that he looked at the numbers and came up with a ratio of 2.5 times the maximum overnight occupancy to be the maximum daytime occupancy. Mr. Watson explained that he thought the maximum should be 24 people regardless of size or time of day. He explained that in his experience of managing large rentals, this seemed to be the point at which things seemed to change to a party environment. Ms. Safford explained that this prohibition would keep her and her family from congregating at a beach house, which she thought was too restrictive. Mr. Denton explained that he was concerned with the common area of the condominium units and he thought that events should be allowed in these areas that exceed the maximum for the individual rental unit. The Commission generally agreed and Mr. Campbell made a motion to include in the final recommendation to Council a provision that would limit the daytime occupancy of a short term rental to 2.5 times the overnight occupancy, with an exception for condominium common areas. The motion was seconded and the vote was five to one in favor of the motion, with Mr. Watson voting against the motion.

#### DISCUSSION OF NEW ZONING CONCEPT

Mr. Kerr explained that he had devised this zoning scheme to mirror the way the island has naturally developed with larger rental homes closest to the beach, a mix of rentals and residences on small lots on the 2<sup>nd</sup> and 3<sup>rd</sup> rows and primarily full time residents on larger lots on the Intracoastal Waterway side of the island. He explained that generally the City's existing zoning ordinance is the same across all areas including short term occupancy regulations, maximum building size, floor-to-area ratio (FAR) requirements and lot coverage requirements.

He proposed the following three districts: the first would be those lots adjacent to the Atlantic Ocean which has been developed into large lots (typically over an acre in size) with large houses that are appropriate for full time residents or short term rentals. He proposed to not change the zoning requirements for this district and labeled the district as the Ocean District.

The second proposed district would include those areas that are a short walk to the beach (less than 1,000 feet), but not ocean front. He explained that the lots in this area are typically smaller (less than one quarter of an acre) and the homes are used by a mix of full-time residences, second homes and rentals. Because of the close proximity to the beach and the small size of the lots, this area has experienced considerable development pressure as these properties are more affordable than ocean front property but still attractive to visitors as they are close to the beach. The houses recently built in this district are more likely to be close to the maximum allowed floor-to-area ratio. He explained that he proposed a maximum rental occupancy of 16 people and a maximum size of a new home of 5,000 square feet. He classified this district as the Second Row District.

The third proposed district would be everything outside of the previous two districts on the Intracoastal Waterway side of the island. He explained that the lots in this area are typically large (larger than one third of an acre) and the homes are used almost exclusively as full-time residences and that because of the large lot size, the existing FAR and maximum house size requirements would allow very large houses that would be out of character with the existing areas. Also, the existing rental occupancy limits would allow the establishment of a high occupancy rental home that would be out of character with the existing area. He explained that he would propose to reduce the allowable FAR to 30%, reduce the maximum building size to 4,000 square feet and set the maximum rental occupancy at 12 people. He had labeled this district as the Waterway District.

Mr. Denton explained that he liked the idea, but he thought it would be a very tough idea to get through the political process. He felt that zoning changes are seen as undesirable and he thought that it may be seen as exclusionary, by not limiting the Ocean District.

Ms. Bergwerf explained that she had issue with the concept because it provides protection to people only a block away in terms of the occupancy, but not where she lives. She explained that she felt that the occupancy should be set at 12 across the entire island for new construction. She explained that she is in favor of someone being able to be able to build their dream home, but she is not in favor of someone building a ten bedroom box for rental purposes. So she felt that if occupancy were limited to 10 or 12 in newly constructed homes, it would take away the incentive to build a big rental home and still allow someone to build their dream home.

Mr. Watson asked if the proposed scheme would apply only to new construction. Mr. Kerr answered no, it would apply to existing and future short term rentals.

Mr. Watson asked if it could be determined how many landlords would be adversely impacted by such a plan. Mr. Kerr explained that he could do this. Mr. Watson explained that he generally thought it was a good idea.

Mr. Kerr asked Ms. Bergwerf if this plan would work if the Second Row District occupancy was reduced. She answered that she did not see any reason why the two districts away from the ocean should have different standards. Mr. Kerr answered that his rationale for this was that he felt that these properties had already been developed in this manner and it would be in keeping with what is already there, where there are not rentals or overly large homes in the Waterway District, so he felt it would be advantageous to limit that area further.

Ms. Bergwerf explained that she felt that a new occupancy limit should pertain only to newly build homes. Mr. Kerr explained that he felt that it would take a very long time for a provision like this to have an effect.

Mr. Campbell explained that he felt that the Waterway District is a severe limitation on how people can use their property, maybe to a point of being a taking of property. He said that these lots were much larger than the other areas, yet you could not build as big of a house. Mr. Kerr explained that the rationale for this was that a very large house in this area would be out of character of the existing characteristics of the district. He added that it may be useful to look at what the typical size home is in this district, because this proposal was based on his perception of what would be reasonable in each district.

Mr. Campbell explained that the market has determined that no enormous houses will be built in the areas where they would be out of character, but he would want the freedom to use his investment in a way that suits his personal needs. Mr. Campbell stated that he felt that the idea of a Waterway District should be dropped.

Mr. Stevens pointed out that he felt that the back of the island is the most desirable section and it would be the area that he would be the most likely to build his dream home.

Mr. Denton explained that he liked the idea of keeping the proposed occupancy limits, but eliminating the proposed maximum size limitations.

The Commission generally agreed that it would be useful to analyze how the proposed occupancy limits would affect the existing rental pool. Mr. Kerr answered that he would provide this analysis.

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ADJOURNMENT

There being no more business, the meeting was adjourned at 6:20 p.m..  
Respectfully submitted, Ron Denton, Chairman.