



TOWN OF SURFSIDE BEACH ♦ TOWN COUNCIL CHAMBERS  
February 3, 2009 ♦ 6:30 P.M.

PLANNING & ZONING PUBLIC HEARING  
AND  
MEETING MINUTES

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1. **CALL TO ORDER**

Vice Chairwoman Ms. Cook called the Planning & Zoning meeting to order at 6:30 PM. In attendance were: Vice Chairwoman Cook and Planning & Zoning commission members Culbertson, Barnard, Seibold, Saunders and Smith. Absent was Chairman Hanson. Also in attendance was staff member Building, Planning & Zoning Director Donevant and Clerk Pinnell. Consultant Mr. Tom Britton from the Waccamaw Council of Governments was also in attendance.

2. **PLEDGE OF ALLEGIANCE.**

Vice Chairwoman Cook led the pledge of allegiance.

3. **AGENDA APPROVAL**

Mr. Saunders made a motion to add the public hearing to the agenda. Mr. Smith seconded the motion. **All voted in favor. MOTION CARRIED.**

4. **PUBLIC HEARING**

Mr. Britton stated that the public hearing is on a potential amendment to section 17-24 of the Town of Surfside Beach Zoning Ordinance. Mr. Britton explained that this particular amendment deals with the treatment of non-conforming structures within the town and that this has been an issue that the Planning Commission has been looking at and discussing for the last few months. The issue is how to treat or permit small additions to non-conforming structures; a non-conforming structure is a structure which was built prior to the zoning ordinance or prior to an amendment to the zoning ordinance and added that in the town of Surfside Beach there is a lot of build-out and lots that have structures already on them that predate the zoning ordinance. In addition there have been a number of amendments to the zoning ordinance that has changed the setbacks and some of the requirements for the lots. Under the existing enforcement and ordinance a structural enlargement can be permitted to a non-conforming structure provided it meets setbacks and if it were not to meet setbacks or follow the existing wall line it would not be permitted. Mr. Britton stated that the understanding is that over the course of time there have been several property owners who have experienced potential hardships with the request of small additions. Mr. Britton stated that the commission and staff have looked at potential ways to address this without opening up other problems. Mr. Britton stated that currently if a property owner wants to add on they have the option of applying for a variance, however, the State of South Carolina and other states have very stringent requirements on issuing a variance and this has limited the amount of variances allowed. Mr. Britton stated that a couple of options were presented to the commission a few months ago and the most obvious option was to look at district wide amendments to setbacks and the commission decided that this was something they did not want to pursue at this point in time. Mr. Britton stated that the problem with this is that it would apply to all structures and not just non-conforming structures, including all new construction particularly on vacant lots. Mr. Britton stated that the other option would be to look at a very finite exception within the ordinance that would allow certain

52 expansions under certain conditions and what staff did was draft a potential amendment  
53 which was reviewed by the commission and that is where this currently stands with the  
54 public hearing. Mr. Britton stated that the public would have the opportunity to express  
55 any concerns or observations they have at this hearing.  
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57 Mr. Britton stated that under the proposed amendment a non-conforming structure could  
58 be expanded as long as the structure was a conforming use and the addition did not  
59 project past the existing wall line of what was already there and stressed that all other  
60 requirements of the ordinance would have to be met by the addition just the setbacks  
61 would be able to be modified to allow the expansion. Mr. Britton stated that under the  
62 proposed amendment some additional caveats were included to prevent potential adverse  
63 consequences for making the amendment and one of the requirements is limiting the  
64 amount of encroachment for side yard or rear yards; any closer than 5 feet to the side or  
65 rear yard would not be allowed regardless of where the wall line is on the existing non-  
66 conforming structure. Mr. Britton stated that from the standpoint of public roads, it  
67 needs to be no closer than 15 feet to the right-of-way. Mr. Britton stated that the ability  
68 for potential expansion has been limited on commercial structures that abut a residential  
69 district and this may result in adverse consequences. Mr. Britton stated that he would be  
70 happy to answer any questions the commission has adding that during the course of the  
71 regular business meeting the proposed amendment would be discussed and then an  
72 action could be taken. Mr. Britton stated that the commission could recommend it to  
73 council as presented, it could be recommended with any additional amendments made  
74 tonight or it could be tabled or deferred or the commission can decide not to pursue this  
75 at all.  
76

77 Mr. Smith asked if the town lawyer has read the amendment. Mr. Britton stated that he  
78 is not aware if he had or not. Mr. Smith stated that in paragraph 8 where it says that it  
79 “shall be approved by the Zoning Board of Appeals”. Mr. Britton stated that this section  
80 probably should read “may” however that is currently an existing part of the ordinance  
81 and the only item the commission is currently addressing tonight is section E. Mr. Smith  
82 stated that he understands this but that line may not be correct and suggested that the  
83 town lawyer look at it. Mr. Britton stated that with respect, the amendment the  
84 commission is looking at tonight is just item E. Ms. Barnard stated that she feels that the  
85 diagram presented is very helpful adding that it helps clarify what the commission is  
86 trying to accomplish.  
87

88 *Lynn Livesay, 520 10<sup>th</sup> Avenue South:* “I haven’t been able to look at the documents. I  
89 don’t know what’s been proposed. I’m just here to speak to the, I think, what I’m  
90 gathering from what’s been said is, we’re going to seek to use the setbacks when we  
91 allow a structure to have an addition put on a conforming building, is what it sounds  
92 like. The only other thing I wish we could probably look at, is consider the percentage.  
93 If we allow people in these smaller lots to have a setback mentioned, they’re going to  
94 take every square inch they can. I think we should include some open space in the  
95 existing property that does not include the setback. The setback is basically owned by  
96 the town and it does create green space but if you allow that to be the perimeter of this  
97 conforming structure, that they’re trying to add a new addition to, they’re going to take  
98 every square inch and these lots are small and then you’re going to have people like,  
99 however the setbacks are, what ever they’re being allowed on the side or on the corners,  
100 if you understand what I’m saying. There should be some percentage there left. I just

101 can see all of this happening in these smaller lots and I haven't read it but I am  
102 concerned about how much is going to be left."

103  
104 Ms. Barnard stated that she feels that Ms. Livesay will be pleased and presented the  
105 proposal hand-out distributed to the commission to Ms. Livesay.

106  
107 *Ms. Livesay:* "It's wonderful in conception and I'm in favor of the spirit of all of the  
108 ordinances and a lot of time we do get into trouble. People push the spirit a little too  
109 hard, but I wanted to see this before the meeting and I didn't get a chance, but I just  
110 wanted to make sure we were considering that and if you all are in, have considered it,  
111 you've looked at this longer than I have. I leave that up to you. Thank you."

112  
113 Mr. Saunders made a motion to close the public hearing. Mr. Smith seconded the  
114 motion. Ms. Cook closed the public hearing.

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116 The commission moved back into the business portion of the meeting.

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118 **5. MINUTES APPROVAL**

119 Mr. Saunders made a motion to approve the minutes from January 6, 2009. Mr. Seibold  
120 seconded the motion. **All present voted in favor. MOTION CARRIED.**

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122 **6. BUSINESS**

123 **a. Nonconforming Structure Text Amemdment Sec. 17-24**

124 Mr. Britton stated that he wanted to clarify the issue of coverage stating that the  
125 amendment would not eliminate the requirement of a structure to conform to the other  
126 requirements of the ordinance, such as the coverage requirements and height  
127 requirements. An individual could not build a 5 foot high structure and could not exceed  
128 the coverage; the only exception being provided is the setback under very specific terms.

129  
130 It was confirmed that this applies to all non-conforming structures that the town had a  
131 conforming use within.

132  
133 Ms. Barnard made a motion to approve the amendment and have the attorney review  
134 wording. Mr. Seibold seconded the motion. **All present voted in favor. MOTION**  
135 **CARRIED.**

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137 **b. Article I Review**

138 Mr. Britton stated that staff and the commission had previously set out a schedule for  
139 taking a look at the zoning ordinance and this month everyone looked at Article I. Mr.  
140 Britton stated that everyone should have a memorandum of review from him outlining  
141 some of the staff observations pertaining to the article. Mr. Britton stated that what the  
142 commission and staff hopes to end up with after the review is an outline for potential  
143 changes and amendments to the ordinance and from there staff and the commission will  
144 look at text rewrites. Mr. Britton stated that Article I includes the definition section and  
145 this is the section that could potentially come up in a court case; how things are defined  
146 is extremely important. Mr. Britton stated that starting out with the 17-1 provision the  
147 only observation made by staff was that the purpose statement which is basically restated  
148 in section 17-3, from the standpoint of duplication, a good portion of this section can be  
149 removed. Section 17-2 there was one minor change, the reference to the map should

150 contain "as amended". 17-3 is the purpose statement that needs to be removed from 17-  
151 1, the observation made was this purpose statement is common and the problem is that it  
152 is taken out of the pre-1994 Enabling Act and there are phrases in the 1994 Enabling Act  
153 that need to be in the ordinance for safety and consistency purposes. Mr. Seibold asked  
154 if the two are going to be combined. Mr. Britton stated that it could be done either way.  
155 It could be set up where 17-1 is the authority and purpose statement or it could be  
156 dropped and 17-1 could be authority and then keep 17-3 as the purposes statement to  
157 include the current enabling legislation. Mr. Britton stated that he has seen it done both  
158 ways in ordinances adding that it is more formatting than anything else. Mr. Britton  
159 stated that with respect to the definitions there were a few observations on those. The  
160 "rules of construction" needed to be amended to include a few lines that are common for  
161 all zoning ordinances but were not included in the towns'. Under definition format the  
162 zoning ordinance contains approximately 50 definitions which is relatively short for  
163 zoning ordinances, the zoning ordinances are broken down into the various sections;  
164 there are definitions for four sections; it is not uncommon to do it this way. There are  
165 advantages and disadvantages to both ways. The advantages to having all definitions in  
166 one section is that they are applicable throughout the ordinance and the way it is  
167 currently structured the sign ordinance says "for the purposes if this article these  
168 definitions apply". The problem is if this word appears outside the article the question is  
169 whether there is coverage. The benefit to having them broken down and separate is that  
170 signage and sexually oriented businesses typically involve first amendment issues so if  
171 the town is ever sued over the enforcement of one of these ordinances and a judge were  
172 to take a portion of the ordinance out it would all be in one place and it would not effect  
173 other articles. Mr. Britton added that this could be discussed at another time. Mr.  
174 Britton stated that some of the words that need defining have been listed adding that he  
175 feels that this list will probably grow as the commission and staff continue with the  
176 review. The primary concern with words that are not defined deal with regulatory  
177 requirements; terms like setbacks and impervious coverage. Any time there is a  
178 regulatory significant term it needs to be defined and the reason is that the term  
179 "setback" needs something in the ordinance that explains it since many communities  
180 measure setbacks differently. Some measure from property line to wall plate and some  
181 measure from property line to overhang and there are various other combinations. Mr.  
182 Britton stated that through the town's administrative practice it has been established  
183 what the ordinance means but without the term defined if the zoning director were to  
184 leave and another director came in town to replace them, this jeopardizes the consistency  
185 of the application. "Impervious coverage" is defined differently throughout the country  
186 with some areas defining gravel as impervious and some others do not include gravel.  
187 Mr. Britton stated that also simple terms like "lot area" need to be defined. Some define  
188 net area and some gross area. Mr. Britton stated that some exclude wetland areas and  
189 anything that has a regulatory significance has to be defined. Mr. Britton stated that  
190 there are also words that need clarification and one is "bedroom", they are defined  
191 differently in different areas of the ordinance. Mr. Britton stated that "building" needs to  
192 be redefined; there are sub definitions that should probably be independent definitions.  
193 The term "lot" needs to be redefined. Mr. Britton added that there are state definitions  
194 for "mobile home" and "modular home" and would like to marry up with state  
195 definitions for consistency. Mr. Britton stated that "townhouse" needs to be defined a  
196 little bit differently; it needs to be more clear. Mr. Britton stated that the definition for  
197 "condominium" needs to be reordered to go under dwellings to make everything  
198 consistent. The commission may want to consider adding illustrations as well adding

199 that these are extremely helpful. Mr. Britton stated that if the commission has anything  
200 to add to please let staff know. Mr. Britton stated that he and Ms. Donevant have  
201 already reviewed Article II and the memorandum should be ready shortly. Mr. Britton  
202 stated that in order to expedite the process he would like to move to review Article III as  
203 well and asked for approval from the commission to move forward with Article III. Ms.  
204 Barnard asked if “zero lot line” needs to be defined and Mr. Britton stated that it should.  
205 It was confirmed that amendments would eventually be drafted and reviewed by the  
206 commission and then a recommendation would be made or not be made to council. Mr.  
207 Britton stated that concerning Article II that perhaps the commission may want to  
208 discuss residential at one meeting and commercial at another meeting. Mr. Britton  
209 suggested that it might be helpful to do some comparison with other municipalities and  
210 the commission agreed. Mr. Britton stated that it may be helpful if the commission  
211 could recommend other cities or towns they would recommend looking at and it would  
212 be his suggestion to look at 3 or 4 other communities and that the coastal communities  
213 do not need to be in South Carolina. Mr. Britton stated that when the commission gets to  
214 the commercial aspect and begins to talk about Highway 17 they will probably pull  
215 Horry County and Myrtle Beach ordinances, since Highway 17 is very different than  
216 other places.

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218 **c. Beautification Report**

219 Ms. Donevant stated that there would be a Beautification workshop with some of the  
220 business owners on March 2<sup>nd</sup> at 7 PM and invited Planning and Zoning members to  
221 attend. Ms. Donevant stated that a report of projects was presented to the commission to  
222 inform them of what the committee has been working on.

223  
224 Ms. Cook asked about the façade grant. Ms. Donevant stated that this has not been  
225 worked out yet but it is something they are looking into for Surfside Drive and parts of  
226 17 where incentives, tax breaks or matching grants would be discussed for people to  
227 clean up their property or put up a new façade.

228  
229 Mr. Culbertson stated that they look like they have done a good job so far and that they  
230 are heading on the right track.

231  
232 Ms. Barnard stated that she feels that having the combination of Jackie and Tom doing  
233 all of the legwork is very helpful and feels like the commission is heading in the right  
234 direction and doing it right.

235  
236 Mr. Saunders asked if the commission will be on schedule and Mr. Britton stated that he  
237 feels that what they are going to try to do is beat the schedule but at the same time if the  
238 commission gets into a discussion where they need more time then they will take it. Mr.  
239 Britton stated that Article III would probably determine a lot to see where it goes from  
240 there. There was discussion regarding the comprehensive plan where there are  
241 significant statutory due dates for this but there are no due dates for the ordinance  
242 review. Mr. Saunders asked if the zoning ordinances could potentially effect the  
243 comprehensive plan. Mr. Britton stated that they potentially could when the district  
244 requirements are reviewed because the zoning ordinance has to be a reflection of the  
245 comprehensive plan and if the commission got into a discussion regarding aesthetics or  
246 making some significant changes from what is currently in place then the comprehensive  
247 plan would need to be reviewed and these items would need to be put in there. Mr.

248 Smith stated that he would suggest that the town lawyer review all ordinances before  
249 sending them to council.

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251 **7. ADJOURNMENT**

252 Mr. Culbertson made a motion to adjourn. Mr. Saunders seconded the motion.

253 **MOTION CARRIED.** The meeting was adjourned at 7:06 PM.

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256 Approved: March 3, 2009

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Sharon Pinnell, Town Clerk

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Absent

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Bob Hanson, Commission Member

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Connie Barnard, Commission Member

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Ron Saunders, Commission Member

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John Culbertson, Commission Member

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Carol Cook, Commission Member

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Charles Seibold, Commission Member

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Rod Smith, Commission Member

Clerk's Note: This document constitutes minutes of the meeting, which was audio taped. In accordance with FOIA, meeting notice and the agenda were faxed and/or emailed to local media and interested parties. A complete list is on file in the clerk's office. The agenda was posted on bulletin boards outside Council chambers and in the town hall reception area. Meeting notice was also posted on the town marquee.