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3 **TOWN OF SURFSIDE BEACH ♦ TOWN COUNCIL CHAMBERS**
4 **August 5, 2008, 6:30 o'clock p.m.**

5
6 **PLANNING & ZONING COMMISSION**
7 **MEETING MINUTES**
8
9

10 **1. CALL TO ORDER**

11 Chairman Bob Hanson called the meeting to order at 6:30 p.m. Commission Members
12 Barnard, Smith, Cook, Saunders, and Seibold were present. Commission Member
13 Culbertson was absent. There was a quorum. Staff present: Administrator Booth,
14 Building/Zoning Director Donevant and Clerk Pinnell.

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16 **2. PLEDGE OF ALLEGIANCE**

17 Chairman Hanson led the Pledge of Allegiance.
18

19 **3. AGENDA APPROVAL**

20 Mr. Saunders made a motion to approve the agenda as submitted. Mr. Seibold seconded.
21 **All members present voted in favor. MOTION CARRIED.**
22

23 **4. MINUTES APPROVAL**

24 Mr. Saunders moved to approve the July 1, 2008 meeting minutes. Mr. Seibold seconded
25 the motion. **All members present voted in favor. MOTION CARRIED.**
26

27 **5. BUSINESS**

28 ***a. Rezoning lots 1 & 2, Block 1, TMS #191-15-23-010 and 191-15-23-019:*** Ms.
29 Donevant explained that these two lots are located on the northeast corner of Poplar
30 Drive and Surfside Drive. The town purchased these lots for the purpose of putting in a
31 parking lot. The lots are currently in zone R-2 where parking lots are not allowed; the
32 town is looking at possibly rezoning these lots from an R-2 medium density to a C-2
33 central business district. This would be an extension of the C-2 zone. Ms. Donevant
34 reported that staff would check to make sure that this is in compliance with the town's
35 comprehensive plan and would make sure this was done correctly. If the commission
36 votes in favor of this it would then be brought to council and there would also be a public
37 hearing. Ms. Cook stated that back at the town council meeting minutes dated January
38 22, 2008, lines approximately 142 to 150, Ms. Tuttle raised the issue of a parking lot and
39 at the time it was presented that it would be a parking lot and park and asked if this is
40 what we are currently planning on doing. Mr. Booth answered that this was correct. Ms.
41 Cook stated that this is not being presented as that; it is being presented as just a parking
42 lot. Ms. Cooke stated that at the Planning & Zoning Commission meeting on February
43 5th, lines 64-65 of the minutes, Mr. Booth stated if the parking lots were rezoned to
44 commercial that he would have the authority to approve any adjoining properties to be
45 rezoned commercial. Mr. Booth stated that this was not correct and if he said that then he
46 misspoke. Ms. Cook stated that Mr. Booth had stated that any property contiguous to a
47 commercial property could then be changed to commercial. Ms. Donevant stated that she
48 was at that meeting and what Mr. Booth meant was that a property owner could apply to

49 be rezoned because they were contiguous to the property; not meaning that they are
50 automatically rezoned; they would need to come to the commission for approval. Ms.
51 Donevant added that the intent of the parking lot is to design it so that a portion is park
52 and portion is parking lot; the request at this time is just to request the rezoning from an
53 R-2 to a C-2. Ms. Cook stated that back in January a mix of 49 and 51 percent was
54 brought up and asked Mr. Booth if it was going to be 49 percent park or 51 percent park
55 and Mr. Booth answered that these percentages were too close for him to answer that and
56 added that it would be as close to 50/50 as possible. Ms. Cook stated "a park doesn't
57 have to be in a commercial zone, correct? A park can be in any kind of zoning?" Ms.
58 Donevant answered that this was correct. Ms. Cook then went on to comment that she
59 would assume that the park section would be placed going east on Surfside Drive and
60 then asked if the next lot, lot number 3, would have the ability to apply to become a
61 commercial property. Mr. Booth answered "not necessarily" and added that South
62 Carolina law states that a single lot cannot be rezoned, it would need to be an area being
63 requested and the reason that the town can come before the commission as a city is that it
64 meets the towns' comprehensive plan regarding the need for parking. Ms. Cook stated
65 that back on February 5th Ms. Cook had questioned Mr. Booth at that meeting asking
66 about having ordinances in place that would require architectural standards prior to
67 rezoning to commercial. Mr. Booth stated that this was correct. Ms. Cook stated that if
68 the commission agrees to this rezoning then there is nothing to prevent the owner of lot 3
69 to apply for rezoning to commercial and she would like to see a plan in place prior to
70 approving this adding that she feels as if we are "standing on a very slippery slope" and
71 that it could be like dominoes and continue down Surfside Drive. Ms. Cook reiterated
72 that she would like to see a plan in place. Mr. Booth stated that the town is in the process
73 of putting together a plan and added that rezoning the town lot does not necessarily mean
74 that lot 3 can be rezoned. Mr. Booth quoted from South Carolina Zoning that "zoning of
75 a single lot or a small parcel of property, held by a single owner, which will result in
76 permitted use not available to adjacent property owners is usually referred to as spot
77 zoning". Mr. Booth added that South Carolina courts held that such a practice is illegal;
78 there is one exception and that being that the council can rezone it if such actions are
79 consistent with the Comprehensive Plan. Mr. Booth stated that, in this case, the town is
80 putting it in as a parking lot but to take another property and make it truly commercial is
81 a different subject and this is not in the Comprehensive Plan. Ms. Donevant stated that
82 she wanted to add to that stating that she has been doing some case studies and what Mr.
83 Booth is saying is correct but the court upholds towns; the reason the town needs a
84 parking lot is for the business district; the C-2 district where there are parking problems;
85 this is not an individual private property owner who wants to rezone a piece of property;
86 this is something that is being done by the municipality for the betterment of the town
87 and the business district. Mr. Saunders asked whom specifically the parking lot would
88 serve. Mr. Booth answered that it is for the downtown area adding that it was purchased
89 long before he began working for the town adding that he would not have recommended
90 this particular lot to be purchased; the town paid \$325,000 for the two lots. It was
91 confirmed that the two lots were on Poplar directly across from the side of the Sundown.
92 Mr. Saunders had a question regarding whether it was going to be a park and Mr. Booth
93 answered that it would be a green parking lot; there would be a lot of trees. Mr. Saunders
94 questioned whether the citizens of the town would use a park in that location. It was
95 confirmed that this parking lot was in the comprehensive plan. Ms. Cook asked if a
96 single lot could not apply then if the owner of lot 3 acquired lot 4 then could they apply

97 with two lots. Ms. Donevant answered that it is not necessarily one lot not allowed but a
98 small area, less than 2 acres, which is not allowed. Mr. Booth stated that the idea with
99 spot zoning and zoning is the question of whether it is compatible for the area; house
100 could be next to businesses. Mr. Booth stated that if the entire Surfside Drive went
101 commercial then the comprehensive plan would be changed. Ms. Cook asked for further
102 explanation stating that if the town does not want houses next to businesses then the
103 definition of mixed-use would need to be explained. Mr. Booth stated that this would be
104 like Market Commons and that it is a different zone. There was some additional
105 discussion regarding mixed-use and commercial and Ms. Cook then stated again that she
106 would like to see a plan adding that getting the parking lot would be the first step and
107 asked to see steps 2, 3 and 4. Mr. Booth stated that steps 2, 3 and 4 do not include
108 Surfside Drive; step 2 is to enhance the already established commercial area adding that
109 the town would be going out for a grant for that. Mr. Booth stated that at the same time
110 as step 2 they will be going down Business 17; to code enforce and beautify. Mr. Booth
111 stated that the desire of the owners on Surfside Drive is not to make it commercial at this
112 time; there is no plan since there is currently no willingness from the owners to change it.
113 Mr. Saunders asked if businesses in the Surfside Drive area had requested additional
114 parking. Ms. Donevant answered that there have been several requests; one from Moore
115 & Associates and one from Richardson Builders. Mr. Saunders interrupted stating that
116 Moore & Associates is no longer there. Ms. Barnard stated that several have moved out
117 because of the parking problems.

118
119 Mr. Hanson asked for a motion. Ms. Cook made a motion to table the rezoning request
120 until a plan is received. Mr. Booth asked what kind of plan they are looking for. Ms.
121 Cook stated that she would like to see a plan that will involve Surfside Drive. Mr. Booth
122 stated that this would not come forward anytime soon because there is no desire for it at
123 this time. Ms. Cook withdrew her motion. Mr. Smith made a motion to recommend to
124 council to rezone the two lots to C-2 central business district type lots. Mr. Seibold
125 seconded the motion. There was discussion on the motion. Ms. Barnard had a comment
126 regarding the concrete area on Poplar where Joe's IGA used to be; that this was already
127 C-2 and thought if the town could acquire that property the town would not need to go
128 through a zoning problem. Mr. Booth stated that he agreed but the town did not purchase
129 this property, it purchased the other property adding that he would have made the
130 recommendation to purchase the other property as well. Mr. Seibold asked what would
131 happen if this was turned down. Mr. Booth answered that he has two choices; the council
132 can override the commission or the council can decide to turn around and sell the
133 property. Mr. Seibold asked how desperate the need for additional parking is. Mr. Booth
134 answered that there are times when it is very crowded and then there are times when it is
135 not. Mr. Saunders asked if he was referring to Bike Week. Mr. Booth answered that
136 there are times other than Bike Week. Ms. Donevant interrupted stating that she was
137 afraid that the commission was under the impression that the town would be putting in a
138 park for children and explained that this is not the case; it is more of a business park
139 where people could sit on a bench. Mr. Saunders stated that if one were to go past that
140 area at any given time in the evening one would find some of the patrons from that
141 business across Poplar using that park as a bathroom. Mr. Booth stated that it is not a
142 large piece of property and alot of it will have parking on it and it was confirmed that
143 there would be meters. Mr. Saunders asked what would stop people from relieving
144 themselves if the town makes it into a park and Ms. Donevant answered "what would

145 make it stop if you don't" and added that the police department is right there and they
146 would police it. Mr. Seibold, Mr. Smith and Mr. Hanson voted in favor of the rezoning
147 and Ms. Cook, Ms. Barnard and Mr. Saunders voted against. It was confirmed by Mr.
148 Hanson that in the event of a tie vote the rezoning would be denied. **The rezoning was**
149 **denied.** Mr. Booth stated that he would bring it to the council.

150 ***b. Request paint color approval and pursue ordinance development:*** The color scheme
151 chosen previously by the Beautification Committee was displayed for review of the
152 commission. Ms. Donevant stated that they are looking for approval of the colors being
153 presented and approval to pursue developing an ordinance to integrate these colors. Mr.
154 Booth reported that many businesses in town do not currently meet our property
155 maintenance code ordinance and the town is trying to get these businesses to comply.
156 One of Mr. Booth's concerns was that once the town started to enforce these codes some
157 businesses may retaliate and paint their building a garish color and he would like to avoid
158 this. Mr. Booth added that part of the enforcement would be getting the owners to paint,
159 repair and clean up their buildings. Mr. Booth reported that the town has allocated
160 \$150,000 towards beautification and this will be used on the Business 17 median; the
161 town would a landscape design. Mr. Booth stated that once the color ordinance is in
162 place then architectural standards would come next; these would not be easy to decide
163 upon since everyone has a different idea of what they would like buildings to look like.
164 Mr. Booth reported that sometime in the future Surfside Drive would be discussed. Ms.
165 Barnard stated that there was a previous discussion where incentives would be given to
166 the business owners to assist them in beautifying their commercial property. Mr. Booth
167 stated that code enforcement would be used for painting and repairs but that perhaps an
168 incentive could be used towards something like awnings. Mr. Booth stated that his
169 incentive for business owners would be that if they painted and cleaned up their property
170 then he would not issue them a ticket or take them to court. There was a question
171 regarding the color selections and Ms. Donevant stated that the color choices are for the
172 color palettes shown only and it does not reflect the use of a particular name brand
173 product. Mr. Smith asked if Ms. Donevant could give the names of the color palette
174 choices so that when they make the motion they could list it correctly. Ms. Donevant
175 stated that they were Historic Charleston and Island and Village. It was confirmed that
176 the colors would include the buildings and trim colors. Mr. Saunders made a motion to
177 accept the Historic Charleston, Island and Village color theme. Ms. Cook seconded the
178 motion. Mr. Smith amended the motion to include that these colors are for C-1, C-2 and
179 C-3 districts. Mr. Seibold seconded the motion. **All voted in favor of the amended**
180 **motion. All voted in favor of the original motion.**

181
182 **6. PUBLIC COMMENTS**

183 *Janet Gainey, 8th Avenue South:* "I'd like to welcome all the new chairpersons up there. I
184 really don't know where to start tonight but I feel like there's some monkey business
185 going on. Of course, I own lot 3, contiguous to Surfside Beach's property of lot 1 and 2
186 down Surfside Drive. I've made it very clear; I've been very vocal that I do have a
187 rezoning request in since 2003 that has never been closed. When McQuiddy owned the
188 property, lots 1 and 2, which Surfside Beach now owns, he made the rezoning requests
189 and I do have copies of that here if anybody's interested in looking at that and at that time
190 I put in my rezoning request, basically, going along with his. There was no issue from
191 Surfside Beach at that time that the three of those properties had the rezoning request in
192 together. On the public hearing back on Tuesday, December the 9th of 2003, number one

193 was listed as lots 1 and 2 and number two was myself and my property on lot 3. My issue
194 tonight is not that you turned it down or would have approved it; my issue is what's in
195 fair play for the residents of the town. I understand there are some people who are not in
196 agreement with anything going further but it wasn't illegal, Mr. Booth, back in 2003, has
197 the law changed since then? And if you're saying that small area's less than two acres,
198 your property is less than two acres as well. Ms. Cook, I do appreciate you remembering
199 that, as many times as I've been up here in front of you, that I was going to be here
200 tonight. I haven't been here as much lately because I have some children's activities but
201 someone was kind of enough to send me an e-mail to let me know that this was coming
202 up, that also upsets me because I've been in contact with Ms. Donevant and Mr. Booth at
203 town council meetings and planning and zoning so I don't understand why I wasn't
204 contacted to discuss this. So anyway I have an open rezoning request. I don't think it
205 should be done any separate, if anything goes forward, I don't think it should be handled
206 any different than lots 1 and 2. I don't think it's fair and it was put on hold back in 2004,
207 January 13th, is the town council meeting; the whole issue of Surfside Drive was put on
208 hold for the same exact reason you guys have put it on hold or stopped it tonight; there is
209 no comprehensive plan. I've got the meeting minutes if anybody would like to see them
210 after the meeting, I'll be glad to show them to you, but that's what it is and I'm the same
211 way, why did I go in and put my rezoning request in, because I didn't want a parking lot
212 beside my residential home. That's a problem for me. That makes my land value go
213 down. I've said this story many times but for those of you who haven't heard it, I'll say
214 it again. We lived in that home, it's now a rental property for us and we had small
215 children, it was not Bike Week when this occurred, although it probably would have been
216 now maybe, woke up on a Saturday morning, I go yard-saling and we had a swing in our
217 front yard and there was a biker woman in our swing, of course passed out drunk so I
218 went to her, this is 6 o'clock on a Saturday morning, I said 'ma'am', trying to roost her
219 out of our property, so she got up and wondered around the swing set, she couldn't get
220 her balance but I was hoping she was going to walk off so I left, drove back around
221 because, again, I have small children and she has now plopped down in front of my swing
222 so, parking lot, I'm not saying either way but I want it to be done fair and I expect that
223 from Surfside Beach, I've been a resident here for fifteen years, I've been talking about
224 this issue since 2003 and I can't reiterate it enough, my zoning request is still open.
225 Thank you so much."

226
227 There were no other public comments.
228

229 **7. COMMISSION COMMENTS**

230 Ron Saunders: "I understand that we're in the throws of acquiring Ocean Boulevard
231 shortly and when that occurs there's been a long problem down there at all the beach
232 access lots where those two blue access signs are, at each beach access where the local
233 residents go down to the beach and during the summertime, when the tourists are here,
234 people park in that planting strip right there so if you're walking back out from the beach
235 or driving a golf cart out of there, by the time you've gone past that parked car to see if
236 traffic is coming, you're standing in front of it so I would like for us to think about
237 zoning that thing as 'no parking' on each side of that area so that safety hazard is
238 eliminated. We were told before, when we brought that up here and asked some of the
239 council people about doing that, that it was owned by the State of South Carolina and we
240 couldn't do it so I assume now that that's within the realm of possibilities."

241
242 Mr. Booth stated that it would be.
243
244 Ms. Cook: “Based on the laws that you read about zoning, something smaller than a two
245 acre parcel, I would like to see a resolution to Ms. Gainey’s request, I mean, the woman’s
246 been waiting since, I don’t know, how many years Mrs. Gainey?”
247
248 Ms. Gainey: “Since 2003.”
249
250 Ms. Cook: “Okay, five years, so if according to state law her request is illegal then I
251 think something should be presented to the board so that we can vote on it and resolve
252 this, I mean, don’t you think there should be some closure?”
253
254 Mr. Booth stated that this could be done.
255
256 Ms. Gainey asked if it was also illegal for Surfside to rezone if it were less than two
257 acres.
258
259 Ms. Donevant stated that the town is not saying that it is illegal; at this point the town
260 will have a zoning attorney look at it and regarding spot zoning if a municipality does
261 something for the good of the town like the parking issue then it is upheld in court. Ms.
262 Donevant stated that she has also reviewed minutes where the Planning and Zoning
263 Commission said they would bring it back and they never brought I back.
264
265 Ms. Gainey said that she was told that the town was waiting on the comprehensive plan
266 for the entire Surfside Drive.
267
268 Ms. Cook: “ My next issue is the ordinance that will involve the paint colors, I know I’m
269 beating a dead horse, I’m sure you’re tired of hearing me say this but if it could include a
270 clause that says that lighting that would change the color of the building to say something
271 like a horrible lime green would not be allowed.”
272
273 Ms. Donevant stated that she is looking for a lighting ordinance to get approved to bring
274 back to address these issues. Mr. Booth stated that they are also looking into allowing a
275 certain amount of allowable light.
276
277 Ms. Cook: “And speaking of light that brings me into my last thing. Thank you for
278 replacing the light bulbs in the park.”
279
280 Ms. Barnard: “I just wanted to mention, I was reading the minutes from last month and I
281 realized that I made references to there being problems with Poplar but for people who
282 haven’t been doing this for a while, it might not have been clear what I was referring to.
283 The way Poplar is zoned right now, the west side is commercial, the east side is
284 residential, but there is a, I don’t quite know how to word this properly, but, the
285 commercial side may be used for residential, there’s like a clause that allows those areas
286 to be developed residentially, and so when I was talking about there being a problem with
287 Poplar I wanted to explain to those of you who are new on the commission, exactly what

288 I was talking about there, because it wasn't just, that's the net of what we've had to deal
289 with, with Poplar, and I just wanted to clarify that."
290

291 Mr. Hanson: "Okay very good. There have been some comments in the past that we're
292 almost in the spot zoning area on South Poplar. Any other comments? I have a couple of
293 comments. The first one is on Surfside Drive and if you look at the map, Surfside Drive
294 is C-3 up to Willow already, so it is commercial up to Willow and Willow is
295 approximately a third of the way up. I have another comment, the State law of which we
296 all got a copy of, requires the comprehensive plan to be updated every 5 years. It was
297 done in 1999; it was updated in 2005 so probably sometime during our tenure in the next
298 2 or 3 years it will have to be updated again. I haven't read it in quite awhile myself and
299 there may be some new members who have never read it so I'm going to request that by
300 the next meeting we each get a copy of the comprehensive plan."
301

302 Ms. Pinnell stated that the comprehensive plan is also available on the town website.
303

304 **8. ADJOURNMENT**

305 There was no other business to discuss. Ms. Cook made a motion to adjourn. Ms.
306 Barnard seconded the motion. The meeting was adjourned at 7:15 PM
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310 _____
311 Sharon Pinnell, Town Clerk

311 Approved: September 2, 2008

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**APPROVED
SIGNATURES ON FILE**

316 _____
317 Bob Hanson, Commission Member

320 _____
321 Connie Barnard, Commission Member

320 _____
321 Ron Saunders, Commission Member

324 _____
325 John Culbertson, Commission Member

324 _____
325 Carol Cook, Commission Member

328 _____
329 Charles Seibold, Commission Member

328 _____
329 Rod Smith, Commission Member

330
331 **Clerk's Note: This document constitutes minutes of the meeting, which was audio taped.**
332 **In accordance with FOIA, meeting notice and the agenda were faxed and/or emailed to**
333 **local media and interested parties. A complete list is on file in the clerk's office. The**
334 **agenda was posted on bulletin boards outside council chambers and in the town hall**
335 **reception area. Meeting notice was also posted on the town marquee.**