

**TOWN OF SULLIVAN’S ISLAND
SOUTH CAROLINA
PLANNING COMMISSION
REGULAR MEETING MINUTES
Wednesday, May 14, 2014**

A regular meeting of the Town of Sullivan’s Island Planning Commission was held at 6:30 p.m., Wednesday, May 14, 2014 at Town Hall, 2050-B Middle Street, all requirements of the Freedom of Information Act having been satisfied. Present were Commission members Vice-Chair Hal Currey; Sydney Cook, Carl Hubbard, Carlsen Huey and Manda Poletti. Staff members present: Zoning Administrator Henderson, Asst. to Administrator Darrow; Building Official Robinson.

I. Call to Order. Vice-Chair Currey called the meeting to order, stated press and public were duly notified pursuant to state law, noted all Commission members were present except Chair Gary Visser and Rusty Bennett (excused absence), and a quorum was present. No media; approximately 18 members of the public present including Council members Chauncey Clark and Jerry Kaynard (as interested residents).

II. Approval of Agenda

MOTION: Mr. Hubbard moved to approve the May 14, 2014 agenda, amended to consider Item D(1), Station 22 Access to Stith Park, as first agenda item. Seconded by Mr. Huey; MOTION UNANIMOUSLY PASSED.

III. Approval of Minutes

MOTION: Mr. Hubbard moved to approve the April 9, 2014 minutes as presented; seconded by Mr. Huey. MOTION UNANIMOUSLY PASSED.

IV. Correspondence & General Public Comments –

Staff received nineteen (19) written correspondence items prior to this meeting (distributed to Commission members), all relating to the text amendment on tonight’s agenda regarding Coffee Shops and Food Service Establishments.

V. Items for Consideration

- 1. Station 22 Access to Stith Park: Planning Commission requests to hold a discussion concerning a Town owned right-of-way located between Station 22 and Stith Park (TMS# 529-05-00-080)**

Staff Report:

Joe Henderson, Zoning Administrator

- Discussion of Town owned right-of-way located between Station 22 and Stith Park (TMS# 529-05-00-080) – deferred from April 9, 2014 meeting

Background:

Continuation of previous request to discuss the possibility of utilizing a 25’ wide by 122’ deep parcel of Town owned property as a pedestrian and bike access point to Stith Park.

- In 1967 the Town acquired the right-of-way to provide a sewer line access to the plant. This served as Town employee access to and from the plant only;
 - Access was closed to all vehicular and pedestrian traffic in the 1980's due to public safety concerns:
 - Nonresident vehicles were being parked in the neighborhood near the cemetery to access the mound where illegal activity was occurring.
 - Access point would then serve as an escape point, making law enforcement difficult.
- Land is currently undeveloped and is used solely for water and sewer infrastructure;
- Police Chief Howard, in a letter dated May 14, 2014, outlined safety concerns with re-opening public access to the area and recommended the Town keep the Station 22 right-of-way closed to public access. Alternatively, Chief Howard suggested installing a crosswalk at the intersection of Station 21 and Middle Street to allow access to the middle of Park in addition to either end of the Park.

Commission discussed the merits of the request and whether to remove the item from Commission's agenda based upon Chief Howard's recommendations. Mr. Huey noted topography and conditions have changed since the 1980's, to include removal of previously existing tunnels around the Park Mound. It was suggested that, since Chair Visser had met with the Park Foundation to discuss this ROW access concept, the Commission should defer decision on this topic until they heard Chair Visser's report next month.

MOTION: Mr. Huey made a motion to defer this item until June meeting to allow Chair Visser the opportunity to provide a report of his meeting with the Park Foundation on this concept; seconded by Mr. Hubbard. MOTION UNANIMOUSLY PASSED.

Vice-Chair Currey, noting a few residents were present specifically for this topic, invited those interested residents to comment on this concept.

Public Comments:

Heidi Brown, 405 Station 22, Sullivan's Island

- Lives next to the Mound area at the Park;
- Noted topography and profile of the area has changed since the 1980's. Submitted the impact of traffic has increased since the 1980's.
- Residents fought to get the area closed for the same reasons that neighboring residents are concerned about the concept now: increased noise, traffic and parking problems, at a minimum, in an area that is unenforceable.
- Requested Planning Commission and Council consider the needs of a small, fragile neighborhood over tourists.

Marshall Stith, 415 Station 22, Sullivan's Island

- Expressed appreciation for the work the Planning Commission and Council does.
- Submitted the sanctity of the neighborhood should be paramount;
- Noted the neighborhood around the Park is impacted by the same issues as the balance of the Island, namely noise and parking. However, this area sees a concentration of tourist visitors due to its proximity to the Park, CCD and Mt. Pleasant Town entrance.
- Stated that the history of the area behind the Mound has been accurately captured by Chief Howard and noted years ago cars would cut through this access area as a way to get on/off the Island when Middle Street and Hwy 703/Station 22 ½ was blocked with beach traffic.
- Stated this concept affects the quality-of-life and safety of the residents and their children in the neighborhood around the Park/Mound.

Lovick Waring, 2214 Myrtle Avenue, Sullivan's Island

- Resident of the neighborhood since 1975;
- Noted the "cut through" was a magnet for problems in the past and sees no reason it would not become so again.

Vice-Chair Currey asked for Chief Howard to attend the June 11, 2014 Planning Commission for this agenda topic.

VI. Text Amendments

1. Text Amendment, Zoning Ordinance - Discussion

Café's and Food Service Establishments: Review of text amendments to allow café uses and define other food service establishments within the Community Commercial Zoning District. Zoning Ordinance text amendments proposed to Section 21-203, "Definitions;" Section 21-50A(1)(B), "Permitted Uses;" Section 21-50B(1) "Conditional Uses;" Section 21-50C(1), "Special Exceptions;" Section 21-50D(1) "Prohibited Uses."

Staff Report:

Joe Henderson, Zoning Administrator

- Referenced background of agenda item placed before the Planning Commission in November 2013.
- Reviewed the areas of potential consensus and points for consideration and clarification for the Commission, based upon discussion in previous meetings.

Potential points of consensus from previous meetings (Commission reaffirmed)

- Change name of the designation from "café" to "coffee shop"
- Over-the-counter service only.
- Consider allowing coffee shops throughout the entire CC-District.
- Apply a 300' minimum distance between uses. This may allow up to four coffee shops in the district and will not be in danger of spot zoning.

- Limit coffee shop to a beer and wine license only per SC Code Section 61-6-1500. No liquor sales allowed.

Commission Discussion:

Commission discussed and clarified the following:

- On-site alcohol consumption, the difference between a beer & wine sale license instead of a full liquor license
- Options for addressing the type of cuisine served at the establishments. Planning Commission did not endorse Staff review and approval of all menu changes in an establishment noting this would be time consuming for Staff and onerous for business owners. Commission looked toward kitchen equipment, such as hoods and fryers with grease traps, as a mechanism to navigate business owners toward their understanding of “light cuisine” fare.
- Reviewed the difference between a permitted use and special exception, noting the Town would have the most control over the type of coffee shop if it was allowed as a special exception (Commission recommendation).
- Commission discussed operating hours, target clientele and patronage traffic patterns in the summer, when sunset is close to 9PM, as opposed to winter season.
- Commission inquired as to Town attorney’s legal opinion on the concept of a 300’ buffer between coffee shops. Zoning Administrator Henderson reported that Town Attorney Dodds opined the 300’ radius between coffee shops would be defensible provided all business owners within the CCD had equal opportunity to potentially qualify for this business type.

Public Questions:

Lovick Waring, 2214 Myrtle Avenue, Sullivan’s Island

- Questioned the 25-30 seats and how this would control the coffee shop.

Zoning Administrator Henderson: Whether 20/25/30 total seats, the business owner has the burden to demonstrate seating compliance with the Town. It is a mechanism to manage the volume of patrons at each establishment.

Bobby Thompson, 2917 I’On Avenue, Sullivan’s Island

- Resident since 1975. Questioned who initiated this concept, whether Council or Planning Commission.
- Questioned seats that could be deemed patron waiting seats versus food service seats. Opined this could be a way for a business owner to expand the coffee shop toward a small restaurant?

Zoning Administrator Henderson replied that he and the Town Administrator brought this concept before the Planning Commission for discussion and review.

Rita Langley, 1618 Middle Street, Sullivan’s Island

- Questioned where 300’ buffer started and whether starting point was randomly determined for the first coffee shop.

Zoning Administrator Henderson referenced Town Zoning Ordinance Section 21-203 (CC District) noting the buffer would be measured from the primary entrances between establishments at 300 linear feet. The 300' buffer radius would initiate with the first business license issued for a coffee shop.

Sumter Debreaux, Station 19/Back Street, Sullivan's Island

- What is the difference between a restaurant and a café or coffee shop?

Zoning Administrator Henderson noted that the limitations on a coffee shop, which the Planning Commission has been deliberating, include square footage, maximum seating and alcohol sales. It was noted that restaurants limit alcohol sales at 50%.

George Livingston, 1816 Back Street, Sullivan's Island

- Asked how coffee shop parking formulation is determined.

Zoning Administrator Henderson noted that there is no minimum parking requirement for businesses on Sullivan's Island. The Design Review Board reviews parking plans, but concrete parking calculations were removed by the Zoning Ordinance some years ago.

Mr. Livingston:

- Questioned how the Town is controlling and judging eating establishments and their ability to accommodate increased parking, particularly for this new use. Asked if the Town's evaluation of parking for coffee shop uses has been and will be comprehensively approached.
- Questioned how the Town will evaluate parking for these coffee shop special exception requests.

Zoning Administrator Henderson noted there is no current mechanism to track the comprehensive parking to the CCD area, at this point. He noted businesses can use on-street parking as part of their business plan. He noted that business parking plans must be submitted for Town review and DRB approval. However, Staff does not have a tracking record of parking fluctuations for businesses within the CCD.

Mr. Livingston:

- Questioned why the Town does not have a comprehensive tracking program for the impact of business parking in the CCD. Noted that parking considerations are critical when discussing the concept of expanding business license uses in the area.

Zoning Administrator Henderson noted the Board of Zoning Appeal does have the responsibility to examine businesses with no on-site parking plan.

Mr. Livingston reiterated his comment that, since the Planning Commission is considering use and licensing changes in the CCD, the impact that the coffee shop parking would have on the CCD should be part of the discussion.

Carol Killough, 1813 Back Street, Sullivan's Island

- Submitted the Town should slow the process of potential coffee shop use down until the school is built, address parking first and then consider coffee shop use.

Zoning Administrator Henderson acknowledged that parking was a big, macro-level issue for the Island but noted that this issue was bigger than the Planning Commission's ability to remedy.

Kleide Debreux, Station 19/Back Street, Sullivan's Island

- Noted Coleman Boulevard and Shem Creek in Mt. Pleasant. Asked if the Town could prevent a future multi-floor parking garage like that being built at Shem Creek.

Zoning Administrator Henderson noted that the Town's design standards would make construction of a multi-floor parking garage difficult, particularly regarding maximum lot coverage considerations.

Karen Coste, 322 Station 19, Sullivan's Island

- Asked for Town's master parking plan. Submitted it would be wiser to deal with parking first.

Staff suggested these types of comments would be best directed to Town Council.

Vice-Chair Currey closed public questions for Staff; Commission continued deliberations.

Commission Discussion:

Ms. Cook shared a report from Poe's Tavern that it sells 30% alcohol and 70% food, and, noted her surprise at this statistic.

Mr. Huey asked Drew Harris, owner of Café Medley, present in the audience, to provide his on-site alcohol sales.

Mr. Harris:

- Café Medley has 12-18% on-site alcohol sales.

Stated he spoke with other restaurant owners and shared their alcohol sales:

- Atlanticville (now closed) 35-40% on-site alcohol sales;
- Mamacita's and Dunleavy's has 40-45% alcohol sales

On-site alcohol sales:

Commission debated the ratio of on-site alcohol (beer/wine) to food sales. Commission asked Staff to clarify how alcohol sales are audited. Zoning Administrator Henderson noted that businesses self-report alcohol sales. The Town could audit the total sales through the Department of Revenue.

MOTION: Mr. Hubbard made a motion to include in proposed coffee shop ordinance language maximum on-site alcohol sales at 18%; seconded by Huey. MOTION UNANIMOUSLY PASSED.

Hours of operation:

Commission discussed coffee shop hours of operation, noting restaurants are allowed to remain open until 2:00AM.

MOTION: Mr. Huey made a motion to include in proposed coffee shop ordinance language hours of operation at 6:00AM-10:00PM; seconded by Ms. Poletti. MOTION UNANIMOUSLY PASSED.

Seating:

Commission debated maximum seating (interior/exterior) for coffee shops. Vice-Chair Currey advocated small seating numbers; Mr. Huey noted Café Medley currently has 14 seats inside/10 outside for a total of 24.

MOTION: Mr. Huey made a motion to include in proposed coffee shop ordinance language maximum seating at 25 (total inside/outside); seconded by Ms. Poletti. MOTION PASSED FIVE TO ONE (Currey voting nay).

Cuisine regulation:

Zoning Administrator Henderson suggested Town could include more restrictive language regarding light cuisine fare, noting Winter Park, Florida's restrictive cuisine language.

Building Official Robinson observed that should a coffee shop be located adjacent to an existing restaurant, the Town would need to monitor for instances where the neighboring restaurant cooked a meal and delivered it to a patron at the coffee shop (non-compliance creep). Zoning Administrator Henderson noted Staff needs something in the ordinance to assist them with the interpretation of, and compliance with, light fare. There is a need to establish a marked difference between full service and coffee shop fare.

Commission discussed adding to existing proposed language a list of examples of light fare, "such as" baked goods, salads, soups and sandwiches. List of ("such as") food examples: sandwiches, soups, salads, baked goods, deserts, cheese plates and typical breakfast items.

Formula restaurants:

Commission discussed franchise/formula restaurant restrictions.

MOTION: Mr. Huey made a motion to include in proposed eating establishment ordinance language restrictions for franchise restaurants seeking a Town business license to a maximum of three franchise restaurants nationwide; seconded by Mr. Hubbard. MOTION UNANIMOUSLY PASSED.

**MOTION: Mr. Huey made a motion to recommend in proposed coffee shop ordinance language the following verbiage regarding light fare: “Coffee shop uses shall be limited to preparing light meals with appliances which do not require Type I or Type II kitchen exhaust hood system inspections by SCDHEC Section 6-8-20; Subsection 8-400; light fare meals shall include, but not be limited to, soups, sandwiches, salads, baked goods, desserts, ice cream, cheese plates and typical breakfast items.” Seconded by Ms. Cook.
MOTION UNANIMOUSLY PASSED.**

Summary of consensus points for draft ordinance at this meeting:

- Maximum on-site alcohol consumption: **eighteen (18%) percent on-site alcohol consumption**
- Café hours of operation limited: **6 a.m. to 10 p.m.**
- Seating limitations: **25 seats maximum (total inside and outside seating)**
- Further refine definition for “formula restaurants” and maximum number of franchises a restaurant seeking to establish on the Town might have nation-wide: **Maximum 3 restaurant franchises nationwide.**
- Consider options for regulating cuisine by listing business license conditions: incorporate following verbiage: **“Coffee shop uses shall be limited to preparing light meals with appliances which do not require Type I or Type II kitchen exhaust hood system inspections by SCDHEC Section 6-8-20; Subsection 8-400; light fare meals shall include, but not be limited to, soups, sandwiches, salads, baked goods, desserts, ice cream, cheese plates and typical breakfast items.”**

Public Comments/Questions

Cheryl Clark, 2119 Pettigrew Street, Sullivan’s Island

- Asked the status of Café Medley and Coop

Zoning Administrator Henderson noted Café Medley is licensed as a take-out deli and Co-Op is licensed as a retail establishment with take-out food.

- Ms. Clark clarified that the Town will not grandfather existing businesses; all businesses seeking coffee shop use will have to go before the Board of Zoning Appeals for approval (special exception) before getting a business license (yes, per Staff).
- Asked if coffee shop could serve Mimosa (yes, per Staff).

Jane Gallis, 1817 Back Street, Sullivan’s Island

- Questioned whether current businesses, like Co-Op, would be required to get the special exception to maintain current operation and could any business owner apply for special exception.

Zoning Administrator Henderson clarified that any commercial property owner in the CCD could apply for a special exception for coffee shop use, if this draft ordinance should pass in its current form. He noted the special exception ends with the closing of a specific business. It is not transferrable to a new property owner or a particular site.

Carol Killough, 1813 Back Street, Sullivan's Island

- Noted that, should Café Medley request a BZA special exception for a coffee shop business license, the BZA could deem its request as being less desirable than another business owner making the same request (example– available onsite parking).

Rita Langley, 1618 Middle Street, Sullivan's Island

- Proposed maximum seating is too high a number and alcohol sales percentage is too high.

Bobby Thompson, 2917 P'On Avenue, Sullivan's Island

- Noted that the Town has approved two full re-writes of the Comprehensive Plan and in 2005, when the Town conducted its Zoning Ordinance re-write, coffee shop use was not identified as a need or goal on the Island.
- Recalled that surveys conducted by Connie Cooper Consulting in 2005, during Zoning Ordinance re-write, over 90% of surveyed residents felt the CCD was big enough “as is.”
- Submitted there is neither a need nor public appetite to expand eating establishment uses in the CCD.
- Expressed concern about “compliance creep” over issues such as menu items, seating and parking spaces. Commented these coffee shops could become tapas cafés where the ratio of alcohol sales exceeds food sales, unless strictly monitored by the Town.

Chuck Gallis, 1817 Back Street, Sullivan's Island

- Expressed following observations:
 - Majority of discussion tonight revolves around enforcement issues that will fall on Town Staff if this ordinance is approved;
 - Commented that Café Medley's non-compliance with their business license is the reason the Commission is discussing this use now. Asked why the Town did not “nip this in the bud” by forcing Café Medley to cease operations that did not comply with its business license as a take-out deli.
 - Noted it was ironic that Police Chief Howard holds weekly meet/greet sessions with residents at Café Medley, an establishment that is not complying with the Town's ordinances and restrictions for its business.
 - Concerned, based upon history with Café Medley, about the Town's enforcement of proposed guidelines, noting there are lots of opportunities for “creep” by business owners pushing restrictions.

Thereafter Mr. Gallis read aloud the following prepared, written remarks:

- “For the past hour or so, we've been talking about multiple components of a new “Coffee Shop” designation. All this will be virtually impossible to enforce; it will require constant vigilance and repeated enforcement effort: Menus, number of seats, parking, percentage of alcohol consumption, alcohol sales for onsite consumption, alcohol sales for takeout. The truth is we do not have the political will to enforce our existing ordinances. One might surmise that with a new Planning Administrator we can do a better job. But as I understand the

- circumstances surrounding this issue, when the Planning Administrator attempted to enforce the Business License ordinance, he was told to back off.
- Instead of mandating compliance with the Business License, then considering solutions, the Planning Commission has been “encouraged” to seek an alternative that would allow a business to operate outside of the original intent of its license. The alternatives contemplated to date seem to favor what, in my opinion, amount to a substantial repositioning of the Commercial District camouflaged as “protecting” a popular island business. In my view, this business has become the poster child to pass the proposed zoning classification that would allow expansion of on premise consumption of food and alcohol and add 25-35 seats per establishment beyond Station 22 down to the post office. As proposed, four(4) of these establishments would be permitted in the Commercial District and Commercial Overlay District which begins at the BP Station and ends at Co-Op Building. That’s 100 plus new patron seats added to the Commercial District. No matter how you cut it, these establishments are not “take-out only” food service establishments as envisioned by the current zoning enacted years ago; these are restaurants, albeit scaled down. If the contemplated changes are adopted, I fear the “Camel’s Nose is in the Tent.”
 - A major part of the conversation should focus on parking and traffic. We all know that parking demand island wide is already well beyond capacity. Adding 100 plus new patron seats, factor in employee parking needs, then the issue can only be exacerbated. One might ask how and why we got to this point of considering a major shift in our commercial zoning regulations. In my opinion, the answer is found in self interest, economic motives.
 - My personal concern centers on the fact that the months’ long process you have been engaged in appears to have become overtly politicized. This environment encumbers the Planning Commissioners and Town Staffers in their deliberations. I feel you and the citizens of the island should not sit by while the economic interests of a very few trump the overall quality of life for those of us who have invested substantially in our homes. Jane & I moved to Sullivans Island several years ago for what the island was, not what it is trying to become.
 - Please understand I am not anti-business. But I am about integrity driven island governance. I am about a broad view of what is best for the island as a whole, not what is in the best financial interests of a very few.
 - I hope you see your role as planners and not pawns. I understand our town staffers have to do what Town Council says. After all, Town Council signs their pay checks. But no one in Town Hall signs your check. I hope you will put the best interests of the island first. I hope you will tell town council to enforce the business license ordinance so that you can go about your business of promoting sound planning and responsible growth on the island.
 - In closing, let me assure you I have no hidden agenda, I have no business interests on the island. Jane & I are simply motivated by a genuine passion for this unique and historic spit of land known as Sullivan’s Island.”

Ms. Cook asked Staff what its enforcement process would be for coffee shop business guideline violations.

Zoning Administrator Henderson noted that Town Staff would engage in periodic and regular business inspections, plus potential audits during the annual business license renewals. If an on-site violation were found, Staff would follow this procedure: 1st soft enforcement (telephone call, visit, letter); 2nd issue a ticket (misdemeanor offense) carrying a fine up to \$1040 for each day of the violation. He noted a revocation of a business license would be a severe measure requiring Council direction to do so.

Vice-Chair Currey closed public comments at 8:20pm.

Drew Harris, Café Medley Owner, Sullivan’s Island

- Indicated he had a list of supporters for the coffee shop concept he would hand over to Staff at the end of this meeting.

MOTION: Mr. Huey made a motion directing Staff to revise draft ordinance language incorporating points discussed tonight and for the Planning Commission to hold a public hearing on this matter at 6:30PM on Wednesday, June 11, 2014.

Commission reviewed public notice requirements for the public hearing – ad will be placed in newspaper of public circulation (Post & Courier) minimum 15 days before meeting. Additionally, the Town will post the draft ordinance language and notice on the Town’s website, make documents available for review at Town Hall, post signs around the Town reminding people of the Planning Commission meeting and include the notice in future Town E-Newsletters.

Staff Update on Town Projects

Comprehensive Plan (2013 Draft) – Council continues review of Commission recommendations; public hearing on an ordinance to approve some/all recommended Plan changes should be held in June or July .

Next Meeting – (6:30pm) Wednesday, June 11, 2014 at Town Hall

There being no further business, the meeting adjourned at approximately 8:48p.m. (Mr. Hubbard motioned; Ms. Poletti seconded; unanimously passed).

Respectfully submitted,
Lisa Darrow
Asst. to Administrator

Approved at the Wednesday, June 11, 2014 Planning Commission Meeting