

The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, May 28, 2009, in Council Chambers, Beaufort County Administration Building, at 100 Ribaut Road, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Thomas Gasparini, Chairman
Mr. Philip LeRoy

Mr. Claude Dinkins
Mr. Chester Williams

MEMBERS ABSENT

Mr. Kevin Mack
Mr. Edgar Williams, Vice Chairman

STAFF PRESENT

Ms. Hillary Austin, Zoning Administrator
Mr. Tony Criscitiello, Planning Director
Mrs. Lisa Glover, Zoning Analyst III

CALL TO ORDER: Mr. Gasparini called the meeting to order at 5:08 p.m.

PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE: Mr. Gasparini led those assembled in the Pledge of Allegiance.

Mr. Chester Williams stated to everyone present, that Mr. Bill Bootle is no longer a member of the Zoning Board of Appeals, and he would like to extend the board's appreciation for Mr. Bootle's service on the board. Mr. Bootle resigned from this board, because he has been appointed to another board in South Carolina. Mr. Williams stated, that Mr. Bootle was a valuable asset to this board, and he's going to miss his wisdom very much.

Mr. Gasparini stated, that he share Mr. Chester Williams comments, and that Mr. Bootle has been appointed by the Governor of the State of South Carolina, as a member to the board of the Technical College of the Lowcountry. Mr. Gasparini stated, that education is something that Mr. Bootle is interested in, and this board wishes him well. Mr. Gasparini stated, that on behalf of the county and the Zoning Board of Appeals, he would like to thank Mr. Bootle for his efforts.

REVIEW OF AGENDA:

Mr. Gasparini stated, that he has some concerns about today's agenda, and he has shared those concerns with the other members of the board and with Ms. Austin. Mr. Gasparini stated, that he has certain obligations as the chairman, to ensure that the proper rules & procedures are followed, set forth by the zoning ordinance and the state enabling statues, and as a result, this board is not prepared to consider three items

listed on the agenda, because several of the requirements of the Zoning & Development Standards Ordinance have not been met. Mr. Gasparini stated, that the board does not have staff reports, that meet the requirements, and the report was not distributed in an appropriate time to the board members or to the applicants. Mr. Gasparini stated, that he believes that those items should be put off until the next hearing, and it should be heard at that time when the board can receive the appropriate reports.

Mr. C. Williams asked Mr. Gasparini, "Which items are you referring to Mr. Chairman?"

Mr. Gasparini answered, "I'm referring to items 8, 10, and 12".

Mr. C. Williams stated, that he believes that the decision to remove items off of the agenda, is something that's within the chairman's purview to decide.

MOTION: Mr. Chester Williams made a motion to adopt the agenda, removing items 8, 10, and 12 off of the agenda. Mr. LeRoy seconded the motion. The motion passed unanimously (FOR: Dinkins, Gasparini, LeRoy, and C. Williams).

ST. HELENA CELL TOWER (SPECIAL USE EXTENSION)

Mr. Gasparini stated, that he has a problem with this application, because the application came before this board with a letter from the applicant, and a report from staff, with no other information to consider. Mr. Gasparini stated, that he leaves it to himself and the other board members to determine, as to whether there's enough information in the record for the board to consider this request or to grant an extension.

Mr. Tedder, attorney for the applicant explained to the board, that previously this application went through the process after going through the Development Review Team for conceptual approval, for a special use permit for a cell tower off of Seaside Road. Mr. Tedder stated, that after they had the special use hearing, they were about to submit for final approval, but found some discrepancies in their application; the ordinance had changed from 150 to 180 foot lighting requirements, and they had to change out some plats. Mr. Tedder stated, that at that time, there were economic reasons for not moving forward at that time, and prior to the expiration of the time limits on a conceptual plan, they appeared before the Development Review Team to request an extension, as the ordinance allows in section 106-432. Mr. Tedder stated, that they were given a date to submit for final, and they submitted the application, but when they brought in the package, they were told that the special use permit was only good for six (6) months, and that they had to come before the Zoning Board of Appeals for an extension. Mr. Tedder stated, that he inquired as to whether he needed to resubmit ten copies of the application, and he was led to believe that he did not, because this was an extension request, and the board had already seen and approved the application. Mr. Tedder stated, that he hopes that this brief synopsis addresses the boards concerns.

Mr. Gasparini asked Mr. Tedder, "Are you requesting a six-month extension, that's provided in section 106-432 of the zoning ordinance?"

Mr. Tedder stated, that he believes it's six months, but he just wanted enough time to take his final application to the Development Review Team.

Mr. Gasparini stated, that the board could certainly grant the extension, but he doesn't know if the extension would be what he need.

Mr. C. Williams asked Ms. Austin, "Have there been any changes to the special use application, from the board's approval?"

Ms. Austin answered, "I don't know if there are any changes to the application, because the applicant have not submitted the application for final approval".

There being no further comments from the applicant or the county, and no further questions from the Board, Mr. Gasparini called for public comment; there was no public comment for this request.

MOTION: Mr. Chester Williams made a motion to incorporate by reference, the record that was previously approved through the special use process from this board, and approve a special use extension for the special use permit, based on the fact that there were no changes to the previous application. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Dinkins, Gasparini, LeRoy, and C. Williams).

HABERSHAM LAND CO. – CHEROKEE FARMS (INTERPRETATION APPEAL)

Mr. Gasparini explained, that since this case is an appeal, there will be no public comment.

Mr. Criscitiello explained to the board, that this case is an appeal of an administrative interpretation, which the interpretation was given with the input of the Zoning Administrator, Planning Director and the Staff Attorney. Mr. Criscitiello stated, that the intent was for the developer to master plan both communities together, which was Habersham PUD & Cherokee Farms. Mr. Criscitiello stated, that the issue was, whether to consider Cherokee Farms as a PUD or the current zoning of Suburban. Mr. Criscitiello stated, that under the large community use in the zoning ordinance, it allows for enhanced density as a result of a large community, which has a minimum of 200 acres. Cherokee Farms, in coordination with Habersham Phases 1 & 2, meets the 200-acre requirement. Mr. Criscitiello explained, that by meeting the large community requirement, it allowed Cherokee Farms to be similar to Habersham PUD, in regards to design and how it fit into the community of Habersham. Staff had no objections to this proposal, because it is appropriate and fits in with the comprehensive plan. Mr. Criscitiello stated, that the ordinance allowed for the county staff and the applicant to work cooperatively to establish a commercial core, which would be appropriate for the given location. The developer responded and submitted an additional traffic study, to determine that the road system would be able to handle the traffic from the commercial establishment, of approximately 100,000 square feet. Mr. Criscitiello stated, that if a positive administrative interpretation is going to be given in regards to the side of a larger enhanced commercial core, then staff must look at Habersham PUD and

Cherokee Farms in its entirety; staff is looking at the total acreage, and total number of density units that are approved in the PUD Phases 1 & 2, and what would be required in terms of Cherokee Farms with the density of 3.0 units to the gross acre, counting all units and all acreages of the combined tracts of land; provided that the open space is determined and what they have approved and is required to build in Habersham. Mr. Criscitiello stated, that the applicant is requesting 1,485 dwelling units; he doesn't take issue with the numbers that Mr. Kelly provided, but Habersham – Phase 1 was approved at 1,000 units, Habersham – Phase 2 was approved at 170 units, with a total of 1,170 units for Habersham Phases 1 & 2, and the total acreage for those two phases are 322 acres, at a density of 3.6 dwelling units per acre. Mr. Criscitiello stated, that the county staff will work with the developer on 111 dwelling units, and use whatever calculations associated with the natural resources and everything associated with it to arrive at that number of 111 dwelling units. Mr. Criscitiello stated that the issue is, whether or not the staff was correct in understanding that the large community use has to be reviewed in its entirety, and 111 dwelling units is what county staff came up with, not 1485 dwelling units.

Mr. Patrick Kelly, representative for Habersham Land Company and the landowner of Cherokee Farms – Mr. Tim Rentz, explained to the board, that they joined forces with Cherokee Farms in 2004, when it was originally being rezoned with the suburban zoning. At the rezoning, it was the understanding of county council that this project would blend into Habersham PUD and have similar character and density to Habersham. Mr. Kelly stated, that during the rezoning, they thought with the suburban route, that they would go through the large community section of the zoning ordinance to get that feel; because the other community types under the suburban zoning didn't allow the type of planning issues that would replace the characteristic of Habersham, like stakes and roadbeds, etc. Mr. Kelly stated, that they went through the PUD process, because that would allow even more flexibility; they started looking at the large community option, and they sat down with Tony Criscitiello, Delores Frazier and Hillary Austin and talked about the 200-acre site. At that meeting, staff suggested that they request an administrative interpretation of the ordinance, about what the 200-acre statement meant. Mr. Kelly stated, that they believed that this project would be reviewed as a large community; from a regional planning stand point that would allow that type of development to happen as an extension of a community, instead of grouping them all together under the same density requirement. Mr. Kelly stated, that Habersham's density comes out to 3.5 units per acre, and with the units from the acreage for Cherokee Farms in large community, is left with 111 units; after the natural resource calculations, it would be required to go through the Development Review Team process, and by taking out the open space, it leaves them with less than 50 units, which is one-half units per acre, which does not reflect any similar characters of Habersham being 3.5 units per acre. Mr. Kelly stated, that it's also in conflict with the Comprehensive Plan and the Future Land Use Map; it has Cherokee Farms parcel listed as Urban. It does not meet the goal of the large community ordinance, which allows flexibility in the standards to accomplish mixed-use communities. The main point to make is that the property is zoned suburban, and under the suburban zoning district, they could create close to 85 acres of multi-family developments; 20 acres toward commercial, 257 unit apartment complexes, and 150,000 square foot commercial center. Mr. Kelly stated, that the reason they came up with the large community, was

because it's the only tool in the suburban zoning ordinance, which allows a mixed-use community in similar character as Habersham PUD. Mr. Kelly stated, that he is interpreting the ordinance to be able to use the large community standards set forth in the ordinance, because it was a part of a large community of 200 plus acres.

Mr. C. Williams stated, that it appears that the applicant wants to be a part of a large community for some purposes, but doesn't want to be a part of a large community for other purposes.

Mr. Kelly stated, that they wanted the application to be looked at as a regional community, which would extend the density from 3.5 units per acre development to one-half unit per acre development.

Mr. C. Williams asked Mr. Kelly, "Are you saying, you want to be classified as a large community, because there are benefits that comes along with that standard, but in order to accomplish that goal, you would have to include the Habersham acreage along with Cherokee Farms acreage?"

Mr. Kelly answered, "Yes".

Mr. C. Williams asked Mr. Kelly, "There are other baggage that goes along with being a large community, but you want to ignore those baggages?"

Mr. Kelly stated, that the baggage is, that it picks up what Habersham has already permitted and built, and by picking those up, it's harming what they are trying to accomplish.

Mr. C. Williams stated, that his personal view, is that once you step across the line, to say large community, then you would have to take the good with the bad, and he doesn't see any other way around that.

Mr. Gasparini asked Mr. Kelly, "Is the Habersham PUD built to the capacity in which it was approved, or are they lacking some open space?"

Mr. Kelly answered, "It is built to the standard of the PUD".

Mr. Gasparini asked Mr. Criscitiello, "Is the county supportive of this project, but is disagreeing on the density?"

Mr. Criscitiello answered, "Yes".

Mr. Gasparini asked Mr. Criscitiello, "Is the applicant amending any PUD's?"

Mr. Criscitiello answered, "No".

MOTION: Mr. Chester Williams made a motion to deny this appeal application, and uphold the Zoning Administrator's interpretation, based on

the record and testimony that came before the board. There was no second to the motion.

MOTION: Mr. Chester Williams made a motion to table the application until the next scheduled meeting, because two of the members of the board is not at this meeting. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Dinkins, Gasparini, LeRoy, and C. Williams).

Mr. Gasparini stated, that the application for items 8 and 12 on the agenda, were inquiring about setting up a special meeting, to discuss the projects. Mr. Gasparini asked Ms. Austin, "What is the process for calling a special meeting?"

Ms. Austin stated, that the items have to be in the newspaper 15 days prior to the meeting date, and the neighbors have to be notified within a 500-foot radius of the property.

Mr. Gasparini stated, that he's pretty sure that a special meeting could be accomplished.

Sheriff Tanner, applicant asked Mr. Gasparini to explain why his project was removed off of the agenda.

Mr. Gasparini explained, that according to the zoning ordinance, the board members and the applicant have to receive a staff report, which includes a recommendation from the Zoning Administrator five (5) working days prior to the hearing date, and that requirement of the ordinance was not satisfied.

The board continued to discuss the reasoning for the removal of the applications with some of the applicants.

REVIEW OF MINUTES:

Mr. Gasparini stated, that since the board members received the minutes today, he would like the board to adopt the minutes at the next scheduled meeting.

OLD BUSINESS (ADOPTION OF REVISED RULES & PROCEDURES)

Mr. Gasparini stated, that he would like to postpone the adoption of the Rules & Procedures to the next scheduled meeting.

MOTION: Mr. Chester Williams made a motion to postpone the adoption of the Rules & Procedures until the next scheduled meeting. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Dinkins, Gasparini, LeRoy, and C. Williams).

ADJOURNMENT

MOTION: There being no further business to come before the Board, Mr. Chester Williams made a motion to adjourn. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Dinkins, Gasparini, LeRoy, and C. Williams).

The meeting adjourned at approximately 6:30 p.m.