

CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA
NORTH MYRTLE BEACH CITY HALL
CITY COUNCIL WORKSHOP
Wednesday, June 15, 2022

Minutes

1. ROLL CALL: 1:34 PM

Marilyn Hatley called the workshop to order and asked the Clerk to call the roll.

Marilyn Hatley

JO Baldwin

Bubba Collins, Absent for roll call

Fred Coyne

Nicole Fontana

Trey Skidmore

Hank Thomas

2. DISCUSSION:

Mike Mahaney, City Manager, stated in the Comprehensive Plan there was a Conservation Zoning District, but it had not been defined. This workshop would help to define the district in order to protect the wetlands.

Jim Wood, Director of Planning and Development, presented what a Conservation Design Overlay Zone would look like and how it would be defined. The numbers they discussed would lay a framework and starting point for discussion. The purpose would be to allow creativity in the site design on sites of 10 or more acres that contained significant features of environmental, ecological, or cultural importance. Some of these features include wetlands and archaeological or cultural resources. Director Wood stated this would be the 10th overlay zone for the city and would follow the same process as other overlay zones. He discussed the application of the overlay zone, how it would help the developer and the city, how preserving the significant features would give the developer design flexibility, and how the overlay application process would work. Director Wood went over some of the project approval standards and presented a comparison of a traditional subdivision versus a conservation subdivision.

The Council and staff discussed the features of the Conservation Zoning District and agreed the wetlands needed to be protected. Mayor Hatley expressed the need to establish guidelines for the flexibility of the project approval standards and the significant features, if they were to be preserved.

Director Wood stated after extensive research, the staff developed a proposed wetland buffer ordinance for the Council to consider. Except for Hilton Head, other cities made a water quality buffer around wetlands to protect them in order for them to do their job of filtering stormwater and cleaning it before discharging into the waterways. A natural buffer allows the wetlands to do this job. The proposal would be for a 20-foot water quality buffer around all wetlands, not just in Planned Development Districts (PDD). The Council and staff discussed natural buffers and how it would affect lots around the marshland, canals, manmade ponds, landscaping, and natural disasters causing the destruction of houses near a significant feature. Mayor Hatley wanted to make sure that the ordinance would not create an unfair burden on a homeowner if a house was destroyed. She stated they were on the right track and wanted to make sure they protected the wetlands. Councilwoman Fontana stated there may need to be a requirement for natural landscaping around ponds. Councilman Coyne asked for more conceptual drawings that would help visualize the Conservation Zoning District and natural buffers. Director Wood asked for the Council to look at the numbers and make suggestions for any changes. The Planning Department would craft an ordinance and they would have another workshop to discuss.

Mayor Hatley opened the floor for public comment.

John Griffiths, 612 20th Avenue North, asked if there was a timeframe or was it perpetual or would they be able to come back and develop the area they said they wanted as conservation. Director Wood stated because this was a zoning overlay district, a future property owner could apply for it to be rezoned. The City Council would have to vote to rezone it and it would go before the Planning Commission first. Mr. Griffiths asked if this would qualify for federal and state tax conservation credits. Director Wood stated he was not an expert, but there were processes by which to put in for conservation easements and those would be turned over to a legal entity to manage them. There was no input by the city for this process. Mayor Hatley stated she didn't believe one lot would be deemed as a conservation easement. She stated there had been problems and issues that resulted in court cases about these and you have to be careful. Mr. Griffiths stated he didn't know why a developer would want to come in and use this instead of clear cutting the land. What was the benefit to them? Was there a local benefit they could get to encourage a developer to do this? Director Wood stated the primary reason a developer might be interested in using this was because a more compact site would mean less infrastructure, and this significantly reduced the costs. Mr. Griffiths asked if they could go back and instead of making it voluntary, tell them if they have a wetland on the property or environmental feature, tell them this would be a new zoning and designate it as a conservation zone. Manager Mahaney stated not without litigation, because it was a form of taking. Mr. Griffiths stated the other zones had requirements, why couldn't this be a new zone, and if the property had environmental features, you would have to follow this zoning. Mr. Noury stated they would have to carefully craft the ordinance and not give any rise to inverse condemnation. As they move forward with the development of the new code, that would be on the forefront of how staff would be responsible to not give rise to an inverse condemnation claim. Zoning laws do allow a governmental entity to regulate private property for the health, safety, and welfare of the community. Mayor Hatley stated if they put in the wetland buffer ordinance, they would be protected. Mr. Griffiths stated he was confused why the Cherry Grove channels would not be considered wetlands. If they grandfathered property and the house burned down or the ocean took it, maybe the existing zoning contributed to the demise of the property. Why would they be grandfathered in or rebuild if the existing zoning contributed to the demise. Councilman Thomas explained it would be a right of the owner to rebuild and unfair if they could not rebuild it back. It could be a form of taking and they could not do it. Mr. Griffiths stated at some point the ocean would get too close in, there would be no opportunity to build, and the owner took that risk when they bought the property. Mayor Hatley stated the wetland buffer would be in place.

Debby LaPierre, 1414 Hillside Drive, stated she wanted a clarification on a comment from the beginning of the discussion. She believed when they were talking about an overlay, the owner had the option of using the overlay or not. If they chose not to, they would be able to cut anything down and fill in anything they wanted and have no recourse. If they put in the wetland buffer, they could protect that one significant feature. That one would have to be included in what was developed. Director Wood stated that someone could still apply to ORCM or Corps to fill in the wetland and get permission from those federal agencies. If there was a determination that the wetland needed to be saved, then our wetland buffer would be in place. Mayor Hatley stated the state and federal would be over our laws.

Jason White, PO Box 4776, North Myrtle Beach, stated he was a local dirt contractor. They kept mentioning wetland areas. There were three kinds of wetlands. One was marine wetlands, which was marsh related. The second was isolated and the other was navigable. He asked once they were established, would they use the governmental agency to establish the area where the wetland started? He stated wetlands moved and the line would move, too. He wanted them to think about this movement when they developed the regulations. He wanted them to think about how to get a control on them. If there was an isolated wetland, and a government agency allowed it to be filled and received mitigation credits, how would the rules apply in that situation. If any kind of wetland followed the rules and if it was to be exchanged, sold, or donated, how would it apply and the regulations tie into it. He didn't expect an answer but wanted them to consider those things when developing the rules.

Sabina Lynsky, 1417 Hillside Drive, North Myrtle Beach, asked what she could currently do, if she owned a wetland. Manager Mahaney stated it depended on if it was jurisdictional or non-jurisdictional. She asked which one she could develop. Mr. White stated she needed to call a wetland specialist. She stated she didn't own one, just wanted to know if it could be developed at 100%. Manager Mahaney stated she would have to follow the federal government guidelines. For example, if she filled it, she would have to buy an 'X' number of wetland credits. She would have to go to a wetland bank to purchase. Would have to hire someone to delineate the wetlands and then have it reviewed by the city. He stated they didn't have all the answers. Ms. Lynsky asked if the community could afford to lose 75% of the area and only preserve 25%. Director Wood stated if it was in a Conservation Development, all of the wetlands would have to be preserved. Ms. Lynsky spoke about the unintended harm and thinking about unfair burdens to owners. Significant features did a lot for a community. She wanted them to take care to not do unintended harm and asked where would the water go if the wetlands were filled in? Mayor Hatley stated the marsh did move, and they were trying to help protect them and the environment. It was a natural flow for stormwater. Ms. Lynsky wanted them to consider the impact of the entire city of losing 75% of land. Director Wood stated this would be a tool to use in order to save the wetlands and it would be very enticing to a developer to utilize this so they could have more density for their project.

Mayor Hatley thanked everyone for coming to the workshop and adjourned the meeting at 2:41 PM.

Respectfully submitted,

Allison K. Galbreath, Clerk to Council

MARILYN HATLEY, MAYOR

Minutes approved and adopted this 18th day of July 2022