

Public Hearing for Zoning Amendments

Monday, March 21, 2022

121 North Gate Road, Myrtle Beach, SC 29572

5:00 p.m. - 5:13 p.m.

- 1 APPEARANCES
- 2 Town of Briarcliffe Acres
- 3 121 North Gate Road
- 4 Myrtle Beach, South Carolina 29572
- 5 Jennifer Newbold, Town Clerk
- 6
- 7 Dave Buonviri
- 8 Laura Pendley
- 9 Jennifer Newbold
- 10 Brian Palliser
- 11 John Wylie
- 12 Peggy Bell
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1 Mayor Buonviri: Okay, folks. Thank
2 you very much for coming to our public hearing for
3 zoning amendments. It's 5:00 here at the town
4 hall. We will start with a roll call, council.
5 Dave Buonviri, mayor here. Starting to my left.

6 Council Member: Laura Pendley,
7 council member.

8 Town Clerk: Jennifer Newbold, town's
9 clerk.

10 Council Member: Brian Palliser,
11 councilman.

12 Council Member: John Wylie,
13 councilman.

14 Council Member: Peggy Bell, council
15 woman.

16 Mayor Buonviri: Thank -- thank you
17 very much. Do we have any registered speakers?

18 Town Clerk: One registered speaker.

19 Mayor Buonviri: We only have one
20 registered speaker via letter. Okay. Public
21 hearing is being recorded by the town clerk. This
22 unit here, as well as by a court reporter.

23 Pursuant to S.C. Code § 6-29-760, the Town Council
24 of the Town of Briarcliffe Acres, S.C. is
25 conducting a public hearing only on the following

1 proposed amendments to the zoning ordinance,
2 Section 32-28, Signs and Section 32-29, Fences and
3 Walls. The proposed amendments have been
4 available for public inspection in the town
5 office, the town website, www.townofbriarcliffe.us
6 and the town bulletin board located in the median
7 at the intersection of Center Drive and Middle
8 Gate Road within the town limits since March 3rd,
9 2022. Opposition to decisions may be provided in
10 writing, but to -- in the town office for 10 days
11 following today's public hearing. We don't have
12 anyone speaking.

13 I will begin with reading a letter
14 that was provided to us by a law firm. The Pearce
15 Law Group, representing Sackos, Albert and Leslie
16 Sacko, 173 Beach Drive, Myrtle Beach, South
17 Carolina 29572. It was sent via e-mail from the
18 law firm to the Town on March 17th and it was sent
19 certified mail on March 21st, 2022 also. I will
20 read the letter that's addressed to Ms. Newfield.

21 We represent Albert and Leslie Sacko,
22 who own the property listed above just south of
23 Ocean Creek on the ocean front. We have some
24 concerns regarding the upcoming zoning amendments
25 proposal(s) to be discussed at the public hearing

1 on March 21, 2022 at 5:00 p.m. As the Town of
2 Briarcliffe Acres is aware, the Sackos have
3 repeatedly raised concerns about improper foot
4 traffic and golf cart usage at the association's
5 north beach access adjacent to their property. In
6 an effort to address this issue on their part, the
7 Sackos have erected sand fencing and dune
8 restoration plantings as coordinated with the
9 approved -- with and approved by South Carolina
10 Department of Health and Environmental Control,
11 parentheses DHEC. However, there remains a
12 portion of the Sackos beachside property, which is
13 outside the newly erected sand fence pursuant to
14 DHEC's request.

15 The Sackos have consulted with
16 multiple public and private environmental
17 properties -- parties, who all confirm that the
18 improper pedestrian foot traffic/golf cart usage
19 of their property by others is destroying the
20 beach vegetation and dune system thereon. This
21 destruction of the beach vegetation and dune
22 systems is both promoting the harmful erosion of
23 sand from their property and also preventing the
24 beneficial accretion of sand to their property.
25 Likewise, this pedestrian foot traffic and golf

1 cart usage is in violation of Town of Briarcliffe
2 Acres Ordinances, see attached. It is also in
3 contradiction to the policies outlined in the
4 South Carolina Beachfront Management Act.

5 Based on the above, the Sackos
6 reasonably believe that the proposed amendments to
7 one, Section 32-28, signs and two, Section 32-29,
8 Fences and Walls, are targeted towards concerns
9 and actions taken by them as noted above. To the
10 extent that the above is even remotely accurate,
11 the proposed amendments raise a series of legal
12 concerns, to include, but not be limited to, one,
13 the proposed sign ordinance amendments, 32-
14 Section 32-28, Signs, appear to include intentions
15 for definitions and limitations on property
16 protection signage. However, no definitions or
17 limitations appear in the draft amendments we have
18 been provided. Regardless, no such definitions
19 and/or limitations adopted by the Town of
20 Briarcliffe Acres should be allowed to circumvent
21 or abridge a homeowner's rights to put property
22 protection signage as provided for by state
23 statute or regulation. For example, no
24 trespassing or dune system protection signage as
25 any such ordinance would likely be preempted by

1 state law.

2 The proposed -- two, the proposed
3 fence and wall ordinance, parentheses Section
4 32-29, Fences and Walls, amendments appear to
5 include proposed regulations on oceanfront fences,
6 walls and enclosures. Regulation of these areas
7 instructions -- and structures are already
8 governed by South Carolina Department of Health
9 and Environmental Control, parentheses DHEC and/or
10 the United States Army Corps of Engineers,
11 U.S.A.C.O.E., parentheses. Any further local
12 regulation of these areas is likely preempted by
13 state and/or federal law. Likewise, South
14 Carolina and federal courts have repeatedly held
15 that local governments cannot hold a veto power
16 over areas otherwise under the control of state
17 and/or federal law and regulation. In this
18 instance, the Sackos dune restoration project and
19 related sand dune fencing as approved by DHEC.
20 Three, upon best information and belief, both the
21 proposed signage and fencing amendments are
22 targeted at the Sacko property. To the extent
23 this is remotely accurate, both sets of proposed
24 amendments are likely impermissible/invalid spot
25 zoning under South Carolina Law. Parentheses, I

1 trust the above is self explanatory. We
2 appreciate the opportunity to provide the Town of
3 Briarcliffe Acres and its officials with these
4 comments on the above referenced proposed
5 ordinance amendments. Signed sincerely, The
6 Pearce Law Group, P.C., Christopher H. Pearce,
7 Esquire. Do we --

8 Town Clerk: No. Just note what
9 ordinances are attached.

10 Mayor Buonviri: The attachment is
11 chapter 16, article two, Beaches, Section 16-34,
12 destruction of sea oats, beach grass, beach
13 vegetation and sand fencing referenced in the
14 letter. And then also Chapter 16, article two,
15 Beaches, Section 16-29, driving on beach
16 prohibited, also referenced in the letter. Okay.

17 We had registration for public comment
18 that was to be completed by noon on Friday, March
19 18th, 2022 for the court reporter's purposes with
20 town clerk via e-mail @townofbriarcliffe.us. As
21 far as I understand, we had no --

22 Town Clerk: That was the only --

23 Mayor Buonviri: We have -- the only
24 one was the letter I read for you. And there are
25 no others that met the requirements that I just

1 mentioned regarding registering to speak at the
2 hearing. Council comments?

3 Council Member: I have a comment.

4 Mayor Buonviri: Yes. Just -- I mean,
5 for the recording --

6 Council Member: Peggy Bell, council
7 woman. My comment is concerning the draft of
8 32-28, Signs. I just wanted to point out that
9 this is a combination of a lot of different things
10 that I -- I tried to compare the first with
11 original with this one and have gone back and
12 forth with it. My concern is that the term
13 informational signs was in the original and is no
14 longer in it. And for that reason, informational
15 signs, I think are being overlooked because that
16 includes not only the bulletin board at the
17 center, which we picked up -- the -- the center
18 and middle. But it also would include any signs
19 at the cabana and the proposed turtle information
20 sign that the turtle group would like to have
21 erected on the beach. And as well as signs that
22 are in Habitat Park, which have not been addressed
23 either. So having said that, I would like to see
24 a change made to the ordinance, which adds
25 informational signs such as those in town-owned

1 property, association owned property and
2 C.P. Districts to be permitted if approved by town
3 council. If that makes sense.

4 Mayor Buonviri: I believe -- I
5 understand what you're talking about and I think
6 we have 10 days for residents to respond to
7 this -- these amendments and we can incorporate
8 your comments in the adjustments we make to
9 anything in the future with this.

10 Council Member: Okay.

11 Mayor Buonviri: Any other comments
12 from council?

13 Council Member: And I'll submit that
14 in writing.

15 Mayor Buonviri: You will?

16 Council Member: Yes.

17 Mayor Buonviri: Very good. Okay.

18 And adhering to the regulations for the public
19 hearing, if there's no other council comments and
20 no others that have signed up during the -- based
21 on the requirements to speak, other than the
22 letter that I read, I move for an adjournment. Do
23 I have a motion to adjourn? Brian motions to
24 adjourn. Do I have a second? John Wylie is the
25 second. Hearing is adjourned. Thank you, folks,

1 for coming.

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CERTIFICATE OF REPORTER

State of South Carolina
County of Florence

I, Roger Williamson, Court Reporter and
Notary Public for the State of South Carolina, do
hereby certify that the transcript of the
foregoing proceedings contains a true record of
the hearing in the above-captioned cause.

I further certify that I am neither attorney
nor Counsel for, nor related to or employed by any
of the parties connected to the action, nor am I
financially interested in the action.

Witness my hand at Florence, South Carolina,
this the 1st day of May, 2022.

Roger Williamson
MY COMMISSION EXPIRES:
February 4, 2032