

Emailed from Gary Loftus to MBG&YC

From: H. Randolph Haldi | Deputy County Attorney/Property Manager

To: Arrigo P. Carotti / County Attorney

Date:6/15/16

Arrigo

Yes we have discussed and P and Z can't address the issue. HCPD's Environmental Services has had a pretty good success rate in getting the grass cut but this is the first time I recall where the 50' foot issue was used. They have typically been able to get GC's to cut everything. My guess is the GC's attorney (Bellamy) found Sec. 10-15(e) and committed to doing that but I'm not positive since my side of the house doesn't enforce this part of the code.

From: Arrigo P. Carotti / County Attorney<CarottiA@HorryCounty.org>

To: H. Randolph Haldi | Deputy County Attorney/Property Manager

Date:6/15/16 at 4:21 PM

Randy and I will look again at what legal remedies may be available and actually enforceable (as I previously indicated with respect to Sections 10-19, 17.7-77, and 17.7-78 of the HC Code, I believe these ordinances were ill advised, as it appears they raised expectations in the community as to what county government can (and will) do, without us actually having the legal authority to, e.g. placing a lien on the property). We probably don't want to do that again if we can help it.

- It appears that the issues are primarily private (and we would hope that there were some master deed or covenants/restrictions that would require the former golf course property owner to maintain the property, and that would be enforceable by others in the community). Regardless, adjoining property owners could themselves get permission from the former golf course property owner to maintain the property. Property owners in the community also could possibly create a special tax district and, with consent of the former golf course property owner, use the taxes raised to maintain the former golf course property (as long as it fit under one of the statutory permitted purposes for such appropriations, which include general public works, drainage, public health, sanitation, and public safety).

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Beyond that, we are looking at public nuisance, which most of this just doesn't seem to fit (e.g., allowing your property to become woods probably will not meet the definition, yet we have a prohibition against weeds that are greater than 12"). You will note as well that Section 10-15(f) – see below – exempts from the weed control provisions "... any parcel or tract of property equal to or exceeding five (5) acres...[except] any property within one hundred (100) feet of any residence or commercial establishment on such a tract..." What, for example, if the former golf course property owner decides now to call the former golf course a pasture? What if he plows it and plants corn or sunflowers?

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In the past we have dealt with the situation by contacting the property owner, pointing out these sections of our Code, and getting some cooperation on their part. In Deerfield, we went in and performed work on the drainage ourselves, which was a little bit different scenario than simply not cutting the grass. There is also the available remedy of having a judicial determination of these issues, which could be initiated on the criminal side by issuing ordinance summonses, or on the civil side by filing an action for nuisance/injunctive relief. We would, of course, have the problem of having to establish a nuisance to begin with.

Have you checked with Janet to see if any of this can be addresses through Planning and Zoning?
Any suggestions are greatly appreciated.

Thanks,

Arrigo P. Carotti / County Attorney

Horry County Government

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