

**BEAUFORT–PORT ROYAL  
METROPOLITAN PLANNING COMMISSION**

City of Beaufort Planning Department  
1911 Boundary Street ~ Beaufort, South Carolina 29902  
Phone: 843-525-7011 ~ Fax 843-986-5606

---

**MINUTES**

**METROPOLITAN PLANNING COMMISSION**

**January 10, 2011, 5:30 P.M.**

**City Hall Council Chambers, 1911 Boundary Street, Beaufort, South Carolina**

A meeting of the Beaufort-Port Royal Metropolitan Planning Commission was held on January 10, 2011 at 5:30 p.m. in council chambers of the Beaufort Municipal Complex, 1911 Boundary Street. In attendance were Chairman Joe DeVito and Commissioners Alan Dechovitz, Greg Huddy, James Crower, James Hicks, and Robert Semmler and City Planning Director Libby Anderson, Port Royal Town Planner Linda Bridges and Assistant County Planning Director, Dolores Fraizer.

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80(d) as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.

**CALL TO ORDER**

The chairman called the meeting to order at 5:30 p.m. Chairman DeVito led the Pledge of Allegiance.

**REVIEW OF PROJECTS FOR THE TOWN OF PORT ROYAL**

**Town of Port Royal - Annex and Rezone**

*District 100, Map 31B, Parcel 385, approximately .33 acres located at 915 Jefferson Drive. The proposed zoning is mixed use-2 (MU-2) with the Shell Point Neighborhood Overlay District*

**Linda Bridges** said the building has been used as a child care center up until this time. Dealing with issues of annexation is new as a commission. They have only looked at zoning before, but from this point forward, they'll be looking at annexation as well. This parcel is included in the Future Land Use map on page 72. She indicated the map in the commission's packet. The property is in a conventional growth sector (page 69 of the comp plan). Future infill or redevelopment should seek to enhance an activity.

She provided a description of the Shell Point property and development. They are encouraged to promote pedestrian accessibility and a strong neighborhood feel, etc. The annexation requires understanding of public service issues; sanitary sewer isn't in the immediate vicinity, but is on the Savannah Highway. The Burton Fire Department will be the first deliverer of services. The Port Royal police have adequate staff to deliver services in this area and already serve adjacent parcels and beyond. The Town of Port Royal picks up garbage and recycling at adjacent properties.

Ms. Bridges showed an excerpt of the zoning map to indicate where the parcel is and to show what is and isn't in Port Royal presently. The existing boundaries include parcels south, northwest, and across the Savannah Highway from the parcel under consideration. Zoning is Mixed Use 2. The parcel will be

zoned Shell Point Neighborhood Overlay District because it is within its confines. That intent will stay to encourage the formation of a compatible use with residential and commercial. Public notice has been made. She said the owner of the property was present at the meeting.

Mr. Hicks asked about transportation. Ms. Bridges said the highway is being widened, and she didn't foresee problems. The Future Land Use map adopted in the 2009 comp plan is not very different from the Future Land Use map for the update, so the traffic projections used in 2004 are very similar to today's.

Mr. Dechovitz asked who pays the fire department in the unincorporated parcels. Ms. Bridges said when a parcel is annexed, "the millage goes away," and it is placed on the tax bill instead.

**Mary Lou Brewton**, the applicant, said this property adjoins property she already owns, and they would like it all zoned the same way.

**Mr. Crower made a motion, second by Mr. Huddy, to accept the annexation and zoning. The motion passed unanimously.**

#### **UPDATE ON COUNCIL ACTIONS**

Ms. Bridges said the Planning Commission gave a positive recommendation to council on changes to fuel sales, and council adopted them. The changes regulate sales in the zoning code and add strength and design standards.

#### **REVIEW OF PROJECTS FOR THE CITY OF BEAUFORT**

##### **City of Beaufort - UDO Amendment**

*Revising Sections 5.1 "Use Tables," and Section 5.3D, "Specific Use Standards, Commercial uses," to permit Short Term Rentals by Special Exception in residential zoning districts. Applicants: John and Erica Dickerson*

Ms. Anderson said there has been a request for a revision to the UDO to permit short-term rental by special exception in the Historic District. Since then, it was suggested short-term rentals be permitted city-wide. Council has requested that the Planning Commission revisit the proposal and propose a recommendation. Ms. Anderson described what a short-term rental and a special exception are. At council's direction, they initially formed a focus group on the proposed ordinance from neighborhood associations in the Historic District. Mr. Huddy represented the Planning Commission.

When a recommendation was made to broaden the ordinance citywide, more neighborhoods were invited to the focus group's meetings. They developed a list of conditions regarding location: one per block; a certain distance from a commercial corridor; anywhere in a residential corridor; or one where the owner lives on the property. There were other conditions such as signs, pets permitted, etc. There was a checklist devised for inspection of the property for fitness. Ms. Anderson said the original request was for the Historic District, which is a mapped overlay.

Ms. Anderson said at least one neighborhood went on record as opposing the concept of short-term rentals in their own neighborhood – The Point – and then others included themselves as well. There was

discussion as to whether neighborhoods could opt out. At the public meeting, concerns and comments were aired. Ms. Anderson said the matter is now back in the Planning Commission's hands for a recommendation.

Chairman DeVito said that there are other short-term rentals identified in the city now. Ms. Anderson said yes, and many didn't know it wasn't allowed in their neighborhoods. Until 2004 there was no definition of a short-term rental. Chairman DeVito asked if there was discussion about those that have been identified. Ms. Anderson said that's a separate issue, but if short-term rentals are permitted, they will require a City of Beaufort business license, a state accommodations fee, and other paperwork, but the Planning Commission's "charge is the use issue."

Mr. Dechovitz said there are at least 16-17 properties that were short-term rentals and about 10 were not licensed or were in a non-conforming zone, were not paying property taxes at the appropriate rates or a combination of these. Only 6 were licensed and paying their property and accommodations taxes.

**John and Erica Dickerson** appeared before the commission. Mr. Dickerson described the property under consideration and said it's directly next to a Neighborhood Commercial property that the couple owns. He showed the property they want to make into a short-term rental and the one they currently own and rent. He showed other properties in the area, many of which are rented long-term. He said "there are as many issues as there are properties." There is a condemned property on Charles Street next to them.

Properties have to be immaculate to rent them short-term, Mr. Dickerson said. They bring in people to the community who otherwise wouldn't come. It gives them a feel for what it's like to live in the community. They are "high-quality, high-value renters who bring their money to the community." Short-term rentals provide a significant value to the community. He asked the Planning Commission to approve short-term rentals with minimal restrictions.

Mr. Huddy asked if the restrictions discussed in the focus group were "minimal" in his opinion. Mr. Dickerson said they "grew and grew." He feels in some way the restrictions reflect what they're already doing. Too many restrictions will put people out of business. They live by the reviews they get online. If they provide a high-quality product, that brings people into the community,

**Dave Radford** said he and his wife didn't know they needed to be licensed, but they're working with the state on that, and their City of Beaufort license has been put on hold while this matter is considered. He hopes the Planning Commission will consider the idea that if someone only has one rental unit, as they do, they "will be made exempt from the proceedings." On Hilton Head Island, 2 or more units are considered a business, but it's exempt if there's just one.

50% of Mr. Radford's bookings are return guests, he said. Some guests "have become like family." If the exemption for one-unit isn't possible, he would prefer staff look at conditional use rather than a special exception that would have to go before the ZBOA.

**Robert Achurch**, 1307 Charles Street, said he's in favor of short-term rentals. They have a short-term rental, are licensed, and have been doing it for 6 or 7 years. It's been "a positive experience." He clarified that the Planning Commission is being asked not to place short-term rentals in a neighborhood, but to permit the possibility of a short-term rental in a neighborhood. There might be places in the Point

where short-term rentals wouldn't work, he said. His home is in the city but they have few neighbors around them. He cited other properties that might not work as well, and said council could consider that when they consider applications. He praised what the Dickersons had done in repairing the home they want to be a short-term rental.

Mr. Achurch said the restrictions are things owners of properties they rent do anyway, apart from some fire code matters that aren't standard. They have to do those things or they won't be able to rent. If the short-term rental is rented to someone "bad," it's better than if they're rented to for a long-term. There's no empirical evidence that a short-term rental leads to property deterioration, he added.

**Dave Easton**, 1111 Washington Street, said the Northwest Quadrant supports a city-wide program to enhance the whole community. There need to be guidelines. He said a need for off-campus housing that might arise for students at USCB is going to need to be looked at. He said most people support that the Dickerson's be allowed to have their short-term rental.

**Beth Grace** wanted to clarify that no one she knows thinks that short-term renters would be "bad people." At Fripp, long-term residents hated the short-term rental people because they wanted to have fun and keep different hours than the residents, in her experience. For "our neighborhood," which is a prime proponent of tourism, she said, they want their concerns to be listened to. The matter has become so divisive and has had unintended consequences. She asked that the Planning Commission recommend that the matter be sent on to the Lawrence Group, who have the expertise to address the issue, experience from other communities, etc. to help guide this and keep it from being so divisive. In the meantime, business for the places that exist now should continue, but they need to pay for their licenses.

**DeWitt Helm**, 406 New Street, said David Taub is his neighbor, and they have discussed short-term rentals. Mr. Helm was on the focus group, which he said "provided no consensus." He said the past could provide direction for where to go. So he and Mr. Taub put together a brief history of the issue of short-term rentals which he provided to the Planning Commission. There are 5 chapters: the special status of Beaufort's historic neighborhoods; the unique residential zoning in the Historic District and The Point in the 1980s; the development of the tourism ordinance and the desire to restrict B&Bs; commercialization of an integrated special residential neighborhood. He feels that "the tail shouldn't be allowed to wag the dog." A review of how this matter came to the fore and how it's been handled "has been derived from the wishes of one citizen." He feels "everyone should stand down and take a deep breath." He suggested the Planning Commission recommend to city council that the short-term rental second reading be tabled indefinitely, and that the staff undertake a comprehensive study on all aspects of short-term rentals in the city, working with the Lawrence Group.

**Terry Hussey**, 507 Washington Street, is with the Point neighborhood association. They polled the Point neighbors, who 2-1 didn't favor the possibility of short-term rentals in the Point. She was on the focus group and said *no* neighborhood was entirely in favor of short-term rentals; the Northwest Quadrant wasn't in favor of it "unless it applied to everyone." The executive committee of the neighborhood association realized that "one-size doesn't fit all." The Historic District and the Point have their own distinct zoning regulations. She read the "compromise statement" that represents the position of the neighborhood association and a majority of the residents.

**Pete Palmer**, 1401 North Street, said there's been little discussion on the impact on the rest of the neighbors, and he thinks that's really important.

**Richard Guyer**, 32 Pettigrew in Battery Point, described the neighborhood and the composition of its residents. He chose Battery Point because he was "sold on the neighborhood" and on knowing his neighborhoods. One resident wants short-term rentals. Their covenants do not stop anyone from having short-term rentals, but they're in the process of changing that "because of the negative impact it will have on the neighborhood." He's concerned the city's ordinance will trump their covenants. It's not near a commercial area, and there's no on-street parking, so they're not set up for short-term rentals. Other neighborhoods can have short-term rentals, but they shouldn't apply in a relatively isolated neighborhood like Battery Point, he feels.

Chairman DeVito asked whether the Lawrence Group has looked at this. Ms. Anderson said when the issue arose; the Lawrence Group wasn't around yet. She said Josh Martin was present at the meeting. Ms. Anderson described the Lawrence Group's current project. Chairman DeVito asked her about her feelings on the Lawrence Group looking at this issue. Ms. Anderson said she doesn't know if this is the sort of issue they'll look at or not, as "it's a use issue."

**Josh Martin** said the first area they will cover in a lot-by-lot survey is the neighborhoods east of Ribaut. These are the sorts of issues they will look at; the timeframe for recommendations will be 4-5 months at the earliest.

Mr. Huddy asked Mr. Martin if he has knowledge on the subject. Mr. Martin said he's "only been on the ground for 6 days," so he hasn't been in the field here to look at it, but he has dealt with the issue in Charleston. Mr. Semmler asked Ms. Anderson if she'd looked at whether property owners' association's covenants can be affected. Ms. Anderson said if a neighborhood has a covenant opposing short-term rentals, then the city can't allow that activity in that neighborhood. On the applications, they ask about prohibition by covenants on the proposed property. Mr. Achurch said the city and the county defer to covenants, and if someone purchased in a community that has covenants, they override anything that might otherwise be permitted.

Mr. Dechovitz asked Ms. Anderson to follow up on what form-based code said about short-term rentals. Ms. Anderson said the Lawrence Group will apply form-based code neighborhood by neighborhood. Mr. Dechovitz asked what the situation for short-term rentals would be since form-based code doesn't cover use. Mr. Martin said he'd need to meet with people in the city, "and then we'll fix that." It didn't seem to him like they had a solution at this time.

Ms. Anderson said Stefan Pellegrini is developing the code that the Lawrence Group will apply. Short-term rentals are a unique situation, so there were not yet quick and easy answers. Mr. Dechovitz said if the Planning Commission decided to go back and leave this to the Lawrence Group to research and recommend, the solutions are a long time coming because there is no formula for a solution.

Mr. Dechovitz asked Dave Radford to clarify his request. Mr. Radford said if the owner occupies the premises and has an accessory structure, "that's not a business." Mr. Radford said if the owners are there and something happened in the accessory unit, the owner has to deal with it. There are many long-term rentals like that now. Mr. Dechovitz asked, if he started with renting a room over the garage

and then purchased and rented out a house next door, if Mr. Radford would consider that a business, and Mr. Radford said yes. Mr. Radford said of his short-term rental, "its *business*, but it's not *a business*." Mr. Dechovitz said he's sympathetic to that side of it because he grew up in a similar situation. But a visitor needs to have a reasonable expectation that they will stay in a place that has been inspected and meets certain city standards.

Mr. Huddy said the annual review would happen in either case. Mr. Dechovitz said if it's not licensed, the city doesn't know it exists, and if they're not paying taxes, the city doesn't have sufficient revenue to do the inspection. Mr. Huddy said it would have to be done to the extent that the city does know. The approval process for a property with an accessory unit might go through a different process than the special exception process.

Mr. Huddy asked if they were willing to wait months to see how the form-based code comes to fruition. His sense is that form-based code will suggest that they can have short-term rentals. He feels that this can be related to current UDO zoning categories and perhaps have different specifications for each zoning designation. Also, if this could be used to improve historic structures by making it easier to fix it up and rent it out short-term, it would help the city that way. It doesn't seem like it will be one-size-fits-all, but it should be permitted to a certain degree in every category.

Mr. Dechovitz asked Mr. Huddy if he was suggesting that the neighborhoods in the city having different treatment of a particular use. Mr. Huddy said if you live in General Residential, you can have a B&B by special exception, but in other zonings you cannot. There are already different requirements for different neighborhoods. The challenge is to come up with a way to be sensitive to different neighborhoods, but to still consider the possibility.

Chairman DeVito said he favors the corridor issue and permitting it in an accessory dwelling. He's unsure about opening it up to the entire city. Mr. Dechovitz said the city will benefit from having short-term rentals in the Northwest Quadrant; they can derive revenue from short-term rentals, which is motivation to fix up historic properties. Mr. Dechovitz said Option C covers one of the fundamental problems with this issue: there will be problems if someone isn't living on the property or managing it locally, so the city has someone to contact if there's a problem.

If there's a homeowners' association, a property owners' association, or some covenant that travels with the property that disallows short-term rentals, then the city shouldn't have them there. Of those places that aren't under covenants but are generally under the city, Mr. Dechovitz believes "There's probably already a short-term rental in there someplace." He asked Ms. Anderson if they didn't have about one complaint a year and she said that's correct. Mr. Dechovitz said no one seems to notice the short-term rentals now, in spite of the fact that they're not licensed, etc.

Ms. Anderson said covenants rule, but a neighborhood association is more problematic. "It will have to relate to a map, which is certainly doable." Chairman DeVito said there's a big difference between covenants and a neighborhood association.

Mr. Huddy said he doesn't recall hearing any opposition to short-term rentals besides the Point neighborhood association. The first meeting they had, they worked toward the rules that should be followed. The second meeting was when NOT having short-term rentals arose.

Mr. Hicks said allowing short-term rentals for a year makes sense to him. They should approve Mr. Dickerson and require all those who want to continue to have short-term rentals to get a city business license. Asking every person who wants to have a short-term rental to go before the ZBOA "is a tough way to do business" and "makes them into a business licensor." There's got to be a better way. He thinks they should approve for a year and hand the matter over to the Lawrence Group.

Mr. Huddy said accessory dwellings should be easier to approve by conditional use primarily in multi-family neighborhoods, such as in Old Commons, for example, with a property owner on the premises. The district in question is a General Residential district. The only concern was from the Point on a special exception process. He still feels there should be some ability to rent out accessory dwellings in the Point, even if it's by special exception. He's fine with not allowing it in a TBR district.

Chairman DeVito said he likes Mr. Huddy's thoughts on accessory dwellings. He still thinks the Lawrence Group needs to look at this matter. Mr. Dechovitz asked Ms. Anderson if there is a pathway that the Dickerson's could take to get their business started without the UDO being changed. Ms. Anderson said they could request rezoning. Mr. Huddy said that's how this started. Mr. Dechovitz said they might be able to recommend a zoning change for that property, and the Lawrence Group could work on a more crafted ordinance than they are able to make this evening. Ms. Anderson said issues come up in a rezoning process that haven't been discussed up to this point, so she feels she wouldn't go on record with a recommendation to approve the rezoning at this point. Chairman DeVito said if this is passed to the Lawrence Group, they still need to deal with the original applicant because of the time issue.

Mr. Dechovitz said 47% of the property in Beaufort is rental. This is the business of Beaufort, not the military, etc. The city could use revenue and jobs, but there's not a process in place to move this applicant forward, short of a rezoning application. Ms. Anderson said that's where she is with this. Chairman DeVito said they have to give council a decision/recommendation. They need to advise what council should do in the second reading.

Mr. Huddy asked if they can put some sort of time frame on this. Chairman DeVito said the Lawrence Group will be looking at the sector fairly soon. There might be a sector-by-sector decision, and Mr. Martin said that's correct. 1004 Duke is included in the upcoming work, Ms. Anderson said.

Mr. Martin said the lot-by-lot survey will be for the whole city and the first phase is the sector east of Ribaut. Chairman DeVito said they could add in to the group's charge a determination of whether short-term rentals are appropriate for the area. Mr. Martin agreed. He added that form-based code doesn't "just throw out uses." When codes are devised, there are use tables, and "the community can dial those up or back depending on the neighborhood and context."

Mr. Dechovitz said if the applicant isn't unduly damaged, the Planning Commission would be wiser to act in the long term interests of most people if they waited for a form-based code and in the meantime make a zoning decision that allows the Dickersons to go into business. He feels the Planning Commission should solve their business problem and wait for the Lawrence Group to provide a solution that will almost certainly allow them to continue in business for more than a year.

**Mr. Dechovitz made a motion, seconded by Mr. Huddy, to recommend to council that the Lawrence Group provide a form-based code solution to the short-term rental problem, and until that time, this topic should be tabled, and council take no further action.** Mr. Huddy asked how this would relate to existing short-term rentals. He thinks they shouldn't wait, because if it takes a year, they have to operate illegally. The crux of the matter to Mr. Huddy is that the Point is in opposition, but they can come up with a solution that doesn't leave a lot of short-term rentals in the balance.

Ms. Anderson said existing short-term rentals should not be operating. A business license won't be issued if they're not zoned properly. Ms. Anderson said 14 were identified in the city and 9 were in residential districts. They are not currently authorized to be in business. Enforcement is a separate issue.

Mr. Crower asked if they could recommend that council approve short-term rentals in residential districts. Mr. Huddy said they're *all* in residential districts. Chairman DeVito said they could recommend council grandfather in the existing ones for a year. Ms. Anderson said those that have advertised online were identified, but then others have come out through these discussions, and they're not licensed. The ordinance would have to be changed to allow grandfathering.

Mr. Huddy asked Ms. Grace if the Point neighborhood association had discussed accessory dwellings when the owner is present. She said no. Ms. Grace said they would have to take a survey to determine the residents' opinions on that. The Point is an overlay district already. There are ways to exclude certain neighborhoods.

Mr. Huddy said the Point's concern seems to be the degradation of the neighborhood, and if short-term rentals were limited to accessory dwellings, that would help with that. Ms. Grace said they don't fear it will degrade the neighborhood, but a short-term renter and a long-term resident have different interests. They already have carriages and other tours and they don't want to be commercialized any more than they already are. The Lawrence Group could address a lot of this, she feels. If the Dickersons can go through a separate process, she'd favor that. The council could say that for 1-2 years those already operating could be grandfathered in until there are firm recommendations for the long-term.

Chairman DeVito said the recommendation can be to find a way to let existing short-term rentals be properly taxed and operate for a year while the Lawrence Group looks at it. Mr. Dechovitz said the ordinances need to be enforced, and they "can't identify the problem, and then ignore it." Chairman DeVito said those businesses would be taxed and licensed, not ignored during that time. The subject needs more evaluation. Mr. Dechovitz said another solution is to say that they can't resolve the problem and send the message to council that they'll work on it for next month.

Mr. Hicks feels they should approve of short-term rentals for those already doing it and require licenses. They could offer a 90-day amnesty period and require through the city for a year that everyone who comes in in that period can be grandfathered in. Then the Lawrence Group "can recommend whatever." Chairman DeVito said council has a mechanism to address those who are doing business in a district that's not zoned for it. Mr. Dechovitz said until they have a recommendation for council, they should ask them not to act.

Chairman DeVito restated the motion on the table. **Mr. Dechovitz withdrew the motion.**

**Mr. Dechovitz made a motion to table the matter until more information was obtained from the city attorney, Mr. Crower seconded the motion.** Chairman DeVito asked Mr. Martin if the Lawrence Group can weigh in in the next month on the subject of short-term rentals. Mr. Martin said yes. Mr. Dechovitz said staff should talk to the Dickersons. Ms. Anderson said she'd suggest that short-term rentals before 2004 should be differentiated from others and information on that could be helpful. **The motion passed unanimously.**

### **City of Beaufort – PUD Amendment**

*Revising the Marsh Gardens Planned Unit Development (PUD) as it pertains to parcels identified in District 122, Tax Map 1, Parcel 285, and District 120, Tax Map 3, Parcel 263. Applicant: 303 Associates, LLC.*

Ms. Anderson said 303 Associates has submitted an application to amend the Marsh Gardens PUD. She showed a graphic of where it is; it's not subject to the Boundary Street ordinance. The development standards in the Marsh Gardens PUD are similar to those in the Boundary Street code. Both have a build-to line. The Marsh Gardens PUD requires a minimum building frontage of 75'. The Boundary Street ordinance doesn't have that exact requirement. The whole front of that lot could be developed. There's a minimum building height of 35'. The Boundary Street ordinance sets the minimum stories for lots on Boundary Street. Both areas undergo design review. Approval of a specific site plan can't be done through a PUD amendment. Ms. Anderson said that staff recommends denial of the amendment.

**Courtney Worrell** represented the applicant and offered a summary of the history of the development. The Boundary Street traffic has gotten worse, she said. In the 10 years since the PUD was passed, "there have been at least 10 Boundary Street plans" regarding curb cuts, etc. 303 Associates has proceeded in good faith. They have installed sidewalks, created interconnectivity, slowed traffic in Beaufort Town Center, reduced the number of curb cuts on Boundary Street, and created a parallel road off Boundary Street. In the public realm, they believe there have been few changes, "though they have made great plans." The high speeds not only make Boundary Street dangerous and uncomfortable for pedestrians. They move Boundary Street "farther and farther away from being the great hallmark of the Marsh Gardens PUD."

Ms. Worrell said 303 Associates believes the city's sincere in its desire to improve Boundary Street, but "the price is going up and nothing has been done." 303 Associates "has been looking to recruit the right folks to the development." The city's own plans approve their approach to attracting commercial development, not sprawl.

After 17 versions of the site plan, they have one that meets all the city's criteria and requests. She said the site plan now isn't what the city wants, and 303 Associates "doesn't know why." Nor does she know why the city would "seek to abandon all plans to make the city pedestrian-friendly." Staff would like Boundary Street zoning to apply. This plan addresses the city's plans in various ways, she said.

Ms. Worrell continued that "slip roads are in both plans." The requested setback was sketched and agreed to in a meeting with the city architect and staff. The city has changed its position, she said, and again, she's unable to explain why. The city's plan said they might seek out one or more major chains to anchor Boundary Street. She went on to call Darden Group "the most successful chain in the country."

She indicated where a parking deck might eventually be placed and showed other graphics of the Darden redevelopment plan and the city's plan. She said some city plans show no sidewalk at all next to the cemetery. If the PUD isn't changed, the 10-15' sidewalk would dead end at the cemetery. 303 Associates want to be good neighbors and don't support any changes to the cemetery.

The Boundary Street Master Plan shows a park in the development, Ms. Worrell said, and the city doesn't have the funds for it, yet the city opposes the park that 303 Associates has planned. She concluded that the city plans say they want what 303 Associates is planning. It will bring jobs and tax money.

**Jim Gibson**, an attorney for 303 Associates, said this PUD was entered into 10 years ago, and at that time the city wanted Boundary Street to be "converted into something pedestrian-friendly." He showed the evolution of the plans. If they put the building where the city said it would be in conformity with the existing PUD, they will lose the slip road, so they are asking to move back behind the slip road, since that's necessary for it to become pedestrian-friendly.

Chairman DeVito confirmed that all they were seeking tonight was that the Planning Commission adjusts the PUD for the setback, and the building would go before the DRB. Mr. Gibson confirmed that they "were looking for a setback variance." He said "they're looking for an amendment to the PUD to allow a 17' setback." Chairman DeVito said there have been several versions of the application. Mr. Gibson said "it's strictly setback tonight," to allow the positioning of the building in the way it is shown on the 303 Associates graphic.

Mr. Gibson said the slip road is in the Boundary Street redevelopment plan, and they have conformed with the concept in their own development plan. Chairman DeVito asked how the slip road "would make this area more pedestrian-friendly." He asked to see the city's slip road, which is further back, and said he's struggling with why 303 Associates' is superior to the city's plan. He said the plans appear to be very different, and theirs "appears to be more of a road." Mr. Gibson said the city "can do with it whatever they wish, but if the building is right on the sidewalk, there's no place for a slip road."

Mr. Huddy said he was looking for the image in the document of the slip lane. He also noticed that the slip lane was continued in front of One Town Center. Mr. Gibson said the area was supposed to become pedestrian-friendly through city action 10 years ago. Actions keep changing, and they want a designated area that can become a slip road, if the building is kept off the road. If it butts up on the cemetery, there can be nothing there, either. The city hasn't given them any reason why this is an improper location or how it harms the overall development plan of the area. He reiterated that Darden is "a high-end anchor tenant" such as the city wanted for Boundary Street according to its plan.

**Mary Lohr** said this was part of the master plan but not the part dealing with this area. What they are required to show is that it doesn't necessarily contradict the comp plan or the UDO. "The designer who drew it is obviously not in contradiction to the plan," she said. The necessity of development has changed. After 10 years, there's not a pedestrian-friendly area such as 303 Associates requested. They're still trying to bring in the anchor tenants to maintain business. The impact on the city would be huge. They need some flexibility in the PUD to keep developing. They can't develop a building where the PUD suggests a building should be.

Mr. Hicks said the Boundary Street Master Plan requires that they move back 20' from the road. 303 Associates wants to move back 32'. He hears what they're saying, but he wants Ms. Anderson to say what is considered a "major" and a "minor" change to the PUD.

Chairman DeVito said they're not operating under the Boundary Street Master Plan; they're operating under a PUD. Ms. Lohr reiterated that "the standard is that they have to prove it's not a major deviation from the Boundary Street Master Plan or the UDO." Chairman DeVito said the additional 12' allows a road to be built, and that's a concern.

Ms. Anderson said it would be a major change. The PUD shows a build-to line. Ms. Lohr said the idea of moving it back is to allow the city to build the slip road there. Ms. Anderson said the Boundary Street Master Plan doesn't show a slip lane in this area of Boundary Street. It couldn't be functional because of the cemetery. No slip road is proposed in this area.

Ms. Lohr said they put the slip road there as an example of how they would conform. Ms. Lohr said they need the access through there, but they were showing that "the slip road isn't a slip road until it's hooked up." Chairman DeVito said they're calling it a slip road, when "in fact it's driveway access to parking." Ms. Lohr said its space to place a slip road later. She said "It is on the plan somewhere else, but it doesn't necessarily contradict the master plan."

Chairman DeVito asked how it will increase pedestrian traffic. He received no response. Mr. Dechovitz asked if "the legal questions about improper process are laid to rest." Ms. Anderson said no, they stand behind their December 22 letter to the applicant. Mr. Dechovitz said it's not just the additional 12' in question; there are process errors the city has problems with, and they won't be changed by approving a change to the slip lane. Mr. Dechovitz said since the applicant wants to focus on the setback, that's what should be discussed, but they still have to resolve the other legal and process issues at some point. Mr. Gibson said he thought that was laid to rest when he said all they wanted to discuss was the slip lane.

Chairman DeVito said that's not the application before the Planning Commission, and they have never amended a PUD by specific plan by one parcel. They need to open the PUD and look at it and the changes in the words that allowed it to be built. It "can't be stapled to a PUD approved 10 years ago." Mr. Gibson said this has been pending for a long time. They've tried to correct it by simplifying it. The PUD itself has been altered over time. They are trying to keep the request simple.

**Edward Allen** said the 16 Gates Association is concerned that whatever decisions are made have no impact on the cemetery. The city has taken control of two black cemeteries. 16 Gates has been maintained by the ancestors of those who are buried there. He said that the expansion of Boundary Street has meant encroachment on the cemetery already. At some point, there's a plan to expand the cemetery by demolishing a building. He reviewed a history of the stewardship of the property. They have not burdened the city with maintenance, though there have been disagreements over improvements. A pedestrian walkway on the marsh would be disrespectful, as are scavenger hunts, they feel. He doesn't feel anyone would want a sidewalk in a place where their loved ones are buried.

**Reed Armstrong**, Coastal Conservation League, said what was submitted was described as "a minor revision," but he said it's anything but minor. The original PUD had a vision for mixed use buildings, etc.

and what's been submitted is "in stark contrast to the redevelopment plan of the Boundary Street corridor." He said the 2006 master plan and the 2007 redevelopment district ordinance, etc. should not be a set-aside for this restaurant project. The Boundary Street Plan serves as an effort to move away from a traditional corridor such as is found at the entrance to the city. This project is "more of a standard suburban shopping mall," he feels. Its parking lot size shows that it is not a mixed use, pedestrian-friendly development. This type of project should be denied if the Boundary Street Master Plan is to be continued.

**Charlotte Pazant Brown**, 1605 Community Road, has many relatives in 16 Gates cemetery, and the road dropping off at the cemetery confuses her and would have to be developed at some point in time. She asked the Planning Commission to consider that citizens' family members are buried there. She feels the whole big picture isn't being seen.

**Tim Rentz** said he was involved when a similar project went on on Lady's Island. SCDOT was involved and they fought a lot of the same issues there. One issue was how to make a non-pedestrian-friendly area pedestrian-friendly. They have a huge sidewalk there, but no one is on it. Coastal Contractors owns property on Highway 280. One of the best new urbanist planners designed it in a way that brings people in to enjoy the surroundings, rather than be threatened by them. He'd like to see the city and 303 Associates work together to bring in the recognized anchor that would bring more residential building into this area.

Ms. Grace said she served on the county council in 1990 for 10 years. As they move to a different form of zoning, the comp plan has changed over time. PUDs approved 10-20 years ago pose a challenge, as they try to conform with the changing views and ordinances that the city creates to make life better for the citizens. A PUD is not wedded to its exact design. She said 12' is a minor change, and what's being done there would be a lot more pedestrian-friendly. Then the city and 303 Associates can go through their process. She knows they'll be respectful to the cemetery. She encouraged the Planning Commission "to be business-friendly" and "not discuss this too much."

Mr. Semmler thanked some of the public commenters. He told Ms. Anderson that some of the different diagrams seemingly drafted by the city show a slip road. Ms. Anderson said the applicant showed a slip road that is in the master plan in the section that deals with Beaufort Town Center, not that deals with Marsh Gardens. The illustration is there to show how Beaufort Town Center could change over time to a more mixed-use, pedestrian-oriented development, not to show the slip road. The *official* master plan for Boundary Street (adopted in August 2006) doesn't show the slip road.

Mr. Dechovitz asked if the wording of the PUD speaks to the slip road. Ms. Anderson said no, and the Boundary Street Master Plan doesn't show it, either. Mr. Dechovitz said the "courts have ruled that words count, not pictures." Ms. Anderson said there's no reference to it, either, in front of the Marsh Gardens property. Mr. Dechovitz asked if there's any reference to it in the language, and Ms. Anderson said no, to the best of her knowledge. Ms. Anderson said there's a building located close to the street in the illustration she indicated. The slip road can't go anywhere because of the cemetery.

Mr. Dechovitz gave assurances that nothing will happen to the cemetery. He said Ms. Anderson had said the slip road represents a major change to the plan, and he asked why 12' is a major change. Chairman DeVito said the current plan says 15' and they want to go to 32'. Mr. Dechovitz said that on diagrams of

Boundary Street, there is a green buffer between cars going 35 mph and then the slip lane and buildings on the other side. He asked again why that's a major change. Ms. Anderson said the proposed slip lane is actually "the slow lane to provide access to the buildings." Chairman DeVito said "it's a piece of a parking lot."

Mr. Dechovitz said there are not pedestrian-only aspects, so it doesn't further the overall plans for the area by the city. Ms. Anderson said that's correct. Chairman DeVito said the PUD shows that the front-anchor building needs to be mixed use and this one is single-use. Mr. Huddy said good urban spaces have apartments. The Boundary Street Master Plan is meant to be friendly. The Boundary Street sidewalk isn't connected to the building, Chairman DeVito said.

Mr. Gibson replied that the idea was to make this pedestrian-friendly. They agree with the cemetery problem. They're blocked by the cemetery and the buildings on the other side of it, so the city cannot make this pedestrian-friendly. If there's not a slip road, it can't be pedestrian-friendly. The city hasn't had the money, the plans have changed, and they've not been able to do it. Mr. Huddy asked him how the driveway provides pedestrian-friendliness. Mr. Gibson did not answer, but said that if it can't be done, what difference does it make? Chairman DeVito said there's a sidewalk in front of the cemetery now. Mr. Gibson disputed that this sidewalk is pedestrian-friendly.

Mr. Dechovitz said he's sympathetic to the position that the city is not yet executing on Boundary Street. There are plans, but no building is being done. On the other hand, he said, there need to be controlling documents, which the Boundary Street Master Plan is. It was okay with 303 Associates at the times it was approved and reapproved. It's no surprise it takes the city a long time to execute something. He hasn't seen how 303 Associates' plan advances what the city wants on its major thoroughfare. He doesn't understand why this access to parking is so important to the applicant or the plan. People can come in on the existing street 303 Associates has created.

Chairman DeVito said the proposal is about the placement of the building. If the application doesn't fit the discussion had tonight, it needs to be denied, and they need to resubmit to indicate exactly what they're looking for. Mr. Crower said the request for change they heard tonight was "a verbal that didn't ask for all of the several items," they just wanted the setback. Mr. Huddy said if the setback is going to be denied, then it won't do any harm to deny the whole recommendation as it was submitted. Chairman DeVito said yes, it can be denied as it stands tonight.

**Mr. Crower, second by Mr. Huddy, moved that the request be denied.** Mr. Dechovitz said that they can't see how the slip road/driveway adds to the pedestrian-friendly character of the site. He asked if there's "something important to the anchor-tenant that is really generating this request." Mr. Gibson said the tenant asked for the building to be positioned on the property as it is. He said their spending millions is predicated on this. It wasn't 303 Associates' idea to make the slip road pedestrian-friendly. The PUD was submitted assuming it would be pedestrian-friendly. "The city is obligated to do slip roads, not us." The city showed slip roads in different drawings, so 303 Associates assumed they were going to put a slip road in to make it pedestrian-friendly. They wanted to get out of the way.

Mr. Dechovitz asked if Darden's concerned that they'll build a building that the city will eventually want to put a road through. Ms. Worrell said what Darden wants is "360 degree circulation around the building" which "enhances the experience for cars and pedestrians." Mr. Dechovitz said on the Darden

website, they show restaurants right up against the street, so somehow they're able to do business elsewhere without having that 360 degree circulation. He said realistically Beaufort needs the business. The last thing they want to do is turn the project away, but he asked if 303 Associates would be willing to have someone from Darden, the city architect, and Ms. Anderson work together to explain what is being done. Ms. Worrell said that has already been done twice.

Mr. Dechovitz asked Ms. Anderson about her meeting with the Darden people and the city architect. She said yes, there have been several meetings. Mr. Dechovitz asked if there's a deal that can be cut. She said she can't speak for Darden. When pressed, she said "there is no deal to be cut."

**The motion to deny the proposal as submitted passed unanimously.**

### **City of Beaufort – Rezoning**

*Rezoning 500 Wilmington Street, from General Residential District to Office Commercial District. The property is identified as District 120, tax Map 4, Parcel 667. Applicant: **Rose Mary Cousins***

Ms. Anderson showed a graphic of where the property is located in the Historic District. It's in a neighborhood called "The Bluff." It's a 1.5 story building, constructed in 1991, so it is not historic. It's zoned General Residential and permits all types of residential development. Churches and schools are conditional uses; group dwellings are permitted by special exception. There's Office Commercial zoning to the north and General Residential to the south. The applicant wants it to be Office Commercial zoning, in which all types of offices are permitted. This zoning allows all that is in General Residential plus offices.

She showed a relevant map from the comp plan. The lot designation is G2 which contains denser, mixed use development. Appropriate uses in the G2 are residential, residential mixed use, and neighborhood scale commercial. She showed a graphic of the existing uses in the area. She showed photos of the adjoining uses on the North Street and King Street sides. Some of the criteria are suitability under current zoning. This structure was built to be residential, and the zoning could be considered proper. As to whether the lot would work under new zoning, on-site parking would be required. A 2500 square foot property would require more parking spaces than are available. Stacked parking is fine for residential but not for commercial use, so a variance might be needed to convert it to an office. They also looked at the streetscape. Parking must be on-site and there's no parking on Wilmington Street.

The public notices were posted, Ms. Anderson said. They received a petition in response and a number of comments. The Lawrence Group is beginning work on their civic master plan and will be implementing form-based code on a lot-by-lot basis. The staff recommends that it would be premature for council to approve a major rezoning request in light of this master plan, so it advises the commission to recommend that council table it for at least 6 months.

Mr. Semmler sought clarification about the properties surrounding the property under discussion.

Ms. Cousins said she'd purchased the home to use as a retirement home. She's applying for rezoning to Office Commercial to allow for flexibility of use of the house until she can relocate permanently. Although the request is for rezoning, she wanted to explain her intent for use of the property, which is for short-term rentals. She is currently licensed to do 30-day or more rentals. She has updated all

licenses, etc. In the absence of complaints by neighbors, cops, etc., she has had no evidence of damage, vandalism, etc. There's more than adequate parking and no need for on-street parking. She's discussing a privacy fence with a contractor and has developed rules for renters. She feels it's better to have an occupied property than an empty house. She comes down to Beaufort when she can and realizes there needs to be a presence at the house. She said she had to cancel 2 months worth of short-term rentals, but has been doing 30-days or more. If short-term rentals work out with the grandfathering, she would go back to that. She mentioned that she had had a 3-year rental after she purchased the home. Mr. Dechovitz asked if she had property management when she wasn't in town. Ms. Cousins said no, but she's in discussion with someone and screens her applicants.

**Chuck Dalvini** said he is "the surrogate spokesman for the neighborhood." He said the adjoining lot's split zoning "will surprise the neighbors." Mr. Dalvini said the late petitions were because of the difficulty of communicating during the holidays. He's strongly opposed to the petition. The Bluff neighborhood is only 4 blocks long and a block and a half wide in most cases; there are 25 residentially zoned homes. It's "mostly historical." All residents are important to it. He read a letter of opposition from someone in the neighborhood at 1405 North Street. He said most of the residents (17 of 22) strongly object to the rezoning request. Of the 5 remaining residents, one is the applicant, one is a vacant lot (whose owners are opposed to the rezoning), 2 are owned by people who were not able to sign the petition, and he "never got to the B&B." He feels there's no compelling reason to rezone this property. He thinks this should be declined and Ms. Cousins "could reapply under the new master plan."

**Pete Palmer** also opposes the rezoning. He wants the whole area to become residential again, not commercial. He "earnestly begged" the commission to deny the request.

Mr. Dickerson said he understands the Bluff residents' concerns. One member of their neighborhood has a significant investment in a property at a time when there is no alternative for her but to change what she's doing with it. By "pushing her back" so she's unable to retain the property, they are "forcing a foreclosure" if she's unable to continue to pay for it. He suggested that the residents of the neighborhood pool their money and buy the property for what Ms. Cousins paid for it.

**Susan Palmer** said "the neighbor next door" to Ms. Cousins, said Mr. Dickerson doesn't know what it's like to have a short-term rental next door. They have had "a very, very difficult time." She doubted the veracity of Ms. Cousins' claims. There have been parties and "a mish-mash of trucks and pets and carrying on," and she felt it was the neighborhood's responsibility to let Ms. Cousins know that "the property has been in deplorable condition ...It is a disaster next door." Ms. Cousins responded that not all that the Planning Commission had heard from Ms. Palmer is true.

Mr. Huddy said this is why the short-term rental case was brought forward as a change to the UDO, and this is why it shouldn't be handled by zoning. He feels rezoning a property is not the way to get the desired outcome. Mr. Crower said she could continue to rent long-term if zoning is left as it is. This is one of the issues they'll have if they go to form-based code, because it allows a great deal more mixed-use. He's sympathetic to the people in the neighborhood who moved into a neighborhood with a particular expectation of the zoning.

**Mr. Crower made a motion to deny the request, second by Mr. Semmler.** Mr. Huddy added that the problem is the isolated use, not its use as a short-term rental. **The motion passed unanimously.**

### **City of Beaufort – UDO Amendment**

*Revising Section 5.1, “Use Tables,” and Section 5.3 D “Specific Use Standards, Commercial Uses,” to allow Entertainment such as community clubhouses and pools as conditional uses in residential zoning districts. Applicant: City of Beaufort*

**Chairman DeVito made a motion to table the matter until the next meeting,** due to the lateness of the hour. **The motion passed unanimously.**

### **REVIEW OF RULES OF PROCEDURES**

Ms. Anderson said no changes were made to the rules for the Joint Municipal Planning Commission. Ms. Bridges said they were presented “as a good starting point,” and they want to hear from the Planning Commission about what their concerns and changes would be. Then staff will bring back a draft based on that. Chairman DeVito felt the chair and vice-chair serving in those positions for a year is fine, and there was general assent. Ms. Bridges asked if they wanted to insert the words “at-large” in section 2; Chairman DeVito explained to the new members why this is important.

Section 3, Mr. Semmler said, should read “presentation by appropriate staff,” not by the city. Ms. Anderson said the county planning commission holds the official public hearings; there was some general discussion of this. Mr. Semmler said it’s specific to who’s bringing the project forward. Ms. Anderson said they could decide to have a hearing if they wanted to. The time limit will be taken out. Mr. Hicks said the same thing should apply for the applicant. Chairman DeVito said the limit should be 5 minutes for public comment, not 2. Mr. Huddy suggested leaving it at 2 minutes and adding “at the discretion of the chair.” Chairman DeVito agreed.

In Section 5, regarding the secretary, Chairman DeVito asked if the county might provide a secretary. Ms. Bridges said they’ve gone over it with the county and they will not. Chairman DeVito asked if it should be “secretary” or “recorder” and added that it “should probably say ‘staff’.”

Chairman DeVito said there needs to be a statement about quorum, and Mr. Hicks said they need to decide what constitutes a quorum. Chairman DeVito said it needs to be “the majority of seated, appointed members.” He asked if there needs to be something in it about a tie vote. Chairman DeVito suggested that it be that a tie vote constitutes a rejection of the motion and then it moves to the respective councils. Ms. Anderson confirmed that a tie vote is a denial of the motion. Mr. Hicks said: “In case of a tie vote, the motion fails.” Chairman DeVito said then another motion could be made. There was general agreement regarding attendance. Staff will come back with another draft to be voted on.

### **MINUTES**

Mr. Hicks made a motion to accept the minutes of the November 8, 2010 meeting as written, second by Mr. Dechovitz. Mr. Semmler abstained from voting because he had been absent due to a death in the family, which he requested be entered into the minutes. **The motion passed unanimously.**

There being no further business, Mr. Dechovitz made a motion to adjourn, second by Mr. Semmler. The motion passed unanimously, and the meeting was adjourned at 9:40 p.m.