

**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

March 21, 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 March 21, 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, James Hicks, and Robert Semmler and City Planning Director Libby Anderson, Town Planner Linda Bridges, and Tony Criscitiello, County Planning Director. Commissioners Greg Huddy and James Crower were absent.

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 - Text Amendment

Revising Chapter 15.5 Overlay Districts, adding an article to provide design standards for all non-residential development that is not within an existing overlay design district

Ms. Bridges said staff was submitting an amendment. There are 3 design districts to which she wanted to draw the commission's attention. She described the parameters of the Traditional Town Overlay District. The other design districts are the Shell Point Neighborhood Overlay District and the Robert Smalls Parkway Overlay District; she described the parameters of these as well. She said anyone planning commercial, multi-family, townhouse, or a planned community would have a design district. This text amendment is for a fourth design district which applies to those areas not covered by the other design districts. This will cover all *non-residential* development and excludes one- and two-family dwellings but covers every other kind of structure: civic and institutional structures, multi-family dwellings, etc.

The Town of Port Royal adopted a code to control and make more alike the things on the Robert Smalls Parkway corridor. She called this "a nice, middle of the road code" which is less stringent than the Traditional Town code. It doesn't have the specificity of the Shell Point code,

which was tailored to Shell Point, where it works. Therefore, the Robert Smalls Parkway code “provides the DNA” for this new code.

She presented some of the feedback from the town’s Design Review Board to whom she had presented the idea. She had made some changes and wanted to present some of the ideas to the Joint Municipal Planning Commission. The Design Review Board recommended that:

- The 2 Shell Point Overlay members on the expanded Design Review Board be added. The Design Review Board is a 5-member board appointed by town council. They have 7 members when an issue regarding the Shell Point Overlay is presented. One has to have property in the Shell Point area, and the other has property in the unincorporated Shell Point area.
- Vinyl siding be removed as an approved external material.
- Parking to the side and rear – there was a question as to whether it should be bumped up to a 75% standard
- Retention and detention ponds – much of the language in the Robert Smalls Overlay and this one uses the word “should,” and the Design Review Board suggested changing those to the stronger “shall.”
- Gas station design guidelines should possibly be changed.

The comp plan, Ms. Bridges said, guides everything. The goals and strategies in the comp plan that apply are

- Port Royal will continue to build on its strong planning tradition, “placing quality on the built environment”
- Maintaining the unique quaint coastal character while accommodating new growth and development.
- Town of Port Royal will coordinate growth with the City of Beaufort and Beaufort County
- Port Royal will support the vision for Northern Beaufort County to maintain a distinct regional form of compact urban and suburban development surrounded by rural development
- Port Royal will promote compatible infill and redevelopment.

The ordinance itself was the remainder of Ms. Bridges’ staff report

Chairman DeVito asked, in reference to the retention/detention ponds, if they have had problems where the overlays are already, and might need “should” instead of “shall.” Ms. Bridges said the developers bring the retention ponds as amenities; as design goes, she said they’re fine, and they haven’t had a problem, but they do with the *maintenance* of the ponds: aerators don’t work; scum grows on them, etc. Some communities are good at it, others aren’t.

Commissioner Hicks said the 3 districts are meshed closely; surely there's a vehicle for changes to be made to all three over time. Ms. Bridges said it would be separate. If the document moves forward with the "shalls," she would bring an amendment next month to the Shell Point Overlay and the Robert Smalls Overlay and bring them all up together.

Commissioner Hicks asked if the comp plan addressed how they wanted to see commercial growth along the corridors or if the guidelines are general and they wait to see how the market develops. Ms. Bridges said when the comp plan refers to the Town of Port Royal being urban, there's an urban standard. The zoning doesn't speak as effectively to the urban vision, she said. That code was adopted by the Town of Port Royal in 1979. The Highway Commercial corridor wouldn't ask much of it, i.e., where the parking is to be placed, pedestrian and vehicle connectivity, etc.

Commissioner Dechovitz asked if staff had presented this proposal to developers who might be considering the Town of Port Royal or who were active there now. Ms. Bridges said she has not forwarded it to anyone like that specifically. At the time she presented it to the Design Review Board, there were developers there who were privy to the discussion, and she got no comments back, but that wouldn't have been appropriate at that time. Commissioner Dechovitz said he'd like to see that happen before they vote on it. There's not a lot of innovation in Port Royal, he said, and it's "very regulated." He'd like to "encourage doing things for the good of Port Royal."

Commissioner Dechovitz said the document suggests that for non-residential development, staff has to review everything that's at least \$5,000, which is a very small commercial project; he asked if there was consideration as to "why the bar was set so low." Ms. Bridges said staff reviews everything; if the project is greater than \$5000, it goes to the Design Review Board. Ms. Bridges said that's the standard in all the districts. Ms. Bridges added that this applies if it's an issue covered by code. Ms. Bridges gave the example of an inexpensive roof replacement that staff would issue the permit for, if it met the standards. Commissioner Dechovitz said his concern was that the figure was too low. He has a concern with the code work: if the burden is so great, people can't bring innovation or development. If the development community is fine with it, he would be, too.

Commissioner Dechovitz said the meaning of paragraph 4, which begins, "Any person," was unclear. Ms. Bridges said it means that "if you have a leg to stand on, you have to present it to move forward." If the wronged entity feels the law is on his/her side, they are to put together a packet that states their appeal and also why it should be heard or granted. She said she would work on the language. Commissioner Dechovitz said it could be clearer.

Chairman DeVito said he thought the new guidelines on gas stations should be maintained and followed. In reference to "should" and "shall," he feels the Design Review Board should be allowed discretionary room; Commissioner Dechovitz agreed.

In reference to parking standards, Chairman DeVito feels 50% of the road frontage is adequate. 75% frontage seems to be “playing with the design capabilities.” And in reference to vinyl siding, Commissioner Dechovitz said there are other materials now, and there’s no call for people to use vinyl siding anymore.

Chairman DeVito said Ms. Bridges would come back with Shell Point representatives’ and developers’ comments. There was no public comment.

REVIEW OF PROJECTS FOR THE CITY OF BEAUFORT

Rezoning a parcel of property located at 1004 Duke Street, identified as District 121, Tax Map 4, Parcel 509. The existing zoning is “General Residential District.” The proposed zoning is “Neighborhood Commercial District.”
Applicants: John and Erica Dickerson

Ms. Anderson said the property is one lot off the intersection of Charles and Duke Streets in the Beaufort Historic District. The building is considered “contributing.” Ms. Anderson described the size and the present General Residential zoning. She indicated on a graphic the property and those that surround it. The proposed Neighborhood Commercial District zoning allows all types of residential as well as low-intensity office and commercial uses. The design standard for new construction limits the building footprint to 2500 square feet for a single-use building.

In the surrounding zoning, Charles Street is a commercial corridor, but one interior lot is zoned Neighborhood Commercial District, so “it is a sort of a precedent,” Ms. Anderson said. The comp plan designates it an urban neighborhood G-2. She reviewed appropriate uses under the comp plan. She described the various commercial uses in and around the area, which she termed “quite varied.” The dwelling was meant for residential use when it was built.

There’s not optimum parking for some commercial use; depending on the use, a parking variance may be required. In reference to notification, the city sent letters, posted the property, and ran the hearing notice in the *Gazette*. They received two comments that were e-mailed to the commission. Ms. Anderson said the staff recommendation is for approval.

James Lawton said he lives on Duke Street, and he would like for the property to remain residential; he doesn’t want the neighborhood to be commercial.

Dwayne Smalley, 802 Charles Street, said his mother owns some properties near 1004 Duke Street. He spoke against the rezoning of the property to commercial. All the neighbors he spoke with support the parcel remaining residential. This has come up before, he said, a few years before, and it was rejected then. His family “has lived in the same spot for 90 years,” and Mr. Lawton has been there 50 years. It’s a family neighborhood, not one for businesses.

Mr. Smalley said the reason for the rezoning request has to do with the short-term rental policy the city lacks. The property owners would like to have a short-term rental at 1004 Duke Street, and he's not opposed to that, as are all of the residents he's spoken to. They'd like to see the city draft a short-term rental ordinance for the entire downtown area, "not just a loophole that would set a precedent for other property owners." Developers and speculators could go to General Residential areas and do the same, regardless of what the neighbors might want. He thinks the city needs to come up with a proposal that satisfies all neighborhoods. He expects others will speak out in agreement with him at the following night's public hearing.

Mr. Smalley said the Northwest Quadrant study group formulated 100 proposals, and none of them were that businesses come in and rezone properties to aid redevelopment. The comp plan of 2009-2010 refers to creating workforce housing in the Northwest Quadrant, not changing the designation of sites to accomplish that. They want the city to come up with a more comprehensive proposal. They don't want to create a cycle with a revolving series of businesses there.

Chris Lempesis had lived next to the Dickerson's short-term rental on Charles Street for 9 months, and in that time, having people next door encouraged the neighborhood to keep it up; the Dickerson's cleaned the yard every time they had a rental, and "there were never rambunctious renters." The property is small, and he can't see anything else being done to it. He offered to answer any questions or concerns about living next to a short-term rental. He now lives next to a long-term rental in Pigeon Point whose renters don't keep their property up. He feels that short-term rental would not be a detriment to the neighborhood.

Mary Jordan-Lempesis agreed with her husband and said they had a great experience and the short-term rental neighbors were all positive. The renters were all looking at the city as a place to retire. She complimented the Dickerson's for their upkeep of the property.

John Dickerson said the property is next to the Charles Street Commercial Corridor. Around it are condemned historic properties that are non-contributing; he showed some pictures of these. It's important to preserve the assets of the Northwest Quadrant, he said. He showed pictures of the property prior to renovation and after. He also showed a short-term rental on Charles Street which operates legally. There are currently vacant properties around their property, vacant lots, condemned properties, and long-term rentals which either can't be rented or can't maintain renters.

Commissioner Dechovitz agreed that the city should have a policy about short-term rentals and "not experiment with the Northwest Quadrant." The topic of short-term rentals has been under discussion with many for months now, and there has been no decision on draft language. It was sent to the mayor last month and re-worked again. It's a controversial issue because the city has allowed many businesses to operate in residential districts. Commissioner Dechovitz went on to discuss the process and said what they want to see won't happen for at least a couple

months or longer. That solution is the right way to proceed, “but they haven’t gotten there yet.”

Commissioner Dechovitz said they have looked many times at other districts for expanding commercial zoning. There’s been no apparent damage to the properties in the area, and this request is fairly consistent with these other areas. Charles Street has commercial properties up and down it. The character of this area is traditionally mixed use. He doesn't “expect that the family fabric will be maintained while the condemned properties will be removed” unless they have value as short-term rentals, which make it worthwhile to maintain or make them into offices. Commissioner Dechovitz said having offices next door is unlikely to happen on Duke and is more likely on Charles.

Commissioner Dechovitz made a motion to recommend approval of the application for the rezoning of 1004 Duke Street; Commissioner Semmler seconded. Commissioner Semmler commended the Dickerson’s for their “patience with the bureaucracy” on this issue and for what they have done to renovate the home. Commissioner Hicks said the city council needs to have the Planning Commission say staff needs to come back with a proposed ordinance within the next 60 – 90 days. **The motion was approved unanimously.**

CITY OF BEAUFORT – UPDATE ON COUNCIL ACTIONS

City council agreed that staff should continue to work on the short-term rental agreement. Ms. Anderson said the rezoning of Greenlawn was held, and the Stokes Honda annexation and rezoning first reading was held. There will be public hearing at the following night’s city council meeting.

REVIEW OF PROJECTS FOR THE COUNTY OF BEAUFORT

County of Beaufort – Text Amendment to the Beaufort County Zoning and Development Standards Ordinance, adding new article: Article XVII. Transfer of Development Rights (TDRs)

Tony Criscitiello reviewed the various areas in the AICUZ. There are approximately 1400 eligible TDR candidates. Receiving areas are in the Seabrook, Clarendon, Laurel Bay, Burlington and Battery Creek High School areas. Additional areas in the city or town could be added later on. All are in the unincorporated areas of the county. The Beaufort County Planning Department is the administrator and would be a clearinghouse for information. The TDR bank could be run by the county, a land trust, or a private entity.

Participation in the TDR program is voluntary, he said. It is meant to remedy the unused development potential removed by the AICUZ Overlay District. They would issue TDR certificates to the property owner, a commodity the owner could legally sell. Developing a 1000 unit development would require 333 TDRs on the property, roughly 1 TDR per 3 dwelling units. For commercial development, it’s 1 TDR for 5000 square feet. A 10,000 square foot building is 2 TDRs.

Affordable housing units are exempt and wouldn't require a TDR. Some commercial developments and Traditional Neighborhood developments might be exempt as well; the commercial part of that would not be required to be part of the TDR. This would be the same with industrial development, which is exempt, so that there's not a barrier or impediment to industrial development.

In the unincorporated area, upzoning would require a TDR above the base density, and this is an interim mechanism until the form-based code is addressed. The 3 transactional options are a direct buyer-seller exchange: a developer finds a seller; a TDR Bank could be set up and a developer could pay cash in lieu to the bank; and the bank would go out and search for candidates who want to sell their TDRs.

The TDR certificates are to be purchased and streamlined for the developer. The price is based on market value for the unit in its location. The fee can be changed annually. The county council would establish value on an annual basis, and the ordinance need not be amended annually.

Mr. Criscitiello presented a diagram to the Planning Commission of how the program would work. He then reviewed the steps that need to be taken to begin the TDR program. This is something being proposed in the growth boundary and is in relationship to the AICUZ and the 1400 units in it. The Planning Commission was provided with a copy of the ordinance, Mr. Criscitiello said.

Chairman DeVito asked for more information on the cash-in-lieu process. Mr. Criscitiello replied that when the property is appraised, the owner says "I'd like to develop my property with a 1000 unit development, and I want to know how many TDRs I need." Chairman DeVito said if it's voluntary, he could buy TDRs, and Mr. Criscitiello said there is potential for a lag based on the free market system. When people know there's money available for their unused density, there will be a market that will rise from it. Chairman DeVito wanted to know if there's a reasonable expectation that someone would sell the certificates back. That was his only concern, he said.

Commissioner Dechovitz asked what ensures the county never uses the money for anything other than the TDR program. Mr. Criscitiello said it "would be an absolute certainty if there were a TDR Bank run by an independent land trust to acquire development rights." Commissioner Dechovitz said it could be the county and Mr. Criscitiello agreed, but added that he personally subscribes to the idea that the land trust runs the TDR bank. He said the Planning Commission could recommend that it be so.

Commissioner Semmler asked about the reversibility clause. Mr. Criscitiello said if someone with 5 TDRs decides he doesn't want to give away his development rights after all, he can reverse it. He can't come back and sell only 2 of them, though; "everyone is either all in or all

out” to keep it more manageable. Commissioner Semmler said an owner can commit to the program and then five years later change his mind. Mr. Criscitiello said once the TDR is established, the easement is created, and the exchange between buyer and seller is tracked.

Commissioner Dechovitz said he would characterize this as “carbon credits for property.” An artificial currency has been created for property rights, he said, and it’s complicated. Mr. Criscitiello explained why this is better than a PDR (Purchase of Development Rights) program, which is not a good fit for small lot landowners who live on a couple acres with one dwelling unit that can’t be subdivided because of the AICUZ. It benefits small property owners, which is its objective.

Commissioner Dechovitz asked if, for a small property owner, it wouldn’t be more straightforward to estimate the loss of value to their property and then just pay them, rather than go through this process. Mr. Criscitiello said that’s called “inverse condemnation,” and is “highly legalistic and court-driven.” It would take many years, the AICUZ might not have been adopted, and the base might not be here. Mr. Criscitiello said when the AICUZ was done, the property owners were told that the county would come back and provide TDRs and finally they “can do what they promised.”

Commissioner Dechovitz posed a hypothetical situation about a property owner who’s not in the AICUZ and through the TDR mechanism someone “could build a Habersham behind him.” Mr. Criscitiello replied that all changes to zoning are a legislative action by the county council, and the neighbor can appear before council; they don’t *have* to be given the right to upzone. Mr. Criscitiello said the true value of the TDR Bank is the ability to purchase and hold until the circumstances and time are right. The money will come from a variety of sources with a kick-start from the DOD. Commissioner Dechovitz asked if that were sufficient for all the TDRs they might need, and Mr. Criscitiello said “absolutely not.”

Alice Howard said the state gave \$250,000 to governments to do a TDR pilot program, and the DOD will match that. Commissioner Dechovitz confirmed that the pot is \$500,000 for all the property owners in the AICUZ to start. Mr. Dickerson said it would be replenished by the buying and selling. Mr. Criscitiello emphasized that this is a pilot program in this area.

Commissioner Dechovitz said his impression is that “the property owners are getting the short end of the stick,” and he hopes it turns out better than it sounds. Commissioner Hicks said there is no alternative. He explained the various options that have been explored and the work that has been done to create this. This “has been kept within the county for simplicity to establish it,” he said. Down the line, the towns and city might need to be brought in. Mr. Criscitiello said the county council could expand the receiving area in the future if the market isn't big enough. The receiving area doesn't need to be kept intact, but he can't imagine that “a shrinking receiving area can mean anything but doom for the program.”

Commissioner Hicks made a motion that the Planning Commission forward the text amendment to County Council recommending approval and that the municipalities consider passing a resolution of support for the establishment of the TDR pilot program. Commissioner Semmler seconded. Commissioner Dechovitz said he wouldn't support tying the city into this. He has a lot of concerns; to him, "it looks like a raw deal to the landowner on both sides of the deal." A lot is done to accommodate the DOD, and he "couldn't vote for tying the city into the program without analysis." He really doesn't like the idea of anyone other than an independent trust or a commercial bank operating the TDR Bank. It should be chartered to ensure that the money goes to the property owners only.

Commissioner Hicks asked "if the cost of the operation of it should be thrown out." Commissioner Hicks said it's estimated to cost \$60,000 a year for start up, and \$100,000 a year to keep it going. That's the reason, Chairman DeVito said, the pilot program is suggested to be run by the county and then to later go to an independent entity. **The motion passed on a vote of 3-1, Commissioner Dechovitz opposed.**

MINUTES

On page 3 of the February 21, 2011 minutes, Commissioner Dechovitz said that Dick Stewart had presented success criteria he recommended and a time boundary on the pilot program, but this was not noted in the minutes. Commissioner Dechovitz said the acronym AICUZ is improperly written as ACUZ throughout the minutes. **Commissioner Dechovitz made a motion to accept the February 21, 2011 meeting minutes as amended, second by Commissioner Semmler. The motion passed unanimously.**

DISCUSSION

Ms. Anderson said there would be a workshop the following week by the Office of Civic Investment that would last about 20 minutes. She asked if the commission would want a workshop on short-term rentals, too, to be presented by staff. There was some discussion of the scheduling of charettes, the location of meetings, and the point of the Office of Civic Investment workshop.

Commissioner Dechovitz asked if council would consider a resolution on TDR the following night. Ms. Anderson clarified that this was to support the pilot program in the county, not to bring it into the city at this time.

There being no further business to come before the commission, **Commissioner Hicks made a motion to adjourn, second by Commissioner Semmler.** The motion passed unanimously, and the meeting was adjourned at 7:49 p.m.