

**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

April 18, 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 April 18, 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 Crower, Greg Huddy, James Hicks, and Robert Semmler and City of Beaufort Planning Director Libby Anderson and Town of Port Royal Planner Linda Bridges.

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 34, Parcel 108, approximately 0.30 acres located at 923 East Belleview Circle. The proposed zoning is Highway Commercial with the Shell Point Neighborhood Overlay District.

Linda Bridges reviewed the details of the annexation and rezoning. The present zoning in Beaufort County is Shell Point Neighborhood Community Preservation District in Beaufort County's ZDSO. She indicated the parcel on a map.

The annexation is included in the future land use map and in the future boundaries of the Town of Port Royal, Ms. Bridges said, indicating it on the future land use map. The property is in a restricted growth sector, Conventional Neighborhood zone. Future infill should enhance connectivity, she said; the Shell Point area, according to the comprehensive plan, is comprised of older, well-maintained lots, but it is not pedestrian-oriented and should be improved. There are opportunities for infill and smaller lot development. Ms. Bridges went on to detail other aspects of the comprehensive plan as it applies to the area.

It will cost money to get the sewer to the parcel, Ms. Bridges said. The Town of Port Royal has an agreement with the Burton Fire Department, and they will remain the first responder to

situations in the area with back-up from the Town of Port Royal. Police are adequately staffed to deliver services to this area. The Town of Port Royal is “serving parcels left, right, north and south of this parcel.”

Regarding the proposed zoning, most of the zoning in the area is Highway Commercial, Ms. Bridges said. Parcels in the Shell Point Community Preservation District, when they move into the Town of Port Royal, are included in the Shell Point Overlay District. The intent of Highway Commercial is that it be developed and preserved for general business purposes, particularly automobile- oriented businesses. She indicated on a map that the parcel is surrounded by parcels in the Town of Port Royal and the zoning around it is also Highway Commercial, as the applicant is requesting. The Shell Point Neighborhood Overlay District is important because it adds design standards and increased development opportunities to the district. The balance of multi-family and single-family housing is codified in the Shell Point Neighborhood Overlay District, Ms. Bridges said. The code was adopted by the Town of Port Royal and Beaufort County, and the codes “are the mirror image of each other.” There are no environmental issues to be considered, Ms. Bridges said, and all necessary public notification has been made.

Russ Fielden, the applicant, showed a photo of a home that he said is “catty-cornered” from the lot. The lot lends itself to the transition from residential to commercial, he said, because it faces the highway. Facing the property from Highway 802, he said, there are several other commercial properties nearby. To use it again as residential when it is surrounded by commercial “doesn't seem to fit.”

Commissioner Crower made a motion, second by Commissioner Dechovitz, to accept the annexation and rezoning proposal as submitted. The motion passed unanimously.

Town of Port Royal – Rezone

District 111, Map 10, Parcel 121, 3.396 acres located at 1712 West Paris Avenue. The existing zoning is Mobile Home District with the Traditional Neighborhood Overlay District. The proposed zoning is Highway Commercial with the Traditional Neighborhood Overlay District.

Ms. Bridges said the applicant had withdrawn the request for rezoning.

Town of Port Royal – Text Amendment

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

Ms. Bridges said this is the second time this text amendment has come before the Planning Commission; this is a revision of a draft she presented at the previous month’s Municipal Planning Commission meeting. This amendment creates a fourth design district for the Town of Port Royal and covers all areas not yet covered by a design district. This version of the draft allows vinyl siding, like the downtown overlay. The appeal language has been “fixed” to make

more sense. The Municipal Planning Commission had asked Ms. Bridges to solicit comment from the local development community and the two Shell Point appointees to Town of Port Royal's Design Review Board, but she has not received any comment from either of those groups.

In reference to the starting limit of \$5000, Ms. Bridges said, since they are so close to a new code, this "will fill the gap between now and then." Commissioner Semmler said he was impressed with the architectural landscape standards, but he wishes "there was a way we could make people cut their grass."

Commissioner Dechovitz noted section 3, paragraph B of "Architectural Standards" and wondered "how a developer could come in and objectively meet this requirement." He asked how one could tell if it's "innovative and high-quality." Many of the "words are subject to the broadest interpretation," he said. He wondered if the wording came from elsewhere, such as another municipality that would be able to share how it works in actual practice. Commissioner Huddy responded that everything with architectural standards "will have a level of subjectivity." Ms. Bridges said the language came from the Town of Port Royal's other design districts. She feels they didn't hear from the development community because developers "want predictability when they take on a project." However, "this little corner of geography is the unpredictable part of Northern Beaufort County," she added. "Now it is the only area where geographically you would not have this kind of language when you were starting your project."

Commissioner Dechovitz made a motion, second by Commissioner Semmler, to accept the text amendment as submitted. The motion passed unanimously.

Town of Port Royal – Update on Council Actions

Ms. Bridges had no updates from Town Council at this time.

REVIEW OF PROJECTS FOR THE CITY OF BEAUFORT

City of Beaufort – Rezoning. *Rezoning a parcel of property located at 804 Wilmington Street, identified as District 120, Tax Map 4, Parcel 346. The existing zoning is "General Commercial District." The proposed zoning is "General Residential District." Applicant: City of Beaufort*

Libby Anderson said the property is in the Northwest Quadrant neighborhood of the Historic District. It is one lot north of Duke Street. Lowcountry Housing and Development Authority owns the lot, and it is undeveloped. They wish to build a single-family dwelling on the lot. The property is zoned General Commercial District. It allows office, retail, and restaurant uses, but no drive-through. Multi-family district is permitted, but townhomes and single-family dwellings are not allowed.

She showed the 3-block commercial area that surrounds the lot on a map and described the surrounding uses; the majority is single-family residential. Looking at the zoning has been on their to-do list. She expects the Office of Civic Investment will submit recommendations for zoning changes in the future. The proposed zoning is General Residential District. This is a placeholder until the Office of Civic Investment recommendations. Public notice has been made and no public comments were received.

Commissioner Huddy clarified that she was saying that typically the city doesn't like to spot-zone, but this is an exception because it will probably be rezoned. Ms. Anderson, said yes, it seemed appropriate in this situation, and it is a down-zone, not an upzone. Commissioner Huddy said it's surprising that General Residential is not a permitted use here. Ms. Anderson explained how that occurred in the past. Commissioner Dechovitz said he thought the property was a 3-family building when he saw it. Ms. Anderson said it's a small vacant lot and the structure next to it is also a Housing Authority property. Commissioner Dechovitz asked if the Housing Authority has submitted plans. Ms. Anderson said no, but they have submitted a grant application and have provided elevations of what they think they might do; it's a traditional Beaufort cottage, similar to what Habitat for Humanity has done in the past. It will be a single-family cottage style dwelling, modest because of the size of the lot. It is subject to review by the HDRB.

Commissioner Hicks said "this is spot zoning for a good reason." It can be a dangerous precedent to set. Commissioner Crower said General Residential is contiguous. Chairman DeVito said the legal definition of spot-zoning is disputed, and this is the right thing to do on this lot.

Commissioner Huddy made a motion, second by Commissioner Crower, to approve the rezoning. The motion passed unanimously.

CITY OF BEAUFORT – UPDATE ON COUNCIL ACTIONS

Ms. Anderson said the UDO amendment in reference to short-term rentals is a discussion item on the agenda this meeting. A first reading has been held on the rezoning at 1004 Duke Street. Stokes Honda was scheduled for rezoning, but the applicant requested the item be removed from the agenda because of business license issues. It has been tabled by council, therefore.

REVIEW OF PROJECTS FOR BEAUFORT COUNTY

No projects were reviewed.

DISCUSSION

Review of revised rules of procedure

Commissioner Semmler said in Article 4, page 3 under reports, the rules say, "the secretary will prepare and forward," and he wanted to know to whom reports would be forwarded. Ms. Anderson said in the city of Beaufort, it would be council.

Chairman DeVito suggested that there be a discussion of issues among the members of the commission so that the public knows what they're thinking before the public comment. He wondered if it would be appropriate for the public to hear what the Metropolitan Planning Commission thinks about a matter first. Commissioner Huddy said that a couple of meetings ago, the public comment wasn't about the subject under consideration. He felt that he would like to get a motion from the group and then open it to public comment.

John Dickerson and **Erica Dickerson** said they both supported the idea. Commissioner Dechovitz said the Planning Commission shouldn't vote prior to public comment; making a motion could deter comment. Chairman DeVito said "maybe there should be a motion to even talk about it." Commissioner Hicks said most people in the audience "come loaded" with something they want to say to the commission, so the commission should hear it before they start their discussion and vote. It's not what Planning Commission says that the public should respond to; it's the matter before the Planning Commission that the public is commenting on. Chairman DeVito said he's fine with that.

Commissioner Hicks, second by Commissioner Dechovitz, made a motion to recommended modifications to the rules and procedures of the Municipal Planning Commission. The motion passed unanimously.

City of Beaufort short-term rental ordinance

Ms. Anderson reviewed the status of the short-term rental issue and discussed a memo regarding not having short-term rentals in The Point and accessory dwelling units. She reviewed proposed minimum conditions for short-term rentals. Chairman DeVito said he was under the impression that The Point was okay with short-term rentals in accessory dwelling units but not otherwise, and Ms. Anderson said that was not the case. She said the proposal by Commissioner Huddy and Commissioner Dechovitz was also attached in the commission's packet, Ms. Anderson said.

Ms. Anderson said they were looking for input; the Metropolitan Planning Commission had recommended denial of the whole concept. Council directed staff to continue working on the issue. The accessory dwelling unit is the primary refinement, as is taking The Point off the table. Primary dwelling unit, special exception, accessory dwelling unit, and not having short-term rentals in The Point are all refinements. Commissioner Dechovitz said there were short-term rentals and accessory dwelling units in The Point. Ms. Anderson said there were none identified in The Point, at least by Vacation Rental by Owner; they were all over the city but not in The Point. Chairman DeVito said The Point is "one of the few neighborhoods that can have their stance spoken for." Chairman DeVito asked if an ordinance were being prepared as an amendment to the UDO; if so, he would like it to come back to the Planning Commission. He said it's a good idea to do it conceptually right now, but if there's a UDO amendment, it should come back before the commission.

Commissioner Hicks said Ms. Anderson is asking for the concept of short-term rentals to be authorized everywhere but in The Point, and that short-term rentals in accessory dwelling units require the owner to occupy the residential dwelling if the owner is going to rent it. Ms. Anderson said for the short-term rental in the accessory dwelling unit, the owner has to live on the premises; it has to be a 4% property. The owner has to declare it as their primary residence.

Commissioner Hicks clarified the key points and changes now in the recommendation. Commissioner Huddy asked if the accessory dwelling couldn't be used for short-term rental even if the owner didn't occupy or if that is the way to get it approved without going through the special exception process. Ms. Anderson said if the owner doesn't live there, either the accessory or the primary would have to go through the special exception process. Chairman DeVito suggested that at no time can the primary and the accessory dwelling be given a special exception for short-term rental. Commissioner Huddy said if someone developed three small units on one property, it could be part of the development process in the Northwest Quadrant, for example. The market is going to dictate this. Commissioner Hicks said there are three scenarios now, "and it's simple."

Commissioner Dechovitz said with a large primary dwelling and a small accessory dwelling being rented short-term, he would have the concern, but since The Point is accepted, they have basically eliminated that situation. He suggested that rather than making The Point the exception, it should be any traditional neighborhoods, i.e., the Bluff and Old Commons.

Rick Seymour, chairman of the homeowner's association of Battery Point, said he's against short-term rentals and most of their members are also against short-term rentals. However, the exception that has been mentioned is different than in the original draft. They have no problem with short-term rentals only being in an accessory dwelling and only with the resident owner on the property. If this is to be applied to all the neighborhoods in the city, he said, "This sounds like a reasonable approach." They have a half-dozen accessory units, mostly garage apartments, and this seems like a suitable exception for them. The second point should be retained in any language that is drawn up and approved, he feels. Battery Point is okay with all the other provisions as well.

DeWitt Helm, representing The Point, said the neighborhood association applauds the city staff for their recommendation and for listening to them. Short-term rentals are not desirable in The Point, he said. They are citizens of Beaufort, "but in Beaufort, we live in our neighborhoods," which is why he said they have consistently opposed short-term rentals. There are some rentals of accessory dwelling units on The Point, but to their knowledge, none of them are short-term rentals. There has been no poll taken among The Point residents as to accessory dwelling unit rentals, but there has been discussion of the desirability of long-term rentals in those.

Mr. Dickerson said they support “a good, clean, easy to administer program for short-term rentals.” They feel the language in the January 31, 2011 draft “is a good direction and an economic driver for the city.”

Commissioner Hicks said they need a motion to accept the recommended points of the document that staff has brought forward. Staff has asked for guidance, and if the Planning Commission accepts them, Ms. Anderson will create a document and bring the document back to the Planning Commission.

Commissioner Semmler said if someone gets three complaints, their license is pulled, and they can no longer rent short-term. He asked if the short-term rental appeal process will be like the business license process. Ms. Anderson said this would be on an annual renewal; the license won't be pulled. Commissioner Semmler said it says “revoked” in the document. He feels they should “not make up a bunch of new processes.” Chairman DeVito said that in the January 31 UDO draft, under 1-D, it says that they would revoke the permit. He said the concern is that the language be clarified: failure to comply with the management plan is reason for the city to revoke the special exception. He feels the people in the neighborhood should have a reasonable expectation that the short-term rental will be managed by someone in the primary residence or someone in the city. He said “it’s a residential neighborhood first and foremost.” Neighbors should be able to call someone responsible, and if they’re not there doing that, they should be put out of business. Chairman DeVito said the failure to follow the plan will lead to revocation of the license now. He agreed with that. Commissioner Dechovitz said there needs to be someone who can be called if the owner is not going to be on the property. Ms. Anderson said a property management agency is how she sees it.

Even if the owners live on the property, there could be another contact, Ms. Anderson said. Commissioner Dechovitz said they shouldn't put a business in a residential neighborhood without a contact. Referring to paragraph 3 in the January 31 draft on the second page, Commissioner Dechovitz said that in neighborhoods like Battery Point that have covenants, the covenants themselves will take care of matters. They were trying to make it so that in a homeowner's association with covenants which don't allow short-term rentals, the city's special exception process would recognize that, and the homeowner's association would be fine. Chairman DeVito agreed that this should be added, and Ms. Anderson said, they could add “except The Point and any neighborhood that has homeowner's association covenants.”

Ms. Anderson asked about the primary unit being rented short-term by special exception. She was thinking that if any PUD were to be exempted from the special exception, they could; they have their own zoning designation. Commissioner Dechovitz said there was an unlicensed short-term rental in Mossy Oaks, and he feels “it would be terrible to punish someone for an activity that is causing almost no problems for the city.” He said he would hate to see someone unable to maintain their home because they couldn't rent the property they had expected to be able to rent out when they purchased it. Commissioner Dechovitz said he doesn't want to put

someone in a bad financial position to enforce this law, especially when they have operated without difficulty for some time and then can't because of the change in the ordinance. Mr. Dickerson said the short-term rental Commissioner Dechovitz is referring to is an accessory dwelling unit; the family lives locally in the primary dwelling and rents the accessory dwelling. He thought "it would conform." Ms. Anderson said she was saying that PUDs would be easy to exempt.

Chairman DeVito said he feels they have direction. In regard to adding item 12 – to review if there's an existing covenant – Commissioner Huddy said the Dickersons said they support the January 31 draft, and he was curious if that means the Dickersons don't support this simplified version. He asked if they are in support of the staff recommendation as well. Mr. Dickerson said they like the January 31 draft in that "it is broad and clear in terms of where, when, and who can do what and it's not overly specific." Item 1 on the staff list limits occupancy to 6 people, for example. There could be a property that wanted to rent to 2 adults with 5 kids. They think January 31 is clearer and "gives constituents an easy way to deal with short-term rentals in their area." Neighborhoods are protected, and there's not a lot of additional administrative detail.

Ms. Anderson said the major difference is that the January 31 draft doesn't use permitting by special exception. Chairman DeVito said the commission is all for special exception. Commissioner Huddy said the 6-person limit seemed too specific to him, too, and he suggested it be removed. Commissioner Dechovitz said they could take the January 31 language and add the Traditional Neighborhood zoning, exempt The Point, and then paragraph 2 would include a modification of the management plan. Ms. Anderson said she'd "include the best of both" in the next draft.

Commissioner Hicks asked who grants special exception, and Ms. Anderson said the ZBOA. Commissioner Hicks said "if the neighborhood thinks it sucks eggs, they could stand up and say so at the ZBOA hearing." Ms. Anderson said yes, the public hearing is required. Conditional use is granted at the staff level. Commissioner Semmler said he doesn't think there needs to be a motion, just approval from the Planning Commission for staff to go forward Chairman DeVito said he's fine with that, and there was general assent that they agreed with it and that a revised document would be presented to them.

REVIEW OF COMMISSION MEETING MINUTES OF MARCH 21, 2011

Commissioner Dechovitz asked the chairman to clarify if the motion on page 9 was correctly recorded as moved and voted on. He had voted against it. Chairman DeVito clarified that the motion was for the two municipalities to support the county in its establishment of the pilot program.

Commissioner Dechovitz made a motion to approve the minutes as recorded. Commissioner Semmler seconded the motion. The motion passed unanimously.

Commissioner Hicks requested discussion about voting on annexations in the new metropolitan commission. He suggested they get two votes: one on the zoning and one recommending approval or disapproval on the overall area. He feels annexations should be split into two motions. Chairman DeVito agreed. Commissioner Hicks said they must *recommend* the most appropriate zoning but not necessarily *approve* it. Commissioner Dechovitz said “you annex, then zone,” and added that “it’s unusual to change zoning until you know what the development is going to be.” Chairman DeVito said they have been trained that the zoning is what is being considered, not the project; “the project could die tomorrow.” Commissioner Huddy added that as a result, you don’t change the zoning per project, because people could bring a false project before the commission. Chairman DeVito said they will have a motion for recommendation on the annexation and then a motion for a recommendation on the zoning.

There being no further business to come before the commission, **Commissioner Dechovitz made a motion to adjourn, second by Commissioner Semmler.** The motion passed unanimously, and the meeting was adjourned at 7:02 p.m.