

A meeting of the **Beaufort-Port Royal Metropolitan Planning Commission** was held on **August 15, 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, James Hicks, and Robert Semmler, 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 Shell Point Plaza

District 100, Map 33A, Parcel 249, 249A, 251, 252, 253, 255, 256, 257, 258, 258A, and 266, approximately 4.5 acres located at 14 Savannah Highway. The proposed zoning is General Commercial with the Shell Point Neighborhood Overlay District.

Linda Bridges said the applicant is Shell Point Plaza, LLC. Their attorney requested that some of their properties at Savannah Highway and Parris Island Gateway be annexed. It's currently Beaufort County zoning and Community Commercial zoning. Ms. Bridges described some of the businesses there. With regard to the comprehensive plan, the property is within the Town of Port Royal's growth boundary. It is in an area that is intended to be a growth sector and also an "activity center," which she indicated on the Future Land Use map. The intersection here offers a lot of opportunity, she said, and should be expected to have "a pretty intense zoning designation." There are opportunities for more walking, biking and interconnectivity in Shell Point. It's a logical place for greater density and intensity, Ms. Bridges said. She went on to describe the ways in which the comprehensive plan addressed Shell Point.

Shell Point is on the "urban" end of the spectrum (as opposed to rural), Ms. Bridges said. In regard to public services, the town is already around this intersection, and services are already being delivered there. Once a property is annexed into the town, it needs a designation in the town's code of ordinances. They are recommending that it be General Commercial, which allows residential development such as multi-family dwellings, duplexes, etc. It is a bit less auto-oriented, Ms. Bridges said, i.e., it does not allow drive-in restaurants. All of the businesses that are already there are allowed under General Commercial, she feels.

The Shell Point Neighborhood Overlay (SPNO) will also be part of the designation of this property, and it will give the town the layer that will help them to develop the property. There are no environmental issues to consider; the site is "already pretty well built-out," Ms. Bridges

said. Public notice was made. She showed a rendering of the potential development of the area.

Commissioner Crower asked if the proposed zoning was asked for by the applicant. Ms. Bridges said the applicant left the line blank, and she is the one who chose that designation. It “would not set anyone up for a lot of grandfathering or non-conforming uses” and would support the Shell Point community. Commissioner Crower asked about the sort of residential allowed in General Commercial; Ms. Bridges said all types are allowed, and given the site, she can’t see anything but multi-family. Commissioner Crower asked, in regard to the SPNO, if there were new construction, if it would be substantially different than what’s there now. Ms. Bridges said yes, “If it were a blank slate.” Generally, the Design Review Board (DRB) “has to sit in judgment and meet the applicant halfway.” The SPNO would not require two stories, for example.

Commissioner Semmler said he didn’t understand why they didn’t do the Highway Commercial designation. Ms. Bridges said “staff and council don’t always have the same mind.” She said the FLU map prior to this one didn’t offer Highway Commercial as a choice. They wanted to downplay the opportunities presented in Highway Commercial. General Commercial is not quite enough, and Highway Commercial is a little too much, Ms. Bridges said. The code re-write with form-based code will hopefully strike the right balance, she said. The placement of the building on the lot, and the architecture facing the public realm “should be what it’s about,” and form-based code will offer that. Truck terminals and airfields are allowable under Highway Commercial.

Commissioner Semmler said the old Wooden Nickel gas station is not on the rendering. Ms. Bridges said annexation is by petition. Properties usually ask to be annexed, and the gas station’s owner did not.

Commissioner Hicks said the two roads are a blend, and he asked if there was a plan to do an overlay for both of those. He said the long-term desire is that there be a plan. It “would preclude pop-ups,” Commissioner Hicks said. Ms. Bridges said in 2001-2002, the CP plan was undertaken. The Shell Point plan preceded it. The 2009 comprehensive plan re-write started with that and came out of that effort. Commissioner Hicks said he’d like an overlay out to the bridge and up the other highway to the Wal-Mart. Ms. Bridges said there is a small gap there, between the overlay and the Robert Smalls Parkway master plan. Commissioner Hicks asked what maximum building height is; Ms. Bridges said with General Commercial designation, its 50’.

Commissioner Crower asked whether contiguous zoning is mixed use, too, and Ms. Bridges said it was. There is a residence that was an office and now is a house again.

Commissioner Crower referred to the zoning designation Mixed Use 2 (MU2). There is a residence that was an office and now is a house again.

Carolyn Davis, president of the Shell Point Neighborhood Association. She said she hasn't heard many comments about this. Many years were spent getting a plan that was equitable for all to maintain the neighborhood. She indicated homes on the zoning map. She said it is now a commercial area, but they're concerned with Big Boxes, tall buildings, and more lights. Those who live there want to maintain "the rural characteristics of their neighborhood." There is a drainage problem there as well, and Big Box structures and more impervious surfaces will further the problem. Shell Point is in the growth sector for Port Royal "in their dream," and she asked the Metro Planning Commission to be sensitive to those who live there.

Commissioner Dechovitz said there's no discussion of it being Highway Commercial. It would be difficult for him to project that a developer could attract a Big Box retailer to that spot; it's more likely to be a more intensely developed neighborhood center where the Shell Point residents can get services and retail in walking distance, he feels. If it's in the Town of Port Royal, there will be more say over that than if it's part of the county.

Motion: Commissioner Crower made a motion, second by Commissioner Dechovitz, that the Town of Port Royal annexes these parcels. The motion passed unanimously.

Motion: Commissioner Crower made a motion, second by Commissioner Dechovitz, that the Metro Planning Commission recommends General Commercial as the zoning designation. Commissioner Crower said in regard to the height of the buildings, it's across the highway from the residential areas, and a 50' building will not be an imposition to the residents. **The motion passed unanimously.**

Town of Port Royal – Update on Council Actions

Ms. Bridges said that Town Council adopted a split zoning designation on the Kent's Court Mobile Home Park property; it's Highway Commercial and the back acre is Mixed Use 1. Council also denied an ordinance change to permit raising chickens in the town boundaries on first reading.

REVIEW OF PROJECTS FOR THE CITY OF BEAUFORT

City of Beaufort – UDO Amendment

Revising Article 3, "Development Review Procedures," to add a new Section 3.17, "Development Design Exceptions," and revising Section 9.4.E, "Nonconforming Lots of Record," to delete paragraph F pertaining to subdivisions

Ms. Anderson said planning staff and the Office of Civic Investment are proposing to allow exceptions to certain development standards in the ordinance such as setback, lot area, and lot width. Currently, this can be done by an administrative adjustment of development standards;

this doesn't cover lot area or width adjustments. If an applicant wants more than a 10% adjustment, now they can go to the Zoning Board of Appeals, (ZBOA), which has a rigorous, specific set of standards called "findings?" It can be difficult to achieve these standards. The Office of Civic Investment staff is proposing exceptions of up to 35% for standards set out in Article 6. The review process would be similar to the variance procedures. Review authority would be different; in the Historic District, it would go to the Historic Review Board, (HRB), and it would go to the Design Review Board, (DRB), if outside of the Historic District.

Ms. Anderson reviewed the development design exceptions, including the review criteria. The Board can set conditions and restrictions on the application. The appeal process is the same as for a variance and would go to the circuit court. This would allow flexibility to create lots consistent with the character of existing neighborhoods.

Commissioner Semmler said on the appeals process, it's within 30 days after the board's decision is *postmarked*. The Planning Commission takes a long time to get information; Ms. Anderson said these types of letters are typically sent certified. Chairman DeVito said the decision's made, staff has 15 days to mail it out, then 30 days from the postmark, so he suggested that it just be *45 days from the meeting date*. Ms. Anderson said this may already be set out in state law, and she will check on it.

Commissioner Hicks asked if Ms. Anderson or the Office of Civic Investment were considering this as taking the first step in the form-based code. Ms. Anderson said not necessarily, but it is to allow flexibility. Commissioner Hicks asked if this would remain when the form-based code is in place. Ms. Anderson said this is an interim measure. The form-based code will establish new standards based on the synoptic surveys being done. Commissioner Hicks asked about phrases like "substantial adverse impact," which can be based on perception; the language seems loaded, he said, and could be problematic in litigation. He asked Ms. Anderson to consider putting in an advisory opinion to allow for requests for additional time which currently it says can't happen if it's not received within 30 days. If anyone asked for additional time, they would have no option to give them that.

Chairman DeVito suggested that in Section C. Application, the word "consistent" should be added "to ensure compliance."

Commissioner Dechovitz said it is "more likely these kinds of variances will apply to an awful lot of structures." This creates more uncertainty if an old structure is bought. If you're astute enough to check the code before developing, this creates more uncertainty; everything might be denied. One doesn't know. He understands what's being proposed is to overcome barriers, but he's concerned that this creates uncertainty when the intent of the form-based code is to remove uncertainty so redevelopment can happen. He offered an example for a homeowner whose neighbor's 35% would increase the setback to such an extent that it would affect his property rights.

Commissioner Semmler said he feels this puts more control on it “so someone doesn’t do something crazy,” but having heard Commissioner Dechovitz’s concerns, he, too, is concerned. He said he had interpreted it as “more opportunity for a different kind of construction.” Ms. Anderson said it depends on the aspect from which one looks at it. Commissioner Semmler said “this could open up a big box of worms.” Commissioner Dechovitz said he expects there won’t be a rush to apply for 35% setbacks, but it creates uncertainty for new property purchase because people don’t know what will be going on in the property next door to them. This can make the neighborhood and the properties less desirable.

Ms. Anderson said the board would take a neighbor’s concerns into account. Commissioner Dechovitz said the way to move speedily to redevelopment is to get on with the form-based code; he’d prefer that to the UDO being modified, as the UDO is “already monstrous and so complex.” Ms. Anderson said that’s the ultimate solution but it will be at least 12 months.

Commissioner Dechovitz asked how many applicants might make use of this, based on how many have come into her office with such a request; Ms. Anderson said she’s had 3 in the last 2 months. There is interest in “getting this going.” Commissioner Dechovitz asked if this were applied in those instances if this would be consistent with the form-based code. Ms. Anderson said yes, the outcomes would have been desirable, but they don’t know how the adjoining property owners would feel about it. Commissioner Dechovitz asked how they can protect those adjoining property owners. Ms. Anderson said this was proposed and recommended by the Office of Civic Investment. Public notification was made of the change, and she listed the groups that were notified because of their interest in the matter.

Commissioner Dechovitz asked Ms. Anderson if the three cases she mentioned were in the Historic District or the historic conservation district, and Ms. Anderson said two of the three were. Ms. Anderson said the DRB and HRB are design boards, and they care about how they will fit into the neighborhood. Commissioner Dechovitz said he’s uncomfortable with this, and he’d rather see the efforts put into form-based code. But if Ms. Anderson and the Office of Civic Investment think this can help in the interim, he can support it.

There was no public comment.

Motion: Chairman DeVito, second by Commissioner Crower, recommended approval with the minor changes discussed, including looking at the section Commissioner Hicks mentioned which has room for argument, and removing the AICUZ section. The motion passed unanimously.

Commissioner Hicks said if this is good for the City of Beaufort, he wondered if it would be good for the Town of Port Royal, too. Chairman DeVito said they are less strict in some ways than the

City of Beaufort because of the overlays. The city is catching up with the Town of Port Royal in this case.

City of Beaufort – UDO Amendment

Revising Section 9.2.E, “Nonconforming Structures,” to permit additions on nonconforming structures.

Ms. Anderson said this addresses non-conforming structures. Extensions are presently highly restricted to not beyond the existing line of the building; they're proposing a linear extension which would extend it back. Currently, it has to have the addition meet the setback. Applicants have to go to the ZBOA. They're proposing a change not to go further into the setback, but to eliminate the phrase sentence that says it cannot extend past the line of the existing structure. Commissioner Dechovitz said he has fewer issues with this change because it is in line with the form-based code.

Commissioner Dechovitz made a motion, second by Commissioner Semmler, to recommend approval of the amendment. The motion passed unanimously.

CITY OF BEAUFORT – UPDATE ON COUNCIL ACTIONS

The PUD changes that had been up for the Planning Commission's consideration went to council for public hearing and second reading.

DISCUSSION

Chairman DeVito asked Ms. Anderson to try to ensure that the packets get to the Planning Commission members sooner.

REVIEW MINUTES OF THE JULY 18, 2011 MEETING

Commissioner Dechovitz said in his statement on page 1 of the minutes, the phrase in quotations should be “trying to be URBAN walking communities.” **Commissioner Dechovitz made a motion to approve the minutes as amended. Commissioner Semmler seconded the motion. The motion passed unanimously.**

There being no further business to come before the commission, **Commissioner Dechovitz made a motion to adjourn, seconded by Commissioner Crower. The motion passed unanimously,** and the meeting was adjourned at 6:47 p.m.