

A meeting of the **Beaufort-Port Royal Metropolitan Planning Commission was held on December 17, 2012 at 5:30 p.m.** in council chambers of the Beaufort Municipal Complex, 1911 Boundary Street. In attendance were Chairman Joe DeVito and Commissioners Alice Howard, Bill Harris, Jim Hicks, and James Crower, City of Beaufort Planning Director Libby Anderson, and Town of Port Royal Planning Director Linda Bridges.

Robert Semmler was 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

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

MINUTES

Commissioner Hicks made a motion, second by Commissioner Harris, to accept the minutes of November 19, 2012 as submitted. The motion passed unanimously.

Commissioner Crower requested at the January 14, 2013 meeting that there be a note in these minutes clarifying the fact that there was an error “involving the area of the property”.

REVIEW OF PROJECTS FOR THE TOWN OF PORT ROYAL

Town of Port Royal – Rezone Parcels R110 009 000 023A 0000, approximately 1.61 acres, and R110 009 000 023F 0000, approximately 1.21 acres

Ms. Bridges said that these parcels are located at 132 and 134 Johnny Morrall Circle. The parcels are currently zoned General Residential. The proposed zoning is Mixed Use-2.

The applicant is New Horizon Group. Ms. Bridges said that there was an error, but the staff report is correct. The parcels are vacant, she said, and went on to describe where they are located. The parcels are currently zoned General Residential District which allows single family and various multi-family uses but no commercial development. It also allows mobile homes on individual lots. The proposed zoning is MU-2 to allow the same permanent residential uses, but it doesn't allow mobile homes on individual lots. Also, MU-2 allows a specific list of commercial activities, including office, retail and service businesses. They are to be “neighborhood-friendly” businesses, such as an architect's or attorney's office, an artist's studio, a boutique, etc.

There are a fair number of MU-2 zoned areas in Port Royal, Ms. Bridges said. MU-2 has also been amended to guarantee the neighborhood scale of the commercial that's allowed. The maximum size footprint for a business 3000 square feet, and the hours of business are limited to 8 am – 10 pm. In regard to the Comprehensive Plan and the Future Land Use map, it's to be a

Traditional Neighborhood designation in the Controlled Growth sector. They have sidewalks, smaller lots, and housing diversity as well as Neighborhood Commercial establishments. There couldn't be a big box store there, Ms. Bridges said, but they might have a former residence converted to an art gallery or coffee shop, for example. There are no environmental issues. Public notice to the neighbors was made, Ms. Bridges said.

Chairman DeVito asked the planning review that this would go through if it's a commercial building. Ms. Bridges said all commercial buildings in the established overlay, before development to apartments or commercial buildings, go before the Design Review Board. There are standards for all commercial buildings, she said.

Commissioner Crower asked about the vehicle access to the lot. Ms. Bridges said there is no straightforward road access; it's a land-locked parcel. It might be that a title search would turn up an easement which was recorded for that front parcel. Both parcels and the land to the north are owned by the same group. The PUD to the north has MU-2 base zoning, Ms. Bridges said. The PUD was written with MU-2 at its core, and the PUD clarified it as single family residential.

Commissioner Hicks asked Ms. Bridges what the criteria are for letting MU-2 into a residential area in Port Royal. Ms. Bridges asked if he meant when MU-2 is already there, or if they want to rezone to MU-2. Commissioner Hicks said on Lady's Island, they go to the equivalent of MU-2 for very specific reasons when they want to encourage mixed use in a deteriorated area. He's curious about the limitations of MU-2 in Port Royal. Ms. Bridges said she would go back to the 1995 Master Plan, which is still used routinely in the Town of Port Royal. It's part of the Comprehensive Plan, and any time the Comprehensive Plan is updated, they look to this document. The plan in 1995 began by envisioning a new idea: traditional neighborhood development, a move away from Euclidean zoning to where uses are separated with a mix of uses and the mixing in of Neighborhood Commercial that co-existed with residential. Often, she said, it became the tool used repeatedly to offer incentive for development in an area that needed it. Commissioner Hicks said the Town of Port Royal has areas designated to be a Traditional Neighborhood; Ms. Bridges said yes, much of the town is designated MU-1 and MU-2 and Traditional Neighborhood.

Anthony Dore, a member of the New Horizon Group, appeared as the applicants' representative. **Marge Barber**, representing the Village at Port Royal Landing property owners' association, said that she appreciated being sent the letter from the town to tell the neighbors that this was happening. They had hoped the land would be developed into a residential area like theirs. There is a lot of business surrounding the land in question, Ms. Barber said, and they are the types of businesses that don't always make it, so they end up being empty. The association members hope that won't happen, since this is directly behind their neighborhood.

They prefer “something more stable than MU-2.” They are also concerned that there might be more tree removal in order to open more businesses, and they don’t want that.

Chairman DeVito said he agrees with Ms. Bridges that this area is appropriate for the sort of zoning that the applicant has asked for. Commissioner Crower said that there are a lot of vacant buildings there, as Ms. Barber said, and this might be the spark to bring activity to the area.

Commissioner Crower made a motion to forward a recommendation for the MU-2 zoning as submitted, seconded by Commissioner Hicks. Ms. Bridges said in response to a question from Commissioner Howard that every tree greater than 8” in diameter must have a permit to remove or prune it. **The motion passed unanimously.**

REVIEW OF PROJECTS FOR THE CITY OF BEAUFORT

UDO Amendment – Revising Section 5.1, “Use Tables,” to permit “botels” in the Conservation Preservation District as a conditional use.

Applicant: Ted Andrae

Ms. Anderson said the downtown marina is zoned Conservation/Preservation. Any commercial enterprises are not permitted in this zone. Staff is concerned about permitting a non-water dependent use in public waters. There are many guest accommodations in the city and staff is concerned that they are using this limited space for this use. If the Planning Commission and council decide to allow it, the staff suggests that the enterprise be defined as a “boatel” and permitted as a conditional use only in the Conservation/Preservation district.

Ms. Anderson said other conditions are: keeping the boats small (no more than 5 guest rooms); only one boatel allowed per dock and no more than 6 in the downtown marina; no cap is suggested in the mooring field; the use must be in an approved marina or mooring field; written approval by the manager; a resident manager must be on-site with guests; a management plan addressing fire safety, sanitation, etc.; certification from agencies for boats; proof of insurance to operate a boatel; use runs with ownership, not the boat itself; use for overnight accommodations only, not banquet facilities or rental of equipment; renewal of the business license is contingent with the use’s consistency with the Civic Master Plan, Ms. Anderson said.

Ms. Anderson said that the Planning Commission considered the application at their last meeting, but it was tabled to obtain the input of the Redevelopment Commission. The Redevelopment Commission at their meeting on December 6 received a copy of the minutes from the MPC discussion. They discussed it and “felt okay about it with conditions,” Ms. Anderson said. The commission’s concerns were the implementation of the Civic Master Plan and that the marina not be overrun by botels. City staff notified various groups with an interest in this matter. Council had a public hearing on this issue last week.

Chairman DeVito asked about accommodation taxes. Ms. Anderson said they will have to pay it like any hotel or B&B as a condition of their business license approval. Commissioner Harris asked if there was discussion in the Redevelopment Commission meeting about the size of the boat. Ms. Anderson said it wasn't discussed, but she feels like it is a concern. Commissioner Harris asked if the Redevelopment Commission discussed the mooring field, and Ms. Anderson said not that she recalled.

Commissioner Howard asked about sanitation and if waste water was pumped out of this boat. Ms. Anderson said in Mr. Andrae's boat, it has a package treatment program so treated water can be discharged; staff will look at their paperwork to certify it. **Rick Griffith** said the marina has provision for this.

Commissioner Hicks asked who determines the renewal of the business license, and Ms. Anderson said it would be the zoning administrator working with the business license office. She said it would be the person in charge of the UDO or, in the future, Form-Based Code. Commissioner Hicks suggested that they need to specify who it is that determines the license status in the conditions. Commissioner Crower said he was amazed that the Conservation/Preservation district extends to the water; he said he would think it would stop at the critical line.

Alan Dechovitz said, on behalf of the Redevelopment Commission, that Jon **Verity** had polled the commissioners' comments, and most did not reference the UDO or the Civic Master Plan. They instead focused on "whether (the boatel) was a good idea or not." The Civic Master Plan, Mr. Dechovitz said, doesn't envision the marina being used for businesses floating on the water for overnight accommodations. The city has created a Civic Master Plan that will bring development and "spark the creation of a walking district in the Northwest Quadrant, among other things." The Redevelopment Commission is going to try to "make all that happen," Mr. Dechovitz said. So if they were negotiating with someone to develop on this property, they "would say not to consider this at all," but they're "a year off from talking to a developer," and the marina has had historically low usage (40% underutilized) since the economic downturn. This project could bring more income to Griffin Enterprises, Mr. Dechovitz said.

Therefore, the Redevelopment Commission supports this, Mr. Dechovitz said, but doesn't want a change in the zoning ordinance that would create a negotiating problem when they begin to negotiate with a developer for the marina area. One thing they asked Ms. Anderson to include as a condition of use is a requirement that should the Redevelopment Commission begin negotiations with a developer, the city could terminate a business license on all businesses in the marina, such as this boatel and/or others, without cost to the city. That way a developer "could be assured that there's no problem with disinvesting these types of businesses."

Mr. Dechovitz went on to say that Mr. Griffin had said that there are six potential docks for botels, but Mr. Dechovitz and Mr. Verity feel that the more botels come to the marina, the more complicated it will be in regard to future marina development, so they would prefer that it be limited to two businesses. These businesses should be required to be large in order to bring “cash flow” into the marina. The minimum number of rooms should be three and the maximum five. There’s no issue about having this type of business in the mooring field, Mr. Dechovitz said.

Chairman DeVito said any development that the Redevelopment Commission negotiates with would not happen in thirty days, but is more likely to last six months to a year. Therefore, it could all be the time of license renewal at the beginning of a calendar year when the business would have to relocate. That business could operate “until the last minute.” It wouldn’t be twelve months that they could remain in business; it would be until the next time their license was up for renewal. Mr. Dechovitz said they want “a developer who has money and wants to develop here.” They “want no impediments to those negotiations,” and a short period of time for the businesses to vacate would ensure that they do not create an impediment to negotiations. Mr. Dechovitz said **Craig Lewis** had said this was “a usual kind of condition to place on a business license,” and it “happens all the time.” Mr. Dechovitz concluded that what they are asking for “is not all that unusual.”

Commissioner Howard said that in the draft minutes of the Redevelopment Commission meeting, there’s nothing about the going from allowing six botels to two. She asked Mr. Dechovitz if two botels was in his opinion of a good number to allow. Mr. Dechovitz said “Six was never discussed.” Mr. Dechovitz said they “talked about one more business but perhaps no more,” in his recollection, though the minutes don’t show that. Mr. Dechovitz said Mr. Griffin doesn’t want six, either. Mr. Dechovitz said they can’t have just one, but every one over that is one more business they will have to negotiate with when a developer comes in.

Chairman DeVito said he feels that three would be a good number of botels. Commissioner Harris asked how the Planning Commission feels about the mooring field. He feels seeing larger boats at the marina is picturesque, but in the mooring field, there seems to be less support for the boats “dotting the waterway.” Commissioner Howard said she recommends the city decide on a number of botels, not the Planning Commission.

Chairman DeVito asked Mr. Griffin about the number of docks. Mr. Griffin explained how the dock is laid out. He said they broke the marina up that way, and he doesn't “anticipate seeing a bunch of this sort of activity”; this is his first request for it in 38 years. He’s not concerned about this, he said, and he doesn’t think it should be *limited* to this one boat, though he reiterated that he doesn't see the demand out there.

Commissioner Hicks asked about the request to modify the renewal. He feels that if the Planning Commission is going to approve the use, the renewal would require the concurrence of both parties. To do less than that, he feels, "shouldn't be done." If someone is given a license for a year, they should be allowed to have it. It shouldn't be done based on the Civic Master Plan but on the concurrence of both parties in order to be fairer to the business person.

Chairman DeVito said that the issue to him is that the last statement be "run through the lawyer" so that there's "solid ground" if there's a decision not to make the renewal of a license. As far as pulling the license, Chairman DeVito said, the Planning Commission seems to feel that it's best to let the license run its course, not make it a thirty-day notice. Commissioner Hicks said he would prefer that this come from the City of Beaufort. **Commissioner Harris made a motion to recommend approval of the application with the conditions as presented by staff except that there's should be a statement about who renews the business license and what the appeals process is; the business license will run out at the end of the calendar year, not with thirty-days notice; these botels can be at docks only, not in the mooring field; the number of botels allowed will be left at six. Commissioner Howard seconded the motion.**

Commissioner Crower said he will not support the motion. A lot of the discussion and the Redevelopment Commission has had to do with whether this is a good business and not whether it's good for it to be in a Conservation/Preservation District. He thinks it's a bad idea to include this in the Conservation/Preservation zoning district. He read from the code as to what a Conservation/Preservation District is. This kind of use, he feels, is not compatible with Conservation/Preservation, and he doesn't think it should be included in the description of uses for Conservation/Preservation. This kind of business could be in the marina with lawyers changing the contract to the way the City of Beaufort wants businesses to run. They can do it under a contract, but not change the Conservation/Preservation rules.

Chairman DeVito said it's interesting that the marina is commercial, and it's in the Conservation/Preservation district. Commissioner Hicks asked if the dock at Lady's Island marina is in the Conservation/Preservation district and would be authorized for botels. Ms. Anderson said that's in a PUD, and she "would have to look at it closely."

Commissioner Hicks said if they say the water is in the Conservation/Preservation area there, it goes all the way to Factory Creek. Ms. Anderson said water-oriented facilities are allowed in Conservation/Preservation but limited to a certain type of businesses. Overnight stay is not permitted; the staff concern is that non-water-dependent uses would be permitted if botels are.

Commissioner Crower said the Redevelopment Commission thought it was a good idea from a business standpoint, but all the notes that the Planning Commission got from the general public were mainly from people with property on the water who were against it. Chairman DeVito

reminded the commission that the motion was to recommend the application to council with changes. **The motion passed with a vote of 4-1, Commissioner Crower opposed.**

UDO Amendment – Revising Section 6.6.F.1 “Outdoor Display of Merchandise,” to clarify what types of merchandise are exempt from display requirements

Ms. Anderson said the current ordinance “apparently has some loopholes.” Cars and boats are exempt from the ordinance and are not restricted in their display in front of a business. Indoor merchandise, though, is limited to being displayed in the front of the building and only 5’ from it. A lawnmower sales and repair shop wants to display its wares farther away from the building; the items are kept inside at night, and they want to display them outside during the day. The city has said that can’t be done, so the business is appealing that decision to the Zoning Board of Appeals.

Ms. Anderson said the ordinance isn’t clear; it refers to lawn maintenance equipment as outdoor merchandise. The intent was meant to apply to merchandise that couldn’t be moved easily, they didn’t think of merchandise that could be used outdoors but was stored inside at night and would be moved outside for display. Ms. Anderson said staff is suggesting that a provision be added in the ordinance that defines outdoor merchandise and eliminates outdoor maintenance equipment and merchandise that is stored inside during non-business hours. If it can be moved around, it will be treated as indoor merchandise, Ms. Anderson said. It’s the same as mannequins, toys, etc. that are moved in and out every day.

Commissioner Hicks said Lowe’s and Wal-Mart display lawnmowers. Ms. Anderson said they don’t move them, though. Commissioner Harris said they display grills, too. Chairman DeVito said he’s struggling with the idea that people bring these things in for security, so then they can’t bring them back out for display. Chairman DeVito said this business has been displaying these items outdoors “for years,” and then taking them in at night for security because they can’t secure them outdoors like a business like Lowe’s does. He said a motorcycle business may bring its merchandise in and out. Ms. Anderson said her concern is that if the Zoning Board of Appeals upholds the appeal, there’s no way to keep used furniture from being out on the street. The ordinance’s intent was to keep this kind of thing from happening.

Commissioner Howard asked about a thrift store and whether its merchandise would fall under the ordinance. Ms. Anderson said the merchandise is right in front of the store, and “it’s very difficult to enforce.” There’s nothing that says in the ordinance that they can’t put out *anything* as long as it’s 5’ from the store. Council heard neighborhood complaints about this thrift store and wasn’t interested in changing this.

Ms. Anderson said right now they couldn’t enforce this ordinance for a furniture business. Commissioner Hicks said they have struggled with this because businesses feel that “if they put

merchandise outside they will sell more.” Commissioner Hicks said people can put items on a truck and park it close to the business or beat the sign ordinance by parking a car or truck with the business name on it nearby in order to have another sign. Chairman DeVito reiterated that the business seeking an appeal has been displaying his mowers for five years every day. Ms. Anderson said when this business was moving to their current location, whether they were in the city before and displaying their merchandise then didn’t come up. Ms. Anderson said she doesn't think the old location of the business was in the city limits.

Commissioner Hicks said next there will be golf carts, not in regard to putting them outside but about how many are an appropriate representative number. Chairman DeVito said they could make it a percentage of the total amount of property. Commissioner Crower said it seems arbitrary as to what is defined as “indoor” and “outdoor.” “Maybe the metric should be how much of your outside has merchandise on it,” Chairman DeVito agreed.

Commissioner Hicks said he has sympathy with the business owner, but he’s “not sure there’s not another hurdle to go on this one.” He said he’s not opposed to appropriate displays of merchandise. Ms. Bridges said the Town of Port Royal’s ordinance is worded similarly to the city’s. Since they made the clarification, they haven’t had to revisit the issue. She doesn’t hear from citizens who are dissatisfied with the appearance of businesses, and she has no issues with control and enforcement.

Commissioner Hicks suggested that they probably should look at mechanized equipment that can be pulled in and out. Ms. Anderson said she can work on this a little more. **Commissioner Harris made a motion to table the matter for further discussion until the staff is ready to bring it back to the Planning Commission. Commissioner Hicks seconded the motion. The motion passed unanimously.**

City of Beaufort – Update on Council Actions

Ms. Anderson said that the UDO amendment in regard to free-standing signs received its second reading on November 22.

The second reading to adopt the Civic Master Plan for Sector One was held on November 22 at city council.

The rezoning of 308 Charles Street will receive its second reading at the council meeting on December 18.

The second reading on rezoning six Whitehall parcels to Neighborhood Commercial was held December 11. They left four lots along Harborview Drive. They are smaller and will remain R-4; Harborview Drive was closed, but it doesn’t include the one lot on the water which has Neighborhood Commercial right up against it. They will submit a lot recombination plot.

Town of Port Royal

Ms. Bridges said that town council annexed 860 Robert Smalls Parkway, R-17, “down against the water.” They also rezoned three other parcels there, she said. They put Highway Commercial on the road and General Commercial in deeper. Chairman DeVito said that was “a good negotiation.”

Council rezoned District 112, Map 30, parcels 307, 308 and 316 to Highway Commercial with the Robert Smalls Parkway Overlay and General Commercial.

Commissioner Hicks asked about next month’s Planning Commission meeting, and said he would like to see what Port Royal says and what the Village Center says about outdoor display and see if they are saying similar things. The commission would like to see the Town of Port Royal’s, the county’s and the city’s ordinances in regard to outdoor display.

UPDATE ON THE FORM-BASED CODE PROCESS

Commissioner Harris said the last meeting “stalled a little bit,” so the approach is being rethought. Commissioner Howard said they will be having regular meetings every two weeks now. Commissioner Crower said they continue to make progress but are suspended for the holidays.

There being no further business to come before the commission, Commissioner Hicks made a motion to adjourn the meeting. The meeting was adjourned at 7:00 p.m.