

A meeting of the Beaufort-Port Royal Metropolitan Planning Commission was held on **February 20, 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 James Crower, Jim Hicks, and Alan Dechovitz, and City of Beaufort Planning Director Libby Anderson. Commissioner 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

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

Commissioner Crower made a motion, seconded by Commissioner Dechovitz, to amend agenda by removing the election of officers, which had taken place at the previous meeting. The motion passed unanimously.

REVIEW OF PROJECTS FOR THE CITY OF BEAUFORT

City of Beaufort – Rezoning. Rezoning six parcels of property on Harborview Drive, identified as District 123, Tax Map 14, Parcels 21, 22, 24, 26, 28, and 30. The existing zoning is “R-4 High Density Single-Family Residential District.” The proposed zoning is “Neighborhood Commercial District.”

Applicant: Aslan Whitehall, LLC

Ms. Anderson said the property is on Harborview Drive on Lady’s Island. Six parcels are to be rezoned. The lots are part of a property that’s known as Whitehall. The lots were original developed as part of the Harborview subdivision and developed for single-family dwellings. The current zoning is R-4, a single family district that permits residential dwellings on lots 4000 square feet in area.

Ms. Anderson showed a graphic of the other zoning in the area. Proposed zoning is Neighborhood Commercial District. It is a mixed use zone to permit all types of residential development and all types of offices and commercial uses. There are vehicular restrictions: no auto repair or sales or drive-through restaurants, etc. Stand-alone office and commercial development is 2500 square feet. The limit on the building footprint is lifted if it is mixed use.

The Comprehensive Plan designation is G-2, which is for denser and more walkable neighborhoods. Ms. Anderson enumerated the other uses in this designation, including even light industrial uses. In the Sector One Civic Master Plan, this area was looked at as possibly a medium-intensity mixed use area with a wide range of building types including apartments,

mixed use buildings, and row houses. She showed conceptual renderings of what Whitehall could look like under the Master Plan.

Ms. Anderson said the Whitehall property is currently undeveloped. To the south is the Harborview Circle subdivision, which are single-family and occasional commercial uses. On Sea Island Parkway, it's primarily commercial development. If the property was rezoned, she said, it would be more marketable. The Whitehall property could be more efficiently planned if it were rezoned. Public water is available, but sewer is not. A pump station would be planned. Public notification was made; one public comment was received and passed to the Metro Planning Commission.

Staff recommends that the development of this property would benefit from the form-based code, Ms. Anderson said. Therefore staff and the Office of Civic Investment recommend denial until the form-based code is ready, probably next month. The rezoning will take longer, but there will be a better view of what T4-Neighborhood Commercial means. Applicants could develop their own form-based code as was done for Bladen and Boundary Streets, she added.

Commissioner Crower asked if there were lots on the illustration that weren't in the city. Ms. Anderson pointed out those that were unincorporated county. Commissioner Crower asked if there were complications from pulling the lots out of Harborview. Ms. Anderson said if there were restrictive covenants, she is not aware of them, and none of which have come forward at this time.

Commissioner Dechovitz asked if the applicant was aware of the closeness of the draft of the form-based code. Ms. Anderson said she had mentioned it in the Pre-Application Conference, and the applicant could better speak to that.

Commissioner Dechovitz said when Ms. Anderson described the Neighborhood Commercial zoning; it was similar to the form-based code for Bladen Street except for the architectural standards. Ms. Anderson agreed that this was correct. Commissioner Dechovitz asked if they had considered applying the Bladen Street codes to this area. Ms. Anderson said there really isn't a Master Plan, and for Bladen, there were individual plans for each lot. Ms. Anderson said they could be used as a model, but with additional planning; it would need to be codified.

David Tedder, representing the applicant, said he was surprised at the recommendation of denial by staff. R-4 is not compatible with the Comprehensive Plan, he said, but only with the Neighborhood Commercial district. He said in the Pre-Application Conference, they were told the form-based code would take longer than 6 months. There's no ordinance to prohibit the Metro Planning Commission from moving forward, Mr. Tedder said. He feels it should be brought into compliance with the Comprehensive Plan.

Mr. Tedder said that the area “is well known for its checkered past.” It’s been master planned several times, and it’s always been Neighborhood Commercial and “a type of form-based code.” It has been through a number of owners and developers. Many properties are in suspension, he said, and what’s right to do here is to not wait even a month to get the right zoning and get it in compliance with what the Comprehensive Plan says. When the form-based code is here, development can be stopped and the code adopted. He thinks they should look at all the factors and look at what the ordinance says.

Commissioner Dechovitz asked what harm would be done by the wait for the form-based code. Mr. Tedder said it would harm them because of the book value, which has decreased. There won’t be harm to the community because anything under Neighborhood Commercial would be compatible with plans that have been made for more than a decade. Commissioner Dechovitz asked if the owner would like to get it compatible with zoning in order to sell it. Mr. Tedder said they want to get “a real developer,” and to do so they have to get compatible zoning.

He was told that the property is not in foreclosure, as he had assumed. Commissioner Dechovitz clarified that the owner is experiencing difficulties finding a developer to partner with because of the incompatible zoning; Mr. Tedder said that is correct. Mr. Tedder said the form-based code will not be optional, but will be imposed. So if a developer were to come in now, (s) he would operate under Neighborhood Commercial zoning and then have the area rezoned under the form-based code. Mr. Tedder said the problem is with not knowing *when* the form-based code will be put into place and if a profit can be made under it. It’s a matter of timing, he said, to get there and to get into preliminary master planning.

Reed Armstrong, Coastal Conservation League, said in regard to the master plans presented before for the property, the Neighborhood Commercial doesn't seem far-fetched, but the form-based code is well along, and the county has conducted charettes on this area, as has the city. He agrees with the staff’s recommendation that the Metro Planning Commission wait on the form-based code to be sure about what is to become of this property.

Commissioner Hicks reviewed the history of the property and the plans for it since 1999. When 303 Associates bought it, it was made R4 without complaints from the neighbors in 2005. King and Co., a city planner from Boston, owned it next in 2006, and had conceptual plans including parallel parking on Sea Island Parkway. Of Aslan’s conceptual, one was conceptual but residential and a second was residential when it was designed, not commercial. Though he sympathizes with the owner, Commissioner Hicks said he feels that the Metro Planning Commission should concur with the City of Beaufort, which said R4 was appropriate to protect the community when the owner bought it in 2005. He added that he thinks it’s dangerous and unfair to make a “blanket move.”

Commissioner Dechovitz said he wasn't clear if Commissioner Hicks's opinion was that it should be a different use than R4, or if he was saying that if there were a Comprehensive Plan for the area that incorporates it and Whitehall that showed a change in use, he would be okay with the people on the adjoining properties being protected and inclined to change the zoning on the lots. Commissioner Hicks said he was saying that they shouldn't act until there is something more than just a concept; if the form-based code does that, that's great, but they shouldn't do anything until then.

Commissioner Dechovitz said someone with a PUD could ask for rezoning. Commissioner Hicks said they can't get so picky as to say that the form-based code is the only way. Commissioner Dechovitz clarified that Commissioner Hicks is not opposed to rezoning the property but just in the absence of knowing how the property owners would be protected.

Commissioner Hicks made a motion to support staff's recommendation; Chairman DeVito seconded. Commissioner Crower asked the effect on the R4 lot when the form-based code goes in. He asked if it would apply to each lot and whether the six lots being R4 or Neighborhood Commercial would affect the remaining lots in the subdivision. Chairman DeVito said they're still in the county, so if the form-based code is adopted by the City of Beaufort, it will not affect those. Any could be unaffected by form-based code, Chairman DeVito added.

Commissioner Hicks said there are a lot of question marks for anyone to be taking pre-emptive actions. Commissioner Dechovitz said Neighborhood Commercial isn't necessarily commercial-only. He feels sympathetic to the applicant because they want to move forward but have to wait on the consultants on the form-based code. He said there should be a date by which they will have a draft product for those clients who would like to move forward on a potential improvement to the city. He feels the Redevelopment Commission should manage the Office of Civic Investment in order to bring the city a product. Commissioner Crower agreed and said the client has a right to bring the question to the Metro Planning Commission. He doesn't feel right saying no based on something that might happen.

Commissioner Hicks said his problem is making one piece Neighborhood Commercial; he's unconcerned about when the form-based code comes. He's concerned that it might not be changed if they lose protection. Chairman DeVito said many projects don't happen, but the properties are rezoned. Commissioner Dechovitz said he's not opposed to the zoning change if he knew what was going to happen there, and that the current residents are protected.

Commissioner Crower asked Ms. Anderson what the requirements were for the buffer or protection of residential property next to Neighborhood Commercial. Ms. Anderson said the only buffers under discussion are between lots in the city and those in the county. She indicated these on a map and said it's for those that are across the street from one another, not adjoining. Commissioner Crower said the northern limit now is residential bordering

Neighborhood Commercial. He asked what the buffer requirement is now. Ms. Anderson said in the city, Neighborhood Commercial that is adjoining residential now may be required to have a 11'; where adjacent uses may be incompatible, could be more. Ms. Anderson said it would be decided during the design review process. If a property were designed for a single family dwelling, the Design Review Board (DRB) might require 12' or more. She said there's flexibility there, and it's based on the use. If the board deems it incompatible, the board might recommend a 12' buffer. Chairman DeVito clarified that it all depends on what is built there.

Commissioner Dechovitz suggested recommending approval of the application subject to some conditions. Commissioner Hicks said they cannot bargain with the applicant but can only say yes or no to their application. The Metro Planning Commission is not a bargaining body. Chairman DeVito presented the possibilities that the Metro Planning Commission could do, including tabling the matter, or doing nothing, in which case it will go to council in 30 days. They could recommend different zoning, or ask the applicant to alter it and bring it back. They could say yes or no to the staff's recommendation. Chairman DeVito said the Metro Planning Commission recommendation will not influence what council does. Council can determine "whatever it wants," Chairman DeVito said, and approve it even if the Metro Planning Commission unanimously agrees with staff, because "they are the political body."

Commissioner Hicks said on Lady's Island, they could build 4,000 houses now under existing zoning, and the last person who proposed building on it proposed 300 units. He said the Metro Planning Commission and council deserves to see where this is going to go. Commissioner Dechovitz said he agrees that it's dangerous to change the zoning without a plan. **The motion passed 3-1 with Commissioner Crower opposed.**

City of Beaufort – UDO Amendment. Revising Section 6.6.F.1 of Unified Development Ordinance, "Design Districts, Additional Requirements, Outdoor Display of Merchandise," to delete the provisions pertaining to display of merchandise in buffer areas.

Applicant: City of Beaufort

This amendment deals with all types of merchandise, Ms. Anderson said, from indoor merchandise to outdoor merchandise like automobiles. Anything displayed outdoors must be set back a distance from the front buffer, whether or not the buffer exists. The buffer width is 20'. There's not a buffer at Vaden Automotive, and for the redevelopment of it, there may only be 10' but the vehicles must be placed at 20', meaning there would be 10' "of no man's land," Ms. Anderson said, which she thinks doesn't make sense. She showed the provision. Staff is suggesting deletion of the paragraph "C," she said, in regard to set back requirements for outdoor merchandise and where it can be displayed, which is a particular challenge for this dealership property.

Commissioner Hicks said if there's anything in the Town of Port Royal, City of Beaufort, and Beaufort County should standardize, this is it. One business can put something out in front of their business, and another one can't. In the long term, they "should speak with one voice." Chairman DeVito said that "C" makes no sense given "B," so he agreed that "C" didn't need to be there.

Commissioner Crower clarified that Ms. Anderson was proposing deleting "C." **Commissioner Crower made a motion recommend revising the UDO per staff's recommendation; Commissioner Hicks seconded. The motion passed unanimously.**

CITY OF BEAUFORT – UPDATE ON COUNCIL ACTIONS

Ms. Anderson said the second reading on the 1403 Lafayette rezoning was held in January and was approved by council. Additionally, the UDO amendment in regard to vehicular display will have a second reading on 2-28-12.

REVIEW OF THE MINUTES

Commissioner Hicks made a motion, seconded by Commissioner Dechovitz, to accept the minutes of the December 19, 2012 meeting as submitted. The motion passed unanimously.

Commissioner Dechovitz made a motion, seconded by Commissioner Hicks, to accept the minutes of the January 9, 2012 meeting as submitted. The motion passed unanimously.

DISCUSSION

Commissioner Hicks said in regard to the rezoning at Rug Rack, Laurel Bay, and Joe Frazier Roads in Burton, the county council denied it 7-4. Commissioner Dechovitz asked their reasoning. Commissioner Hicks said that they felt that in regard to rezoning, they should listen to the neighbors, and if they were opposed, council shouldn't do it.

Ms. Anderson said in regard to Whitehall, the applicant can bring back a conceptual plan, but unless it's a PUD, it has no regulatory authority. Commissioner Dechovitz reiterated his feeling that people shouldn't have to wait an indeterminate amount of time for the form-based code to become a reality.

Ms. Anderson said the audio conference that was held last week had brought up the issue of a tie vote. There are six members on the MPC, so that's a possibility. They could put something in the rules of procedure to make it clear that if there's a tie vote, the application is denied. Commissioner Crower said Robert's Rules say if it's a tie, it either passes or fails. Ms. Anderson said it doesn't; to make a decision, there needs to be a vote one way or the other. Chairman DeVito said as a recommending body, they can send it to council as a split group, and council should look at the minutes to see why it was split. He feels it's important if it's a tie to see why

it was tied in the Metro Planning Commission minutes. There was a general discussion about Robert's Rules and the will of the Metro Planning Commission in this matter.

Linda Bridges said even though Robert's Rules says one thing, the Metro Planning Commission can adopt its own decision. She agreed with Ms. Anderson that the conference was good. Commissioner Hicks asked what was said about site visits. Ms. Anderson said generally a group site visit is not recommended; they would have to advertise and take minutes, go to a meeting, but they can't vote there, so they would have to go on the visit and then vote later. Ms. Anderson said new members want site visits, and Chairman DeVito said individual members can go on their own.

There being no further business to come before the commission, the meeting was adjourned at 6:58 p.m.