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A special meeting of the Beaufort-Port Royal Metropolitan Planning Commission was held on **May 18, 2016 at 4:30 p.m.** in the Beaufort Municipal Complex, 1911 Boundary Street. In attendance were Vice Chairman James Crower, Commissioners Robert Semmler and Tim Rentz, and Lauren Kelly and Libby Anderson, City of Beaufort planners.

Chairman Joe DeVito and Commissioners Bill Harris and George Johnston 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

Vice Chairman Crower called the meeting to order at 4:30 p.m.

REVIEW OF BEAUFORT CODE

Ms. Kelly discussed the plan for the meeting, which was to continue reviewing the articles and comments, to look at the map, to discuss comments made at Monday's meeting by commissioners and the public, and to present strategies that she and Ms. Anderson had designed "to address some of the comments that were made."

Commissioner Semmler read from page 126 (5.7.8.B.2) about the proximity of parking to trees. He asked if this meant that parking could be 2' from a tree. Ms. Kelly said this section is meant to determine ample tree planting in parking lots. Ms. Anderson said it ensures shade within a surface parking lot, and doesn't pertain to tree root zones. The general standard is to have 10' before a tree aisle, Ms. Kelly said; she and Ms. Anderson agreed that they should look at the wording. This is unchanged from the current ordinance, Ms. Kelly added.

ARTICLE 6: SIGNS

All of the public comments that have been made on this article have been addressed, Ms. Kelly said. Much of the sign ordinance in the draft code has been carried over from the current ordinance, except that in the code, signs are covered in a separate article. For flexibility, they made a few changes, she said, such as allowing changeable copy signs for schools and theaters, clarifying what's permitted for "grand opening" signs, prohibiting some signs, and permitting more signs to allow for the greater number of tenants in large commercial developments. The allowable amount of signs there is tiered, depending on the number of businesses in the development.

ARTICLE 7: LAND DEVELOPMENT

Ms. Kelly said this article is about developing large parcels, incorporating streets, civic and open spaces that are appropriate for a development, and developing in a subdivision style on "larger amounts of property." On Monday, there had been

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discussion about the 2% of the land that developers must allocate for open space and how the developer is to be compensated for that, Ms. Kelly said.

Public comment: This section covers the requirement in new developments to install public streets and street signs. Ms. Kelly said there were questions about the appeal process, "who has the authority to grant relief," and whether the city would own and be responsible for maintaining these streets and signs. She said a street-regulating plan in the Boundary Street Master Plan shows what existing streets should look like, and where new streets should be added or provided for within a development. The Spring Hill Suites design has been approved for the Boundary Street area, and it allocates a section of its property for a city street that is part of the Boundary Street Master Plan to go through. This is not something new, Ms. Kelly said; it's a response to the question of ownership and maintenance responsibility.

According to the code, if a property is being developed and has a substandard right-of-way (e.g., it's 40', and should have a sidewalk installed, but none is provided for), then "the developer is responsible for installing and providing the right-of-way for that," Ms. Kelly said. New multi-family housing on Greenlawn Drive, the Family Dollar on Ribaut Road, and Beaufort Memorial Hospital provide examples of such a prescribed street section. This is a carryover from the current ordinance, so while it's not new, there has been a question about a "process to obtain relief," she said, and if these improvements could be made in lieu of road impact fees.

Ms. Kelly said parking lots need to be connected to one another when possible; this also is a carry-over from the current ordinance and has been implemented since approximately 2003. A comment was made that "this required connectivity would discourage redevelopment," and a question was asked about how ownership would be addressed, especially if two people own a property but one person sells, so there's a new owner. Ms. Kelly said that would have to be dealt with through easements.

Merritt Patterson came to the table and said, as a developer, he has "done a lot of . . . land planning." With improvement guarantees, the developer has to write a bond, and the city thereby forces a developer to complete a subdivision, even if there's no one who will buy its lots, he said. "Improvement guarantees used to be (for) when you were pre-selling lots," he said. "This doesn't make that distinction," so Mr. Patterson "want(s) to put in a pre-sell agreement in the matter." If he hasn't pre-sold any lots, he feels he "shouldn't have to do a performance security bond." Ms. Anderson said that's the way the current ordinance is, but that may not be clear. Mr. Patterson said, "It's not that it's not clear; it just doesn't say that."

Mr. Patterson said that 7.2.2.C refers to the length of stub streets and the need for a permanent or temporary turn-around on them. He discussed the prevalence of stub streets in Beaufort. The section also says "dead end streets and cul-de-sacs shall not be

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included in plans." He named places in the city where there are existing dead end streets and wondered why this provision is in the code, apart from the desire to conformity to the principles of new urbanism. Mr. Patterson said he thinks this section should be eliminated.

Ms. Kelly said the 150' length is driven by the fire department's standard, and they "do not permit any backing up longer than 150'." She said they could discuss this with the fire department and see if there's any flexibility that was not allowed in 2003.

According to the draft code, Ms. Kelly said, in the T3 zones only, cul-de-sacs and other turnarounds may be approved by the technical review committee (TRC) to protect or preserve a site-specific environmental feature. Mr. Patterson said T3 shouldn't be "the scapegoat" – i.e., the only zone in which cul-de-sacs are allowed– "since all the zones have this geography," which he feels cul-de-sacs are suited for, including "business developments and light industrial parks."

The code says, "gated streets are not permitted," Mr. Patterson said, yet "we've got lots of gated little communities" in Beaufort. The code says cul-de-sacs should "contain a planted median," but they're not to be included in any plans, so he asked if this is required when a cul-de-sac has been approved by special exception. Ms. Kelly said the code says, "cul-de-sac approved by the TRC shall meet the following standards."

Mr. Patterson said delivery trucks can turn around in a cul-de-sac that is at least 50'; a planted median makes a cul-de-sac 80', which is "monstrously big." He said "they" have found planted medians "to be problematic," because "cars will run over them (and) the irrigation breaks . . . In practice, (they) do not work."

Section 7.2.3.D says that "only one driveway will be permitted per lot" for 1- and 2-family homes, Mr. Patterson said; he asked why that is. Ms. Anderson said that is "generally good access management planning." DOT "frowns on more than one driveway . . . except for very large commercial frontage properties." Mr. Patterson said a lot of people, particularly older women, can't or don't want to back their cars up, so they want circular driveways. Ms. Kelly said they could look at that for lots with larger widths.

Mr. Patterson said section 7.2.4 says sidewalks must be constructed concurrently with the streets in a development, but he feels "doing so . . . is not reality anymore." This is not "how construction sequences work," he said. Ms. Anderson said without concurrent construction, there would be "a fragmented sidewalk network." Sidewalks should be put in at the same time as the other infrastructure in the development. She gave an example of a development where they had to pull in the developer and the developer's attorney to get the sidewalk network completed. If damage is done during construction, Ms. Anderson said, the developer would be required to fix it.

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Mr. Patterson said there are no sidewalks in The Point or Cottage Farm, and people walk there. Commissioner Semmler said Mr. Patterson is using examples of neighborhoods "taken out of context" of the reason for this section of the code. The Point is a historic area, created when streets were narrow and neighborhoods didn't have sidewalks, Commissioner Semmler said, and while Cottage Farm is not a gated community, its neighbors don't go in there to walk. A new subdivision like Oyster Bluff will have sidewalks, he said, and so will City Walk, which has a community adjacent to it that doesn't have sidewalks. Commissioner Semmler feels this section of the code is "flexible" as to which communities need sidewalks: Some will need them on one side only, and some will need them on two sides. He said the planning department would work with the developers on this for "a common sense approach."

Mr. Patterson said "adding all of these things on" will add costs to the developers that will in turn prevent housing from being "affordable." Commissioner Semmler noted that the Greenheath subdivision is no longer a PUD and "could follow these plans." Mr. Patterson said a 180-lot subdivision he's developing has sidewalks on both sides of the road, and the houses cost between $185,000 and $210,000, which is "kind of affordable," but "if I put this in, I've got another $15,000 (for) some of this stuff on top of that." If the city were to "load up" the code with elements that cost developers money, Mr. Patterson said, houses will "end up at Habersham (and) Newpoint prices, and you will change the character of Beaufort."

Ms. Anderson said this part of the code "puts developers on notice" that the city is looking for sidewalks, though they may not be needed on both sides of the streets. Commissioner Semmler said he understands Mr. Patterson's point, but he feels sidewalks are very important.

Mr. Patterson said in section 7.3.3, there's a reference to an "Industrial Park" district that should be to a "Light Industrial" district.

Mr. Patterson asked if the requirements for civic and open space apply to projects over 40 acres. Ms. Kelly said this applies primarily to large pieces of land, and Traditional Neighborhood Development (TND) overlay projects are a good example; with a development of at least 15 acres, certain zones can be allocated within it, and the amount of open space that needs to be provided is "based on the zone."

Mr. Patterson described studies "we did . . . the last cycle we did this code" and the code's requirements "invariably" made the properties "unbuildable." He asked if the city staff had done studies to determine whether the required percentages for wetland buffers and stormwater detention areas, for example, were feasible. Ms. Kelly said the zoning is important when looking at case studies and determining the outcome. They looked at both existing and proposed projects, she said. City Walk was a cluster

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development, for example, but it's in line with T3-N zoning. This code is "pretty flexible," she said, and is intended to encourage development while maintaining minimum standards.

Mr. Patterson said, "The statement was made (by **Jeff Ackerman** that) under this code, they couldn't build City Walk" because they would have been required to add "tree protection, setback buffers, the streets, (and storm water). Ms. Kelly said they'd be happy to look at Mr. Ackerman's analysis, but she doesn't feel that any "changes from this code would give that result." Commissioner Semmler said he was impressed by the City Walk development, which has retained its trees, and with the open space there. Mr. Patterson said there are "no poor people" in City Walk.

Commissioner Semmler said on p. 154, it says a traffic impact analysis is required for development that would "generate more than 50 trips during the peak hour on the adjacent street." 200 homes are being built in Greenheath, and there will be a lot of traffic there because of the school and Fiddler Road, but no traffic impact analysis is required. Ms. Anderson said Greenheath is in the county, so she doesn't know how the county's code would apply, but what Commissioner Semmler had cited is "pretty much verbatim from our current code . . . and I believe it's the same requirement for the county." She said a traffic impact analysis "is not required at the time of zoning," but "at the time of the development."

Mr. Patterson said a traffic impact study costs about $10,000, and "there's always some improvement DOT will make (a developer) do," so "the budget amount for any project is closer to $20,000," and $80,000 if DOT requires "a big improvement" like a traffic light. The developer doesn't always pay for the latter (e.g., the City of Beaufort paid for the light when Lowe's was developed).

Commissioner Rentz said he's sure Greenheath had to do a traffic impact analysis "when they were going through the PUD process." Once a subdivision does a traffic impact analysis, any other developments that come in behind it must consider that traffic impact analysis in their own development. Mr. Patterson said **Dick Stewart** fears that the code will require additional traffic studies on Boundary Street development, even though traffic studies have already been done there. Ms. Kelly said that staff has clarified the language in the code in response to Mr. Stewart's comments.

Commissioner Rentz said when a project is approved, everyone else who wants to develop has to consider what has already been done and approved. For Greenheath, 200 units with no commercial development has less impact than the original PUD, which had 300 units that included commercial, so no additional traffic impact analysis would be required now, because the developer "is doing less than what's already been approved."

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Commissioner Semmler said he agreed with Commissioner Rentz, but he is concerned about the statement “none is required” in regard to traffic impact analysis. No traffic impact analysis was required for PUDs that were developed 20–30 years ago, but the city has grown and changed since then. He feels that a traffic study needs to be done “when it’s necessary.” Ms. Anderson said she hopes it’s clear when traffic studies are and aren't required. In the Boundary Street Redevelopment District, they're not required because the planning is already done. On Highway 170, a development might trigger the requirement, or the state might require a traffic impact analysis, even if the city and county don’t, she said.

Mr. Patterson said **Fred Trask** had attempted to sell a TND subdivision with the features that are in this new code but was unable to. Mr. Patterson believes “there are places (the code’s standards) will and won’t work,” and “doing it everywhere will be a problem.” The Celadon development, he said, is an example of a development where they didn’t work.

Alice Howard said the charter school at Shell Point was required to do a traffic study; DOT approved it as a public school, so it didn’t take into account that nearly “every child there is brought in a car.” She cautioned those present to be aware that a public charter school is “a totally different scenario, because nobody walks to a charter school.”

Terry Murray said that the majority of the public who were present had come to react to Monday’s MPC meeting. She asked Vice Chairman Crower to change the format of the workshop. Vice Chairman Crower asked which sections those present had concerns about. Ms. Murray said they wanted to talk about the Depot Road area, cottage courts, etc.

Chad Dando, 115 South Hermitage Road, said he agreed with Mr. Patterson that “this ‘report’ looks nice,” but he doesn’t believe it’s “reality.” He asked if there were “a case where new urbanism has been inserted into a neighborhood” that is 50–60 year old. He believes the standards of the code “will change the dynamic of the neighborhood,” and will not be “a fit” for the area he lives in, because Mr. Patterson had said, “they’ve tried it before, and it hasn’t worked.”

Ms. Kelly offered a summary of the many public comments obtained during the code process, and “a lot more since,” which were heard at Monday’s MPC meeting. Two “hot button issues” were about what were mistakenly called “hotels” in the T4-NA district (Depot Road area), she said, and whether 2- and 3-unit residences in the Hermitage/Hundred Pines/West End neighborhoods should be allowed, prohibited, or allowed with restrictions. Ms. Kelly said she and Ms. Anderson had strategies about possible additional restrictions that they could discuss. She also clarified that “the lodging component” proposed for the Depot Road area is an “inn,” not a “hotel.” Inns

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are more limited in size. Staff is open to reducing the number of rooms allowed in the inn to ten or fewer, she said.

A goal of the Beaufort Code "is not to keep everything exactly the same," Ms. Kelly said. They have heard throughout the process that "these neighborhoods are some of the oldest suburbs" in Beaufort; there was no zoning when the neighborhoods started, and "they were allowed to evolve as people wanted to develop them." When the city brought in zoning, it "froze how that evolution happened" by creating "zoning to match exactly what (the) on-the-ground conditions were" at that time, Ms. Kelly said, so the neighborhoods were never allowed to evolve further. The goal of the code is not to *require* new urbanism, small lots, alleys, or 2- and 3-unit buildings, she said, but "to allow things to evolve as the market wants them to." She thinks there's "definitely room for compromise," though she doesn't feel that what city staff believes – which "is based on planning efforts" – and what the residents of these neighborhoods believe will necessarily allow the two sides to "come to an agreement."

Ms. Murray said she wanted to talk about the Depot Road area. Many of the people present at the meeting were involved in the Civic Master Plan process, she said, and residents of her neighborhood had "negotiated away – out of the master plan – some of the things (they had) found most worrisome," such as "connecting streets." Plans for development in the Depot Road area (Section 9.1 of the master plan) were removed from the Civic Master Plan, but are now in the Beaufort Code, Ms. Murray said, though those residents who were involved in the master planning process "felt we had all agreed to" eliminate them. Things like "artisan activities" and "small commercial operations that are related to fostering" the Spanish Moss Trail are "fine" with the residents, she said, because they're more concerned with the "terrible traffic pattern" in that area and with ensuring that no commercial activities will bring in "lights or noise" after their light industrial neighbors closed up for the day (e.g., no outdoor restaurants).

"When I learned Monday night that the definition of 'lodging' is a potential 24-unit" inn, Ms. Murray said, she felt "it runs counter to what's in (the) master plan." She read from Section 9.1 of the Civic Master Plan: "This plan anticipates uses and activities in the Depot area that are complimentary to this rapidly emerging trail corridor" while being compatible with and protective of the surrounding neighborhood. Ms. Murray said the section concludes by saying, "This plan recommends a discussion with Depot area stakeholders and the community at large" with the goal of creating a special zoning district; the city was to convene a meeting for this purpose "within the next 12 months, as new sections of the trail are completed." She asked if this meeting had taken place, but continued without a response, saying that "no zoning should be contemplated now" in her neighborhood, especially if it "runs counter to what we had been promised," which was that "the whole neighborhood" would work "in consultation on that."

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This draft code does not implement the master plan, Ms. Murray said. She wonders, "how many more hotels are hidden in this document," and said she "believe(s) citizens will find more surprises." She feels the civic process is "so distorted," and citizens can't "trust the city" to "protect our neighborhoods" and "honor their commitments."

Ms. Kelly said city staff had held a public meeting to discuss the Depot area, though it was not the "stakeholder meeting" Ms. Murray had cited from the Civic Master Plan. Residents had attended, and that's where "the comment about 'lodging'" came from, because "it was disclosed on the conversion sheet," Ms. Kelly said. That comment "has been carried forward through the whole public comments process." Planners are not trying to hide the idea of allowing lodging in that area, she said; they have "put (it) out there" throughout the process.

Ms. Murray said, "But lodging was never contemplated when we put the Civic Master Plan to bed." She said she and **Kathy Lindsey** were out of town when the Depot Road meeting Ms. Kelly had referred to took place, and "nobody else knew about that" meeting.

Ms. Lindsey said she and Ms. Murray had gone to "dozens of meetings with **Jon Verity**" about the Civic Master Plan, some of which included city council representatives. She said they had "a bargain for exchange," wherein they would "be able to shape" the rezoning of the Depot area, "not have it presented to us" with requests for comments. "The city has not kept faith with us," Ms. Lindsey said. Because "we are good citizens," she said, "we should be at the table when it's created." Of the process of public comments on the code for city staff and/or council to consider, or staff saying, "'Maybe we can put some more restrictions on it,'" Ms. Lindsey said, "That is not good enough. You have no mandate for that," because since the Civic Master Plan was passed, there are two new council members, "one council member who voted against" the master plan, and "a new city manager, but we're still here."

Maxine Lutz said she represents the Historic Beaufort Foundation, but "I support this crowd here tonight." She clarified that the Metropolitan Planning Commission has representatives from the City of Beaufort, the Town of Port Royal, and the county, and told the commissioners that while she "welcome(s) your listening to us," she is concerned because she's unsure that "the right people are here to hear what these people are saying, (and) the press is not here." Ms. Lutz urged those present from the public "to take these concerns to city council . . . it needs a fuller hearing than the three of you," she said, referring to the commissioners, "and I know (you) don't want to take full responsibility for it, anyway."

Vice Chairman Crower replied that the MPC *has* "to take full responsibility for it. We are the planning commission." Regardless of which area each commissioner represents, he said, "we're all together," and they have heard the concerns that have been expressed:

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“We’ll see that something comes out of that.” If area residents were promised a stakeholder meeting, “I think we probably ought to see that that happens,” Vice Chairman Crower said.

Concerning the stakeholder meeting, Ms. Anderson said that when staff was “kicking off the public involvement component of the code” process, they made “a first attempt at a stakeholder meeting for this code to try to flesh out . . . the special overlay district that would apply to (the) Depot” area. They had invited all of the property owners in the area that’s currently zoned “Limited Industrial,” Ms. Anderson said, and, as they typically do with zoning, they sent letters to invite adjacent property owners within 400’. Ms. Anderson also sent copies of the letter to Ms. Murray and Ms. Lindsey, as representatives of the neighborhood, and they were able to invite others to attend the meeting as well.

Not a lot of people attended that meeting, Ms. Anderson said, but “we did start the dialogue,” and that’s when “the issue of the lodging came up.” That component has been in the draft code since that meeting, she said, so while it’s unfortunate that it wasn’t discussed again fully until Monday night’s MPC meeting, it was not “a surprise.”

Ms. Lindsey said, “We don't see it as a meeting or consultation that was skipped.” She and Mr. Verity “nailed down the language” of the Civic Master Plan so that residents “would be at the table, in consultation with staff . . . shaping the process.” Ms. Lindsey said, “We fought over almost every word” of the Depot section of the master plan, so that unlike any “other area of the city,” Depot residents would be able to “shape the vision,” rather than make comments. The master plan “was passed by council with those words in there,” she said. “It is no accident.”

Vice Chairman Crower asked Ms. Lindsey if there is a neighborhood association for the Depot, if “you are all individual homeowners,” and if the group is seeking “a democratic process” where “everybody gets to speak.” Ms. Lindsey said, “We have an email group,” and those who are the most interested and who want to participate “show up.” She said, “We feel like it needs to be a democratic process.” Vice Chairman Crower asked Ms. Lindsey who the “we” she refers to are. She joked about using the “royal ‘we’” when referring to herself, “like the Queen.”

Trey Matthews said he has lived in Hundred Pines for 15 years, and “at one point, you wanted to put low-cost housing right beside my house. It disgusted me.” He asked about “issues with existing property,” like the Pickle Factory, and said he doesn't want his neighborhood “to look like Paris Avenue in Port Royal” (i.e., with small lots, close together). He asked why Bridges School on Boundary Street isn't being built. Mr. Matthews said is neighborhood is “pretty well established,” so he does not favor multi-family housing there. He asked the planners rhetorically if they were saying that under the code, the owner of the lot across from his, which “has 400 linear feet,” could

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“additionally have 16 homes on that lot.” He said he feels lot sizes “are being reduced way too much.”

Ms. Murray summarized “the kinds of concerns we have.” The first is the reduction of lot sizes “to such an extent in an established neighborhood.” The second is 2- or 3-unit houses on corners. These houses “can also be done on lots with alley access,” she said, which some lots in her neighborhood have. Ms. Murray said another concern is cottage courts; she is unable to find anything in the master plan about them.

Mr. Dando said the code says waterfront lots can be subdivided further, which he’d prefer not to see. About Mr. Matthews’s question about the Pickle Factory, he said Mayor Keyserling had held a meeting several years ago with its owner and residents of the neighborhood, and it was decided it would be “a high-end condo development,” which was an “outcome” Mr. Dando said he “didn't agree with,” but it never developed. He said he’s not part of a Hermitage neighborhood association. Deceasing lot sizes on the water “to fit more homes in there” is ideal for developers, he said, but that’s not “the best feel for the neighborhood” or what’s best for the environment because of run-off into the river.

Ms. Kelly said what Mr. Dando is referring to applies to “fairly large waterfront lots.” Whether the dimensions are exactly how they should be, she said, the idea is that on large waterfront lots, a house could be built facing the street/ a park on the interior portion of the lot – so that there would be “eyes on the street” for safety and a “more consistent streetscape” – while another house faces the water. Ms. Anderson said this provision was put in the code specifically for Pigeon Point, where there are very deep waterfront lots. Someone could subdivide their lot and have a house fronting the park and one facing the water. Ms. Kelly said this applies to lots that are 18,000 square feet, or 1.5 times the minimum lot size. Mr. Dando said staff could have a stakeholder meeting for people to whom this would apply. Ms. Anderson said that the setback would have to be met, which narrows the range of those lots to which it would apply.

Ms. Lindsey said if the city has a stakeholder meeting “before the Depot is rezoned,” staff could contact her, Ms. Murray, and Mr. Patterson, who would “get the word out” about the meeting.

Ms. Lindsey said the development of the marina parking lot was “all set to go” until “someone in our group happened to walk through (Waterfront Park), and noticed that it was built on land that was funded with federal dollars.” She said the City of Beaufort would have incurred a $3 million fine after spending hundreds of thousands of dollars on tests; she feels that this is an example of “the law of unintended consequences.”

Ms. Lindsey said on page 39 of the code, there’s a picture of a cottage court on a lot that is the size of her and her next-door neighbor’s lots if they were to combine them into a

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single parcel; she called this “a very easy threshold to meet.” She feels that if the city allows “this many households, children, pets . . . and traffic” into her neighborhood via multi-family housing, the neighborhood “loses its feel.” Ms. Lindsey said, “We bought into a suburban area, not a ‘new urbanist’ area, for a reason. That is wrong. That defies the law of expectations of what we thought we were getting.”

Monty Hopey said he represents the Cottage Farm property owners association. Mr. Patterson and **Jamie Boswell** “were responsible” for Cottage Farm. There are 102 residents who “bought into something” when they bought property there. The residents like their subdivision, Mr. Hopey said, so “we resent somebody trying to change that, and that’s what this board is trying to do,” and what "the form-based code is trying to do.” Residents want Cottage Farm to be a PUD, he said and they don’t want the “nuances of T3-S within our subdivision.” Mr. Hopey suggested that planners “need to do . . . a homeowners study” to determine how “what you’re proposing is going to impact on us.”

Delores Hopey said they had chosen to live in Cottage Farm because it was residential-only and had covenants. If they had wanted something else, she said, they would have chosen to live elsewhere. They wanted underground utilities, storm drains, and no commercial development. Ms. Hopey said that when it approved Cottage Farm, “the city made a covenant” with people who live there now and in the future. She feels that the code is telling those who live there that they’re “not smart enough” to know what they need in their development, which she finds “insulting” and “infuriating.” Ms. Hopey said that Cottage Farm “could be grandfathered,” and the city could “have your form-based codes, with the exception of Hermitage, Cottage Farm, (and) whoever is against it.”

Ms. Kelly said there have been conversations with residents of developments with existing PUDs, like Cottage Farm, because city planners thought it made sense for older PUDs to adopt the T3-S zoning, “knowing that your covenants still would apply . . . (but) we’re not trying to force any PUDs to adopt the underlying zoning, so we can absolutely just keep it as the PUD.”

Vice Chairman Crower said, “If you have covenants, they run with the land,” and the city is not going to change them. Ms. Anderson said older PUDs like Cottage Farm have a subdivision plat and covenants, but they don’t have a PUD document, so there’s nowhere to go to determine minimum lot area, width, setbacks, etc. The city doesn't enforce covenants. Planners felt adopting the underlying zoning might be a benefit to the owners, she said: to have these standards “for clarity and to administer development” in that subdivision. Ms. Anderson said she “would like to have another try” at a conversation with all of the Cottage Farm owners. Mr. Hopey said she could come to the Cottage Farm board of directors meeting.

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Ms. Howard said she had sent an email to council about Southside Park. (*A copy is attached to these minutes for the record. – steno.*) In the proposed code, there's a definition of parks and open spaces, she said. Southside Park is coded T4-N, and she is concerned that "developers will think that it's open for development." She requested it be coded T1.

Ms. Howard also commented that she has a background in planning, and in "a newer city," these suburbs "might already have been put on the historic register" because of their age, open space, and uniqueness. Waddell Gardens, Mossy Oaks, and "parts of Hermitage" are among "the few affordable housing areas left," and people are moving in there because they "have nice green space." She confirmed with Ms. Lutz that in some cities, suburban neighborhoods like Pigeon Point and Hermitage are on the National Register of Historic Places.

Joe McKain, 158 Fuller Parkway, said he has a lot of good neighbors and would like to keep it that way, and "keep things the way they are."

Margaret Breithaupt said she lives next to Mr. McKain at 126 Fuller Parkway. She described the background of Fuller Parkway and Hermitage. Some Fuller Parkway residents who have two new homes there want to acquire "part of the parkway as their property," Ms. Breithaupt said. "We had an agreement with the city that (it) owned Fuller Parkway and would maintain it, when we agreed (to) BJWSA (putting) in the sewer system." She said, "We'd like to be sure that our property is going to be protected, and you're not going to give away Fuller Parkway." Ms. Kelly said Fuller Parkway is proposed to be zoned T3-S.

Mr. Matthews said "that entire block" uses the accessway and "drives over the grass." He said that he understood that the property 15' from his property line, "going toward the road," is owned by BJWSA, which doesn't maintain the trees there, so the limbs break, and if "a tree falls on a kid, the city will probably be accountable for that." Under "the old codes," Mr. Matthews said, "you couldn't build on the lots because you didn't have the setbacks," he said, but "conveniently," now that "4000 square feet (is) proposed, you've got setbacks." He asked planners if this was because "the millage rate (is) not right, or are you looking for revenue?"

Linda Bowers, 118 Elliott Street, said her street has no sidewalks and gets a lot of traffic from TCL; "I don't want apartments built in that neighborhood." It's zoned for single-family dwellings. Ms. Kelly said told Ms. Bowers that the only type of housing proposed in that area is T3-S, and the only allowable housing type is single-family residential.

Ms. Lindsey said that's true on Ms. Bowers' street, but not "just a couple blocks over" from it, "plus you can put cottage courts on her street, plus you can divide the streets down to 75' from 100', plus there's an alley back there, so we don't know what's going

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to happen there." Ms. Anderson said Ms. Bowers' comment had been about multi-family housing, and that's not permitted in T3-S. Ms. Lindsey said Fuller Parkway is going to T3-N, where cottage courts and "little 4000 square foot" houses are allowed, "even if it's not right on my street." Ms. Anderson said the cottage courts might be allowed in T3-S, but only by a special exception from the Zoning Board of Appeals.

Penny Tarrance said the Cottage Farm board had "gone through this . . . and (saw) that if all of this was accepted, we could have a bait shop . . . jet-ski rental . . . (and) short-term rentals." Vice Chairman Crower said if Cottage Farm's covenants don't allow jet-ski rental, then there won't be jet-ski rental there.

Ms. Hopey asked why, if Cottage Farm's "covenants supersede everything," the development isn't "just grandfathered in." Ms. Kelly said Cottage Farm is a PUD, and it has covenants, but a development doesn't have to be a PUD to have covenants. Battery Shores and Islands of Beaufort are not PUDs, but they have covenants, so, for example, an Islands of Beaufort resident could not give piano lessons at home, Ms. Kelly said, because the development's covenants don't allow the type of home occupation where people come to a residence to do business. If a development's covenants are stricter than the city ordinance, she said, by state law, the city must enforce the covenants *through the development's property owners' association*. If someone comes to the city to get a business license in order to have a home occupation, Ms. Kelly said, that person has to sign a waiver that (s)he is not violating the neighborhood's covenants by doing so. There are some exceptions, "but they also have the rules of our underlying zoning."

Cottage Farm has a PUD, Ms. Kelly said, but the standards in it aren't very clear about setbacks, for example, so she and Ms. Anderson had thought this was a way to maintain covenants – "so you don't have a bait shop" – or if you don't want the type of home occupation in your neighborhood that allows a resident to give piano lessons, "that's already in your covenants."

Mr. Hopey told Ms. Kelly that Cottage Farm's "covenants were written 25-some odd years ago," and nothing in them prohibits churches, bait shops, etc. "What you're doing is forcing us to take a look at all of these different issues that you're bringing up," he said, "and saying, 'You have to go back and modify your covenants'," which didn't address short-term rentals, for example, so they have changed the covenants to prohibit them. "What you're doing is opening that door" to those things that Cottage Farm's covenants do not prohibit, Mr. Hopey said, "to force us to go under T3-S."

A bait shop is not permitted in T3-S, Ms. Kelly said, but if Cottage Farm residents are reading the draft code that way, city planners need to know that. They would like to understand the concerns of those who live in Cottage Farm, and "see if there's a way to accommodate them with the base zoning." If there's not, she said, "then it might not be a good idea," but there could be "unforeseen *benefits*," she joked. If neither she nor Ms.

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Anderson were at City Hall when someone wanted to build in Cottage Farm, for example, everyone in the planning department would know the setbacks there because they'd be those in the Beaufort Code. The setbacks are not clear in the Cottage Farm covenants, Ms. Kelly said, and they are carried on through "institutional memory."

Mr. Patterson said setbacks "are set up on the plats and maps"; residents have "an architectural control committee," and "a process to modify the architectural control plan." Cottage Farm's "covenants are pretty standard," he said, though they're 25 years old, and the property owners "are empowered to change them as they see fit." They "have an architectural control, but under the architectural control section in this new urban code, you also have that requirement," Mr. Patterson said, "so there's an 'iffiness' of who's in charge." He said there's no doubt in his mind that it's the property owners, but he feels "that's ambiguous in this code."

Mr. Patterson also said that the tree ordinance in the new code creates issues with tree removal in Cottage Farm, because "now there's this idea that if you have to remove a big live oak that's in the middle of (a) lot, are you going to have to pay the $5,000?" This development "is well-controlled," he said, and the Cottage Farm residents "are happy with it." Mr. Patterson told the planners and MPC, "We want to be left alone," which he said "every established neighborhood" had said repeatedly during the Civic Master Plan process. As the city tries "to get architectural control, (a) tree ordinance, (and) storm water (regulation)," through the new code, Mr. Patterson said, "there's that disconnect in the plan . . . There's a core conflict there, so systemically, this committee ought to address that. It's back to the unintended consequences."

Mr. Patterson went on to say that on Depot Road, "We don't (want) to rock the boat with our neighbors." He had attended "the charette" and other meetings, where, he said, "We have been uncomfortable with the residential stuff" in the code as it applies to the Depot area. He said he "agrees with whatever the neighborhood wants."

Ms. Anderson said all scheduled meetings related to the code are on the city's website. Staff will set up a Depot Road stakeholders meeting and will let Mr. Patterson, Ms. Lindsey, and Ms. Murray know, so they can get the word out.

Vice Chairman Crower adjourned the special meeting at 6:43 p.m.

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