

A meeting of the Beaufort-Port Royal Metropolitan Planning Commission was held on **July 21, 2014 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, Alice Howard, Jennifer Bihl, and Robert Semmler, City Planner Libby Anderson, and Town Planner Linda Bridges. Bill Harris 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 Crower made a motion, second by Commissioner Bihl, to approve the minutes of June 16, 2014. Commissioner Howard said that she had said yaupon holly, not Japanese holly (which the recorder had Googled in her confusion). **The motion to approve the minutes as amended passed unanimously.**

REVIEW OF PROJECTS FOR THE TOWN OF PORT ROYAL

Town of Port Royal – Text Amendments

Ms. Bridges said they are seeking to amend the Port Royal Code with regard to:

- Bracket lengths allowed for projecting signs – Ms. Bridges said that the current code allows an extension of 8.5', which is a little too long, so they are proposing to pull it back to 6'.
- Permit requirements for construction signs and political signs – These are temporary signs with permits required. They are proposing to move them out of permit-required to “no permit required.” It’s inefficient to make a contractor pull a permit for construction signs. The political candidates ask people if they can put a sign in their yards, and if they get permission, they do it, and if they don’t, they don’t. They won’t need a permit to put these kinds of signs on property if this amendment is made. Everything else is the same.
- A scrivener’s error in Article 9, Section 9.1.40 A, correcting the code from the Town of Beaufort to the Town of Port Royal – Ms. Bridges said the error is that it says “Town of Beaufort,” and they want it to say “Town of Port Royal.
- The exemptions from Subdivision Review, to add new items in order to comply with the requirements of the Beaufort County Register of Deeds Office – They want to add three things to exemptions: property trades between immediately adjacent landlords not resulting in the creation of new parcels of record; division of land for sale or transfer to an immediately adjacent landowner and not resulting in the creation of new parcels; and the recording of a plat or property for purposes other than the sale or transfer of title including: the creation or termination of leases, easements, or liens; the creation or

termination of mortgages on existing parcels of record, approved subdivisions, or commercial projects; lot line corrections on existing recorded properties; the creation, termination, or amendment of private covenants or restrictions on land.

The list of exemptions in the code is now current, Ms. Bridges said. They migrated from the subdivision ordinance. Those exemptions were adopted when the Register of Deeds office accepted documents with property descriptions only. No plat or survey was required then, but now it is required to be recorded in most cases. Staff reviews these, and they are exempt from a full-blown subdivision review. They want to expand the list of exemptions, so they can properly correct the right part of the code. They have been working on it, and this is a good opportunity to give themselves “an exhaustive list of the kinds of things we’re actually doing.” Beaufort County has this list in their current document/ordinances. It is the same thing that the Town of Port Royal needs.

Commissioner Crower asked what they are exempt from in this last one; Ms. Bridges said from subdivision procedures. There are subdivision requirements of the development code, and they are “more adept at reviewing and granting a subdivision something of magnitude”: creating new roads, etc. There are numerous examples of plats that have to be recorded routinely at the Register of Deeds that don’t rise to that magnitude. Commissioner Crower said it’s not the recording with the county that they are exempt from. The Register of Deeds won’t sign off on something that hasn’t yet been approved by the jurisdiction, Ms. Bridges said. These exemptions are only minor.

Commissioner Semmler asked about some text in the sign brackets section that said that it would be 2’ wider; Ms. Bridges said he was confusing the brackets and the signs themselves. Commissioner Semmler said that they could change the language, and Ms. Bridges said it’s a maximum he’s talking about, so it should be “may be,” and Commissioner Semmler said it’s currently a “will be.” Ms. Bridges said she would change it to a maximum. **Commissioner Semmler made a motion, second by Commissioner Crower, to recommend approval of the changes. The motion passed unanimously.**

REVIEW OF PROJECTS FOR THE CITY OF BEAUFORT

City of Beaufort – UDO Amendment

Revisions to Landscaping and Tree Conservation Ordinance

Applicant: City of Beaufort

Ms. Anderson said the first item to revisit is an amendment that was discussed at last month’s meeting. PTAC and staff, working together, have prepared the draft ordinance. She explained the reasons that they have made the changes: to protect the city’s tree canopy and to provide funds for tree planting. She said that Ms. Hill, city staff for PTAC, is a certified arborist and a landscape architect.

The first change proposed was to change the definition of grand trees to be more specific because “not all trees are created equal.” Ms. Anderson reviewed what a Grand Tree is determined to be: over-story trees with a DBH of 24” or greater. The PTAC recommended revising the definition, she said. For example, they think that some trees, like Live Oaks, are more important than others, so in the revision, a Live Oak can be a Grand Tree at 12” or greater.

Ms. Anderson said that the Metropolitan Planning Commission (MPC) had asked for the definition to include the scientific as well as the common name. There was a question about hollies, and Ms. Hill had answered it in a memo as well as a question about pecan trees being Grand Trees.

The next change is mitigation for removal of Grand Trees. Currently, it’s optional, and it’s only on-site, Ms. Anderson said. With the ordinance revision, a developer could mitigate on-site, or they could pay a Reforestation Fee. Any revenue would be devoted to tree planting and urban forestry activities, particularly street trees; those funds would go into a restricted fund, not the General Fund.

The MPC had asked why they would require replanting of the same species, Ms. Hill said, and why they would allow retention of existing trees to mitigate the removal of Grand Trees. Also, the commissioners wondered how the reforestation fee is calculated and why PTAC would require the mitigation of undesirable trees.

Ms. Hill said in the ordinance now, the administrator can make some decisions, she said. Ms. Hill would answer the questions:

1. The goal is preservation of tree diversity. For example, 85% of the urban forest is Laurel Oak. If it’s a 24” Laurel Oak being taken out, it could be mitigated with another Grand Tree species. Ms. Hill said this ordinance revision is based in part on Beaufort County’s ordinance, which has been in place for a while, “but theirs is out of date, and PTAC wants to make it stronger.”
2. How the fee was determined: Ms. Hill said that PTAC debated this for the better part of a year. Beaufort is a Tree City USA. The committee came up with \$70 per caliper inch, because 2 years ago, you could buy a tree for \$75 x 2 for mark-up for material and labor. Availability greatly dropped during the recession when growers stopped growing. Now the demand is up again, and the price has been driven up. The wholesale cost for a 2.5” caliper tree is more like \$150 more now, so PTAC calculated \$120 per caliper inch.

Commissioner Howard asked how this would be handled if something else happened in the economy. Ms. Anderson said the previous version had the fee in the ordinance and now they

are referencing that the price would be established by the city's fee schedule, so they can change it when they need to, and it will adjust with the economy and not have to come to Metropolitan Planning Commission every time, just to council, which would have to pass a resolution. They need a set fee in the ordinance, Ms. Anderson said, "So it wouldn't adjust daily."

3. Ms. Hill said in regard to the smaller caliper trees on a site, like a 12" Live Oak, trees produce carbs, and when their roots are disturbed, it's hard for them to continue to produce carbs, but the smaller they are, the easier it is for them to do it. They want to preserve the canopy for a variety of reasons, she said. Ms. Anderson said it can be easier for a developer to come in and clear-cut, so they are trying to encourage developers to save as many trees as possible, so keeping small ones is good as well as large ones.
4. Ms. Anderson said no mitigation is currently required, and it's only allowing up to a 1/3 of the caliper inch, so with this revision, they are asking for inch for inch. Not all mitigation trees may fit on a site, so then the developer would have to pay. Ms. Hill offered an example to Commissioner Crower's scenario of little trees being left and not the big trees: they could "create islands of 8"+ trees, such as 5 8" caliper Live Oaks, and if they stay on the site, that will mitigate a 40" caliper Live Oak *if there's nothing that can be done to save it.*

Commissioner Semmler told a story about a site he knew of where the developer wanted to cut down trees to put in a dumpster. Ms. Anderson said no mitigation is currently required, but now it will be. They can mitigate by saving other trees on the site, "and if you can't plant back, you pay a fee." Commissioner Semmler said he doesn't like it, and he wants to save the 200-year-old Live Oak. Ms. Hill said the new Publix had removed a large Live Oak, "and there was nothing that could be done with that tree." Publix made changes to save *other* trees. They "would love to save every big Grand Tree," Ms. Anderson said, but they can't always, so if there's a 200-year-old tree that's in the way of a development, at least this revision will require the developer to plant back, instead of the city telling the developer they can't develop the site. "We are talking about significant trees," Ms. Hill said, "and we're saving existing trees, not just planting back 4-6" caliper trees." Publix is trying to put in bigger trees than they're required to because of the number of trees that had to be taken out.

Commissioner Semmler said he hears what Ms. Hill is saying, and he "get(s) it from a business perspective," but he disagrees with cutting down the old oaks, and he doesn't see anyone protecting them. He thinks, "The old, old trees need to be saved." He thinks there should be an exception for those old trees. Ms. Hill said some cities like Charleston require a developer to go to the Zoning Board of Appeals to get a variance to cut down a really big/old tree. She feels that by doing that, they can meet the test for the hardship and will "sort of automatically get the variance," so they aren't proposing that. They think that they "can do a little better." Chairman

DeVito said they do require design changes. He read from the proposed changes to the ordinance. He said in the past, they would go through this process but couldn't do anything about taking out trees, and if there's no way possible to save a tree, they "will get something back from the developer taking that out ...They can go through strict design process, but if it can't be saved, it goes to a mitigation process." If a developer says, "This 24" Grand Tree can't be saved so we can have parking," then they won't be able to also take out an 8" Grand Tree and they will have to mitigate for the difference, which is better than in the past.

Commissioner Semmler asked about a reference to a fee that might be changed. Ms. Hill said it's for the developer who can't mitigate on-site. Commissioner Semmler said after they plant the new trees, there's a maintenance fee, and if it dies, they have to pay into the fund. Commissioner Semmler said he doesn't like that because the money from cutting down trees could go to something other than planting new trees. Ms. Anderson said that PTAC was clear about where the money should go, and she assumes that council will direct finance to make sure the designation is clear. Chairman DeVito said that they could add that into their recommendation motion. Ms. Hill said that the planting, then the care and maintenance of existing trees are PTAC's top 2 priorities.

Ms. Hill described the composition of the professionals on PTAC. Commissioner Semmler said they do good work. Commissioner Bihl said that they are changing the standard of what a Grand Tree is, and she asked if that would be more cumbersome for staff to review. Ms. Hill described the steps in the process, and said that almost immediately they find out the size and species of the trees; they provide it to the planners, and the planners can go to the plan and start to mark it up to determine what needs to be done. There's no real protection now.

5. Ms. Anderson said staff requires a report from a certified arborist, which is really important in the case where trees are to be retained, because certain things need to be done to make sure that it is retained, especially when it's near the limits of construction. There's currently nothing in the ordinance about a certified arborist so this gives developers a heads-up that this certified arborist report will be required to evaluate trees' health and implementation of mitigation measures to ensure the trees' survival.
6. In regard to mitigation planting, Ms. Anderson said, they would like to give the administrator the authority to require mitigation on properties where a developer or property owner wants to remove a Grand Tree. She indicated the new language: if an existing Grand Tree is in good health and is approved for removal, the city will request mitigation, and sometimes a tree approved for removal could be the last tree on a site. Commissioner Howard asked, if that happens, but the insurer feels it's a threat to the house, how does that work? Chairman DeVito said he had the same question. Ms. Anderson said tree species *and* locations are important, so they would work with the new owner on that. Chairman DeVito said the letters come from the insurer and the

owner has 30 days. Ms. Anderson said they aren't talking about inch-for-inch in this case. Ms. Hill said in the real world, in a residential lot, they owner puts in a tree removal permit request and she goes out there. It's very rare for people to put in for the removal for a healthy tree. But if it's the last tree on the lot and healthy, the city will say they understand the hardship, Ms. Hill said, but tell the owners, "You need to plant another tree to mitigate it." Essentially, because the city has no way to enforce this now, people can clear-cut their private property. Commissioner Howard asked what if this tree is a water oak. Ms. Hill said if it's the last tree on the lot, she suggests yes, but if it's not the last tree, and it's a reasonable request, they could take it down.

7. Ms. Anderson said the question had been raised about what would happen if a tree that was to be saved then died. Currently, new development has to place a maintenance bond for a year to require the replanting of any landscape that dies in that year. After a year, Ms. Hill ensures that the trees are healthy, Ms. Anderson said, and if they're not, they are required to replant. She said PTAC wants to clarify this section: They upped the maintenance guarantee from 1 year to 2 years, which gives them a better chance to know if a tree is going to die. The bond is returned when the trees are determined to be in good health, and for those that aren't, mitigation is required, as it is for Grand Trees. It clarifies that your landscape includes the Grand Trees to be saved, and those will be looked at after that 2-year period, and if they are declining, mitigation will be required for the declining trees. Commissioner Howard asked why a type of tree wasn't included, and Ms. Hill said they could add it.

Chairman DeVito said if they recommend these changes, it needs to include a fee that would be charged. Then the city will have PTAC and the Planning Commission *both* saying that the fees should go to a certain fund.

Commissioner Howard made a motion to recommend that the Planning Commission approve these changes and also that fees be in a separate account to be used for city tree preservation. Commissioner Semmler seconded. Ms. Bihl asked about the two changes that Ms. Anderson had said she would make – whether they needed to be part of the motion. Ms. Anderson said that they would add the long-leaf pine as a Grand Tree, and they need to clarify the section about requiring mitigation when it's the last tree on the lot because its intended to mean in the case of a healthy tree. **Commissioner Howard made a motion to amend the motion to include these two items. Commissioner Semmler seconded. The motion to amend passed unanimously. The amended motion passed unanimously.** Chairman DeVito asked Ms. Hill "to make sure that the PTACers know that this was very well done."

City of Beaufort – UDO Amendment

Drive-thru facilities in the Boundary Street Redevelopment District

Applicant: City of Beaufort

Ms. Anderson said staff is proposing two changes to the Boundary Street Development ordinance as it pertains to drive-thrus. The first change is to permit menu boards. If a drive-thru window is allowed, it follows that they will want an order board. Two new restaurants have come on to Boundary Street, and they had to request a variance for a menu board; those were McDonald's and Starbucks. If they allow the drive-thru, staff feels they should permit the menu board as well without going making the applicant jump "through another hoop," Ms. Anderson said. Staff supports this. The conditions would be a maximum of 24' by 8'. It will be screened from the street; they are allowing a pre-order board if the applicant desires it. It will be half the size of the order board. The Zoning Board of Appeals (ZBOA) had recommended the pre-order board in the Starbucks application to make the drive-thru go faster.

The other change is in regard to the stacking lane, Ms. Anderson said. Staff proposes to up it from 3 cars to 5, which is what was done for Starbucks. Commissioner Howard said the Chik-Fil-A stacking line is up to 10. She asked how they could control that with new drive-thrus. Commissioner Bihl asked where they are counting car stacking from. Ms. Anderson said Starbucks had shown a model. There will be "unimpeded flow," and the cars are only there to go through the drive-thru; otherwise they will be blocking parking. Chairman DeVito said the stacking is from the menu board back. Commissioner Bihl said it depends on the ordinance.

Ms. Anderson shared the current ordinance wording. The stacking lane can't go around the front of the building. Chairman DeVito said the ordinance could just say that the stacking lane "can't go around the building." Whether they call it a stacking lane or not, customers will build the lane up "when they want to be in the lane." Commissioner Bihl said instead of a number of vehicles, "it could be a traffic issue." Commissioner Howard said she remembers when Dunkin Donuts first opened and how crowded it was. Commissioner Bihl said, "It will normalize eventually." Chairman DeVito said he remembers the Burger King on Ribaut Road, and they "missed the menu board." They worked on the drive-thru but not the sign board and the stacking lane. "You see the sign board, and they couldn't be forced to bring it around," he said.

Commissioner Semmler said none of these menu boards are at the rear of the properties. Chik-fil-A's window is on the side. Chairman DeVito said the menu board is on the rear. Commissioner Semmler said, "It's not happening per the ordinance." Ms. Anderson said Chik-fil-A wasn't developed under this ordinance. Ms. Anderson said they could say in the ordinance that all the stacking lanes could have to be in the back. Commissioner Semmler said he thinks it's good on the side. Commissioner Semmler said maybe they could decide where to put it. Chairman DeVito said, "as long as it's not on the front." Ms. Anderson said the drive-thru lane is not going to be allowed to come around the front of the building. Ms. Anderson said there's a

build-to line on Boundary Street. A restaurant under the Boundary Street Plan will look like Outback. If it's on the side, there won't be an exit, she added.

Ms. Anderson said they tried to keep the number low. If they can get 4 instead of 3, that might work. Chairman DeVito said that they "need to let the designers work the site." He thinks they should remove the maximum and say the drive-thru needs to be in the rear. He thinks that they should work on the menu board and the pick-up window and let the designers design the site.

Chairman DeVito said that they could delete the 5-car stacking limit. Ms. Anderson said she doesn't see how they can be on the side. Ms. Anderson said that Starbucks would be in front of Burlap, next to the Quality Inn. Commissioner Semmler said there's a difference between a Starbucks vs. the way it's been done by other fast food places where it's on the side. It's a coffee shop, and they need traffic to flow, to go fast. Caffino had both its drive-thrus on the side. Commissioner Bihl asked if the commission could ask for a variance if they want to. Ms. Anderson said yes, and that's how other businesses have gotten what they needed to do.

Chairman DeVito said that they want to remove the last paragraph. **Commissioner Howard made a motion to recommend the amendment with changes for the menu board section and to delete any reference to a stacking limit. Commissioner Bihl seconded the motion. The motion passed unanimously.**

City of Beaufort – UDO Amendment

Gas station sign regulations

Applicant: City of Beaufort

Ms. Anderson said for freestanding signs, the sizes are different, depending on where you are located in the city, and she described various areas and what their requirements are. The smallest signs are on Boundary Street near Bricks. The width of the lot currently determines the size of the sign. The size limits seem restrictive for gas stations. They want to display the price on a freestanding sign, Ms. Anderson said. Some stations are changing types of gas, and you would have to change the sign to do that. They recommend that additional signs be allowed where they are restricted currently to a 5-10' sign. The new language says that – only in Lady's Island Village Center and in the Boundary Street District – if you are restricted to 10' or less for a sign, the city will allow an additional 10 square foot of signage for a reader board and/or to post gas prices. You could get up to a 20 square foot sign for a gas station. There has been a new gas station on Ribaut Road that went into an existing site, and **Lauren Kelly**, the urban designer, came up with the dimensions using that location as a case study, Ms. Anderson said. **Commissioner Howard made a motion to recommend the change to this ordinance for the signs as proposed. Chairman DeVito seconded the motion. The motion passed unanimously.**

CITY OF BEAUFORT – UPDATE ON COUNCIL ACTIONS

Ms. Anderson said at council:

- Several changes were made to accommodate the special assessment for rehabilitating properties.
- The rezoning of the second block of Carteret Street will have second reading at the following night's council meeting.

There being no further business to come before the commission, Chairman DeVito made a motion to adjourn. The motion passed unanimously, and the meeting was adjourned at 6:57 p.m.