

A workshop was held by the Beaufort City Council on March 12, 2008 at 5:30 p.m. in the County Administration Building, Ribaut Road. In attendance were Mayor Bill Rauch, Mayor Pro Tem George H. O'Kelley, Council members Donnie Ann Beer, Gary B. Fordham, Mike Sutton, City Manager Scott Dadson. In accordance with 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 Mayor called the meeting to order at 5:30 p.m.

CANE ISLAND RETREAT, AIRPORT JUNCTION, HANOVER PARK, SEA ISLAND HOMEPLACE, AND GLEASON PLACE DEVELOPMENT AGREEMENT

The Mayor announced this meeting is being held to discuss the Cane Island Retreat, Airport Junction, Hanover Park, Sea Island Homeplace, and Gleason Place Development Agreement extension. This is not a discussion about Walmart. One option that will be discussed is to temporarily remove parcels on the north side of the road known as Airport Junction from the Development Agreement because of the ongoing process, depending on advice from Attorney Danny Crowe.

Libby Anderson, City Planner, stated the City annexed approximately 185 acres on Lady's Island in 2003. The property was zoned as two Planned Unit Developments (PUD) which consisted of Cane Island Retreat (143 acres) and Airport Junction (41 acres). At the same time, Council rezoned 34 acres of land (Hanover Park PUD) already in the City. A Development Agreement which encompassed all three of those properties (PUDs) was also adopted. That Agreement was for a term of five years. The property owner has requested an extension of the Agreement. On February 12th of this year Council gave first reading of an ordinance extending the Development Agreement. That extension makes several changes to the original Agreement. Staff had two major concerns with regard to the existing Development Agreement that they felt needed to be changed. The first issue is fees. Staff felt the original Agreement needed to be updated to mirror the fees in the Clarendon Agreement which was adopted in 2006. The applicant has revised the Development Agreement to incorporate the relevant fees from the Clarendon document. The second concern pertains to references to zoning requirements. The original Development Agreement was submitted before the Unified Development Ordinance was adopted in 2003. The PUDs were based on the City's former zoning ordinance and subdivision regulations. The previous zoning ordinance did not contain certain conditions for development that are now required by the UDO. These requirements include traffic impact analysis requirements for large developments, requirements for an archeological survey when the property is thought to have underground archeological resources and sidewalk requirements for commercial development in new subdivisions. The request for the extension of the Development Agreement removes references to the old zoning ordinance and replaces them with references to the City's UDO. As a result, developments that occur under the proposed extension will be subject to the UDO for those standards not set out in the PUD and subject to reports and requirements in the UDO such as traffic impact analysis, archeological surveys, etc. At the February 12th Council meeting, Council had several questions regarding the extension of the Development

Agreement. Ms. Anderson addressed the questions pertaining to wetlands, traffic impact analysis ordinance, compliance with the Comprehensive Plan,

David Tedder, attorney representing Mr. Trask, stated Sea Island Homeplace and Gleason Place Development are not places, they are entities of ownership. There are three properties, not five.

Councilman Sutton asked for clarification of mixed-use. He asked if residential is compatible with commercial use in the Airport Junction. Ms. Anderson replied that the Airport Junction PUD was approved for 24 dwelling units above first floor commercial.

Harley Laing said a traffic analysis for a PUD should consider the entire traffic generated by the build out of the PUD. Using the Walmart development as an example, he said the traffic projections were large but they did not include all of the Airport Junction development. The same model used in the Northern Area Plan should be used to model the traffic or the output is not comparable. He said traffic analysis zones are used as part of the input to the modeling but he is not sure it is able to take into account a faster growing development scenario on Lady's Island. It should be geared to the location that the project, PUD, and its projected projects are going to generate. The City Planner stated the City does not do the modeling. Another area Mr. Laing commented on was fiscal impacts.

Using the "big box store" as an example, he said it illustrates a point he is making that fiscal impacts of a development require not just a broad brush look at revenues but also project fiscal costs.

Studies show that "big box" stores cost more in public expenditures than what they bring in in taxes because of the services required. He said local retail improves revenues and do not create the traffic impact. He suggested a fiscal impact study for a proposal that is this extensive be considered before it is adopted. Regarding his last concern, environmental impact, Mr. Laing said to his knowledge, the last time any of the regulatory agencies looked at this site was in 1993. Since then, regulations have changed. He suggested the regulatory agencies conduct a through study of the site first to determine what can be built there and what are the environmental impacts. He said a Walmart on Lady's Island could descend the community in an undesirable direction. He commented on the Planning Director's statement that this complies with the Comprehensive Plan stating he thinks it does not because it is a government mixed-use district. He mentioned that the State Development Agreement Enabling Act limits development agreements to five years. He asked how automatic five year extensions comply with a limit of five years. This is a legal question, he said. Councilman Sutton asked for a legal opinion on that.

Reid Armstrong, Coastal Conservation League, said the community of Lady's Island developed a community preservation plan with defined districts. The City endorsed the plan. In that plan, community development areas were defined. The development agreement being discussed should be updated to reflect that.

Ms. Anderson said the current Comp Plan shows this area as a government mixed-use district. There will be an opportunity to review that during the update of the plan and those issues will be addressed at that time.

Danny Crowe, attorney, replying to the Mayor's question regarding revising the agreement stated there is a right to renewal to the original development agreement which states "shall be renewed." Council cannot act unilaterally because the agreement is a contract requiring both parties to agree to

changes.

Ms. Anderson stated there are no changes to the PUDs; however, the Unified Development Ordinance is now referenced and how the PUD's are developed maybe impacted.

Councilman Sutton asked the difference between the document developed by the County prior to 2003 when the City adopted it. Ms. Anderson said there is no difference today in the PUD that the City adopted in 2003. She said she preferred to review the documents before stating if there were any differences between the PUD adopted in 2003 versus what had been in place in the County.

David Tedder, representing the applicant, said the most important thing that happened in 2003 was the City negotiated a decrease in commercial and light industrial spaces. The City's restrictions were tighter than the County's. Mr. Tedder explained that Mr. Trask and his groups went through a long and intense land planning exercise between 1991- 1993 before it was brought to the County. When the City adopted the Agreement, the PUD went before the Joint Planning Commission twice. He said his client has agreed to everything proposed by the City. Mr. Tedder stated traffic has been discussed many times. This project has been in place since 1993 and numerous traffic studies have been performed on Lady's Island for various projects and if the consultants have not realized that this project is permitted and has a development agreement, the County has been wasting money. Councilman O'Kelley said he would imagine most of the traffic generated on Lady's Island is from families going to and from their homes. If a traffic study does not include the buildout of those homes, they are ignoring facts.

Councilman Fordham pointed out there has been no material breach of the agreement by the developer or the City.

Harley Laing referring to material breach said there is an argument that proceeding with a project that is clearly not within the Master Plan and pursuing the project may be a material breach.

Council concurred to proceed with second reading to amend the agreement.

OFF AGENDA ITEM

Councilman O'Kelley mentioned that Josette Grimsley, Beaufort High School French teacher, brought to Council's attention that there is a society of Beaufort's and the City of Beaufort has been accepted as a member by the Honorable Society of Beaufort.

EXECUTIVE SESSION

On motion by Councilwoman Beer, second by Councilman Sutton, Council voted to move into executive session pursuant to Title 30, Chapter 4, Section 70(a)(2) of the South Carolina Code of Laws to discuss negotiations incident to proposed contractual arrangements and legal advice.

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 7:30 p.m.

BILL RAUCH, MAYOR

COUNCILWOMAN DONNIE ANN BEER

COUNCILMAN GARY B. FORDHAM

COUNCILMAN GEORGE H. O'KELLEY, JR.

COUNCILMAN MIKE SUTTON

ATTEST:

BEVERLY W. GAY, CITY CLERK