

The regular meeting of the Beaufort County Planning Commission (hereinafter "Commission") was held on Monday, December 3, 2007, in County Council Chambers, the Beaufort County Administration Building at 100 Ribaut Road, Beaufort, South Carolina.

Members Present:

Mr. Jim Hicks, Chair

Ms. Mary LeGree

Ms. Diane Chmelik

Mr. Frank Mullen

Mr. Brian Flewelling

Mr. Vernon Pottenger

Members Absent: Mr. Ronald Petit

Member Vacancies: Two (Bluffton-Daufuskie representative since February 2007--formerly Thomas Mike, Sr.; and At-Large representative--formerly Alan Herd since November 2007)

Staff Present:

Mr. Anthony Criscitiello, Planning Director

Ms. Delores Frazier, Assistant Planning Director

Ms. Barbara Childs, Admin. Asst. to Planning Director

CALL TO ORDER: Chairman Hicks called the meeting to order at approximately 6:02 p.m.

PLEDGE OF ALLEGIANCE: Chairman Hicks led those assembled in the Chambers with the pledge of allegiance to the U.S.A. flag.

REVIEW OF MINUTES: The November 1, 2007, minutes were reviewed. Motion: Mr. Flewelling made a motion, and Ms. Chmelik seconded, **to accept the November 1, 2007, minutes as written.** The motion **was carried** (FOR: Chmelik, Flewelling, Hicks, LeGree, Mullen and Pottenger).

CHAIRMAN'S REPORT: Chairman Hicks thanked the Commissioners for their services on the Commission, and gave his personal appreciation to each of them.

PUBLIC COMMENT for items other than agenda items: Queen Quet (also known as Marquette Goodwine) noted she was beginning to review the County's new Comprehensive Plan. **She asked that the Commission include a component to include the October 2007 U.S. Law entitled the Gullah-Geechee Cultural Heritage Act. She noted that she and 14 others are serving on a Federal Commission regarding this Act.**

LADY'S ISLAND MAP AMENDMENT/REZONING REQUEST FOR R200-5-19C (6.13 ACRES, OFF TROTTERS LOOP ROAD AND CONCH POINT LANE) FROM RURAL (R) TO RURAL-RESIDENTIAL (RR); OWNER: WILLIAM AND NANCY RHETT

Mr. Criscitiello briefed the Commission. The Applicants elected to tie-bar three (3) parcels for tax billing purposes. The existing lot lines were never erased because of the tie-barring. The three lots were less than 5 acres each and were created prior to 1999. The rezoning would take the density from 0.34 per acre to 1.2 per acre. Staff recommended approval of the rezoning request.

Public Comment: Mr. Jim DeMartin who owns property adjacent to the Rhett properties objects to the rezoning. The requested density is not compatible with the existing community at the present.

Discussion included clarification on the existing and the proposed densities, and an affirmation that this request corrected a mapping error.

Motion: Mr. Flewelling made a motion, and Mr. Pottenger seconded, to forward to County Council a recommendation of approval for **Lady's Island Map Amendment/Rezoning Request for R200-5-19C (6.13 acres, off Trotters Loop Road and Conch Point Lane) from Rural (R) to Rural-Residential (RR)**. The motion was carried (FOR: Flewelling, Hicks, LeGree and Pottenger; AGAINST: Chmelik and Mullen).

ST. HELENA ISLAND MAP AMENDMENT/REZONING REQUEST FOR R300-16-50A AND 51A (7.2 AND 3.2 ACRES, RESPECTIVELY; AT THE CORNER OF HIGHWAY 21 AND POLOWANA ROAD); FROM CORNERS AREA COMMUNITY PRESERVATION DISTRICT (CCPD) AND CORNERS AREA PUBLIC MARKET DISTRICT (PMD) TO PMD; OWNERS/APPLICANTS: KUZZENS, INC. (50A); AND JOHN TRASK JR., WILLIAM C. ANDERSON, AND MATTHEW S. MCALHANEY (51A); AGENT: DAVID TEDDER

Mr. Criscitiello briefed the Commission. Staff recommended denial of the rezoning request; however, staff did recommend keeping the Public Market District boundaries unchanged and to allow the grocery store use as a special use. The Lady's Island/St. Helena Island Subcommittee recommended approval of the Applicants' rezoning request.

Discussion included a clarification of split zoned lots.

Applicant's Comments: Mr. David Tedder, the Applicants' representative, provided additional information to the Commission. He explained that the Applicants have worked with the Development Review Team (DRT) on this project. The Applicants have attempted to meet with the Corridor Review Board (CRB), but the CRB did not want to look at the project until the Commission had made its decision. The Applicants, after meeting with the Corners Area Community Preservation (CCP) Committee, refined their plan. Mr. Tedder noted that the Applicants have a conceptual plan that meets all the current requirements of the ZDSO. They

moved the parking to the back of the lot. He noted the shallow buffer of the abutting subdivision, Arbor Village. The Applicants thought there was a means of moving districts similar to Southern Beaufort, but since the parcels are zoned CP such moving was not possible. The Applicants considered the split zoning as a mapping error. A parcel to the east is zoned PMD and is farther from Highway 21 than his clients' parcels and it was not split zoned. Mr. Tedder noted that there was **no** need for a special use condition as recommended by the staff. His clients will be moving the building 400 feet beyond the zoning line. He asked that the Commission examine the general guidelines for the CP district. The current ordinance allows too big a building too close to the road. The current parking space ordinance requires 3 spaces per 1000 square feet of building. The Publix and the Food Lion on Lady's Island allow more parking spaces per 1000 square feet of building. Mr. Tedder would like to have appropriate parking requirements based on engineering and human ergonomics. He noted that the building frontage was on Polowana Road, with parking on the side of the building. He and his clients will continue to meet with County staff to design a plan for the property that will benefit the community.

Further discussion included the ramifications of a zoning change where the property owner may build whatever is allowed in the new zoning, and clarification on the rezoning request.

Public Comments:

1. Ms. Ann Politzer, a lifetime resident of Beaufort and a member of the Corners Area Community Preservation (CCP) Committee, noted that the Applicants do not have a contract with Publix at this time. The Applicants want to have the zoning in case a "big box" comes. The CCP Committee designated this particular parcel for a future public library site. The proposed development is a shopping center, but the CCP Committee did not want shopping centers in the Public Market District. She noted that once the zoning is changed, any of the allowable uses could be placed on the property. She noted that Datav residents were concerned with the anticipated increased traffic from this type of project.
2. Queen Quet (also known as Ms. Marquette Goodwine), chieftess of the Gullah-Geechee Nation and chair of the CCP and the Cultural Protection Overlay Committees, clarified that the CCP Committee met for years, not months. The CCP Committee had several community meetings to inform the community of the CCP Committee recommendations. The Corners Area Plan has specific guidelines that the community wanted. She noted the change of Community Planners and Planning Directors over the years. The CCP Committee was asked not to recommend text amendments during the various staff changes. She noted the CCP Committee's letter requesting the Commission to deny the text amendment and the rezoning request. The CCP Committee wants to change the building size requirements in the CCP. She asked that the County staff work with the CCP Committee on the text amendments the CCP Committee wanted addressed. Queen Quet affirmed that there are unresolved amendments that have not been addressed by the staff. The CCP agrees with the staff recommendation of denial and disagrees with special use text amendment.
3. Mr. Reed Armstrong, a CCP Committee member, noted the two split parcels involved in the rezoning request. He noted that the staff report stated a large grocery store was an

anomaly (meaning not usual). He questions the proposed sizes of the 40,000-square foot building with auxiliary buildings of 5,000 square feet, since the nearby structures are packing sheds of 17,000, 15,000, and 23,000 square feet, respectively. The allowable large buildings are grocery and hardware stores. The CCP Committee recommended text amendments that have not been dealt with by the County staff; however, the Lady's Island CP District had made several text amendments that the staff had brought forward to County Council.

4. Ms. Carol Tank, a former County Planner, spoke on the Community Preservation process. It is a unique and successful process. She is a supporter of the CP Committees. The CCP will be threatened if this rezoning request is passed. The usual CP process would have the applicant meeting with the CP Committee to obtain the thoughts of the community. The CCP Committee and Ms. Tank met and proposed text amendments. She presented those amendments to Mr. Criscitiello, the County Planning Director, who said he would tell the applicant before the amendments were presented to the Planning Commission. The DRT conceptually approved a plan showing the building close to Highway 21. She noted that the proposed CCP text amendments were held up by the Planning Director. She sent forth her memo without the Planning Director's approval and was terminated as the County Community Planner. She believes both requests should be denied.
5. Ms. Amy Lange, a St. Helena resident, has seen many changes. Moving the store back from the road would benefit the community. She feels that the grocery store would improve the community and the environment. It would bring jobs for the community and increase the tax base. She does not live on Dataw. She personally noted that Dataw residents did want the store and were not concerned with increased traffic.
6. Mr. Frank Gremaldi, a Dataw resident, noted that all those Dataw residents to whom he had spoken wanted a grocery store with an entrance on Highway 21, not on Polowana Road. It seems obvious that Publix has a right to build its store. What Publix is recommending is an improvement to the community. Moving an ugly box 400 feet back from Highway 21 and placing smaller buildings up front would be aesthetically better. When the zoning is approved, if Publix doesn't build then anyone can build on the property. The Commission has the authority to place contingents on the rezoning request to withdraw the approval if Publix does not build on the property. The Commission has the authority to deny future rezonings similar to this rezoning. Use common sense. It is highly desirable to have the store at this property. He noted the distance of the nearest store, higher gas costs, better air pollution control, and the convenience to community as reasons for approval.
7. Ms. Jane Bruce Brooker noted the split zoned parcels were on a major artery—Highway 21. When the McTeer Bridge was shut a horrendous traffic problem occurred. She urged for the location of a 21st century supermarket on St Helena. She is in favor of the rezoning and of placing the building back from the highway.
8. Mr. Colin McArthur, the president of Dataw Island Owners Association, noted that the Dataw residents were split on the subject.

Further discussion included a clarification on the role of the Commission within the CP process; concern that recommendations by the CCP Committees had not been acted upon by staff; a

reiteration of rezoning allowing property owners to build whatever is allowed by the approved zoning; a clarification of the parking text amendment request to conform to current non-CP parking standards; a clarification on the staff recommended special use of grocery stores in the Public Market District; a clarification of the fifth paragraph on page 6 of the staff report on design to avoid suburban shopping center concept; an explanation of the various County processes—Development Review Team/DRT, Corridor Review Board/CRB and Zoning Board of Appeals/ZBOA; a clarification on possible Commission motions; opposition to split zoned parcels; a clarification of the special use requirement for community impact statement; a clarification on applying conditions to rezoning requests; the Lady's Island/St. Helena Island Subcommittee rationale for recommending approval of the Applicants' request to move the large building away from Highway 21; and the juxtaposition of owners' rights versus existing development standards.

Motion: Ms. LeGree made a motion, and Mr. Flewelling seconded, **to forward to County Council a recommendation of approval of the St. Helena Island Map Amendment/Rezoning Request for R300-16-50A and 51A (7.2 and 3.2 acres, respectively; at the corner of Highway 21 and Polowana Road); from Corners Area Community Preservation District (CCPD) and Corners Area Public Market District (PMD) to PMD**, as requested by the Applicants. The motion **was carried unanimously** (FOR: Chmelik, Flewelling, Hicks, LeGree, Mullen, and Pottenger)

Note: Chairman Hicks recessed the meeting at 7:53 p.m. and reconvened the meeting at 8:01 p.m.

TEXT AMENDMENTS TO THE BEAUFORT COUNTY ZONING AND DEVELOPMENT STANDARDS/ZDSO, APPENDIX K-CORNERS AREA COMMUNITY PRESERVATION DISTRICT (CPD) AND PUBLIC MARKET DISTRICT (PMD), SECTION 12(H)(6). PARKING (DESIGN STANDARDS), TO AMEND PARKING REQUIREMENTS OF THE PMD; APPLICANTS: KUZZENS, INC. (50A); AND JOHN TRASK JR., WILLIAM C. ANDERSON, AND MATTHEW S. MCALHANEY (51A); AGENT: DAVID TEDDER

Motion: Mr. Flewelling made a motion, and Ms. Chmelik seconded, **to forward to County Council a recommendation of approval of the Applicants' request for Text Amendments to the Beaufort County Zoning and Development Standards/ZDSO, Appendix K-Corners Area Community Preservation District (CPD) and Public Market District (PMD), Section 12(H)(6)-Parking (Design Standards), to amend parking requirements of the PMD for grocery and hardware stores.** Discussion included a clarification of the request that narrowed the parking standards to particular uses, a clarification on parking standards for other uses in the Public Market District, and limitations on sideyard setbacks. The motion **was carried unanimously** (FOR: Chmelik, Flewelling, Hicks, LeGree, Mullen, and Pottenger)

ADMINISTRATIVE APPEAL OF DECISION BY THE DEVELOPMENT REVIEW TEAM (DRT) ON DENYING APPROVAL OF A REQUEST FOR A 10,000 SQUARE

FOOT FELLOWSHIP HALL ADDITION; APPELLANT: GRAYS HILL BAPTIST CHURCH, R100-20-18C, 2749 TRASK PARKWAY, BEAUFORT, SC;

Chairman Hicks read a procedural guide for conduct during administrative appeals to reflect how tonight's appeal would occur.

Presentation of the General Nature of the Case from the DRT's Position: Mr. Criscitiello gave a presentation of the facts. The DRT review occurred on October 20, 2007. The property is zoned commercial suburban and is located in the Airport Overlay District—APZ-2 and noise zone 3. The church is non-conforming to the Airport Overlay District. The DRT would not approve an expansion of 10,000 square feet to the church because of the potential use of the expansion would increase the occupancy load of the building which is in violation of the County's Zoning and Development Standards Ordinance Appendix A-1, Section 7, Item A.6. Colonel Lanham of the Marine Corps Air Station Beaufort wrote in support of the action by the DRT.

Appellant's Comments: Mr. Shaun Reeves of Harvey & Battey, representing the Gray's Hill Baptist Church, states the DRT erroneously applied a standard. The church is located on **Trask Parkway**. The Fellowship Hall was part of the original plans approved in 1990, but was not constructed when the Air Installation Compatibility Use Zone (AICUZ) came into effect. The strict requirements of the AICUZ does not allow expansion of occupant loads. The ordinance (Zoning and Development Standards/ZDSO) does not define an occupant load. The Church does not have an increased occupant load. The October 18, 2007, DRT letter to the Church said the new building would double the occupant load. The Church has a 293-person seating capacity. The Church is currently far below its seating capacity. The Fellowship Hall would serve the existing church population. The 93 parking spaces for the church are based on the seating capacity of the sanctuary. The Fellowship Hall would not increase the parking space requirement. The ZDSO interpreted by the DRT is so restrictive that it constitutes a taking and a reimbursement was not offered to the church. The project does not violate the AICUZ ordinance. Mr. Reeves asked the Commission to return the project to the DRT based on an erroneous interpretation made by the DRT.

Discussion by the Commission included the less than 16,000 square footage of the existing church building, the average 6 hours per week the church is occupied, the multi-use of the sanctuary as a fellowship hall, the church's awareness of the AICUZ standards, a clarification of the DRT decision, a clarification of the 15% square footage allowable increase, an interpretation based on disturbed area versus building footprint, the occupancy load being dependent upon building codes, and the capability of an expanded church population with the new building despite the small current church population.

Final argument by Mr. Reeves included the 15% issue that was not included in the DRT determination. He noted that the DRT decision was based on doubled occupancy load. His client is appealing the DRT's decision of the doubled occupancy load.

Further discussion by the Commission included the probability of an increased population with the proposed new building, the current underutilized use of the church building, a clarification of

the 15% allowable increase of the existing building size, a clarification by Mr. Tim Hodges of Building Codes Department that occupant load was based on square footage and the use of a building, and a clarification on the possible Commission actions.

Motion: Mr. Flewelling made a motion, and Ms. Chmelik seconded, **to deny the Administrative Appeal of a Decision by the Development Review Team (DRT) to deny approval of a request for a 10,000 square foot fellowship hall addition for Grays Hill Baptist Church.** The motion **was carried unanimously** (FOR: Chmelik, Flewelling, Hicks, LeGree, Mullen, and Pottenger).

The Administrative Appeal hearing ended at approximately 8:35 pm.

OTHER BUSINESS: Chairman Hicks noted that the next Commission meeting would be on Thursday, January 3, 2008. He also noted that elections for Commission chair and vice-chair would occur at that January 2008 meeting.

ADJOURNMENT: Motion: Mr. Flewelling made a motion, and Mr. Pottenger seconded, **to adjourn** the meeting. The motion **was carried unanimously** (FOR: Chmelik, Flewelling, Hicks, LeGree, Mullen and Pottenger). The meeting adjourned at approximately 8:37 p.m.

SUBMITTED BY: _____
Barbara Childs, Admin. Assistant to the Planning Director

Jim Hicks, Beaufort County Planning Commission Chairman

APPROVED: **February 4, 2008 (as amended; additions are underscored and in bold)**