

The regular meeting of the Beaufort County Planning Commission (hereinafter "Commission") was held on Monday, March 2, 2009, 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
Mr. E. Parker Sutler

Mr. Alan Herd, Vice Chair
Mr. Frank Mullen

Ms. Diane Chmelik
Mr. Ronald Petit

Members Absent: Mr. Edward Riley III and Mr. Robert Semmler

Staff Present:

Mr. Anthony Criscitiello, Planning Director
Mr. Robert Merchant, Long-Range Planner
Ms. Barbara Childs, Admin. Asst. to Planning Director

CALL TO ORDER: Chairman Hicks called the meeting to order at approximately 6:07 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 Commission reviewed their February 2, 2009, meeting minutes.

Motion: Ms. Chmelik made a motion, and Ms. LeGree seconded the motion, **to accept the January 5, 2009, minutes as corrected.** The motion **was carried** (FOR: Chmelik, Herd, Hicks, LeGree, Petit and Sutler; ABSTAINED: Mullen).

CHAIRMAN'S REPORT: Chairman Hicks noted that the Corridor Overlay District text amendments were withdrawn from tonight's agenda for further work by the staff.

PUBLIC COMMENT for items other than agenda items: None were received.

TEXT AMENDMENT TO THE BEAUFORT COUNTY ZONING AND DEVELOPMENT STANDARDS ORDINANCE (ZDSO), ARTICLE VII, SECTION 106-1846 (FORESTS): AMENDS SECTION TO REQUIRE A PERMIT FOR THE REMOVAL OF ANY SIGNIFICANT TREE ON AN INDIVIDUAL SINGLE-FAMILY LOT

Chairman Hicks noted that the text amendment had been before the Commission, the Land Management Committee and was returned by County Council for more work by staff.

Mr. Criscitiello noting that Ms. Frazier would give a more detailed brief. In 2001, the County adopted a more liberal tree cutting philosophy for individual single-family residential lots. That standard was interpreted to exempt those homes built after 1999 from this liberal philosophy. This text amendment will provide a level of protection on trees deemed worthy of protection and strike a balance between tree protection and recognizing individual property owners' rights to remove trees regardless of when their home was built.

Ms. Frazier briefed the Commissioners that this text amendment provided clarity to the ordinance regarding the removal of trees on single-family lots with existing residences. All such lots will be treated the same, will be required to obtain a County permit to remove significant trees. The permit would be issued without mitigation when the homeowner provides a written determination from a certified arborist that the tree poses either a potential high-risk threat, is a high risk species, or is dying or diseased. The tree can still be removed without the arborist's determination, but the homeowner would have to mitigate that tree. Additional standards were provided for private communities/homeowners associations.

Public Comment:

1. Mr. Chris Marsh, the Executive Director of The Lowcountry Institute, noted that there has been general reluctance to restrict property owners' from removing trees from their properties. There was also concern for the bureaucracy and paperwork to process such tree cutting permits. When asked his opinion, he provided to the County the sizes of trees that would be considered essential to the Lowcountry. He strongly encouraged the Commission, in trying to balance the benefit to the community and to the individual property owner, to treat historical significant trees like an historical building. Developers should adhere to stricter standards. This ordinance is a very lenient approach and does not leave many trees standing.
2. Mr. David Tedder noted that he has lots of trees on his property and he does not need oversight when he cuts a tree or two for his personal use. He stated that this ordinance was an improvement from the last proposed amendment. He had several suggestions:
 - a. Insure that Subsection b should not apply to agricultural operations as defined under state law,
 - b. Include the significant trees into Section 106-17 which is the definition section,
 - c. Clarify that a tree survey is not required if the tree is damaged or diseased,
 - d. Set tree standards in accordance with zoning, i.e. more trees in rural and less in suburban, or set a number of trees post development per acre so that mitigation is not required, and
 - e. Allow injured trees to be removed after a severe storm without an arborist's determination.

Mr. Tedder noted that he liked the 1990 ordinance better because it allowed him to do whatever he wanted on his property except to remove live oaks of 12-inch or greater.

3. Mr. Reed Armstrong of the Coastal Conservation League has concerns with the proposed size of trees that can be removed from single-family lots. He echoed Mr. Tedder's remarks of adding significant trees to the definition section of the Zoning and Development Standards Ordinance (ZDSO).
4. Ms. Paula Loftis, a Lady's Island resident, asked that philosophically do we wish to save or remove trees. There must be good policy to have good law. She is concerned that this

(amendment) is not good policy. There appears to be a vocalized change that people appreciate the unique beauty of the area and desire having a Natural Resources division. She asked that the Commission table this amendment until that division is formed so that they can review this amendment. Trees provide benefits – energy conservation, water and air quality, and wildlife habitat. She lives in a subdivision where the Property Owners Association (POA) authorized timbering 100 trees. This proposed amendment allows the County to abdicate its authority to POAs which are not tree experts. Some POAs do not even enforce its ordinances—trees and river buffers are cleared, etc. She is concerned with the huge size of trees allowed to be cut in the amendment. She applauds the Planning staff for obliterating the arbitrary 1999 date that has caused a lot of confusion. The proposed ordinance does not provide tree diversity and lacks mitigation. Her experience has been that timbering companies or the homeowner, not arborists, have been cutting down the trees. She hopes the Commission received a position statement from a grass roots group regarding their concerns on this amendment.

5. Ms. Sandy Stephen, a Lady's Island resident, gave a handout to the Planning Commissioners. This amendment provides less protection to trees than the old one and only partially contains Dr. Marsh's recommendations for historic trees. One premise is that people love trees, but not everybody wants (to have the maintenance of) trees. She noted the huge lob lolly pine that was removed at the Castle in Downtown Beaufort. There should be smaller limitations than the proposed 36 inches. She has concerns, like Ms. Loftis, when the County gives POAs the authority to remove trees. She would be delighted to see the Natural Resource division formed and reviewing this amendment. This proposed ordinance is a band-aid over a gushing wound.
6. Ms. Wendy Zara, Beaufort resident, applauds some type of tree amendment. We live in communities and what you do on your land affects your neighbors. Zoning allows laws that prohibit certain things for the betterment of the community. When trees are cut down, flooding occurs that might not affect the landowner's property but the neighbors. Other negatives from tree cutting are erosion, and affected habitat and scenic beauty. She was really surprised at the large, rather than small, circumferences of trees affected by this amendment. She doubts this ordinance would be as effective as intended. She urged the Commission to look at smaller dbhs.

Discussion by the Commission included:

- a clarification on the types of pines being affected by this amendment,
- a clarification on requiring a tree survey of trees 8-inches or greater that applies to all development activity which is not part of the proposed text amendment,
- the rationale for the differing sized trees rather than having one measurement,
- a concern for the nebulous wording in subparagraph (d)(1) of "another condition" that requires an arborist's determination before the homeowner can remove tree,
- a concern for the need to maintain trees versus the property owners' freedom to maintain their own property,
- the rationale behind this amendment of anticipating future problems or addressing past problems,
- obtaining comments from the municipalities on this ordinance,
- the burden to property owners this amendment causes (i.e. determining the size of tree and requiring an arborist's determination before having permission to cut down the tree),

- the removal of the inequity to homeowners that will be provided by this amendment,
- disagreement to requiring an arborist's determination prior to allowing the cutting of the tree,
- a concern that there is too much government regulation over private property rights,
- a concern that the County would be liable for damage to personal property if they overruled the property owner's rights to cut a desired tree,
- a concern for enforcement of this amendment,
- a concern with protecting anything other than live oaks, and
- the witnessed storm damage caused by fallen pine trees in Mississippi.

Note: Mr. Sutler left the meeting at approximately 6:38 pm. Chairman Hicks asked Mr. Sutler if he would like to make a statement before he left. Mr. Sutler stated that if he were voting, he would vote for the amendment.

Chairman Hicks called for a motion. Upon not receiving a motion from the Commission members, Chairman Hicks turned the Commission chairmanship over to Vice Chairman Herd.

Motion: Mr. Hicks made a motion, and Mr. Petit seconded the motion, **to forward to County Council a recommendation of approval for the Text Amendment to the Beaufort County Zoning and Development Standards Ordinance (ZDSO), Article VII, Section 106-1846 (Forests) where the limitations on actions in residential property, regardless of when the residence was built, be limited to live oaks with 18-inch dbh and that this limitation may be waived following storms in which damaged trees pose a danger to private residences.** Further discussion included adding a waiver for storm damage which is included in the above final amended motion. The amended motion was seconded and **was carried unanimously** (FOR: Chmelik, Herd, Hicks, LeGree, Mullen and Petit).

Mr. Herd returned the Commission chairmanship back to Mr. Hicks. Mr. Herd ~~Herd's~~ made a comment that the County should share this tree ordinance with the municipalities.

Note: Chairman Hicks recessed the meeting at approximately 7:12 p.m. ~~am~~ and reconvened at approximately 7:18 pm

TEXT AMENDMENT TO THE BEAUFORT COUNTY COMPREHENSIVE PLAN, ENERGY AND SUSTAINABILITY ELEMENT (ADDS NEW ELEMENT)

Mr. Criscitiello noted that the State Enabling Act did not require this element, but the County Planning staff believed this Element should be included in the Beaufort County Comprehensive Plan. Mr. Robert Merchant summarized the Element using a power point presentation. He noted that the Planning Department held a public workshop last summer, with Mr. Terry Logan as the meeting moderator/facilitator, to discuss what could be done reasonably on the local level to have an impact on energy efficiency and energy consumption.

Mr. Merchant and Mr. Criscitiello summarized the comments received from Mr. Dan Ahern, the County Stormwater Manager, and Mr. Eddie Bellamy, the County Public Works Director.

Public Comment:

1. Mr. Bill Shipley owns a solar water heating system company and has had problems from the PUDs with covenants that do not allow solar panels on the roofs. He applauded the recommendation to encourage communities to change their covenant to allow solar panels on their roofs. We have to do our part by going green to save energy. Sun City and many fixed-income residents could receive federal and state tax credits and reduce their utility bills with solar energy.
2. Ms. Sally Murphy, a Sheldon resident, applauds this new element. However, there is a glaring omission regarding wasteful light pollution (i.e. lights shining up to billboards, landscape and security lights). Light pollution can be reduced by changing lighting standards and installation. She noted two articles that advocated dark night skies. Light affects plants, insects, birds, animals and humans. She suggested delaying action on this chapter and referring it back to the staff to include light pollution.
3. Mr. Reed Armstrong of the Coastal Conservation League stated the Planning Department should be commended for placing Beaufort County in the forefront with this chapter for addressing and planning ahead for our energy needs and water and sustainable agricultural opportunities. The Element offers the opportunity to save money for the government and individuals; it decreases our carbon footprint and offers economic opportunities through creating green color jobs in the community. He asked for the Commission's support for this element.
4. Mr. Joe Allard, a Lady's Island resident, attended the workshop last summer and commended the staff for including the workshop comment into this element. He wanted to encourage bicycling by providing bicycle racks and trails. He noted that trees help save energy; however, if he desired placing solar panels on his roof, he might have to trim or remove a tree. Despite the difficulty of the County's many islands, he would like to see public transportation in the County. He suggested organizing recycling and composting programs to reduce the landfills, encouraging native plantings around the waterfront and buffers to help the water quality, and promoting rainwater or graywater harvesting.
5. Mr. Everett Tate, a Beaufort resident and a Technical College of the Lowcountry (TCL) representative, noted that TCL received a grant to develop a curriculum for LEED certified building technicians and alternative energy certification this fall.
6. Mr. Richard Combs, a Fripp Island resident and a mechanical engineer, supported this Element. There are comprehensive energy policies in Florida that are paying big dividends. Energy efficiency can pay off for Beaufort County. He noted that LEED ratings can occur for existing buildings. He asked the Commission to support this Element.

Discussion by the Commission included:

- kudos to the Planning staff for this Element that does not over- or under-reach;
- comments by Mr. Herd:
 - share the 5-point vision statement on Page 2 with the municipalities for their use,
 - add this sentence to the end of the last paragraph on Page 3, "Policies that limit development in both central and rural areas do, of course, limit sprawl much more.",
 - questioned the high walk score for the Hilton Head Island – Pineland Station area noted in Figure 13-2 on page 4 because the nearby residential units are unsafe and heavily visited by the Sheriff's Office,

- observed that most residential developments do not tend to be near key commercial intersections so interconnectivity is not achieved as recommended by the last sentence in the first paragraph of page 5,
- the grid street pattern recommended on the last sentence of the Interconnectivity paragraph on page 6 does not appear to be desirable in Southern Beaufort County,
- questioned the second sentence of the first paragraph on page 7 regarding redesigning streets and intersections to make automobiles more safe,
- supported the concept that the County should lead by example,
- acknowledged the challenge to remove covenant restrictions on placement of solar collectors as mentioned in the last sentence of the third paragraph of page 11,
- on the disposition of curbside solid waste collections,
- supported the Energy Committee in Recommendation 13-1,
- on Recommendation 13-2, land use policies, modify the last sentence to read, “These policies include limiting growth overall. If growth is not to be limited overall, these policies would include....”, and
- on Recommendation 13-8, modify the first bullet to read, “When planning future facilities (or major renovations and additions to existing facilities), Beaufort County could encourage registration of the proposed project to gain certification”;
- encouraging the County Council to create without delay the recommended Energy Committee to look at the other recommendation in order to begin saving money in the County;
- personal shopping preferences and safety concerns preclude the walking/biking neighborhood concept; and
- supporting this Element, especially the renewable energy and recycling portions.

Motion: Mr. Herd made a motion, and Ms. Chmelik seconded the motion, **to forward to County Council a recommendation of approval on the Text Amendment to the Beaufort County Comprehensive Plan, Energy And Sustainability Element that adds this new element to the Plan, with the following conditions:**

- 1. evaluating Mr. Herd’s comments,**
- 2. adding a Recommendation 13-13 that would consider implementing standards regarding unnecessary or subdued lighting, and**
- 3. including comments from the Public Works and the Stormwater Management departments.**

The motion **was carried unanimously** (FOR: Chmelik, Herd, Hicks, LeGree, Mullen and Petit).

TEXT AMENDMENT TO THE BEAUFORT COUNTY ZONING AND DEVELOPMENT STANDARDS ORDINANCE (ZDSO), APPENDIX I, DIVISION 2 (LADY'S ISLAND EXPANDED HOME BUSINESS DISTRICT), TABLE 2.1 (PERMITTED USES): ADD SCHOOLS AS A SPECIAL USE

Mr. Criscitiello briefed the Commission that this amendment resulted from Beaufort Academy wanting to make changes to its campus that were not allowed under the current standards because it was an existing non-conforming use. Mr. Criscitiello explained the special use process with the Development Review Team (DRT).

Public Comment: None were received.

Discussion by the Commission included:

- the LICP Committee not envisioning growth in the existing schools in the Expanded Home Business District, and
- the rationale for not including other types of schools.

Motion: Mr. Herd made a motion, and Ms. Chmelik seconded the motion, **to forward to County Council a recommendation of approval for the Text Amendment to the Beaufort County Zoning and Development Standards Ordinance (ZDSO), Appendix I, Division 2 (Lady's Island Expanded Home Business District), Table 2.1 (Permitted Uses) that adds schools as a special use.** The motion was **carried unanimously** (FOR: Chmelik, Herd, Hicks, LeGree, Mullen and Petit).

OTHER BUSINESS:

1. **Form-based Zoning:** The proposed County form-based zoning was presented to the Town of Bluffton and Mayor Lisa Sulka, Bluffton Town ~~Mayor~~ Mayor, was encouraged by Mr. Criscitiello's presentation. The County and the Town of Bluffton will be looking into moving to form-based zoning in the future
2. **Capital Improvements Program (CIP):** Chairman Hicks asked about the status of the CIP presentation to the Commission for the upcoming fiscal years. Mr. Criscitiello indicated he would check with the Deputy Administrator.
3. **Garden's Corner Rural Business District:** Mr. Criscitiello noted that the Planning staff had received the transportation study for the area and hopes to bring the standards to the Commission next month.

ADJOURNMENT: Motion: Mr. Herd made a motion, and Ms. LeGree seconded, **to adjourn** the meeting. The motion was **carried unanimously** (FOR: Chmelik, Herd, Hicks, LeGree, Mullen and Petit). The meeting adjourned at approximately 7:25 p.m.

SUBMITTED BY:

Barbara Childs, Admin. Assistant to the Planning Director

Jim Hicks, Beaufort County Planning Commission Chairman

APPROVED:

May 4, 2009, as corrected
(Deletions are ~~struck through~~, additions are underscored)