

A regular meeting of the Beaufort-Port Royal Metropolitan Planning Commission (MPC) was held on **September 16, 2019 at 5:30 p.m.** in the Beaufort Municipal Complex, 1911 Boundary Street. In attendance were Chairman Mike Tomy; Commissioners Judy Alling, Jim Crower, Caroline Fermin, and Bill Bardenwerper; City of Beaufort Director of Community & Economic Development David Prichard, and Linda Bridges, Town of Port Royal planning director. Commissioner Robert Semmler 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.

Chairman Tomy called the regular meeting to order at 5:32 p.m. and led the Pledge of Allegiance.

### **MINUTES**

**Commissioner Alling made a motion, second by Commissioner Fermin, to approve the minutes of the July 29, 2019 MPC work session. The motion to approve the minutes as submitted passed unanimously.**

**Commissioner Fermin made a motion, second by Commissioner Crower, to approve the minutes of the July 20, 2019 MPC regular meeting. The motion to approve the minutes as submitted passed unanimously.**

**Commissioner Fermin made a motion, second by Commissioner Crower, to approve the minutes of the August 19, 2019 MPC regular meeting. Commissioner Alling recused herself from voting because she was not present at the meeting. The motion to approve the minutes as submitted passed 4-0.**

### **REVIEW OF PROJECTS FOR THE CITY OF BEAUFORT**

**Rezoning (map amendment) 2409 Oak Haven Street** (portion of R120 005 000 0236 0000), **2408 Oak Haven Street** (R120 005 000 0257 0000), **Flt lot – no address on Oak Haven Street** (R120 005 000 0437 0000), and **2406 and 2407 Oak Haven Street** (portion of R120 005 000 0236 0000)

Applicant: Samuel M. Levin

Mr. Prichard read from a section of the Beaufort Development Code about the MPC's role concerning map amendments. He then referred to the staff report about the opportunities the public had to comment on the 2009 Comprehensive Plan and the Civic Master Plan.

Mr. Prichard read from the staff report about the properties' compatibility with the relevant code and about the current and requested zoning. All of the parcels but a portion of one (which is T5-UC) are zoned T3-S, currently; the requested zoning is T5-UC.

Rezoning should make the properties more marketable, and “public infrastructure exists” for these parcels, he said.

Mr. Prichard read the “givens” leading to staff’s opinion that “the request to rezone to T5-UC is acceptable.” He pointed out the properties that the applicant is requesting rezoning for. The largest parcel was a mobile home park, he said.

**Paul Trask**, 2414 Oak Haven Street, said he favors this application. He asked for a site plan for the project. He has lived at this address for about 7 years and finds the improved ingress and egress something “very attractive” about this project. There has been a lot of traffic on the “quiet, single-family residential street,” he said, and this would increase property values “up and down the street,” and coming on and off the site should improve. Mr. Trask feels a lot of the Oak Haven traffic “will be greatly diminished under this plan.

Mr. Trask feels this is “progressive, more urban development,” and he expects Allison Road and the neighborhood will become more walkable.

Mr. Prichard said the development plan has not been approved, and the MPC is not approving the development, just the zoning. He said he doesn’t show development plans so the commissioners could not be “accused of capriciousness.”

Commissioner Bardenwerper said it’s difficult to view these applications “totally in the abstract,” and he gets Mr. Prichard’s point, but it would help to have an idea of what an applicant is intending to do. Mr. Prichard said the developer could change his mind about what he’ll do with the property once it’s rezoned, or he could sell it to someone who does something different than the developer had planned to do. This is a vote for what the “zoning would allow in total,” he said.

Commissioner Bardenwerper asked if these properties are part of a larger plan for the former trailer park property. Mr. Prichard said yes, and he reviewed the parcels that Mr. Levin would like to include in the development.

Chairman Tomy closed the public comment section.

Commissioner Alling asked if two of the parcels had single-family residences on them currently. 2408 is a single-family house, which Mr. Levin said is rented. 2409 “is not,” and the other lots had trailers on them, “and that's all being cleared,” Mr. Prichard said.

**Commissioner Fermin made a motion to recommend approval of the request to rezone these parcels T5-UC. Commissioner Alling seconded. The motion passed unanimously.**

## **UPDATE OF CITY COUNCIL ACTIONS**

Mr. Prichard provided the commissioners with the results of city council's votes *on first reading* from the August 27, 2019 council meeting. Votes were unanimously in favor unless otherwise noted.

- Ordinance amending "Minor Alterations to Non-conforming Sign"
- Ordinance annexing property at 44 and 50 Miller Drive and ordinance zoning property at 44 and 50 Miller Drive – Council amended the motion to honor Metropolitan Planning Commission's recommendation of T3-S; the applicant initially requested T4-N. The amended motion passed with a 4 to 1 vote.
- Ordinance annexing multiple parcels located at Mayfair Court and Williams Street and ordinance zoning 11 Williams Street and 13, 17, and 19 Mayfair Court – Council amended the motion to honor Metropolitan Planning Commission's recommendation of T3-N; the applicant initially requested T5-UC. Mr. Prichard said the applicant requested that the application be removed from the agenda before second reading.
- Ordinances annexing and zoning property located at 302 Parker Drive
- Ordinance annexing and zoning property located at 35 and 43 Parris Island Gateway and 41 and 46 Broad River Boulevard
- Ordinance rezoning property neighboring 2811 Boundary Street

Mr. Prichard provided city council's votes *on second reading* at the September 10, 2019 meeting. Votes were unanimously in favor unless otherwise noted.

- Ordinance amending "Minor Alterations to Non-conforming Sign" – The motion passed with a 4 to 1 vote.
- Ordinances annexing and zoning property located at 302 Parker Drive
- Ordinance annexing and zoning property located at 35 and 43 Parris Island Gateway and 41 and 46 Broad River Boulevard
- Ordinance rezoning property neighboring 2811 Boundary Street
- Ordinance annexing and zoning property located at 44 and 50 Miller Drive – City council voted to amend the zoning from T3-S to T3-N, after discussion about T3-S zoning being "too much of a downzoning," and their feeling that T3-N would be more in line with the character of the surrounding neighborhoods, Mr. Prichard said. It allows less intensive uses than the current county zoning. The applicant wanted T4-N for row homes but was fine with T3-N.

Mr. Prichard told Commissioner Bardenwerper that the MPC had recommended T3-S.

Commissioner Bardenwerper asked if there were "new public hearings" on all of these projects that went before council. Mr. Prichard said there were public hearings on all of these applications before council's first reading. Commissioner Bardenwerper asked if a new public hearing is required by law, or if that's something the applicants chose to do. Mr. Prichard said annexations and rezonings both require public hearings. "When someone wants to do an annexation and rezoning, we're going to start with a public

hearing,” he said. State statute allows that to take place either before council or before the planning commission. “We’ve been doing it before council,” Mr. Prichard said, but because the MPC makes recommendations to the councils, people make public comments at the MPC, though that’s not the *official* public hearing. “We are going to try to clean that up,” Mr. Prichard said. The change would be that the official public hearing would take place first in front of council, and then the matter would go to the MPC, which could hear the comments that had been made at the public hearing that was held before council.

Commissioner Alling said doing it this way would probably mean that the commissioners wouldn't hear many comments. Mr. Prichard said the public could still come to the MPC and make comments. There’s no difference between this new way and the way it’s done now, he said, except that with the new system, before the MPC makes its recommendation, it would hear the comments that had been made at the public hearing that took place before council.

Chairman Tomy said he disagrees with this change. Commissioner Alling said both the MPC and council need to hear from the public in order to make a recommendation/decision on an ordinance. Commissioner Bardenwerper said the MPC needs to hear public comments in order to make its recommendations to council. Part of the reason for having planning commissions is for them to “do the heavy lifting, so that the ultimate decision-maker can look at the record and make the decision,” he said.

Mr. Prichard said staff is not advocating for less public input; it’s only a matter of “when the actual public hearing occurs.” Commissioner Alling said that she doesn’t think staff is advocating less public input, but that is how the public would perceive such a change.

Chief Bertholf said if the change is made, the public would have more notice of the public hearing than they have now. Chairman Tomy said the commissioners are saying that they totally agree, but they think that the first public hearing should be before the MPC, not council, since the MPC makes recommendations to council.

Commissioner Bardenwerper said South Carolina might be different, but the commissioners who have experience with planning commissions in elsewhere know that the “way that planning and zoning generally run every place else in the country is that the planning commission actually holds the only required public hearing,” and it makes a recommendation to the local legislative body, which then could also have a public hearing if it chooses, but it doesn't have to. The local legislative body makes its decisions “based on the record,” he said. This has been set up this way in most of the country “since the early 1920s” so that planning commissions have “a critical role in this sort of thing as a recommending body to the local legislature.”

Mr. Prichard said South Carolina statute allows the formal public hearing “to be before the planning commission or city council.” There’s “lots of variation,” he said, in how this is done.

Mr. Prichard said at every meeting of the MPC or councils, the public is given an opportunity to speak. A formal public hearing is the same thing as a public comment period, but the public has to be officially informed of the public hearing through various means (e.g., sign postings, newspaper advertisements). He said the commissioners are saying that the formal public hearing should take place before the MPC, not council. Some of the commissioners disagreed with his conclusion.

Mr. Prichard said he thinks the commission “has value.” Commissioner Alling said the formal public hearing doesn’t have to be before the MPC, but the commissioners feel it’s important that they hear from the public before making their recommendations. They are concerned that if the public hearing takes place before council, and *then* the matter comes to the MPC, the commission might not hear from the public as they do now, she said.

Mr. Prichard clarified that every public meeting is advertised; public hearings are required by state statute for certain things like annexations and rezonings.

Chairman Tomy said if city council saw the MPC’s comments and recommendations, he appreciates that council had reviewed them. Mr. Prichard said he makes sure that council knows what the MPC’s recommends.

#### **REVIEW OF PROJECTS FOR THE TOWN OF PORT ROYAL**

**REZONING UNDEVELOPED PARCELS AT HAMRICK DRIVE AND BROAD RIVER DRIVE,** further identified as District 112, Map 33B, Parcels 90A, 137, and 138 – The current zoning is T3-Suburban Neighborhood (SN); the requested zoning is T3-Neighborhood (N).

Applicant: Hammock 15, LLC – Skeet Burriss

**Commissioner Fermin made a motion, second by Commissioner Bardenwerper, to take the issue off the table. The motion passed unanimously.** This issue was on last month’s agenda, Ms. Bridges said, and it was tabled until tonight’s meeting. She pointed out the 15 acres, which are currently zoned T3-S, and said the applicant has requested T3-N zoning. She indicated the zoning on adjacent properties.

At last month’s meeting, the residents discussed problems that they are having with stormwater now and concerns about it getting worse if this property is developed, Ms. Bridges said. The commissioners requested that the applicant bring someone with stormwater expertise to comment on this.

Ms. Bridges said **Greg Baisch** is the applicant's engineer; he is with Ward Edwards Engineering and was present, as was the applicant, she said.

**Skeet Burris** is the owner of the property and the applicant. He showed the design plan with the current zoning, which has 35 units for 70 duplexes per lot, subject to setbacks, a stormwater management plan, etc. It could be developed similarly to this by right, he said.

Dr. Burris said with the rezoning he's requesting; the development could be concentrated away from Broad River Drive. With the first plan he'd submitted, every current resident would share a fence with a duplex; with this requested zoning change, the development could be concentrated away from the existing Broad River property owners' fences, he said, and it would allow a green space between existing property owners and the new development, except for "the property that's already zoned the same."

Dr. Burris summarized a letter that the commissioners had received from Ward Edwards about the property's stormwater. Commissioner Bardenwerper said the letter says, "they have to comply with the law," but the public had raised the question of "whether the property really can be developed," given its characteristics and that of the area. The issue that was raised at the last meeting, he said, was whether or not the property could be developed under either of the proposed plans, based on what the public had said about stormwater problems that already exist there. Commissioner Bardenwerper said he had wanted to hear "a good explanation" of whether the property could be developed at all. He couldn't determine if the new plan was better than the old one when it was unclear if the property could be developed at all, he said, and the Ward Edwards letter doesn't answer those questions.

Commissioner Bardenwerper reviewed some questions he had for the engineer (e.g., the size of the watershed and how much of it drains through this property) that would help him to determine whether or not this property has development potential.

Commissioner Fermin said the property above the subject property drains through Dr. Burris's property and onto the property below it, which "creates a flooding situation," so she'd like to hear from the engineer if that could be mitigated.

Dr. Burris said they had a meeting the week before with people "who live along the Shell Point shopping center canal." Over time, as the shopping center was developed and impervious surface was added, the canal wasn't improved downstream, so now there are "some major obstructions to that water leaving the property." For a couple of years, he said, they have not gotten a clear answer on who is responsible for the Broad River Drive outflow pipes "where the Beaufort County easement crosses Broad River Drive," he said. In a follow-up to last week's meeting, a DOT engineer explained that DOT gave an encroachment permit to Beaufort County for the outflow pipes years ago, and that

engineer would “help with the process to get an encroachment permit for the county now to improve that canal,” Dr. Burriss said. A county team is investigating ways to improve the outflow, and the county has committed to having another meeting to present the community with options in approximately 3 weeks, he said. He has discussed the portion of the easement that runs through his property, and he would allow a few more feet if it would improve the under-highway drainage. “These questions are all being studied,” Dr. Burriss said.

Mr. Baisch said he’s been a practicing stormwater engineer for about 20 years. The project would have to meet all applicable requirements, he said. The town adopted the county’s best management practices manual. Regardless of the zoning, a plan to go to the next level with the town would involve a hydrology study, etc. They can’t bring a plan beyond this level without fulfilling these requirements.

Mr. Baisch said he engineered a hospice facility on this parcel about 10 years ago, and it “went through the full permitting, but it wasn’t developed”; however, “it was able to be developed with a stormwater system that worked.” It’s very helpful to the process, he said, that Dr. Burriss has started “to understand the existing flooding conditions of the development,” because if flooding conditions exist, “those have to be addressed” and mitigated as much as possible.

Commissioner Bardenwerper asked how much of the property is in the flood plain. Mr. Baisch said there could still be flooding even if it’s out of the flood plain. He thinks it’s “A zone,” which members of the public confirmed. Commissioner Bardenwerper said, in order to develop, they’d “have to fill in the flood plain” and then “excavate to compensate.”

Mr. Baisch said there are minimum elevations required, which don’t necessarily have to be done with fill for a building’s finished floor. Commissioner Bardenwerper said stormwater and the flood plain are “related, but they’re different.” He asked if they plan to fill the flood plain, and if they could have access to a developed site through a flood plain. Mr. Baisch said you can have access to residential private property through a flood plain. Commissioner Bardenwerper said he’s trying to understand if they could do a new apartment development with the only access being through a road that exists within the flood plain. Mr. Baisch said that’s correct. He told Commissioner Bardenwerper that no local regulation prohibits that. In a flood plain, he said, there are minimum elevations for manhole covers, for example.

Commissioner Bardenwerper asked if Mr. Baisch could tell how big the watershed is and whether all or a portion of it is draining through this property. Mr. Baisch pointed to the Beaufort County GIS site. The basins are all delineated, he said, and Dr. Burriss is working with the county to see if there is a way to help with existing conditions on his property.

Mr. Baisch pointed out a ditch that currently exists, but the rest, he said, is “very conceptual in nature.”

Commissioner Fermin asked if the county authorized widening the drainage ditch. Dr. Burris said the county was in “an information-gathering stage” and had heard the residents’ comments without responding. They plan to digest what they’ve learned and will make a plan that they will present in the future. Commissioner Fermin said she’s not sure that “widening a drainage ditch is going to mitigate the flooding.” If they have to infill, it would create a problem that would exacerbate the current flooding problems, she said.

Dr. Burris asked if developing houses on the existing site, and thereby raising the level of impervious surfaces, would increase runoff or flooding potential in the area. Mr. Baisch said if what’s there is not infiltrating well now, and it’s “adding to the situation that’s out there right now,” and they “were to fill and take away the water that’s currently going there and retain it and treat it,” they “would be improving . . . what’s flowing off-site from the property.”

Mr. Baisch said when they elevate it, they would have to follow best management practices. There is a volume control ordinance in Beaufort County, which says that with 1.95” of rain, those quick storms flood the channels, so it must be retained completely and can’t leave the property. A developer would be required to retain those 1.95” and re-use it onsite. That could be through “irrigation reuse” with a wet pond, he said. Because of the current code, which the Town of Port Royal adopted in 2012, this is required.

Dr. Burris said he’d learned that many of the houses in the surrounding area are on slabs and were required to be 8’ above grade; the new regulations in this zone require 14’ above grade. Mr. Baisch said the height is different in different flood zones. The site would be raised, Dr. Burris said but the water on the perimeter would go back into the pond on the site, so after development, the volume of what runs off the property could not be any greater than it is now.

The commissioners’ concerns about stormwater run-off would be addressed, Dr. Burris said; there would be no development without proper stormwater measures. Mr. Baisch said this is one of the problems with sharing a conceptual map: the development might not be done, but they can’t move to the next steps without having a plan.

Mr. Baisch clarified that with a 1.95” storm event, the stormwater “cannot ever leave your site.” Commissioner Bardenwerper said a developer could say that there won’t be any more run-off post-development than there was pre-development, which is possible. With retention the water is used for irrigation, he said. In less frequent, higher volume rain events, he said, with development there would be *more* run-off; detention slows the rate of run-off, as it slowly discharges the water, but there would always be more

discharge post-development than pre-development.

Mr. Baisch said this also requires that they “study flow. You’re detaining it at a rate,” but that rate could allow a longer storm event; it could allow more stormwater in that system, and the “system downstream has to be designed for flood conditions to allow that rate to flow through.” If there’s an existing flooding condition, he said, and there’s something downstream that’s causing an issue, “at the end of it, the volume is the right thing to look at for quality up front,” but “assuming you address flood,” which is a lot of what this neighborhood is concerned with, “you also are needing quality from the volume and the rate” and flood control, which is the quantity.

Mr. Baisch said the system has to remove certain pollutants. Commissioner Bardenwerper said Dr. Burris had said they wouldn't increase the rate of run-off, but the total volume running off the site “always increases” unless all of it could be retained onsite. Mr. Baisch said that’s why the water quality and study of the flood plain are key components.

Commissioner Fermin asked if Dr. Burris got an encroachment easement from DOT for Broad River Drive. Dr. Burris said that wouldn't be his responsibility. “If the county desires to improve the drainage canal, they would have to enlarge their outflow pipes that run under Broad River Drive,” he said. “There’s a limit to how deep a ditch or canal can be,” because it can’t be dug “any deeper than the marsh is at the end of the outflow.” A pipe can’t be larger than the top of the asphalt, Dr. Burris said, so they might have to run multiple parallel concrete pipes, “as opposed to a larger pipe or a deeper canal.” When the county presents them with a plan to improve the outflow, DOT said they would facilitate an encroachment permit.

Dr. Burris said they feel that with the zoning to allow the second plan, there would be a lot more open, impervious space than was in the first plan, because having that space isn’t an option if duplexes are developed.

**Peach Morrison**, 608 Broad River Drive, said, “The outflow absolutely is a major issue,” and any additional impervious surfaces would create additional problems in her neighborhood. Traffic is bad, especially since the Montessori school was built, she said. This is a quiet, single-family neighborhood, Ms. Morrison said, “and we wish to remain as such.” She requested that the commission “deny any zoning changes on this property.”

**Harvey David Kelley** has lived at 402 Broad River Drive since 1969. He said he played in the woods on the subject property as a child. He pointed out a “dirt road” and said it’s “full of saltwater” twice a day at high tide. He agreed with Dr. Burris that the ditch can’t be any deeper “because water is already coming in at high tide.” If they have a retention pond, it “will hold water, but it’s still going to seep into the ground and eventually get into the neighbors’” properties. If the houses are elevated on slab foundations, “the

water still has to go somewhere,” Mr. Kelley said.

Mr. Kelley also disagrees with Port Royal’s “spot-zoning.” The county’s zoning regulations don’t allow the level of density that the town’s and the City of Beaufort’s do, he said.

Chairman Tomy said Dr. Burris’ first plan could be built on this property without this rezoning, so something will be built there whether or not the rezoning is approved.

**Walter Cole**, 294 Broad River Drive, said the area that was “filled in” to build the Bi-Lo shopping center “was swamp, and this [property] is swamp.” The neighborhood’s children can’t walk to school or ride bikes, he said, because the street is dangerous, with people “flying” around the corner and driving distractedly. The drivers “keep speeding up,” he said, and with a new development, he feels this will get “even worse.”

There are single-family homes in this neighborhood, not duplexes, Mr. Cole said. The park “has been underwater for years,” he said, and a development behind Lowcountry Medical uses it; he feels a new development that size or larger “will disgrace that park.” Mr. Cole’s front yard is flooded because DOT won’t dig the trenches in front of his house “to the curb.” He doesn’t believe DOT would support the construction of drainage as it has said it would.

**Leila Kent**, 301 Shell Point Circle, said since Port Royal “has been able to develop in our part of the neighborhood, it has been like a cancer to our community.” The town doesn’t “having to face the consequences of their development,” but “they do prosper, quite a bit.”

**John Kaczowka** said his wife had given out packets that included copies of a petition signed by residents of the Hamrick Hill subdivision. He feels mansion apartments are not compatible with the single-family houses in this neighborhood. He also included information about the Town of Port Royal’s Comprehensive Plan as it pertains to this project.

Mr. Kaczowka feels Port Royal believes the subject property “probably can’t be developed in any way,” so it wants to “incorporate it into the park.” He said Port Royal’s future land use map designates this property as “a conventional neighborhood, just like the existing neighborhood, and not a walkable neighborhood.”

Mr. Kaczowka cited Port Royal’s zoning code for mansion apartments, which “allows a lot size from 5,000 to 15,000 square feet, with up to 50% of the lot to be covered by a building.” The “building size and massing would allow for about 5,000 square feet of impervious . . . surface per about a ¼-acre,” he said. He asked where the water would go. The building code limits building height to 2.5 stories, he said, and he cited the limits with it, concluding that “somebody’s going to have to bring in dirt . . . to build above the

base-flood elevation.” Finally, Mr. Kaczowka said, the ditch they have been discussing is “basically a tidal creek.”

**Wendy Woods**, 410 Broad River Drive, said the subject property was annexed 20 years ago, but it hasn’t been developed because “it’s low and it floods.” She showed photos of Hamrick Drive and houses on it following Hurricane Irma. The pipes are “bringing in the creek,” not just piping the water out, she said. She showed flooding during high tide after a rain on Hamrick Drive and the same on Broad River Drive.

**Frank Cerulli**, 5027 Dogwood in Shell Point, said in the Great Swamp in New Jersey hasn’t been developed for obvious reasons, despite the high property taxes there. Many residents feel “all Port Royal cares about is money,” he said. Port Royal is considered an urban area, he said, which allows building closer to the road, more buildings, etc. Mr. Cerulli said this property is “not adjacent to Port Royal,” so he wonders how it could be considered for annexation into Port Royal. He feels “this would be illegal in most other areas,” and he suggested an independent engineer – not one Dr. Burris had hired – should be consulted.

**Barbara Stanley**, 3011 Shell Point Road, said, “This development is premature for this area” until the problems the residents have are corrected. There is “a comprehensive plan for this neighborhood,” she said, “and it has been eroded away, over and over again over the years for rezoning, to the detriment of the . . . residents,” who have to live with the increasing problems with flooding in “places they've lived for decades.” In 1999, Ms. Stanley said, “this was a Community Preservation district.” The Army Corps of Engineers came and warned the owner at that time about the impact on the wetlands of clearing trees and bringing in fill dirt, she said; he was told he’d have to “restore it.” There are “devastating consequences” to development on fragile islands, she said, and everyone needs to be aware of that.

Ms. Stanley feels the MPC is “moving in the right direction” by listening to the public and making reasonable recommendations. Councils haven’t always been “responsive to the recommendations of this commission,” she said, but she thinks that might be changing. She said Commissioner Bardenwerper seems especially to have “a lot of knowledge and background on these water problems,” which should help to guide decision-making.

Also, Ms. Stanley said, “It seems the developments [don’t] think about the traffic problems until after they’re already developed,” and she cited a number of recent developments in the area.

**Robert Wilkinson**, 2002 Dogwood Street in Shell Point, grew up in this neighborhood. He’s been a project engineer for residential land developers for about 20 years, and he asked that the commissioners consider that conceptual “plans change.” Dr. Burris said he could do the first plan, but Mr. Wilkinson said Dr. Burris has been misinformed about

that; in addition, Mr. Wilkinson feels the plans are poorly drawn. There are only 25 duplexes in the second plan, and none are shown to have garages, so Mr. Wilkinson feels “this is a ploy to convince you [that] this is a better idea” than the first plan.” For multi-family dwellings in the neighborhood, Mr. Wilkinson said cottage courts “could possibly be worked in,” and they could be “a half-acre lot with up to 9 units on it.” He feels “the worst thing” to put in would be mansion apartments. He showed a picture of them from Port Royal’s code, saying they are “too big,” as they could be 3 stories high, with 6 units, and no one in a single-family residence would want to have “a bunch of those out your back door.”

Chairman Tomy asked if the flooding in the 1970s was as bad as it is now. Mr. Wilkinson said when the Midtown Drive commercial space was built, “they dropped two retention ponds” and both of them “blew out together.” The “volumetric [flow] rate from that development has blown this whole system apart,” he said.

**Dee Simpson**, 505 Hamrick Drive, said, “The ‘as-is’ sucks more than the ‘to-be,’” which she thinks might be “a tactic to get us to” approve of this rezoning. She and her husband do not favor zoning that allows mansion apartments. There were puddles on the property tonight at 5:10 p.m., she said, and the ground in the neighborhood is soggy, even though there hasn’t been significant rain in a while.

Dr. Burriss mentioned the Open Land Trust, Ms. Simpson said, and she supports that idea because there is a lot of wildlife in the area. She is also curious about when Mr. Baisch had visited the property because he didn’t mention whether it was high or low tide.

Ms. Simpson wondered if the applicant is planning to sell the property or develop it himself. She showed photos: from a recent storm that dropped about 3” of rain in an hour; after Hurricane Irma, when there was 6” to 8” of water at the fence on her property, and on Hamrick Drive after Hurricane Irma. Her house is a split-level, she said, and it’s flooded twice, including having 14” of water in the basement, which wasn’t covered by flood insurance. Ms. Simpson said they have rebuilt before, and they will again.

**Joe Simpson** explained how the water “ends up in that one spot.” A topographic map would show the changes, he said. “The Bi-Lo area was a big swamp” when it was developed in the early 1990s, he said, while Parris Island Gateway was expanded. Bi-Lo was originally up by the Taylor Mobile Home Park on Parris Island Gateway, he said. Mr. Simpson described other development in the area, saying that “everything” that was built at that time “was raised to about 14’6”,” he said, and now the stormwater all “flows down to the Shell Point area,” and the lowest area is “right by Hamrick Drive,” where the tidal creek is. That creek is at sea level, so it has water in it every day, Mr. Simpson said. “It never leaves,” and it couldn’t be dug out.

The ditch is filled with saltwater, Mr. Simpson said. He showed the direction that the

water flows down Hamrick Drive and then via culverts to a tidal creek opening, collects in an area that he indicated, and then flows out. “Everyone built around the swamp for a reason: that’s the lowest part,” he said. Unless residences are “put on poles,” a developer would have to bring in fill dirt, he said. Mr. Simpson said he doesn’t accept that stormwater could be sufficiently retained onsite.

Mr. Simpson feels there should be impact studies done on traffic and stormwater before any new development takes place in this neighborhood.

**Joel Chitty**, 520 Broad River Drive, said he’s not sure what has been called a tidal creek is one, because an alligator lived there for a long time this year, and he doesn’t think one would live in saltwater, though there is fresh water there, too. “It stays full of water all the time,” he said.

Mr. Chitty showed a picture of the water retention at “about medium tide,” and said, “you can’t push water into that marsh.” It’s been said there would be “no environmental impact” from developing the subject property, he said, but he showed how debris and pollutants flow through and where they end up, adding that “nothing will grow there.”

This property was zoned “Community Preservation” before it was annexed, Mr. Chitty said, and “somebody decided this swamp – low area – could be developed,” but a lot has changed since the 1990s, including the state and county buying back property in an effort to fix mistakes they made in the past. Mr. Chitty feels the county and Town of Port Royal should buy this parcel from Dr. Burriss for what he paid for it plus \$1, so he will have “made some money from it.”

**Ben King**, 3007 Ashwood Circle, said the school, an apartment complex, and the park have been opened since he moved there, and “that road’s just not made for that traffic.” He feels they don’t need more housing there because “it’s getting to the point where it’s out of control.”

**Alma Fithian**, 605 Broad River Drive, said the rains have affected her property, and each time the applicant clears his property, “we find water . . . in our backyard.”

**Stephanie Pearce**, 617 Broad River Drive, feels that “we are being pushed out” of Shell Point. Low-income housing in the neighborhood has “raised a lot of crime,” she said, and the school “increased the traffic on the road.” The roads haven’t been improved or maintained, though the residents were promised they would be. She asked where the wildlife would go if the development takes away the small amount of property where the animals can go now.

With this proposed development, Ms. Pearce feels crime will increase, which won’t benefit the people that Dr. Burriss is trying to help by giving them somewhere nice to

live. Someone has tried to break into her house twice, so she had to put up cameras at her house. Ms. Pearce said there have been multiple calls to 911 because of problems at the existing apartments. She concluded that she objects “vehemently to any development there.”

**Laurie Martin**, 296 Broad River Drive, said her mailbox is clipped all the time because of drivers “flying around the curve.” She understood that when the Montessori school was put in, the traffic would go elsewhere, but that didn’t happen. It all dumps out onto a road that “literally [has] no traffic control,” she said. Traffic turning left and right, particularly when there is a Parris Island graduation, backs up terribly, Ms. Martin said. Her neighbor’s yard floods every time it rains, and DOT hasn’t responded for at least 6 months, she said.

**Sarah Rauch**, 386 Broad River Drive, said this is “a tiny community,” and she hopes the commission is hearing them. There might be a way for Rural and Critical Lands to purchase this property, and there are other groups and individuals who could help with that.

**Trey Smith**, 615 Broad River Drive, said he has spoken to people about conservation easements and thinks Dr. Burriss might be amenable to that. He pointed out another place that he feels Port Royal would zone T4-Neighborhood if Dr. Burriss’s property is rezoned.

Dr. Burriss said he’s spoken to **Barbara Holmes** at Open Land Trust about options, and the organization had “basically no interest” in the property or funds to purchase it at the time. If a neighborhood is seriously interested in protecting a property, the Open Land Trust would come up with matching funds for what the neighborhood raises, he said. Ms. Holmes is interested in looking at this property again, Dr. Burriss said, and she might come to the meeting in a month, so if the neighborhood is seriously interested in this option, they could have a conversation at that time with an Open Land Trust representative.

Dr. Burriss showed the “AE” flood zone and where the flooding was last time, he saw it. He asked rhetorically what the difference is between the lots that flood and those that don’t, then said the difference is Broad River Drive. The same elevation of land floods on one side but not on the other because “there’s a barrier somewhere,” which is what DOT is investigating. He said the subject property doesn't cause the flooding. Even though Dr. Burriss hired Mr. Baisch, his engineering plan would have gone before specialists who would determine if it would work, so Mr. Baisch is responsible to town, county, and state governments, not just to Dr. Burriss.

Dr. Burris said he thinks property owners in “the entire Shell Point area” have the right to build duplexes (e.g., if a single-family home were torn down). Ms. Bridges said she believes that’s the case.

Chairman Tomy closed the public comment period of the meeting.

Commissioner Fermin asked Ms. Bridges if Dr. Burris could build duplexes as this property is currently zoned. Ms. Bridges said T4-S allows duplexes. Commissioner Alling said the difference between that and the requested zoning is increased density, because it opens the property up to allow mansion apartments.

Commissioner Alling said she’s surprised that this area is “capable of being built on,” so she’s surprised about the zoning “after all I’ve heard.” That Dr. Burris is “open to preserving the land is wonderful,” she said, and she feels that should be pursued.

Commissioner Bardenwerper said he doesn’t think the commissioners should “ever assume that just because a piece of property has zoning on it that it can be developed in accordance with that zoning.” He also feels the residents who have spoken “did a really good job today.” Commissioner Bardenwerper said, “The one plan does sort of look better than the other one,” and the applicant is making the case that the property should be rezoned because it would allow him to put in green space, but Commissioner Bardenwerper feels “any applicant needs to do a better job” making his/her case “than the people opposing it.” Developers need to be able to make at least a basic argument that they could do what they’re generally asking to be allowed to do, he said. The commissioners have no obligation to do anything for any applicant if a) they’re not convinced the Comp Plan supports it, and b) the applicant doesn’t make a case that “it’s at least feasible,” Commissioner Bardenwerper said.

Commissioner Bardenwerper said development of this property would be “very, very, very challenging,” so he can’t support a motion to recommend rezoning it.

Commissioner Crower said he doesn't feel this land should be developed at a higher denser than is already allowed. A conservation easement or selling it to the Open Land Trust “would be a much better use of the land,” he said. “This is basically trying to sell land that’s underwater.”

Chairman Tomy said the two issues are the water – and how it affects the neighbors – and the density that is allowed on the property. It is not in the MPC’s purview to determine if the land is developable. “It’s potential effect on the community is the important thing [about] this issue,” he said. Chairman Tomy feels the people in the neighborhood need to meet with the representatives of the county and the Town of Port Royal and tell them how the flooding affects them.

**Commissioner Alling made motion to recommend denial of the rezoning application. Commissioner Bardenwerper seconded. The motion passed unanimously.**

There being no further business to come before the commission, Chairman Tomy adjourned the meeting at 8:04 p.m.