COMMITTEE ON LAND USE
(Standing Committee of Berkeley County Council)

Chairman: Mr. Phillip Farley, Council Member District No. 1

A meeting of the **COMMITTEE ON LAND USE**, Standing Committee of Berkeley County Council, was held on **Monday March 8, 2010**, in the Assembly Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina, at 6:06 pm.

PRESENT: Chairman Phillip Farley, Council District No. 1; Committee Member Timothy J. Callanan, Council District No. 2; Committee Member Robert O. Call, Jr., Council District No. 3; Committee Member Cathy S. Davis, Council District No. 4; Committee Member Jack H. Schurlknight, Council District No. 6; Committee Member Caldwell Pinckney, Jr., Council District No. 7; Committee Member Steve C. Davis, Council District No. 8; County Supervisor Daniel W. Davis, ex officio; Ms. Nicole Scott Ewing, County Attorney; and Ms. Barbara B. Austin, Clerk of County Council. Committee Member Dennis L. Fish, Council District No. 5 was excused.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

Chairman Farley called the meeting to order. Committee Member Pinckney gave the Invocation and Committee Member Cathy Davis led in the Pledge of Allegiance to the Flag of the United States of America.

Chairman Farley asked for approval of minutes for the Land Use meeting held on February 8, 2010.

It was moved by Committee Member Schurlknight and seconded by Committee Member C. Davis to **approve** the minutes as presented. The motion passed by unanimous voice vote of the Committee.

A Ms. Amy A. Stewart, Re: Request for extension of 2009 Assessment on **TMS #082-00-01-030.**

Ms. Stewart stated, "My name is Amy Stewart. My address is 1327 Old Fort Road, Moncks Corner, SC 29461. I want to thank you for taking the time to listen to my case today. I own undeveloped property on Dehayville Drive in the Cross area of our county. The land was given to me by my father and was put into my name in March of 2008. I took all of the paperwork from the attorney to the office up here and filled out the necessary forms. I was told that was all I needed to do. At that time, the property was placed in my name. I was not informed that any further action on my part was required. And as I understand it now, the property was changed to residential. The bill at that time was sent to my father's address. I immediately paid the bill. It was in the amount of $16. I still did not understand that there was any further action required on my part. The persons in the ROD office indicated nothing else

was required for me to do. I was unaware that I needed to file for my property to remain as F-1 Agricultural. When this year came to pay the taxes, I assumed the bill was sent to my father's address as the previous year. However, it was not. Nor was it sent to my address. I called to find out about the bill. When I came up, we had a lot of trouble finding it. They sent me to some different departments. When it was finally found, I was told that the deed was in one name and the taxes were in another. This might have caused some confusion. The bill for this year, I was told, was addressed to one P. A. Stewart. And as best as we can determine, it was received by no one. I didn't receive it and neither did my father. I was then told that the taxes were $912, from $16 for the previous year. If I would have received the bill, I would have been up here immediately to take care of this. My request today is that you grant me an extension so that I may correct this error and have my property remain as F-1 Agricultural. Thank you so much."

Committee Member Call stated, "Mr. Chairman?"

Chairman Farley replied, "Yes, Mr. Call"

Committee Member Call stated, "We have had a few of these come our way and it's hard to tell where the problem exists. I know the postal service also makes mistakes. I tried to find a lady this week on the assessor's record and the RMC record or ROD records. I even called Mrs. Farley down at Voter's Registration to see if I can find out where this lady's social security card needs to go to. And I was unsuccessful in doing that, so I had to send it back to Social Security to do something with. But, you know, this lady has never been before us before and asked for this relief and it seems to be an honest mistake on somebody's part. I don't know if it's the county or the postal service or the… I believe what she is telling us to be true. We've done a few of these in the past and I don't want to, I don't like to set a precedent and I want to make my motion that we grant her this relief, but that we have it clear in the minutes that we are not setting a precedent. Perhaps we are going to have to stop doing this, maybe right away, 'cause it's going to be into another tax year, actually, so that's my motion, that we grant this Ms. Stewart the relief she's asked for."

Committee Member S. Davis stated, "Mr. Chairman?"

Chairman Farley replied, "Yes sir, Mr. Davis."

Committee Member S. Davis stated, "The Grantee's address is, madam, is 1055 Dehayville Drive? That's where you lived? I was looking at the deed, I practice law and sometimes we do deeds, you know you got Grantors. The Grantee's address is sometimes, and I seen in this situation, was placed on the deed. That means that if the deed was required to come back to that address after the preparation, that could alleviate some of this problem. But, I see in this instance that after it was recorded, it would directly come back to the lawyer's office. My point is, when the deed was prepared, who lives at 1055 Dehayville Drive?"

Ms. Stewart replied, "I do."

Committee Member S. Davis stated, "Ok, that was in the deed description, you know, for your address with the TMS number and if you had not required or whoever requested to come back to the lawyers' office, the process would have been put in place right there for the deed to automatically come back to you is what I am trying to say. But apparently, you had to go and pick it up from your lawyer's office after?"

Ms. Stewart replied, "That's right and I brought it up here to the Deed's office."

Committee Member S. Davis stated, "Well, see the lawyer's……you recorded it or the lawyer recorded it? Who recorded it?"

Ms. Stewart replied, "I imagine the lawyer did. I just know he gave me the deed, the paperwork and then I came up here to make sure nothing else needed to be done."

Committee Member S. Davis stated, "The process is you record the original and then once the original goes through the government services process of going to the tax office and everywhere that it needs to go, it eventually then should be submitted back to you by that address you have put in reference to the Grantee's address, ok. That way, the people in the tax records would have had 1055 Dehayville Drive and that would have eliminated this miss crossfire that took place in this instance is what I'm really concerned about. I sympathize with you and I'm going to support, but I think that the lawyers need to do a better job in this instance because they understand the total process. They know that in the recording of the deed that it eventually must go to the tax records so the tax records can send you your tax notices. So that is where I think the ball is dropped to some extent and so it would be my position that I would grant you the extension because I think that it can be addressed. I think we have a procedure in place for it to be addressed, but in these instances where you actually retrieved the deed back from the lawyer's office may have created some of the problem instead of it being submitted directly back to you from RMC's office, the recording office ok."

Committee Member Schurlknight stated, "Mr. Chairman?"

Chairman Farley stated, "Yes sir, Mr. Schurlknight."

Committee Member Schurlknight stated, "Mr. Chairman, I'd like to second Mr. Call's motion. I do have a quick question for Mr. Baggett though. Wilson, could you step up, please? Mr. Bagget, how far past the deadline where we on this one before the problem was found?"

Mr. Wilson Baggett, County Assessor, replied, "Thirteen days."

Committee Member Schurlknight continued, "So we were within thirteen days of her original deadline?"

Mr. Baggett replied, "Yes sir, the original deadline was January 15th. She actually filed on January 28th."

Committee Member Schurlknight stated, "Thank you."

Chairman Farley inquired, "Mr. Baggett, will there be a penalty assessed from January 28th until now?"

Mr. Baggett replied, "If the taxes are paid that is an issue for Ms. Hamilton. But we can look into that matter. The taxes were listed as due on January 15th so we still run into that but yes sir, I think we can handle that one."

Committee Member Call stated, "Mr. Chairman?"

Chairman Farley stated, "Yes sir Mr. Call."

Committee Member Call stated, "I think as I understood the request, is Ms. Stewart would like to go back to the appeal date and try to work with Wilson Baggett to get…..she feels like it is also improperly zoned. I think it just has pine trees growing on it."

Mr. Baggett stated, "No sir, that is not actually the case. It is zoned Flex-1. The use changed from agricultural use to a non-agricultural use which caused the taxes to go to a market value instead of an ag use value. The zoning remained stable. There was no change in zoning. It was just a use change."

Committee Member Call stated, "No change, the use changed. And it made $900 difference in her taxes?"

Mr. Baggett replied, "Yes sir, because if you were to purchase 20 acres today that was ag use and made no application between now and 2011 tax bill, you would get a 6% bill, where you would have received an ag bill for this year. It's a calendar issue. Anything changing hands during the year, which she purchased the property or received the property in 2008, so the taxes remained stable for 08, but then she became the owner of record for 09 and had to make new application under her name. We don't just grant ag use. An individual has to apply for it."

Committee Member Call stated, "Now, if we go back to this, is it October date when that appeal has to be filed?"

Mr. Baggett replied, "January 15th"

Committee Member Call stated, "For the appeal?"

Mr. Baggett stated, "Ok, you are talking about a value appeal now. A value appeal was October 21, but that was a value issue and no appeal was made on the property."

Committee Member Call stated, "I think that is where she is trying to get back too. Perhaps I can work with you and see what kind of comparables you have to support……you don't mind sharing that do you, I don't think, off the record?"

Mr. Baggett stated, "I'm not so sure we have an issue with value. I think the issue is just with the tax bill not being at ag use as it was in 08. If we grant, if the county grants ag use tonight, her taxes will be equal to the value in 08, which was $16. So that would take care of that issue."

Committee Member Call stated, "So,…..legal? Would it be proper to make a motion to change that use classification?"

Ms. Ewing replied, "She is asking that you extend the deadline for her to make that application. I've not been asked to review this prior to this night's meeting, so I'm not up to speed on the law, but I do recall that we have done this in the past and there is a provision in the statute. I just don't remember the exact language that allows for it."

Committee Member Call stated, "So we can change the use, over ride the use but give the extension, the deadline?"

Ms. Ewing replied, "You can, it is common that a property owner would come in and ask for an ag use classification. Would that be the correct word, Wilson? She just missed the deadline due to this confusion."

Committee Member Call stated, "Perhaps she can go back to the …. What do we want to give her, 30, 60 days to prepare her appeal? Would that be reasonable? And take her back to that date?"

Mr. Baggett stated, "If I could just interrupt…….This case is no different than the four or five that were reviewed last year. If Ms. Stewart is granted an opportunity to apply or given an extension on her application to apply, then she would get what she desired. There is no value issue or zoning issue. It's an ag use versus market value issue. So, just extending her deadline until January 28, 2010 would give her what she desires."

Committee Member Call replied, "It will?"

Mr. Baggett stated, "Yes."

Committee Member Call stated, "OK, let me see if I can put the words in your mouth and let that be the motion."

Mr. Baggett stated, "If you will look in your package, I gave you an ag application. It is dated at the bottom, January 28, 2010. That is the date that you need if you are so inclined to give her an opportunity to apply timely by January 28, 2010."

Committee Member Call stated, "Ok, I don't think it is important to her whether it's January or October as long as she gets the chance to appeal some way. Maybe you can find

something to hang your hat on. I know, appraisers are always looking for something to hang their hat on. Let me, if you will, whoever seconded my motion……..”

Chairman Farley stated, “I have a motion and a second. Motion made by Mr. Call. Second was made by Mr. Schurlknight.”

Committee Member S. Davis stated, “And the motion…..I didn’t mean to cut in…..but it is just to grant the extension ok. I call for the vote.”

Chairman Farley stated, “That is correct. All in favor? (Ayes), All opposed? (No response) The Ayes carry.”

Chairman Farley read the following:

B. **Consideration** prior to **First Reading** of the following:

1. **Request** by **MeadWestvaco**, located at intersection of Rose Drive, Turtle Pond Road, and U.S. Highway 17A, Summerville, **TMS #221-00-00-137, -062, -083, -092, -087, -089, -145 and #221-16-01-019, -020, -022, -038** (47.91 acres), **from R1, Single Family Residential District; R2, Manufactured Residential District; GC, General Commercial District; and OI, Office and Institutional District to PDMU, Planned Development-Mixed Use District.** Council District No. 4.
[Staff recommended approval]
[Planning Commission recommended approval]

Mr. Eric Greenway, Zoning Administrator, stated, “This request is for 47 acres from various zoning districts out here on this property to PDMU. As you can see there on the screen, that’s basically the area on your computer screen, that’s basically the area from Highway 17A, Rose Drive and Interstate 26. Some of this property is located in the Town of Summerville. The remainder is located in Berkeley County. Of course, we are just dealing with the Berkeley County portion this evening. Planning Staff supports the request to rezone to PDMU. It creates a more uniform development plan than to have the conglomeration of various zoning districts out there as this particular point. The Planning Commission agrees with that position, but they’ve also stipulated that in order for, to protect additional traffic on existing Rose Drive, that the recommendation be conditioned on the fact that the new connector road, you have a map in your packet here if you would like to pull that out, the new connector road between Hwy 17A up to Rose Drive be completed and finalized prior to any certificate of occupancy being issued for new construction in this development. And having said that, that’s all we have for tonight’s presentation and we will take any questions you all may have.”

Committee Member Callanan stated, “Mr. Chairman?”

Chairman Farley replied, “Yes sir, Mr. Callanan.”

Committee Member Callanan stated, "Did the property owner have any problem with that recommendation?"

Mr. Greenway replied, "No, they agreed to that."

Committee Member Callanan stated, "OK, I move for approval."

Committee Member C. Davis stated, "Second".

Chairman Farley stated, "I have a motion and a second. Is there any more discussion? I'd like to bring up something. Eric, this property here, and I think Mr. Whitehead……..this wasn't in the original Parks of Berkeley?"

Mr. Greenway replied, "No sir, it was not."

Chairman Farley stated, "It was never included at the beginning of the Parks of Berkeley. This is new. It's going to adjoin the Parks of Berkeley."

Mr. Greenway stated, "Correct. It is going to create a secondary outlet from Parks of Berkeley to 17A."

Chairman Farley stated, "Thank you very much."

Committee Member C. Davis stated, "Mr. Chairman, I've got one more question."

Chairman Farley stated, "Yes."

Committee Member C. Davis inquired, "Eric, where would Turtle Pond Road actually… it will come back out on 17A? It's going to be rerouted? "

Mr. Greenway responded, "Turtle Pond Road will be….will intersect at what is called the North Frontage Road, which is that road that will be constructed between 17A and existing Rose Drive as the secondary outlet through the Sheep Island PDMU and into the Parks of Berkeley. If you will review this map here, at some point this evening it will become clear to you as to how that is going to take place. We are dealing with the North Frontage Road and that is the road that has to finalized and completed before any certification of occupancies' can be built for any new construction in this development plan."

Committee Member C. Davis stated, "Thank you."

Chairman Farley stated, "Eric, when I was going over these maps, the overview of that shows the Sangaree Parkway and all that, will this come out right across from the Sangaree Parkway?"

Mr. Greenway replied, "That is correct. It will be a vastly improved intersection with signalization and turn lanes and everything so it should provide the relief that is sought from Rose Drive."

Chairman Farley stated, "I think it will give them a little relief too.

I have a motion and a second. All in favor? (Ayes) All opposed? (No Response) Motion carries."

Chairman Farley stated, "The next two items have been withdrawn."

2. **Request** by **Sean Litton** for **53 Hasell**, **LLC,** located at 407 Sanders Farm Lane, Charleston, **TMS #271-00-02-053** (4.413 acres), **from R1, Single Family Residential District to GC, General Commercial District.** Council District No. 8.
[Staff recommended denial]
[Planning Commission recommended denial]

3. **Request** by **Mark Warnock** for **WH Land Company, LLC,** located at 1302 Charity Church Road, Huger, Portion of **TMS #239-00-00-124** (5 acres), **from F1, Agricultural District to HI, Heavy Industrial District.** Council District No. 8.
[Staff recommended denial]
[Planning Commission recommended denial]

4. **Request** by **Wash & Lizzie Johnson**, 1727 County Line Road, Cross, **TMS #051-00-00-010** (2.40 acres), **from GC, General Commercial District to F1, Agricultural District**. Council District No. 7.
[Staff recommended approval]
[Planning Commission recommended approval]

It was moved by Committee Member Pinckney and seconded by Committee Member Schurlknight to **approve** prior to **First Reading**, the **Request by Wash & Lizzie Johnson**. The motion passed by unanimous voice vote of the Committee.

5. **Request** by **Ashley Surveying** for **Coleman Dangerfield,** 271 Lazy Hill Road, Moncks Corner, Portion of **TMS #196-00-00-037** (53 +/- acres), **from PDMU, Planned Development Mixed Use District to F1, Agricultural District**. Council District No. 6.
[Staff recommended approval]
[Planning Commission recommended approval]

Chairman Farley stated, "This is also a down zoning."

Mr. Greenway stated, "This is to correct whenever we did away with the F-2 and F-3 zoning classifications, some of those properties were inadvertently rezoned to PDMU. There is

no development plan for this particular piece of property, so no use can be made of the property and there are just combining the 53 acres with the adjacent property that they own."

Chairman Farley stated, "We have a motion and a second. All in favor? (Ayes) All opposed? (No response) Motion carries.

It was moved by Committee Member Schurlknight and seconded by Committee Member S. Davis to **approve** prior to **First Reading**, the **Request by Ashley Surveying for Coleman Dangerfield**. The motion passed by unanimous voice vote of the Committee.

6. **Request** by **Lewis Mills**, 2325 North Highway 17-A, Bonneau, **TMS #087-00-04-059** (0.50 acres), **from RNC, Rural & Neighborhood Commercial District to F1, Agricultural District**. Council District No. 6.
[Staff recommended approval]
[Planning Commission recommended approval

It was moved by Committee Member Schurlknight and seconded by Committee Member S. Davis to **approve** prior to **First Reading**, the **Request by Lewis Mills**. The motion passed by unanimous voice vote of the Committee.

C. **Review** prior to **Second Reading** of the following:

1. **Bill No. 10-03,** an **ordinance** to add and amend certain sections of **Ordinance No. 04-11-68**, adopted November 23, 2004, which amended Ordinance No. 01-8-35 adopted August 27, 2001, and Ordinance No. 02-8-33 adopted August 26, 2002, Zoning and Development Standards Ordinance, **"Berkeley County Zoning Ordinance"**.

Mr. Greenway stated, "This is the Unclean Lots and Land Ordinance that we gave a presentation on back in December. This will allow us to go in and clean up the properties and collect that as an assessment through the property tax bill when we collect annual property taxes."

It was moved by Committee Member Callanan and seconded by Committee Member S. Davis to **approve** prior to **Second Reading**, **Bill No. 10-03**. The motion passed by unanimous voice vote of the Committee.

2. **Bill No. 10-04**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Michelle Cooper for Lois Dangerfield**, located near 668 Broughton Road, Moncks Corner, **TMS #122-00-03-145** (40.74 acres), **from F1, Agricultural District to PDMU, Planned Development Mixed Use District**. Council District No. 8.

It was moved by Committee Member S. Davis and seconded by Committee Member Schurlknight to **approve** prior to **Second Reading**, **Bill No. 10-04**. The motion passed by unanimous voice vote of the Committee.

D. **Review** prior to **Third Reading** of **Bill No. 10-01,** an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **South Carolina Public Service Authority**, 553 Cross Station Road, Cross, Surrounding Land of **TMS #032-00-03-040** (810 +/- acres), **from F1, Agricultural District to HI, Heavy Industrial District**. Council District No. 7.

It was moved by Committee Member Pinckney and seconded by Committee Member Callanan to **approve** prior to **Third Reading**, **Bill No. 10-01**. The motion passed by unanimous voice vote of the Committee.

It was moved by Committee Member Schurlknight and seconded by Committee Member C. Davis to **adjourn** the Committee on Land Use meeting. The motion passed by unanimous voice vote of the Committee.

The meeting ended at 6:31 pm.

April 12, 2010
Date Approved

COMMITTEE ON LAND USE
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Chairman: Mr. Phillip Farley, District No. 1
Members: Mr. Timothy J. Callanan, District No. 2
Mr. Robert O. Call, Jr., District No. 3
Mrs. Cathy S. Davis, District No. 4
Mr. Dennis Fish, District No. 5
Mr. Jack H. Schurlknight, District No. 6
Mr. Caldwell Pinckney, Jr., District No. 7
Mr. Steve C. Davis, District No. 8
Mr. Daniel W. Davis, Supervisor, ex officio

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AGENDA

INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

APPROVAL OF MINUTES **February 8, 2010**

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[Staff recommended approval]
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March 3, 2010
S/Barbara B. Austin, CCC
Clerk of County Council