

**RESOLUTION ON THE PROPOSED
SOUTH CAROLINA PRIVATE PROPERTY PROTECTION LEGISLATION**

WHEREAS, The Beaufort County Council is concerned that proposed private property protection legislation being considered by the State Legislature significantly diminishes the abilities of government to properly plan and zone by redefining established statutory case law regarding when a "taking" occurs as a result of the enactment or the enforcement of zoning regulations; and,

WHEREAS, Zoning regulations have evolved over many years where case laws have developed that temper the unreasonable and the unconstitutional use of zoning regulations; and,

WHEREAS, the proposed legislation would provide for an Administrative Law Judge to hear all cases regarding petitions filed under the proposed law, who would in effect, become a "super" zoning administrator; thereby, truncating local control by elected county and municipal governments as they rightfully exercise their powers, duties, and responsibilities as set-forth in the implementation of the State Planning Enabling Legislation; and,

WHEREAS, The emphasis and goal of the proposed legislation is to promote "relief" from local zoning standards and to make difficult or impractical the right of local governments to plan properly and to enforce local zoning laws; and,

WHEREAS, The proposed legislation in the pursuit of allowing developers to develop and use their property without regard to established zoning causes harm to the health, safety and general welfare of the community by greatly limiting the zoning tools designed to protect the general public; and,

WHEREAS, The Private property Rights legislation would discourage local governments from enacting land use laws for fear of having to pay property owners for a "partial takings" as determined by an Administrative Law Judge who may not be attuned to the local needs for local land use controls; and,

WHEREAS, The proposed legislation would place a tremendous financial burden on taxpayers within those counties and cities in South Carolina that value the principles and practices of land use planning; and

WHEREAS, Beaufort County has already taken a progressive stance on the issues associated with the protection of private property rights through the provisions in the Beaufort County Zoning and Development Standards Ordinance of a Vested Rights and Beneficial Use Determination Hearing process; and,

WHEREAS, The proposed Private Property Protection Legislation penalizes progressive counties that have exhibited foresight in these matters by having the State adopt unneeded and harmful state legislation that diminishes the effect of local land use controls; and,


NOW THEREFORE, Be it Resolved by Beaufort County Council that adoption of Private Property Protection Legislation at the state level shifts the balance power away from local control and places too much power at the state level over matters which are inherently local in nature, and puts Beaufort County in a position of having to defend every land use regulation that it adopts and enforces; and therefore, Beaufort County Council opposes state legislation of this type.

Adopted this 22nd day of October 2001.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: 
Thomas C. Taylor, Chairman

ATTEST:


Clerk to Council