

## Planning Commission

January 18, 2023

A meeting of the Planning Commission was held this date at 5:00 p.m. in the public meeting room at 2 George Street.

Notice of this meeting was sent to all local news media.

### PRESENT

**Commission Members:** Charles Karesh, Chair, Loquita Bryant-Jenkins, Erika Harrison (arrived at 5:10 p.m.), Donna Jacobs, McKenna Joyce, and Sunday Lempeis.

**City staff:** Christopher Morgan, Jim Hemphill, Mollie Conner, Rick Jerue, Dan Riccio, and Amy Southerland.

**Others:** Roger Hein, Eddie Bello, Dean Andrews, John Stanford Jennings Kerr, and Willis Christina Quaonda Tant.

Link to meeting recording: <https://www.youtube.com/watch?v=6eU4F9JqRHA&t=1531s>

Chair Karesh explained the rules and procedures of the meeting, and introduced the Commissioners.

Mr. Morgan introduced Planning staff.

### PRESENTATION

#### **1. Update on Short Term Rental enforcement policies from Department of Livability and Tourism.**

Mr. Riccio, the Director of Livability and Tourism, introduced Amy Southerland, the Deputy Director.

He said he was there to give a short update on STR policy and enforcement.

He said the enforcement began in August of 2018. They had hired three enforcement officers at the time. The strongest component of the ordinance was that merely advertising without a permit was a violation. That was easy to prove, but the information from the sites needed to be available. The City permit number needed to be posted on the advertiser to show that. There was a software made by Granicus that they and just about every municipality in Charleston used. They were a reputable company, and they had a lot of success.

Granicus monitored all rental platforms 24/7/365. They specialized in software that had API capabilities for extracting the information. They did not rely solely upon them. They took the information from Granicus and expanded on it with a full investigation of each case. Records and information were checked and validated to corroborate the information Granicus gave them. Every case included a site visit by the officers to confirm, looking for signs that it was an STR.

The first notification to the owner was a cease and desist letter that goes to everyone attached to the property. They were not required to do that, but they tried to seek compliance before they went into prosecution.

After that, they issued a summons. Summonses needed to be hand-delivered. If the person needing to be summoned was further away in another state, they hired local process servers in those communities, supplied them with a sealed packet containing all of the information, they served it, and then they sent the City an affidavit, which made it legal and validated in court.

That cost a lot of money, which they put up front, and they recouped it through restitution fees paid to the City by offenders.

They had been so successful that they had two full-time officers instead of three. They used the third for other code enforcement duties, because they had a good handle on the existing cases.

Currently, they had 558 active permits. His officers had issued 679 citations to date. 667 had been prosecuted, with total court fines coming to \$482,327. They had issued 827 warning letters. They did not originally track this information, but they had begun to track the number of houses they returned back to the housing stock through direct enforcement. They had determined 68 properties were sold or went from STR to long-term rental. They were proud of that number.

There was a Channel 5 Story on STRs that used information that did not match what he relayed to them, and it made it look like there were thousands of advertisements out there, when in fact, there were not. The numbers were skewed because you could have one unit being advertised on many different sites, which inflated the numbers. Further, hotels were STRs, and they could pop up on those sites, as well.

They had come a long way. It was a QOL issue, and now they had very few complaints. That didn't mean it had stopped. People had gotten savvy on how to circumvent the system. They would take their ads up and bring them down to try to throw them off, but, they normally caught up to them and were able to prosecute them.

Ms. Jacobs asked if they had any breakdowns by region, on the peninsula vs. James Island.

Mr. Riccio said it was a good question. They could break it down, but they had not yet done it. Primarily, a lot of them were in West Ashley and downtown.

Ms. Jacobs said she thought that sometimes the impact was perceived differently in an urban vs. a suburban environment. It also differed depending on whether the STR was in the main house or in an ADU. She asked if that information as possible to acquire, also.

Chair Karesh said they appreciated Mr. Riccio and his team's work. He said to let staff know if they needed anything.

Ms. Lempesis asked if there was a limit to how many STRs could be in the City.

Mr. Riccio said there was currently no limit. They were looking at it from time to time.

Ms. Lempesis asked if citations were down significantly.

Mr. Riccio said they were. The fines were usually a maximum of \$1,087. They had multiple tickets to one location because they just didn't get it until they received a bunch of them. They'd had some individuals walk out of court paying \$16,000 in fines. It made an impact.

Ms. Jacobs asked if adjudication cost was recouped in a case where the defendant won.

Mr. Riccio said it was not. They recouped the cost of the process server out of state or out of town. However, he would say they had a 100% conviction, however, they did also accept plea bargains to lower the amount of fines in cases where multiple defendants were represented in one case through the same attorney.

Ms. Harrison asked if the API went only to the major portals, or through home-grown sites.

Mr. Riccio said it tracked everyone.

Ms. Harrison asked how it tracked new sites.

Mr. Riccio said he did not know the computer specifics, but they found all of them.

Ms. Lempesis asked if there was a way of looking at the 4%/6% assessment.

Mr. Riccio said that was a part of the process. They'd had several cases where married couples had two houses, both at a 4% owner-occupied tax rate, and switching off each month, renting one and staying in the other, and they reported that to Charleston County.

Chair Karesh recognized Mr. Roger Hein in the audience.

Mr. Hein said the Easton Porter Group owned the 0 George Street hotel and other properties. He was the Director of Business Development. He said he used to take part in the STR meetings. He asked if there had been any additions and subtractions from the STR zones.

Mr. Riccio said they were fixed in place.

Chair Karesh thanked Mr. Riccio for his presentation.

### **PP&S STAFF UPDATES**

The updates were given at the end.

Mr. Morgan said they had a contract going to Council at the next meeting with Clarion Associates regarding the update of the Zoning Ordinance. Clarion Associates was one of the national firms that did lots of zoning ordinances, and they had experience with elevation-based zoning ordinances.

The Peninsula Plan contract was making its way through Legal, and would hopefully come to Council the meeting after that.

He said Ms. Jacobs had asked for an update on a grant from the National Parks Service. The City, in collaboration with the Town of Mr. Pleasant, Charleston County, and the Preservation Society, applied for and were awarded \$75,000 from the NPS' Underrepresented Communities Grant Program to support community-led historic resource surveying in African American Settlement Communities. The City provided a \$25,000 match toward the community education and outreach. It would begin in the winter and spring and last two years. He explained further about the restrictions and uses for the grant money.

Ms. Jacobs said the grant application was put together really fast and was based on recommendations from the Comprehensive Plan. She wanted it to be known that they were continuing forward with the recommendations from the Plan.

Ms. Harrison asked if there would be an individual committee of people from downtown working on the Peninsula Plan.

Mr. Morgan said they had yet to determine that. It depended on how the consultant would want to work things.

Ms. Harrison asked how Clarion Associates saw the Planning Commission's role in the process.

Mr. Morgan said he imagined that they would involve the Commission in community meetings and would give periodic reports. The Zoning Ordinance would take two years, so he thought there would be quarterly reports. They anticipated that a lot would happen over the next year, but it would take time to implement and fine tune it. 2023 would be a very busy year.

Ms. Jacobs said she had heard that there were ADUs being built in the suburbs and being turned into STRs.

Mr. Morgan said that was not allowed.

Ms. Jacobs said that was about ADUs under the ADU ordinance, not accessory units generally.

Mr. Morgan said to speak with Mr. Batchelder.

Ms. Jacobs said Mr. Batchelder had said he had no opinion on the matter because there was no one keeping the data between an AU and an ADU being built.

Mr. Morgan said an ADU was a full unit with a stove and everything.

Ms. Jacobs said an AU was not, and there were known AUs being built and getting permitted for STRs since they were not ADUs.

Mr. Morgan suggested giving the addresses to Zoning and letting them enforce that, because that sounded like it didn't meet their ordinance.

Ms. Jacobs said Mr. Batchelder had told her that it was not clear.

Ms. Harrison said it was a "black hole" in the definition.

Mr. Morgan said Mr. Batchelder had told him that it was very clear. He asked for the addresses so that they could work on it.

Ms. Jacobs said it was on Beverly Rd in Windermere. Old Windermere had told her about this, and had gone to Mayor's Night In about it, because they were very concerned. They could be seen from the Greenway.

Mr. Morgan said Mr. Batchelder seemed to have felt that everything he had heard about was regarding existing ones that may not have been used in the past that were renovated and had been accessory in the past.

Ms. Jacobs said she thought there was some confusion and they needed to straighten it out.

Mr. Morgan asked Ms. Jacobs to forward the information to him, and he would be sure to get a full answer.

### **MINUTES**

1. **Request Approval of Minutes from October 19, 2022, November 16, 2022, and December 15, 2022 Planning Commission Meetings.**

### **DEFERRED**

### **REZONINGS**

1. **657, 661, 663 King St Cannonborough-Elliotborough - Peninsula | TMS # 4600404090, 091, 092 | Approx. 0.31 ac. Request rezoning from 6 Story Old City Height District (at west portion) and 4 Story Old City Height District (at east portion) to 5 Story Old City Height District.**

**Owner: The Twisted Bubble LLC**

**Applicant: Bello Garris Architects**

Mr. Morgan explained the location and surroundings of the property.

Images of the property were shown.

The applicant wanted to go from 4 to 5 Story in one area, and keep it as 4 for the first 20ft. In another area, they wanted to go down from 6 to 5 Story, so that was them giving back a part of it.

It was designated City Center in the Comprehensive Plan.

It was an undeveloped property at present.

There was an anomaly of rezoning that went up to the 6 Story District. The nearby assisted living facility would be in the 5 Story District. There was also a 7 Story structure with a 25ft setback. There was a Post and Courier building that was at the 5 Story District. Zonings on the eastern side got up to 8 Story.

Staff recommended approval, with the condition that the 25ft King Street setback be honored. Currently it was 50ft, and the applicant wanted 20ft, and staff wanted it to be consistent with the rest of King at 25.

Mr. Bello thanked Chair Karesh and Mr. Morgan. He said the current height districts effectively cut their site in half. They could get the building to work if they needed to, but it would make for a bad floorplan and bad architecture. Lowering the back down to 5 and raising the front to 5 would be more consistent with surrounding character.

He pointed out a site where BAR had approved a full 5 Story structure on King, and then stepped back at the sixth and seventh floors. They felt that given that, a 5 Story frontage on theirs would be consistent.

He said he understood the request for the setback to be at 25ft. He thought they could make it work, but it would be tough.

Chair Karesh asked if he was asking for the 20ft setback originally requested.

Mr. Bello said that was correct. He understood that the City wanted it to be consistent, but it really wasn't. There was already a building with five floors and a 25ft setback to a sixth floor.

Mr. Morgan said that he had spoken to Mr. Lawrence Courtney, and he had said that BAR had only approved a 4 Story Frontage and a 25ft setback.

Mr. Bello suggested that they pull the drawings. That was what they did when he looked at it. It was five floors and then a setback.

Ms. Lempesis said her concern was that it was hard to make a 5 Story square building interesting. They were not the BAR, but that was her concern. She was tired of square, unattractive buildings.

Mr. Bello said she was preaching to the choir. It would not be five stories on King, but four with a setback to a fifth. They did not want it to be a square, and he would refuse to design something like that. He also wanted them to remember that they were lowering the back side.

Ms. Lempesis agreed, it was a good give and take. But, a square was unattractive.

Mr. Bello said they noted that.

Ms. Harrison asked about the height of the adjacent small house.

Mr. Bello said he did not know. That would be something they looked at in terms of mitigating their building towering over it.

He said the preservation groups were concerned about them getting additional height at BAR. He said they would not ask for that when they got to the BAR process.

Chair Karesh closed the public aspect.

Ms. Lempesis said it was a small lot. She did not know if 5ft would impact much.

Ms. Harrison said the real question was whether the applicant could live with a 25ft setback.

Mr. Bello said that honestly, he could. It all came down to design. But 20ft worked better.

Ms. Harrison said her struggle was the shape of the corner and the overpass. It was a demarcation line. There was a small building there that was an outlier. She understood the argument, but in other areas, it was just vast parking spaces.

Ms. Jacobs said that across the street, everything was low profile. There would be one side of the street very high, and the opposite low profile. She remembered Ms. Lempesis once saying she was concerned with tunneling.

Ms. Lempesis said if the 5ft helped make for more interesting architectural features, that something, but, they were not BAR. They had to assume the worst.

Mr. Bello said they were not asking to raise the height only, they were also lowering the height. They were giving up that height so that they could have less of a setback.

On a motion of Sunday Lempesis, seconded by McKenna Joyce, the Commission voted on approval of the application as applied. The vote did not pass. The vote was 3-3. Erika Harrison, Loquita Bryant-Jenkins, and Donna Jacobs voted against.

On a motion of Loquita Bryant-Jenkins, seconded by Erika Harrison, the Commission voted unanimously to approve Rezoning Item 1 with staff's recommendation of a 25ft setback.

- 2. 200 Magnolia Rd Carolina Terrace - West Ashley | TMS # 4181300164 | Approx. 0.23 ac. Request rezoning from Single Family Residential (SR-2) to Single-Two Family Residential (STR).**

**Owner and Applicant: John Stanford Jennings Kerr**

Mr. Morgan explained the Item and its location and surroundings.

It was designated Suburban in the Comprehensive Plan. The request would be slightly above that recommendation. When staff looked at the difference, they felt it wasn't too extreme.

Staff recommended approval.

Images of the property were shown.

Ms. Lempeis asked what the neighbors were zoned.

Mr. Morgan said they were SR-2 on either side. There was DR and LB elsewhere.

Ms. Lempeis said it looked like in the image that the houses were awfully close to the setback line. She asked if there were units that were not single family.

Mr. Overcash said there were duplexes and triplexes, also. And in the surroundings there were STR lots. Rezoning this lot would not be out of character.

Mr. Kerr said his property was unique. He wanted to build on the back part of it. It already had a driveway apron, and all the utilities were in the right-of-way. It was just small enough that he couldn't subdivide it, but he could have it be STR.

Chair Karesh closed the public aspect.

Ms. Jacobs said she walked the area a lot. Magnolia from Avondale to Sycamore was a beautiful example of diversity of residences. There was single-family and duplexes. It backed up right into the commercial area. It was a great example of missing middle, which was why they should be lenient. It was a great opportunity for affordable housing.

On a motion of Donna Jacobs, seconded by Sunday Lempeis, the Commission voted unanimously to approve Rezoning Item 2.

## **ZONINGS**

- 1. 35 Riverdale Dr Avondale - West Ashley | TMS # 4181400063 | Approx. 0.28 ac. Request zoning of Single Family Residential (SR-1). Zoned Single-Family Residential (R-4) in Charleston County.**  
**Owner: Allison Ryan**
- 2. 1610 Poinsettia Rd Pinecrest Gardens - West Ashley | TMS # 3511200101 | Approx. 0.25 ac. Request zoning of Single Family Residential (SR-1). Zoned Single-Family Residential in Charleston County.**  
**Owner: Roberto Abbati**
- 3. 222 Island Dr Edgewater Park - West Ashley | TMS # 3491400021 | Approx. 0.9 ac. Request zoning of Single Family Residential (SR-1). Zoned Single-Family Residential (R-4) in Charleston County.**  
**Owner: Peter Green**

Zonings Items 1-3 were taken together.

Mr. Morgan explained the Items.

On a motion of Erika Harrison, seconded by Loquita Bryant-Jenkins, the Commission voted unanimously to approve Zonings Items 1-3.

**4. 1888 Raoul Wallenberg Blvd West Ashley | TMS # 3531300031 | Approx. 0.35 ac. Request zoning of General Business (GB). Zoned Community Commercial (CC) in Charleston County.**

**Owner: Corduroy Properties LLC**

Mr. Morgan explained the Item.

On a motion of Sunday Lempeis, seconded by Loquita Bryant-Jenkins, the Commission voted unanimously to approve Zonings Item 4.

**5. 3111 Maybank Hwy, 1850 Griffith Ln, 3114 Cane Slash Rd Johns Island | TMS # 313000064, 063 | Approx. 26.1 ac. Request zoning of Conservation (C). Zoned Mixed Use, Johns Island Maybank Highway Overlay (MU-JO-MHO) in Charleston County.**

**Owner: City of Charleston**

Mr. Morgan explained the Item. The City had just bought the property with Greenbelt funds to be a future City Park.

**Public Comment**

**Willis Christian Quaonda Tant**

- Said she represented over 50 students on Johns Island that had worked to conserve the property.
- She and many people, including those in the Gullah community, the migrant community, and the farm community on Johns Island enacted a plan to turn the property into a public access park with conservancy and a wholistic plan to address the needs of the community for and by the people.
- In late 2019, they reached out to the City. Rather than giving them a letter of support, she said the Mayor decided to duplicate their plan and applied for Greenbelt funding. The City now owned the property. She said they had plead with the Mayor to work with them. However, they had not heard from the Mayor since. It was a huge investment in the community by the community, and they believed the City should have honored the deep outreach.

Chair Karesh thanked Ms. Tant. He said Mr. Jerue had direct access to the Mayor, and he would be able to speak with her on such business.

On a motion of Donna Jacobs, seconded by McKenna Joyce, the Commission voted unanimously to approve Zonings Item 5.

**OTHER BUSINESS**

**Discussion of time limits for public comment period.**

Chair Karesh asked to delay the discussion because Ms. Angie Johnson and Mr. Harry Lesesne could not attend the meeting, but wanted to be heard.

Discussion ensued regarding time limits and when the Item would be discussed.

Ms. Harrison said it was not really about time limits. Other boards had updated their policies, and the Planning Commission had not updated theirs since 1999.

Ms. Jacobs agreed. It was about having a policy that everyone understood. She mentioned that when they received over 100 comments, they were not read into the record. Other boards and commissions, including ones in other municipalities, had written policies that were shown on the agenda. It was not just about public speaking time, it had to do with policy.

Ms. Lempesis said it was obvious to her that the Commission was a place for the public to talk and be heard. Sometimes they spoke too long and they would have to put a limit on it, but, she did not want a limit. She did not like seeing limits, and it did not give a good feeling. People who left may not have liked how they voted, but they were at least heard.

Chair Karesh said he had reached out to the three people whom he considered Planning Commission mentors. Former Councilmember Yvonne Evans, former Chair Frank McCann, and Ms. Lempesis. All of them spoke against time limits.

He said he still wanted to discuss the Item again at a future meeting so everyone could speak.

Ms. Harrison said she understood. They wanted the public to be heard. They did not want to rush people at the end but have ample time at the beginning. She wanted at least some kind of parameters.

Chair Karesh said there were parameters.

Ms. Lempesis said the parameters were asking not to repeat what others had said, but speakers always did and ignored it.

Discussion continued. It was decided to bring up the Item again in the future.

There being no further business to discuss, the meeting was adjourned at 6:19 p.m.

Philip Clapper  
Clerk of Council's Office