

**Planning Commission**

July 20, 2022

A meeting of the Planning Commission was held this date at 5:03 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, Harry Lesesne, Vice-chair, Jimmy Bailey, Jr., Loquita Bryant-Jenkins, Erika Harrison, Donna Jacobs, Angie Johnson (arrived at 5:34), and Sunday Lempesis.

**City staff:** Christopher Morgan, Jim Hemphill, Philip Clapper, and Mollie Jones.

**Others:** Neal Stephenson, Mike Levine, Jason Taylor, Marcus Williams, Arthur Lawrence, Cashion Drolet, Anna-Catherine Carroll, Todd Richards, and Chamberlain Chesnut.

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

Mr. Morgan introduced Planning staff.

Mr. Morgan said the PUD at Battery Island had been deferred.

**MINUTES**

**Request approval of minutes from the June 15, 2022 Planning Commission meeting.**

Ms. Harrison said she was not present at the meeting, but the minutes said she was.

On a motion of Donna Jacobs, seconded by Sunday Lempesis, the Commission voted unanimously to approve the minutes from the June 15, 2022 meeting, with changes.

**REZONINGS**

1. **1471 Folly Rd (Signal Point- James Island) TMS #3340000052 - approx. 0.30 ac. Request rezoning from Limited Business (LB) to General Business (GB).**

**Owner: Jesus Antonio Gentile**

**Applicant: Jesus Antonio Gentile**

Mr. Morgan said the property was on Folly Rd., north of Fort Johnson. It was a site in a quasi-industrial area near Signal Point Industrial Park. The request was to rezone from LB to GB. There were other parcels around the area that were zoned GB. It would not be alien to the surrounding area.

It was designated Industrial in the Comprehensive Plan, as a part of the Signal Point area. GB would be closer to Industrial than LB.

The property was vacant.

Images of the property were shown.

General business was more dense residentially than LB, and allowed for 24hr-type uses, where LB was less residential and was 7:00 a.m. to 11:00 p.m.

Staff recommended approval.

The applicant was not present, so Chair Karesh closed the public aspect.

Mr. Lesesne asked Mr. Morgan about the proposed use and about any motivation behind the change.

Mr. Morgan said the applicant wanted to build a small office warehouse, which would not have fit under LB. It would have to go through DRB, so aesthetics would be taken into account.

Mr. Lesesne asked for clarification on if it would be used for storage.

Mr. Morgan said that was not their intent. Even in GB, they would have had to have mixed use in the building to have storage. It was only a third of an acre, and they had never seen a storage facility go on such a small site.

Mr. Lesesne asked if it was consistent with the Folly Road Overlay.

Mr. Morgan said it was.

On a motion of Harry Lesesne, seconded by Jimmy Bailey, Jr., the Commission voted unanimously to approve Rezoning Item 1.

**2. 640 King St (Downtown – Peninsula) TMS # 4600404028 - approx. 0.10 ac. Request rezoning from General Business (GB) to Mixed Use/Workforce Housing (MU-2/WH).**

**Owner: EQ Squared LLC**

**Applicant: Branko Damjanovic**

Mr. Morgan said the Item was immediately adjacent to the overpasses of the Septima Clark Pkwy. It was an older, single house. The request was to go from GB to MU-2/WH, which could be found on properties to the rear and to the north. It was north of Line St.

It was designated City Center in the Comprehensive Plan.

Images of the property were shown.

Staff recommended approval.

Mr. Stephenson said he represented the potential owner. The application was really a feasibility study to see if the owner wanted to develop [here, the applicant said “buy,” but an owner cannot “buy” a property they already own] the property. He owned the property on Line St., which was also zoned MU. In light of the development coming behind it, he wanted to develop the property more in keeping with what was behind his property. The rear of the property would likely become more intense, which would enable the historical building to be renovated.

Chair Karesh said it was a small parcel.

Mr. Stephenson said the owner would handle all the parking and the remaining needs of the property that he owned.

Ms. Lempeis asked if the owner would be abandoning the property line and making it one property.

Mr. Stephenson said he most likely would.

Mr. Bailey asked if the intent was to restore the existing structure.

Mr. Stephenson said that was correct.

Chair Karesh closed the public aspect.

Mr. Bailey said he had looked online at the property before hearing any of the details and had thought to himself, ‘what a shame to lose that house,’ but he also felt no one would likely ever live there again as a single-family residence, so he was very pleased to hear that they planned to incorporate a renovation of the building.

Ms. Jacobs said she felt the same.

Ms. Lempeis reminded the Commission that they were only being told that that was going to happen.

Ms. Jacobs said that either way, she understood it.

Mr. Morgan said BAR did have jurisdiction, and it would be extremely difficult to demolish the historic structure.

Ms. Harrison said on the other side of the overpass, those kinds of houses had been re-adapted. Also, the Lowline would be right there. The intensification would be a beginning to a further clustering of businesses and uses in the future. She felt the additional intensity was good.

On a motion of Jimmy Bailey, Jr., seconded by Donna Jacobs, the Commission voted unanimously to approve Rezoning Item 2.

**3. 179 & 181 Fishburne St (Westside- Peninsula) TMS # 4600702173, 175 & 242 - approx. 0.23 ac. Request rezoning from the 2.5 Story Old City Height District to the 3 Story Old City Height District.**

**Owner: Mt. Hermon Reformed Methodist Episcopal Church**

**Applicant: Matthew Campbell**

Ms. Harrison recused herself on Rezoning Items 3-7 because she owned adjacent property and had sold 313 Ashley Ave.

Mr. Morgan described the location of the site.

There was an older church on the property that was recently at BAR for demolition approval, and it was denied. There might have been a portion that could be removed, but the bulk would have to stay.

It was in the midst of a portion of the City which was the 2.5 Story District. 3 Story was across the Septima Clark Pkwy. The request was to go to the 3 Story District.

The property was designated Neighborhood in the Comprehensive Plan.

Staff did have some concerns about the heights in the area due to the context and the precedent that would be set.

Images of the property were shown.

Staff recommended disapproval for the height zoning change because of the precedent it would create. Building to the current flood zones, as exhibited by other recent renovations in the area, was more appropriate. Having 2.5 stories, there would still be room for building a good-sized house that would be in keeping with the surrounding area.

Mr. Levine was the contract holder on the piece of land in question. He said the church was over 100 years old. They had met with BAR and were moving forward with a plan of adapted reuse for the church. They had about .25 acres of land surrounding it, on which they were planning to put up residential structures. In their plan, they intended to raise the church per FEMA guidelines and provide under-structure parking. They wanted to do the same thing with the residences. He thought one of the critical points was that the rezoning did not grant them a higher height. It was one half story, so it allowed them to enclose the third story and use their first story to provide under-house parking. Because of the FEMA guidelines and the Charleston codes, they needed to build over six ft. in order to provide the parking. That was why they were requesting the rezoning.

There was precedent for the rezoning. Several months ago, at 228 President Street, the same height rezoning had been approved for about 14 homes, also in the Westside.

Mr. Taylor, vice-president of the Westside Neighborhood Association, said he had planned to be with their president, Audrey Lisbon, who also lived adjacent to the property, in order to voice their opinion that there was no disapproval from the neighborhood. They supported the three ft. Their neighborhood was plagued by flooding and parking issues. Within City guidelines, the developers could go to 40 ft. The presented solution would be under 40 ft. and would relieve some of their drainage issues by having pervious material, drainage basins, and catch basins. The president was stuck leaving her job at the VA in

flooding. The neighborhood supported the three ft. with the understanding that all of the projects were subject to the normal setbacks, and would not see the 40 ft. that were normally allowed in the City of Charleston. The idea was to move parking away from the street, and alleviate lack of parking and drainage. It would be a sustainable development and a very good way to use the space. They were going to revitalize the church, restoring its historic quality and benefitting their neighborhood by removing a piece of urban blight. They would not be exceeding the 40 ft. cap, they were just making up the difference for the FEMA code and what was best for the interest of their neighborhood, which was to have developments move parking off the streets and beautify the neighborhood, plus recognize the issue of drain water.

In terms of precedent, he wanted to point out 315 Ashley, which was a 50 ft. monstrosity. The proposal would follow the general height of the neighborhood and preserve the church itself for dwelling, and add a couple of other dwellings, which would significantly beautify the area. The neighborhood, including himself and the president, supported it.

He said there was a vote that was held, and not everyone in the neighborhood supported it, and there would be individuals speaking against it. However, it was deferred, due to the fact was that there was confusion because the applicant was asking for three stories when they could already get the same height out of the 2.5 stories. He thought it was really complicated when they were disseminating that information to a number of people in their neighborhood. They, as the executives, encouraged approval considering the FEMA guidelines, parking, and considering an extra three stories would not exceed the height limit.

Mr. Williams opposed the application. He said confusion always came in when someone tried to push something on them in the Westside Neighborhood Association when they hadn't approached them in the right manner. They gave them no specifications, nor did they give them any pictures to explain their designs. They came in with a piece of paper, and he said a piece of paper didn't do anything for him. He lived on Nunan Street. He did not see the same thing the president and vice-president saw. He asked why they would want three stories when they already had a zoning limitation of 2.5, and they had just raised the height restriction a few years ago. He asked why they now wanted to come and add a third story to the project they were trying to propose. He and the members he had spoken to did not approve of anything. He didn't know how the vice-president received that information, because Mr. Williams was one of the residents who were opposed, and they had a deadlock. If they had a deadlock, they didn't have enough information for the vice-president to go forward.

Mr. Lawrence said he was a community activist and a former president of the Westside Neighborhood Association for over 30 years. He had worked in the community since 1960 to make sure they spoke for the residents who did not have a voice. He had been at the meeting. He said that at the Neighborhood Association meetings, motions had to come from the body, and could not come from the president and vice-president. The vice-president was there to support the application against the will of the people, and he did not think that was right.

The community had had a hand on many projects throughout the history of the neighborhood under his administration, and worked closely with the City to bring quality of life to those individuals who lived in the freedman's cottages.

They had tried to fight the "monster" at 315 Ashley Ave., and had failed, but the City saw that it would be a problem down the road and would disrupt the quality of life. Developers were using such buildings as gold mines. They didn't live in the community, and were using them for investment purposes only. City Council then came up with an ordinance across the board that allowed only for 2.5 stories.

He said enough was enough, and there needed to be a stop to people taking advantage of the senior citizens that lived in the freedman's cottages and in the wider community. He hoped the Commission would deny the application.

Ms. Drolet of HCF said Historic Charleston Foundation was opposed to the application because they did not believe three stories was appropriate for the residential Westside neighborhood. Sec. 54-306.15 of the Code of the City of Charleston empowered the Planning Commission to review requests to rezone to a higher height district based on the context of the property, the character of the immediate area, street widths around the property, and whether the requested rezoning would be compatible with surrounding properties.

The property in question was located on a residential street surrounded by buildings ranging from one to 2.5 stories. After a careful study of the surrounding properties using the evaluation criteria in the ordinance, HCF had some concerns about scaling and compatibility with existing neighborhood buildings and the character of the neighborhood. It was just too much for the lots. They agreed with Mr. Morgan that it would establish an unfortunate precedence, and respectfully encouraged the Commission to deny the application.

Ms. Carroll of the Preservation Society of Charleston said the Society was opposed to the request to upzone to a three story height district. Fishburne St. was overwhelmingly comprised of 1-2.5 story buildings. There were several examples of elevated historic buildings and new construction within the context that respected the scale of the historic streetscape. While the Society was supportive of preserving the historic building for continued use, they were confident that the rehabilitation and any associated new construction could be achieved within the current zoning. Further, they felt it important to uphold the integrity of the height districts that were very specifically and intentionally drawn.

Chair Karesh asked the applicant for a response.

Mr. Levine said that in regard to the height districts, new data was put in place about two years prior which impacted what qualified as a story. When the neighborhood associations were able to install the 2.5 story height limit in the neighborhood, at that point, they had the ability to build 2.5 stories without being impacted by the FEMA data. When the new FEMA maps went into effect the previous year, it actually moved the elevations. As an example, what was once 6.5 ft., he could build 5.5 ft. and it wouldn't count as a story. The data moved, and that 6.5 ft. was now 5.5 ft.. He therefore had to build 6.5 ft. to get to his FEMA guidelines, and then lost a story. So, while there was a 2.5 story height limit put into place, he believed that the data ought to have changed the story limit.

He said they had met with both historical societies and with BAR, and he was surprised to hear what HCF and the Preservation Society had to say. He said they had been working hand-in-hand with BAR and had met with the historic societies on-site and had plans to meet with them. They were trying to revitalize a church that needed the money to move to North Charleston. They had been trying to work with the City and the neighborhood. He met with many neighborhood residents over the course of months. He said they were just trying to put up a product that the neighborhood would be happy with. He said they were not "greedy developers." They wanted to put up residences, use an adapted reuse for the church, and put up something they would be proud of. He had lived in Charleston for three years. He was new in town, but he loved it. He lived a block from the project, and wanted to be proud of it.

Chair Karesh asked if Mr. Levine had met with the Neighborhood Association as a whole.

Mr. Levine said he had. He had also met with the president separately, and with many different members of the neighborhood.

Chair Karesh closed the public aspect.

Ms. Lempesis asked how they were addressing how the houses in the Westside neighborhood were raised for parking underneath, because it would impact the 2.5 stories, which was somewhat arbitrary when they looked at the floodplain, which had changed, in addition to the two ft. She asked how they addressed any of the homes that needed to be raised there.

Mr. Morgan said the parking zone, if it was six ft. or higher, that counted as a story, so they typically did count as a story. They would then be left with 1.5 stories of usable space in those instance.

Ms. Lempesis asked what one could do with a half of a story.

Mr. Morgan said 50% of what one could do with a full story. If someone did 1,000 sq. ft. on one story, the could then do 500 sq. ft. on the second one.

Ms. Lempesis asked what the size of the average house's footprint in that area was.

Mr. Morgan said they were typically smaller, around 1,000-1,800 sq. ft. houses. Some of the newer ones were bigger, but the historic houses were not large.

Ms. Lempesis said she was just curious how they were addressing parking and flooding.

Mr. Morgan said that some confusing statements had been made about parking. Parking always had to be off-street, whether they were parking under the building, beside it, or behind it, the developer always had to provide the parking on-site. It might eat into how many units could be built, but the parking always had to be off-street.

Ms. Lempesis asked how many parking spaces the project was requesting.

Mr. Morgan said he did not know how many houses they wanted to build, they had not seen any site plans, but they would have to do two spaces per house.

Ms. Lempesis asked if they were doing any residual parking.

Mr. Morgan said they did not know, they had not seen a site plan.

Mr. Lesesne said there was mention of a 40 ft. height limit in addition to the 2.5 story height limit.

Mr. Morgan said there might have been some technical discussion about that in the Ordinance, but essentially, when they went to height by stories, there was a lot more flexibility. They could do a 12 or 10 ft. story.

An employee with the developer said it was based on the right-of-way, so they were capped at 40 ft. Even if they had 2.5 or three stories, they were still capped at 40 ft.

Ms. Lempesis asked if that was true even with parking underneath.

The employee said that was right.

Ms. Lempesis said a half story with elevated parking was challenging.

Ms. Jacobs said former Councilmember Moody referred to such situations as "congoolums." She asked how long the 2.5 story limit had been put in place.

Mr. Morgan said it was a part of their overall height change throughout downtown. As they had discussions with various neighborhoods, when they had their discussions with Westside, they said they felt better about 2.5.

Ms. Jacobs asked when that occurred.

Mr. Morgan said he believed it was in 2017. Part of it was because there had been a spate in the early 2010s of some of what got the name "rocket houses" that went up to three, 3.5, and almost four stories.

Ms. Jacobs said she saw where they were trying to cram those kinds of houses in. She said she was concerned that they were doing things piecemeal without a comprehensive look at the neighborhood based on all the new FEMA maps and data, which would be coming with the eventual Downtown Plan. She did not think they should do anything to the neighborhood until they had really been engaged and expressed what they wanted moving forward. The area was ripe for developers to come in and do all kinds of things whilst overriding the concern of the neighbors and the character of the neighborhood.

Chair Karesh said it was a tough situation, and he appreciated the fact that they wanted to keep the look of the church. He understood it was a financial decision, but he loved seeing the same buildings downtown. He thought they changed the whole beauty of Charleston.

Mr. Bailey said he looked at the image of the zone map of the screen, which showed everything in the area as a single zoning district, and he listened to Ms. Jacobs' comments, and he thought if there was a broader problem created by new information, then it would be dealt with in a broader way.

Mr. Lesesne said as usual, he and Ms. Jacobs thought along the same lines. He did not think it was a good idea to make an ad hoc exception to a rule that they had just put in place. He supported the density they were talking about putting in the neighborhood, he thought they all wanted to see more housing built, he felt highly confident they would do a great job, but he did not feel comfortable with making an exception to a rule they just put in place. The new information that was talked about required them to adjust and to look at making a policy change in the neighborhood.

Ms. Johnson said she was conflicted. She heard exactly what the applicant was trying to say. She didn't agree with doing things piecemeal, but she also understood they were putting someone on hold with their plans.

Mr. Lesesne said he thought that the comments they heard from the neighborhood showed that the neighborhood had not come to a consensus on the Item, either. They deferred the question, so at a minimum, he felt they ought to defer at least until the neighborhood had taken a firm position one way or the other.

On a motion of Donna Jacobs, seconded by Jimmy Bailey, Jr., the Commission voted to deny Rezoning Item 3. The vote was not unanimous. Sunday Lempesis and Angie Johnson voted against the motion. Erika Harrison recused herself.

4. **313 Ashley Ave (Westside - Peninsula) TMS # 4600702053 - approx. 0.13 ac. Request rezoning from the 2.5 Story Old City Height District to the 3 Story Old City Height District.**

**Owner: RCC Properties, LLC**

**Applicant: Synchronicity**

5. **0 Orrs Ct (Westside - Peninsula) TMS # 4600702071- approx. 0.07 ac. Request rezoning from the 2.5 Story Old City Height District to the 3 Story Old City Height District.**

**Owner: RCC Properties, LLC**

**Applicant: Synchronicity**

6. **18 Orrs Ct (Westside - Peninsula) TMS # 4600702070 - approx. 0.06 ac. Request rezoning from the 2.5 Story Old City Height District to the 3 Story Old City Height District.**

**Owner: RCC Properties, LLC**

**Applicant: Synchronicity**

7. **20 Orrs Ct (Westside - Peninsula) TMS # 4600702069 - approx. 0.13 ac. Request rezoning from the 2.5 Story Old City Height District to the 3 Story Old City Height District.**

**Owner: RCC Properties, LLC**

**Applicant: Synchronicity**

Rezoning Items 4-7 were taken together.

Mr. Morgan said Item 4 was just around the corner from Item 3.

He described the location of the site.

Images of the property were shown.

It was designated Neighborhood in the Comprehensive Plan.

There was what appeared to be a four story building that was built under the old height limits immediately to the north.

He showed some examples of elevated structures.

He went through the rest of the Items, which were all similar, and described the locations of the properties.

Images were shown of all properties and surroundings.

Staff recommended denial for all Items.

Ms. Lempesis asked about the height of one of the surrounding structures.

Mr. Morgan said it was 38 ft.

Ms. Lempesis asked about the 40 ft. limit.

Mr. Morgan said that was the maximum height from the street level. It was something that the BAR and the building department looked at. It was a maximum that had to come in when the plans were reviewed. Planning looked at it only from the stories.

Mr. Richardson said they worked downtown and worked on a lot of small neighborhoods with attainable and affordable housing. They had been members of the Westside for many years, and had done many projects there, as well as Radcliffeborough, Elliotborough/Cannonborough, and all throughout the Eastside.

He was a land planner and a landscape architect and came from a civil engineering background. Usually, they were brought in to help solve engineering problems. The site was very unique. Although each application was presented very similarly, they were very different applications. He said he had been before the Planning Commission twice for elevation requests. Both of the previous properties had elevations of five ft. The property in question had an elevation of 4.5 ft.

He said the history was really important. The plat for the property, which was included in their application, was handwritten from centuries ago. The block was developed from the corners inward. He said the point was the lowest point not only on the block, but in the sub-region. So, they were dealing with obvious problems. Flooding was a problem. One of the other issues was 315. 315 was not done as the application had intended, and so there was a drainage issue of water coming from 315. Their goal was to help with the drainage solution there.

They understood why 2.5 ft. was granted to the district. In the Zoning Code Provision, in every height district, an applicant had the right to ask for the next appropriate level. The next appropriate level was a three story. That didn't sound like a lot, but it was important with the flood conditions. The data had changed a couple years ago, along with FEMA flood map changes, which changed the elevations. With the 2 ft. of freeboard from the City, they had to have a finished floor elevation at 13 ft. They had 4.5 ft. Even to get up to that height, they had lost a story. They were not trying to build monstrosities.

He showed an example of what they were trying to build. He said it was effectively a small village or hamlet, which was what they were known for downtown. They always took care of parking and the also provided guest parking. There was another building that was supposed to have been built at 313 with 315, and there was a legal shared driveway access, so they had to honor that as well as they came up with a solution. Their goal was to come in meeting the densities of DR-2F, having units that had to be elevated, they were small units that averaged 1,200 sq. ft., with parking below them. With those units, they had to have 1.5 spaces per unit. They were parking them at 2 per unit and providing about six guest spaces throughout, which was way above the industry standard as a recommendation for guests in neighborhoods.

The entire drive used a pervious paver geomat system that he had developed with their team 20 years prior. They had used it all throughout downtown. It helped them beat all of the technical requirements



when they went through water quality and stormwater retention when they went through TRC. It helped capture the water coming from 315 and helped contain it.

They intended for all the houses to have outdoor spaces with porches. Because of the size of the right-of-way, they were still capped at 40 ft., but being able to have the extra half story, they would have a livable floor.

He was happy to answer any questions. Every single one of the applications they had brought, they were very sincere and deliberate with their requests. They did a lot of work downtown, and did a lot of work on great projects. He did not just come there flippantly to ask for things. They were very familiar with that part of town.

Chair Karesh asked if they had met with the neighborhood associations.

Mr. Richardson said Mr. Chesnut had met with the Westside, and also had conversations with several folks. They had spoken with the City a lot, as well.

Mr. Chesnut said that with the elevation being at 4.5 ft., if the height rezoning was not granted, the project, as it was, was basically unbuildable. If they had to go to 1.5 stories, it put the sq. ft. at 850 sq. ft. per home. It was unbuildable. He said all the extra half story did was bring the walls out. The height would not change. He said the general public was confused about what a half story was. They were accommodating parking underneath, and would have guest parking. Their heights would be 38 ft., which would blend in nicely with the neighborhood. He said many of the homes in the area were already three, 3.5, and four stories, but the zone map simply showed what the district recommendations were, not what was actually there. 315 Ashley was a part of the 2.5 district, but was actually a four story home. Charleston County was even thinking about moving the freeboard up to four ft. The Commission had approved his project at 228 President St., and he kindly asked that they approve this project.

Mr. Taylor said they wanted to reiterate the responsible development, and also the repair of the existing issues made by poor development choices, such as the 50 ft. monstrosity. On the first project, there was a deferral, and on the vote for the projects at the neighborhood association, there was no vote because of a lack of a quorum, but he was there on behalf of the president and many other members of the community to express their support of not increasing the height, but of pushing out the third floor to the rest of the footprint. It was logical, sustainable development that was solving problems. He had looked at the example house with Mr. Lawrence, and they had agreed that it was pretty good, but the 50 ft. monstrosity was not. Their concern as a neighborhood was that if they did not allow that kind of responsible development, they would find a developer that would buy the property, build to FEMA guidelines, put in two tandem parking spots, and continue the perpetuation of the problems that they stopped working together to solve. All of the work put into it would not just benefit the Westside, but the entire City. They would still have to go through TRC, but it was an area that was creating swampland that attracted mosquitoes, which gave them diseases. If they didn't do it responsible, someone else would perpetuate the problems of parking and lack of drainage. He said everyone called it a height increase, but they weren't increasing the height, they were simply applying to blow out the top floor to the same footprint of the house and provide for parking. They had never seen a developer during his time in office come to them as Mr. Chesnut had, with all setbacks accounted for. They only required 15 parking spaces. With the height, they could put in 26 total. They could put in catch basins to relieve a heavily flooded area. There was no better project. The president and himself did not consider it a big ask.

One individual in the neighborhood had an illegal pump in his backyard running water to the street. The developers would be able to beautify and better the City and alleviate that problem.

At the previous City Council meeting, there was a wonderful discussion about BAR and the urban blight that they were dealing with on the Eastside and Westside. What they should have started to consider was that, rather than demolition by neglect, they should have asked if BAR had too much. They weren't dealing with the problems of the abandoned church; they were not dealing with the rats crawling out, the garbage, the loiterers, the people on the corner, the broken glass bottles, and lottery tickets. He said the

Item would further their City in the best way possible and help residents, he and the president included. They did need a cohesive plan, but in the meantime, there was no way they could deprive developers asking to make it financially viable to build that kind of project. Otherwise, they would get more density built to a lower grade, and tandem parking, the streets would be overcrowded, and flooding was going to continue, and that was why the Executive Board of the Westside asked that they reconsider the City Plan's position based on the surrounding available structures, the benefit to the area, and the fact that it was not an elevation request, but a story request that didn't change anything fundamentally, and it would still have to go through TRC. It was merely a first step.

Chair Karesh thanked Mr. Taylor.

Mr. Williams said they had the same kind of issue again with this Item. If they didn't have a quorum and couldn't reach an agreement then, they were not going to reach agreement during the meeting. There was a height difference between the 'monstrosity' and the proposed designs. The water that came as a result of it went over to Orrs Ct. They had a pump to get the water out of the property of one of the freedman's cottages. There was also parking underneath one of the buildings that was already 2.5 stories. He asked why they were fighting, because all the applicant had to do was come up with a better plan. He said the architect should have been able to figure something out to fit with what the Westside neighborhood was operating with.

He didn't have a problem with flooding because he lived on Nunan St. He had more cars coming through his area when it flooded, because Nunan St. was the only way through when it flooded. He said the more they built, the more they would take away from them, and that was the problem. They were taking away from the decorum and what the Westside had been operating on.

He said his wife was born in the house they lived in. He asked how many people could say that they lived in the house that their parents built.

Mr. Lawrence said the issue had been deferred at a meeting of the Neighborhood Association. He said any organization had to understand Robert's Rules of Order. At the meeting, the president and vice-president of the Neighborhood Association had brought a motion to the body. Mr. Lawrence said he corrected them, and said they could not bring a motion from the head to the body.

He said if they looked at 321 Ashley Ave., people had tried to put a throughway there, but the Traffic and Transportation Committee stopped them, saying that they couldn't create a driveway from one street to another, causing problems in a school overlay zone, so they made them block it off, which created a problem on Orrs Ct. When school ended, parking spaces could not be found on Sumter St., Orrs Ct., or Fishburne St. He had lived on the corner of Fishburne and Orrs for over 74 years. He worked in and had experience in the community. He had worked with some fantastic developers to ensure that they had quality of life in the community. He told the Commission to watch what was happening in the neighborhood.

He said when 315 Ashley Ave. was developed, they were supposed to have put a French drain on the property, but they instead put a cement fence behind it and filled the property in and elevated it. The water ran down on a freedman's cottage, causing problems behind it. He asked why their elected officials created laws and ordinances if they weren't going to enforce them. He said what they were trying to do was to piecemeal the community until they achieved what they wanted. He said they had to say enough was enough. He said he didn't know what direction their president and vice-president were going in, but he thought something had to change.

He showed images of a 'monster' on Fishburne St. The developer of that property took away the crepe myrtles there that himself, former Mayor Joe Riley, and other members of the community had planted. They took away parking spaces on the street. He said they could not find out who the developers were and who had given them the authority to cut down the trees on Fishburne St. He said no signs were placed saying they would have a zoning change, or anything like that. He said anyone who knew him would say he would research a problem to try and solve it, but they couldn't find anything out about the

property. He said they couldn't have another 'monster' on the other side, because the freedman's cottage would be behind that house and overshadowed, just like the one behind 315 Ashley Ave. The City created ordinances to protect the citizens that lived in that area from such things.

He said 15 cars were parked in front of 315 Ashley Ave. because some of the tenants could not afford to pay rent by themselves, so they took in residents to help them, which caused parking problems for the community.

He said the developers ought to build what they could with the 2.5 stories. He said not to piecemeal it because they wanted to do it, because it would cause problems in the community.

He showed images of various properties and explained some of their recent histories in relation with SCDOT.

He asked why they would come in and put what they wanted in instead of talking with the community. He said he had motioned for denial at the Neighborhood Association meeting, but the president and vice-president told him they didn't have a quorum. He said they ought to take another vote when they did have one, but no one from the body gave a motion to support the development. He said they hadn't spoken to DOT, and had nothing to show exactly what was going to happen to the neighborhood.

Ms. Carrol said the Preservation Society of Charleston was opposed to each of the requests to upzone. With the exception of isolated examples of out-of-scale new construction, the immediate Ashley Ave. streetscape was predominantly 1-2.5 story buildings, and even more so for Orrs. Ct. It was critical that the Commission defend the integrity of the existing height districts, ensuring that the character and scale of Charleston's unique neighborhoods were preserved. The Society supported staff's position, and felt strongly that three story buildings would be out of scale with the context.

Ms. Drolet said HCF was also in opposition to the agenda items, citing Sec. 54-306.15. Furthermore, in response to Mr. Lawrence's comments about piecemeal upzonings, and with what Ms. Jacobs said, she said the City was poised to rewrite the Peninsula Plan, which was last visited in 1999. Then, they felt the peninsula ended at the Crosstown, the Ravenel Bridge had not been built yet, and so they had an opportunity in the next few months to look at the peninsula holistically, and adopt a new vision for what they wanted, what their communities wanted, and what was appropriate.

Chair Karesh asked the applicant for a response.

Mr. Chesnut said they had spoken with SCDOT, and they had approved their private driveway. He had a full team civil engineers with Barrier Island Engineering on-site for the last 90 days. Drainage was costing him over an estimated \$230,000 in order to fix the problem at 315 Ashley Ave. There was another house on Orrs Ct. that was also flooded out. He had spoken to that gentleman and with the engineering team. He said they were going to solve everyone's flooding issues with what they had proposed. They had one of the biggest teams in town addressing the situation to ensure it would be done properly.

In regards to the historical societies' comments, he said they did not understand what they were opposing because the height was not changing. The height would still be 38 ft.

Chair Karesh asked Mr. Chesnut to speak directly to the Commission.

Mr. Chesnut said the height was 38 ft. regardless of whether it was 2.5 or three stories. He said he wanted clarification from HCF and the Preservation Society. He said they were simply asking to be able to make the homes buildable. He agreed that they needed to redevelop the building code, but the project was current, and not in the future. He asked that it be approved so they could build a suitable structure. He said all they were asking for was to blow their walls out.

Mr. Richardson said context and scale came up a lot on every project. They had a lot of emotions at the table, and they always tried to just bring facts. There were a lot of things that, even when they presented information, there were those who did not want to hear it. There were a lot of technical codes now. Freedman's cottages were built before electricity, and were built or relocated until the turn of the 20<sup>th</sup>

century. People now did things a lot different than they did then. They were nonconforming. If they were to be built today, they would be required to be elevated, just as they were required to do by the FEMA code, building code, BAR, and the Zoning Code. With modern construction, they simply had to build much higher than the historic buildings around them.

He said they had had a pre-application meeting with TRC where TRC weighed in on their driveway. They were not creating a road, they were creating a driveway. They had four properties that were accessed off of two right-of-ways. It was compliant with Traffic and Transportation codes. They were not damaging the neighborhood with what they were doing. They were coming in and providing a solution. If a developer came in and did all of the properties piecemeal, they didn't have to do any of what they were proposing to do to better the neighborhood, and he said they wouldn't.

He said they were at the BZA a few days prior to deal with all of the diseased, fallen over, and cracked trees that were causing issues. They had gotten all of those approved for removal.

The process was still not done, they had many steps to still go through. They were dealing with the same problem all over the City. He said that was why there was a provision made for special exceptions. He said they were not asking for it flippantly. He said Nunan St. was at an elevation of 11 ft., and that was why people cut through there, because it didn't flood. Where they were, they were seven ft. below that. He said it was contextually inappropriate to compare the two. He said he could promise the Commission that if another developer came in, they would not do something like what they did, and would instead simply do something self-serving to get around it.

He said he was adamantly opposed to the idea that they did not care about the City. They lived and worked there, and he proudly walked on every road they did a project on.

If it was an issue that there needed to be more technical review, or questions and answers, or a quorum vote by the Westside Neighborhood Association, they were happy to defer to go and do that, because they did the right thing on every project. He said that a zoning code rewrite would mean years before it was enacted. He said it was irresponsible to ignore these problems in between zone Code rewrites. He asked the Commission for a deferral so they could go back to the Westside Neighborhood. He asked that everyone listen to them. He promised that they were bringing the best solutions to the property.

Chair Karesh asked if they were formally requesting deferral.

Mr. Richardson said that was correct.

Chair Karesh asked Mr. Morgan if that was possible.

Mr. Morgan said it was.

Chair Karesh asked if there was a time limit.

Mr. Morgan said no, as it was coming from the applicant.

Chair Karesh said he appreciated the deferral. He felt it was a very difficult issue. There were tremendous challenges involved. He appreciated that they were going to try and work something out.

Ms. Johnson said she wanted to comment that the presentation was the most logical and comprehensive application that she had seen in her 14 years on the Commission. A lot of questions she had were asked and answered. There was a huge discrepancy between the elevations and where they needed the finished floor height of the buildings. She felt they were going to run into the same problems over and over again, whether they were raising buildings or designing new construction. It was disingenuous to think it was going to work when such disparities came up. She was glad that the applicant was asking for deferral. However, she felt that they couldn't put all such projects on hold. Her concern was that if they did keep deferring such things, it was kicking the can down the road. The process of a Zoning Code rewrite would indeed take years. They would have people caught in that unable to move forward.

Going from 2.5 stories to three stories, the height itself was not impacted. It didn't affect parking, runoff, or flooding. She didn't see the objection. They were not changing anything with how it impacted the surrounding property. Visually, while it was more within the roofline, the heights were the same.

Mr. Bailey said he agreed with maybe all of what Ms. Johnson said. However, as he listened to what appeared to him to be a good engineering solution, though he said he was not qualified to render judgement on it, and what appeared to him to be an elegant design solution, he kept reminding himself that the Planning Commission was a Zoning board, and not a design board nor a technical review board, and they had a district where 2.5 stories was established to be appropriate in 2017. He didn't think they should have been tasked with determining if a developer's solution was the correct one. They instead needed to think about the zoning of an area. He agreed that it wasn't fair to kick the can down the road, but he worried about the precedent about making a design and engineering decision for a specific piece of property because some new thing had come up that didn't quite work. He thought there was some urgency to tackling the issue. He was grateful to see that the applicant had deferred and would try and work again with the neighborhood. He said City staff and others could perhaps put their heads together to think about whether or not they had a larger issue that needed to be addressed.

Ms. Lempesis said she was glad they deferred because it gave them the opportunity to talk with Mr. Lawrence and the rest of the neighborhood. They were not a design board, but perhaps it could be something that looked more like the neighborhood.

Their guidelines were changing, their freeboard was changing, and they had to address every lot in the City that would be built on. Charleston was not known for its large lots. If they were putting in a 20 ft. house, gave it 2.5 stories, and they wanted to park underneath, that would only be one story and a half story in which to live. She thought they had to look at what looked good in their City that did have parking underneath it. The City had a serious parking problem. Telling residents to park on the street and having a one-car driveway was not what they needed. She felt, as a zoning commission, they had to look at what was going on in their City. That very day, there had been severe flooding, there was an inability to get to the meeting to even vote on the application. She thought they had to look at what they could build, how it meshed with the existing neighborhoods, and how more communication between the owners and the builders could help. She asked what would happen if a fire happened. When they went to the two ft. freeboard, she said Councilmember Waring had said that if a fire happened, it would affect the affordability of what the homeowners would have to rebuild. She thought they had to take all of that into consideration. Height was more important to her than whether or not the top floor was a full floor or had dormers.

Ms. Jacobs said she agreed, she agreed, and she agreed, which meant they had a lot of work to do. It was critical work, and it started by listening to the community and understanding that there was a problem. They were not an engineering design team, and if they started picking one group over another, then they started picking winners and losers. They needed to all be on the same page. She said she would press staff as hard as she could to get an RFP out for the Zoning Code. Even if they were working on the whole Zoning Code, they could identify hotspots that 'needed ordinances yesterday.' They could get ordinances done before Christmas if they needed to. Guidelines had changed, and there was urgency.

She thanked the applicant for electing to defer.

Mr. Lesesne said it was a real issue, and was important. He thought they had all realized that there had been developments that made the height recommendation from five years prior problematic. He agreed that there was a sense of urgency. The issue was that there was a height recommendation approved by City Council, and the applicant was asking just four of them on the Commission to overrule it. He thought that most of his colleagues agreed that the community needed to weigh in on the issue. The applicant had brought up a serious problem, and they were still able to go through City Council to see if they would overrule the Commission. But, they didn't even have a recommendation from the neighborhood

association. They needed to address the problem, and he thought the deferral helped to address that process.

Chair Karesh said the applicant had tremendous challenges. He understood the concern about how time-sensitive the issue was. He said they appreciated that. He thought it was very wise of the applicant to defer, and he would remember that decision.

Mr. Lesesne said he didn't think they needed to wait for a big ordinance rewrite to come up with a solution that they could all agree on, and then they could move forward so that whenever the same issue came up, they could apply that solution again.

Chair Karesh agreed.

Ms. Johnson said she thought there was a massive disconnect between what they on the Commission knew and understood 2.5 stories to mean and what the public thought it was. She thought there needed to be some conversation, or different words used. Even when she spoke to people, they thought a half story was half the height of a normal story, which obviously would be impractical. There was not an understanding of what that meant.

Mr. Chesnut said that if it was possible, he wanted a representative to come to the Westside, Eastside, and Wagener-Terrace meetings, and post it to Facebook, to explain that difference, it would make a huge difference, because there was 'mass confusion.'

Chair Karesh thanked Mr. Chesnut and said he appreciated what he and Mr. Richardson had done.

Mr. Richardson thanked the Commission for listening. He thought it was important for them to understand everything that went into the project, and not just looking at a blank TMS number.

## **DEFERRED**

### **PLANNED UNIT DEVELOPMENT (PUD)**

1. **Properties on Battery Island Dr (Beefield - James Island) TMS #3340500023, 022 & 055 – approx. 7.08 ac Request rezoning of two properties (TMS# 3340500023 & 022) from Rural Residential (RR1) and zoning of one property (TMS# 3340500055) to Planned Unit Development (PUD) (Battery Island), with the Planned Unit Development Guidelines attached hereto and incorporated herein by reference to serve as the development plan for such property.**

**Owner: Battery Island Community**

**LLC Applicant: Robinson Design Engineers**

## **DEFERRED**

### **ZONINGS**

1. **820 East Estates Blvd (Long Branch - West Ashley) TMS# 3100200152 – approx. 0.26 ac. Request zoning of Single Family Residential (SR-1). Zoned Single Family Residential (R-4) in Charleston County.**

**Owners: Leroy E. Waring Sr. and Sheila W. Waring**

Mr. Morgan said R-4 was closest to SR-1.

On a motion of Jimmy Bailey, Jr., seconded by Angie Johnson, the Commission voted unanimously to approve Zonings Item 1.

2. **2863 Maybank Hwy (Johns Island) TMS# 3130000135 & 138 – approx. 1.59 ac. Request zoning of General Business (GB). Zoned Johns Island Maybank Highway Corridor Overlay District (JO-MHCO) and Mixed Use (MU) in Charleston County.**

**Owner: Maybank Group LLC**

Mr. Morgan said this was Low Tide Brewing.

He described the location and surroundings of the property.

The most compatible zoning was GB.

Images of the property were shown.

On a motion of Sunday Lempesis, seconded by Harry Lesesne, the Commission voted unanimously to approve Zonings Item 2.

3. **3. 1978 Maybank Hwy (James Island) TMS # 3430300198 – approx. 0.38 ac. Request zoning of General Business (GB). Zoned James Island Maybank Highway Corridor Overlay District, Community Commercial (JA-MHC-O, CC) in Charleston County.**

**Owners: Brian Tanner and George Vasilos**

Mr. Morgan said the site was a former house. It was a vacant commercial building at present.

Staff felt comfortable with GB based on the surroundings.

Staff recommended approval.

On a motion of Donna Jacobs, seconded by Harry Lesesne, the Commission voted unanimously to approve Zonings Item 3.

4. **4. 4 Tovey Rd (Carolina Terrace - West Ashley) TMS# 4181000109 – approx. 0.17 ac. Request zoning of Single Family Residential (SR-2). Zoned Single Family Residential (R-4) in Charleston County.**

**Owner: John Bouvette**

Mr. Morgan said the property was on a smaller lot, which was why they had to give it the SR-2 designation. It was the closest compatible district.

On a motion of Sunday Lempesis, seconded by Angie Johnson, the Commission voted unanimously to approve Zonings Item 4.

5. **31 Avondale Ave (Avondale – West Ashley) TMS# 4181400029 – approx. 0.36 ac. Request zoning of Single Family Residential (SR-1). Zoned Single Family Residential (R-4) in Charleston County.**

**Owners: Ashley and James Mackintosh**

6. **5 Oakdale Place (Avondale – West Ashley) TMS # 4181500042 – approx. 0.22 ac. Request zoning of Single Family Residential (SR-1). Zoned Single Family Residential (R-4) in Charleston County.**

**Owners: Allison and James Lutz**

7. **22 Oakdale Place (Avondale – West Ashley) TMS # 4181000104 – approx. 0.24 ac Request zoning of Single Family Residential (SR-1). Zoned Single Family Residential (R-4) in Charleston County.**

**Owner: Kayley Seawright**

Zonings Items 5-7 were taken together.

Mr. Morgan described the locations of each property. Each was moving from R-4 to SR-1.

Ms. Jacobs thanked Ms. Jones for getting Avondale into the City.

Ms. Lempesis said it was the most annexations they had had in a very long time. She told Ms. Jones 'good job.'

On a motion of Harry Lesesne, seconded by Sunday Lempesis, the Commission voted unanimously to approve Zonings Items 5-7.

### **PP&S Department Update**

Mr. Morgan said the Commission had asked for some updates on Union Pier. He said he had communicated with Jacob Lindsey, who was working with Lowe Enterprises on the entitlements there. He told Mr. Morgan that they were expecting to hold some engagement events for the public and for the Commission in the August and October timeframes. They would not have a full plan until 2023. So, it was a somewhat slow-moving target, but they were making progress on it.

Ms. Harrison asked how they would be able to attend without making it a quorum.

Mr. Morgan said it would be a series of events. He didn't know if it would be a large public meeting, or in small groups. If everyone was there in the context of a large public meeting, with 200 other people, he did not think it would count as a Planning Commission meeting, because they would just be listening. He said they were well aware of what the requirements were, as well as City Council.

Chair Karesh said he thought the big thing with the Commission was that they didn't want to just be involved at the end, but rather throughout the process.

Ms. Lempesis asked if anyone had any issue with the mixed use zoning currently in place.

Chair Karesh asked to allow for a question from Mr. Levine.

Mr. Levine asked if he was able to come back with his project again at a later meeting.

Ms. Lempesis asked if he was asking for a deferral, also.

Mr. Levine said that was correct.

Mr. Morgan said he did not think that was possible since the Item had already been voted on. He would have to do a reconsideration.

The Commission collectively said that would be fair, and they would try to accommodate them.

Mr. Morgan said there needed to be 15 days of advance notice. He said it might need to be filed by the deadline, which would be Monday at noon.

Mr. Lesesne asked if the Commission could do that for him.

Mr. Morgan said it had to come from the applicant.

Chair Karesh asked for any further updates.

Mr. Morgan said the RFP for the peninsula plan was out. The Commission was sent copies of it. Proposals were due on August 23. There would then be a selection committee, typically made up of staff and Councilmembers, and that would likely be happening in mid-September. There would potentially be Council approval of a contract in late September, assuming that the selection committee had a recommended proposer. They would then likely get to work by November. So, it would mostly be a 2023 effort. They would be requesting more money in the budget. They had \$350,000 allocated, but staff felt there needed to be more money allocated, given what they had heard from the partner organizations and the public.

The Zoning Ordinance RFP went to Procurement, but it had not gone out for review yet, and he was unsure as to why. He had asked Mr. Summerfield that day, and he said he would check to see why it had not gone out.

Chair Karesh asked if there was anything on affordable housing.



Mr. Morgan said he knew they had wanted to do a meeting with the various providers. Charleston County was in the midst of a huge effort to put together a potential affordable housing ballot initiative, and that was why they had held off on that. He was unsure where the County was going on that, and so August would likely be a better month to get them involved.

Chair Karesh said he had also asked Mr. Morgan if the Commission could meet 15 minutes before the meeting and have somebody come to them to speak about their efforts in affordable housing. It would not be every meeting, but it was something they could have occasionally.

Ms. Lempesis asked if there was a possibility of meeting with Council.

Mr. Morgan said they could do that.

Chair Karesh said it had been a while.

Mr. Morgan said that last time was the previous Summer over Zoom.

Ms. Jacobs said she had watched a webinar about rewriting a city's zoning code done by the Columbus, Ohio area (<https://www.youtube.com/watch?v=-IXLBoehVUc>), and it was made in 2022, so it was very current. It was two planners and two affordable housing non-profit organizations talking about the zoning code, and it sounded like the same kind of thing Charleston was facing. She was happy to share it with the rest of the Commission. It was only an hour long, but it was very informative. It was supported by the United Way there, called Learn United. It was very well done.

There being no further business to discuss, the meeting was adjourned at 7:14 p.m.

Philip Clapper  
Clerk of Council's Office