

PLANNING COMMISSION

January 15, 2020

A regular meeting of the City of Charleston Planning Commission was held this date at 2 George Street, Public Meeting Room, First Floor.

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

PRESENT

Mr. Charles Karesh, Chair, Ms. Erica Harrison, Ms. Donna Jacobs, Mrs. Angie Johnson, Ms. Sunday Lempesis and Mr. Harry Lesesne. **CITY STAFF:** Mr. Christopher Morgan, Planning Director, Mr. Philip Overcash, Senior Planner and Ms. Chloe Stuber, Planner.

Chair Karesh explained the rules of procedure.

The following items were deferred:

REZONING

3. Laurel Island (Peninsula Neck Area) TMS # 4640000006, 002, 023, 038, 4590200013, and 4611303024 – approx. 196.1 ac. Request rezoning from General Business (GB), Heavy Industrial (HI), Upper Peninsula (UP) and Diverse Residential (DR-3) to Planned Unit Development (PUD) (Laurel Island). **Deferred**

SUBDIVISION

1. Maybank Highway (*Indigo Grove – Johns Island*) (32.83 acres) (TMS # 345-000-00-90) –116 lots. Request for subdivision concept plan approval. Zoned Planned Unit Development (PUD - Kerr Tract). Owners: RHK, LLC Applicant: Seamon Whiteside and Associates **Deferred**

The following item was withdrawn:

ORDINANCE AMENDMENT

1. To amend Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) by amending Section 54-220 Accommodations Overlay Zone to correct a scrivener's error. **WITHDRAWN**

PRESENTATION

Recognition of former member and Chair of Planning Commission, Gordon Geer

Mr. Lesesne read into the record and presented to Mr. Geer a proclamation from Mayor Tecklenburg proclaiming Wednesday, January 15, 2020 as Gordon Geer Day.

Mr. Geer thanked the Commission members and staff.

Chair Karesh also recognized former Commission member Valerie Perry, who was also present at the meeting.

The rezonings and zoning were presented by Mr. Morgan.

Chair Karesh commented the Commission was waiting for the arrival of Ms. Sunday Lempesis, as Ms. Harrison needed to recuse herself from both of the rezoning applications and a quorum was needed to proceed with the rezonings. He and Mr. Morgan agreed to take up the zoning application until Ms. Lempesis arrived.

ZONING

To zone the following property annexed into the City of Charleston:

1. 114 Tall Oak Ave (*Ashley Forest – West Ashley*) (0.24 acre) (TMS # 418-13-00-092) Single-Family Residential (SR-2). Owners: Myrtle Graves Rahn Mixson

Staff Recommendation: Staff recommended approval of SR-2 based on the lot size of the other parcels in the proximity to the subject property.

In Favor: No one spoke for or against the request.

Motion: Ms. Harrison moved for approval.

Second: Ms. Jacobs

The motion passed unanimously.

REZONINGS

Ms. Harrison recused herself for both rezoning applications and left the room.

1. To rezone 276 Coming Street (*Cannonborough-Elliottborough – Peninsula*) (0.07 acre) (TMS # 460-04-04-003) from Diverse-Residential (DR-2F) classification to Commercial Transitional (CT) classification. Owner: Matthew Blake Lineberger Applicant: Same as Owner

Staff Recommendation: Staff recommended disapproval. Staff concerned that any commercial zoning would open up the Short Term Rental (STR) issue and that hundreds of houses in the neighborhood would be at risk to STR's should there be a change to the zoning on this property and similar situations.

In Favor: Mark Andrew, attorney representing the applicant:

- Over 60,000 cars pass the property at Coming Street near the Crosstown
- House next door was in extreme disrepair
- Property not suitable for family living
- Not suitable for long term rental
- No on-street parking / driveway accommodates only one vehicle
- Applicant unable to sell property
- Property is above Old and Historic District border
- Back door neighbor property was zoned GB and has a STR
- CT wouldn't be nonconforming use, it was the only use
- House was once a boarding house

Blake Lineberger, 276 Coming Street, the property owner:

- Tried to determine boundary for STR overlay; found out the only neighborhood that had it was Cannonborough-Elliottborough; also realized at that point property had to be commercially zoned
- Information about STR wasn't easy to find at that time; assumed property was zoned for STR; purchased the property and used it as STR to make money
- Didn't take street parking; guests were there from Thursday to Sunday
- Listed the property for long term rental in October 8, 2018; targeted college and medical students; no one signed
- Lowered price below the mortgage per month and couldn't rent it
- Changed rental companies and was still unsuccessful
- Hired Walk Away Stays October 24, 2019 who posted on MUSC's portal for students on doctors on rotations; still wasn't able to rent property; was listed \$600 -\$700 less per month than the note; only thing that worked was STR

Also speaking in favor: Dr. Don Sparks, 191 Smith Street

Opposed: Marion Hawkins, president of Cannonborough-Elliottborough Neighborhood Association:

- Applicant's legal representative made presentation before the association and association voted unanimously for denial of the application
- Goal was to allow continual revitalization of the neighborhood but to keep a balance of residential and commercial
- Hard to sympathize with the applicant since he had an investor with a portfolio of three properties: STR on Rutledge Avenue and property on Rifle Range Road; this one didn't go the way he liked
- Applicant's counsel admitted he had been illegally renting it as STR when he came before the neighborhood association; neighbors knew it was STR; one neighbor's livability was affected by the parties staying in the house
- Safety issue - long term rental would be aware of Coming Street and Crosstown but STR renters won't know neighborhood and not understand traffic on the street placing other people in danger
- Main concern was if this wasn't denied it would set a precedent to create a "domino effect"
- This was his fifth time speaking in opposition; had been to BZA twice, City Council and Planning Commission

Joe Cannon, 209 Ashley Avenue and store owner of 82 Cannon Street: Opposed to any residential property being changed to commercial

Valerie Perry, 231 Grove Street, representing Historic Charleston Foundation:

- Foundation support city staff; felt application should be denied but were sympathetic to applicant's potential financial loss
- Want to see house remain as residence

Will Green, 3 Percy Street, Cannonborough-Elliottborough: Opposed to rezoning while sympathetic; to set that precedent would irrevocably change his neighborhood, street, and family situation

Eric Skipper, 51 Bogard Street: Agree with Mr. Green; recommend disapproval

Jason Coy, 31 Bogard Street: Concur with recommendation for denial; concerned about precedence being set

Anna Catherine Carroll, Preservation Society of Charleston:

- Support the concerns of the neighborhood groups and the analysis by city staff in support of the Comprehensive Plan
- Issue warrants further study, issue continues to come before the Commission; urge that study in the future

Leah Worthington, 31 Bogard Street:

- Reiterate what everyone said as a resident of the neighborhood
- Not clear on what the house next door had much different in common with the subject property as it gets the same amount traffic and noise from Crosstown
- In reference to financial mistakes that were made, don't believe Commission should enter a decision based on sympathy
- Want to see balance remain the same across the neighborhood

Rebuttal: Mr. Andrew:

- No one opposed to this had failed to bring up the concern about the precedential significance of this
- Property have unique historical use; City agreed that was a consideration that was proper to support the rezoning; city representative supported other requests that had some historical commercial usage
- Undisputed historic use as a boarding house;
- Precedent of the Commission granting zoning changes when there was a history of commercial use
- Precedential concern was compelling concern that should move the Commission to consider granting this request because of its historic use consistent with what the request was
- Nothing that was similar about this request that the commission would ever be heard again from someone who has a history of commercial usage that also had all of the other compelling things that demand the Commission give serious consideration to granting this request

Chair Karesh closed public hearing.

Motion: Ms. Lempesis moved for approval.

Second: Mrs. Johnson

The vote was 2 to 3. The motion failed

Mr. Lesesne moved for denial.

Ms. Jacobs seconded the motion.

The motion passed by vote of 3 to 2.

2. To rezone 23 Felix Street (*Cannonborough-Elliottborough – Peninsula*) (0.04 acre) (TMS # 460-12-01-011) from Diverse-Residential (DR-2F) classification to Commercial Transitional (CT) classification.
Owners: Laura Paris and Christopher Paton Applicant: Same as Owner

Staff Recommendation: Staff recommended disapproval. This request was similar to the application and staff had similar concerns. Staff felt precedence was a very big issue within rezoning cases and wanted to keep strong residential character.

In Favor: Hamlin O'Kelly, 104 Mary Ellen Drive (Home), 652 Coleman Boulevard (Office) representing the applicants:

- Applicants had been affected by the actions of City Council and the neighborhood association by the unintended consequences when they enacted the STR ordinance; applicants being squeezed out the neighborhood as a family
- STRs have skyrocketed all around the applicants
- Neighbor Jay Davis and ¾ of the property owners on the street support the rezoning
- Applicants want to sell property and move to somewhere more residential;
- Application more in keeping with 98 Line Street that has same exact zoning; If it was good enough for 98 Line Street, it's good enough for 23 Felix Street

Chris Paton, 23 Felix Street, applicant and property owner:

- Moved to 23 Felix Street in 2016
- MUs across the street at that time were long term rentals with mostly college students, now some of the MU properties were STR
- Area is not a residential neighborhood, street was primarily rental property, mostly long term rental
- YMCA behind his house is about to become 27 short term units, backyard is about to become a construction zone, children can't go outside to play
- Want to move out of neighborhood, tried to sell the house but not getting the what they want to get for it
- Surrounded by short term rental, asked Commission to treat property as commercial

Laura Paton, 23 Felix Street, applicant, wife of Chris Paton:

- Moved from West Ashley to Felix Street because people were living there at the time when they moved there in 2016
- When STR ordinance went into effect in 2018, no enforcement at first and illegal STRs were all over the city; once enforcement mechanism was engage there was a massive influx of STRs in the neighborhood
- Man urinated off the roof in view of her and her children
- Adjacent to her backyard, YMCA was turning into 28 short term rental units
- Have bad blood with some of the members of the neighborhood association, didn't think she would get a fair shot if she went before them
- Listed her house on her own in August: received investor calls asking if she could short term it; one family looked and left, real estate agent told her they didn't want to live there because it was surrounded by STRs
- Wants out of this neighborhood, she can't get anyone to look at her house

Also speaking in favor:

Tyler Winton, former resident of 30 Percy Street, currently at 924 Rutledge Avenue: Rezoning would set a bad precedence

Joanna Stroud, attorney and Mrs. Paton's co-worker: If Jay Davis is in favor of the rezoning so is she; neighborhood was changing, think the Patons should get exactly what they want

Robin Schmidt, used to live across from Sugar Bakeshop, now resides in Wagner Terrace: Shocking change in the neighborhood

Nick Stuart, Lawyer: Support Patons; Patons are entitled to some sort to of change to accommodate significant change that happened to them

Shell Maddox, lives in Mount Pleasant: Understand Patons were struggling to sell and live there; supports them

Sarah Butler, lives on Folly Beach: Exhibits and maps showed the issue Patons were dealing with; all around them changed and were now subject to decisions others made in an area that they expected to be residential and now it wasn't; unfair to leave them with residential next to short term rentals and commercial uses

Opposed: Marion Hawkins, 86 Canon Street, president of Cannonborough-Elliotborough Neighborhood Association:

- Cannonborough-Elliotborough was mainly residential, commercially zoned properties were eligible to be STR
- 98 Line Street was historically a commercial space as a storefront and was recommended for Commercial Transitional by the City
- The STR ordinance went into effect in 2012; 2018 changes didn't alter anything in the overlay district; this had been set and the activity started long before the applicants purchased their property in 2016

- Applicants' house was new construction; only 5 or 7 years old; was built as a residence, different from 98 Line Street
- The YMCA properties will have 7 units, not 27 units; they could be STR but they're being built as condos
- There had been issues with STR; being aggressive about trying to enforce STRs to keep the area livable and viable
- Applicant didn't make a request to the neighborhood association; Mrs. Paton was a former officer of the neighborhood association and advocated strongly against up zoning
- Paton's house was being listed for \$1.3 million, they bought it three years ago for \$735k, no wonder very few residential persons would look at it or wanted to purchase property that was overvalued or not priced according to market
- Paton's property abuts the frontage of Cannon Street, which was all commercial and by right could be STR
- Regret their desire to leave the neighborhood but encouraged the Commission for denial of the request

Also speaking in opposition:

Joe Cannon, 209 Ashley Avenue: Moved into the neighborhood in 1982; watched Charleston change from a sleepy town to a bustling city; most of that change didn't happen in the past three years, it happened a long time ago; this wasn't a property the owners were trying to save, this was a property they wanted to sell for at a nice profit in three years; when the owners are gone, the remaining residents would be left with the results of this; residential property needed to remain residential property

Will Green, 3 Percy Street: Had to fight through illegal STRs on Percy Street; understood situation but in this situation couldn't see that happening because precedent would be terrible for the neighborhood

Dr. Don Sparks, 191 Smith Street: City still had to come to terms with this dilemma that was facing them; they had the dilemma with STR and college students; it was a bad precedent

Valerie Perry, Historic Charleston Foundation: Foundation sides with City on this application; opposed to the zoning change on this property

Jason Coy, 31 Bogard: Urge Commission to deny request for rezoning; realize applicants had trouble selling their house but the answer to STRs opening up in your neighborhood was not to make more STRs but to control the ones that were already there; needs of one family shouldn't supersede the integrity of the entire neighborhood

George Seago, 68 Cannon Street: The argument stated was the same any property owner in the entire City abutting a piece of commercial property could make; with the approval of this application they would be flooded with applications to change the zoning

Anna Catherine Carroll, Preservation Society of Charleston: Regardless of the position this evening what they have heard more and more insistently was there were serious livability issue concerns caused by STRs in the Cannonborough-Elliottborough area; the Society felt that piecemeal rezoning weren't the best solution to this issue

Leah Worthington, 31 Bogard Street: She also had party central across the street from her house and that's what happened in their neighborhood, it isn't for everyone; it was like that in 2016 and before 2016; the Morris Street business district had been a working class neighborhood since being established by the Dereef brothers just before the Civil War; people often used the front of their homes as storefronts or boarding homes; if they allowed rezoning for every house that one point had a business in it that would be most of the neighborhood; she hoped the historic component was taken in consideration in this case and similar future cases

Rebuttal: Mr. O'Kelly, attorney: Have heard from residents on Percy, Bogard, Smith, Cannon Streets and Ashley Avenue but haven't heard from anyone on Felix Street who was opposed to the rezoning; the City Councilmember for this district was in favor of the rezoning

Chair Karesh closed public hearing.

Motion: Mr. Lesesne moved for disapproval.

Second: Ms. Jacobs

Ms. Lempesis was opposed to the motion.

The motion for disapproval passed by a vote of 4 to 1.

There being no further business to discuss, the meeting was adjourned at 7:00 p.m.

Marcia L. Grant
Administrative Assistant II