

HANAHAN PLANNING COMMISSION REGULAR MEETING

April 25, 2024, 6:00 P.M.

NOTE: During periods of discussion and/or presentations, minutes are condensed and paraphrased. Digital coverage of the meeting is available upon a Freedom of Information Request.

The meeting of the Hanahan Planning Commission was held in the Debbie Lewis Municipal Chambers at 1255 Yeamans Hall Rd on April 25, 2024. Chairman Strobe presided over the meeting. Commissioners Butch Thrower, Paul Ferrara, Pat Eckstine, Matt Weatherford, Chris Brace, and Brian Hamilton were in attendance. A quorum was present. This meeting agenda was posted on the bulletin board at City Hall. Staff members in attendance were Lee Lawson (City Planner), Larry Sturdivant (Building Official) Courtney Soler (City Administrator), Cam Spencer (Asst. To the City Administrator), Mac McQuillin (City Attorney, Boone Aiken (City Attorney). Visitors present were Maureen Greenbaum, Janel Ferrara, Gary Greenman, Scott Newsome, Johnnie Harkness, John Mular, Tyler Gratton, Roger Pye, April Breeden, Vellen Kirby, Reida Woodward, Tim Crowley, David Howell, Jeremy Watts, Greg Bauer, Robert Carlisle, Elisha Bendele, Tone Holmen, Sara Wrenn, and Wes Smith.

1. CALL TO ORDER:

Chairman Strobe called the meeting to Order at 6:01pm.

2. DETERMINATION OF A QUORUM:

Chairman Strobe made the determination that a quorum was present.

3. PLEDGE OF ALLEGIANCE TO THE FLAG:

The pledge was recited.

Commissioner Eckstine asked Chairman Strobe if she could speak. She stated that Commissioner Thrower and her notified staff on April 10 that they would like to propose an amendment to tonight's agenda. She made a motion to amend tonight's agenda to add item "4A" before the Executive Session. The Executive Session would become item "4B." Commissioner Eckstine then stated the motion was to amend the agenda to discuss the proposal to schedule a workshop or workshops to review, update, and understand the Foster Creek Village PD's involvement over the past 18 years, and to discuss the text amendments items #2, #3, and #4 from tonight's agenda in those workshops. Text amendment #1 was removed yesterday by city staff. Commissioner Eckstine then mentioned that in 2015 the Planning Commission held a publicly advertised workshop open to the public nine years after the adoption of the PD. She said it was now nine years later and that it was in the best interest of the Commission members and the public. Commissioner Eckstine asked if there was a second on the motion. Commissioner Thrower seconded the motion. Chairman Strobe asked Commissioner Eckstine for clarification. Commissioner Eckstine said this was to discuss those items at the workshop. She said whether they could remove the items from the agenda she was not sure. She stated the removal would be preferred until they could discuss at the workshop. Larry Sturdivant, Secretary, asked Commissioner Eckstine to clarify the motion. Mac McQuillin, City Attorney, asked Commissioner Eckstine if her motion was to schedule workshops at a future date. Commissioner Eckstine said yes.

Commissioner Eckstine then restated that the motion was to amend the agenda and to discuss a proposal to schedule workshops to review, update, and understand the Foster Creek Village PD's involvement over the past 18 years. Also to discuss items #2, #3, and #4 from tonight's agenda in a

workshop or workshops. She then said that text amendment #1 was removed yesterday by city staff. Commissioner Eckstine said they were not sure if the agenda items could be removed from tonight's agenda by the Planning Commission.

Mac McQuillin stated that to add items to the agenda there would have to be a 2/3rds vote approval and the item to add would have to be an emergency situation. Commissioner Thrower mentioned that would apply if there was vote. Mac McQuillin said the Commission could have a vote about scheduling a workshop coming forward and mentioned that the Commission could not necessarily take any action when the item was not on the agenda and posted 24 hours prior unless it was an emergency. Commissioner Eckstine stated they did send it to staff and that she and Mac did discuss the issue. She said that they greatly appreciated effort that staff put into filling in the blanks. Commissioner Eckstine stated they did want to put it on the agenda to discuss later dates for the workshop. Also wanted to discuss the text amendments at those meetings. Mac McQuillin stated that was fine to schedule a meeting. Commissioner Eckstine said the second part was to discuss the text amendments before they acted on them. Mac McQuillin made a suggestion about pulling them from the agenda to after the executive session where they will receive legal advice on the issue. Mac said that was one of the first agenda items. He also stated that technically City council was the applicant, and the Commission could deny, approve, or approve with conditions. Chairman Strope said it sounded like they needed legal guidance. Commissioner Eckstine revised her motion. She stated her motion was to amend the agenda and discuss the proposal to schedule a workshop or workshops to review, update, and understand the Foster Creek Village PD involvement over the past 18 years. The new agenda item would be "4A" and the Executive Session would become item "4B." Commissioner Thrower seconded the motion. Chairman Strope asked if there were any discussions. There were none. A Roll Call vote was taken. Motion passed unanimously.

Commissioner Eckstine asked what the feeling of the others was. Chairman Strope said it was a good idea. He was not sure if a date could be set at the moment. Commissioner Eckstine said on March 24, 2015, a previous workshop was advertised and was open to the public. She stated a workshop would be good for the benefit of the Commission. Commissioner Thrower stated that they started out with the BCDCOG staff providing the staff reports and then they went through several planners each with a different interpretation. Chairman Strope asked for dates. Staff will get back with the Commission.

Commissioner Eckstine asked Larry Sturdivant a question. She said she received a text asking with the meeting was being livestreamed. Chairman Strope said no.

4. EXECUTIVE SESSION:

Chairman Strope asked for a motion to enter into an Executive Session. Commissioner Ferrara made a motion. Commissioner Hamilton seconded the motion. Mac McQuillin mentioned that it would be a good idea to state the reason for the executive session. Chairman Strope read from the agenda the reason for the executive session. A Roll Call vote was taken. Motion passed unanimously. The Planning Commission entered into an Executive Session at 6:13pm.

** The recording was stopped at this point. **

The Planning Commission returned to the council chambers at 8:38pm. Commissioner Eckstine made a motion to return to regular session. Commissioner Hamilton seconded the motion. A Roll Call Vote was taken. Motion passed unanimously.

5. OLD BUSINESS:

There was none.

6. NEW BUSINESS:

Commissioner Thrower asked to make a motion for the Planning Commission to join City Council in initiating the 3 text amendments on the agenda tonight. Commissioner Ferrara seconded the motion. A Roll Call vote was taken. Motion was approved with a vote 6-1 and Chairman Strobe voting no.

A. Text Amendments (Public Hearings).

1)PC Resolution 6-2024: An amendment to the Foster Creek Village PD to use the City of Hanahan's currently adopted Zoning and Land Development Ordinances for the following: procedures for all petitions, site plans, subdivisions, definitions, applications, road standards, and development standards not specifically addressed within the planned district. Applicant: City Staff

Lee Lawson, City Planner, presented to the Commission. He explained the purpose was to create consistency with all of the developments within the city. The ordinance would be the 2008. Lee said that this would make it easier on the development to be able to use the road standards, the parking standards, and to use the processes that every other developer uses in the city or any other development that would come through the city. Lee said that the proposed amendment met the three goals in the comprehensive plan which were the growth management goals and the two guiding principles 3 and 4. Lee stated that staff gave a favorable recommendation.

Chairman Strobe mentioned that copies of a zoning appeal application to the Board of Zoning Appeals was presented to the Commission which was appealing the city staff decision. He asked that the application be added to the record.

Mac McQuillin, City Attorney, came to the podium to further explain the proposed text amendment. He stated that another legal reason that City council was proposing to have the 1993 Ordinance replaced with the 2008 Ordinance and the new subdivision regulations for the purposes of the PD was that the 1993 Ordinance was based on old law. It was required to be repealed within five years of the enactment of the 1994 Planning Act which ran to 1999. Mac mentioned that there were multiple provisions in the 1993 Ordinance that were not compliant with state law. One example given was that council could give a one day's notice before making zoning amendments. Another example was that an applicant could submit items within fourteen days prior to the meeting. He said that state law requires a fifteen-day public notice to be advertised in the newspaper. This process takes about eighteen days due to giving the paper three days' notice in order for the ad to run fifteen days prior. Mac said that these were just some examples, but the amendment would make sure the PD is operating under a legally valid zoning ordinance and makes it compliant with state law. He mentioned that the substantive rights in the PD were not changing. Density would not change. What the developer is allowed to build would not change, etc. He said these were procedural and legal issues with the 1993 Ordinance as opposed to the 2008 Ordinance.

Chairman Strobe asked if there was any discussion before opening the public hearing. There was none.

PUBLIC HEARING:

Chairman Strope asked if there was a motion to enter into a public hearing. Commissioner Eckstine made a motion to open the public hearing. Commissioner Hamilton seconded the motion. A Roll Call Vote was taken. Motion was approved unanimously.

Chairman Strope stated the rules to the audience for the public comment section of the public hearing. He mentioned that the name and address was required. Also, the comments were to be about the specific text amendment, and a time limit of four minutes was given. Lastly, comments were to be addressed to the Commission members.

- A) Will Austin (Attorney for Ray Wrenn) . . . He stated the text amendment was improperly before the Planning Commission. He said the arguments of Mr. McQuillin did not matter at this point as well as his since this was under the jurisdiction of the BZA. He said this was clear and gave the reference from Section 2.4 stating the amendment must be initiated by City Council or within the Planning Commission. He said that this did not negate the other issues that were before the BZA at this time. He stated the BZA proceedings stay this matter, and it cannot be heard by the Commission.

Chairman Strope asked Mac McQuillin, City Attorney, to come to the podium. Mac stated that the BZA appeal was improper. It was trying to appeal a staff/city application to the Planning Commission which would make a recommendation to Council. In the event that they (developer) are not happy with the decision made by Council or by Planning Commission, they can appeal that decision. There has been no decision by the zoning administrator. Mac said a staff report was just providing a report of what the city was asking for which was number one.

Mac said number 2 was that there were 3 bases for appeal. One of which was because the application said city staff. The Planning Commission had moved to join the application with City Council so that point was off the table. Second, Mac stated the other issue of the appeal was regarding the maritime overlay district. That item had been removed from the agenda and was no longer an issue. There was nothing before the Commission regarding the restaurants or the maritime district. The final issue was the referencing to the 2008 Ordinance in the resolutions. Mac explained the reason. The City cited the 2008 Ordinance because the 1993 Ordinance did not comply with state law. He gave two examples to the Commission of the 14-day submittal and the 1-day notice for Council, whereas state law requires a 15-day notice in the paper. The reason the procedure from the 2008 Ordinance is being followed is because it is state law. Mac stated those were the three bases for the developer's appeal and he would deal with that. He mentioned to the Commission that they did not need to view it as a stay as it was not a proper appeal. Mac said that this was solely an effort to delay this process.

- B) Ray Wrenn (the Wrenn Group, Bowen Development) . . . He began by saying that property owners had a time to talk and did not agree that the 4-minute time limit was not a proper rule for that. He said that if anyone disagreed with that to let it be on the record. He mentioned that he did not believe proper notice had been served. There were at least 25 or 30 property owners that had not been given notice. He said that City Council had not approved this, and that Council had only voted on the appeal to the Commission. Council had not approved the text amendment and it was only initiated by staff. He said the statute was clear that it could not be initiated by staff. He reminded the commission that his attorney said the process was stayed and any efforts to speed this up would create injury to his company. Ray said they had been operating the PD for one and half decades and it was not until the new staff and administration

came in that this was now a problem. He mentioned that he had spoken to two councilmembers yesterday and that there was only a vote to appeal to the Planning Commission. He said the only text amendments discussed in this room with this body was based on Lee Lawson's commitment regarding the Waterfront mixed-use to take the site plan and use a text amendment to get that compliant. He said he agreed in good faith. He said now there is bad faith. All of the multi-family, office space, flex space has been eliminated from the plan. Ray also stated he did not agree that the 1993 Ordinance was not usable in this situation. Ray went on to further discuss vesting ordinances and said they were getting jerked around. He said that the state law passed and the deadline was July 1, 2005 to have updated the ordinances. Hanahan did not update their ordinances until 2008. As a result, he said Hanahan must use the default vesting provisions that were contained in the 1994 Planning Act. He said that Hanahan had used the 1993 Ordinance for 13 years that was adopted into their PD. Ray stated a case with Folly Beach that regarded vesting rights. He said that this issue will cause the city to spend a lot of money. NOTE: the timer went off. Ray asked if there was a limit on the amount of time he could talk. Commissioner Eckstine and Commissioner Thrower said there was, and it was four minutes. Ray stated that was for public comment and he was a property owner. Commissioner Thrower said that Ray was not the applicant. Ray said he would finish but this was not over, and the Commission could not do this. He said he would not stop until the the Supreme Court tells him. He further said a judge will tell him, but it will be the highest court. Ray then continued to explain his disagreement and why he was still vested based on the amount of money he had spent. He stated his vesting could not be taken away. Ray also stated he did not know what was said in that room. Chairman Strobe said that Ray needed to get to a stopping point. Commissioner Thrower said that Ray could speak again during the next public hearing that would occur during the next amendment and could continue there. Commissioner Thrower reminded that there was a time limit. Ray stated he did not think there was a time limit and that property owners were not part of the public opinion. This was a separate issue in the statute and that they were not part of the public opinion. He said they are parties to the text amendment and that staff had reached way into their property rights and he was done.

- C) Sarah Wrenn (2103 Channel Marker Way) . . . she stated that they had not scrubbed the 2008 Ordinance. She gave some examples that could be impacted such as buffers, road standards, land disturbance permits, sidewalks, etc. Also, boardwalks, future amenities, trail systems, the waterfront, etc. They would not know the impacts without having a focus group such as was mentioned by the Commission. Sarah also mentioned that it could affect MS4. They have professionals that review, and development could be held up if the city staff would now be reviewing. She said it could affect the density and there could be unintended consequences.

Mac McQuillin asked to respond to the vested rights issue that Ray Wrenn discusses. Mac clarified that nothing substantial was being changed. Only the procedural processes and making it compliant with state law. Mac also clarified the Folly Beach issue and explained the differences between that case and the issue before the Commission. He did state that the default provision could be amended. Mac stated that the maximum the developer would have had was seven years and it had now been 17 years. He said there have been two separate legal opinions. One disagreeing with Mr. Wrenn's interpretation about Section 601.9, and the second separate legal opinion that there was no vesting, or takings or litigations associated with the proposed changes. Mac said they were comfortable with the Planning Commission proceeding and even more so with a separate attorney that provided an opinion. Mac said that at the end of the day, this comes down to process. He said the developer may not like the process because

the public would be more involved, and it would be a more transparent process which would be fair to the residents.

Chairman Strobe asked if there any more comments. He mentioned that there was only one time to speak per public hearing. There were no more comments.

Commissioner Eckstine made a motion to close the public hearing. Commissioner thrower seconded the motion. A Roll Call Vote was takedn. Motion passed unanimously.

PUBLIC HEARING CLOSED:

Chairman Strobe asked if there was any discussion from the Commision. Commissioner Ferrara stated he was concerned about litigation and did not feel he had enough information. Chairman Strobe asked if there was a motion. Commissioner Thrower made a motion to deny the proposed text amendment for PC Resolution 6-2024. Commissioner Eckstine seconded the motion. A Roll Call vote was taken. Motion was approved to deny with 6 members voting no and Chairman Strobe abstaining. Chairman Strobe said he did not have enough information to make a decision.

2)PC Resolution 7-2024: An amendment to the Foster Creek Village PD to use the standards for the Foster Creek Village Single-Family 2 Zone for single-family lots in the Foster Creek Village Multifamily Zone and the standards for the Foster Creek Village Townhouse Zone for townhouse lots in the Foster Creek Village Multifamily Zone. Applicant: City Staff

Lee Lawson presented to the Commission the reasoning behind the proposed text amendment. He said the SF1 could be added along with the SF2. This would be consistent weith the land use plan and the intent of the planned development. This change would allow a variety of homes. Staff gave a favorable recommendation.

PUBLIC HEARING:

Chairman Strobe asked if there was amotion to enter into a public hearing. Commissioner Thrower made a motion to open the public hearing. Commissioner Hamilton seconded the motion. A Roll Call Vote was taken. Motion was approved unanimously.

- A) Will Austin (Attorney for Ray Wrenn) . . . He stated the argument that the appeal to the BZA has stayed the decisions of the Commission.
- B) Ray Wrenn (the Wrenn Group, Bowen Development) . . . Ray stated that he disagreed with any means to amend his PD outside of what was lawful. He stated that the PC had the authority based on the PD and the 1993 Ordinance as was done with the previous plans in the development. He said the Commission did not need a text amendment to allow the Planning Commission to do their job. He also said he did not agree that there was any material difference with the Folly Beach decision. He said that Bowen is not a commercial venue as it does not meet the standards of a commercial piece of land. They have to generate volume so the businesses can flourish. He said North Charleston has many PD's and they don't stop to bring them all up to current standards. Ray finished his comments.

Will Austin asked if he could have a moment to talk with his client on a few items he spoke with Mac McQuillin about. Commissioner Thrower said it did not have any relevance because the City was the applicant. Mac McQuillin said the developer may be agreeable.

- C) Julie Johnson (the Wrenn Group) . . . She said the developer was not brought in or given notice that this was going to occur. They were not able to collaborate with the staff or the attorney. She said the process did not appear to be transparent.

Chairman Strobe if there were any other comments. There were none. Chairman Strobe asked for a motion to close the public hearing. Commissioner Thrower made a motion. Commissioner Eckstine seconded the motion. Attorney Will Austin mentioned to the Commission that the developer was in agreement to allow this one resolution to pass. A Roll Call vote was taken. Motion was approved unanimously.

PUBLIC HEARING CLOSED:

Chairman Strobe if there were any other comments. Commissioner Ferrara asked if this would allow the site plan that was approved at the past meeting to move forward. Commissioner Eckstine asked about the addition of SF1 to the proposed allowance of SF2.

Chairman Strobe asked if there was a motion. Commissioner Thrower made a motion to approve Resolution 7-2024 with an addition to Single-Family 2 Zone to add in the addition of Single-Family 1 Zone as part of the use in the Multifamily Zone as presented in the presentation. Commissioner Ferrara seconded the motion. A Roll Call vote was taken. Motion was approved unanimously.

3)PC Resolution 8-2024: An amendment to the Zoning Ordinance Section 4.7.7 amendments to Type "B" PDs (Planned Development Districts). Applicant: City Staff

Lee Lawson presented to the Commission. He stated the reasoning for the proposed amendment. The amendment would describe in detail what constituted a minor modification. Then if anything did not fall within the 6 categories, then it would be a major modification which would go to the Planning Commission and then to City Council. Minor modifications would be handled by staff. He said that staff gave a favorable recommendation. Commissioner Thrower asked if this was specific to the PD or to the entire city. Chairman Strobe answered that this would be city wide for all PDs.

PUBLIC HEARING:

Chairman Strobe asked if there was a motion to enter into a public hearing. Commissioner Thrower made a motion to open the public hearing. Commissioner Eckstine seconded the motion. A Roll Call Vote was taken. Motion was approved unanimously.

- A) Fred Skipper (the Wrenn Group) . . . He stated that he felt this was unnecessary and that it felt like this was being forced on them. He did not agree with the amendment and that it would cost them time and money.
- B) Sara Wrenn (2103 Channel Marker Way) . . . She mentioned the possible impacts that the amendment could have on the development. Such items mentioned were amenities, impact fees, commercial development, etc. She asked the Commission to consider a focus group along

with more time before making decision. She ended by stating this could impact the high ground development and have a negative effect on flooding.

- C) Ray Wrenn (the Wrenn Group, Bowen Development) . . . He began by reading from the 1993 Ordinance. He said the legislature allowed for PD was because of flexibility and speed. Ray also read from Section 601.9 and gave the reasons he believed the Planning Commission had the right and ability to make the decisions. He ended by saying that the shift in power and the reduction of their zoning rights will result in tens of millions of dollars in damages.

Mac McQuillin spoke to the Commission and relayed that the City had responded to Mr. Gouder multiple times in writing. Also, the city had received a second separate opinion from another attorney on applicability of section 601.9 and the legal risks associated with the amendments this evening. Mac said there were not any legal risks associated with these. He said they may sue us, but it was not a taking. It did not take away any substantive rights, but just categorized what were minor and major modifications and the process that was to be followed based on a minor or major modification. This only applies to any PD under the 2008 Ordinance. It was just a straight amendment to the 2008 Ordinance.

Chairman Strobe asked if there were any other comments. There were none. Commissioner Weatherford made a motion to close the public hearing. Commissioner Eckstine seconded the motion. Attorney Will Austin stated for the record that the Appeal to the BZA making it a stay from action still stood. A Roll Call vote was taken, Motion was approved unanimously.

PUBLIC HEARING CLOSED:

Chairman Strobe asked if there was any discussion. There were none. Commissioner Thrower made a motion to deny PC Resolution 8-2024. Commissioner Eckstine seconded the motion. A Roll Call vote was taken, Motion was approved unanimously.

7. CITIZEN COMMENTS:

Chairman Strobe mentioned that he was incorrect at the previous meeting regarding his interpretation citizen comments. He said that the comments could not be about the items that were in the public hearing since those hearings were closed. Anyone was welcomed to speak about anything else. Adjustments would be made to allow for comments earlier in the meeting for items that do not require a public hearing.

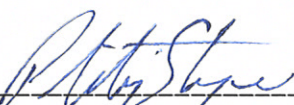
- A) John Harkness (1036 Dominion Dr) . . . He suggested the Planning Commission meet with developer to work things out.

8. NEXT MEETING: TUESDAY, MAY 7, 2024

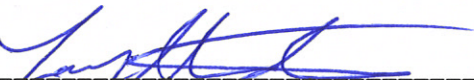
The next Planning Commission was stated it would be held on March 7, 2023. Lee stated he received a comment online from a citizen and it would be added to the public record.

9. ADJOURNMENT:

Chairman Strobe asked for a motion to adjourn. Commissioner Thrower made a motion to adjourn. Commissioner Brace seconded the motion. A roll call vote was taken. Motion passed unanimously. The meeting was adjourned at 9:38pm.



Chairman Strope

ATTEST: 

Larry Sturdivant, Secretary

