

July 6, 2021

CITY COUNCIL MEETING
CONWAY CITY HALL
229 MAIN STREET
TUESDAY, JULY 6, 2021 - 4:00 PM

PRESENT: Jean Timbes, Mayor Pro Tem

Council Members: William Goldfinch, Shane Hubbard, Justin Jordan, Alex Hyman

ABSENT: Mayor Barbara Blain-Bellamy (sick) and Larry White (sick)

STAFF: Adam Emrick, City Administrator; Mary Catherine Hyman, Deputy Administrator/Planning & Development Director; John Rogers, Deputy Administrator/ Grants & Special Projects Director; Charlie Crosby, Technology Services; Le Hendrick, Fire Chief; Brooke Holden, Public Information Officer; Dale Long, Police Chief; Brian Keith Public Utilities Tradesworker II; Bradner Kistner, Solid Waste Heavy Equipment Operator II; Jessica Hucks, Planner; and Alicia Shelley, City Clerk

OTHERS: Gwendolyn Sarvis, Edna Dewitt, Tom Daly, Pam Daly, Jesse Gardner Sr, Jesse Gardner Jr, Janice Cutts, Julie Hardwick, Felix Pitts, Cedric Spain, Melvin Spain, Orton Bellamy, Duc Watts, Heather Whitley, Devin Parks

CALL TO ORDER: Mayor Pro Tem Timbes called the meeting to order. Timmy Tyner gave the invocation and led the Pledge of Allegiance.

The requirements for posting notice of this meeting under South Carolina's Freedom of Information Act (FOIA) were met.

APPROVAL OF AGENDA: **Motion:** Hyman made a motion, seconded by Jordan, to approve the July 6, 2021 meeting agenda. **Vote:** Unanimous. Motion carried.

CONSENT AGENDA:

- A. Final reading of an ordinance to amend the City of Conway Code of Ordinances Title 4 – Public Utilities, Chapter 1 Section 4-1-14 Definitions and Chapter 2- Sewer, Section 4-2-34 – Use of Public Sewer**
- B. Final reading of Ordinance #ZA2021-07-06 (C) An Ordinance to annex approximately 0.23 acres of property located at 2609 Oak Street (PIN 325-15-03-0030) and request to rezone from Horry County Residential (SF20) to City of Conway Low/Medium Density Residential District (R-1).**
- C. Final reading for an ordinance authorizing the sale of certain real property in the City of Conway located along the Conway Riverfront.**
- D. Approval of Data Center Equipment Upgrade (budgeted)**

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- E. Acceptance of bid replacing the roof on the City Hall Annex building (budgeted)**
- F. Resolution in support of Conway's application to MASC's Retail Recruitment Training Program**
- G. Approval of June 21, 2021 Minutes**

APPROVAL OF CONSENT AGENDA: **Motion:** Hubbard made a motion, seconded by Hyman, to approve the July 6, 2021 consent agenda. **Vote:** Unanimous. Motion carried

PUBLIC INPUT:

Cedric Spain spoke to Council regarding his opposition of the 501 Liz Lane rezoning.

Gwendolyn Sarvis spoke to Council regarding letters she has received from lawyers concerning Eminent Domain due to a road coming into her back yard.

Emrick gave her his card and Timbes informed her to call the Administrator.

There was no further public input. **Motion:** Goldfinch made a motion, seconded by Hyman, to close public input. **Vote:** Unanimous. Motion carried.

SPECIAL PRESENTATION:

Presentation of Longevity Awards - June 2021 – 5 years: Brian Keith, Public Utilities; 5 years: Bradner Kistner, Solid Waste. Emrick and Jordan presented Brian Keith and Bradner Kistner with their Longevity Awards for 5 years of employment with the City of Conway.

PUBLIC HEARING AND FIRST READING:

- A. Public Hearing and First Reading of a request to annex approximately 1.02 acres of property located at 2893 Church Street (PIN 337-03-01-0004) and request to rezone from Horry County Highway Commercial (HC) to City of Conway Highway Commercial (HC).** M. Hyman informed Council that this request was being made due to the changing of hands. This parcel is contiguous to the City and the applicant also wishes to receive city services.

There was no public input. **Motion:** Goldfinch made a motion, seconded by Hyman, to close public input. **Vote:** Unanimous. Motion carried.

Motion: Hyman made a motion, seconded by Jordan, to approve first reading. **Vote:** Unanimous. Motion carried.

- B. Public Hearing and First Reading of a request to annex approximately 182.22 acres of property located along Highway 378 (PIN 369-00-00-0044) and request to rezone from Horry County Commercial Forest Agriculture (CFA), Residential Single Family 40 (SF40) and Residential Single Family 20 (SF20) to City of Conway Low Density Residential (R1).** M. Hyman told Council that this request is to annex into the city as R1

for a single family residential development. The developer plans to utilize the conservation subdivision requirements and that the plan is currently in Technical Review. The applicant was present for any specific questions. The plan in the boards packet was not approvable at this time and staff is working with the developer on it.

PUBLIC INPUT:

Edna Bellamy Dewitt said that she received a letter and was concerned that other adjacent properties would be annexed into the city also.

M. Hyman stated that this request is for this property only and would not rezone the adjacent parcels.

A neighbor said that she lived on Juniper Bay Road and was concerned that there would be more traffic especially trying to get onto Highway 378 and that there would be no oxygen from taking all of the trees down.

Goldfinch stated that this was a request to annex into the City and that the City can provide resources that the County cannot. However, whether this property is annexed into the City or not, they are still able to develop.

There was no further public input. **Motion:** Hyman made a motion, seconded by Hubbard, to close public input. **Vote:** Unanimous. Motion carried.

Motion: Hyman made a motion, seconded by Goldfinch, to approve first reading. **Vote:** Unanimous. Motion carried.

- C. Public Hearing and First Reading of proposed amendments to *Article 5 – Specific Use Regulations, Article 6 – Design Standards, and Article 10 – Subdivision and Land Development, of the Unified Development Ordinance (UDO), regarding requirements for fences and walls.*** Hucks informed Council that The Unified Development Ordinance prohibits chain link fencing on properties located within the Gateway Corridor Overlay (GCO), which includes all major roadways entering the City along Highway’s 90, 378, 501, 501 Bus., 544, 701, and 905, as well as properties within the Village Corridor Overlay (VCO), which includes El Bethel, Cultra, Mill Pond Roads and Sixteenth Ave, between Main Street and Church Street. The exception being utility substations which require the use of chain link fencing, if no other practical alternative is available. Additionally, the Gateway Corridor Overlay specifically exempts parcels zoned CC and CBD from the overlay standards.

With regard to the Historic Design Review Districts, which includes the Commercial Historic Design Review District (HDRD), Main Street HDRD, and the Waccamaw Riverfront HDRD, there is no blanket prohibition on chain link fencing. The Community Appearance Guidelines only addresses chain link in the Main Street Corridor (5th Ave to 16th Ave) guidelines, which states if chain link fences are found to be appropriate and necessary, use only in the back yard and in dark green or black to blend into landscape.

The issue of allowing chain link in the downtown area was raised at a recent Community Appearance Board meeting, when a black vinyl-coated chain link fence was approved for a location (zoned CBD) downtown in the Commercial HDRD.

The proposed amendment will prohibit chain link fencing (with or without barbed wire) in the CBD district, which will include most parcels located downtown in the Commercial HDRD.

In addition to the amendment prohibiting chain link fencing in the Central Business District (CBD), the amendment also addresses another issue that staff has encountered when reviewing permits for fences/walls, in establishing where the right-of-way lines are for fence requests on corner lots. Currently, fences or walls located on a corner lot may be up to 6-ft in height provided it meets a mandatory 10-ft setback from the “*public right-of-way or lot line*” (requirement does not apply if fence is a maximum of 4-ft in height). The amendment would eliminate the language regarding rights-of-way, and retain only the language requiring fences/walls in corner front yards to be a minimum of 10-ft from the “*property*” line.

Finally, the amendment addresses the issue regarding fences and walls in public drainage easements. Currently, there is no language in the UDO that prohibits fences or walls in public drainage easements. To date, they have always been permitted to be placed in easements; however, this has caused issues for City staff when the easements need maintenance, in that City staff has to notify the property owner in advance of upcoming maintenance and many times, has to remove the fencing before the scheduled maintenance can occur and then re-install it. Public Works is in the process of updating their stormwater ordinance to address this issue, and in order to maintain consistency, staff proposes to amend the UDO to prohibit fences or walls in public drainage easements.

Summary of amendments proposed:

1. Prohibit chain link fencing (with or without barbed wire) in the Central Business District (CBD).
2. Amend language with regard to fences / walls on corner lots by deleting “right-of-way” and changing “lot” line to “property” line.
3. Prohibit structures to be located within public drainage easements.

This proposed amendment was discussed at the May 3rd Council Meeting and the City of Conway Planning Commission gave unanimous approval at its June 3rd meeting.

There was no public input. **Motion:** Hubbard made a motion, seconded by Goldfinch, to close public input. **Vote:** Unanimous. Motion carried.

Motion: Jordan made a motion, seconded by Hubbard, to approve first reading. **Vote:** Unanimous. Motion carried.

D. Public Hearing and First Reading of proposed amendments to Article 10 – Subdivision and Land Development, Article 13 – Administrative Agencies and Article 14 – Boards

and Procedures, of the Unified Development Ordinance (UDO) to further define the Comprehensive Plan adoption and amendment process, which includes a process for amending the Future Land Use Map. Hucks informed Council that since updating the Future Land Use Map of the Comprehensive Plan for the City in 2019, staff has seen a number of rezoning requests come through for property that does not match the current Future Land Use Map (2019-2029). When staff reviews rezoning request, support for such request is dependent on what the Future Land Use Map shows for the parcel in question. When a rezoning request is approved that contradicts the Future Land Use Map of the Comprehensive Plan, the map must be updated to reflect this change; however, there is currently no adopted process for doing so.

Staff reached out to Horry County to see how they handled this process, and until 2020, they did not have the comprehensive plan adoption process spelled out in their own code. They have since done so and added a provision to allow the future land use map to be amended as well. Horry County runs the future land use map amendment concurrently with the rezoning request and requires a 15-day publicly advertised hearing at Planning Commission, as well as a 30-day publicly advertised hearing at County Council. They also revised their rezoning application to include a future land use map amendment as an option and created a standalone application for amending the future land use map. Such requests are also required to be property-owner initiated so that the general public is not able to change the future land use map designation of someone else's property.

Staff also reached out to the City of Charleston. The City of Charleston has a city-initiated process for amending their future land use map, but not a formal application process for doing so. It's usually done following an important update or unique places within the City, and are typically large areas, not parcel-by-parcel. To amend the future land use map, staff takes the amendment to City Council to request that the Comprehensive Plan be updated to incorporate the changes to the future land use map. They have only had to do so twice in the last 10 years. If an *individual landowner* wishes to amend the future land use map, it would require the landowner to generate the support of their elected representatives who, upon agreement that the change is proper, would instruct staff to create an ordinance (amendment) to go before both Planning Commission and City Council.

Staff has drafted an amendment using language from Horry County's process for amending comprehensive plans, but also added the Comprehensive Plan adoption process, as the City's UDO does not currently address this as part of the functions of the City's Planning Commission. In addition to this, staff included a proposed amendment to *Section 10.3.4* of the UDO, which currently refers to the 2019 Transportation Plan, and should refer to the most current Transportation Element of the City of Conway Comprehensive Plan.

This item was discussed by Council at the Budget Retreat earlier this year and the City of Conway Planning Commission gave unanimous approval at its June 3rd meeting.

PUBLIC INPUT:

Melvin Spain asked if the City worked with the County on development? In the past 6 years he has flooded 3 times. He never flooded before as he has been here for 30 years until New Castle was built.

Emrick said that yes, the City Stormwater Department works closely with the County Stormwater Department and follows all rules and regulations set forth by DHEC for each subdivision. We sympathize with your community regarding the flooding and if it is caused by New Castle, reach out to our Stormwater Department and we will take a look at it.

There was no further public input. **Motion:** Hyman made a motion, seconded by Goldfinch, to close public input. **Vote:** Unanimous. Motion carried.

Motion: Hyman made a motion, seconded by Jordan, to approve first reading. **Vote:** Unanimous. Motion carried.

Goldfinch stated that these amendments are things we have to do as the UDO is a living and breathing document that the City has to change as the needs of the community and City changes.

- E. Public Hearing and First Reading of an Ordinance to rezone approximately 67.37 acres of property located at 501 Liz Lane (TMS 136-00-05-009 | PIN 369-00-00-0028) from City of Conway Low-Density Residential District (R) to Light Industrial (LI).** M. Hyman informed Council that this rezoning request was submitted by Santee Cooper. The parcel was recently annexed into the City as R to relocate 4 diesel generating units, which is allowed in the R District. After the annexation, it was discovered that the plan also included metal office buildings, which are not allowed in R. The plan now only takes up a portion of the property. This parcel will be heavily buffered from surrounding neighborhoods. The new perimeter road will run through this site and should minimize what they could build on this site and also any further impacts on the neighboring properties.

PUBLIC INPUT:

Orton Bellamy stated that he has some environmental concerns but will touch base with Adam Emrick and work with DHEC.

Timbes asked about the archeological requirements being met.

Hyman said that it is in the Technical Review process and will follow all DHEC guidelines.

There was no further public input. **Motion:** Jordan made a motion, seconded by Hyman to close public input. **Vote:** Unanimous. Motion carried.

Goldfinch stated that he knows that Santee Cooper will be a good neighbor, but he has concerns about what could happen once it is zoned LI and 10-30 years it is parceled out separately and sold to a private company, anything allowed in the LI district could be developed at that time. Council denied the schools rezoning for this same reason.

M. Hyman said that we could require that they parcel out because it couldn't be split zoned.

Motion: Goldfinch made a motion, seconded by Timbes, to ask that staff research to see if a separate tax map number could be done for this request. **Vote:** Unanimous. Motion carried.

Emrick said that he has concerns due to the parcel having to be 3 acres or it would be considered spot zoning. Also if the fear is the Industrial use, it will still be the same just minimizing the footprint of that use.

PUBLIC HEARING AND FINAL READING:

Public Hearing and final reading of amendments to Article 4 – Use Tables and Article 5 – Specific Use Regulations, of the Unified Development Ordinance (UDO), regarding Light Industrial (LI) and Heavy Industrial (HI) Districts as well as consistency throughout the UDO. M. Hyman informed Council that this amendment was basically some bookkeeping issues to the UDO. Recently, staff noticed some discrepancies with the Use Table in Article 4 of the UDO vs the Conditional Uses in Article 5. This ordinance would allow the Use Table to mirror the zoning districts called out in Conditional Uses of Section 5. There are also several uses that staff feels should be added to the Light Industrial and Heavy Industrial zoning districts as well as a few uses that should be removed from said districts.

PUBLIC INPUT:

Cedric Spain said that he thinks Council has put the cart before the horse. He didn't understand how they passed VIII. after VII E. It seems as though you should have deferred E.

Hyman clarified that they deferred VII. E. and now they are dealing with the UDO and not Liz Lane.

Timbes stated that they are cleaning up things in the UDO for the future.

There was no further public input. **Motion:** Goldfinch made a motion, seconded by Hubbard to close public input. **Vote:** Unanimous. Motion carried.

Motion: Hyman made a motion, seconded by Goldfinch, to approve final reading of this ordinance. **Vote:** Unanimous. Motion carried.

FIRST READING:

- A. First reading of an Ordinance to approve a quit claim transfer of City-owned property to Riverfront Ventures LLC for the purpose of refining property lines and improving overall development opportunities of the riverfront area, specifically on**

the parcel identified as PIN #36701010054. Hyman informed Council that Riverfront Ventures LLC has submitted a proposal to the City of Conway to acquire from the City certain areas surrounding their existing building known as “The Lower River Warehouse.” They want to create a restaurant and expand the footprint. This parcel would match the new building footprint.

As a condition of the agreement to transfer the area of land outlined below, the City requires the following conditions be met: 1) all improvements by Riverfront Ventures LLC shall be approved by the Community Appearance Board, and permitted by the Planning and Building Departments, and 2) Riverfront Ventures LLC shall procure all necessary surveys, plats and deeds to facilitate transfer of property at his own cost, assuring there is no cost to the City for the transfer. If Riverfront Ventures LLC agrees to the City’s conditions, the City will agree to the following: 1) Quit claim deeding an area on the northern, eastern, and western sides of the Lower River Warehouse measuring 0.09 of an acre to incorporate the expansion of the existing building.

Motion: Hyman made a motion, seconded by Jordan, to approve first reading. **Vote:** Unanimous. Motion carried.

- B. First reading of an Ordinance to annex approximately 0.38 of an acre of property located at 706 Johnson Street (PIN 369-12-03-0014) and request to rezone from Horry County Residential (SF20) to City of Conway Low/Medium Density Residential District (R-1).** M. Hyman informed Council that this request was due to a change in ownership and to allow an existing single family home on the property to tie into City services. Staff recommends approval of this request.

Motion: Goldfinch made a motion, seconded by Hubbard, to approve first reading. **Vote:** Unanimous. Motion carried.

CONSIDERATION:

Consideration of an agreement to lease a City-owned property (formerly 112 Park Ave). Emrick informed Council that The City has acquired, and is in the process of acquiring, many lots in the floodplain through the FEMA buyout program. The use of the land must be restricted in perpetuity to protect and preserve the natural floodplain values, and the land shall be used only for purposes compatible with open space, recreational, or wetlands management practices. Maintenance and upkeep of these properties is also the responsibility of the City. City Council approved the use of private leases to neighboring property owners. These leases would allow the property owners to use and maintain the FEMA lots for personal use with certain conditions.

The City has received one (1) application for a license to lease City-owned property located at 112 Park Avenue that was acquired through the FEMA buyout program from Dianne Goldfinch, owner of 116 Park Avenue. The house at 112 Park has not yet been demolished, so upon Council’s approval, the lease agreement will not be executed by the Administrator until the final demolition is completed.

Goldfinch recused himself from this agenda item.

Motion: Hyman made a motion, seconded by Jordan, to approve the City Administrator to enter into the signed agreement, so long as insurance is in place. **Vote:** Unanimous. Motion carried.

CITY ADMINISTRATOR'S REPORT:

- The City acts on requests that come from applicants, therefore as the City grows we must make changes to the UDO in order to continue to be smart on how we annex and rezone. These requests come in from private companies or the public and are not initiated by staff.
- We are watching Tropical Storm Elsa as it is expected to have an impact on our area between Wednesday and Thursday evening. As of right now the biggest threat is of heavy rain, 2-3" are predicted for our area and the watershed. The river is still relatively low as is Crabtree so we should be okay, but there may be pockets of flash flooding if the rain falls overwhelm our stormwater system and we flash flood. We have removed a lot of the things that can get blown around during high winds from our parks and our departments are on alert for the potential risks.
- We had two meetings postponed due to the storm, one was the SCDOT meeting about the fence on 544. It was postponed until sometime in August. The second was with representatives of the Nature Conservancy and the newly formed SC Resiliency Department, which was scheduled for tomorrow.
- On July 15, our HR Department will hold a job fair at the Conway Recreation Department, hopefully helping to fill some of the many vacant positions we currently have out there.
- The Pop Up Splash pad was a lot of fun. We estimated about 60 kids and their families participated.
- Some preliminary information from the BRIC grant that we have applied for Chestnut Bay indicates that we are not eligible, which is weird since we were specifically told we were and to apply for it. So much so that the State applied on our behalf. We are working through the details and will report more.
- We received word that we are getting another DHEC grant for recycling containers to continue that program. Recycling has increased dramatically since we started this grant funded program.
- Finally, I wanted to welcome and congratulate Alicia Shelley on her promotion to our City Clerk. Alicia joins us from the Planning Department and has extensive experience in writing and reviewing issue papers, agendas and meeting minutes, among many other things. We are all very excited to have her join us in City Hall and know that she is going to do great!

COUNCIL INPUT:

Goldfinch congratulated the 10U Girls Softball on their State championship and also the 12 Boys Baseball on going to the state tournament.

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Jordan also congratulated the teams.

Timbes said that she had heard good things about the use of our flags for the 4th of July and commended staff.

EXECUTIVE SESSION: Motion: Hyman made a motion, seconded by Hubbard, to enter into Executive Session to discuss the employment for the position of Associate Judge [pursuant to SC Code §30-4-70 (A)(1)]. **Vote:** Unanimous. Motion carried.

RECONVENE FROM EXECUTIVE SESSION: Motion: Hyman made a motion, seconded by Jordan to leave Executive Session. **Vote:** Unanimous. Motion carried.

POSSIBLE ACTION ON MATTERS DISCUSSED IN EXECUTIVE SESSION:

Motion: Hyman made a motion, seconded by Jordan, to appoint Kayla Fleming to the position of Associate Judge. **Vote:** Unanimous. Motion carried.

ADJOURNMENT: Motion: Jordan made a motion, seconded by Hubbard, to adjourn the meeting. **Vote:** Unanimous. Motion carried.

APPROVAL OF MINUTES: Minutes approved by City Council this 19 day of July 2021.



Alicia Shelley, City Clerk