

**CITY OF CONWAY
PLANNING COMMISSION MEETING
THURSDAY, OCTOBER 5, 2023
Planning & Building Dept. Conference Room – 196 Laurel Street**

Wise
4/21/2023

- Present:** Brian O’Neil, Virginia Norris, Ellen Watkins, David Sligh, Jessica Wise, Julie Hardwick
- Absent:** Samantha Miller, Danny Hardee, Kendall Brown
- Staff:** Jessica Hucks, Planning Director; Brent Gerald, Planner; Katie Dennis, Planning Concierge; Marcus Cohen, IT; Anne Bessant, Planning Assistant; Heath Watford, Police
- Others:** Cindy Orelli, Angelo Orelli, Renee Ruff, Todd Cunningham, Nancy Aboyan, Alex Ruff, Gerald Doyle, Mike Ruff, Margie Elias, Amy Goldman, Kenneth Greenburg, Kathy Wade, Tommy Wade, Jaime Costanzo, Barry Costanzo, Joseph Magrin, Tracy Magrin, Connie Wilson, Allen Wilson, John Campbell, Frank May, Beverly May, Jill Miller, Stacey Wyant, Emma Middleton, Roben Doyle, May Jean Gula, Mary Politakis, Dave Politakis, Tom Jasiwicz, Michele Jasiwicz, Andrea Konkle, Michael Konkle, Marie Scholl, John Scholl, Mark Prengle, Robyn Maselli, Doreen Bennett, Lislle Cover, Kerrie Purdy, Tom Pach, Debbie Rapole, Robert Padlowski, J.G. Johnson, Robert Rapole, John Danford, Nick Baxter, Orlzama Velazquez, Gregory Bratcher, Lucinda Parks, Ken Sears, Holly Sears, James Brice, Steven Delange, George Terlizzi, Greg Bryson, Emma Howes, Mary Sarsfield, Kathleen Morin, Roger Morin, Rita Painchaud, Frances Hersh, & others

I. CALL TO ORDER

Chairman O’Neil called the meeting to order at approximately 5:30 pm.

II. APPROVAL OF MINUTES

Wise made a motion, seconded by Sligh to approve the September 7, 2023 minutes with the correction of adding additional wording “voting no” to the end of the motion on item B.1. The vote in favor was unanimous. The motion carried.

O’Neil made a motion to defer items C.2 Tributary Annexation/Rezoning and D.1 Land Development Agreement. Wise seconded the motion and the motion carried unanimously.

III. PUBLIC INPUT

Nick Baxter, Roben Doyle, Angelo Orelli, Nancy Aboyan, and Greg Bryson spoke during public input regarding the Tributary tract and the Winyah Road annexation.

IV. PUBLIC HEARINGS

A. TEXT AMENDMENT

- 1. Amendment to Article 11 – Signage, of the City of Conway Unified Development Ordinance (UDO), regarding Sign Standards in Residential and Non-Residential Zoning District, as well**

as requirements for Electronic Message Centers (EMC's) / Light Emitting Diodes (LED) signs with digital/animated display.

Hucks stated in May of this year, Planning Commission reviewed and recommended approval of a text amendment regarding requirements for EMC/LED signs with digital/animated display that would allow theaters to have EMC/LED signs with digital and/or animated display. Ultimately, City Council passed the ordinance, but added to PC's recommendation to allow educational facilities as well as public recreational facilities to have EMC/LED signage.

Since the ordinance was amended, some religious institutions that have sought to install a sign with EMC/LED display. A recent request for a church on Grainger Rd was presented to Council as a special presentation item in recent months, and Council expressed their interest in making it easier for churches to have this type of signage, rather than having to go through the rezoning process. Additionally, the current UDO requires that churches on property of three (3) acres and greater be zoned a Planned Development (PD). If under three (3) acres in size, the property must be zoned properly to have a sign with an EMC/LED.

Per *Section 11.4.9* of the UDO:

D. Zoning. Electronic Message Centers (EMC's) or L.E.D. (Light Emitting Diode) signs with digital/animated displays are permitted as follows:

- 1) IN, IC, and HC zoning districts. EMCs/LEDs with digital/animated displays are permitted in the IN and IC zoning districts, and on properties zoned HC that are located on US Hwy 501 Bypass, to include "Church" Street.

The ordinance was amended earlier this year to also allow these types of signs for the following uses, regardless of zoning:

- 2) Theaters.
- 3) Educational Facilities.
- 4) Public Recreational Facilities.

For churches that are located on Hwy 501 Bypass/Church Street, they must be zoned Highway Commercial AND be under 3 acres in size, due to the language contained within Article 5 of the UDO regarding the requirements for religious institutions. If over three (3) acres in size, they would need to rezone to a PD, and in doing so, they could add language within the PD that would permit them to have signage that contains an EMC/LED with digital/animated display.

There are 2 churches that have pending requests for and EMC/LED sign. One is located on Grainger Rd, off Hwy 378 and the other is located on Hwy 501, near CCU and HGTC.

In addition to the previous amendments to Article 11 regarding EMC/LED signs, staff proposes to amend the ordinance to allow religious institutions, regardless of the zoning district in which they are located, to have an EMC/LED sign with digital/animated display, with the condition that such sign complies with the requirements for signs in residential zoning districts (per Section 11.3.1) and the requirements in Section 11.4.9, as attached herein.

Staff recommends that Planning Commission give a thorough review of the amendment(s) and make an informed recommendation to City Council after said review.

There was no public input.

Wise made a motion, seconded by Sligh, to close public input. Motion carried unanimously.

O'Neil made a motion to recommend approval for this request to City Council as presented. Wise seconded the motion and the motion carried unanimously.

2. Amendment to *Article 5 – Specific Use Regulations, of the City of Conway Unified Development Ordinance (UDO)*, regarding the requirements for religious institutions.

Hucks stated in 2000, US Congress adopted the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), which prohibits application of land use regulations that:

- (1) impose a substantial burden on religious exercise absent a compelling justification pursued in the least restrictive means;
- (2) treats a religious assembly or institution on less than equal terms with nonreligious assemblies or institutions;
- (3) discriminates against religious entities on the basis of religion or religious denomination; and/or
- (4) totally excludes or unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

RLUIPA requires the government to demonstrate that the burden of furtherance of a compelling governmental interest and is the “least restrictive means” of furthering that interest. The general rule applies to “the implementation of a land use regulation or a system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved” 42 U.S.C. §2000cc (a)(2)(c).

The reach of RLUIPA includes things, such as zoning ordinances, site plan approvals, rezoning, PDD applications, variances, special exceptions and historical preservation ordinances.

Additionally, South Carolina adopted the South Carolina Religious Freedom Act in 1999, which already restricted the state’s ability to burden exercise of religion. The Act prohibits the state from imposing a substantial burden on a person’s exercise of religion, even if the burden results from a general rule of applicability, even if the State demonstrates that application of the burden to the person is:

- (1) in furtherance of a compelling state interest; and
- (2) the least restrictive means of furthering that compelling interest.

The 1999 (state) Act is applicable to all state and local laws and ordinances and the implementation of those laws and ordinances.

Per the Municipal Association’s Comprehensive Planning Guide (2018), a Planned Development district mixes different types of compatible residential use and commercial uses, or shopping centers, office parks, and other mixed-use developments. A PD is established by rezoning prior to development. It is characterized by a unified site design for a mixed-use development, and were historically referred to as “planned unit developments”. Planned developments allow flexibility to improve the design, character, and quality of new mixed-use developments and preserve natural and scenic features of open spaces.

In 2003, property owners in Charleston County sought to have their property rezoned from an agricultural zoning district to a PD. The ordinance to rezone the property to a PD was passed in February 2004, which allowed the

minimum lot size to be reduced from a 3-acre minimum to just one (1) acre. The ordinance was challenged, claiming that it was invalid because it was not in compliance with the states Planning Enabling Act and zoning regulations. The SC Supreme Court concluded that the ordinance to rezone the property to a PD was invalid because it was not comprised of “*housing of different types and densities and of compatible commercial uses*” nor was it “*characterized by a unified site design for a mixed-use development*”, as provided for in SC Code Â§ 6-29-720. Additionally, SC Code Â§ 6-29-740 requires that Planned Developments “*encourage innovative site planning for residential, commercial, institutional, and industrial developments.*” The only result achieved from passing of the ordinance was to allow lot size reductions so that the property owners did not have to meet the lot size requirements of the agricultural district in which the property was located.

While that particular ordinance was ruled to be invalid, it does not prevent counties or municipalities from using other techniques or processes for a PD; however, such requirements must be consistent with the Planning Enabling Act.

Staff was unable to locate a specific time or date in which the requirement for churches to be a PD was established; except that when the UDO was adopted in 2011, the requirement was included. To staffs knowledge, there has been no text amendment since the UDO was initially adopted that required churches over three (3) acres in size to be a PD, or to follow PD requirements. The section of the ordinance staff proposes to amend is as follows:

Section 5.1.22 Religious Institutions: ...Religious institutions over three (3) acres in size are subject to the review and procedures indicated in the Planned Development District (PD). All accessory uses shall be submitted and approved as part of the PD application process.

There is no other use in the UDO that requires it to become a PD. While no property owner can request the PD zoning designation unless the property is a minimum of three (3) (contiguous) acres, the only use that requires the property to be a PD is a religious institution if the property is 3 or more acres in size.

As part of staff’s effort to clean up the UDO, and with multiple churches requesting signage that would not otherwise be permitted due to the zoning of the property, staff proposes to amend the ordinance to eliminate the requirement for religious institutions, 3 acres or more in size, to become a Planned Development. This amendment would not prohibit religious institutions from requesting to be zoned a Planned Development, especially in cases where there are multiple parcels involved with a variety of different uses; however, it would need to be consistent with state law regarding Planned Developments.

Staff recommends that Planning Commission give a thorough review of the amendment(s) and make an informed recommendation to City Council after said review.

There was no public input.

Wise made a motion, seconded by Norris, to close public input. Motion carried unanimously.

Sligh made a motion to recommend approval for this request to City Council as presented. Norris seconded the motion and the motion carried unanimously.

3. Amendment to Article 7 – Streets and Circulation, Article 10 – Subdivision and Land Development, and Article 12 – Nonconformities, of the City of Conway Unified Development Ordinance (UDO), regarding the requirements for installation of sidewalks.

Hucks stated that *Article 7, Section 7.1.2 (D) – Complete Streets*, of the UDO, requires that sidewalks be constructed along the frontage of all properties abutting arterial or local non-residential streets. Additionally, *Article 10, Section 10.5.2 (C) – Street Improvements*, requires that sidewalks be constructed where a development fronts on any existing street segment maintained by either the City, the County, or SCDOT where a sidewalk does not currently exist.

There is nothing that distinguishes what the requirements for sidewalk installation are for new development and existing development, regardless of whether or not the site is nonconforming or could accommodate the installation of sidewalks.

Section 7.1.2 (F) – Exemption/Waivers, allows TRC to exempt developments from certain complete street requirements, exception for the requirement to install sidewalks, where required. Only City Council can grant sidewalk installation exemptions, and in doing so, the applicant is required to pay the fee-in-lieu of installing sidewalks.

Recently, a property on Fourth Ave (the former Coastal Ice House) requested a waiver of sidewalk installation, which received a favorable recommendation from TRC due to the lot constraints. While there was a sidewalk installed on the Fourth Ave side of the property, there are no sidewalks installed along the sides of the property. The building (existing) is located very close to a side property line as well. The requirements for sidewalk installation on this site would require that approx. 366 linear feet of sidewalks be constructed, which amounts to a total fee-in-lieu of \$9,355 (+/-). Payments in lieu of sidewalk installation are used by the City to build or complete pedestrian (i.e. sidewalks), bikeway, or pathway systems. At the August 21st Council meeting, Council asked if there was a way to lessen the burden of sidewalk installation requirements on proposed businesses that move into existing buildings which also may be located on nonconforming sites. This particular sidewalk waiver request was deferred to give staff the opportunity to draft an amendment to the UDO regarding sidewalk waiver requirements.

This amendment proposes to retain the requirement to install sidewalks and for the applicant to request a waiver of sidewalk installation; however, the fee-in-lieu amount could be reduced or eliminated if approved by Council, and would only be applicable to properties that could be considered legal-nonconforming.

Staff recommends that Planning Commission give a thorough review of the amendment(s) and make an informed recommendation to City Council after said review.

The board and staff discussed the amendment at length.

There was no public input.

Wise made a motion, seconded by Sligh, to close public input. Motion carried unanimously.

Sligh made a motion to recommend approval for this request to City Council as presented. Hardwick seconded the motion and the motion carried with Wise voting no.

B. REZONING REQUEST(S)

1. **DEFERRED**...Request to rezone approximately 4.2 acres of property located at **1520 Grainger Rd** (PIN 368-01-02-0027) from the Low/Medium-Density Residential (R-1) district to a Planned Development (PD) district.

C. ANNEXATION / REZONING REQUEST(S)

1. **PREVIOUSLY DEFERRED** ...Request to annex approximately 15 acres of property located at 154 Winyah Rd (PIN 383-00-00-0339), and rezone from the Horry County Limited Industrial (LI) district to the City of Conway Heavy Industrial (HI) district.

Hucks stated that on August 1st, the applicant, Michael Crenshaw, President, of King Asphalt, Inc., submitted an annexation and rezoning application for the subject property, located at 154 Winyah Road. The property is currently in Horry County’s jurisdiction, zoned Horry County Limited Industrial (LI). The use of the property is an existing asphalt plant. The property was transferred to the applicant on August 1st, which would have triggered annexation when the utility accounts were requested to be changed to the current owner, King Asphalt, Inc. Restrictive covenants for the property were recorded and received on August 1st as well.

Per Section 3.2.10 of the UDO, *the intent of the Heavy Industrial (HI) zoning district is to accommodate areas for heavy manufacturing, distribution, and processing.*

Surrounding Uses / Zoning Districts:

The property is within a primarily industrial area, with Horry County Limited Industrial (LI) zoning across the road (Yaeger Ave) (Capital Materials Coastal – building materials store) and directly behind the subject property is also Horry County LI (Blue Max Trucking). At the end of Yaeger Ave is a (approx.) 15-acre tract, zoned City of Conway Heavy Industrial (HI), and is the site of “Vulcan Materials Company.” Across Winyah Rd is property zoned PD, which is the industrial portion of the Wild Wing Planned Development.

The future land use map of the Comprehensive Plan also identifies the subject property as Highway Commercial (HC). Per *Section 3.2.10* of the UDO, the intent of the Highway Commercial (HC) district is to provide compatible locations to serve the automobile-oriented commercial activities in harmony with major highway developments, reduce traffic congestions and to enhance the aesthetic atmosphere of the City.

Staff recommends that Planning Commission give a thorough review of the amendment(s) and make an informed recommendation to City Council after said review. Staff notes that the applicant has expressed that they do not wish to annex into the city limits.

The applicant was not present.

Lew Sandford, FX Williams, John Scholl, Doreen Bennett, Bob Padlowski, and Renee Ruff spoke during public input with environmental concerns, operation hours, and enforcing existing ordinances.

Wise made a motion, seconded by Sligh, to close public input. Motion carried unanimously.

Hucks noted that there are no current regulations in the UDO for an asphalt plant. If annexed, the city could only regulate the noise ordinance as their legal nonconforming status and could on be done if rezoned to Heavy Industrial zoning. She added that city staff does not have the authority to enforce DHEC or EPA regulations.

The board and staff discussed the request at length.

Sligh made a motion to recommend denial of this request to City Council. Hardwick seconded the motion and the motion carried with O'Neil voting no.

- 2. **DEFERRED** ...Request to annex approximately 445 +/- acres of property, located **at or near the corner of Hwy 378 & Juniper Bay Rd**, and on **Dunn Shortcut Rd** (PIN's 336-00-00-0043, -0044, 336-13-04-0006, 336-14-04-0011, 336-15-03-0003, 337-00-00-0009, -0011, and 370-04-01-0004), and rezone from the Horry County Commercial Forest Agriculture (CFA), Highway Commercial (HC), and Residential, no mobile homes allowed (SF40) districts to the City of Conway Planned Development (PD) district, as well as a request to rezone approximately 40.53 +/- acres of property located on Highway 378, Dayton Drive, and Dunn Shortcut Rd (PIN's 336-00-00-0045, 370-00-00-0011, -0012, and 337-08-01-0004) from the City of Conway Heavy Industrial (HI), High-Density Residential (R-3) and Low/Medium-Density Residential (R-1) districts to the City of Conway Planned Development (PD) district.

D. LAND DEVELOPMENT AGREEMENT(S)

- 1. **DEFERRED** ...Proposed Development Agreement by Lennar Carolinas, LLC and Thomas & Hutton, for proposed development of property located on **Highway 378, Juniper Bay Rd, and Dunn Shortcut Rd**, to be known as the Tributary Planned Development (PD), and consisting of approximately 486 +/- acres (PIN #'s 336-00-00-0043, -0044, -0045, 336-13-04-0006, 336-14-04-0011, 336-15-03-0003, 337-00-00-0009, -0011, -0012, 337-08-01-0004, 370-00-00-0011, and 370-04-01-0004).

V. BOARD INPUT

None

VI. STAFF INPUT

Hucks stated that the December meeting was moved up a few months ago and at that time, staff thought the tree lighting ceremony was going to be on December 7th. Now the tree lighting service has been moved up to November 30th and the City of Conway Christmas party is on December 5th. So next month staff will add moving the meeting back to December 7th on the agenda, where it was originally.

VII. ADJOURNMENT

A motion was made to adjourn the meeting. The vote in favor was unanimous. The motion carried. The meeting adjourned at approximately 7:15 pm.

Approved and signed this 21 day of NOVEMBER, 2023.



Brian O'Neil, Chairman

