

RICHLAND COUNTY PLANNING COMMISSION



July 11, 2022

***Council Chambers
2020 Hampton Street
Columbia, SC 29202***

RICHLAND COUNTY PLANNING COMMISSION



Monday, July 11, 2022
Agenda
3:00 PM
2020 Hampton Street
2nd Floor, Council Chambers

Chairman – Jason Branham
Vice Chairman – Gary Dennis

Christopher Yonke • Frederick Johnson, II • Beverly Frierson • John Metts
Charles Durant • Terrence Taylor • Chris Siercks

- I. PUBLIC MEETING CALL TO ORDERJason Branham, Chair**
- II. PUBLIC NOTICE ANNOUNCEMENTJason Branham, Chair**
- III. ADDITIONS / DELETIONS TO THE AGENDA**
- IV. RE-MAPPING RESTART AND TEXT AMENDMENT PROPOSAL PROCESS UPDATEJason Branham, Chair**
- V. REMAPPING RESTART PROCESS INPUT**
- VI. CONSENT AGENDA [ACTION]**
 - a. ROAD NAMES**
- VII. CHAIRMAN’S REPORT**
- VIII. PLANNING DIRECTOR’S REPORT**
- IX. OTHER ITEMS FOR DISCUSSION**
 - a. Council Motions**
 - i. Move to direct staff to evaluate current zoning laws that permit zoning designations for large residential developments to remain in perpetuity and present options to re-evaluate and or rezone those properties if they are not developed within 7 years. Recommendations should include processes to ensure that zoning and the comprehensive plan remain consistent with the lived character of the community (Newton)
 - b. Recommended Amendments to the 2021 Land Development Code.**
 - i. **Motion that the following be added to the ledger of recommended amendments to the 2021 Land Development Code and Zoning Map:**
 - 1. As to Manufactured Homes: I move to recommend removal of manufactured homes from R2 zoning district. (Dennis)
 - 2. As to Farm supply and machine sales and service: I move to recommend addition of Farm Supply and machine sales Permitted by right in HM zoning district. (Dennis)

3. As to Farm distribution hub: I move to recommend the addition of Farm distribution hub permitted by right in the RT zoning district. (Dennis)
4. As to Veterinary Services (livestock): I move to recommend the addition of Veterinary services (livestock) permitted by right in the RT zoning district. (Dennis)
5. As to Animal Shelter: I move to recommend the addition of animal shelters permitted by right, subject to special requirements in the AG, HM, RT zoning districts. (Dennis)
6. As to animal services Veterinary hospital or clinic: I move to recommend the addition of Veterinary hospital or clinic permitted by right subject to special requirements in the AG, HM, RT zoning districts. (Dennis)

c. Motion not pertaining to LDC:

- i. I move to make an amendment to the rules of procedure that the election of officers will take place at the regular scheduled December Meeting and will assume the position at the first regularly scheduled Planning Commission Meeting of the calendar year in February. (Dennis)

X. ADJOURNMENT



Street Name Review Case Summary

PLANNING COMMISSION MEETING

July 11, 2022

3:00 pm

Council District: Jessica Mackey (9)
Development: Harborside Subdivision
Tax Map Amendment: TMS# R23207-02-37 & 38
Applicant: Ryan Goff, Civil Engineering of Columbia
Proposed Use: Residential
Proposed Street Name (s): Hubbard Court, Endicot Way
Staff Recommendation: Approval

Detail: Pursuant to SC Code 6-29-1200 (a), a local planning commission shall, by proper certificate, shall approve and authorize the name of a street or road laid out within the territory over which the commission has jurisdiction.

Staff Reviewer: Alfreda W Tindal, E9-1-1 Addressing Coordinator, reviewed the street names and has determined that the E9-1-1 Road Naming Standards have been met.

Map:





Street Name Review Case Summary

PLANNING COMMISSION MEETING

July 11, 2022

3:00 pm

Council District:	Chakisse Newton (11)
Development:	Proposed Hunters Branch
Tax Map Amendment:	TMS# R21800-01-06, off Garners Ferry Road
Applicant:	Kevin Steelman
Proposed Use:	Residential
Proposed Street Name (s):	Bevington Brook Ln, Baybrook Ln, Edgetree Dr, Gatestone Ln, Grovefield Dr, Harrowfield Ct, Harvest Valley Ln, Hunters Branch Dr, Middlebury Ln, Soaringfree Ln, Wisteria Walk Way
Staff Recommendation:	Approval

Detail: Pursuant to SC Code 6-29-1200 (a), a local planning commission shall, by proper certificate, shall approve and authorize the name of a street or road laid out within the territory over which the commission has jurisdiction.

Staff Reviewer: Alfreda W Tindal, E9-1-1 Addressing Coordinator, reviewed the street names and has determined that the E9-1-1 Road Naming Standards have been met.

Map:





Agenda Briefing

Prepared by:	Planning & Development Services Staff	Title:	
Department:	Community Planning & Development	Division:	Planning & Development
Date Prepared:	September 14, 2021	Meeting Date:	September 28, 2021
Legal Review	Elizabeth McLean via email	Date:	September 21, 2021
Budget Review	James Hayes via email	Date:	September 17, 2021
Finance Review	Stacey Hamm via email	Date:	September 17, 2021
Approved for consideration:	Assistant County Administrator	Aric A Jensen, AICP	
Committee	Development & Services		
Subject:	Reverting Previously Approved Map Amendments after a Period of Non-Development		

STAFF’S RECOMMENDED ACTION:

Staff recommends taking no action in regards to the proposed motion and continuing with current initiatives and processes in conducting a continual planning program for the County.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department’s current fiscal year budget?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
If no, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

There are no fiscal/budgetary implications related to this motion other than costs for posting of properties related to a map amendment.

COUNTY ATTORNEY’S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:

This is a “working” copy. The County Attorney’s office may have additional suggested changes as the readings move forward and will provided its comments under separate cover.

REGULATORY COMPLIANCE:

Enacting zoning or making amendments to zoning is a legislative function of County Council as part of its police power. As such, it cannot delegate its power to approve zoning changes to a board, commission, or as an administrative function. Similarly, zoning cannot be exercised arbitrarily. Section 26-52(b) (2) a of the Richland Code of Ordinances, Land Development Code (2005 version), specifies that County Council can initiate map amendments through the adoption of a motion, among other parties.

Zoning ordinances must follow the comprehensive plan for that jurisdiction as it is the primary tool for carrying out the land use element of the comprehensive plan. Per Section 26-4 of the Richland County Code of Ordinances, Land Development Code (2005 version), "Any amendments to or actions pursuant to this chapter shall be consistent with the comprehensive plan. The comprehensive plan may be amended and the Land Development Code for Richland County shall reflect and incorporate those amendments." Further, in Section 26-52(a) of the Code of Ordinances, Land Development Code (2005 version), it is noted amendments to the text or map of the zoning ordinance "shall be made in accordance with the county's comprehensive plan."

Per Section 6-29-510(E) of the SC Code of Laws, local governments must reevaluate comprehensive plan elements at least every five years; local governments must enact changes to, or update, the comprehensive plan at least every ten years. A comprehensive plan older than ten years may be subject to a legal challenge. This section falls under the function and purpose of the Planning Commission in having a continual planning program and process.

MOTION OF ORIGIN:

"Move to direct staff to evaluate current zoning laws that permit zoning designations for large residential developments to remain in perpetuity and present options to re-evaluate and or rezone those properties if they are not developed within 7 years. Recommendations should include processes to ensure that zoning and the comprehensive plan remain consistent with the lived character of the community."

Council Member	Chakisse Newton, District 11; Bill Malinowski, District 1; and Paul Livingston, District 4
Meeting	Special Called Meeting
Date	July 13, 2021

STRATEGIC & GENERATIVE DISCUSSION:

County Council currently has the authority and ability to do as suggested via the motion. Per Section 26-52, requests for map amendments, or rezonings as it is informally known, can be initiated via four ways: 1) Through an adopted motion by the Planning Commission; 2) Through an adopted motion by County Council; 3) Through the Planning Director or Administrator; or 4) by a property owner or their representative. Council can initiate a map amendment through their normal motion process. However, if the motion were to be adopted, it would then go through the standard map amendment procedure, i.e., including staff and Planning Commission review and recommendation and the required public postings and public hearing.

The zoning of a property stays in place until such time as it is changed. Per the code, and as a planning practice, a property should only be rezoned if it is consistent, or in compliance, with the policies set forth in the comprehensive plan. For map amendments, this primarily entails consistency with the Future Land Use Map [FLUM]. The FLUM is a direct translation of the vision and goals of the comprehensive plan into a graphic map for where and how growth and development should be occurring in order to support policies of the plan. It is the primary tool utilized in review of map amendments as requests are made. The FLUM proposes the way that an area should be growing and developing to match the vision as adopted in the plan: what the FLUM proposes may not necessarily match what an area currently is but what it should become over a ten- to twenty-year period. Ultimately, the FLUM is set up with regard to future needs and available capacity to support various needs, e.g., population and housing demand, as identified in the plan.

Per the SC Comprehensive Planning Act, the comprehensive plan and/or particular elements of it need to be reviewed periodically. As part of this review, revisions may be necessary or warranted. SC Code of Law §6-29-510(E) requires that the comprehensive plan be evaluated at least once every five years to determine whether any changes are needed; additionally, the comprehensive plan, including all elements as a whole, must be updated at least every ten years. Revisions may be recommended as necessary and warranted but are not required as part of the interim update between plans. The update process itself will inherently include changes and revisions. Similarly, as an outcome of new plan or changes to plan elements, amendments should also occur to other planning programs and tools associated with the comprehensive plan, i.e., the land development code.

The motion as stated is ultimately unnecessary and, if followed through upon as worded, problematic.

As stated above, a map amendment should only be approved where consistent with the comprehensive plan. For example, if an applicant were to request to rezone from RS-MD to NC and that request were to be approved, it should have been consistent or in compliance with the comprehensive plan. As such, that change in zoning from one district to another is in itself an appropriate zoning district for that location. Likewise, the date of when the approval was made or who the original applicant was does not matter and has no bearing for determining the appropriateness of an approval. Similarly, any request should automatically be taking into consideration the full gambit of potential uses that can be developed under that zoning versus what an applicant may claim is their intent. An applicant can express intent to establish a specific use or create a certain type of development, however, there is not guarantee that the use, development, product, etc., as proposed is what will or has to be developed. In regards to this,

any approval done by Council cannot be made contingent on that proposal or certain use being developed; this is known as contract zoning and is illegal. So, whether or not an applicant stated "this" was the plan or "that" is the use for the site, whatever is allowed is allowed and should otherwise be consistent with the comprehensive plan and FLUM for the area.

A problem with the motion arises with the follow through to rezone properties that received prior approval. Again, assuming that rezoning approvals were made where consistent with the comprehensive plan, then the zoning is appropriate as is. The zoning would be in character with the desired development and land use character for the future growth of that area, whether or not any use has been established on that property. Similarly, a connected problem exists with how, or which, properties are eyed to be rezoned. This has the potential to single out only certain properties versus looking at an area as a whole, again assuming an approval was made where consistent with the comprehensive plan. If the intent is to re-evaluate prior approvals for cases that were recommended for denial, where an approval would not have been consistent or in compliance with the comprehensive plan, then such would be an appropriate response; or the inverse.

For example, if "Land Developer and Home Builder, LLC" were to request to rezone one hundred acres in an area and would be consistent with the comprehensive plan, it should be approved. Similarly, if "Mindy Silverstone" made the same request, as long as it is consistent with the comprehensive plan it should be approved. In either example, the requests to rezone would be appropriate for the area per the comprehensive plan. Using the same examples, if an approval was thirty-five years ago, and still is consistent with the comprehensive plan, then it is appropriate whether or not development has taken place, who the original applicant was, or even who the current owner of a property is; zoning carries forward with the land through time in perpetuity. As long as it is consistent with the comprehensive plan it should not be reverted to the prior zoning due to the absence of establishing a use.

Another problem with the motion involves vested rights, and development rights more generally, and, would normally only apply where an attempt to establish a use is being pursued. In general, a vested right is a right or entitlement of a property owner to use property in a certain way or to undertake and complete the development of a property despite a zoning change that would otherwise prohibit such a use or development.

The LDC Rewrite, which is scheduled for first reading on September 28, is one of a few initiatives that will address some of the potential mismatches for how areas are zoned. The current draft of the proposed LDC includes similar language (see Sections 26-1.6, 21-1.10, 26-2.4(d) (2) c, and 26-2.5(b) of the draft) of the current LDC regarding compliance/consistency with the comprehensive plan and Council authority to initiate a map amendment. The proposed code does give slightly more liberal ability for providing approvals to map amendments than the standards within the current LDC. Specifically, these are found in Section 26-4.2(b)(4) of the draft code and allow other reasons, in addition to the comprehensive plan, for why or why not a map amendment should be approved.

In addition to the language change for map amendment decision standards, the LDC Rewrite will be looking at the remapping of the entire county. This will require that every property in the county receive a new zoning found within the regulations of the draft code. As noted during the Remapping work session and in discussion with Councilmembers individually, staff is utilizing an iterative process

following specific principles and technical rules. In general, the principles and the derivative rules seek to implement the comprehensive plan and zone properties as appropriate per the FLUM. This inherently, as a primary focus, seeks to establish consistency with where and how zoning districts are applied. Likewise, the principles also look at maintaining equivalent districts, as appropriate, at their present location where land use controls are suitable for current development. As such, the remapping process may provide for the reversal of some approved map amendments to a less intense or alternate district, though seldom likely cause a harsh change in intensities, e.g., current RS-HD to proposed RT, except for those that could be argued as spot zonings.

As noted previously, the comprehensive plan must undergo an update every ten years. PLAN Richland County was adopted in March of 2015. Staff began performing an evaluation of the comprehensive plan in the fall of 2019, but was interrupted due to the COVID-19 pandemic. The primary focus of the evaluation had been to analyze map amendments since the adoption of the 2015 plan. This has looked at how consistency has been applied through the approval or disapproval of rezonings. As an outcome of this, staff has determined that the FLUM needs to be revised to include greater prescription to the map than the blobby application it currently provides. This enhanced specificity will still allow for flexibility with the FLUM, while also giving it greater predictability for how that area should be growing regarding development. Similarly, an update to the plan in its entirety will be forthcoming in the next few years. With both the revision to the FLUM and the eventual full update, staff will be looking to implement "degree of change" as a planning tool when looking at the future growth for an area as part of the FLUM designations.

ADDITIONAL COMMENTS FOR CONSIDERATION:

Consistency is a term that staff often uses in its reports related to map amendments. It is a concept, and a specific doctrine in planning, ensuring land use decisions such as zoning decisions are congruous with the recommendations set forth in the comprehensive plan. Ultimately, consistency presents itself in the form of how the comprehensive plan is being implemented, especially in zoning. Zoning is the primary tool for implementing the vision of the comprehensive plan. Since it is the specific law for the type of development, how that development may be created and function, and, importantly, where development can occur, it plays a critical role in bringing the comprehensive plan to life. Consistency, in relation to rezoning cases, works by looking at the recommendations of the comprehensive plan and what the zoning can achieve. If the type of development that will be allowed matches the policy guidance set forth in the FLUM, such as desired development and/or land use and character, then that decision would be deemed consistent or in compliance. This makes the FLUM a key piece of policy that staff utilizes in making its recommendations and that Council should be relying upon for how it is making its decisions in regards to map amendments, among others.

As noted earlier, the County's FLUM could be strengthened; this is not to say the map is unfunctional or inappropriate or out of date. Simply, it is too far in one type than another. It is a demonstration of one style of FLUM, blobby, that provides greater flexibility with land use decisions. This has often been referred to as "the broad brush of the plan". Here, the FLUM seeks to allow for flexibility when needed versus being overly prescriptive in nature, the opposite spectrum to blobby. In any event, it still presents the vision for where and how an area should grow and develop over a long-term time horizon. As noted above, staff will be looking to make modifications to the FLUM to help provide an additional

layer of prescription to continue allowing for flexibility and adding greater predictability for the overall FLUM.

One potential element of this includes adding a "degree of change" framework. Degree of change is a planning tool that corresponds to the pace at which an area should grow according to the established vision and policy elements. This has been a relatively new feature in helping guide plan implementation related to land use and other policy investments related to comprehensive plans. This a key feature in the City of Memphis's award winning, "Memphis 3.0 Comprehensive Plan", as well as other recent award winning plans. Ultimately, this looks at the level, intensity, scale, etc., of how an area should be growing in order to meet the vision and recommendations of the plan. This is not a tool which will stop development, it simply helps provide clarity on how quickly (rate of change) it should be occurring. Usually, these are different indicators, all of which would allow for growth and development, e.g., nurture, evolve, and transform - low, medium, and high. As part of the revisions to the FLUM staff will be looking to include a similar framework for the County.

With the LDC Rewrite entering into the Remapping process over the coming months, it will allow Council the ability to potentially look at how areas should be mapped in conjunction to the pace of growth while still being consistent with the comprehensive plan. Likewise, the Remapping process, and the described outcome of the motion, would be beneficial in addressing an inconsistent approval that has occasionally occurred. Generally, this has been an approval where a small area is zoned out of context and is not in compliance with the FLUM. Often, this would be where a property is singled out for a zoning district that is not compatible with adjacent districts and would not provide larger benefit to the community as a whole but only the property owner directly. This is often done akin to spot zoning, but would otherwise meet all criteria for moving forward with a map amendment request. As such, where there have been approvals made to allow for zoning districts in areas that would not be consistent with the comprehensive plan, those areas should be looked at as to whether they need to be rezoned to be in compliance with the FLUM and growth in that location.

One additional item that needs consideration is any sharp reversal or cumulative diminishing of adopted land use policy, e.g., changing the FLUM designation of an area from Neighborhood Medium Density to Rural. While this could serve to achieve less development or limit growth in an area, it should be looked at with how the overall area is functioning and the ultimate needs of a County as whole. Essentially, it needs to be looked at how this will impact various components related to development, e.g., water, sewer, and roadways, among others, that may have been planned or programmed to take place. Likewise, it future population and housing demands need consideration and how that would be impacted by effectively shortening and limiting the absorption potential. Essentially, sharp reversals or cumulative diminishment need to be considered carefully for how those decisions may impact the system and plan as a whole.

ATTACHMENTS [REMOVED FOR BREVITY FOR THE OCTOBER 26, 2021 COMMITTEE MEETING]:

1. South Carolina Code of Laws, "South Carolina Comprehensive Planning Act", §6-29-310 et seq.
2. Richland County Land Development Code (2005), Chapter 26, Richland County Code of Ordinances [Abridged]
3. PLAN Richland County 2015 Comprehensive Plan
4. 2018 Comprehensive Planning Guide for Local Governments, Municipal Association of SC
5. Flummoxed by FLUMs, National Planning Conference 2018 Presentation

6. Reconsidering the Role of Consistency in Plan Implementation, Zoning Practice 2021-02
7. Guiding Plan Implementation with Degree of Change, American Planning Association Planning Advisory Service Memo, July/August 2021



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