



Municipal Planning Commission
City Service Center – 915 Quarrier Street – Suite 6
Wednesday, December 7, 2022
3:00 p.m.

Agenda

- 1. Call to Order**
- 2. Unfinished Business**
- 3. New Business**

Text Amendment: Bill No. 7977 – A Bill amending the Municipal Planning Commission’s rules of procedures and policy by adding a section relating to ex parte communications. Rules and procedures may be adopted by the Municipal Planning Commission and approved by City Council pursuant to Section 8A-2-11 of the State Code, Section 90-36 of the City Code and Section 34-20 of the Zoning Ordinance.

Resolution: Resolution No. 743-22 - A Resolution for the Charleston City Council to hereby adopt the updated Region 3 Hazard Mitigation Plan.

- 4. Minutes of the October 5, 2022 MPC meeting**
- 5. Announcements**
- 6. Review of Rules of Procedure and Policy**
- 7. Adjournment**

***Meetings may be recorded and broadcast via internet <https://charlestonwv.civicclerk.com>**

Bill No. 7977

Introduced in Council

Passed by Council

December 5, 2022

Introduced By

Referred To:

Mary Beth Hoover

**Municipal Planning Committee
Planning, Streets, and Traffic**

Bill No. 7977 – A Bill amending the Municipal Planning Commission’s rules of procedures and policy by adding a section relating to ex parte communications. Rules and procedures may be adopted by the Municipal Planning Commission and approved by City Council pursuant to Section 8A-2-11 of the State Code, Section 90-36 of the City Code and Section 34-20 of the Zoning Ordinance.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA THAT:

1. The rules and procedures for the Municipal Planning Commission are hereby amended as follows:

1. Establishment of the Rules of Procedure and Policy

1.1 Name

The name of the Commission shall be the Municipal Planning Commission of the City of Charleston, hereinafter referred to as “Commission.”

1.2 Purpose

The purpose of these rules of procedure and policy are to provide for the conduct of Commission business in a responsible and orderly manner.

1.3 Authority

These rules of procedure and policy have been adopted by the Commission pursuant Section 8A-2-11 of the State Code, Section 90-36 of the City of Charleston Code, and Section 28-030 of the Zoning Ordinance of the City of Charleston.

1.4 Amendments

These rules of procedure and policy may be amended or altered by a majority vote of the Commission and affirmed by the Charleston City Council.

2. General Rules

2.1 Open Meetings

All official meetings of the Commission and its Committees shall be open to the public and the news media. The minutes of the proceedings shall be open to the public.

2.2 Ex Parte Communications

Commission members shall avoid ex parte communications when the Commission is adjudicating a matter in its quasi-judicial role. The Commission is acting in a quasi-judicial role when it hears zoning map amendment petitions, addresses proposed text amendments, and reviews applications. For purposes of these rules, ex parte communications mean any communication that takes place outside of a Commission meeting with an individual who has an interest in the outcome of the quasi-judicial decision.

2.23 Quorum

The Commission must have a quorum to conduct a meeting. A majority of the members constitutes a quorum. Commissioners may attend a meeting and vote on items in person, by telephone, or by video conference.

2.34 Voting

No action of the Commission is official unless authorized by a majority of the members present in person, by telephone, or by video conference. Commissioners may not vote by proxy.

2.45 Parliamentary Procedure

The Commission may refer to the applicable provision of Roberts Rules of Order for guidance for items not addressed by these Rules of Procedure and Policy

2.56 Recording of Minutes

Commission meetings are recorded electronically. As a matter of general policy, the proceedings are not transcribed. Anyone wishing a legal transcription must provide a court reporter at his/her own expense. Copies of recordings and minutes of Commission meetings shall be furnished upon written request. There will be a charge as necessary to recover the cost of making such copies. (Note: Commission minutes are not final until approved by the Commission at the subsequent meeting).

2.67 Planning Department Staff

The Planning Department staff, hereinafter referred to as "Staff," assists the Commission in carrying out their duties and responsibilities by: accepting applications for items to be reviewed by the Commission; preparing the Commissions agenda; publishing legal advertisements; posting notices on the subject property; taking minutes of the meetings; maintaining custody and preservation of all papers and documents of the Commission and their proceedings; preparing, publishing and distributing reports, ordinances and other material relating to the activities of the Commission; and enforcing the Commission's decisions.

2.78 Officers

At the first regular meeting following the appointment and re-appointment of members, the Commission shall elect from its members a president and vice president. The vice president shall have the power and authority to act as president of the Planning Commission during the absence or disability of the president.

2.89 Attendance

Should a Commissioner fail to attend four (4) or more regular meetings of the Commission per calendar year, that office may be declared vacant and a new Commissioner may be appointed by the Mayor and affirmed by the Charleston City Council.

90
91 **3. Meetings**

92 **3.1 Regular Meetings**

93 The Commission will meet regularly on the Wednesday following the first Monday of
94 each month and shall begin its meetings at 3:00 p.m. which will be held at the place as
95 noted on the agenda.

96
97 **3.2 Special Meetings**

98 Notice for a special meeting must be in writing, include the date, time and place of the
99 special meeting, and be sent to all Commissioners at least two (2) days before the
100 special meeting

101
102 Written notice of a special meeting is not required if the date, time and place of the
103 special meeting were set during a regular meeting.

104
105 **3.3 Study Sessions**

106 The Commission may meet informally in study sessions (open to the public) at the
107 request of a majority of the Commission or Staff, to review forthcoming requests of the
108 City, to receive progress reports on current programs or projects, or to receive other
109 similar information from the City Administration, provided that all discussions and
110 conclusions thereon shall be informal.

111
112 **4. Order of Business and Agenda**

113 **4.1 Order of Business**

114 The general rule as to the order of business in regular meetings shall be as follows,
115 unless modified by the Commission or the Staff pursuant to the provisions below:

- 116
117 Call to Order
118 Unfinished Business
119 New Business
120 Subdivisions
121 Rezoning
122 Developments of Significant Impact
123 Major Developments of Significant Impact
124 Temporary Permits
125 Street and Alley Closings
126 Text Amendments
127 Other Items
128 Approval and or Correction to Minutes of the Previous Meeting
129 Announcements
130 Adjournment

131
132 If there is more than one request pertaining to a particular project or property, the
133 requests may be arranged consecutively on the agenda.

134
135 **4.2 Agenda**

136 Items may be placed on the agenda by either the President or Staff. Requests for
137 rezonings, text amendments, developments of significant impact, major developments of
138 significant impact and subdivisions must be filed with staff on or before the appropriate

filing deadline. All other requests must be filed in writing at least four (4) calendar days prior to the hearing.

4.3 Request for Continuance

Prior to the hearing, any request for continuance must be made in writing at least seven (7) calendar days prior to the hearing. Staff will send notices to the adjacent property owners by U.S. mail stating that the request has been delayed. A request for continuance after the seven (7) day deadline requires a majority vote of the Commission at the hearing.

4.4 Request for Withdrawal

Requests for withdrawal must be made in writing prior to the hearing. A new application and associated filing fees must be resubmitted before the item is placed on a future agenda.

5. Meeting Procedures

5.1 Speaking Order

After the President announces a case, the testimony shall be made in the following order:

- Applicant or his/her agent
- Staff Report
- Other Persons in Favor
- Persons in Opposition
- Rebuttal by the Applicant

Except for a spokesperson that is coordinating presentations, no one may speak a second time until all other persons wishing to speak have been heard. Once the applicant, staff and all persons in favor of and in opposition to the application have been heard, the President shall close the case for public comment. The Commission may then hold discussion on the application. Following the discussion, the President shall ask for a motion, second on the motion and a hand count.

5.2 Applicant and Staff Responsibilities

It shall be the applicant's responsibility to prepare and present their case to the Commission. Staff shall not be expected to present or influence an application for either side but shall be expected to exercise independent and professional judgment when presenting the staff report.

5.3 Time Limits

There shall be a five (5) minute time limit for all parties that address the Commission as either the applicant or parties speaking in favor or opposition to a case. The Commission may, at their discretion and upon a majority vote of the members present, extend the time limit.

5.4 Addressing the Commission

Formal rules of evidence do not apply at the Commission meetings. Anyone may appear and speak at a hearing. However, no person may speak until recognized by the President of the hearing.

5.5 Manner of Addressing the Commissions

Each person addressing the Commission shall speak clearly into the microphone located at the lectern and give his/her name and address for the record. All testimony shall be addressed to the Commission or President of the hearing.

5.6 Personal and Slandorous Remarks

The President may declare out of order and terminate testimony that is repetitious, irrelevant, abusive or not within the Commission's jurisdiction.

5.7 Evidence

After a hearing is completed, no further evidence shall be received, unless (a) the evidence is specifically requested by the Commission; or (b) the hearing is re-opened by the Commission and opportunity is provided to other persons to respond.

5.8 Submitting Evidence

Persons wishing to submit reports or studies relating to a matter before the Commission should submit sufficient copies to staff for public inspection and distribution to Commission members at least two weeks prior to the hearing. This allows time for the study or report to be mailed to the Commissioners for their review. Otherwise, it may be necessary for the Commission to continue the hearing to another date. However, the Commission will not allow the late filing of material to be used as a delay tactic that infringes upon the rights of people on the opposite side of an issue.

5.9 Failure to Appear

The Commission, upon a majority vote, may open a hearing for public comment if the applicant or his/her agent fails to appear at the meeting. The public comments shall be recorded and made part of the file.

2. All prior ordinances, or parts of ordinances, inconsistent with this Ordinance, are hereby repealed to the extent of said inconsistency.

Resolution No. 743-22

Introduced in Council

Passed by Council

December 5, 2022

Introduced by

Referred to
Planning, Streets, and Traffic
Committee
Municipal Planning Commission

Mary Beth Hoover

1 WHEREAS, natural, technological, and human-caused hazards can affect the City of
2 Charleston; and

3
4 WHEREAS, significant structural, historical, and economic losses could result from an
5 occurrence of a natural, technological, or human-caused hazard events; and

6
7 WHEREAS, undertaking mitigation projects during pre-disaster periods could decrease
8 the total losses Charleston incurs as a result of said hazard occurrences.

9
10 AND WHEREAS, the Charleston City Council has a strong interest in reducing losses
11 from future hazard occurrences; and

12
13 WHEREAS, the hazard mitigation plan is a federal and state requirement to maintain
14 eligibility for hazard mitigation funding, and, by that requirement, must be updated a
15 minimum of every five years; and

16
17 WHEREAS, a cooperative, joint effort is a proven, efficient way to plan for and reduce
18 hazard susceptibility in all government jurisdictions in the region.

19
20 WHEREAS, the Charleston City Council has partnered with the Regional
21 Intergovernmental Council to update the existing *Region 3 Hazard Mitigation Plan* in an
22 effort to further identify, define, and characterize the hazards affecting the city as well as
23 to continue identifying and prioritizing projects that could lessen hazard vulnerability.

24
25 WHEREAS, the Charleston City Council has partnered with the Regional
26 Intergovernmental Council to update the existing *Region 3 Hazard Mitigation Plan* in an
27 effort to further identify, define, and characterize the hazards affecting the city as well as
28 to continue identifying and prioritizing projects that could lessen hazard vulnerability.

29
30 **Now Therefore, Be it Resolved by the Council of the City of Charleston, West**
31 **Virginia:**

32
33 That the Charleston City Council does hereby adopt the updated *Region 3 Hazard*
34 *Mitigation Plan*.



Municipal Planning Commission
City Service Center – 915 Quarrier Street – Suite 6
Wednesday, October 5, 2022
3:00 P.M.

Members Present

Aric Margolis, Chair
Mary Beth Hoover
Quintie Smith
Alice Hypes
Shawn Taylor
Shannon Ferrari
Cory Stout
Terri Allen, Mayor's Designee
Deanna McKinney
J. D. Stricklen, Kanawha Co. Representative

Members Absent

Margo Teeter
Terry Pickett
JoEllen Zacks
Adam Krason
Justin Marlow
Lisa Fischer-Casto

Staff Present

Dan Vriendt
Chad Webb

Others Present

Paul Boddy (Bill No. 7974)
Marsha Boddy (Bill No. 7974)

Public Present

- 1. Call to Order**
- 2. Unfinished Business**
- 3. New Business**

Rezoning: Bill No. 7975 - A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January 2006, as amended, and the map made a part thereof, by rezoning from a C-4 district to a C-10 district, that certain lot or parcel of land located at 3406 Chesterfield Ave in the City of Charleston, Kanawha County, State of West Virginia, by petitioner Scott Martin.

Petitioner, Scott Martin, was not present at the meeting.

Chad Webb presented the following staff analysis and recommendation:

The Petitioner, Scott Martin, filed for this rezoning primarily to allow for outdoor display and warehousing of stonework countertop samples.

APPLICABLE CODE:

Charleston Zoning Ordinance, adopted November 21, 2005, Article 28-030

STANDARD OF REVIEW:

A rezoning is a change to the zoning map, which requires a legislative decision. Therefore, the Commission's role is to make a recommendation to Planning Committee with final action being at City Council. The Commission should determine if the request is spot zoning and if it is consistent with the Comprehensive Plan. A rezoning is considered spot zoning when all the following factors are present: A small parcel of land is singled out for special and privileged treatment; The singling out is not in the public interest but only for the benefit of the landowner; the action is not in accordance with the comprehensive plan. If a request is inconsistent with the comprehensive plan, the commission should consider if the original zoning classification was in error, or if the character of the area has changed significantly since the adoption of the comprehensive plan. Proposed uses should be treated with care, because once rezoned, any use that is permitted within the district would be permitted 'by right' with no review by the Commission.

HISTORY:

The parcel in question is currently zoned C-4. Petitioner Martin seeks to have the property rezoned as C-10 to allow warehousing and a storage yard for their stonework countertop samples.

ANALYSIS:

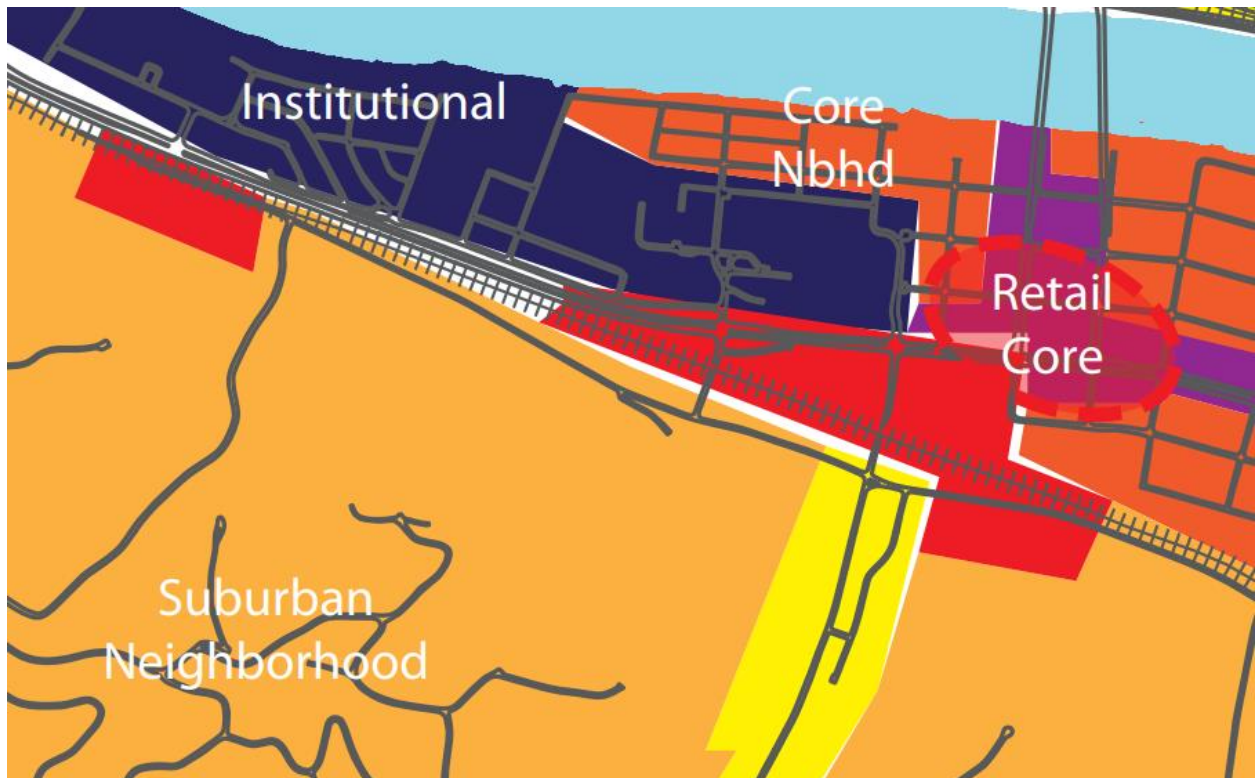
Existing Land Use and Zoning: The property is zoned C-4 Neighborhood Commercial District and is a custom countertop and cabinetry.

Surrounding Land Use and Zoning: To the North, East, and West, the facility is surrounded by many different commercial and industrial enterprises, including CAMC facilities, contracting, fabrication and other professional facilities. This row of C-4/C-10/I-2 uses exists on a pretty clear boundary along Chesterfield Avenue with a solid block of R-4/R-6 residential.

Current Zoning: The C-4 district allows for their fabrication and retail sale of custom cabinetry and countertop stonework. It would not allow outdoor storage for countertop stone samples to be displayed.

Proposed Zoning: The C-10 designation would allow for the proposed outdoor storage needed for the stonework display as well as its current uses.

Compliance with the Comprehensive Plan: The comprehensive plan's future land use map designates the property as being at the confluence of a Rural and Traditional/Core Neighborhoods with a well-established node of Convenience Commercial. The current C-4 district the parcel at subject currently resides in exists almost as a spot zoning of lower commercial utilization amongst a significantly more developed area of commercial activity in the surrounding C-10/I-2 areas. Changing the parcels zoning to C-10 would be in full compliance with the letter and spirit of the Comprehensive Plan.



Summary: This application to rezone the property conforms to the Comprehensive Plan and brings the property into line with the current level of zoning development in the area.

RECOMMENDATION AND FINDINGS:

Staff recommends **approval** for the following reasons:

1. The rezoning is consistent with the future land use map,
2. The rezoning makes the surrounding area of Convenience Commercial more uniform in zoning, and
3. The rezoning proposes minimal additional commercial activity to the surrounding Rural and Suburban Neighborhoods.

MOTION AND VOTE: Shannon Ferrari made a motion to approve Bill No. 7975. The motion was seconded by Deanna McKinney and passed by a vote of 8-0-1. (Quintie Smith abstaining).

Street Naming: Bill No. 7974 - A Bill to name a public alley, located between the opening that begins at Mountain Rd between 1339 and 1337 Mountain Rd and terminates between 1339 and 1321 Mountain Rd., as Ivory Lane henceforth.

Paul Boddy addressed the Commission in regard to his request for the above-mentioned street naming. It would be beneficial for emergency services and delivery services in locating the residents along the subject property, on Mountain Road, off Kanawha Turnpike and Daverton Drive.

APPLICABLE CODE:

Charleston Zoning Ordinance, adopted November 21, 2005, Article 28-030

STANDARD OF REVIEW:

The Commission is to review the request for compliance with the E911 Addressing Regulations and to make a recommendation to Planning Committee. Final action is with City Council

HISTORY:

The alley in question has been an unnamed public alley since the surrounding property was developed.

ANALYSIS:

Proposed Name: Ivory Lane

Location: Mountain Road is off Kanawha Turnpike and Daverton Road near Charleston Acoustics.

Reason for the request: Name the alley for address and delivery purposes.

Required Petition: Yes, signed by all abutting property owners.

Comments from Addressing Coordinator: Proposed street name tentatively complies with the E911 Addressing System. Final approval is pending on the results of this bill's formal passing. There is another Ivory Lane with a Dunbar Zip-Code, so no fatal conflicts should arise.

RECOMMENDATION AND FINDINGS:

Staff recommends **approval** for the following reasons:

1. The required petition was duly filed on behalf of all abutting property owners to the alley; and
2. The proposed named complies with the E911 Addressing Regulations and should be approved pending it's approval by City Council.

MOTION AND VOTE: Cory Stout made a motion to approve Bill No. 7974. The motion was seconded by Quintie Smith and passed by a vote of 9-0.

4. Minutes of the September 7, 2022 MPC meeting

MOTION AND VOTE: Minutes to be amended to add members who were present. Quintie Smith made a motion to approve the minutes as amended from the September 7, 2022 meeting. The motion was seconded by Shannon Ferrari and passed by a vote of 9-0.

5. Announcements

No announcements.

6. Review of Rules of Procedure and Policy

Dan presented the Commission with the Rules of Procedure and Policy for the purpose of making sure all members of the Commission were aware of same.

On August 24, 2022, Dan attended an Ethics and Open Meetings training held by the city at the Civic Center regarding ex parte communication. Dan wanted to discuss this with the Committee to see if they wanted to adopt this and make it part of the Committee's Rules of Procedure and Policy.

Ex Parte means "one-sided". In quasi-judicial functions, (i.e., with the MPC voting on text amendments and rezonings) the meeting would be considered a hearing. It is really frowned upon having discussions with people outside the hearing on the matter that is coming before the body, especially if a member of the body is talking to the applicant and the applicant is providing information to the member that is not part of the record (packet). Your decision-making creates a record.

Aric Margolis took issue with this matter. He went on to say that names of the city committee/board members are listed as a matter of public record. The public has the right to call us and express to members whether they want the member voting for or against issues. Dan advised Aric that such conversation should take place at the hearing and anyone making contact outside of the hearing should be encouraged to attend. Members of committees /commissions /boards should not be influenced outside of the meeting. Such discussions should take place in the open at a public forum. The various committees/commissions/boards of the city need to avoid giving the appearance that decisions are being made behind the scenes ("back door politics") or that minds have already been made up.

Dan further stated that it is okay to discuss processes.

Further, group emails between enough individuals to form a quorum constitutes a meeting in a location that has not been advertised. Case in point, a developer who filed an application for rezoning and was denied, has submitted a FOIA for all the city's emails and correspondence relating to his rezoning and this rezoning.

7. Adjournment