



**Planning, Streets and Traffic Committee**

Monday, December 12, 2022, at 5:00 p.m.

City Service Center – 915 Quarrier Street – Conference Room

**AGENDA**

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

**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 No. 743-22** – A resolution for the City of Charleston to hereby adopt the updated Region 3 Hazard Mitigation Plan.

- 4. Discussion**
- 5. Approval of the Minutes of the October 24, 2022, meeting**
- 6. Adjournment**

**Bill No. 7977**

Introduced in Council

Passed by Council

**December 5, 2022**

Introduced By

**Mary Beth Hoover**

Referred To:

**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.

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91 **3. Meetings**

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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.

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

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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**

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#### **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.

**Planning, Streets, and Traffic Committee**  
**Staff Analysis**  
**December 12, 2022**

**REQUEST:** 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.

**APPLICABLE CODE:**

Section 8A-2-11 of the State Code, Section 90-36 of the City Code, Section 34-20 of the Zoning Ordinance.

**STANDARD OF REVIEW:**

The code allows the Municipal Planning Commission to prescribe rules and regulations pertaining administration, investigations, and hearings with approval by City Council.

**HISTORY:** The Commission's rules of procedure and policy were last updated in December 2016.

**ANALYSIS:**

The Commission was briefed on the City's existing standards as they pertain to ex parte communications between public officials acting in a quasi-judicial at the October 5, 2022 meeting. After discussion and clarification on the matter, it was proposed that language on the parameters of ex-parte communication derived from the Ethics and Open Meetings training provided by the City should be added to the MPC's Rules of Procedure and Policy.

The recommended change is to add the underlined section as follows:

**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.

In addition, there are numerous underlined revisions in the subsection headings in Section 2 – General Rules to correct the change in numbering created by this new language being inserted.

**RECOMMENDATION AND FINDINGS:**

Staff recommends passage of the Bill, as it brings the MPC's Rules of Procedure and Policy into compliance with the City's expressed position on the limits of Ex Parte Communications by public officials in judicial and/or quasi-judicial positions.

**Resolution No. 743-22**

**Introduced in Council**

**Passed by Council**

**December 12, 2023**

**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*.

**Planning, Streets, and Traffic Committee**  
**Staff Analysis**  
**December 12, 2022**

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

**APPLICABLE CODE:**

Federal Public Law Section 100-707, 29-31-2 of the State Code, Section 90-36 of the City Code

**STANDARD OF REVIEW:**

The code allows the Municipal Planning Commission to prescribe rules and regulations pertaining administration, investigations, and hearings with approval by City Council.

**HISTORY:** The Region 3 Hazard Mitigation Plan was last adopted by the City in the mid-2010's.

**ANALYSIS:** The development of the Hazard Mitigation Plan at issue before us now is required by both Federal and State law and is tacitly essential in the mission set forth in Chapter 42 of the Code of the City of Charleston.

FEMA requires local governments to have an adopted Hazard Mitigation that is updated at least every five years to remain eligible for federal hazard mitigation money. The purpose of the plan is to identify risks and vulnerabilities and then develop mitigation strategies to reduce losses of life, injuries, and future damages. The State and FEMA encouraged the WV Regional Councils to be the stewards of the mitigation plans to reduce the number of plans for efficiency and uniformity. Region 3 consists of Kanawha, Putnam, Boone, and Clay Counties as well as all the municipalities within.

The steering committee worked with RIC and JH Consulting to develop the plan. Meetings were held from November 15, 2021, through May 9, 2022. Public participation included public hearings in each of the four counties and online surveys. The plan was then reviewed by the state and FEMA to ensure it included all the mandatory components of a hazard mitigation plan. FEMA has concluded their review and now all counties and municipalities in the plan area must adopted the plan within one year.

The plan consists of an asset inventory that identifies critical facilities, vulnerable facilities, historic properties, and major employment facilities. Risk assessments are included for each type of hazard that affects the plan area. The assessment includes previous occurrences, the probability of future occurrences, and the extend of each hazard. Hazards covered in the plan include dam/levee failure, drought, earthquake, epidemic/pandemic, extreme temperatures, flooding, forest fires, hazardous materials, landslides, severe storms, tornados, utility interruptions, and winter storms. The hazards are then ranked using a matrix that compares frequency, response, onset, magnitude, business, human, and property. Based on the ranking system, mitigation strategies are developed for each governmental agency.

For Charleston, mitigation projects include public service announcements, education and outreach; conducting disaster exercises; demolition of repetitive loss properties due to flooding; removing trash and debris from streambeds and culverts; continue to enforce building codes, floodplain regulations, and stormwater best practices.

**RECOMMENDATION AND FINDINGS:** Staff recommends the adoption of this resolution in order to further the City's mission in protecting against and mitigating the effects of natural disaster and to maintain future funding opportunities for said mission.

**Planning, Streets and Traffic Committee**  
Monday, October 24, 2022 at 5:00 p.m.  
City Service Center – 915 Quarrier Street – Conference Room

**Members Present**

Mary Beth Hoover  
Naomi Bays  
Brady Campbell  
Becky Ceperley (via phone)

**Staff Present**

Dan Vriendt  
Matt Hartline  
Terri Allen  
Patrolman Brent Foster

**Public Attendees**

Scott Martin (Petitioner for Bill No. 7975)  
Chad Robinson

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

Mary Beth asked if Bill No. 7975 could be moved to the beginning of New Business. The committee agreed unanimously to ask Bill No. 7975 the first item under New Business.

**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.

Dan Vriendt presented the staff notes and recommendation to the committee. Dan began by directing the committee's attention to the map below. The portion of the map in pink is zoned C-10. The petitioner is doing a granite contractor's establishment, similar to Bailes Granite. C-4 prohibits outdoor storage. This is the reason the petitioner is requesting it be zoned C-10.

**STANDARD OF REVIEW:**

A rezoning is a change to the zoning map, which requires a legislative decision. Therefore, the Committee's role is to review the Planning Commission's decision and forward a recommendation to City Council for final action. The Committee 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 committee 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 Committee or City Council.

**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:**

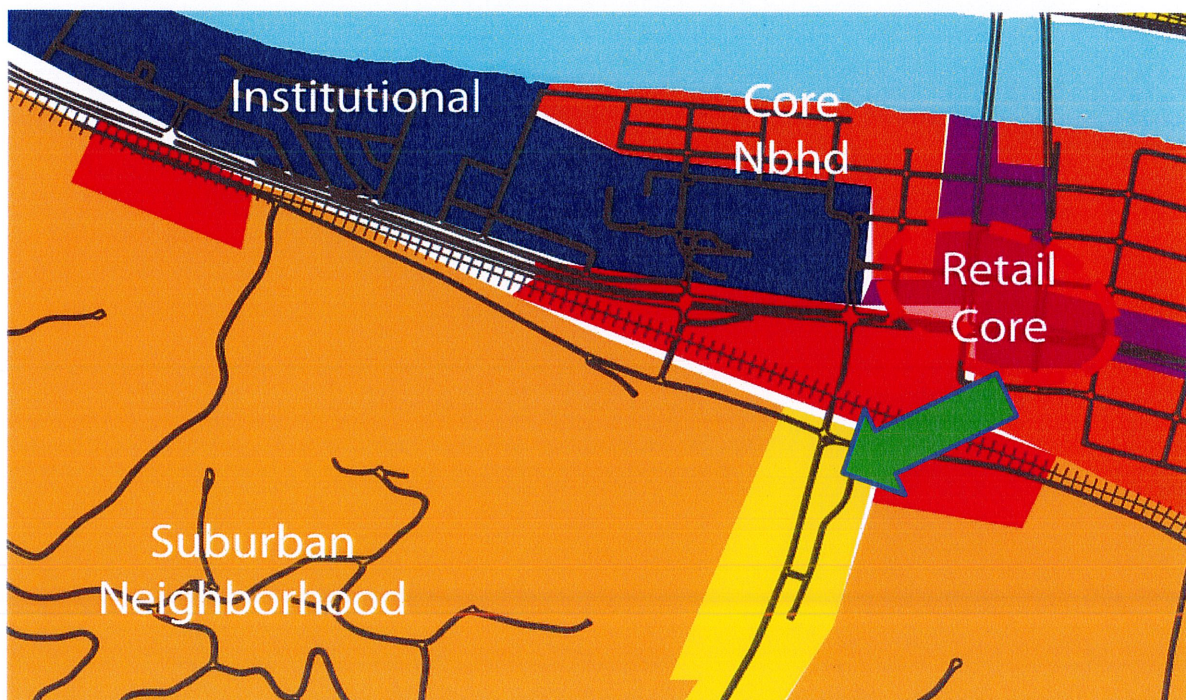
Existing Land Use and Zoning: The property is zoned C-4 Neighborhood Commercial District and is a custom countertop and cabinetry.

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.

We have received no opposition to the request and the Planning Commission unanimously recommended approval.

## 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:** Brady Campbell made a motion to pass Bill No. 7975. Naomi Bays seconded the motion. The committee passed the motion by a unanimous vote of 4-0.

**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.

Dan Vriendt presented the staff notes and recommendation to the committee.

## STANDARD OF REVIEW:

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

## HISTORY:

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

## ANALYSIS:

Proposed Name: Ivory Lane

Location: Off of Wood Road, directly north of Edgewood Country Club and Cato Park.

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.

We have received no opposition to the request and the Planning Commission unanimously recommended approval.

## RECOMMENDATION AND FINDINGS:

Staff recommends **approval as a committee substitute** 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 name complies with the E911 Addressing Regulations.

**Motion and Vote:** Naomi Bays made a motion to pass Bill No. 7974. Brady Campbell seconded the motion. The committee passed the motion by a unanimous vote of 4-0.

**BILL NO. 7976** - A Bill to amend and reenact ordinance 7968 to remove the handicap parking zone on the southerly side of 6<sup>th</sup> Street from a point 52 feet west of Russell Street to a point 118 feet west of Russell Street, maintain the established handicapped parking zones on the southerly side of 6<sup>th</sup> Street from Russell Street to a point 52 feet west of Russell Street, establish a handicapped parking zone on the westerly side of Russell Street from a point 88 feet south of 6<sup>th</sup> Street to a point 110 feet south of 6<sup>th</sup> Street, establish a handicapped parking zone on the southerly side of 6<sup>th</sup> Street from a point 233 feet west of Russell Street to a point 289 feet west of Russell Street, and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

A request to covert handicap parking in the 300 block of Leon Sullivan Way to bus parking and to relocate the handicap parking to Dickenson Street and Washington Street, East.

Matt Hartline addressed the committee on Bill No. 7976.

**Motion and Vote:** Naomi Bays made a motion to pass Bill No. 7974. Brady Campbell seconded the motion. The committee passed the motion by a unanimous vote of 4-0.

#### **4. Discussion**

**Handicap Parking 300 block of Leon Sullivan Way** - A request to covert handicap parking in the 300 block of Leon Sullivan Way to bus parking and to relocate the handicap parking to Dickenson Street and Washington Street, East.

Terri Allen addressed the committee on the handicap parking along the 300 block of Leon Sullivan Way. Terri recommends the two spaces closest to Lee Street on the Dickinson Street side, as probable places to reinstall handicap parking. Why it is across the street from a building that is not necessarily in use at this time, it does create accessibility to a crosswalk to other businesses that are nearby i.e., Hale Street, lower side of Dickinson Street and 900 Lee. Matt Hartline would have to be the one to determine whether or not this can be completed before spring.

If approved this matter would have to go before council because a revenue stream from the street on the Leon Sullivan side. Mary Beth agreed to sponsor this request.

Naomi Bays brought up parking on Hale Street as a matter of discussion. Terri Allen noted that parking tickets have been issued. The biggest challenges are UPS, Fedex etc. Terri said that they are working with UPS to get loading zone permits and make sure they are using loading zones.

#### **5. Approval of the Minutes of the September 26, 2022, meeting**

**Motion and Vote:** A motion was made by Naomi Bays to approve the minutes of the September 26, 2022 meeting, seconded by Brady Campbell and unanimously passed by a vote of 4-0.

**6. Adjournment**