



The Lowcountry's Hometown

PO Box 700 | Moncks Corner, SC 29461 | 843.719.7900 | monckscornersc.gov

PLANNING COMMISSION

Minutes of Meeting
September 18, 2017 • 5:30 p.m.

The Moncks Corner Planning Commission met in special session on September 18, 2017 at 5:30 p.m. The meeting was open to the public and took place in the Town Council Chambers, Municipal Building, 118 Carolina Avenue, Moncks Corner, South Carolina.

A. Call to Order

The meeting was called to order at 5:30 p.m.

B. Roll Call

Commission Members:

Mattie Gethers

Chris Griffin

Roscoe Haynes

Robin McGhee-Frazier, Chair

Tobie Mixon

Connor Salisbury

Staff:

Douglas Polen, Community Dev. Director

Additional Public Officials

Charlotte Cruppenink

C. Adoption of August 28, 2017 Minutes

Board failed to address this item. Minutes will be adopted at next Commission meeting

D. New Business

1. Tree Removal Appeal - Shelly Lane, TMS # 142-06-02-024

Mr. Polen made his presentation, going over the general details of the case and the Town's position that this project is a development subject to development tree-removal law, and further stating that the applicant contends that this is a timber harvesting operation under the State Right to Forestry Act, and therefore not subject to Town ordinance.

Mr. Griffin asked if the zone of the property matters. Mr. Polen stated that no, the rule applies to all zones.

Mr. Haynes asked for the size of the property. The property is 17 acres.

Rev. McGhee-Frazier asked if the original intent was to build housing, and how many houses. The applicant, Hugh Murchison, stated yes, 30 houses. The reverend then asked if he has changed his mind and it is now a timbering, to which the applicant said yes.

The question was asked whether a permit is required if this is a timbering activity. Mr. Polen stated that no, under State law, no permit is required for a timbering operation.

Mr. Murchison presented his side of the appeal. He stated that the plan that he has is from 2008 and that he has no up-to-date engineering plan. He found out that getting water and sewer to the property would cost over \$200,000, so he cannot afford development at this time. As such, he would like to timber the property and pursue development in a "couple of years." He stated repeatedly that he is not "clear-cutting" the property and is only cutting pines and scrub trees.

Ms. Mixon pointed out that the applicant served on the Planning Commission for a decade and yet still cut the trees after repeatedly being told to stop cutting. Mr. Murchison stated that he was being a good steward of the land and that he isn't clear cutting.

Rev. McGhee-Frazier asked what happens to the property after it is timbered. Mr. Murchison stated that he would clear the property and bring in dirt to use the property for personal use, such as dirt bikes for his family. He further stated that he has lost \$10-15,000 because he was open and honest about his intentions. The reverend then asked if this is a timber operation, will he wait 5 years to develop. The applicant said "I hope not." He further stated that he has suffered a loss and that State law says he can do the timbering.

Mr. Griffin stated that he is opposed to the 5 year moratorium on development.

Mr. Haynes if there will be homes on the property in year 3. The applicant said "That's my hope."

Ms. Mixon asked "why timber if you can't build for two years?" The applicant said that he needed the timber proceeds to help pay off the land. He went on to state that Town staff does not know how to properly measure the diameter of a tree.

Councilwoman Cruppenink stated that her interpretation of the State law may be different from the applicant's. She then read the definition of "development" from State law: "*Development* means any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest or nonagricultural use," and asked Mr. Polen for his interpretation of that definition. Mr. Polen stated that as Mr. Murchison's intention is to develop the neighborhood in a couple of years, it is the Town's position that this is development. Before Mr. Polen could continue, Mr. Murchison interrupted to repeat things that he had said previously. The Councilwoman then asked the Commission to consider - is this development or a timbering operation?

Mr. Salisbury asked how long Mr. Murchison has been looking at this project and when did he decide to turn this into a timbering operation. Mr. Murchison

gave a long answer repeating previous statements before concluding that he had decided in July to log the property.

Ms. Cruppenink said that since his position is now to wait for years to develop... and Mr. Murchison said that he would bring in dirt.

Ms. Mixon said that if he intends to not develop that he is flip-flopping. The applicant stated that it will cost \$600-700,000 to develop, so it will be a while.

Ms. Cruppenink asked for clarification from Mr. Polen - "what are the ramifications of the two choices before the Commission?" Mr. Polen stated that if this is development, as the Town contends, then he cannot cut any more trees until he has submitted and had approved a mitigation plan for the trees that have been cut, which now stands at 839" of protected trees, not counting the innumerable pine trees that were cut without permit. If these trees were cut as part of a harvesting operation, then we follow State law, which states that if there "was a willful violation of the [Town] regulations," then the Town may defer consideration of building permits, site disturbance permits, and subdivision plans for a period "not to exceed five years." The Town contends that the trees were cut in willful violation of Ordinance, so it requests the five year development moratorium. Mr. Polen also stated that the removal of stumps by definition is a development activity, so the applicant cannot remove any stumps from the property during the period of the five year moratorium.

Ms. Cruppenink asked if there is leeway on the amount of mitigation required. Mr. Polen stated that yes, the applicant can appeal the amount of mitigation calculated. However, as that is not the advertised point of the tonight's meeting, it could not be decided at this time.

Mr. Murchison expressed his frustration at the proceedings, stating again that he had cut no grand trees and that everything he had done was legal. Mr. Polen pulled up the tree survey on the screen and showed the 36" gum tree on the survey that was cut. Mr. Murchison stated that the arborist had measured that tree across the cut for the survey (the same measurement method that Mr. Murchison stated was incorrect when applied by Mr. Polen and Town Building Official Chad Kelly) and that it was actually 23" at 4.5' high. Mr. Griffin stated that he has performed surveys, and if the surveyor wasn't accurate on that tree he should not be trusted.

Mr. Salisbury asked if the applicant was interested in some type of mitigation that could be negotiated. The applicant stated that his actual cash loss has been high and that he won't pay for mitigation numbers that were "pulled out of the air." He further stated that Town Code says he can cut any pine tree under 24" DBH. (Note: Town Code states that any tree over 10" DBH requires a permit for removal; pine trees under 24" DBH need not be mitigated if cut with a permit). Mr. Salisbury went on to say that he is trying to make a compromise - would the applicant entertain a mitigation of \$10,000 instead of what the Town has calculated? Mr. Murchison flatly stated "no." Mr. Salisbury then said that the applicant wants to be a logger with a two year moratorium. Mr. Murchison stated that he would like to go back to timbering immediately and the Board could decide the length of his moratorium, preferably 2 years, at a later meeting.

Mr. Polen restated the Town's position. He discussed the Riverstone development that began annexation procedures in early 2015 and completed

them in spring of 2016. They just cut trees four months ago and are putting in roads currently. It takes years for a development that follows all rules to get to a point where trees can come down. If a developer cuts down the trees without regard to Town Code, it would not be in keeping with the law to allow that developer to follow a two-year moratorium. In effect, he would be permitted to break the law without any punishment. Mr. Polen stressed that it was not the Commission's job to "punish," but it is to uphold the law. If the law has been broken, there must be consequences. A two-year moratorium offers no consequences, as he does not have the money to develop currently and it may be year two years before he can restart the project anyway.

Chairman McGhee-Frazier called for a motion. Commissioner Haynes made a motion to have the applicant pay \$10,000 in mitigation and then allow him to continue the timbering operation. With no second, Commissioner Haynes withdrew the motion.

Councilwoman Cruppenink asked about the applicant's appeals process. Mr. Polen read the section of the Town tree ordinance, stating that he can appeal to the Town Council.

Commissioner Mixon made a motion that the applicant intended for the project to be a development and that this property does not fall under the State Right to Forestry Act, seconded by Commissioner Salisbury. Commissioners Salisbury, McGhee-Frazier, Mixon, and Gethers voted in favor, with Commissioners Haynes and Griffin against. Motion passed 4-2.

E. Planner Comments

Mr. Polen thanked the commissioners for their thoughtful deliberation of the item before them. He further explained that there will be a regularly scheduled Planning Commission meeting the following Monday, September 25th to address an annexation at Foxbank. Also, since the Board failed to address the minutes of the August meeting, the August minutes would be on the next agenda.

F. Motion to Adjourn

Motion to adjourn: motion made by Mr. Haynes, seconded by Mr. Griffin. Motion passed 6-0.

Meeting adjourned at 6:40 p.m.