

. Minutes

**PLANNING COMMISSION REGULAR MEETING
November 9, 2021 – 5:30 P.M.
Virtual Meeting**

I. COMMISSION PRE-MEETING (Agenda discussion(s))

Beginning: 5:00 PM

Location: Virtual/Electronic

Members Present: Chairman Solla-Yates, Commissioner Habbab, Commissioner Stolzenberg, Commissioner Mitchell, Commissioner Russell, Commissioner Lahendro

Members Absent: Commissioner Dowell

Staff Present: Patrick Cory, Missy Creasy, Alex Ikefuna, Jack Dawson, Lisa Robertson, Sam Sanders, Dannan O’Connell, Matt Alfele

II. COMMISSION REGULAR MEETING – Meeting called to order at 5:32 PM by the Chairman

Beginning: 5:30 PM

Location: Virtual/Electronic

Chair Solla-Yates called the meeting to order at 5:00pm and he asked if there were any questions concerning the 0 Nassau application. Commissioner Stolzenberg asked if anything was under construction and what type of construction would be needed. Commissioner Russell asked for information on the flood plain which was explained. She also asked about the ownership of neighboring properties and Mr. Alfele explained that there were multiple partners for the site and they are still working on the final status. Commissioner Russell asked if the three lots would be combined. It was noted that they would be. Commissioner Stolzenberg noted that under their use matrix, there is no allowance for three or four unrelated or density up to 21 units. Ms. Robertson explained how the uses needed to be outlined and that if something was not listed, it would be prohibited. Ms. Scro with the development team noted that they were not interested in having a limit on unrelated persons and so did not note that in the matrix. Ms. Robertson stated she would look up additional information and provide clarification in the meeting.

Commissioner Stolzenberg asked why Coleman Street did not go with additional units. Information was provided. He also asked about sign posting for the site. It was noted that was not a requirement.

For 240 Stribling Avenue, Commissioner Mitchell asked if the applicant had addressed the commission’s comments from the last meeting with provision of a more robust agreement for the sidewalk project. Ms. Robertson explained that the sidewalk project would need to be listed as a CIP project as it would show up as a debt for the City. There is no consensus at this time to have this item listed in the CIP by decision makers. Commissioner Mitchell noted that he feels he is hearing that the decision makers did not want to place this project above other priorities. Ms. Robertson clarified that there is not consensus to have this in the budget. Commissioner Stolzenberg asked why Council was not supportive. A discussion followed and Ms. Robertson clarified the potential legal and budget constraints.

A. COMMISSIONER’S REPORT

Commissioner Lahendro – The Board of Architectural Review met October 19th. We had 3 certificate of appropriateness applications approved. One of those is for a small apartment building behind Preston Court. The apartment building is on a circular street behind Preston Court. We had one deferral and 3 preliminary discussions for small, residential projects. The Tree Commission met last week (2nd of November). We had a great report from the education and advocacy committee. They're making presentations to the city elementary schools on the health benefits of trees. They're also working with the city schools to develop a curriculum study on trees. We have been coordinating with the Parks and Recreation to develop a final list of 167 trees that the city is going to plant this winter. That is less than the city goal of 200 trees a year to be planted. That goal is determined by just keeping it level with the current canopy. We are behind that. We also discussed the upcoming CIP. We are going to make recommendations/requests for budgets for both emerald ash bore treatment and for planting new trees. In the last few years, the city has combined these two things, thinking that they were equivalent. They are not equivalent. We need to save the ash trees. If we don't, they are going to become hazards. It is going to end up costing more money to take them out. We need to be planting more trees. It is essential for many reasons: the health of our residents, the environment, and the planet. We are losing our own urban forester. He has been our liaison with the Tree Commission.

Commissioner Russell – No Report

Commissioner Habbab – The Thomas Jefferson Planning Commission created the Rivanna River Bicycle/Pedestrian Advisory Committee to help the Charlottesville/Albemarle MPO develop a concept for the bridge that is going to happen between Pantops and the Woolen Mills area. They wanted a planning commissioner member to be part of that committee. I have been appointed to be on that committee. We're planning on meeting sometime in the next couple of weeks.

Commissioner Stolzenberg – I have had one meeting since we last met. It was TJPC. The main thing at that meeting was a presentation of our annual audit. The regional transit vision study has also started. The consultants on that team are now seeking input for what you and the community would like to see out of our transit system in the future. If you would like to see more frequent and reliable transit and new places, go to their website. There is a survey, map survey, and an open comment forum. There is an upcoming meeting (November 18th) that will discuss that. There is an Albemarle transit expansion study that will look at how to provide transit to 29 north by the airport to Monticello.

Commissioner Mitchell – The Parks and Recreation Board met. We are having staffing challenges. The staffing challenges are from top to bottom. We are still looking for a director. We also have a few senior leadership vacancies in Parks and Recreation. There are lots of vacancies 'where the rubber meets the road.' There is lots of work to be done to get people on board. Progress is being made. Mr. Sanders is in the middle of interviews. Another interesting piece happening there is that there is an unnamed park. This unnamed park is on 8th Street. This little park is across from the West Avon Community Center. We recommended a name for the Park. The Park name recommendation we made was Jenkins Park. It would be named after Hudson Jenkins. Mr. Jenkins was an African American blacksmith who owned the Livery Stable. The stable burned down in 1913. When it was active and people had access to it, it was frequented by people of all classes and people of all ethnicities. It was very prominent and profitable. That recommendation is being forwarded to Council. We have also been working on the Capital Improvement Budget. We have about 9 things that we would like to do. We're not going to be able to do all of them because of the school reconfiguration piece. There are four things we think are pretty key: McIntire Park,

The Parks Master Plan, Completion of the Meadowcreek Trails, and Key Recreation Center. The other group that met was LUPEC (land use and environmental planning consortium including the city, county, and UVA). That meeting focused on energy and sustainability. There was a presentation from UVA's own consultants, which is helping them develop strategies to move towards thermal energy. UVA would like to be carbon neutral by 2030. They would also like to be fossil free by 2050. The consultant is helping UVA look at existing and emerging technologies and strategies to get them to being fossil free by 2050. There was a presentation by Albemarle County relating to its large scale solar panels. To do solar panels in Albemarle County, you need a special use permit. There are two that are either underway or have either been approved. They are working their way through the Albemarle Planning Commission and eventually to the Board of Supervisors. One is near Rivanna and one is near Midway/Batesville. There is one more that is going to be presented to the Planning Commission and to the Board of Supervisors to get a third solar farm. There was another presentation by the County. It is the city and county objective to reduce by 45 percent the emissions that were happening in 2008 by 2030. Between 2008 and 2018, we are already down by 10 percent. Progress is being made. The county's sequestration of carbon is incredibly significant. The person doing the presentation walked us through what the number was. The county's sequestration rate has been significant because of their canopy/forestry. There was a presentation by the Rivanna Water and Sewage Authority about the treatment of waste water. I didn't know how much methane gas happens when you take the waste out of the water and put the clean water back into the Rivanna River.

Commissioner Dowell – I did attend the October 26th School CIP committee meeting. We did have 5 priorities. We also discussed the school projects that have been completed or are underway. One of the biggest things was the COVID mitigation equipment that has been installed in all of the schools. The Performance Art Center chiller has been replaced. Our classroom HVAC equipment has also been replaced. Venable and CATEC are set to get upgrades. We're anticipating in 2022 that the building automation upgrades will be done to Clark. The Walker rooftop air units will also be upgraded. Some of the things that have been completed include the CHS parking lot signage, the Venable Annex has been repaired, there is a small safety issue at Venable, and Burley Moran has undergone the modernization of the school. One of the other big items was Walker-Buford reconfiguration/reconstruction. Construction is anticipated to start the summer of 2023, with Buford getting the most renovations of the gym and the existing buildings. Walker will have minimal upgrades.

B. UNIVERSITY REPORT

Commissioner Palmer – I wanted to talk about Emmet Street. It is closed down right now near the intersection with Ivy. We're doing a bunch of stormwater enabling work in the road to help with our planned development of the Emmet/Ivy site. What we're doing is putting in a big box culvert to replace three smaller pipes that conveyed stormwater under the road. That is progressing well. It should be done November 12th. It will hopefully be done earlier so that is helpful for people who are annoyed by being rerouted. It is not just the stormwater pipes that will help. It will also help Emmet Street. Periodically when it rains really hard, that road does flood. It should help with flooding. I doubt it will happen as frequently if at all in the future. I took the opportunity to coordinate with RSWA (Rivanna Sewage Water Authority) on a big water line in that vicinity to help them upgrade their water line there. We had to move a gas line. That will be put back together on November 11th. The three building projects that we have on Emmet Street are Contemplative Sciences, the School of Data Science (officially broke ground), and Hotel and Conference Center (January, 2022) breaking ground.

C. CHAIR'S REPORT

Chairman Solla-Yates – No Report

D. DEPARTMENT OF NDS

Ms. Creasy – We have a work session scheduled for November 23rd. Confirming that time is going to be 5:00 PM. That is what is on the budget schedule. This is specific to the CIP. That is in preparation for December when that will come forward to you all for recommendation. That moves onto Council when they are working through their budget sessions. We have a few new members. There is going to be the opportunity to have a CIP 101 discussion. We do have a robust December agenda. Keep an eye out for materials. We will have the hearings on the CIP, the MACAA PUD, and Park Street Christian Church PUD.

E. MATTERS TO BE PRESENTED BY THE PUBLIC NOT ON THE FORMAL AGENDA

No Public Comments

F. CONSENT AGENDA

Commissioner Mitchell moved to add the Coleman Street Application to the Consent Agenda and to approve the Consent Agenda. (Commissioner Lahendro Second) – Motion passes 7-0.

1. Coleman Street Critical Slope Waiver

III. JOINT MEETING OF COMMISSION AND COUNCIL

Vice-Mayor Magill called Council to order for the Public Hearing on Nassau Street.

Beginning: 6:00 PM

Continuing: Until all public hearings are complete

Format: (i) Staff Report, (ii) Applicant, (iii) Hearing, (iv) Discussion and Motion

1. **ZM21-0002** – 0 Nassau Street – Franklin Street Land Trust III landowner, has submitted a Rezoning Application for 0 Nassau Street, identified within the City's Real Estate Tax records by Parcel Identification No. 610079600, 610079700, and a portion of 610079000 (Subject Properties). Pursuant to City Code Sec. 34-41, the purpose of the application is to change the zoning district classification of the Subject Property from R-2 (Residential Two-Family) to R-3 (Residential Multifamily Medium Density) subject to certain proffered development conditions ("Proffers") and development plan. The Proffers include: (1) **DESIGN:** The design, height, density, and other substantive characteristics of the Project shall remain essentially the same, in all material aspects, as described within the application materials submitted to the City on July 16, 2021, (2) **HEIGHT OF BUILDINGS AND STRUCTURES:** any buildings and structures located on the Property shall not exceed thirty-five (35) feet in height, and (3) **LAND USES** The Property may be used only for the following: By-right: single-family detached, single-family attached, townhome, two-family, accessory buildings, structures and uses; multifamily dwellings; residential treatment facility (1-8 residents),

utility lines; With a provisional or special use permit: home occupations and utility facilities. Any uses other than those listed above shall be prohibited. The proposed development plan indicates 2 multifamily buildings with 5 units in each building for a total of 10 units on the Subject Properties. The proposed density will be 19.4 dwelling units per acre (DUA). The Subject Property is approximately 0.51 acres with frontage on Nassau Street. The Comprehensive Land Use Map for this area calls for Low Density Residential. Information pertaining to this application may be viewed online at www.charlottesville.gov/agenda. Persons interested in this Rezoning may contact NDS Planner Matt Alfele by e-mail (alfelem@charlottesville.gov).

i. Staff Report

Matt Alfele, City Planner – Justin Shimp (Shimp Engineering, P.C.) and Nicole Scro representing the owner, Franklin Street Land Trust III, has submitted a Rezoning Application pursuant to City Code Sec. 34-41 seeking a zoning map amendment to change the zoning district classification of the above parcel of land. The application proposes to change the zoning classification of the Subject Properties from the existing R-2 (Residential Two-Family) to R-3 (Residential Multifamily) with proffers and a development plan. The Subject Properties have road frontage on Nassau Street and the Comprehensive Land Use Map for this area calls for Low Density Residential.

Key aspects of the development plan include two 5 unit multifamily buildings, 3 one bedroom, and 2 two bedrooms units in each building; not more than ten total units on the subject property, a central parking area between the two buildings, an outdoor recreation area behind the southernmost building, a greenhouse behind the recreation area, and new sidewalks on the south side of Nassau Street.

The proffers include design elements that the design height, density, and other substantive characteristics of the project shall remain the same in all material aspects as described in the application materials submitted to the city on July 16, 2021, including but not limited to the conceptual site plan dated July 10, 2021. With the height of the building structure, any structure located on the building property shall not exceed 35 feet in height. The permitted uses on the subject property will be as follows: single-family detached, single-family attached, townhome, two-family, accessory buildings, structures and uses; multifamily dwellings; residential treatment facility (1-8 residents), utility lines and with a provisional or special use permit: home occupations and utility facilities. Any uses other than those listed above shall be prohibited.

Commissioner Russell – I was asking staff about the classification of this site as in the 1 percent exceedance floor plain per city GIS and wanted to better understand what that meant and how the building engineers review site plans and building permits with that layer.

Mr. Alfele – There is a floodway, the 1 percent flood plain, and the 0.2 percent flood plain. You're not allowed to build in the floodway. You can build in the flood plain provided you go through a process to receive a permit.

Commissioner Mitchell – A deeper understanding of that would be key to our ability to approve. If there is nobody from the city online, maybe we can defer to the applicant to talk about it.

Chairman Solla-Yates – We received some emails today from the public about this project. Can you summarize what those emails were saying?

Mr. Alfele – During this process, we have had limited interaction from the public reaching out to us. The applicant held their required community meeting. We did not have anybody from the public attend that meeting. Today, we did receive quite a few emails from the public. They mainly speak to the low density characteristics of this neighborhood. This part of the Comprehensive Plan calls for low density use. The other main points have been concerned about traffic on Nassau Street and the applicant getting the most density out of the site and the site might not be appropriate for such a dense development.

ii. Applicant Presentation

Nicole Scro, Applicant – The property is located along Nassau Street. It is the property in between the Habitat units. This (right side) is the Habitat and Community Land Trust. This is where they have two duplexes. On the opposite side, there are two duplexes being built by Justin Shimp. They're under construction. Those duplexes are under construction by right. The site plan that was approved for this property includes this entire area, the Habitat, the Land Trust, the by right duplexes, and had envisioned duplexes by right in this site area. That site plan is effective. There is a land disturbance permit there. There is the ability and the legality to disturb that land and has been disturbed for some fill. There is no building permit but a land disturbance permit.

Next Slide

This is the zoning map. This is R-2 along this street. There is a highway in pink. There is a by right 28 unit apartment complex that has been approved in a preliminary site plan.

Next Slide

Here is the Land Trust, Habitat, single family, and the two duplexes built by the Justin Shimp. This is the rendering of that 28 unit apartment complex.

Next Slide

This site was designed to mirror what can be done by right. This full-length driveway can be done by right. The disturbance area was approved. The floodplain fill has been approved. All of those issues have been approved. It is really a matter of whether we can allow that box of buildable area to have 5 units in it or 2 units. The question before you is not the amount of disturbance or buildable area. It is about how many people/units can be in that area.

Next Slide

This is an aerial site plan. It is R-3, which requires some pretty 'hefty' amenities/requirements. This is our little recreation area. We have a greenhouse. You can see (in blue) where the floodplain is. That is 0.2 percent. I think that Commissioner Russell mentioned that the county was different. The county doesn't allow disturbance in the floodway. The county allows disturbance in the floodplain by special use permit. It is allowed by right in the city. There is still a permit process. There are still engineers reviewing it. It is

a similar review. It is a special use permit in the county and by right here for the floodplain. That is 0.2 percent.

Our thought process here was, in building the duplexes, with the cost of construction rising, the rent to cover those costs, it would hit around \$2100, which is about market rate for a 3 bedroom unit. These are fairly large units. If we are able to have the same or similar footprint, we can fit in 5 units and accommodate more people at lower rents. This is designed to be a very simple construction to accommodate the lower end of the market rate. Instead of continuing to build by right and hitting those higher rents, why don't we allow more people to live here and hit lower rents?

Commissioner Mitchell – Based on what I have heard from staff and others, the floodplain is not a real issue. Is that your understanding?

Ms. Scro – This can be confusing. This came up with the project we had before. If you look online, the map you see will cover more of the property. That is because FEMA doesn't update its maps when there is a map adjustment. It just references it in text. The floodplain is based on the elevation. To draw the correct floodplain, you need to look at the text and look at that amendment and look up the elevation for this area. That is this blue line that runs through the back of the property. People are concerned that more of this property is in the floodplain. That is understandable. It is just along this area. If you look towards Habitat, they have a driveway going between their units. They have a turn off of that driveway. That turn off area is permeable pavers. There actually will be a certain number of permeable pavers that will likely be required for this back area. That is because this site plan was approved under previous regulations, which were more stringent. The disturbance that happens can't be covered by outside nutrient credits. This actually has to be mitigation on the property. If we were to adjust the site plan approved for land that has already been disturbed, we have to abide by those previous regulations. Any disturbance that happens on this property can't be mitigated by nutrient credits. It actually has to happen on the property. These will be permeable pavers back there.

Commissioner Dowell – My original thought was that this wasn't going to be harmonious with the neighborhood. I am having second thoughts about that. I did want you to touch on this. I know citizens have concerns about that.

Ms. Scro – For R-3, I know that it can seem a step up in density, scale, and massing. We have a proffer that limits the height to 35 feet, rather than 45 feet. The proffer also references the concept plan. It is supposed to be a very similar building to what is up there right now. The building is going to be very similar to these neighboring units and slightly wider. It is a matter of putting more people in a very similar buildable footprint.

Commissioner Habbab – I was wondering about the playground. I know you are building other duplexes next door. Is that something that is limited to this property? Will other people be able to use that space? Have you considered permeable parking surfaces?

Ms. Scro – Yes to the first questions. This property is owned by Justin Shimp. It will function together and is a little over-parked. We're hoping that some of the parking can be utilized as well by the other units. We're hoping for it to function together. I don't know if the amenity requirements are restricted only to those residences. The playground area has to be restricted to just these 10 units. There is Rives

Park directly across the street. I think the permeable pavers are great, especially for this floodplain area. Mr. Shimp stated that sometimes disturbed soil doesn't percolate as well. It is not as helpful as it could be in other areas. It still has an impact. It is going to be some sort of mitigation; either bioswale or permeable pavers will be required. We're leaning towards permeable pavers.

Commissioner Habbab – One of the emails we received touched on the pedestrian/bicycle safety aspect. Can you speak to that? How does the project contribute to the bicycle shared use road that is right there? Are there going to be bike racks? How does this development contribute to that?

Ms. Scro – Bike racks are great. It is one bike space per two dwelling units that is required. We want to put in as many bike racks as we can. That is five bike racks that are required. I know it is designated as a shared road The Streets That Work. We had quite a bit of parking back there. That also helps alleviate some of the street parking, which does help with some bicycle and pedestrian use. We are extending the sidewalk that connects from Habitat to the by right duplexes. That whole strip of Nassau will now have sidewalks up to the single family detached. When you improve sidewalks, you have to make sure that it is ADA compliant. With other projects, they have said that when you spill out into the roadway, you have to allow room for them to go. It is at the discretion of the site plan area.

Jack Dawson, City Engineer – I am familiar with all of the developments around there. I would have to defer to the traffic engineer how that applies to by right. Generally, they have to improve the frontage with the sidewalk. It depends on where the ramps would go. You can't build a ramp to nowhere. We would have to look at what ramps are existing across the street, how that would work. It is an intersection. If this was a new street, there would have to be an implied crossing at every intersection. I don't know how this applies in this situation.

Mr. Alfele – This is the rezoning. There is no site plan with this. They would have to adhere to all site plan regulations should they submit a site plan.

Commissioner Russell – At the end of your parking lot, it looks like it continues on as if a road would. Is that just an area for cars to back out? Is that the idea that one day it would extend in some capacity?

Ms. Scro – I don't think it would be extended. It would need to be approved as a street. It is a driveway right now. It can't be extended without more approval. These actually might be crossed off for turnaround areas. There might not be as much parking in here as it is shown. I think we have to look at the design for that. This can also be extended for a better turnaround rather than removing parking spaces. We have 4 or 5 more spaces than we need

Commissioner Russell – Can you show me where you have a retaining wall at the northern corner? There is a retaining wall with a maximum height of 8 feet. What is the elevation difference between that point and the house next door?

Ms. Scro – There is this swale. There is stormwater that comes out right here. There is stormwater moving through here. There is a bit of dip down and then goes back up. How much difference there is, is something I don't know.

Commissioner Russell – I am just trying to understand if this is a 35 foot capped height structure. It is towering over its neighbor. I was there today. It seems like the stream is relatively flat.

Ms. Scro – It drops off in the back. From the street, these won't be above the street. There is actually some fill there that has some growth on it. They will sit on top of that fill, which is about at street level. This is the max height. It is not going to be 8 feet across the whole portion.

Commissioner Stolzenberg – The topo line that goes through the duplex next door is at 320. The top of the retaining wall is 324.

Mr. Dawson – I believe that 320 is an existing contour. The finished floor was 328 for the existing as labeled. What they have is 327.5. They are about the same. The max is an 8 foot wall, which holds the building up from the stream. None of this is a rezoning. All of this gets worked out later.

Commissioner Stolzenberg – With the playground, if it is allowed and it doesn't have to be totally private, I would encourage you to potentially make it available to not just the people in your existing development, but also the people in the land trust and Habitat units if possible.

With the crosswalk situation, recognizing that this is something that gets worked out in the site plan review, we did hear many comments complaining about people speeding down this street. If there is anything we can do with traffic calming there, I was going to ask if that is feasible.

With the duplex next door, is that for sale or for rent?

Ms. Scro – For rent.

Commissioner Stolzenberg – What are the rents on those?

Ms. Scro – About \$2100. They're not finished yet.

Commissioner Stolzenberg – Those are 3 bedroom units?

Ms. Scro – That's correct.

Commissioner Stolzenberg – What do you see as the probable market rent for these one and two bedroom units?

Ms. Scro – Probably a little less than \$1300. Those will probably be around the 125 FMR or lower. We would be thrilled with that. These are that kind of workforce housing; between 70 and 100 AMI. They are 500 square feet for the one bedroom units.

Commissioner Stolzenberg – It looks like you're going down from 90 percent AMI for those 3 bedroom units to 70 percent AMI with the 2 bedroom units.

I want to be clear on the floodplain. You mentioned that there was a map revision. There seems to be two things going on here. There is broad, area-wide map revision after the Woolen Mills dam was removed,

which lowered the floodplain elevation. You are saying that the new flood elevation is 324 feet. Separately, you are going to fill in the site so that blue line on this site plan is at 324 feet. Is that correct?

Ms. Scro – That’s correct. Justin Shimp has the legality/ability to put fill in that site.

Commissioner Stolzenberg – With that greenhouse, what are your plans for that? Is that just going to be a gardening space for residents on site?

Mr. Scro – The intention was for that to be for the residents to grow what they want to grow; not for retail.

Councilor Snook – How many square feet per building are you going to have floor area?

Ms. Scro – 1680 square feet.

Councilor Snook – Is that the footprint? Is that after you add up all of the floors?

Ms. Scro – That is the footprint. There are two floors.

Councilor Snook – We’re talking about 3200 square feet. You would be allowed (by right) to have six units on those three parcels. You’re proposing 10 units. You’re looking at roughly 600 to 700 square feet. They’re not huge apartments. You have 5 of them in each of two buildings. You could have 6 units of substantially greater size per unit. In terms of intensity of the use of those 3 lots, I think we have to keep in mind that the amount of density that we’re adding here.

Commissioner Dowell – What is considered affordable? What is the average 1 or 2 bedroom units going for in Charlottesville? Looking at the actual footprint of the project, it doesn’t seem that bad. When you start talking square footage to dollar amount, \$1300 for a small one bedroom apartment does seem a little expensive.

Commissioner Stolzenberg – I don’t have everything that is the average on the market prices.

Commissioner Mitchell – I don’t think the objective of this is to improve the affordable housing stock. It is just to increase the housing stock.

Commissioner Dowell – I understand that. My objective was to always consider actual affordable housing whether it is that objective or not. I think that is something our city has been clear that this is something we need. I think it will be superficial for me not to ask the question.

iii. Public Hearing

Kimber Hawkey – We went through this in 2018. We are dismayed to see the continuous push to develop an inappropriate area, especially on the Nassau floodplain. I know there is this ‘back-and-forth’ on percentages. The reality is that building on the floodplain is bad planning practice. My understanding is that this project would not be allowed in the county. Perhaps Charlottesville should adopt their recent thinking. Commissioner Mitchell pointed out something interesting about the sequestration of carbon.

This is an important topic. It is trees that take carbon out of the atmosphere. We can use the earth to pull all of that carbon out of the air. The best thing to do in this area would be to plant pine trees. Those pine trees would not only pull out the carbon, it would also absorb a lot of the water in that area. I also want to address the racial and economic class injustice issues related to climate change and where housing is provided. This is a problematic area. It is very wet. This could perhaps be mitigated. I am not convinced of that. People of color and low income brackets are pushed into these problematic housing areas, who will suffer when the flooding occurs. There will be flooding. It is a matter of time. When you build, you push that water elsewhere. I am also concerned about the node of no direct interaction with the neighborhood as pointed out in the packet. I would ask that you respect the previous denial of this type of plan and vote 'no' to increasing the density on the floodplain.

Jason Halbert – I was with others who led the charge to remove the Woolen Mills Dam in 2007. The historical floodway was changed. We provided the hydrology studies to the city and others to help change the themed maps. It is still possible to flood there because it is down by the river. The removal of the dam will help mitigate some of that. The 1997 flood with hurricane Fran flooded this site. If you build it up a little bit and with the mitigation with the dam removal, you should be 'good to go.' We need the housing.

iv. Commission Discussion and Motions

Commissioner Stolzenberg – I know that when you build in the floodplain, you're required to have one foot of freeboard, the base level of your finished first floor is at least one foot above the base flood elevation. Since you're removing yourself from the floodplain so that the building won't be in the floodplain after the fill, would you still have some amount of free board above the floodplain when these are built?

Ms. Scro – I don't know the answer to that.

Commissioner Russell – I would like to start the conversation picking up from where Commissioner Dowell left off. This proposal is in front of us tonight. We will review it based on the existing zoning ordinance. This proposal is in what is designated as a future sensitive area. Our objectives are to limit displacement, to increase affordable housing, and limit gentrification. We're talking around this. We're talking around what the affordability is. There are some reservations and some pushback from members of the public. We can talk about what we want out of sensitive community designation in using this as an example. How would this be different in a future review? I don't know if this is helpful. It is relevant.

Commissioner Mitchell – I think that it is relevant. I think it is important we have that conversation. We ought to focus on the application in front of us. We have to resolve this application.

Commissioner Stolzenberg – It seems to me the big goals of the sensitive areas is to stop displacement so existing residents aren't getting pushed out of their homes and we're not tearing down homes to build new homes. Another goal is to help ensure or encourage any new development to not be wildly out of line with existing socio-economic conditions right now. An example would be that blue home on stilts that is a 60th percentile house in the city, which is significantly more expensive than the areas around here. To me, it seems that the by right use is going to be 3 bedroom apartments affordable to families of four that are at 94 percent of the median income. That is not totally terrible. It is affordable to people in the bottom half of the income spectrum. We have the opportunity by allowing smaller units to get it affordable to families

of three at 66 percent of area median income. At that level, it is right around the mark where you could also apply a better housing choice voucher and be able to have even lower levels. By having less expensive units affordable to people at lower incomes, it seems like a positive one and in line with what I see as our goals for denser areas.

Commissioner Mitchell – The only objection I would have had was the floodplain area. Staff has made me pretty comfortable with the questions that Ms. Russell asked and the way staff answered them.

Commissioner Habbab – By proffering the height, they have made sure that it fits into the neighborhood. The building is not in the floodplain. It is not an issue for me.

Motion – Commissioner Russell – I move to recommend approval of this application to rezone the Subject Property from R-2, to R-3, on the basis that the proposal would service the interests of the general public and good zoning practice. Second by Commissioner Mitchell. Motion passes 7-0.

Meeting was recessed for five minutes.

IV. COMMISSION ACTION ITEMS

1. 240 Stribling Avenue

Staff Report

Matt Alfele, Staff Report – On September 14, 2021 Planning Commission held a Public Hearing for the requested rezoning application. The application was seeking to rezone the Subject Property from R-1S (Single Family Small Lot) and R-2 (Residential Two-family) to PUD (Planned Unit Development) with a development plan and proffers. The applicant was also seeking a recommendation on a Critical Slope Waiver at that meeting. Both applications are needed for the proposed development.

During the Public Hearing the Planning Commission heard from sixteen (16) members of the public. Most speakers raised concerns about the safety of Stribling Avenue and how additional dwelling units on the Subject Property would be detrimental to public safety. A few speakers were in favor of the development and would like to see more affordable dwelling units in the City and felt this development would provide that. If Stribling Avenue was improved and had sheltered sidewalks, most residents in the area would be in favor, or less opposed to the development. During Planning Commission's discussion density, affordable housing, street trees, and the proposed sidewalks on Stribling were all discussion points. Most Commissioners liked the development and the affordable units it would provide, but did not feel the proposed agreement between the developer and the City was detailed enough. The Planning Commission and City Council did not have enough information to know if the City would have to cover any gaps in funding for the improvements to Stribling Avenue. There was disagreement between what the developer felt it would cost and what the City Engineer believed the estimate should be. To address this issue and some of Planning Commissions/Staff concerns, the applicant requested and was granted a deferral. In that time, the applicant made minor modifications to the application. The application before you tonight is basically the same as what you were reviewing on September 14th with the following changes.

- No changes to the critical slope.

- Within the rezoning application, the applicant updated the setback requirements. The original application called for a minimum building setback (front, side, and rear) of zero and adjacent to properties of 5 feet. The new setbacks being required are a minimum (front, side, and rear) of zero and adjacent to outside properties of 5 feet but a maximum for ten feet. This would create a build to zone within the development. The original development setback you had zero but go as far as back as you wanted. The new proposal is zero but a maximum of ten feet. These setbacks exclude any frontage on Stribling Avenue.

The applicant also updated the phasing to reflect the requirements of open space. There was no information provided in the original application. In the new application, a minimum of 1.00 acre of Open Space shall be dedicated in Phase 1. At least 20% total Open Space area shall be provided with each phase thereafter.

The Planning Commission closed their public hearing on September 14th. No new public hearings are needed tonight. The Planning Commission can continue the discussion from September 14th and make recommendations to City Council.

Commissioner Mitchell – I would like to know what progress has been made. We pushed it back because we wanted the applicant to work with Public Works to figure out a way to coordinate the sidewalks and streetscape. What has happened?

Mt. Alfele – Are you referencing that there was a discussion about trying to widen the sidewalks around the trees?

Commissioner Mitchell – There was a whole issue with the sidewalks.

Mr. Alfele – With the sidewalks directly in front of the property, the applicant did look at that. Due to where the trees are and the width of Stribling Avenue, there is no way to preserve the trees directly in front of the subject property, even with the innovative sidewalks around the trees. You're still going to lose those trees.

Jack Dawson, City Engineer – I did a presentation to Council. I provided an over/under. I said that it was over 2.8 or 2.9 with a 20 percent contingency. As I stated to Council, it is not a complete estimate. It is just an improved estimate. It is likely to be higher than that. I did that exercise. I did provide that information to Council.

Commissioner Mitchell – When will we be able to improve the infrastructure here relative to moving this development along? The objection we had was that we didn't have a way to make them work together. Has the developer and staff been able to talk through that? I do understand that we have a capital improvement backlog that needs to be addressed. When does the backlog catch up with the work that needs to be done on the infrastructure at 240 Stribling Avenue to make this development work and be safe for the residents that live there?

Mr. Dawson – I don't believe it is reflected in the current CIP. We can't do projects that aren't on the current CIP without money. We try not to initiate projects without funds. I can't speak to when that would be. I am not in the loop on the most up to date information.

Commissioner Mitchell – My objective is to remind us the counsel we got from Ms. Robertson (City Attorney) as it relates to when we get to a motion so we protect the infrastructure but move this along.

Commissioner Stolzenberg – I had a question for staff on concern #4 about the dead end service road to service the garages of the townhomes. I am trying to understand why they don't qualify as an alley. Are they too wide? Is it because they are dead end? Is there anything could have been changed in this plan to mitigate that? Is it a fundamental problem with the general conceptual layout of the site?

Mr. Alfele – Alleys have a specific meaning in our code. Alleys should connect; they should not be dead end. They function as an alley. They're not alleys as we would define them when we are looking for discretionary rezoning and trying to further along some of our goals in the Comp Plan. Staff is not trying to say that these aren't acceptable in these formations. They don't serve the purpose of backloading the homes. They're not alleys. They're shared driveways. The lots are flag lots because of that and how water needs to be provided to them. It is more of a function of that they serve a purpose but they don't serve a purpose as defined in our code.

Commissioner Stolzenberg – If they were extendable (as in adjacent property owners wanted to extend them and there was some agreement to allow them), would that make it a non-dead end alley and make it an acceptable alley?

Mr. Alfele – If they extended it in the future and until the end on a city maintained road, I don't see how they would not be "dead end alleys." Staff feels that they function for what they need to function. They're not bad in providing that rear loading. When we talk about connectivity, we are talking about connecting to other public infrastructure.

Applicant Presentation

Charlie Armstrong, Applicant – This is a rehash of the community engagement that this project has been through so far beginning in August, 2019. All of this is familiar from our last meeting, except for the deferral from the last meeting primarily to address the discrepancies about the sidewalk cost and refine how the developer and city participated in that together.

Next Slide

Changes in the plan that we made since the last meeting in September were in response to some Commission comments we heard in that meeting and some ideas we hadn't thought of. We revised the setbacks as staff mentioned earlier. That eliminates the potential utility conflict. We revised the phasing plan to clarify that open space will happen with each phase. We went a step further in saying that at least one acre of open space will happen with the first phase. We also clarified the treatment of the tree preservation areas. We made those easier to see and added specification for a native wildflower mix in areas that cannot have trees. For example, areas where there is an existing sewer line. Those areas can have a native mix of ground cover but cannot have trees. We added a few more trees in common areas. We did look into preserving each of those beech trees with our engineer, the city traffic engineer, and the city utility engineer. It is not good overall practice to do so. The roots are right on the edge of the existing pavement on a road that is not wide enough per current city standards. Though they are pretty trees, they just can't be saved with good engineering practice or with any widening of Stribling or adding a sidewalk.

We thoroughly looked into that. They're also listed as not a good street tree on the Master Tree List. I don't know the reasons for that. I assume it has something to do with the roots. We increased the amount of funding we're offering in the separate performance agreement that goes to Council, not specifically the Planning Commission for action. We increased that to the \$2.9 million total. The city engineer estimate was \$2.873 million. We feel this work can be completed for significantly less, hence our previous amount proposed. We do think it is important enough that we want to make sure that our amount is with the city engineering estimate.

With regards to the process with Public Works on this, I got an email the night of the last Planning Commission meeting from city officials to engage in discussions about this. There were immediate and substantial conversations. City engineering shared with us their estimates. We had a meeting with our engineers, the city engineers, and other officials to discuss about where those numbers came from. I am not sure we agree on the estimates. We're trying to make that disagreement estimate irrelevant with this new increased funding number proposal. We want to get those sidewalks built. We want to provide the funding so it could be put into the CIP whenever you do that. Those funds will be there. We would like for this to happen immediately. We have already done a lot of the preliminary surveying. I am sure that more will need to be done to pick up other items. We surveyed the entire corridor. We have done a preliminary layout for sidewalks and drainage. Mr. Dawson (City Engineer) has also done a preliminary layout for the city's own due diligence. There are some differences. We have a pretty good idea of what will need to happen. There are a lot of details in the engineering that will come later. Our funds will be ready for the construction to be paid for before we are allowed to apply for a land disturbance permit for the site.

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We are offering funds up front to pay for this. Our development significantly increases the value of the real estate at 240 Stribling Avenue. The taxes go up a lot. We're going from a tax of about \$9800 per year on the vacant land as it sits to an eventual tax of over \$700,000 per year. Those are the receipts to the city looking out at a 20 year horizon. The city always receives and keeps all of the tax that is shown in orange on this chart. The blue is what is allocated to pay for the sidewalks. Under this illustration (a conservative estimate of the city tax rate, inflation, and the actual value of 170 new homes), the sidewalks are paid for in just over 6 years. Every dollar after that is tax receipts to the city that is unallocated and goes into the General Fund and can be used for other priorities of the city. This gives you an idea of how that cash flow pays for the sidewalks and other future things for the city.

Next Slide

This slide is the cumulative amount of those dollars starting year zero. In 20 years, this is conservatively \$8.5 million of new tax revenue after paying for the sidewalks.

Next Slides

This is a reminder of context for the site.

Next Slide

We are pledging in the proffers about 25 units of new, affordable housing at 60 percent AMI or less with a requirement that at least 30 percent of those be rental and at least 30 percent be for sale for homeownership. The remaining 40 percent to be at our discretion (for rent and homeownership).

Commissioner Habbab – How long is the construction expected to last?

Mr. Armstrong – If you look at the first bar chart, it showed a ramp up of those real estate tax revenues. That anticipated approximately a 5 year buildout of the project. That is obviously dependent on certain market conditions. That is what we expect.

Commissioner Stolzenberg – Somebody in the pre-meeting said that you were hoping/expecting to break ground in upcoming fiscal year (July, 2022 to June, 2023). You would have to put the money available to the city by then. They have to do their planning to start on the sidewalks. In your experience, is that really the timeframe where you would be looking at actually getting everything together, to get approvals from the city (land disturbance, building permits, etc.)? When do you realistically think that you would break ground under realistic conditions? What is the status of Flint Hill? When did we approve that?

Mr. Armstrong – With Flint Hill, we are still working through approvals on the Flint Hill site plan. I don't remember when the Flint Hill PUD was approved. It was approved August, 2020. We probably still have 9 months of likely approval process to go with Flint Hill before we can break ground. There are some technical issues there that we're trying to work through.

With Stribling, it is possible to break ground in the next fiscal year. With the over/under, we could be over. That is certainly a goal of ours. We want to get these built and habitable as quickly as possible.

Commissioner Mitchell – Those charts and projections are based on current market conditions. We have no idea what the market is going to look like a year from now. As we deliberate this, I think we should 'walk back' to the advice of counsel. When we think about making a motion, tie in the approval that we make to the allocation and the CIP plans to support this.

Commissioner Russell – Have you seen the recommended conditions from staff?

Mr. Armstrong – I have seen those. We didn't see those until they were in the staff report from the last meeting. I think they are technically feasible. There might be some challenges in those. I am not sure of the benefit of some of them.

Commissioner Stolzenberg – Can you be more specific on that?

Mr. Armstrong – Some of them are very general. Super silt fence everywhere silt fence would be specified. If that type of bottom or area that receives a lot of water, I agree with that recommendation. It is something we often do anyway. If it is an area that is flat or gently sloped, things like that don't have a lot of benefit. What might be helpful and if you are willing to put in your motion, is to allow some discretion of the city engineer once we actually present a plan that shows these measures so it is not black and white that they are absolutely required, even they are not appropriate, as determined by the city engineer at the time of plan submittal.

Mr. Dawson – I understand Mr. Armstrong’s concern about where it might not be necessary. This is a big project. We have a lot of conversations here about how this is executed. It is going to be a long project. We have two inspectors in the city right now to check all of these projects. We apply enough discretion. This project has perimeter silt fence. Perimeter silt fence is generally at the bottom of slopes. I think we should stick with perimeter silt fence.

Commissioner Mitchell – I am pretty happy with supporting staff recommendations for the steep slope.

Commissioner Stolzenberg – Are you (Mr. Dawson) OK with the idea of a clause that says you can have the discretion to change these?

Mr. Dawson – There is already discretion in there. I am the one who determines what perimeter means. As someone who reviews many of these plans, it is pretty clear. For their engineer, it should be pretty good.

Commissioner Discussion and Motion

Motion – Rezoning – Commissioner Russell – Subject to sidewalk improvements on Stribling Avenue being prioritized appropriately in the city Capital Improvement Program, I move to recommend that City Council should approve ZM20-00002, on the basis that the streets proposed within the PUD Development are laid out in a manner substantially in accord with the Comprehensive Plan, and approval of the proposed PUD Development is consistent with the Comprehensive Plan and will serve the public necessity, convenience, general welfare and good zoning practice. Second by Commissioner Mitchell. Motion passes 7-0.

Commissioner Stolzenberg – I know the funding for the sidewalks is outside the scope of this. I think that is appropriate for tonight’s meeting. We are going to revisit it in two weeks when we start talking about the CIP and again next month. Those charts made clear the tradeoff is here. Beyond the incremental revenue for us to be able to fund these sidewalks that neighborhood has been asking for, there could be enough revenue to support in bondable capacity/debt service, after those are paid off, to pay one-seventh of the school reconfiguration. We’re getting a project with a good urban form that we have asked for with grids. Everything I have gleaned, it is a good project. It provides a lot of housing and a lot of affordable units. When Council looks at this, they need to think long and hard about whether it is worth making this investment that doesn’t require any funds up front.

Commissioner Mitchell – Commissioner Stolzenberg makes some very good points. Those points need to be discussed when we get into the CIP budget.

Motion – Critical Slope Waiver – Commissioner Russell – I move to recommend approval of the critical slope waiver for Tax Map and Parcel 18A025000, as requested, with the following recommended staff conditions.

1. Site Plans (VESCP Plans) should include, at a minimum, 4 stages/phases of ESC controls, the first shall be “Initial/Preliminary Controls” and outfall construction, and the second shall include the establishment of sediment traps and conveyances. The sequence shall dictate that no disturbance of the slopes can occur, other than to facilitate trap/conveyance construction, until after the establishment of the trap, conveyances and permanent outfall (until Stage/Phase III).

2. **“Super Silt Fence” (chain linked backing) shall be installed where perimeter silt fence is specified.**
 3. **Any disturbance occurring outside of conveyances to the trap, in either sequence or space, planned or unforeseen, shall be immediately stabilized with sod (for pervious areas, utilities should have other “same day stabilization”).**
 4. **The proposed trail shall be a non-erodible surface (asphalt/concrete or similar) and provisions shall be made in the stormwater management plan to ensure runoff from the trail is conveyed in a non-erosive manner, and concentrated flows shall not be discharged above slopes, or flow along the toe of slopes, on or offsite the property.**
 5. **Trees removed from areas of critical slope(s) shall be replaced within those areas, at a three-to-one ratio (“Habitat Replacement Trees”).**
 6. **The Habitat Replacement Trees shall be locally native tree species appropriate for the site conditions.**
 7. **No tree(s) planted in any area(s) that contain buildings, parking lots, sidewalks, or other built improvements shall be counted as any Habitat Replacement Tree(s).**
 8. **The specific number and species of Habitat Replacement Trees will be determined by the applicant and the City based on available space and site conditions, and the size, location and species of all Habitat Replacement trees shall be specified within the landscaping plan required by Sections §§34-861 et seq. of the Charlottesville City Code, as amended.**
- Second by Commissioner Mitchell. Motion passes 7-0.**

Meeting was adjourned at 7:40 PM.