

Planning Commission Special Meeting

August 26, 2025 5:00 PM to 7:00 PM

Hybrid Meeting – City Space Conference Room

Commissioners Present: Chairman Mitchell, Commissioner Yoder, Commissioner d’Oronzio, Commissioner Schwarz, Commissioner Roettger, Commissioner Solla-Yates, Commissioner Solla-Yates, Commissioner Stolzenberg

Staff Present: Patrick Cory, Missy Creasy, Matt Alfele, Kellie Brown, Remy Trail, John Maddux

Chairman Mitchell called the Planning Commission Special Meeting to order at 5:02 PM.

Commissioner Roettger – I wanted to make a quick statement. I spoke at the public hearing at the BAR meeting last Tuesday about something having to do with zoning adjacent to the Westhaven neighborhood. I said that it was the city’s fault. I saw that come back in an article. I think everyone at the city does an amazing job. It was more of the whole umbrella of the systems and how we maybe need to protect certain corridors and places where people need to travel. I want to apologize. I did not mean anyone at the city personally, who we are grateful to get to work there.

1. Special Exception – 1114 East High Street

Staff Presentation

Matt Alfele, Staff Report – Tonight, you are being asked to review a special exception permit located 1114 East High Street, to make a recommendation to City Council. The applicant, Mr. Mike Ball of Element Construction, is proposing to construct a small workshop behind the primary business structure that is on East High Street. This workshop will be used for cabinet fabrication and related activities in support of the design-build business. On March 11, 2025, the Planning Commission reviewed the original application, which requested relief from the build-to requirements due to the non-conforming nature of the existing structure that is on East High Street. At that time, the Planning Commission recommended approval. City Council granted the special exception on April 7, 2025.

During the development review process, it was determined that the proposed location of the workshop does not comply with the transition screening requirements outlined in Section 34-471c of the zoning ordinance. When a CX-5 zoning property abuts an R-1 zone district, a type C transition screen is required. This includes a 20-foot building setback and moderate screening.

In addition to the previously approved relief from the build-to requirements, the applicant is now requesting modifications to the transition screening standards. These include reducing the required building setback from 25 feet to 5 feet, decreasing the screening depth from 8 feet to 5 feet, and requesting exemption from the planting requirements within 5 feet. The applicant proposes to utilize the existing fence between the CX-5 and the RA properties to satisfy screening requirements. Staff recommends approval of the request, subject to the conditions outlined on page 10 of the staff report.

However, the applicant and staff would like the Planning Commission to consider one modification to condition D, which is currently stated that ‘the workshop shall not exceed a height of 14 feet, 5 inches based on refinements to the construction drawings. We recommend this be amended to allow a maximum height of 16 feet.

Commissioner Solla-Yates – With the 16 feet, is that about part D there?

Mr. Alfele – That is correct, putting in a condition going from 14.5 feet to 16 feet.

Planning Commission Discussion and Motion

Commissioner Solla-Yates – Do you have any concerns with the conditions recommended by staff?

Mike Ball, Applicant – I don't.

Commissioner Schwarz – We already looked at the front setback. We can ignore that. The neighbor seems to be Ok with this. A 16-foot blank wall is a lot.

Commissioner Stolzenberg – It seems that there are 2 things that trigger the transition requirements. There is use and size. It seems that these conditions are focused on the size, which is not what is causing the actual transition requirement to hit here. With the height limitation, I don't see that as necessary. The height is not what is triggering the transition requirement. The application took a tone of it is absurd that this requirement exists. It is not clear to me at all that a transition requirement to separate an industrial use from your low-density residential use is all that ridiculous. There are potentially real externalities associated with an industrial use. I would have questions for the applicant on what those impacts might be, for a carpentry use. I imagine there is some noise generated. The report and application were focused on that it does not make sense to have a 50-foot setback on a 50-foot lot. I agree with that. Maybe these concerns are reduced because the current neighbor is Ok with it. What are the impacts from this use here? Are these conditions properly mitigating those?

Mr. Ball – I think the absurdity was mostly coming from zoning not knowing about this requirement. Having spoke with zoning prior to buying the property, purchasing the property based on zoning's feedback, talking to zoning about it, saying 'apparently there is a 20-foot setback that I did not see. Can you clarify for me?' They said that there is no 20-foot setback here. We had to investigate it. The zoning is not well written. With the transition type on there, it is hard to follow. It brings you to a link. It brings you to another page. It brings you to a chart. If you look at it the wrong way, which is easy to do, it tells you that there is no setback. The whole thing needs to be clarified. It is very confusing. Most properties in Charlottesville seem to be non-conforming. There is a lot of work that still needs to be done. We are in a confusing state of zoning. I am seeing it a lot in building.

Commissioner Stolzenberg – Most properties are non-conforming as to build-to requirements. What do you feel that the external impacts of the use you are proposing here are? Is there going to be noise audible from the property line on the RA side because of your use? If so, what hours would they be?

Mr. Ball – Yes. There will be noise. That noise would not be any different with the 20-foot setback versus the 5-foot setback.

Commissioner Stolzenberg – It would not be any different at the property line.

Mr. Ball – With 15 feet, running a saw does not make a difference in decibels. Without a barrier, the sound is going to travel just as much in that distance. We are going to have the block wall. It is going to be well insulated. We don't have a lot of fenestration on it on purpose for this reason. We have windows out the front side. Those are the only ones out the shop side. Those are going to our parking lot. We own the building next door. We own the whole parking lot. That only affects us. Coming out the backside, I don't think there is going to be any difference. We are going through the whole major development plan for a building that is basically a large shed. It is going to have some tool use occasionally. A lot of it is going to be storage. We are going to have a few people in it a few times a month. I have had 2 guys my shop 1.5 days this week building a specialty gate. They have run a band saw for maybe 5 minutes. They have used a chop saw a few times. A lot of it is just

screwing, measuring, cutting by hand specialty cuts. That is the type of work that we are doing. We are not doing major carpentry work.

Commissioner d’Oronzio – I looked at this today. The difference in the height of the building does not come into play. The neighbor, on which one is impinging is 1119 Merriweather, which is on a steep lot. The house is down the hill. We have a 6-foot privacy fence there. I don’t think, from a window in the back of that house, that you will be able to see this building at all because of the geometry. I am not concerned about that. In this case because we have an extant privacy fence, which has been incorporated, what we need in the buffer there becomes a fuzzier question to answer. The fence is opaque. Any shrubbery is going to have a negligible sound barrier. What you are ‘glad’ for is that 6-foot fence. My inclination is that this is exactly what we have exceptions for. You look at it. This does not meet a typical transition at all.

Mr. Ball – The feedback from the neighbor is that he is glad it is not a 5-story building.

Commissioner Stolzenberg – It is not the height of the building that is triggering the transition requirement. He could build a 3-story building with no transition.

Commissioner d’Oronzio – In that case, I would be very interested to see what we are planting back there. The transition is being driven by that fence.

Motion – Commissioner Solla-Yates – I move to recommend approval of this application for a Special Exception Permit in the CX-5 Corridor Mixed Use 5 zone at 1114 E High Street to permit the construction of a studio workshop space outside of the build-to requirement.

a. The size, location, and use will be consistent with the materials submitted in application PL-25-0038 and PL-25-0041 both dated August 12th 2025.

b. Two large trees shall be provided on the subject property in accordance with Section 34-4.7 (Transition Screening). However, placement of these trees is not required between the studio workshop and the property line.

c. A minimum six (6) foot fence—existing or future—shall be provided between the studio workshop and the property line. The fence shall be maintained and kept in good repair.

d. The height shall not exceed one story.

Second by Commissioner Schwarz. Motion passes 7-0.

2. State Legislative Items Discussion

Planning Commission Discussion and Recommendations

Chairman Mitchell – Commissioners Solla-Yates and d’Oronzio have put a lot of effort into this. They have about 14 things that they would like to chat with us about. The last 6 things are old things. We have already had these in the docket before. We can go through those again. We ought to begin with spending a lot of time on items 1 through 5, which are new recommendations.

Commissioner Solla-Yates – The more recent content was inspired by the work of the last year. I hope you will recognize the origin of this. Number 1 was regarding an issue about having to submit every rezoning proposal for review by the Virginia Department of Transportation, even though they do not manage city streets. We believe that it would be helpful to have a clear exemption for cities. To make it clear, that section does not apply.

Commissioner Stolzenberg – I have some issue with the phrasing. We do not have to submit every rezoning proposal under the law as written. As you may have seen in the news, I would say a better phrasing would be

something about clarifying the requirements of 2222.1 as it pertains to comprehensive rezonings. If determined that it should be applicable to those, to direct VDOT to promulgate standards for review that make sense for comprehensive rezonings.

Commissioner d’Oronzio – At present, VDOT will not step in even if asked.

Commissioner Stolzenberg – VDOT promulgates regulations that say the standard for whether it substantially effects transportation on state-controlled highways for a city that maintains its own roads is generating more than 5,000 trips per day for lots within for proposals with the nearest lot line within 3,000 feet of a state-controlled highway measured along local roads.

What I propose is that we direct the City Attorney to craft a recommendation for the General Assembly to clarify 2222.1.

John Maddux, City Attorney – This is something, as you can imagine, is under consideration by legislative change being one of the pathways we are looking to resolve some of the issues we have had around our rezoning.

There are several paths that we can take. I have crafted some language that ultimately will be up to the City Council to decide what path they want to take, but possibly some of our other partners in this kind of effort around the state and with some of the various organizations. What I am thinking about right now is the idea to remove ‘if any locality failure to comply with this statute or failure to comply with any or partially comply with it will not serve as grounds to void a rezoning or a comprehensive rezoning or any action taken by the local government.’ Basically, it is saying that this is a directory-type of regulation or law rather than a mandatory thing. There are a couple different considerations. We are on it. With your recommendation, I would like to keep it more general if possible.

Commissioner d’Oronzio – Last year, we deferred on this item. We did not want to step in and provide any noise or attention, positively or negatively in that whole direction, while we had this ongoing matter. We did not want to ‘muddy any waters.’ I think that still applies now. If we are going to do something, you will have to ‘drive that bus,’

Commissioner Stolzenberg – Last year, we were advised by counsel to stay out of it. I think it would be appropriate for us to endorse the city attorney’s efforts.

Mr. Maddux – I appreciate the support.

Missy Creasy, Deputy Director – Are you Ok with the statement that you made to direct the City Attorney to craft a recommendation to clarify the language in 15.222221, part B?

Mr. Maddux – I understand what it means. I would say to make modifications to that statute with respect to its effect on rezonings initiated by the locality.

Ms. Creasy – ‘Direct the City Attorney to craft a recommendation to make modifications to the language of 15.222221, part B pertaining to rezonings proposed by the locality.’

There was consensus on the proposed language by Ms. Creasy.

Commissioner d’Oronzio – I recommend that to expedite development review 15.2286.3 be amended to give the governing party the power to delegate the power to approve special exceptions to the Planning Commission.

This is on the grounds that if we are going to have as arcane as it has been admitted some matters in this zoning code that the expertise that resides in the Planning Commission. City Council ought to be able to say, 'you do it,' instead of having them 'reinvent the wheel,' particularly on highly technical matters.

Commissioner Yoder – Would this basically mean that a special exception works like a BAR finding of a CoA and should we deny a special exception, they can appeal to Council?

Commissioner d'Oronzio – It would be an appellant instead of Council making the decision. Council is not going to do the dive that we do.

Commissioner Yoder – That makes sense. Do you know if Council is interested in delegating this to us?

Commissioner Stolzenberg – I can say that the Albemarle County Board of Supervisors used to be interested in delegating the slope authority to their planning commission, which led to the case of Sinclair vs Singular. It threw out all that delegation, and it was not in accord with the Dylan Rule. This would be a significant change that overturns 1.5 decades of a fair amount of stuff. I don't necessarily oppose it. I don't know if we have fully thought through the implications.

Commissioner d'Oronzio – We will leave it to Council to 'yes' or 'no.' We can litigate then.

Commissioner Solla-Yates – 'We recommend that to expedite development review that 15.2-2286.4 be amended to allow the given "hardship standard" to be replaced by guidelines approved by the local governing body to set parameters for modifications of the zoning ordinance as required. If Council wants to set a standard, they are permitted to. Everything does not have to be a hardship standard.

Commissioner d'Oronzio – This is about number 4, which is what we need clarify about what hardship and harm mean.

Commissioner Stolzenberg – I would argue that harm for standing and hardship for a variance as different concepts.

Commissioner d'Oronzio – Yes, they are. It is the same idea of how making definitional changes and being able to figure out what the guidelines are in each case.

Commissioner Solla-Yates – We recommend asking the state legislature to allow all localities the option of enacting a 1-cent sales tax. This is very similar to what we did last year.

Commissioner Stolzenberg – My comment is probably the same as last year. Council is already going to ask for this. Why is this us asking Council to do this? It is fine because they are going to do it anyway.

Chairman Mitchell – Numbers 6 thru 14 are repeats. Do we want to go through each one of those?

Commissioner Stolzenberg – Did we have the thing in 6 about the rest of TJPDC last year?

Commissioner Solla-Yates – I think that is the difference.

Commissioner Stolzenberg – I don't know that I necessarily feel the need to be asking on behalf of our partner localities. It is just authorization. They have no obligation to do anything with that authority.

Chairman Mitchell – Do we want to talk about 7 thru 14? Ms. Creasy helped me understand the state School Streets program. I did not remember what that was. Once I read what she sent, I did. Did anybody else have any?

Commissioner Stolzenberg – With 7, I have the same comment as last year. 20 percent is quite high. We don't fully understand the implications of that. I am sure that I will be outvoted on that. My other comment would be on 13. I would use the North Carolina example. North Carolina passed a bill like the one we are asking for.

Commissioner Schwarz – I looked it up last year, the last time we talked about this. It did not look like it existed in Memphis. They tried to pass it.

Commissioner Solla-Yates – It looks like it has been rescinded or changed. I thought the same issue.

Commissioner Stolzenberg – In North Carolina, they passed a bill instructing that the DOT equivalent create a committee, with the direction of creating the regulations to implement the law. They did not want to write the whole code in the law. That committee has taken a long time and is still working on it because it turns out to be non-trivial.

Commissioner d'Oronzio – It does not mean anything to be engaged.

Commissioner Schwarz – I am Ok with somebody studying this. This has a lot of implications that might be negative. The residential code is a lot more lax with egress requirements, fire rating requirements, and sprinkler requirements.

Chairman Mitchell – Council did not do anything with this last year. Why? Is it because of the confusion we are having today? Do we want to resubmit it? Do we want to modify it?

Commissioner Schwarz – I am Ok with this being in there. Again, it is the idea that somebody is going to study it. It is not going to be like a state legislator changed the code for us. Somebody set up some process to figure it out.

Commissioner Solla-Yates – I would be comfortable with changing it to study.

'We recommend studying the adjustment of the state building code to treat 6 units and below, etc.'

Chairman Mitchell – The only other one that was in question was number 7. Commissioner Stolzenberg had some concern about number 7. What was your concern with number 7?

Commissioner Stolzenberg – Requiring doubling the tree canopy requirement on parcels, even on dense urban lots, even on the Downtown Mall where you would expect the trees to be in the right of way. This is only authority to do that. That will be used in the most restrictive way.

Commissioner d'Oronzio – I apologize for this being at the last minute. I don't know if anybody got a chance to read that statute. The statute is one page. My email proposes making some revisions to 15.2-319, which is about subordinate mortgages and the subordination of mortgages. This is applicable. Let's say you have a mortgage on your house, and you get a home equity line of credit. At some point, it becomes clear that refinancing your first mortgage is since you bought your house in the last 3 years, rates have dropped. It makes sense to refinance. When you pay off a mortgage, any subordinate lien takes priority. As soon as you pay off that mortgage, your HELOC is now the primary mortgage. The problem with that is that the new mortgage company is not going to like that and permit that. In many circumstances, you must go to the bank that gave you

the HELOC and say, 'pretty please.' 'Will you allow me to refinance my house?' This opens the door for that entity to relitigate, re-underwrite you, and start making decisions about your original mortgage. It does take forever. There is no way to tell whether you are dealing with a great actor as the subordinating body or a terrible one until you realize it has taken you 3 weeks to find the right person on the phone to do it. This law was put in place to make that easier. What it said was that if your new mortgage is no more than \$5,000 greater in principal balance than at the moment you refinance and it is a lower rate and single-family residence and the deed of trust is recorded with the old notes information and originally your balance is no more than \$50,000, it will automatically happen. A few years ago, I went to the state and got them to clean up a couple of things. We pushed through jumping that to \$150,000. The changes I am proposing to make are designed to make it easier, particularly in a denser housing environment to get this automatic subordination. We would make it apply to any primary residence because it specifically says single-family residence. That has caused problems with things like accessories. If we have 4 units on a lot, we will have a lot of situations in the future of duplexes that are owner occupied. I have already seen that up-ticking in my activities. We want to include everybody. We need to adjust the amount of the principal increase from 5,000 to 10,000 because that was designed to roll in your closing cost. Move the thing to \$250,000 to \$300,000. In places like northern Virginia and Charlottesville, getting larger with larger equity pieces is common. Many people bought houses 5 years ago and got HELOC. They are never going to refinance their first mortgage. Their rates are at 2.875 percent. You will have to drag them out of there in a box. They are not selling that house or refinancing that house. In the last 2 or 3 years, you have people at 7 percent, who bought houses. If you wanted to fix your house up or put in an accessory in it with, now is the time to refinance. I am trying to modernize it and put a cast on it that this is good for people who are doing good with. It is not in our 'wheelhouse.' My colleague and I who did this 15 years ago, we will put together some language for it. We also want to put in a point about switching from an adjustable rate to a fixed rate.

Chairman Mitchell – Your objective is to make this recommendation and package it in with these?

Commissioner Stolzenberg – I can say modernize and expand to allow accessory units.

Commissioner d'Oronzio – I am going to put together proposed language to the Community's Bankers Association or Mortgage Bankers Association.

Commissioner Stolzenberg – In 2011, \$102,000 is when it was last raised. That is \$216,000 now.

Commissioner d'Oronzio – \$250,000 to \$300,000 is a good place to stop too. With most HELOC, treatment gets different at your bank with 150 or 300.

Chairman Mitchell – Are we interested in making this recommendation? Can you take Ms. Creasy through the language?

Commissioner d'Oronzio – Recommend revision § 55.1-319 to expand its applicability for primary residences and update figures and process to meet current timeframes.

Ms. Creasy – **Recommend revision § 55.1-319 to expand its applicability for primary residences and update figures and process to meet current timeframes.**

I will find out when that group is meeting. If you have for markup version, it sounds like another group might take it on.

Commissioner d'Oronzio – I will mark it up and get it to you. It is not a lot.

Adjournment

The meeting was adjourned at 5:45 PM

Public Comments

There were no public comments made during this meeting.

Charlottesville Planning Commission Chair asked Commissioners Solla-Yates and d’Oronzio to draft a memo of potential legislative items for discussion at their August 26, 2025 work session. The Commission discussed and would like to provide the following for consideration of the City Legislative Committee:

1. We recommend directing the City Attorney to craft a recommendation to make modifications to the language of 15.2-2222.1 part B pertaining to rezonings proposed by the locality.
2. We recommend that in order to expedite development review, 15.2-2286.3 be amended to give the governing body the power to delegate the power to approve special exceptions to the Planning Commission.
3. We recommend that in order to expedite development review, 15.2-2286.4 be amended to allow the given "hardship standard" to be replaced by guidelines approved by the local governing body to set parameters for modifications of the zoning ordinance as required.
4. We recommend that in order to clarify legal authority, Virginia code section 15.2-2285 part F offer clear guidance on what "harm" is to establish legal standing for appeal. Increased property values is not harm. Residential use is not harm.
5. We recommend again asking that the state legislature "...allow all localities the option of enacting a one-cent sales tax increase to provide local revenue for the construction or renovation of public-school facilities. Currently, only a few localities have been designated as "qualifying localities" under the provisions of Va. Code
 - a. §§58.1-602, 58.1-605.1, and 58.1-606.1 to raise revenue in this manner, yet the need for this additional revenue source extends beyond those few localities that have it."

<https://law.lis.virginia.gov/vacode/title58.1/chapter6/>
6. We additionally recommend that House Bill number 2012 offered January 11, 2023 by Delegate Sally Hudson amending “58.1-3221.1. Classification of land and improvements for tax purposes.” be considered again and add all other localities participating in the Thomas Jefferson Planning District Commission. This speaks to current housing and transportation plans. <https://lis.virginia.gov/cgi-bin/legp604.exe?231+ful+HB2112>
7. We recommend expanding tree requirement powers granted in “15.2-961.3. Replacement of trees during development process in localities.” to permit the requirement of twenty percent tree canopy for all uses and a greater percent in flood plains and riparian areas.

<https://law.lis.virginia.gov/vacode/title15.2/chapter9/section15.2-961.3/>
8. We support statewide permitting of Accessory Dwelling Units.
9. We support expanded state resources for land holding nonprofit organizations to provide affordable housing.
10. We support an expanded timeline and resources to purchase mobile home parks. Supporting purchase documentation should be required to be shared with tenants as they become available. We likewise recommend increasing compensation for tenants at purchase and linking that rate to inflation.
11. We support the creation of a state School Streets program and funding for design and implementation similar to Canadian and European examples.

- 12. We recommend the creation of a committee to study deed restrictions and covenants to ensure compliance with law, equity and affordable housing goals. We recommend studying regularization of terms for consistency.**
- 13. We recommend studying the adjustment of the state building code to treat six units and below as residential code, the same as single family and duplex and continue to treat buildings with seven units and above as commercial, similar to the Memphis, Tennessee example.**
- 14. We recommend creation of a study committee to review issues of safe and efficient street design as they may conflict with fire apparatus access.**
- 15. We recommend revision of § 55.1-319 to expand its applicability for primary residences and update figures and process to meet current market conditions.**