

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	February 7, 2022
Action Required:	Presentation by Staff
Presenter:	Jack Dawson, City Engineer, DPW-Eng
Staff Contacts:	Andrea Henry, Water Resources Protection Administrator, DPW-Eng James Freas, Director, Neighborhood Development Services
Title:	Approving the rezoning of land at 0 Nassau Street from R-2 (Two-Family Residential) to R-3 (Multifamily Residential) subject to proffered development conditions

Background

The proposed rezoning of 0 Nassau Street from R-2U to R-3 was considered by Council at their December 6, 2021 and December 20, 2021 meetings. In response to citizen concerns about the floodplain map as it relates to the property, Council asked staff to provide a presentation addressing the following:

1. Provide a general overview of the FEMA/floodplain process
2. Provide a more specific outline of the floodplain amendment process that was done for the area of the subject property
3. Provide staff's assessment of 'risk' to this site if project were approved at increased density.

Discussion

DPW-Engineering staff prepared the presentation providing the requested information and this information was reviewed and discussed across engineering and NDS staff. As will be described in the presentation, overall staff is most concerned about how the City, applicants and FEMA can work together on future floodplain amendment decisions as well as staff working to develop a more robust set of floodplain management policies and actions to present to Council.

Staff also discussed the specific rezoning request. Key attributes of that discussion included the idea that building in floodplains is inherently risky – wherever the legally defined floodplain line is, nature itself is inherently unpredictable and while a great deal of study and science is behind this work, there is a remaining risk. However, the proposed site for rezoning already has a legal by-right ability to accommodate six residential units and the proposed rezoning, with proffers, would allow ten units to be built in the same footprint and building scale as is currently allowed. So effectively, the proposed development that this rezoning would allow would be for ten units of a smaller size than the six currently allowed. Further, there is a demonstrated need for more

housing units in Charlottesville, particularly more affordable units. Overall, following discussions with engineering staff related to the floodplain, NDS staff's recommendation continues to be to approve the requested rezoning, recognizing both the floodplain risk versus opportunity for new homes and current legal entitlements.

Recommendation

As noted above, the NDS staff recommendation is for approval of the proposed rezoning from R-2U (Two-Family Residential, University) to R-3 (Multifamily Residential) subject to proffered development conditions.

Attachments

City Council Action Memo – 0 Nassau St Rezoning – Dec. 6, 2021
Rezoning Ordinance

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	December 6, 2021
Action Requested:	Consideration of a Rezoning Application
Presenter:	Matt Alfele, AICP, City Planner
Staff Contacts:	Matt Alfele, AICP, City Planner
Title:	0 Nassau Street. – ZM21-00002

Background:

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 Tax Map and Parcels 610079600, 610079700, and a portion of 610079000 (Subject Properties). 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 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. See Attachment A for proffered conditions

Discussion:

The Planning Commission held a virtual joint Public Hearing with City Council on November 9, 2021 on this matter. Floodplain impacts, accessibility of the playground to the community, and size of the units were all discussion points from the Planning Commission and City Council. The Commission wanted to ensure the proposed development would meet all floodplain requirements and wanted clarification on who could use the playground and greenhouse.

Alignment with City Council's Vision and Strategic Plan:

If City Council approves the rezoning request, the project could contribute to *Goal 3: A Beautiful and Sustainable Natural and Built Environment, 3.1 Engage in robust and context sensitive urban planning and implementation*, and the City Council Vision of *Quality Housing Opportunities for All*.

Community Engagement:

On September 9, 2021 the applicant held a community meeting on Zoom from 6:30pm to 7pm. No members of the public attended the meeting. The meeting was recorded and is available to the public through the developer.

On November 9, 2021 the Planning Commission held a virtual joint Public Hearing with City Council. two (2) members of the public spoke and expressed the following:

- The City should not allow development within the floodplain and should do more to protect the trees.
- The City needs more housing and this development would benefit the City.

Any emails received by staff regarding this project have been forwarded to Planning Commission and City Council.

Budgetary Impact:

This has no impact on the General Fund.

Recommendations:

The Planning Commission took the following action:

Rezoning Application (ZM21-00002)

Ms. Russell moved to recommend approval of this application to rezone the Subject Properties from R-2, to R-3, on the basis that the proposal would service the interests of the general public and good zoning practice.

Mr. Mitchell seconded the motion

- Ms. Dowell, Yes
- Mr. Lahendro, Yes
- Mr. Solla-Yates, Yes
- Mr. Stolzenberg, Yes
- Mr. Habbab, Yes
- Mr. Mitchell, Yes
- Ms. Russell, Yes

The motion passed 7 - 0 to recommend approval of the rezoning application to City Council.

Alternatives:

City Council has several alternatives:

- (1) by motion, take action to approve the attached ordinance granting the Rezoning as recommended by Planning Commission;
- (2) by motion, request changes to the attached ordinance and then approve the Rezoning;
- (3) by motion, take action to deny the Rezoning; or
- (4) by motion, defer action on the Rezoning.

Attachments:

- A. Signed Proffer Statement
- B. Rezoning Ordinance
- C. Link to the Public Hearing materials.

<https://charlottesvilleva.civicclerk.com/Web/Player.aspx?id=1286&key=-1&mod=-1&mk=-1&nov=0>

(Materials start on page 5)

Original Proffers X
Amendment

PROFFER STATEMENT

Rezoning: 0 Nassau Street
Tax Map Parcels: 610079000 (portion of), 610079700, and 610079600

Owner: Franklin Street Land Trust III, Justin M. Shimp, Trustee
912 East High Street
Charlottesville, VA 22902

Date of Proffer Signature: November 10, 2021
Subject properties to be rezoned from R-2 to R-3

Franklin Street Land Trust III is the owner (the “Owner”) of Tax Map Parcels 610079000, 610079700, and 610079600 (collectively, the “Property”), located in the City of Charlottesville, Virginia. The Property is the subject of rezoning application ZM21-00002 to allow for the development of a project known as “0 Nassau Street” (the “Project”).

Pursuant to Division 4 of the City of Charlottesville Zoning Ordinance (Chapter 34 of the City of Charlottesville Code), the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property if it is rezoned to the requested zoning district, R-3. These conditions are proffered as part of the requested rezoning and the Owner acknowledges that the conditions are reasonable. Each signatory below signing on behalf of the Owner covenant and warrant that it is authorized signatory of the Owner for this Proffer Statement.

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, including, but not limited to, the Conceptual Site Plan, dated July 10, 2021, prepared by Shimp Engineering, P.C. Except that the characteristics of the Project may subsequently be modified to comply with City zoning regulations not modified by this application, any other material change of the Project as represented within the application materials shall require a modification of this rezoning application.
2. **HEIGHT OF BUILDINGS AND STRUCTURES:** any buildings and structures located on the Property shall not exceed thirty-five (35) feet in height. (Height is to be measured in accordance with City Code Section 34-1110 in effect as of the date this ordinance, which specifies that height, when applied to a building or structure, shall refer to the

vertical distance measured perpendicularly from grade to the highest point on such building or structure.)

3. LAND USES

- a. **Permitted Uses**: the Property may be used only for the following. Any uses other than those listed below shall be prohibited:
 - i. Residential and related uses.
 1. By-right: single-family detached, single-family attached, townhome, two-family, accessory buildings, structures and uses; multifamily dwellings; residential treatment facility (1-8 residents); 1-21 dwelling units per acre (DUA).
 2. With a provision use permit: home occupations.
 - ii. Other uses.
 1. By-right: utilities;
 2. By special use permit: utility facilities.

The undersigned Owner hereby proffers that the use and development of the Property shall be in conformance with the proffers and conditions herein above. This document shall supersede all other agreements, proffers, or conditions that may be found to be in conflict. The Owner agrees that all proffers shall be binding to the Property, which means the proffers shall be transferred to all future property successors of the land.

[Signature Page Immediately Follows]

WITNESS the following duly authorized signatures and seals:

OWNER:

Franklin Street Land Trust III

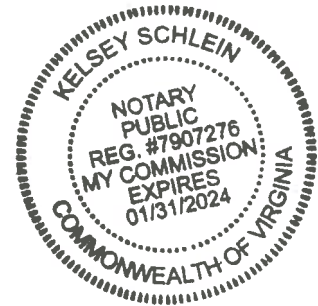
By: 
Justin M. Shimp, Trustee

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Charlottesville, to wit:

The foregoing instrument was acknowledged before me this 10th day of November, 2021
by Justin M. Shimp, Trustee of Franklin Street Land Trust III, on its behalf.

My Commission expires: 01/31/2024


Notary Public



**AN ORDINANCE
APPROVING A REZONING OF LAND FRONTING ON NASSAU STREET
FROM R-2U (TWO-FAMILY RESIDENTIAL, UNIVERSITY)
TO R-3 (MULTIFAMILY RESIDENTIAL) SUBJECT TO PROFFERED DEVELOPMENT
CONDITIONS**

WHEREAS, in order to facilitate a specific development project, Franklin Street Land Trust III (“Landowner”), by its representative, Justin Shimp, has submitted rezoning application ZM21-00002, proposing a change in the zoning classification (“Rezoning”) of certain land fronting on Nassau Street, identified within the City’s 2021 real estate tax assessment records by Real Estate Parcel Identification Nos. 610079600, 610079700, and a portion of 610079000, each currently addressed as 0 Nassau Street (collectively, the “Subject Property”), from “R-2U” to “R-3”, with said rezoning to be subject to several development conditions proffered by Landowner; and

WHEREAS, the purpose of the Rezoning is to allow a specific development project identified within the application materials for ZM21-00002, which materials describe a plan to establish multifamily residential dwellings within the Subject Property (the “Project”); and

WHEREAS, a joint public hearing on the proposed Rezoning was conducted by the Planning Commission and City Council on November 9, 2021, following notice to the public and to adjacent property owners, as required by law, and following the joint public hearing, the Planning Commission voted on November 9, 2021 to recommend that City Council should approve the Rezoning; and

WHEREAS, this City Council has considered the details of the specific Project represented within the Landowner’s application materials for ZM21-00002; and has reviewed the NDS Staff Report, public comments, the Planning Commission’s recommendation, and the Comprehensive Plan; and

WHEREAS, this Council finds and determines that the public necessity, convenience, general welfare and good zoning practice require the proposed rezoning; that both the existing zoning classification and the proposed zoning classification are reasonable; and that the proposed Rezoning is consistent with the Comprehensive Plan; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Zoning District Map Incorporated in Section 34-1 of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, be and hereby is amended and reenacted as follows:

Section 34-1. Zoning District Map. Rezoning all of the land identified within the City’s 2021 real estate assessment records by Real Estate Parcel Identification Numbers 610079600, 610079700, and a portion of 610079000 (“Subject Property”), containing, in the aggregate approximately 0.51 acres (approximately 22,215 square feet), from R-2 (Two Family Residential) to R-3 (Multifamily Residential), subject to proffered development conditions (“Proffers”) which were tendered by the Landowner in accordance with law and are hereby accepted by this City Council as set out below within this ordinance.

Approved Proffers

The use and development of the Subject Property shall be subject to and in accordance with the following development conditions voluntarily proffered by the Landowner, which conditions shall constitute zoning regulations which apply to the Subject Property in addition to the regulations otherwise provided within the City's zoning ordinance:

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 for ZM21-00002 submitted to the City on July 16, 2021, including, but not limited to, the Conceptual Site Plan, dated July 10, 2021, prepared by Shimp Engineering, P.C. Nothing within this condition shall preclude a subsequent modification of characteristics of the Project when necessary to comply with City zoning regulations other than those set out within these proffered conditions; however, any other material change of the Project as represented within the application materials shall require an amendment of this Ordinance.

2. **HEIGHT OF BUILDINGS AND STRUCTURES:** Any buildings or structures located on the Subject Property shall not exceed thirty-five (35) feet in height. Height is to be measured in accordance with City Code Section 34-1110 in effect as of the date of this Ordinance, which specifies that height, when applied to a building or structure, shall refer to the vertical distance measured perpendicularly from grade to the highest point on such building or structure.

3. **Permitted Uses:** The Subject Property may be used only for the uses listed below; any uses other than those listed below shall be prohibited:

a. Residential and related uses.

1. By-right: residential dwellings, at a density of one (1) to twenty-one (21) dwelling units per acre within area of the Subject Property, specifically: single-family detached dwellings, single-family attached dwellings, townhouses, two-family dwellings, multifamily dwellings, or residential treatment facilities (1-8 residents),
2. By right: accessory buildings, structures and uses, and
3. With a provisional use permit: home occupations.

b. Other Uses

1. By-right: utility lines;
2. By special use permit: utility facilities.

BE IT FURTHER ORDAINED THAT the City's Zoning Administrator shall update the Zoning District Map referenced in City Code §34-1, to reflect this rezoning of the Subject Property subject to the proffered development conditions.