

Minutes

PLANNING COMMISSION REGULAR DOCKET
September 11, 2018 – 5:30 P.M.
CITY COUNCIL CHAMBERS
NDS Conference Room

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

Beginning: 4:30 pm

Location: City Hall, 2nd Floor, NDS Conference Room

Members Present: Chairman Lisa Green, Commissioners Jody Lahendro, Genevieve Keller, Taneaia Dowell, Lyle Solla-Yates, Hunter Smith, Hosea Mitchell and Brian Hogg

Chairman Green called the meeting to order at 5:04 pm and provided an overview of the agenda. Commissioner Solla-Yates asked if the agenda should be reordered to address items with public comment earlier. It was agreed to keep the order the same to address public hearings in order.

Commissioner Mitchell noted that the Belleview item was likely to take some time. Clarity was provided as to how the 140 Emmet Street application would be addressed once the Entrance Corridor items was removed from the consent agenda.

Chairman Green asked questions on the ZTA requests as well as the Entrance Corridor requests. Mr. Werner provided an overview of the differences in the glass samples and clarified that the guidelines do not detail a definition of clear glass. Commissioner Lahendro noted that there are a number of considerations for the type of glass to use and that can vary based on the application. It was noted that for the Tarleton request, if the applicants request for glass variation is accepted that the circumstances for why it is acceptable be outlined to minimize future concerns on interpretation.

II. COMMISSION REGULAR MEETING

Beginning: 5:30 pm

Location: City Hall, 2nd Floor, NDS Conference

Members Present: Chairman Lisa Green, Commissioners Jody Lahendro, Genevieve Keller, Taneaia Dowell, Lyle Solla-Yates, Hunter Smith, Hosea Mitchell and Brian Hogg

A. COMMISSIONER'S REPORTS

Commissioner Lahendro: No report.

Commissioner Keller: No report. Passes out a handout from the Planning District Commission where they gave a presentation on the three-phase Rivanna River Planning Initiative. See attachment to the minutes.

Commissioner Dowell: No report.

Commissioner Solla-Yates: Attended Housing Advisory Committee meeting and provided an update: The purpose of the Planning subcommittee is meant to house matters where zoning, land use and planning intersect with housing policy to coordinate with two bodies. The Planning subcommittee is working with planning commission to update the land use map to reflect established needs, address legacy of segregation and promote equity and opportunity. Plans to eliminate land use restrictions such as minimum lot size and citywide frontage requirements as soon as possible.

Commissioner Smith: No report.

Commissioner Mitchell: Recaps the July 18 Parks & Recreation Advisory Board Meeting. The Comprehensive Plan is ready to be submitted soon and the input is a very comprehensive survey that highlights the importance of open spaces. Members (Matt and Missy) liked the powerful tool used for survey, but they currently do not have the funding resources to support a similar tool just yet. The Meadow Creek Valley Master Plan contains a ¾ mile trail through McIntire Park ending at John Warner Parkway. The bridge was set in place on Tuesday, September 4 and is close to completion.

B. UNIVERSITY REPORT

Bill Palmer: The Board of Visitors met this week on Thursday, September 13 and Friday, September 14 to discuss the Buildings and Grounds Concept site and design guidelines. The Board of Visitors will undertake concept site and design guidelines for phase 2 of Brandon Ave Upper Class Residence Hall. Phase 1 of the housing construction is in progress and includes design approvals for renovation of Alderman Library, Student Health & Wellness Center on Brandon Ave and a Softball Stadium located near Klockner Stadium practice field. UVA Architect, Alice Raucher, will discuss athletics master plan and Fontaine Research Master Plan. The Board is working on the first UVA transportation and parking plan in 10 years to combat growing parking issues. Focus groups with UVA students and local city and county residents took place during the week of September 3. www.UVA-Transportation.com is available to give feedback and make comments until it closes on Friday, September 14. UVA President Ryan formed a commission to formulate the best uses for the Ivy Corridor. The City is helping coordinate The Smart Scale Project on Emmett Street – An outreach meeting with students will be conducted to gain feedback.

C. CHAIR'S REPORT

Lisa Green: Did not attend any meetings this month. The annual meeting is tonight; notes a report from nomination committee and elections to come. Genevieve Keller served on the planning commission for 10 years and will be retiring from service tonight. Notes that she once sat in the audience and was taken aback by Commissioner Keller and enjoyed learning and being mentored by the person who made her want to take a stand and have a voice in having a better city.

Commissioner Lahendro: Nominating committee: slate of officers, Chairman Lisa Green, Vice-Chairman Hosea Mitchell.

Commissioner Lahendro moves to accept Chairman Lisa Green, Vice-Chairman Hosea Mitchell; Seconded Commissioner Dowell, motion approved 7-0.

D. DEPARTMENT OF NDS

Missy Creasy: Reported Council will appoint Commissioner Keller's replacement and Council has invited member of PLACE to speak at the next Commission meeting on September 25 about community engagement chapter for the Comprehensive Plan. The meeting scheduled for October 2 to continue to work on the Comprehensive Plan remains on target to get materials to them by December 2018. A survey was sent out to the public today and will be available until October 4 to gather data from those in the community to help move the Comprehensive Plan forward. Additional outreach is planned to spread the survey even further. The link to the survey is on the City of Charlottesville's website under the Comprehensive Plan section. Suggests keeping an eye out for continued work sessions on the Comprehensive Plan, the next being September 25th and then again on October 2nd, as well as the regular meeting on October 9th.

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

Gallery Court Hotel SUP

Liz Christian: Represents roughly 30 households directly adjacent to the proposed development in the wooded area between Azalea Drive and Monte Vista Avenue in the Fry Springs neighborhood. The group was formed earlier this year to further understand the process as it relates to the proposed project and notes that a primary focus of the group was to scrutinize the assertion by the developer that this proposal would qualify as a boundary line adjustment. A member of this group conducted his own analysis of the code and concluded that it does not qualify for a boundary line adjustment, and he shared his findings and supporting analysis with the City Attorney. Out of concern that he may have missed something and to allow for a broader analysis, the group also retained an experienced and reputable development attorney based in Charlottesville to allow for a broader analysis, which also concluded that it may not be reviewed as a boundary line adjustment exception. A copy of his letter containing his assertion and support was provided to the Commissioners and City Attorney's office. The group also shared that they have many other broad and specific concerns related to this proposal that can be discussed with the Commission at the appropriate time. The group wishes to share that they are a reasonable group that shares the Commission's goals of responsible and sustainable development, yet reiterates that the proposed project does not meet this standard. The most recent round of review by city staff yielded 14 pages of required changes to conform to code. Lastly, the group would like to recognize the diligent efforts of city staff for their careful consideration of the proposal.

Sean Tubbs: Represents Piedmont Environmental Council and urges the planning commission to support staff in their interpretation that the application for Azalea Cottages is a major subdivision and not a boundary line adjustment. While the subdivision ordinance would allow for a boundary line adjustment, a reading of the rest of the ordinance indicates that the major subdivision process would ensure a higher level of scrutiny. The section of the city's subdivision ordinance that deals with boundary line adjustments specifically states that "the action shall not involve the relocation or alteration of streets, alleys, easement for public passage, or other public areas." In this case, the project for which the adjustment has been requested appears to depend on such a relocation in order to make it function. The plans appear to depict a future street where the existing platted alleyway is located, transforming it into the future Belleview Street. The Planning Commission should have the ability to review this both to provide their input, as well as to bring this process into the light of transparency. States that they are not opposed to the development, but the land use process must unfold in a way that provides mechanisms for the concerns of neighbors and other stakeholders to be heard. Also reiterates that the development needs to occur in such a way that respects the topography and to ensure that downstream water quality is not compromised.

Ann Bennor: Resides between the proposed Bell View development and Azalea Park, which has a downhill stream that goes through backyard. Shares concerns that the stream is an important piece of her property and that if water processing isn't handled properly, the stream will be affected, as well as the wetlands at the bottom of the hill in Azalea Park.

Susan Gwen: Represents Fry Springs Neighborhood Association Board (FSNA). Shares concerns about the proposed development, reinforced by recent experience with ongoing development activities in their neighborhood. Specifically, the concerns are: a) the new development setbacks would not be sufficient to allow cars to park in driveways without blocking sidewalks, b) the lots are not wide enough to allow for sufficient on-street parking for the anticipated number of residents and their visitors, c) the runoff from the increased impervious surface would have a negative impact on Azalea Park, d) the risk of significant failure of the proposed HOA-maintained sewer pumping station, which would be located directly upstream from the Azalea Park wetland, and e) the anticipated number of new residents might exacerbate the traffic impacts on the already dangerous Azalea Drive and Jefferson Park Avenue intersection. FSNA welcomes appropriately designed infill and the new neighbors that it brings, and respects the right of property owners to pursue all legal activity on their property. FSNA also believes the proposed Bellevue development has raised many concerns and that the project would be better taken into consideration as a major subdivision.

F. CONSENT AGENDA

(Items removed from the consent agenda will be considered at the end of the regular agenda)

1. Minutes – June 12, 2018 – Pre-meeting and Regular meeting
2. Minutes – July 10, 2018 – Pre-meeting and Regular meeting
3. Entrance Corridor SUP Recommendation – 140 Emmet

Commissioner Mitchell: Motion to remove the Entrance Corridor SUP recommendation – 140 Emmet from the consent agenda and approve the remaining consent agenda items with minor corrections. Seconded by Commissioner Solla-Yates. Motion approved 7-0.

III. JOINT MEETING OF COMMISSION/COUNCIL

Beginning: 6:00 pm

Continuing: until all public hearings are completed

Format: (i) Staff Report, (ii) Applicant, (iii) Hearing

1. SP18-00007 – Gallery Court Hotel SUP Request

Vipul Patel of Incaam Hotels, LLC, has submitted an application seeking approval of a Special Use Permit (SUP) for the property located at 140 Emmet St N. The property is further identified on City Real Property Tax Map 8 as Parcel 4 ("Subject Property"). The Subject Property is zoned URB, EC (Urban Corridor Mixed Use District, with Entrance Corridor Overlay). The owner is seeking to redevelop the property as a hotel to replace an existing hotel that was lost by casualty (fire) on May 4, 2017. The proposed use ("hotels/motels") is allowed by-right within the URB zoning district classification. However, an SUP is required for the project because the proposed building height (seven (7) stories, up to 80 feet) exceeds the 60-foot maximum building height allowed in the URB District. The site is approximately 0.585 acre or 25,482.6 square feet.

The commission is going to review the entrance corridor's special use permit recommendation and the special use permit at the same time.

SUP Staff Report - Heather Newmyer: Reiterates that the SUP is regarding the additional height only, as proposal meets all other requirements. Property falls within entrance corridor, so if SUP is approved, property would eventually be given a certificate of appropriateness. A report of code section 34-157 was provided, which provides states analysis of each topic. Topics include whether there is an impact to the surrounding area with the increased height, whether the character in scale is respectful to the neighborhood and university, the massing in scale, the pedestrian environment, street activation and rooftop lighting and business hours. The property falls in a unique location, bordering city and university line and the redevelopment would play a larger role in the redevelopment of the area, as it is an entrance corridor. The Comprehensive Plan has identified the property as public or semi-public. The project has included a street café in response to planning commission's requests, which provides street activation, and includes pedestrian improvements that comply with Streets That Work and would not prohibit Emmett Streetscape project. Regarding concerns with noise and lighting – rooftop bar hours are 4pm-12am, but Planning Commission reserves the right to add a condition to this, as well as creating stringent lighting regulations. The proposed building would be an "L" shape with the highest portions at the Emmett/Ivy intersection.

Visibility Analysis – Bob Brown, GIS Analyst: The viewshed analysis identifies which observed points are visible from each surface location. 140 Emmett Street North has a ground elevation from 494.0-501.3. A ground elevation of 502" was assumed for the analysis. The same analysis was done twice, once with 140 Emmett assumed to be 562" for the 60 foot By-Right height, and for the 582" extended height. Out of the 251 parcels, only 18 were above a 1% would see an increase in visibility for the extended height proposal, the majority being commercial properties on the western half of Emmett Street.

EC Staff Report - Jeff Werner: States that the EC Guidelines do express concern for increased height relative to its impact on nearby low density, residential areas. However, immediately adjacent to this site (within 500 feet) and thus impacted by its height and massing are:

East: Carr's Hill Athletic Fields and Carr's Hill

North: The elevated railroad bed; north of the railroad bed is the parking lot for the Lambeth Fields dorms

South: Open space to the corner of Emmet Street and University Avenue

West: On Emmet Street the streetscape/UVA buildings are TBD; beyond is the Emmet/Ivy Parking Garage. The distance closest to the low-density residential parcels is approximately 500 feet (Lewis Mountain Neighborhood). The required site plan review will address pedestrian and vehicular circulation issues, and the ERB's design review will evaluate and address visually important elements, including the architecture, lighting, and landscape plan. In conclusion, design planner recommends approval. Through the SUP process more rigid standards may be set if deemed necessary by the city.

COMMISSIONER QUESTIONS

Commissioner Mitchell: Asks to clarify what happens after the bridge after you move North down Emmet Street.

Mr. Werner: States that there is a section with administrative buildings on the east side. Reiterates that the request has merit, though the Commission must be mindful of other potential requests in the same corridor.

Commissioner Lahendro: Asks how the proposed Streets That Work, planting beds and sidewalks compare to what is recommended for this type of street.

Ms. Newmyer: The applicant is meeting the maximum width for the proposed sidewalk with the buffer, as well as meeting the highest requirement of seven feet, with four foot curbside buffers. The proposed curbside buffer has a condition to include something to show they will provide adequate soil volume for a large tree. It is recommended that it can be six feet, though four feet is the minimum requirement.

Commissioner Lahendro: Asks how the seven foot width sidewalk compares with the existing and future sidewalks coming into this property from both sides.

Ms. Newmyer: The existing sidewalks are between four and a half and five feet, and the future Emmet streetscape sidewalks are intended to be possibly ten feet with a six foot buffer.

Commissioner Sola-Yates: How practical and effective is the vertical green screen to mitigate the height change?

Ms. Newmyer: Finds the green screen to be practical and adds an aesthetic, although unsure how effective it would be at mitigating the height change.

Commissioner Mitchell: Requests further explanation of the water quality issues.

Ms. Newmyer: Said it benefits to have a treatment on site that still abides by the law. Given that they are so close to the creek, it would be better to have something on site. If approval is recommended, they want to ensure they have one of the best management practices that DEQ provides instead of simply purchasing credits that do not provide a local benefit to the community.

Applicant – Vipul Patel of Incaam Hotels, LLC: Represents the Gallery Court Hotel. Begins by providing a brief history, citing that his parents met the owners of the University Lodge Motel in 1981, which led them to acquire the establishment. On May 4, 2017, Excel Inn & Suites was shattered. Notes their support to many non-profit organizations, including SPICMACAY at UVA, Indian Association of Charlottesville and the American Cancer Society, and hopes Charlottesville's 3.3 million overnight guests can benefit by having a brand-new upscale option that pays tribute to Charlottesville's celebrated culture and history when visiting. Also notes that the valuable guidance that has been provided from the March 14th workshop session has been incorporated into the project.

Neil Bot, Architect: Notes he has been designing buildings for 20 years in the area and is sensitive to the architecture of Charlottesville. The design goal of the hotel was to pay homage to the original architecture by using traditional materials.

Speaker for applicant team: The public wanted to see a more expanded study to understand the topography better, which yielded that there were tall parking garages, a large UVA drama building, and several low scale buildings like restaurants as well. Shows that the existing neighborhood is a mix of high and low, but it looks as though the future of the area may be increasingly getting higher with the Ivy Corridor ideas. Plans to have two outdoor amenity spaces including a café with seating, bike parking, breaking up the massing and moving the building further back from the street.

Commissioner Solla-Yates: Asks if there are any issues with the possible green screen to mitigate the visual impact, particularly within the additional 20 foot increase.

Mr. Bot: Instead of using a green screen, proposes using the traditional material that allows for metal panels with slates in it that would achieve the same goal. The lighter material will mitigate the impact of the height.

Commissioner Dowell: Asks about the storm water management and whether or not they were going to try and find a solution to solve the issue on site.

Applicant: Currently, the project is in compliance with the storm water criteria since it has reduced its impervious surface. The water quality is not being specifically addressed on site, but could be incorporated with permeable pavers under the outdoor café areas by running the roof drains into the permeable pavers. The preliminary site plan contemplated purchasing credits, but it could be achieved with the permeable pavers if requested.

Commissioner Mitchell: Requests clarification on the staff recommendation.

Applicant: Staff recommended to refer to the state accepted structural BMPs; permeable pavers would be a good selection for this site.

Commissioner Lahendro: Requests more information regarding the café, including the clientele, food service, etc.

Mr. Patel: The Café would be 700 square feet and it is envisioned as a gathering space, not a working kitchen. Intends for a local entrepreneur to partner with them and provide a café shop, but it is not a breakfast space.

Commissioner Keller: Asks if there meeting/event spaces and if it is intended for internal use only.

Mr. Patel: Confirms a 3400 square foot community meeting space on the third floor above the café. The purpose is intended for outside groups, including weddings and conferences, though they encourage those in attendance to also be guests of the hotel to help mitigate parking issues. Notes that they may also choose to deny usage if parking would be too much of an issue. The garage itself is internal use only, not a pay-to-park situation.

Commissioner Hogg: Asks if the bike sharing idea has been discussed with UVA yet and if they are planning to provide bikes.

Mr. Patel: No discussions or commitments have been made at this point. They have discussed providing bikes and believes it would be a viable option.

Commissioner Hogg: Wants to understand the five foot bike lane better and possible increasing of the planting strip and maintaining the seven foot sidewalk.

Applicant's Engineer: Plans to either make the buffer wider or go underneath the sidewalk to increase soil volume to maintain the large canopy trees. Adds that there is a two foot wide permanent easement Mr. Patel will be donating to the sidewalk, which would still meet the Streets that Work guidance. They could accommodate a five foot planting strip, but that's as far as they can go without conflicting with the café door swing.

Commissioner Solla-Yates: Concerns have been raised that it does not benefit the public and asks to elaborate on that issue.

Applicant's Engineer: The public would benefit from the hotel helping to mitigate the flooding on Emmet Street, creating a space for the public to use, the incorporation of the street trees, the fact that it is a public domain, etc.

Chairman Green: Asks Ms. Newmyer to explain why we look at the public benefit for private property.

Ms. Newmyer: Confirms that they do not look at the public benefit in the SUP recommendation.

PUBLIC HEARING

Bitsy Waters: Lives at 1935 Thompson Road in Charlottesville and speaks on behalf of over 90 residents of the Lewis Mountain neighborhood. Asks for Council to deny the SUP request for the Gallery Court Hotel replacement on Emmet Street. Opposes the development for the following reasons:

- An 80 foot tall building for the Emmet/Ivy intersection would be out of scale, which has been designated as public or semi-public in the city's Comprehensive Plan.
- UVA purposefully kept the parking garage across the street below 60 feet, and believes their future developments would also not exceed 60 feet. Does not want Council to set a precedent that would allow for height increases above 60 feet.
- Do not see clear benefits to the public or community, as they have increased land prices, sped up gentrification and made affordable housing more difficult. In addition, the development would negatively impact already congested traffic patterns. Because of this, they believe that incorporating this site into the Gateway would be the best outcome.

Warren Boeschstein: Believes the proposal is trying to pack too much onto a very critical entrance corridor. Under this proposal the building would be the first thing visitors see as they enter the area, which is an unwelcoming elevation. It would also be the dominate landmark building in a highly symbolic area, which is inappropriate and misunderstood by first time visitors. There is also an operational concern that there is no on-grade servicing for trucks, trash removal, delivery, etc., so these trucks would have to stop on Emmet Street or pull onto the sidewalk that would cause pedestrian issues.

Roy Van Doorn: Has a firm, City Select, which provides guest information to area lodging via brochures, guides, maps, menus, etc. Frequently sees the hospitality industry Downtown, as well as at the state level serving on the board of DBAC and Virginia Restaurant and Travel Association. Notes in the last five years, area-lodging guest members have increased by an average of 6%, which has several impacts. Charlottesville has the highest occupancy rate of any community in Virginia, and thus highest rates. Recent growth has been stunted because we are lacking the capacity we need to grow. The community should be favorable of this hotel because it is locally owned, it is a walkable hotel where guests can safely park their cars and enjoy walking, and there is a need for mid-scale hotels.

Tommy Bannock: Resident of the Lewis Mountain area and believes in locally owned and operated businesses. Notes that it would be nice to have a place for people to park and walk when they visit UVA, and that it is important to support people who support Charlottesville.

Bill Rockwell: Co-chair of the Lewis Mountain Residential Association representing the board and the association to support opposition of the SUP request. Supports Ms. Water's statement and believes an 80 foot building is out of scale for the area and is out of context for the entrance corridor. The approval of this request sets a bad precedent for future requests and only provides benefits for the developer, not the community. The development would increase traffic in an already congested intersection and that the garage could not hold all of its proposed ideas (weddings, conferences, café). There would also be no wiggle room for creative alignment proposals.

George Snyder: Resident of Lewis Mountain Road. Opposes the 80 foot hotel, citing that it is too large and that they should stick to the 60 foot limit.

David Waters: Resident of 1935 Thompson Road. Speaks that there is confusion between the worthiness of the Patel family and the role that it plays on the SUP request. Believes that the hotel itself is a good idea and the idea that we cannot honor his membership in the community without giving a special use permit is erroneous. Having the hotel be the first thing that visitors respond to and look past to see the University is ill-fitted to the site.

Gretchen Paris Day: Resident of the Lewis Mountain neighborhood. Supports the neighborhood representative and believes the Patel family themselves should not be considered in this decision. In regards to the walkways, emphasizes the unknown for how the bridge is going to be widened and where the walkway will go. If the hotel proceeds it might increase the already existing bottleneck problem, and states that 60 feet is sufficient.

Rory Stolzenberg: Resident of Water Street and states that we have a housing shortage in the city and that many hotels have been developed in places where they could build housing. The more hotel rooms that could be fit into this building, the less of a demand needed for building more hotels. Supports the SUP and making buildings like this larger, as the low elevation and lack of change in visibility from 20 feet both make sense to increase the height of the building.

COMMISSIONER DISCUSSION

Commissioner Lahendro: From the southwest corner looking straight up at 80 feet, the visibility of the hotel from the sidewalk pedestrians are also affected by the height of the building, along with the people living in the neighborhood, and concludes that the height is too tall and too close to the street.

Commissioner Keller: Expresses disappointment that the staff didn't address this as an entrance corridor, which has certain gateway aspects to it, particularly this one because the only reason we have entrance corridors in Virginia is because they allow an attractive approach to designated historic landmark, and in this case, a world heritage site. Shows appreciation for the residents of the surrounding neighborhoods, as they approached the problem from a standpoint of how it affects the greater community, the congestion it may cause, and that it is not adhering to the guidelines we have for our entrance corridor. Thought the height would be on a graduated scale where lower scaled buildings would be at the edge of Emmet Street and 29 north and get increasingly taller, and then step back down as they approach a neighborhood. Expresses concerns about the three floors of parking and the environmental sustainability that the credits would be off sight. Notes that while we do not have to have a public benefit, Council should look at the advantage for granting an SUP. Feels very strongly that ownership should not be taken into account, as the SUP goes with the land and not ownership and states the proposal is not in keeping with the entrance corridor vision and at this point is not in support of granting the SUP.

Commissioner Dowell: Is the hotel on Cherry Avenue part of the entrance corridor?

Chairman Green: Confirms it is part of the entrance corridor.

Commissioner Dowell: States that the hotel on Cherry Avenue was not the best fit either, but if we overshadow other neighborhoods then this one should not be treated any differently just because of the location and demographics involved in the neighborhood.

Commissioner Keller: Clarifies that her position is that it would have a minimal impact on the Lewis Mountain neighborhood, but her position is coming from the pedestrian and motorist perspective.

Commissioner Mitchell: Shows concern for the operational issues that the building creates, including that getting larger trucks in and out of the location would be disruptive.

Mr. Bot: The delivery trucks will be able to go through the garage. The trash collectors is not controlled by the hotel – the company could bring a smaller truck in the garage to collect or it can be picked up just like it is done all over the city during the designated time.

Commissioner Smith: Asks what the benefit would be to approve the SUP request.

Chairman Green: Based on location and its walkability, it makes sense to increase the number of hotel rooms

Commissioner Smith: A Smart Street Plan is being developed for Emmet Street that has six foot wide planting bed for large canopy trees and a ten foot wide sidewalk. Would like to see consistency going up and down Emmet.

Chairman Green: It would only be consistent as long as the University decides to leave it as open space, but that could change in the future.

Commissioner Smith: The city and the University are working together on the plan, so why can't we trust that they will come to an agreement?

Commissioner Keller: There is no guarantee, although plans have been shared with the city and seems unlikely to change in the near future. Still feels concerned that the Council is looking at this as an individual site rather than viewing it as an entrance corridor issue.

Commissioner Dowell: States that the SUP simply does not fit within the Comprehensive Plan.

Commissioner Keller: Agrees. It does not fit the Comprehensive Plan guidelines or the entrance corridor guidelines, so if adjustments need to be made they need to be intentional rather than on a case-by-case basis.

ENTRANCE CORRIDOR REVIEW

Chairman Green: Motion that the development will have an adverse impact on the route 29 North/Emmet Street entrance corridor due to the increased height, planting that needs to be at least six feet and a sidewalk that needs to be at least seven feet. Motion approved 4-2, with Solla-Yates and Green opposed.

Planning Commission SUP Discussion

Staff Recommends Planning Commission Focus on the Following Items During Review:

- Whether there is an impact to surrounding areas with increased height
- Whether character and scale is respectful to neighborhoods and university uses as noted in the URB District's intent
 - in discussing the character of the project, note that the applicant has indicated the additional height will allow for a certain brand of hotel to locate here (a more upscale hotel versus a more budget-friendly hotel such as what previously existed)

- Massing and scale
- Pedestrian environment
- Street activation
- Rooftop lighting and business hours

Commissioner Dowell moves to recommend approval of this application for a Special Use Permit to authorize the additional building height of 80 feet at TM 8 P 4, subject to the conditions presented in the staff report:

1. The Developer shall fund a U-bike station at the Subject Property in partnership with the University of Virginia upon formal written agreement from the University of Virginia.

The applicant shall not be obligated to fund a U-bike station without agreement of a partnership from the University of Virginia. Should the University of Virginia provide a formal agreement, the location of the U-bike station will be reflected on the site plan and approved by the Bicycle and Pedestrian Coordinator prior to final site plan approval.

2. The Developer will comply with one of the following options - The Developer shall either: a) widen the curbside buffer along Emmet St N to be five (5) feet in width, the dimensions of the curbside buffer reflected on the site plan prior to site plan approval, OR b) utilize a proprietary method (e.g. silva cells) that ensures adequate soil volume in the four (4) feet width buffer, the proprietary method to be approved by the City Urban Forester and reflected on the site plan prior to site plan approval.

3. Any proposed lighting to locate at the proposed rooftop snack bar shall comply with the following, "The Spill over light from luminaires onto public roads and onto property within any low-density residential district shall not exceed one-half (½) foot candle. All outdoor lighting and light fixtures shall be full cut-off luminaires."

4. The Developer will ensure enough space is allocated for a future five (5) feet in width bicycle lane along the frontage of the Subject Property on Emmet St in coordination with the Emmet Streetscape Project. The space for the future bicycle lane will be dimensioned on the final site plan and reviewed by Traffic Engineering prior to site plan approval.

5. The Developer will provide on-site water quality treatment by using one of DEQ's approved BMP's (proprietary or non-proprietary), where the BMP is detailed on the site plan and approved by Engineering prior to site plan approval.

6. The Developer will detail in the site plan how exiting vehicles from the parking garage will be warned of oncoming pedestrian traffic prior to site plan approval.

Seconded by Commissioner Mitchell.

Chairman Green made a request to amend the second condition to change the five foot curbside buffer, and add a seven foot sidewalk width. Commissioner Dowell accepts amendment and Commissioner Mitchell seconds. Motion to accept the amendment to the motion approved 4-2, Commissioners Lahendro and Solo-Yates opposed.

Commissioner Mitchell makes the motion to add four new amendments: that the parking be guest only (not a paid parking lot), that the traffic engineer should limit congestion by looking at the traffic moving in and out of the garage with the consideration of allowing only right turns in and out of the garage that should be consistent with the Smart Scale design of the intersection, that the servicing of the establishment only happen within the interior of the lower parking to include trash and any deliveries without blocking sidewalks, highways, bike lanes or travel lanes, and lastly a minimum five foot step back on all elevations at 60 feet on the property line. Commissioner Dowell accepts the amendment. Motion approved 5-2, with Lahendro, Keller opposed.

Commissioner Lahendro moves to add a friendly amendment to work with the design of the tower at the southwest corner of the building to reduce its apparent height. Motion approved 6-1.

2. ZT18-06-03: Temporary Construction Laydown

A proposed amendment to the text of the City's Zoning Ordinance, City Code sections 34-201, 34-202, and 34-1190 through 34-1195 to allow "construction laydown" as a temporary use in all zoning districts and to provide regulations that apply to this proposed temporary use.

Staff Report - Craig Fabio: The proposal is intended for all mixed-use commercial and industrial districts, not residential districts. The proposal would be to facilitate construction on smaller sites for 18 months (renewable), associated with a project, which is loosely defined as the ability to have public use.

Commissioner Keller: Asks for clarification on how many times the permit can be renewed.

Mr. Fabio: In theory, it could be in perpetuity if the project is still ongoing. There is no specific language on this, but it does say "active construction site."

Commissioner Solla-Yates: Why does it need to happen now if they are planning to rewrite the zoning next year?

Mr. Fabio: It needed to happen a while ago; several sites have acted in this manner and sites that have requested this. Staff thinks these regulations should be put in before a comprehensive review of the zoning ordinance, which is not a quick process.

Ms. Creasy: Notes that we are also anticipating four major projects in the downtown area being under construction soon and it would be good to have additional regulations to assist with those properties.

Ms. Robertson: Requests that the verbiage on the regulation to be an active construction site be put back into the proposal.

Mr. Fabio: Notes that that is dependent on the definition of "active" because some projects will not have building permits, like a city utility project or a private utility project.

Ms. Robertson: Asks under what circumstances the Director of Neighborhood Development Services can waive screening requirements, as she believes guidance is necessary about what is appropriate.

Commissioner Mitchell: Asks for clarification on what "screening" means.

Chairman Green: It is under site requirements that "unless waived by the Director of Neighborhood Development Services, temporary construction yards must be screened from the adjacent rights of way and adjacent properties. At a minimum screening must be S3 requirement as set forth by city code. With the approval of the zoning administrator, an opaque wall or fence may be utilized for, or as part of, a required screen."

Ms. Robertson: Recommends they do not use the word "wavier," but rather say that screening is not required.

Mr. Fabio: States that the construction yard and the next item are similar in their code language, but the screening piece might not be appropriate in some situations such as the Belmont Bridge. Thinks the two amendments are in line with one another.

Commissioner Solla Yates: Asks how it compares with the best practices in the state.

Mr. Fabio: There are very few examples in the state. Albemarle County has a similar code, but the biggest difference is they speak to when the site can begin (30 days prior to project) and headquarters and all of the items are on the site or in the development, which doesn't help in our case.

Chairman Green: Stated that this is for urban renewal, as we are an urban city now with limited land. In the county when you build a subdivision, part of it would be on the subdivision, which would meet the ordinance. The ordinance in the County works well, but they are bigger sites.

Commissioner Keller: Asks for clarification on the safety and security of the site. There is information regarding cleanliness of the site, but is concerned about unauthorized access and materials falling under their buildings. Any other information?

Mr. Fabio: Specifically securing the site, no.

Chairman Green: Thinks we do need verbiage about what an active site means. Question about 34-1191 (temporary outdoor assemblies) – how does this fit into construction?

Mr. Fabio: It does not fit into construction, it is another temporary use permit.

Chairman Green: Notes that it must take place between the hours of 9am and 9pm on any given day, so if someone is using a temporary assembly and doing a marathon that begins at 6am, that isn't possible?

Mr. Fabio: Things like marathons would fall under a special events permit.

Ms. Robertson: Council's permits deal with public property and these are regulations primarily for private property, so why does Planning Commission handle this?

Ms. Creasy: Planning Commission is providing clarity regarding the language of the regulations.

PUBLIC HEARING

None.

COMMISSIONER DISCUSSION

Commissioner Solla-Yates: On principle, not in favor of handling this outside of the zoning review happening next year.

Commissioner Smith: Agrees, but notes there are real life implications of needing to address it now. It seems fairly cut and dry, but discussions are needed regarding the security and "active" definition issues, and that both should have teeth of demonstrable progress on the building that is safe and secure from the public.

Chairman Green: Asks if the ordinance were in place, would it completely eliminate street usage and sidewalk usage so it could be opened to pedestrians?

Ms. Robertson: Not in all cases.

Mr. Fabio: That is unlikely, as there will be times when construction of the frontage or street improvements will require closure to some of the public streets.

Commissioner Solla-Yates: So we are voting on hypothetical language?

Ms. Creasy: Clarifies the vote is on the addition of the active construction site and the addition of safety for the site.

Commissioner Mitchell: Does the screening question and ability to waive still needed to be discussed?

Ms. Robertson: Recommends taking out the waiver and requiring it to be screened. As for the security, possibly just requiring the installation of a fence around the yard.

Commissioner Mitchell: Asks how that could be worded in a friendly way.

Ms. Robertson: A simple deletion of the reference to a waiver would suffice for that portion.

Chairman Green: Stated “under section 34-1195 C2, eliminate the condition of a waiver.”

Commissioner Mitchell: Requests to offer that statement as a friendly amendment.

Commissioner Smith: Accepting, agreed.

Chairman Green: So the friendly amendment is to take out the waiver requirement under 34-1195 C2. All in favor; motion carries.

Mr. Fabio: Asks if industrial zoning districts can be added.

Ms. Creasy: There are places where the fence would have some sort of design review depending on the area.

Commissioner Smith moves to recommend approval of this zoning amendment, to amend and re-ordain 34-201 and 34-1190 amendments to the zoning ordinance. 34-480 and 34-796 use matrixes mixed use and commercial corridor districts of the code of the City of Charlottesville 1990, as amended to allow temporary construction yards in all mixed use and commercial zoning districts by temporary use permit on the basis that the changes would serve in the interest of the general public welfare with the following conditions: that the permits include stipulations as to what constitutes an active construction site and that the temporary use permits stipulate secure and safe protections from the public. Seconded by Commissioner Lahendro. Motion approved, 6-0-1 (Solo-Yates abstained).

3. ZT18-06-04: Temporary Parking Facilities

A proposed amendment to the text of the City’s Zoning Ordinance, to add a new Section 34-1196 to establish regulations for “temporary parking facilities” where such facilities are allowed within a specific zoning district and revise Section 34-796 to allow “temporary parking facilities” as a temporary use in all mixed use districts.

Staff recommends that the zoning text amendment be recommended for approval by the Planning Commission and City Council as written to allow Temporary Parking Facilities in all Mixed Use and Commercial Zoning Districts. If this use is not allowed, vehicles must park on city streets.

Chair Green: Asks if there are any requirements for a permit.

Mr. Fabio: This request is being looked at in the same way as the temporary construction yard in that it would be connected to a project. Reiterates that he understands Commissioner Solla-Yates' concerns about waiting until the zoning review but feels as though these changes need to be made before the review because of how far along some of the current projects are already.

Chair Green: Asks Mr. Fabio how this request may change some, if any, during the zoning review.

Mr. Fabio: Believes this would be appropriate to remain and it would not need to be readdressed during review.

Ms. Creasy: Clarifies that this request is to provide some structure to currently unstructured situations.

Commissioner Solla-Yates: Struggles because parking is a by-right use in all zones, which is mandated everywhere and doesn't understand the need for change.

Mr. Fabio: States that is not the case in all situations. For example, Cherry Avenue does not allow surface parking lots. They are there, they are non-conforming, but they are not permitted by right. There are quite a few districts that do not allow parking by-right.

Chairman Green: Expressed concerns about the lighting and requests to add language to be sure it meets dark skies requirements.

Mr. Fabio: States we could restrict lighting all together. If the use is tied to a construction site and it's a parking facility, it is not a construction yard and does not need to be lit at night, as it is theoretically vacant.

Commissioner Keller: States that in some instances they may work at night where this may not be the case.

Chairman Green: Feels as though there should still be additional language so that lights are not facing any residences.

Mr. Fabio: Notes that current regulations in the zoning ordinance do not address the lighting problems.

Commissioner Keller: Understands the intent, but notes that there could be some unintended consequences. For instance, we could lose housing inventory because people would purchase properties and turn them into temporary parking.

Chairman Green: Notes that these are all for *temporary* uses.

Ms. Creasy: Notes that these are all problems that could happen right now because we don't have any ordinance.

Commissioner Keller: Agrees, but states that we just may not have the right ordinance yet. Asks if this would only be for mixed use, not residential purposes.

Mr. Fabio: Confirms that it is only for mixed use.

Ms. Creasy: Notes that there are already allowances for this for commercial purposes, not residential.

Commissioner Keller: For specific projects like the Belmont Bridge, could you just get a special use permit instead.

Ms. Creasy: No, it's not in the ordinance and it would be a standalone parking lot. They have tried to come up with many different ways to handle it, but there are several examples, the bridge is just a more pressing concern.

Commissioner Smith: Notes concerns with the Belmont Bridge because if the city is not specified what to do, it would be left to the market for construction employees and public parking visitors to duke it out, which would not go well. Recommends adding the second two amendments that were stipulated on the Temporary Construction Laydown request and to be compliant with the lighting guideline regulations.

Mr. Fabio: Notes that part of the proposal for the Belmont Bridge is to replace public parking temporarily, so perhaps lighting would be necessary if the construction employees worked after hours.

Chairman Green: States that the lighting guidelines can still comply with the dark sky regulations in the parking lot and be shielded away from any residential areas.

Commissioner Solla-Yates: Would like to have a time limit on how long it could be used for.

Mr. Fabio: It is currently 18 months based off of a few other codes and the rough estimate for larger projects.

PUBLIC HEARING

None.

Commissioner Smith moves to recommend approval of this zoning text amendment to amend and re-ordain §34- 201 et seq. and §34-1190 et seq. (Amendments to the Zoning Ordinance), §34-480 and §34-796 (Use matrices – mixed use and commercial corridor districts) of the Code of The City of Charlottesville, 1990, as amended, to allow Temporary Parking Facilities in all Mixed Use and Commercial Zoning Districts by Temporary Use Permit on the basis that the changes would serve the interests of (public necessity, convenience, general public welfare and/or good zoning practice) with the following additions and modifications:

- a. contractor show demonstrable progress on the construction site**
- b. parking area be secured from the interest of the public**
- c. lighting be compliant with dark ski regulations, shielded and screened from any residential zoning districts**
- d. Eliminate the waiver requirement**

Seconded by Commissioner Lahendro. Motion is approved 7-0.

IV. COMMISSION'S ACTION ITEMS

1. ENTRANCE CORRIDOR REVIEW

a. Seminole Square Shopping Center Expansion

Staff Report – Jeff Werner: The revised treatments on the rear (north) facades of the North Wing buildings and to the side facades where Hillsdale Drive passes between Buildings A and B are significant improvements to the prior submittal. While these are not primary facades and do not provide entries into the commercial spaces, they are/will be visible from Hillsdale Drive, from the new greenway trail, and from the new parking areas. It is therefore important that they provide an aesthetic that engages trail users and both pedestrians along and drivers on Hillsdale Drive. Incorporating into these elevations design elements and components similar to the primary facades serves to create a coherent architecture for the shopping center, and maintains the visual and commercial importance of the primary facades. Staff recommends approval.

Applicant – Caitlin Shafer, Henningsen Kestner Architects: The side elevations going through Hillsdale Drive will mimic the language approved from the front, including the addition of nine windows to make the area appear more pedestrian friendly. As for the back facade, the middle elevation, the same materials would be carried around to either side of the building. The quantity and location of the utilities were left out of the original submittal and have been added. They added a second color to the back for a darker base to provide a more seamless approach, as well as pilasters to bring a vertical element and green screens in planters so they are freestanding and still allow access for servicing.

COMMISSIONER DISCUSSION

Commissioner Keller: States that they did what they set out to do and it looks good.

Motion: Having considered the standards set forth within the City Code, including the City Entrance Corridor Design Guidelines, Commissioner Smith moves to find that the proposed existing building rehabilitation, landscaping, site improvements, and greenway trail segment associated with the Seminole Square Expansion satisfy the ERB's criteria and are compatible with the goals for sub-area A of the Route 29 North Entrance Corridor, and that the ERB approves; Seconded by Commissioner Dowell. Motion is approved 7-0.

b. Lexington Avenue and East High Street – Tarleton Oak

Staff Report – Jeff Werner: Staff recommends allowing the use of lower VLT glass in windows and doors, however that should be no lower than 62. The building's planned use and design is distinct from a commercial setting, where the clearness and reflectivity of large, street level storefront windows is a concern. The design features punched windows within brick walls, which is very different from a facade predominately composed of glazed window walls. Additionally, a large portion of the building has south and southeast exposures. Lower VLT will contribute to energy savings and a more comfortable interior space. For these reasons, staff recommends the proposed street level pergolas and benches should be incorporated into the design. While the proposed street trees, when mature, will mitigate the building's perceived scale, the trellis and benches are a welcome addition to the streetscape and contribute human-scale elements at this segment of the building. Relative to the VLT, staff thinks the 62 VLT is acceptable but that Planning Commission is very specific with their motion if they lower the VLT because of the unique circumstances to their architecture. Staff again urges the applicant to consider incorporating into the landscape plan at least one of the oaks on site propagated from the original Tarleton Oak.

Staff recommends approval of the requested COA with the following conditions:

1. The ERB should view and approve material samples and/or photos.
2. Per the EC Design Guidelines, stucco material such as EIFS should be avoided.
3. All glass must be specified as clear. (State the minimum VLT to be allowed and state why this is appropriate for this specific project, site, design, etc.)
4. Signage requires separate permits and approvals. All signage shall appear to be lit white at night.
5. Rooftop mechanical equipment will be screened within appurtenance.
6. Inclusion of the proposed street level pergolas and benches.
7. Metering and/or electrical service equipment for the proposed street lamps [to be installed in the public right of way] will be fully concealed or located so as to allow full screening.

Applicant, Andrew Moore: Notes changes made to the site plan in response to the BAR to include the addition of street trees along Maple Street, small trees along 8th Street and additional landscaping on the corner of High and 8th Street. The light fixture has also been updated to the city's standard. The building is proportioned classically, though the detailing is minimal because it is meant to be a more contemporary interpretation of Jeffersonian Classicism. The facade on High Street is 134 feet in length, which is similar to Tarleton Square (115 feet) and Court Square (168 feet), which should provide some perspective on the length. It is equivalent to two residential lots across the street, which is why they are requesting the pergolas be an option.

Commissioner Keller: Clarified that she wasn't objecting to the length of the building, but that there was no entrance on the opposite side of the street, but appreciates the pergolas gesture.

Mr. Werner: BAR has already addressed any issues with the back of the building after many changes and considerations have been taken into account, and we are now looking at this building on the front facing the street.

Motion: Having considered the standards set forth within the City Code, including the City Entrance Corridor Design Guidelines, Commissioner Smith move to find that the proposed components of the Tarleton Oak project (815 East High Street) that lie within the East High Street Entrance Corridor satisfy the ERB's criteria and are compatible with the goals for Sub-area C of the East High Street Entrance Corridor, and that the ERB approves the COA application with the following conditions: the installation pergolas, benches and landscaping submitted as described in detail on page 20 revised of the applicant's provided materials, the placement of power metering utilities be located off of the streetscape and allowing the use lower VLT glass in windows and doors no lower than 62 because the specific texture punched windows and brick walls and it follows the recommendations of the staff report on page 8; Seconded by Commissioner Lahendro. Motion is approved 7-0.

PLANNING COMMISSION

2. Request for Code Interpretation – Belleview

Commissioner Dowell left at 10:45 pm.

Staff Report – Matt Alfele, City Planner: There are discrepancies on the interpretation of code between staff and the applicant that need to be reviewed. Neighborhood Development Services received an application for a major

subdivision site plan – it was considered major because of the number of lots and the infrastructure improvements with the addition of a public street. The Landowner proposes to re-plat 81 existing [mostly] nonconforming lots. The existing lots, originally platted in the 1920s, will be replaced with 39-40 new [less non-conforming] lots proposed to be developed with single-family dwelling units (“SFDs”). See the Cover Sheet of the attached Subdivision Plat, “Proposed Use”). As part of this proposal, the Landowner(s) seek to improve a 20-foot platted alley into a public street, in order for that alley to serve as the primary public street frontage for the lots to be developed. On June 18, 2018, the Landowner re-presented the Subdivision Plans to NDS for a second round of review. Staff did not refer the subdivision plans to the Commission for review; instead, staff returned a second round of review comments to the Landowner on August 1, 2018 (attached). However, several issues remain unresolved, and require interpretation of provisions of the City’s Subdivision and/or Zoning Ordinances. In order to provide the Landowner with a decision that identifies what will need to be done in order for approval of the Subdivision Plans to be granted, it is necessary for the Planning Commission to make certain findings and determinations.

Ms. Robertson: Because there is no precedent for how to proceed, it might be helpful to see which issues are most significant to the landowner and then move into the deliberations.

Commissioner Mitchell: Agrees, but thinks the applicant should be able to respond to each individual question.

Mr. Alfele: Some of the questions brought up from the applicant’s attorney are not being contested, so it is unclear if they should still be addressed today.

Ms. Robertson: Ultimately the core issue is that every lot has to front on a public street and when the alley might be dedicated for public use as is, or if additional width is needed. This needs to be addressed before any other concerns can fall into place. It is not the City’s contention that the landowner cannot use some of the platted lots with some adjustments, but all lots have to have frontage on a public street.

Commissioner Smith: Asks if Planning Commission should be deciding if the boundary line drawing is an option, or having it stick to being a major subdivision.

Ms. Robertson: Not sure if the alley has ever been dedicated for public use. Understands that the landowner wants to use the alley as it is platted and then make changes to the sizes of the original platted lots, but the problem is that the plans don’t have a dedication of the alley as a public street and under the subdivision standards, a 20 foot would not be accepted as sufficient right-of-way as a public street that would serve as the primary means of access to a subdivision.

Chairman Green: Asks how fire and rescue and other safety services would access the property.

Ms. Robertson: It is unclear, but the landowner could make it wider by subtracting the area from some of the adjacent lots and reconfigure the lots in a way that would prove to be sufficient that are useable for their purposes. The landowner wants to use the 20 foot alley as is, but in the latest submission they have created a

“lot” with no intention of it having any use, but the definition of a lot is that it has to be used for occupancy, either residential or commercial.

Commissioner Smith: Thinks this is simply a workaround and doesn't think it makes any sense to allow.

Chairman Green: Doesn't necessarily disagree, but the applicant deserves a chance to speak.

Justin Shimp, Engineer: Would like to use the alley as is and states that it is a workaround, but if the rule allows it then he should be able to follow it. The conflict is with 34-120A where it states “every lot must have principle frontage on a street... and no lot shall be used for residential purposes unless such lot abuts a street right-of-way” and contends that the lots are nonconforming, and so “any unimproved lot of record located within any zoning district that is nonconforming as the required lot area, lot frontage or any combination thereof may be used for any permitted use of by right.” Because the lots do not have any frontage, they are nonconforming and proposes building a 20 foot alley that can be safely accessed and meets the standards for fire and rescue, which meets the standard in the design standards manual. In sum, it's a matter of whether or not “frontage” means frontage on a street and if they are nonconforming then houses should be able to be build there as is. If this is not the case, then a lot of other issues are presented about how to handle the situation.

Ms. Robertson: Notes that as a general rule, the codes have always been interpreted to mean that frontage refers to the width requirement, where each lot has to have 50 feet of frontage on a public street. For old lots that do not meet these requirements, occasionally you are allowed to use those lots even if it doesn't have the 50 feet, but they still must be situated on a public street that is dedicated, constructed and accepted by the City for maintenance. Must have space for cars to travel, sidewalks and emergency access.

Commissioner Mitchell: Asks if parking is a factor in the width requirements.

Ms. Robertson: Parking is not necessarily a factor.

Ms. Creasy: If parking was not to be considered, there would have to be a sign stating that as such.

Chairman Green: Are you saying that it doesn't have to meet street requirements if it is going to be used just as an alley?

Ms. Robertson: Under the subdivision ordinance, there is a provision that says alleys with a width of not less than 12 feet can be provided in the rear or side of a lot, but dead-end alleys are not permitted and if the alley is the principle means of emergency access, it must be no less than 20 feet in width. It's contemplated that you can have alleys, but it is not contemplated that they can be the principle means of access to a subdivision.

Chairman Green: Would this be turned over to a public street and if not, who would maintain it?

Ms. Robertson: That is the central question, whether or not our standards and design manual if the 20 foot area could be developed and constructed as a public street and if the city would accept that for maintenance.

Chairman Green: Thinks the applicant's interpretation of code is a stretch because it comes down to the width of the property, rather than just lot frontage. Do the subdivision plans depict a "major subdivision"? Or, alternatively, should they be regarded as a "boundary line adjustment"?

Commissioner Mitchell: If you are going to add a road, it seems to be headed in the direction of a major subdivision rather than a boundary line adjustment, and it looks like we have to add a road.

Mr. Alfele: Would like to clarify that the lot as the road, not the alley.

Ms. Robertson: Correct, but the issue turns on whether or not there needs to be a public street established.

Commissioner Keller: According to the definition, you cannot have an alley without having a street.

Mr. Shimp: Clarifies that it is not in dispute that if it has to be a public street, a major subdivision is required.

Chairman Green: Moves to interpret the plans as a major subdivision. Approved 6-0.

Ms. Robertson: The next item to consider is if the t-shaped lot is a lawful lot.

Commissioner Mitchell: A lot needs to be slated for occupancy, and the t-shaped lot is not.

Ms. Robertson: The lot in question is not identified as being dedicated for public use as a street in the plans.

Chairman Green: Is Lot A (61,885 SF) a lawful lot?

Commissioner Mitchell: Lisa is suggesting that they have not articulated a use for the lot yet, so it is a gray area.

Ms. Robertson: Notes the definition of lot is "a parcel of land that is occupied or intended for occupancy," and the term "occupancy" the subdivision ordinance refers to a certificate of occupancy.

Chairman Green: According to the plans, lot A would later be developed as a public street.

Mr. Shimp: Clarifies that the t-lot is a boundary adjustment creating the lot. Then, once created, a major subdivision would be submitted of lot A, which then creates the public street.

Ms. Robertson: If done in this manner, it doesn't require the developer to build the public street, which is a requirement for all developments in the City. If the lots are to be used, they have to be on a public street and nothing in the plans is giving anyone a public street.

Commissioner Mitchell: Does not think this is a lawful lot.

Commissioner Solla-Yates: Thinks this may be a right-of-way and asks for a definition.

Commissioner Keller: The design manual states that a dedicated right-of-way must be dedicated for public use.

Commissioner Solla-Yates: So if it is not dedicated, it is not a right-of-way.

Commissioner Lahendro: States that the question is not if the applicant can have a lot without lot frontage, it is instead the amount of lot frontage and thinks it is frontage to a street.

Ms. Robertson: Reiterates that it is understood that the lots do not have 50 feet of width and some of the lots will be consolidated, but the end result has to be lots on a street that is dedicated for public use and constructed by the developer as a public street.

Chairman Green: The question remains if the lot is considered lawful.

Commissioner Keller: The lot doesn't appear to be lawful.

Commissioner Solla-Yates: Thinks it could be subdivided into lawful lots.

Chairman Green: As it stands at this point in time, it is not a lawful lot.

Ms. Robertson: The next item to discuss is the critical slopes issue.

Commissioner Mitchell: Has the applicant requested a waiver on any of the critical slopes?

Ms. Robertson: The applicant has not requested any waivers. Need to discuss whether any of the lots in the proposed subdivision state contain critical slopes as defined in the zoning ordinance, which have several components and is not clear that any of the lots meet all four of the criteria.

Chairman Green: We are essentially talking about lots 6-8.

Commissioner Keller: Why do the critical slopes need to be discussed at this point in time?

Ms. Robertson: Answers that Planning Commission is required to verify that the lot line adjustments being proposed will either not have critical slopes at all and if they do, whether or not the lots should be exempt from the critical slopes provisions. If they are exempt, a waiver would not be required.

Commissioner Lahendro: Does not understand why Planning Commission needs to decide this, as they are measurable items that staff can determine.

Ms. Robertson: Under the subdivision ordinance, the landowner must make a reasonable effort to locate proposed infrastructure outside areas with slopes 25% of greater and under the zoning ordinance every lot must have a building site, which maintains that no lot can have critical slopes. Asks Mr. Shimp if it is his contention that any of the lots are crossed by a critical slope.

Mr. Shimp: It is probable that lots 7 and 8 are within a critical slope area, and if they are it would be proposed that they not be modified and remain in their 25 foot state. If an existing lot is on a critical slope, a house can still be built if it has not been amended because it was platted prior to the adoption of the slope ordinance.

Ms. Robertson: Asks if applicant is changing the lines on lots 7 and 8.

Mr. Shimp: Assuming it is found that they are critical slopes, the lot lines would not be amended and 15 foot wide houses would be build.

Chairman Green: Thinks lot 6 is applicable as well.

Mr. Shimp: The survey will be able to make those determinations.

Ms. Robertson: Another question to be answered is whether or not lots that are being combined or having their lot lines adjusted be within the exemption under the critical slopes provisions available for existing lots that were of record as of the date the critical slopes ordinance came into effect.

Commissioner Smith: Asks if you were drawing lots for lines but continuing to grandfather them into critical slope treatment.

Ms. Robertson: That's up for interpretation. Example, if two lots were both 3,000 square feet and exempt but adjust the boundary line or combine them so they become one conforming lot at 6,000 square feet, would the critical slopes ordinance apply to the new lot when it wouldn't have applied to separate lots.

Commissioner Keller: Answers yes, as it is no longer the original lot.

Commissioner Mitchell: Applicant is making the lot less nonconforming by combining them, but we would be penalizing him even though he is making them more nonconforming.

Commissioner Keller: States that it is simply a question of what an original lot is.

Mr. Shimp: Asks if the decisions made tonight are binding or if they are recommendations that will be taken into consideration during the actual plat vote.

Mr. Robertson: The point of bringing the issue here tonight was to provide binding interpretations that could be use going forward so that they can be addressed and fixed when the applicant returns.

Commissioner Smith moves for the Planning Commission interpret the subdivision plans as a major subdivision. Seconded by Commissioner Solla-Yates. Motion approved 6-0.

Commissioner Smith moves that lot A is not a lawful lot in the eyes of the Planning Commission. Seconded by Commissioner Solla-Yates. Motion approved 6-0.

PUBLIC COMMENT

Rory Stolzenberg: On the question regarding whether or not the alley is a lawful plot, believes the lot regulations with the frontage requirements have an exception for flag lots, so if the applicant were to add one of the back plots to that it would become a flag lot and become legal. Regarding the question about whether or not frontage exists or if it is the width that matters, the next section of the code mentions lot width separately and does not use the same language in the exception, so it may be worth changing the interpretation in order to construct more housing.

V. Adjournment

11:23 pm –Commissioner Smith motion to adjourn until the second Tuesday in October 2018.