

Minutes

**PLANNING COMMISSION REGULAR DOCKET**  
**May 14, 2019 – 5:30 P.M.**  
**CITY COUNCIL CHAMBERS**  
**NDS Conference Room**

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

***Beginning: 4:30 pm***

***Location:*** City Hall, 2<sup>nd</sup> Floor, NDS Conference Room

***Members Present:*** Chairman Lisa Green, Commissioners Jody Lahendro, Lyle Solla-Yates, Taneaia Dowell, Gary Heaton, Rory Stolzenberg, Hosea Mitchell, and Mr. Bill Palmer

***Staff Present:*** Missy Creasy, Jeff Werner, Kari Spitler, Carrie Rainey, Matt Alfele, Joey Winter, Brennen Duncan, Hugh Blake, and John Blair

Chairman Green called the meeting to order at 4:55pm. It was noted that 915 6th Street Critical Slopes would be removed from the consent agenda and placed at the end of the agenda. Chair Green provided background on the 1617 Emmet site including the BZA case leading the applicant to apply for the SUP. She confirmed that the Flint Hill applicant was aware they were the first hearing as the Hinton Avenue hearing was deferred by the applicant and noted that she would be organizing the questions and discussion during the meeting in a different way than the past. She would be calling on each commissioner one at a time to assure that everyone can provide input and there will be opportunity to speak again.

An overview of the traffic concerns was provided on the Flint Hill application by the Traffic Engineer. Mr. Alfele provided an overview of the concerns which could occur if a PUD is approved and the site plan later had differences. It was confirmed that staff recommended denial for the reasons outlined in the staff report. There was brief discussion concerning environmental elements on the site (wetlands, flood plans etc.). It was reiterated that staff was not clear that the applicant would be able to accomplish the proffers provided given the information available at this time.

The Commission asked about the status of the ATM currently on site at 1617 Emmet and it was noted that it is slated to remain.

Mr. Werner provided background on the Hillsdale Place ERB application progression. Mr. Ikefuna provided notification for a workshop scheduled for June 6, 2019.

**II. COMMISSION REGULAR MEETING**

***Beginning: 5:30 pm***

***Location:*** City Hall, 2<sup>nd</sup> Floor, NDS Conference

***Members Present:*** Chairman Lisa Green, Commissioners Jody Lahendro, Lyle Solla-Yates, Taneaia Dowell, Gary Heaton, Rory Stolzenberg, Hosea Mitchell, and Mr. Bill Palmer

**A. COMMISSIONER'S REPORTS**

**Commissioner Lahendro:** Attended the BAR meeting on April 16. Attended the PACC meeting on April 18, where there was a presentation by the Thomas Jefferson Planning Commission on regional transit planning. The Tree Commission met on May 5 for a short time, but there is nothing of Planning Commission importance to report.

**Commissioner Solla-Yates:** The full HAC met on April 17 and there was a presentation on the Charlottesville Supplemental Rental Assistance Program. It is fairly new and has been successful, as 89 families have been served and 77 are currently receiving. 250 people are being housed, which includes 105 adults, 2 elderly people, and 24 disabled. There were discussions on procedural issues of getting the money from the budget to the people and the HAC came to a productive result. There were also discussions about expanding it.

**Commissioner Dowell:** No report.

**Commissioner Heaton:** Attended the ADU Sip and Learn where individuals from Portland came to speak about affordable dwelling unit ideas. The Unity Days Committee is still meeting every other week and we participated in a few walkabouts in the Belmont and Hinton areas and spoke to neighbors.

**Commissioner Stolzenberg:** Attended a PLACE Committee meeting last Thursday on participatory budgeting and the experiment that was done at Walker Elementary, which was incredibly impressive. There is \$150,000 in a City fund allocated for a participatory budgeting experiment and once that is ready to get started they will hopefully transfer the lessons over citywide.

**Commissioner Mitchell:** Parks and Recreation took the month off so there was no meeting. The Fontaine Streetscape didn't meet last month either. Mr. Palmer is leading the UVA Masterplan Committee meeting tomorrow so there will be a report on that soon.

#### B. UNIVERSITY REPORT

**Bill Palmer:** UVA Graduation is this weekend and on May 25 the final structure of U-Hall is going to be imploded, so there may be an opportunity to see the rare occurrence of a building imploded in town.

**Commissioner Lahendro:** There will actually be two drones doing live broadcasts of it and you can go online to watch it from a safe distance.

#### C. CHAIR'S REPORT

**Lisa Green:** Shares that there was a TJPDC meeting the first Thursday in May but she was unable to attend. The next TJPDC meeting will be on June 6 and they are still working on some information based off of the Regional Housing Plan conference that happened on April 19.

#### D. DEPARTMENT OF NDS

**Missy Creasy:** The Planning Commission has been asked to appoint someone to the Barracks/Emmet Committee, which is another Smart Scale project. Commissioner Solla-Yates noted his interest in this project via email.

**Chairman Green:** Commissioner Solla-Yates, would you like to be a part of this project?

**Commissioner Solla-Yates:** Yes, wonderful.

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

**Trey Steigman, Management Services Corporation:** We wanted to bring forward a request for the Planning Commission to initiate a zoning text amendment in regards to a certain section of code in the City of Charlottesville that we believe has some unintended consequences. We have a very simple solution for the Commission to consider and to engage with staff to study and come before the Commission very soon to correct this matter. There are a few examples of this code and when applied and actually enforced, it severely limits the amount of density and dwelling units in the City and otherwise areas of multi-family residential districts that would be allowed. We are losing dwelling units in the City by the application of this code at a significant amount. In the extreme examples you are limited to building only 57%, 37%, or 28% of the actual capacity, which is a significant amount of restriction. There is an application of a site that we had under concept plan for development that we have been developing and redeveloping in the City, which limits us to only 42 units out of a possible 91 units and limits us to developing only 54% of the capacity. The proposed zoning text amendment for the Commission's consideration is very simple and includes a couple of minor textual additions and a minor correction of the number of units that should be applied in the code. The number of units that we are suggesting are, in fact, the current by-right number of dwelling units per acre or the density of an otherwise subject property.

## F. CONSENT AGENDA

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

1. Minutes – April 9, 2019 – Pre- meeting and Regular meeting
2. Entrance Corridor – 1617 Emmet – Recommendation on SUP
3. Critical Slope – 915 6<sup>th</sup> Street SE

**Chairman Green:** Requests to remove the 915 6<sup>th</sup> Street SE critical slope application from the consent agenda and move it to the end of the meeting tonight.

**Commissioner Stolzenberg:** Notes that he would like to offer a friendly change to update his language of “zoning text amendment” to “zoning map amendment.”

**Commissioner Solla-Yates moves to approve the consent agenda, with Commissioner Stolzenberg's amended language and with the removal of the Critical Slope application for 915 6<sup>th</sup> Street SE and discuss it at the end of the meeting. Seconded by Commissioner Lahendro. Motion is approved 7-0.**

**Commissioner Mitchell:** When would we address the zoning text amendment request?

**Chairman Green:** It would be something that we would want to bring up at a work session. The May work session is full, but it could be added to the June work session. There is some engineering that would need to be looked at and we have a new Design Standards Manual that is coming out, so it may be more than a simple update.

## 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. **ZM-19-00001 – (750 Hinton Avenue) (Hinton Avenue United Methodist Church) –**

*This agenda item was deferred until June 2019.*

## **2. ZM18-00003 – Flint Hill PUD**

Landowners Belmont Station, LLC have submitted an application seeking a rezoning of approximately ten (10) acres of land, including multiple lots identified within City tax records as Tax Map and Parcel (TMP) 20-259.31, TMP 20-259.32, TMP 20-259.33, TMP 20-259.34, TMP 20-259.35, TMP 20-259.38, TMP 20-259.37, TMP 20-259.26, TMP 20-259.27, TMP 20-259.28, TMP 20-259.29, TMP 20-259.30, and a portion of TMP 20-196 (collectively, “Subject Property”). The Subject Properties have frontage on two unimproved platted streets (Flint Drive and Keene Court) and are accessible by stub-outs on Longwood Drive and Moseley Drive. The requested rezoning would allow development of a planned unit development (PUD) referred to as “Flint Hill PUD” containing up to fifty (50) townhouses within the Subject Property at an approximate density of 5 dwelling units per acre (DUA), with open space in the amount of about 5.3 acres, and the following unique characteristics/ amenities: townhome style units, rear loading lots off Flint Drive, new dedicated Park land with improved trails, and a central teardrop road. The Subject Properties are currently zoned R-1S (Residential Small Lot), a zoning district which does not allow townhouse developments. The PUD Plan proposes construction of new streets to serve the constructed townhouses, and would require City Council to approve a vacation of Flint Drive and Keene Court, platted but unimproved streets; review of these items for consistency with the Comprehensive Plan will be conducted as part of the public review process. In order for the Landowners to implement the PUD Plan, they will need to disturb areas within Critical Slopes; this application also presents a request for a Critical Slopes Waiver per City Code Sec. 34-516(c). The Comprehensive Land Use Map for this area calls for Low Density Residential (15 DUA or less).

**Staff Report, Matt Alfele:** Tonight you will be holding a public hearing and making a recommendation to City Council on a proposed development that is requesting a rezoning from R-1S to Planned Unit Development and a waiver of the City’s zoning critical slope provisions. Charlie Armstrong representing the owner, Belmont Station, LLC, has submitted an application seeking a zoning map amendment to change the zoning district classifications of the 13 vacant parcels along Keene Court, which is platted but unimproved, and the unimproved portion of Flint Drive. The majority of Flint Dr. is unimproved but connects Longwood Drive with Moseley Drive. In a separate application, the developer is petitioning City Council to close the unimproved sections of Keene Court and Flint Drive and re-plat public roads in the general location that would conform to the road layout in the PUD application before you tonight. The proposed rezoning includes the following proffered conditions and development elements: density shall not exceed 50 residential units, approximately 3 acres will be given to the City for Park land, 5 affordable units will be built on site, the development will contain 8 rows of townhouses, in a mix of two and three story with traditional and modern facades, townhouses of differing sizes with varying width and square footages, including some with rear-alley-loaded garages will be provided, an HOA and an Architectural Review Board will be established, 5.1 acres of open space and preservation of approximately 60% of existing trees, the new park land will account for approximately 3 acres of the 5.1 acres of open space, sheltered 5’ sidewalks located along Keene Court and Flint Drive will be provided, natural trails dedicated for public use within the development site will be provided with access to Longwood Park, on-street parking, rear loaded parking behind townhouses on Flint Drive, a teardrop layout of Keene Court, a preliminary landscape plan promising preservation of the wetlands and buffers along 2 tributary streams and Moore’s Creek, a use matrix that allows residential and related uses such as single-family attached, townhouses, family day home, and residential treatment facilities up to 8 residents; non-residential uses such as house of worship, ball fields, and swimming pools. The use matrix prohibits such uses as multifamily apartment, nursing homes, animal shelters, and gas stations. The PUD is being proposed as a single phase development. The 2013 Comprehensive Plan Land Use Map indicates the subject property remain Low Density Residential, which is described as land occupied by single or two-family types of housing. The density in these areas by-right should not be greater than 15 dwelling units per acre. Although the overall density for the site would be below the max 15 DUA, this site would have

approximately a DUA of 5. Townhouses are not permitted in the R-1S district or Low Density Residential areas. Due to the townhouses configuration on the site, the subject property would be considered High Density Residential per the 2013 Land Use Map. High Density Residential includes all land intended to be occupied by multi-family residential types of housing, which are townhouses, apartment, condominiums, and the density being greater than 15 units per acre. One of staff's major concerns relates to the layout of Keene Court where it intersects Flint Drive. The design as presented would not conform to the City's Standards & Design Manual or good traffic engineering principals. The bottleneck design of the intersection creates a turning radius that could be problematic for large automobiles such as firetrucks. The one-way design of the road creates conflicts for cars entering or leaving Keene Court from Flint Drive at the same time. At the narrowest point (approximately 10') one car would block the entire intersection. The City would not accept the streets, which would not meet requirements of the Standards & Design Manual or allow them to be private or public streets. In addition staff finds the development of townhouses at this location, with the architectural features and sizes proposed, would be equal in quality to townhouses located in other areas of the City that are by-right. Staff does not see anything in the proposal that would indicate buildings within the development or their location would be of higher quality. Although townhouses might be appropriate in this location, the same building type could be achieved by rezoning to an existing district, such as R-3. Staff does find the portion of the development that fronts on Flint Drive to be designed to a higher quality than otherwise required by the strict application of the zoning district regulations. These townhouses are sited close to the road and activate the street while providing a comfortable pedestrian experience. The parking is located behind the buildings and the properties enjoy a shared open space to the north. On December 13, 2018 the applicant held a community engagement meeting where residents brought up the following at the meeting or through separate correspondence: the density is too high, traffic will be a problem, the land being given to Parks also needs to be programed and money provided so it does not end up being just "land," it needs more pedestrian connectivity, the development could lower the quality of life for people in the area, parking will be a problem, the number of units and type of development in this area is appropriate and that the development should include a mix of single family homes and duplexes. Although the PUD could contribute to some goals of the City's Comprehensive Plan, staff recommends denial. Significant portions of the development as presented are very similar to townhouse developments allowed by-right in the R-3 districts. The portion of the development fronting on Flint Drive is more consistent with innovative urban design promoted by PUD Objectives 2 and 9. Staff is concerned with the layout of Keene Court and the intersection with Flint Drive. In the current configuration Keene Court and Flint Drive are not safely designed and could not be accepted for maintenance as public streets or function as private streets. Staff is concerned with the affordable dwelling unit language in the proffer statement. It does not address several key administrative details or provide sufficiently concrete information regarding establishment of a firm affordability period.

The proposed improvements associated with this rezoning will impact critical slopes on-site as defined by Section 34-1120(b)(2). Per Section 34-1120(b) and 34-516(c) the request for a critical slope waiver must be heard simultaneously with the rezoning request by the Planning Commission. Improvements specific to areas where critical slopes would be impacted should the waiver be approved include portions of lots 9 through 22, lots 24 and 25, lot 31, open space, future park land, and parking on Flint Drive. Existing critical slopes areas located on this property include 2.65 acres or 27 percent of the site. 0.51 acres (or 19.2%) of the total critical slope areas within the development are shown to be disturbed. The definition of "critical slope" in the Zoning Ordinance is "any slope whose grade is 25% or greater, and (a) a portion of the slope has a horizontal run of greater than 20 feet, and its total area is 6,000 SF or greater, and (b) a portion of the slope is within 200 feet of a waterway." In reviewing the application the City's Environmental Sustainability and Engineering Departments point out a few key elements: limits of disturbance are not well defined, due to the sensitive wetlands and Moore's Creek, all water quality and quantity should be completed on-site, and staff cannot determine if protective measures of the critical slopes will be outside the wetland area. The majority of proposed townhomes and parking are outside the critical slopes areas. The majority of impacts to the critical slopes comes from storm water management and public trails. Alternative site layouts may reduce impacts to critical slope areas, but may also impact other

development factors such as overall building arrangement, offsite parking, density, or housing affordability. The site layout of the currently proposed development is dependent on approval of the previously noted rezoning application and road closure by City Council. Should Planning Commission recommend approval to City Council on the critical slope, staff has provided recommendations on conditions that can be found on page 7 of the Critical Slope staff report.

**Chairman Green:** Notes that the Commission will vote on the PUD first and if it is approved, there will be a vote on the critical slope. However, if it is not approved the critical slope will not need a vote.

## COMMISSIONER QUESTIONS

**Commissioner Solla-Yates:** If this were to be approved, can the issues with the housing proffer be resolved with the applicant?

**Mr. Alfele:** There is a proffer development plan and a set of proffers before the Commission. The proffers are not negotiated, they are brought by the applicant. The applicant can hear the feedback and if they decide to amend their proffer statement, they can do that between Planning Commission and City Council meetings. However, it would trigger another public hearing that City Council could hold, or they could kick it back to the Commission to hold, or they could make their decision based off of the proffers that the Commission reviewed.

**Chairman Green:** Could they do it by deferral?

**Mr. Alfele:** They could defer to work on the application and it would start the process over with the Commission.

**Commissioner Lahendro:** How often has staff met with the applicant? Has there been a rigorous review with staff?

**Mr. Alfele:** Yes, it has been going on since the summer. There was a round where staff provided comment on information that was submitted and then the applicant amended the application. Having said that, the information before the Commission is put together in a very good way in comparison to some PUDs that have come forward in the past. The applicant should be commended on that, although there are some concerns with the material itself.

**Commissioner Stolzenberg:** Regarding the possibility to deed the affordable units to a nonprofit, it seemed to imply that it would just be the lots that were given away. Is there anything as part of that proffer that there would be any funding for the nonprofit to build them?

**Mr. Alfele:** No. That is a concern that is laid out in the report, as they would meet their proffer requirement by giving it to a nonprofit. That would be the trigger for meeting that statement. The proffer statement is a little weak on how the actions would be taken.

**Mr. Ikefuna:** The way the proffer is structured makes it difficult to accomplish. If the Planning Commission and Council approved this application, it would be difficult to enforce because it doesn't have a timeline for completion of the affordable units. Having some sort of timeline is critical. There is also a need to integrate the affordable units with the market rate units because sometimes developers tend to cluster them in one section and the Commissioners should take that into consideration.

**Mr. John Blair, City Attorney:** You cannot deed property to a nonprofit without their consent. It would be an enforcement issue of the proffer itself. After the 10<sup>th</sup> unit was completed, staff would make sure the affordable unit was completed. If it wasn't, it would become an enforcement issue at that point.

**Commissioner Stolzenberg:** Because in the proffer the completion of a unit is only if they build it themselves and otherwise deeding it to a nonprofit counts, could they just deed it to a 501c3 and deed it to that and then never do anything?

**Mr. Blair:** That is conceivable. The applicant may want to address that, but if it came to an enforcement question, we could look at what the purpose of the 501c3. A 501c3 would require IRS approval, which is an expensive process. It would be an enforcement issue but you could still question the motives behind the establishment of the 501c3 to make sure that there was an actual purpose there to build the unit.

**Chairman Green:** Based off of this proffer, could you build the 10<sup>th</sup> unit and then stop so that there are no affordable units?

**Mr. Blair:** That is conceivable, however you could ask the applicant about that. If they stopped after the 10<sup>th</sup> unit, they still have 40 possible units to build and the proffers become part of the City Ordinance. If they tried to sell the property at that point, the proffer would still be enforceable.

**Chairman Green:** Does this rezoning go with the land, not the applicant before us?

**Mr. Blair:** The proffers go with the land, not the applicant before us. If they were to sell and someone wanted to do a different arrangement they would have to come before the Commission and ask for a proffer amendment.

**Applicant – Charlie Armstrong, Belmont Station, LLC:** Right now there are 13 existing lots that are already platted. They are large lots and some are as big as  $\frac{3}{4}$  of an acre. By-right development of this would use more land and produce less housing than a rezoning. By-right development would provide houses costing \$500,000 and up, while rezoning would provide market rate houses that are much lower in cost, as well as some affordable dwelling units with deed restrictions. The platted lots from the 1960s and the existing zoning are out of sync with the needs of the City now. The rezoning will also enable preservation of more than half of the site as open space and we propose to give a lot of the open space, at least 3 acres, to the City to expand Longwood Park, which is directly adjacent to the site. With this rezoning, large environmentally sensitive areas along Moore's Creek will be permanently protected, though we do need to disturb a small area of critical slope at the top of those slopes. It wouldn't be at the wetland area except for maybe trails. No project can ever accomplish 100% of the City's Comprehensive Plan goals or the needs of the City, but this proposal is noteworthy for how many different density, affordability, pedestrian and vehicle connectivity, creative design, and environmental protection goals it accomplishes. The reason there are so many comments is because this is the third round of submittals to the City. The comments that are still outstanding concerns to staff are mostly new, even though the submittal itself had very little new information, and we didn't have time to go back to staff again. Instead, we wanted to get feedback from the Commission and make some forward progress. One of staff's concerns is if the developer is planning to sell the park land to the City or if the developer would be giving it to the City. The land would be given to the City at no cost. Proffer #2 currently says "donate" and we would gladly add the words "at no cost to the City" to the proffer to the City Council public hearing. Regarding on-site ADUs and deed restrictions, although it is not specified in the proffer, that is the intent that way if the lot was sold or transferred in any way there would be a deed restriction that carries with it. This can also be added before going before City Council. On the issue of if they are deeded to a nonprofit to build, we have worked with Habitat for Humanity on previous projects and we would

like to have a similar partnership with them if we deed it. Right now we haven't decided if we want to build these ourselves or have a nonprofit build them, so the concept of inventing a 501c3 is not something any serious businessperson would entertain. We have a long history of projects in the City and we hope to continue that. The timing issue is the problem because if we were to deed it to a nonprofit and if they ran out of money that particular year and needed to put it off a year, we would be hamstrung for trying to do good by deeding them a lot. This is why we can't promise on the timing of a lot we give to a nonprofit, but we can promise that it would be a local nonprofit. Staff's concern regarding the layout of Keene Court at the intersection of Flint Drive not being safely designed is accurate. The bottleneck is not drawn wide enough. It isn't dimensioned and this isn't a site plan that has been engineered, it is a concept for the purposes of a rezoning. Staff's concern is if City Council were to pass it with that layout shown, the owner could say that Council approved it and that is what they intended. That is not what we intend and we are happy to say on the record that the street, especially at that intersection, would have to meet City standards. This is just not something that is typically fully designed at this stage with rezoning concepts. The last concern from staff says that although townhouses might be appropriate in this location, the same building type could be achieved by rezoning to an existing district like R-3. The ability to provide a more innovative design is the driver behind the PUD. We didn't think R-3 zoning was the most appropriate because it allows 21 density units per acre, which we did not think was an appropriate density. It requires 25' setbacks in the front and rear and 17' setbacks for a typical height townhouse. The ability to reduce those setbacks in a PUD allows us to pull the buildings closer to the street, creating a better street presence and keeping buildings out of as many of the critical slopes as possible. Additionally, PUD zoning requires a plan to be proffered, giving the Commission and the community certainty of the plan of development because there are so many sensitive environmental areas down along the creek. As for the critical slope waiver, there are 2 2/3 acres of critical slopes on the property. The application proposes disturbing only 1/2 acre of slopes. Of that, more than 60% of the slopes are for public infrastructure or trails. The rest would need to be disturbed for homes constructed on the top upland area. Trails and public infrastructure like a public sanitary sewer would be revegetated after it is built and would still have a tree canopy above them. Subtracting disturbance for public infrastructure, we're only proposing to disturb 0.2 acres of slopes for house construction. We feel strongly that the public benefits outweigh the benefit of leaving the small amount of slopes undisturbed. Allowing permanent disturbance of 0.2 acres and temporary disturbance of 0.3 acres allows permanent preservation of more than 2 acres of critical slopes in other areas on the site, provision of much needed housing at the lower end of what the market can provide (plus deeded affordable units), elimination of the by-right scenario, which is to build 13 half-million dollar homes on the lots as currently platted, and provide provision of a 3+ acre City Park and trail system that is highly desired by Parks and Recreation. That donated land will have a permanent forest protection easement except for areas where trails and infrastructure are. It creates permanent preservation of a total of about 5 1/2 acres of open space, which is 55% of the site. By-right development would provide none of that. It would all remain private property. City GIS maps show that several adjacent neighbors currently mow the stream buffer right to Moore's Creek adjacent to the site. This is an opportunity to keep that from ever happening here. Staff had some concerns that building footprints could be adjusted to preserve a little more slope and that E&S measures could be adjusted. We agree that it's possible. We haven't gotten to final engineering yet and this would set a maximum disturbance. We are confident we can address these to satisfaction with staff and engineering at the final site plan. Staff's proposed condition suggests requiring 100% of nutrient reductions be completed on-site. Virginia has a nutrient trading program so that density can be provided where density is desired in urban areas and areas can be preserved in more rural areas for those credits. Studies indicate that the benefits of the nutrient trading often outweigh the benefits providing nutrient treatment on-site. EPA has also noted that localities cannot override state law on how water quality is achieved, so we don't feel that this condition would necessarily be proper and we don't know if we can meet it because we haven't done the final site plan engineering. We agree with the condition that all storm water outfalls to be built outside critical slopes and the use of wire reinforced super silt fence adjacent to critical slopes. It's a great practice that we've used before even when it's not required. There is a condition to require a fixed immovable barrier to protect root zones of existing trees that are to be preserved. If



that means super silt fence, then we agree that this is a good condition. Otherwise, we don't know what it means and would need specificity on the Planning Commission for that. Staff made a passing mention of habitat redevelopment, which we also don't know what that means. We are preserving more than half of the site, which is the maximum we can do in this regard. In sum, the PUD offers a real opportunity to benefit density, affordability, connectivity, environmental preservation, and expansion of City park land. We don't just pay lip-service to these goals; it makes significant contributions to each of them. We have tried to put our best foot forward and offer the City the best development we can and avoid the fallback plan. We own the property and bought 5 acres adjacent to the main property off of Flint Drive just to donate the park to the City. We don't think the fallback is a good plan for what the City needs right now. Though staff has some valid concerns, we believe that with the modified approval conditions mentioned we can overcome that and proceed with a great project.

## COMMISSIONER QUESTIONS

**Commissioner Mitchell:** Nutrient credits do not protect Moore's Creek. Can you speak to the specific plan to protect the wetlands and Moore's Creek?

**Mr. Armstrong:** All of the proposed development of this site is upland. As you look at the site, the new PUD would pull lots out of those existing critical slopes that exist now, keeping them upland. We do have to disturb a little critical slope around the fringe, but we would have to disturb much more by building houses. We are trying to pull things out of critical slopes as much as we can. Getting sanitary sewer down the hill is a given in either scenario because the connection is at the bottom of the hill. The same is true for storm water. There is no development proposed in the bottom area.

**Commissioner Mitchell:** At what point will you actually transfer the 3 acres to Parks and Recreation?

**Mr. Armstrong:** The best time to do it is when we record the plat because it would be an easy time to deed it to them or dedicate it to public use.

**Commissioner Mitchell:** How does Parks and Recreation access this property to maintain it?

**Mr. Armstrong:** We are proposing a trail and access easement along what is mostly an existing sanitary sewer easement, which is a natural draw that would be easily accessible by foot or vehicle. This would be a gentle trail with no steps.

**Commissioner Mitchell:** How do you define affordable dwelling units?

**Mr. Armstrong:** We are proposing to use the City's definition, which is 80% AMI.

**Commissioner Stolzenberg:** Are you going to adhere to the City's standard operating procedures for ADUs?

**Mr. Armstrong:** If we were to deed the lots to someone like Habitat, who can meet much lower affordability thresholds, then we are likely to get lower than the City's requirement. The code section we reference in the proffer is 34-12.

**Commissioner Stolzenberg:** Can you explain your thinking in your term of the deed restriction for 10 years?

**Mr. Armstrong:** That's long enough to ensure at least one or two families go through that unit. If we were to deed the lots to someone like Habitat, they put their own restrictions on top of what we have in the zoning. We are also right at the margins for what is feasible for this project because we are trying to do a lot of things rather than

focus on one area. Though it isn't the best we could do on each one of these individually, it's the best we can offer to address all of them.

**Commissioner Stolzenberg:** Are they intended to be affordable home ownership units?

**Mr. Armstrong:** It would depend on what nonprofit it went to. If we built them ourselves it would depend on the market at that point. We are still a couple years off before lots are available based on site planning process and construction of roads and infrastructure. If we can build it affordably and sell it at a threshold that meets the City's then current definition that would be great. We just don't have that certainty now.

**Commissioner Stolzenberg:** Why did you choose to use 50 units as the maximum and to go with just townhouses rather than apartments in some areas?

**Mr. Armstrong:** We saw it as somewhat of a transition between the existing Longwood development, which is a mix of two-family and townhouse on one side and single-family on the side towards Mosely Drive. Apartments didn't seem to fit with either of those uses on the other side, so townhouses seemed like the best fit to achieve the density that we need to make a rezoning work. 13 by-right lots works as it is and could be developed, but going to townhouses lets us hit a much lower price point without being overly dense.

**Commissioner Heaton:** You mentioned the nutrient offset. Is that something that you have already calculated as the way you would propose to go forward? If the City requires that, would it be a deal breaker?

**Mr. Armstrong:** It would potentially be tough because we haven't done any final site engineering. We know approximately what the impervious surface would be, but we haven't done full soil analyses, which all goes into the calculation. The worry is that without full engineering, which we cannot do at a rezoning stage, is that we would promise something that can't be delivered. We want to do it onsite and we've laid out for a site in the middle of the teardrop for a biofilter because it's efficient and we've done it in almost every project we've done in the area. In this case it's not necessarily a density tradeoff to do the water quality because we have the middle area that was intentionally designed that way, but we might need to buy a fraction of the credits that we need to meet the state requirements. We will attempt to do as much as we can onsite.

**Commissioner Heaton:** You mentioned something about a forestry easement. If the property was given to City Parks, wouldn't they be the ones to decide what the riparian buffer might be, as opposed to you designating them a forest easement?

**Mr. Armstrong:** Yes and we can work with the City on that. Our motivation and goal is to protect it. Whether it's the City who owns it or a private property owner, it's important for us to state our intentions in a legally recorded document so that is what happens.

**Commissioner Dowell:** You referenced Habitat for Humanity several times. Have you thought of or talked to any other nonprofits in partnering with them in this project?

**Mr. Armstrong:** No, we haven't gotten that far. He shares that he only mentioned it to Habitat because he spoke to one of their members in friendly conversation at a soccer event. We do have a long history of working with Habitat and we have enjoyed that relationship so they are a likely partner.

**Commissioner Solla-Yates:** One of the issues in the staff report is the concern that there is no purpose or need. In other parts of the document you talk about the benefit of park space and housing. What is the disconnect?

**Mr. Armstrong:** We need housing in the City. We should be putting density in areas that are served by public transit, that have adequate infrastructure with water and sewer onsite, with roads stubbed to the property

already and already platted roads and rights-of-way. A development has been expected here since at least the 1960s. It's a place to put residential housing that we really need. There is debate about the R1S zoning, but this is a property that is on the edge of the R1S zoned swath that goes through Fifeville and adjacent to Longwood, which is a PUD with much higher density. It's only two blocks from a school and it is the right place for housing that we really need, especially at the lower end of what the market can provide price-wise. Parks and Recreation has been trying to acquire at least an easement through this property since long before we ever knew about the property. Chris Gensic has approached the previous owners about a trail with little response and it's important for them to connect through Moore's Creek over to Azalea Park, which is very close. They would need to get easements for 4 or 5 more parcels if they don't already have them to have a trail there. There is also other open space that we are proposing to keep in the HOA in the upland area. Part of it is for buffer to the neighbors and to have nice tree area, but it's also a midblock area that doesn't seem right to develop.

**Commissioner Lahendro:** The PUD narrative states that the project "will promote inclusion of houses of various sizes, architectural styles, and price points with varying width and square footages." Graphically, it looks like it is a townhouse repeated on every lot. Where is the diversity?

**Mr. Armstrong:** That was one of the goals of the PUD that we struggled to meet because it seems to imply apartments, townhouses, and single-family houses all mixed in one. It felt like townhomes were right for the whole property here and the variety is in the sizes. We are proposing some 16' wide and some 20' wide, which is a 25-30% difference in square footage. It can also provide varying bedroom counts within those. As far as styles, we are proposing a mix of modern and colonial styles, as well as some frontloading and some the alley load pushed up to the street with an urban feel with parking in the rear.

**Commissioner Lahendro:** It is an extraordinary site from wetlands to wooded slopes and mature trees. What has the design that has been presented done to connect the site together to make it a cohesive whole?

**Mr. Armstrong:** The trail connections is the only way. It is very topographically separate naturally. The area being developed for houses is upland and it is 30-40' down to the wetlands along the creek. Access and integration for pedestrians is there, but we didn't want any other connection to the wetlands because connection means use.

**Commissioner Lahendro:** If someone wanted to get to the wetlands, would they have to go out Flint Road and use the trail being proposed with the Park system?

**Mr. Armstrong:** Yes. We didn't want a steep stairway down critical slopes because it isn't necessary.

**Chairman Green:** What is your definition of market rate?

**Mr. Armstrong:** That is difficult to answer. The best way to answer that is to tell you what we did at Longwood, which was in the \$200,000 range. There were some that were upwards of \$300,000 if they wanted the fancy countertops, etc., but \$200,000 is where the sales are and where the market wants us to be and we are going to try to get there as best as we can, given the cost of labor and materials.

**Chairman Green:** This is at 50 dwelling units per acre, but have you given any thought to having an accessory dwelling unit in the bottom of the townhomes? Does it come with a height restriction?

**Mr. Armstrong:** We have thought about and we have done it before in other communities that we've built. If you count the number of units on the layout here, we will never hit 50 with the physical constraints of the property in the teardrop, so extra units are provided in the maximum of 50 so that accessory units could be put in by anyone who wants to up to a certain point. If we have 40 townhouses and 10 put in accessory units, those are the only ones that can do it because of the density limit.

**Chairman Green:** Based off of what you have applied for, is there anything other than density limiting you from having that option?

**Mr. Armstrong:** No. The staff report even pointed out the concern that if every townhome wanted to put in accessory dwelling units that we would be over the density limit, which is a good problem to have.

**Chairman Green:** At one point we were promised affordable housing mixed in with market rate housing on Cherry Avenue and we got a hotel. What is going to make us get this and not something that we don't want?

**Mr. Armstrong:** The Cherry Avenue proposal came back to the Planning Commission as a rezoning again with new owners who bought it, which was approved by City Council for a change. There is nothing in here that would allow that to happen. Any changes to this PUD, like a change in the affordable housing proffer, would have to come back through this same process. Additionally, since then our track record with other communities in the City where we have done affordable housing is stronger than any other developer within City limits.

**Chairman Green:** What is your plan for it to be integrated instead of having it clustered in one area?

**Mr. Armstrong:** If we build them, we might have one or two affordable units in each building. If Habitat or someone similar built them, they would want them all in one building because they build the building, which is why there isn't a promise to have them distributed in any certain way. If you look at the layout, it is one little community that will be a tightknit place no matter where the affordability is. It also wouldn't be physically possible to put the units in one corner on this site. In Burnet phase 3, we actually put the affordable units in the center and the level of quality is the same so you don't know the difference.

**Commissioner Stolzenberg:** Do the trails connect to anything?

**Mr. Armstrong:** They do not connect right now. Parks has aspirations, but right now the Longwood Park trail doesn't go out that side. On the other side going towards Azalea, there are 3 or 4 parcels that would still need easements unless they have some of them already. This is only the 2<sup>nd</sup> or 3<sup>rd</sup> step in a new trail system.

**Commissioner Mitchell:** What would you lose if you opened the teardrop entrance up a little bit?

**Mr. Armstrong:** Nothing. As you head down into the teardrop, the first townhouse building on the right has plenty of front yard space. It's only drawn the way it is because it is a concept sketch and widening it another 10' wouldn't hurt anything. If this comment had come earlier in the process that's what we would be looking at now.

**Councilor Walker:** In terms of affordability, what happens if you partnered with Habitat and the 10 years expires?

**Mr. Armstrong:** If it is Habitat then their deed restrictions are much longer, if not perpetual, and they would record additional deed restrictions beyond what we require.

**Councilor Walker:** Would you be open to extending that timeframe?

**Mr. Armstrong:** In the instance of deeding them to Habitat, yes. We would want to talk to them first, but if we were to keep them it gets harder financially. There would have to be some give and take to make it all still work.

**Councilor Walker:** In communities where you haven't partnered with Habitat, is 10 years the standard?

**Mr. Armstrong:** We've always partnered with Habitat to date.

**Councilor Walker:** So are you flexible on it?

**Mr. Armstrong:** We don't know. If we wanted to look at another scenario where there are other expenses that we take on from other proffers and pull some of them back to make sure it still works financially, then could tweak that. In the package that is presented, it's important to hold that for it to still work and be bankable and buildable.

**Councilor Walker:** With these projects is the AMI less than 80%?

**Mr. Armstrong:** Yes. Most recently they are hitting down around 25%. We can't do that but we are thrilled that they can.

## **PUBLIC HEARING**

**Sandy Erksa:** We have lived in our homes on Shasta Court for over 45 years and care a great deal about our neighborhood. There will always be change and growth, but it is our responsibility to prevent what we feel is negative growth. One of the biggest changes that we have seen in our area is the increased volume of traffic. If you allow up to 50 townhomes on these properties, then there is the potential of adding at least 100 or more cars on the roads. Our roads are too narrow and unable to handle the cars that are currently using them, let alone adding the extra cars that would be generated by such a large development. There has also been a lot of increased growth south of the City and our area is a cut through for many of these cars. Another concern is that the properties will be purchased as an investment and be converted into rental units instead of being owner occupied dwellings. For these reasons, we request that the rezoning application for Flint Hill be denied. Please keep these properties as Low Density Residential.

**Jess Wenger:** Notes that she is reading a statement on behalf of the Fry's Spring Neighborhood Association. The FSNA and the neighbors we represent welcome appropriately designed infill and the new residents it will bring to our neighborhood. The FSNA respects the rights of property owners to pursue all legal activity on their private property. The FSNA also recognizes that some activities pursued on private property can result in negative impacts in the community. Based on our current understanding of the Flint Hill PUD, the FSNA appreciates the developer's effort to limit the critical slope disturbance and minimize the potential negative impacts on Moore's Creek. The FSNA is also grateful for the developer's proposal to provide some units at an affordable rate. The FSNA is concerned with maintaining a safe bike and pedestrian-friendly environment in the neighborhood. The primary concern is the potential impact of the number of units (50) will have on the Longwood/Harris, Mosley/Harris, and Camellia/Harris/JPA intersections. These three intersections are utilized by many of the children and their families walking to Jackson Via Elementary School in addition to the pedestrian, bicycle, and auto commuters heading to work. The FSNA's present position on the Flint Hill PUD is neutral, neither supporting nor opposing the PUD. However, we urge the Planning Commission and City staff to be cognizant of our concerns and consider how to mitigate the traffic impacts on these three intersections when considering the zoning amendment.

**Jeff Riedel-Bicknell:** The developers have taken things into consideration with many of the developments in our community, so thank you to them. However, I do not agree with the comment that the infrastructure exists in Fry's Spring already to support 13 new homes, much less 50. We currently do not have enough bus routes, bike routes, safe walkable routes, and safe crossings. Currently the traffic situation in our neighborhood is bad. You could jog or ride your bike the 1 or 2 miles in our community faster than you can drive it, but it's not safe because the drivers are so distracted and speed excessively throughout the communities. Regularly people run into the car that stopped for me in the crosswalk, the car behind them slamming into them, and people have stopped and gotten out of their cars to yell at me after drivers have waved me across the crosswalk. The infrastructure doesn't exist and bus route 4 has been cut back for those of us who need to get to the hospital. For those of us who work in hospitals, during bad weather we have to walk the 2 miles in the snow after the plows have blocked the

sidewalks and streets and we risk getting hit by all of those vehicles. We need to improve the infrastructure first. I do commend the environmental thoughts, but who is going to fund and maintain these proposed park lands and trails? If Southern Development is so environmentally conscious and wants to invest in our community, maybe they could propose to give a percentage of their profits from this development to fund the development of the park land and continue its ongoing maintenance. Without true environmental analysis of these infrastructures we don't even know if the current floodplain and riparian zones are natural and beneficial, much less what the future development may be.

**Mark Kavitt:** The price of the units seems a little low and the units down the block are being sold at \$1.2 million. When City Council asked the same question about what the price would be for those units, they were told \$250,000 and we found out that it ended up being \$1.2 million on the low end. It turned out that the price that was quoted was the price for land, not the completed complex. It's very important to keep in mind what the people who live there are saying about how it will impact them. With that being said, it's also important to point out that the plots that were done in the 1950s or 60s were probably done with the idea that the houses being built were going to be ranch style houses, which is not practical to be built at this stage. It is an act of whether we build townhouses that might be more affordable or if the land is used for other types of houses, which are probably much larger houses with much higher price tags.

**Travis Pietila Southern Environmental Law Center:** Starting with the PUD application, this proposal has some positive features and potential. We appreciate that the applicant has proposed onsite affordable units, as well as adding some of the wetlands and steeply sloping areas of the site to Longwood Park. That being said, staff has identified several key aspects of this proposal that are still in flux where further clarification is needed and we believe that more work needs to be done to flesh out this application before you can make an informed recommendation to Council. Staff has identified the need to clarify the applicant's affordable housing commitments and its terms of its offer of park land to the City. They have raised safety concerns with the proposed street designs that may prevent some of them from being accepted as public streets or functioning as private streets. It's also important to better nail down the measures that would mitigate impacts to Moore's Creek, one of our City's most impaired waterways. This includes a commitment to preserve wetlands and stream buffers on the site, as well as preserve existing tree canopy. To ensure these commitments are enforceable, they should be clearly identified in proffers and the development plan and we don't see that in the current application. Turning to the critical slopes waiver request, it also suffers from too many unanswered questions. For example, the Environmental Sustainability Department has noted confusion about where the limits of disturbance are being proposed and where erosion control measures will be located, making it hard to discern the actual extent of impacts to critical slopes. The Engineering department also raised major questions about the applicant's storm water management plans and whether they can actually achieve adequate protection on this site as proposed. Any decision on a waiver should only be made after revised plans are brought forward that not only satisfy staff's concern with the existing layout, but also demonstrate that staff's recommended conditions on the waiver can be successfully met. Overall, there are too many remaining questions about these two applications to provide a fair assessment of their relative impacts and benefits. The Commission should make an adequately informed decision on any potential recommendations.

**Charif Soubra:** Notes that he is an adjacent property owner in Longwood. From what is being presented, there are a lot of positive impacts. The PUD by design has a lot of pieces that are addressing positive cohesion for that corner and it is positive transitional growth for that area. The PUD is designed to curb some of those concerns that by-right development would have. My property adjoins the wetland area and seeing the PUD have a design with consideration for the adjoining property is a benefit versus a single home on a 3/4 acre lot that could do whatever they want with their backyard. The PUD is a good idea and as this area grows and transitions it is incumbent upon the City to take upon all the other considerations like traffic and infrastructure. Growth could be the positive impetus for dealing with that transition and those concerns. More homeowners would be at a price point that is

more consistent with the affordability index that the City has set forth. This corridor of the town doesn't have that and this proposal does offer a price point that is not available in that corridor right now.

**Anja Riedel-Bicknell:** Notes that she lives on Christa Court. There is a major concern with infrastructure in the neighborhood, as the sidewalks are very narrow. If you walk from home to the Fry's Spring pool, it would be impossible for people to walk next to one another because it's so narrow. If there is a distracted driver there is no space in between the person and the driver, so if they drive onto the sidewalk you would be hit right away. It's even difficult to walk with a dog because it's so narrow. As mentioned before, CAT has cut back the bus service in the area. It has improved during rush hour but when it isn't rush hour, the bus only runs every 70 minutes, which is not often. Many times the first buses of the morning don't even show up because they don't have drivers. This is also a concern because it means you have to walk. There is an elementary school nearby but they likely can't add many more students to the school. 50 more homes means many more children and we have no idea what the capacity of the school is. Ultimately the infrastructure has to be improved before we add more people and cars.

## COMMISSIONER DISCUSSION

**Commissioner Dowell:** One thing we definitely need in the City is affordable housing at affordable price points. Bringing a development of this nature and size into this area of the City looks a lot like 5<sup>th</sup> street. Going through 5<sup>th</sup> street during rush hour is playing Russian roulette. Adding 53 more homes would mean adding almost 100 more cars on the road. We recently witnessed a pedestrian being hit at Jackson Via Elementary School at about 5pm because of the exact situation that the residents stated. The report didn't mention how it would impact the school system and we are having a tiff with that right now all over Charlottesville.

**Commissioner Lahendro:** PUDs get a bad reputation and this is one example of why. The objectives for a PUD in our regulations states "to encourage innovative arrangements of buildings and open spaces to provide an efficient, attractive, flexible, and environmentally sensitive design." It is a step forward to move from a single family plot that was there originally to a denser development, but what is shown lacks diversity and transition. It could be a denser development in the center that transitions to the single family and townhouses around it. Just because you are in between these two things doesn't mean everything has to look alike. It also ignores the wonderful site it is on with rows of townhouses that turns it back to the wooded hillsides and wetlands. I am against this due to the many unresolved issues that staff pointed out, but also because it is a poor example of how a PUD should be done.

**Commissioner Solla-Yates:** This is the best PUD that we've seen. This does what a PUD is supposed to do, which is clustering housing and preserving open space, which is a good idea and an appropriate idea for the Comprehensive Plan. There is a need for housing, parks, and trails near schools, especially in this very auto dependent area. There are serious infrastructure issues in the area and this is a part of a solution, but there are broader issues to consider here. The affordable housing component is exciting and it's pleasing to know that many of these issues can be resolved in the site plan.

**Commissioner Heaton:** Staff mentions in their report that this is a well put together PUD and that is true. The applicant notes that they didn't have the back and forth that they would have liked to have had with staff to have brought an even better application. Infrastructure is not their responsibility and the City has to come up with a plan to make these old roads work with all these cars. The application does have some concerns that restrictions can be made or additions as the staff suggested, but this is exactly what you want PUDs to do. It puts the density in one place and preserves the open space.

**Commissioner Stolzenberg:** For all the homes built in Fry's Spring since 2010 inclusive, there have been a number of single family attached, mostly in the Longwood PUD, and they range from \$260,000 to \$320,000 with the

median at \$289,600, which is about \$6,000 below the Citywide median. There are also single family homes and some with ADUs that were built in the Huntley PUD or built by-right that range from \$340,000 to \$750,000 with the median at \$446,000. This is a massive increase in price if they were to go by-right on the large lots. Having lived on Mosely Drive, having the road connection between Mosely and Longwood will be a big improvement to traffic by having the ability to go to Jackson Via and avoiding Harris entirely. If they built by-right they would only need to connect it to one of those two roads. There are concerns about the affordable dwelling units and the terms of that proffer and hopefully they can be solidified.

**Commissioner Mitchell:** The vision looks nice but there are a number of unresolved issues. We need to hear more about the storm water management plan and what we can do to protect Moore's Creek. Nutrient credits aren't good enough because they don't protect the waterways that run through the City. We need to know more about how we can protect the wetlands and Moore's Creek from disturbance. When we make recommendations to Council we need to give some thought to the impact of these developments on the existing infrastructure. To make a recommendation to move forward without at least a vision of what it is going to be is not the right thing to do. Ultimately what the applicant would like to do is good but they need a little more time to think about it to make an informed vote.

**Chairman Green:** We talk about land use plans where we want community engagement and we want the neighbors to be part of a community and sometimes it happens organically but I used to live in a complex very similar to this that achieved that. We do have infrastructure problems and enforcement issues in the City that we can hopefully further the conversation on soon. We need more enforcement when it comes to bike/ped. There are also concerns about the unknowns, including the storm water management plan, nutrient credits, and the comment in the staff report that says staff won't accept the streets as they are into the system. As for the trail system, the City is trying to buy these areas anyway so we are either going to have to get it or purchase it and this is a win for the City. We do need more housing and trails near our schools and we talk about this in the Comprehensive Plan. A little more thought would be better and we wouldn't mind a deferral so the applicant can come back with more questions answered to give us more information about this bottleneck at Keene Ct and Flint Drive, the storm water management, if we should have more than 50 dwelling units per acre to provide some accessory apartments for rental opportunities, and a plan to possibly have more than 5 ADUs at 80% AMI for longer than 10 years.

**Mr. Armstrong:** We would like to move forward because we have been working on this for a while and we have a great project. We will commit to Council and the Planning Commission that before it goes to Council we will amend the proffers to make sure they reflect what we've heard. If that means having an additional public hearing that is fine. We will also correct the concept showing the street that doesn't work like it's supposed to so that they don't have to vote on something drawn that isn't what we would want to build anyway. We have a lot of work to do before this is a project on the ground so this won't be the last refining but we are trying to set the limits that it has to move forward to site plan. Hopefully that is enough to move it forward and we commit to the Commission and Council that we will make those tweaks that we've heard to the proffer and we urge them to vote "no" if we don't live up to that.

**Chairman Green:** Encourages the applicant to take advantage of the opportunities to come before the Commission to have a work session to have some questions answered.

**Commissioner Stolzenberg:** The staff report says that the streets couldn't be accepted as public streets, but also that they couldn't function as private streets. Does that mean that they would have to fix it no matter what or just that they wouldn't work well?



**Mr. Alfele:** Even private streets have to follow the Standards and Designs Manual and this would not meet them in this configuration. The site plan could be adjusted and there is a tradeoff. The Planning Commission is the reviewing body to all site plans related to PUDs so the Commission would get a site plan to review and it would be your decision to determine if the proffered development plan and the site plan match. Being the reviewing body for site plans connected to PUDs, you are making that call on whether the site plan is substantially the same as the PUD development plan.

**Commissioner Stolzenberg:** Is it possible to exempt accessory dwelling units and/or affordable dwelling units from the 50 limit?

**Mr. Alfele:** The Planning Commission has a proffered development plan before you that the applicant has put forward. The applicant has indicated that they would likely make adjustments to the proffer. Depending on the action tonight, if it is moved on to City Council you are moving on what has been reviewed tonight. The applicant can make adjustments to the proffer statement between Planning Commission and Council. City Council will have to decide if they will hold a public hearing on their own to advertise the new proffers and they can kick it back to Planning Commission to review the new proffers or they can hold a meeting based on the materials the Commission presented.

Commissioner Solla-Yates moves to recommend that City Council should approve ZM18-0003, including the critical slope waiver requested in P19-00013, on the basis that the streets proposed within the PUD Development are laid out in a manner substantially in accord with the Comprehensive Plan, and approval of the proposed PUD Development is consistent with the Comprehensive Plan and will serve the public necessity, convenience, general welfare and good zoning practice. Seconded by Commissioner Stolzenberg.

**Commissioner Mitchell:** The vision is great but based on what we know today, the vote will be a no. Hopefully when it gets to Council the issues we've raised will be addressed and corrected to give the applicant their support.

**Commissioner Stolzenberg:** Agrees with many of the concerns and some parts of the application are underwhelming, but the reason that he will support it today is because if this goes down and comes back with the much more expensive \$500,000+ houses we will have made a big mistake.

**Commissioner Heaton:** If it goes to Council with a denial, does that change the process for the applicant?

**Chairman Green:** No.

**Commissioner Lahendro:** Clarifies that the Commission is being asked to vote on what is before us in the application, not promises for making any changes.

**Commissioner Solla-Yates moves to recommend that City Council should approve ZM18-0003, including the critical slope waiver requested in P19-00013, on the basis that the streets proposed within the PUD Development are laid out in a manner substantially in accord with the Comprehensive Plan, and approval of the proposed PUD Development is consistent with the Comprehensive Plan and will serve the public necessity, convenience, general welfare and good zoning practice. Seconded by Commissioner Stolzenberg. Motion fails 4-3.**

**Commissioner Mitchell:** As the applicant begins thinking about their appeal to Council, it would be good to solidify the thoughts about the affordable housing piece and who the partner might be if they have a partner.

**Ms. Creasy:** We don't have an action at this point and we need an action.

**Mr. Armstrong:** Requests to defer the application.

**Commissioner Mitchell moves that we accept the deferral. Seconded by Commissioner Solla-Yates. Motion is approved 6-1.**

### **3. SP19-00001 – 1617 Emmet Street Drive Through**

Landowner Wells Fargo Bank, N.A. by its agent Riverbend Development, Inc. is requesting a Special Use Permit (SUP) pursuant to City Code Sec. 34-420, to authorize a specific land use (drive-through window for a restaurant) for property identified on City Tax Map 40 C as Parcel 2 ("Subject Property"), having an area of approx. 0.5 acre. The Subject Property is zoned "HW" (Highway Corridor Mixed Use District) with Entrance Corridor Overlay and has frontage on Emmet Street North and Angus Road. The Comprehensive Land Use Map for this area calls for Mixed Use development.

**Staff Report, Joey Winter:** The item before you tonight is a Special Use Permit request for 1617 Emmet Street. The applicant, Riverbend Development represented by Ms. Ashley Davies, is requesting a Special Use Permit to authorize a specific land use, which is a drive through window for a restaurant. Their proposal is to convert the existing structure at 1617 Emmet Street, a former bank, into a coffee shop with a drive through window. The proposed use of the building (defined as "restaurant") is allowed by-right in the HW zoning district. An SUP is required for the restaurant's drive through window. This application is for the drive through only, not the coffee shop itself. City Council approved an ordinance to authorize restaurants with drive through windows in the HW zoning district with a Special Use Permit on August 20, 2018. Prior to that, restaurant drive through windows were not authorized in the HW zoning district under any circumstance. The subject property is zoned HW with an Entrance Corridor Overlay. It is located to the Southwest of the intersection of Emmet Street and Angus Road. To the North of the property across Angus Road is a fast food restaurant with a drive through. To the East across Emmet Street are two hotels. To the South and West of the property is a retail shopping center. All adjacent parcels are also zoned HW with an Entrance Corridor Overlay. For some added context on the area, on Emmet Street from the Albemarle County line to Barracks Road, a distance of approximately one mile, there are currently eight business drive through windows. Seven of them are restaurants and one is a bank. Four of those businesses are north of the Route 250 Bypass and four are south of the Bypass. A preliminary site plan was submitted as a supplement to this SUP application and at the request of the applicant, this site plan is being treated only as an exhibit and has not gone through a full staff review at this time. There are three aspects of the application and site plan exhibit the Commission may want to consider. First, the site plan exhibit proposes to eliminate an existing entrance on Emmet Street. This is being done at the request the City's Traffic Engineer. Secondly, the proposed staff condition #2 was included to address concerns from traffic engineering about vehicle circulation at the site. Based on trip generation data provided by the applicant, the coffee shop drive through will generate significantly more vehicle trips per day than the previous bank drive through did. It's also important to note an existing ATM onsite that is proposed to remain and operate in the drive through lane farthest from the building. Thirdly, no changes are proposed in this site plan exhibit, but the applicant has indicated to staff it is possible they may seek to remove some of the canopy over the drive through in the future. This site lies in an Entrance Corridor so any alterations of the structure or canopy will require ERB approval. Proposed staff condition #1 was included to make this clear. No written public comment was received during the application process. The community meeting required by Code was held by the applicant on March 21 at the site and a second unofficial community meeting was held on March 28 at the site. Staff recommends that this application be approved with the following two conditions: that a Certificate of Appropriateness shall be obtained from the Entrance Corridor Review Board prior to any alteration of the existing structure or canopy and that the final site plan shall include additional signing and pavement markings, including both lane lines and text, to designate the travel ways for drive through and non-

drive through traffic and specify that all traffic is one way. Please remember the factors to consider as you review this SUP application are listed in the staff report and can be found in section 34-157 of the City Code.

## COMMISSIONER QUESTIONS

**Commissioner Solla-Yates:** This area has an auto-dominated history with troubles. Our zoning intends it to be more of a transition zone from auto-dominated to something more human-friendly where bicycles and pedestrians could be imagined. VDOT gave us a lot of money to go a crosswalk on 29 that terminates at this future potential coffee shop, but there is no relationship to the building. The building is far back and it is a drive through, which is a very auto-dominated use is being proposed to this building. Would it be possible to mitigate that in some way and if so, what would that look like?

**Mr. Winter:** Ultimately it's up to the Planning Commission. When the City Code defines the Highway Corridor Zoning District, it says the purpose of the district is to "facilitate development of a commercial nature that is more auto-oriented than mixed use in neighborhood commercial corridors." The Hydraulic small area plan's conceptual land use map designates this parcel as commercial that applies to community and regional shopping centers and highway oriented retail districts. Based on that, the zoning code and small area plan mention that it is auto or highway oriented, which is why staff found the use appropriate. Regarding the setbacks, the staff report mentions that the structure is over the maximum setback from both Emmet Street and Angus Road. The proposal is to use the existing building that it's hard to see a way to do that and also bring the side in conformity with the setbacks.

**Commissioner Solla-Yates:** In other places there are sidewalks that connect from the street to businesses. Could that be possible?

**Mr. Winter:** Notes that he would have to look at the map, but there is a sidewalk all the way down Angus Road

**Chairman Green:** The site plan isn't finalized so it's something we could ask the applicant.

**Mr. Winter:** There were also questions regarding if there was a concern about the Angus Road entrance and the traffic engineer expressed that it wasn't one of his concerns.

**Applicant – Ashley Davies, Riverbend Development:** We have appreciated working with Mr. Winter and staff so far on the development. As Mr. Winter mentioned, staff provided a few conditions on the site, one being looking at additional signage and pavement markings to make the flow work well. We are already looking at how to do that onsite, but the good news is that the site has already been a drive through so it was designed specifically for that usage type. With a few minor tweaks, it should be in good shape for a coffee shop with a drive through window. This is a Highway Corridor so it is one that is more auto-oriented and it is situated for the most intensive commercial uses in Charlottesville. That being said, we have no intention to ignore the pedestrians and we welcome more conversation on how to improve pedestrian access. It is along our most heavily travelled corridor in Charlottesville with over 46,000 vehicle trips per day. We did traffic studies of the site and with a coffee shop use, there are more vehicle trips than with a bank use but there is no significant difference between a coffee shop and a coffee shop with a drive through. Shockingly, during the AM peak hour the one with the drive through is actually fewer vehicle trips than the by-right use. The difference between a coffee shop and a bank is that coffee shops are primarily pass by trips. 89% are pass by trips and its cars that would have already been there, which is why it's so great to locate it on 29. Banks are primary trips to create a new trip on the road. Sustainability is also a huge topic. The building is pulled back from the road and we have considered a variety of uses for the site and in some of them we had new construction on the site. The great part about putting a coffee shop here is that the building is perfectly suited for it as is and it's made of high quality materials. By using that existing building, we

can ensure the maximum use of those materials lifespans and reduce waste over time, not to mention all of the waste that goes into new construction, extraction of materials, and transportation costs. It's the right choice for Charlottesville to reuse this building that is in great shape so we can adapt it easily for this new use. The coffee shop also serves a major community benefit. As staff mentioned, we had two meetings with the neighborhood association. They weren't well attended but it gave us ample time to have discussions with those who were able to join us. While it's on 29, it's also part of the Meadows neighborhood and in talking to them we discovered that there is no place for meeting or gathering in that area. This particular use is a huge benefit to create a de facto neighborhood gathering and people seem to be excited about that option. Given its location on Angus, it's also quite walkable to a lot of residences in that neighborhood. We think it will serve a great community purpose and felt support from those in the neighborhood that we've spoken with. We have been working with the proposed tenant on the site design and as we condition the potential for more signage for striping, we are exploring the idea of more of a raised median that separates the drive through area from the bypass traffic, which takes it to another level to make the site work better. We would like to leave it open to finding the best option to make that site as safe as possible and the raised median assists the flow from Angus and keeping that traffic from keeping any backups into the Angus intersection and road.

### COMMISSIONER QUESTIONS

**Commissioner Lahendro:** If you took the handicapped drop-off next to the lane and extended that to the sidewalk through the planting bed, it would give you a sidewalk access from Angus Road to the building.

**Ms. Davies:** The architect has proposed that and we are happy to incorporate that. If you don't have the raised median, cars could come in from Angus and try to angle into the drive through lane immediately and this forces them to come in and get out of the road to keep traffic moving.

**Commissioner Dowell:** What made you want to keep the ATM there?

**Ms. Davies:** It was there and it seems to provide another community benefit to have it there even though the in-banking services are no longer there. The great thing about the ATM is that it doesn't have peak hours and the traffic for it happens over the course of a day so it's not conflicting with other peak hour uses.

**Commissioner Heaton:** With two lanes and a coffee shop, how do you deliver the coffee to the far lanes?

**Ms. Davies:** The drive through for the coffee shop is only the lane immediately next to the building. The middle lane is a bypass lane to get traffic flowing through and the third lane is just for the ATM.

**Chairman Green:** Are there any questions from Council?

**Councilor Signer:** We appreciate the consideration to go back to the prior format to have the public hearings in the beginning of the meeting because it worked very well before.

**Chairman Green:** Unfortunately it doesn't necessarily work for the public but we can certainly have more conversations about it.

### PUBLIC HEARING:

None.

### COMMISSIONER DISCUSSION

**Chairman Green:** Notes that she appreciates the bypass lane because if you've ever been to the coffee shop in Pantops there are major concerns about backup into the roadway, so this is a huge benefit for the parcel.

**Commissioner Lahendro moves to recommend approval of this application for a Special Use Permit to authorize a drive through window for a restaurant at 1617 Emmet Street North, subject to two (2) conditions: 1) A Certificate of Appropriateness shall be obtained from the Entrance Corridor Review Board prior to any alteration of the existing structure or canopy, 2) the final site plan shall include additional signing and pavement markings, including both lane lines and text, to designate the travel ways for drive through and non-drive through traffic and specify that all traffic is one way, and 3) the handicapped access lane be extended so that it connects with the sidewalk on Angus Road. Seconded by Commissioner Solla-Yates. Motion is approved 7-0.**

#### IV. COMMISSION'S ACTION ITEMS

##### ENTRANCE CORRIDOR REVIEW BOARD

#### 4. Entrance Corridor – Hydraulic Place – Old K-mart Site

**Staff Report, Jeff Werner:** This is an EC COA request for Hillsdale Place, which is located at 1801 Hydraulic Road. It is a 9 acre site that is designated mixed use in the Comprehensive Plan and it is zoned Highway Corridor with Entrance Corridor Overlay. It is a vacant building but is on the site of what had previously been occupied by K-mart and Gold's Gym. Hillsdale Place was initially reviewed by the ERB in 2017 and involves a partial demolition, partial reconstruction, and full renovation of an existing one story commercial building with surface parking. The intent is to maintain the current building footprint and reuse portions of the existing structure. The design includes articulated wall segments, varying parapet heights, and a 39' tall tower in the plaza area. The building materials consist of brick, split face concrete masonry units, metal panels, ribbed metal siding, wood cladding and siding, cast stone, and aluminum composite panels. In 2017 the Planning Commission reviewed a proposed design and unanimously approved the COA with conditions. The proposal before you represents some revisions to the 2017 design and except for the color selection and façade alterations on the western end of the project, the new design is almost identical to the old and for the most part it addresses the conditions of the 2017 COA. Except for the changes to the western façade, staff would have administratively approved this request. Since the staff report was posted last week, the applicant has shared additional changes to the western end of the building that do address the concern staff had about the starkness of the elevations. These would be the walls facing Route 29 and the north wall at the rear of the building. Staff is comfortable administratively approving those modifications, which only leaves the matter of the proposed red elements at the west and south facades that we seek a decision on. The building materials, color palette, and landscaping are generally appropriate for the Entrance Corridor, however it is the red elements that conflict with 4 of the 6 Guidelines addressing color, which are that "the palette of colors should be compatible with adjacent developments, to limit the number of color choices, that bright accent colors may be appropriate for smaller areas such as awnings and signs on commercial buildings, and to not use strong colors that has the effect of turning the entire building into a sign." It is not turning the entire building into a sign, but it is a strong color. Additionally, there is one provision of the EC Guidelines about respecting and enhancing Charlottesville's character that says "Charlottesville seeks new construction that reflects the unique character, history, and cultural diversity of this place. Architectural transplants from other locales, or shallow imitations of historic architectural styles, for example, are neither appropriate nor desirable. Incompatible aspects of franchise design or corporate signature buildings must be modified to fit the character of this community." Staff is of the opinion that the proposal complies generally with this guideline, however staff is concerned about the introduction of elements that are immediately identified as franchise-specific and of a scale

and nature not seen elsewhere in this EC. We received one public comment via email that urged that we tone down or diminish the amount of red on the wall and signage. Staff finds the proposed design to be appropriate and recommends approval, but only with conditions that address concerns about the introduction of the red elements. The options to address this might include reducing the area of the proposed red metal panels or inverting the colors—red to white, white-to red—on the proposed metal panels. Additionally, staff recommends 5 conditions, 4 being from the prior COA and 1 that we recommend will accommodate the more recent updates to the west and north façade. These conditions are 1) all signage shall appear to be lit white at night, 2) all exterior lighting shall be full off, 3) dumpsters will be within enclosures constructed of materials similar to the building and landscaping and other materials will be used to reasonably screen utility boxes and panels from adjacent property, 4) indicate on plans the bus shelter or stop location, and 5) at the west and north elevation to use variation in the approved materials and wall details to further break down the mass and scale of each façade, as presented to staff on pages 9 and 10 of renderings dated May 7, 2019.

## COMMISSIONER QUESTIONS

**Commissioner Lahendro:** Are the items from the agenda package no longer valid?

**Mr. Werner:** They are absolutely valid and that is what you are reviewing. If you are inclined to approve the COA, a condition that the north and west elevations be further articulated would allow staff to move forward with what was sent last week.

**Ms. Creasy:** The Commission has two choices. You could react solely to the materials in front of you, which notes 5 conditions that covers all of the concerns that Mr. Werner has put forward with the materials in front of you. Alternatively, you can reference a document that you have not had the opportunity to see that denotes a number of those conditions already being met with the main condition regarding the large red element on the building remaining.

**Commissioner Dowell:** In your professional opinion, how is this harmonious with the back parcel that is proposed to be developed as well?

**Mr. Werner:** There is vagueness in some of the EC Guidelines. On one hand there is an opportunity to revisit the Guidelines to clarify what they mean. In terms of compatibility, it keeps it somewhat consistently low key. On this segment we are just trying not to make the building jump out at us.

**Commissioner Lahendro:** What is the elevation distance between 29 north and where the building sits?

**Mr. Werner:** It is set down perhaps 12 or 15 feet. It's not so much the color red that's the problem, but it is the scale and amount of it that seems to overwhelm that corner.

**Commissioner Lahendro:** Is there is a future outparcel on the west end on the building?

**Mr. Werner:** There are a few of them. There are 5 sites planned for future development in some capacity.

**Commissioner Dowell:** Regarding the sign, what about the inversion of colors?

**Mr. Werner:** There is a similarly colored store further up on 29 that has an inversion of the colors where the red is less compared to the lighter color.

**Commissioner Stolzenberg:** Do we know anything about the building marked "future" next to 29? Should we be considering that? Will it block any of it?

**Mr. Werner:** The applicant might be able to speak about how the outparcels work and what is planned for development, but we have to assume that nothing is there as of now. The signage will all be addressed in a comprehensive signage plan, which will codify what can happen there once reviewed and approved.

**Chairman Green:** Can you give us some distinction about this? There is a big blue swath with yellow letters on it is just up the street, which is pretty vibrant.

**Mr. Werner:** It is not as strong of a color and it is setback and above the street, so it doesn't jump out at you as you are driving down. It is possible that the lower grade of this site mitigates that, but there is no doubt that it is much closer to the street and it is on two facades versus a panel over an entrance.

**Applicant – Kevin Lyon, Bignell Watkins Hasser Architects:** When looking at the ERB Guidelines and taking into account the existing site, we wanted to create architecture that is visually interesting and aesthetically appealing. There is an encouragement of contemporary design in the Guidelines with specific materials laid out to achieve that goal, one of which is metal paneling. It also mentions creating a pedestrian experience that creates a sense of place and a focal point for organization of the site and that was a huge principal in what we did. As we look at the updated design, we wanted to make sure we stayed within the Guidelines in terms of the design with contemporary materials. It is a different color than what was shown before, but the material is not different, as it is metal paneling. It is a material that is high quality and has a permanence to it, which is what the ERB looks for. In terms of the site and how it relates, 29 and Seminole trail is 15' up starting at the corner of the building where the design is concerned and it comes down more as you go across the site. It contributes to the design and how it will be perceived as it is approached by drivers along the Entrance Corridor. Landscaping was also touched on to enhance the site in general and is in the official site plans that have been submitted. A diversity of materials is also specifically mentioned in the Guidelines as something to be sought after and we are trying to enhance the aesthetic and create something that isn't going to imitate an older style of architecture that is prevalent but to go with a contemporary design and fitting it into the context of what we have. Talking specifically about the red, in terms of Mr. Werner's recommendations, inverting the colors would not be our preference. If the goal is to have something not be as stark as compared to the rest of the building, our preference would be to look at how the proportions of the red areas work and how we can work in some of the articulation that is elsewhere in the building into that portion. We looked heavily at articulation at a human scale for the pedestrian experience and tried to curtail vast expanses of a similar materials or a long blank wall like what is existing on the site right now.

## COMMISSIONER QUESTIONS

**Commissioner Dowell:** Have you considered other renderings that are not so bright and will still achieve the target of what you are looking for?

**Mr. Lyon:** Maybe that goal could be accomplished by taking some of the other materials that are elsewhere throughout the building and bringing them more into that area to reduce the red a little bit and articulating it a little more so that is isn't turning a portion the building into a sign if that is the objection. There are certainly other elevations and designs that we have considered.

**Commissioner Lahendro:** How critical to the tenant's unique signature is it to have this much red on the building?

**Mr. Lyon:** It is fairly critical. Whatever design guidelines are required by the jurisdiction are required, but we are trying to strike a balance and find a design that makes everyone acceptable of it. Branding is very important and signage is important regardless of the tenant.

**Commissioner Heaton:** You mentioned lowering the percentage of the amount of red. Are you going to be specific about that or are you just willing to consider it?

**Mr. Lyon:** It's hard to give a specific number because it has to do with proportion and how the red will fit within the context of the design of the building rather than popping out at you. There isn't a specific dimension on that, but what's modeled is an attempt to do that.

**Chairman Green:** Are you losing this store if it is inverted?

**Ms. Davies:** We would prefer to look at other design options than a big stark white wall with a red sign, which ends up being a white wall with a white sign at night.

**Chairman Green:** It isn't white. For instance, in north Albemarle if there was another type of store with a red logo and it was required to be inverted with a tan background with red letters, would it be a deal breaker for you and this location?

**Ms. Davies:** What would be most helpful tonight is to get this type of feedback from the Commission about what is preferential for this particular part of the Entrance Corridor and what you see as compatible. Then Mr. Lyon and I would have a chance to go back and speak with that particular tenant and come back with options for further discussion. If you feel good about what is before you tonight we are happy to move forward, but if that is not the will of the Commission then we are happy to come back with options that possibly have a difference color palette or proportions. The Guidelines say that it's fine to have colors that is an accent color and there isn't anything that is particularly bad about red as a color. It is a more modern area and it is fine to be playful and colorful in this section of our community but it is a matter of how much of it is okay with this group.

**Commissioner Lahendro:** The red needs something to spice up the development and the red is perfectly fine, but it is suggested that we pull back the proportion to 1/3 or 1/2 of what is shown now.

**Commissioner Stolzenberg:** Given that this whole parcel is within the Entrance Corridor, are we concerned with the views from both Hydraulic and 29, or specifically 29?

**Chairman Green:** Most of it is still brown colors and the large red wall that popped up is why we are here tonight.

**Ms. Davies:** Notes that the building is approximately 200' from the 29 and 400' feet from the Hydraulic Corridor.

**Chairman Green:** How far is the Best Buy sign from 29? It is elevated and a beacon of light. Does staff think the blue is not a big deal?

**Mr. Werner:** It's about 400'. This is where the subjective part comes in and red is a very strong color. There is an architectural element that is valid here if you can make the case for your design. However, the design argument is predicated on a brand. We have to be very careful about drilling holes in the bucket of our Guidelines and it is advised that we be measured in this. If the red is fine then we should establish that it is a design element that we welcome.

**Commissioner Lahendro:** We have to think about the scale of this building and Best Buy compared to Zaxby's or Cookout that is close and near the road and in a more transitional area that is becoming more pedestrian. The scale is important to consider because one size doesn't fit all. In context, across a large parking lot this is not inappropriate to get attention.

**Chairman Green:** Notes that she echoes that sentiment.



**Commissioner Dowell:** Looking at the entire project as a whole, it does not seem harmonious across this viewpoint in general. It doesn't flow well and there are too many colors and too much going on. What about the project being proposed right behind it? Are they supposed to be totally separate?

**Chairman Green:** Mr. Werner is the expert and it should be his call to make if he thinks there is a certain color palette that works better than others.

**Mr. Werner:** As far as an aesthetic expert, that is not my background. This is how I am interpreting the Guidelines and you can certainly differ on that. The question is whether or not the design fits and feels good and the decision should be based on design and what feels good rather than a corporate logo, and the Guidelines are very clear about that. Perhaps a reduction in scale, a matte finish, or some texture to the red that could break it down a little bit. There is some compromise to be found relative to the Guidelines.

### COMMISSIONER DISCUSSION

Commissioner Heaton moves that having considered the standards set forth within the City's Entrance Corridor Design Guidelines, Commissioner Heaton moves to find that the proposed design for the Hillsdale Place at 1801 Hydraulic Road is consistent with the Guidelines and compatible with the goals of this Entrance Corridor, and that the ERB approves the Certificate of Appropriateness application with the following conditions of approval: 1) mitigate/ address the red element by inverting or lowering the proportions of red by the scale of 50%, 2) all signage shall appear to be lit white at night. All exterior lights shall be full cutoff, 3) Dumpsters will be within enclosures constructed of materials similar to the building, 4) Landscaping and other materials will be used to reasonably screen utility boxes and panels for the adjacent property, 5) indicate on panels the bus shelter or bus stop location, and 6) at the west and north elevation use variation in the materials and wall details to further break down the mass and scale of each façade, as presented to staff on page 9 and 10 of the rendering dated May 7, 2019. Seconded by Commissioner Lahendro.

**Commissioner Stolzenberg:** Is that 50% area or length?

**Commissioner Heaton:** They are referring to scale or area, so you'd measure what it is and take it down by 50%.

**Commissioner Heaton moves that having considered the standards set forth within the City's Entrance Corridor Design Guidelines, Commissioner Heaton moves to find that the proposed design for the Hillsdale Place at 1801 Hydraulic Road consistent with the Guidelines and compatible with the goals of this Entrance Corridor, and that the ERB approves the Certificate of Appropriateness application with the following conditions of approval: 1) mitigate/ address the red element by inverting or lowering the proportions of red by the scale of 50%, 2) all signage shall appear to be lit white at night. All exterior lights shall be full cutoff, 3) Dumpsters will be within enclosures constructed of materials similar to the building, 4) Landscaping and other materials will be used to reasonably screen utility boxes and panels for the adjacent property, 5) indicate on panels the bus shelter or bus stop location, and 6) at the west and north elevation use variation in the materials and wall details to further break down the mass and scale of each façade, as presented to staff on page 9 and 10 of the rendering dated May 7, 2019. Seconded by Commissioner Lahendro. Motion is approved 6-0. Commissioner Solla-Yates abstained.**

*Commissioner Heaton left the meeting.*

### 5. Critical Slope – 915 6th Street SE

**Staff Report, Carrie Rainey:** Shimp Engineering, on behalf of Rayonix, LLC is requesting a waiver from Section 34-1120(b) of the City Code to allow for construction of a mixed use development that would include two buildings with 28 one and two bedroom multi-family residential units and commercial use, and a surface parking lot with vegetated canopies. 34% of total site area contains critical slopes, 78% of which are proposed to be disturbed, accounting for 27% of the site in total. Much of the site is wooded. A single family home is currently located on the site near 6th Street SE. 36% of the total critical slopes on site are greater than 60%. Critical slopes great than 60% proposed to be disturbed account for 30% of the critical slope disturbance. The applicant's justifications for critical slope disturbance are summarized in the staff report, and are included in the attachment section. The Environmental Department made the following comments: Efforts should be made to limit the disturbance of critical slopes onsite to the maximum extent practical. In particular, care should be given to minimize or avoid impacts to slopes greater than 60%. The site also has significant tree canopy coverage, which is largely proposed to be removed. The site will produce significantly more storm water in the post-development condition. This additional storm water should be managed onsite to avoid impacts to Pollocks Branch, to which the site discharges. Given that Pollock's Branch has significant water quality and quantity challenges, all water quality and quantity requirements associated with the site should be completed onsite without claiming the 1% rule for water quantity compliance, which is a state allowance. If not managed properly onsite, the additional storm water will leave the site with increased velocity and can have the potential to cause increased pollutant loading and erosion and sedimentation in Pollocks Branch. The Environmental staff also noted that the critical slope area that is proposed to be disturbed will not have improvements located therein and should be stabilized with heavy plantings of local native woody and herbaceous vegetation. A significant area of critical slopes are 60% of greater and uncontrolled storm water runoff over these slopes will likely cause them to erode and the displaced soil could potentially travel to adjacent sites or travel to public right-of-ways. The property is zoned Downtown Extended Corridor (DE), for which the intent as stated in Section 34-541(2) is to encourage an inter-related mixture of high-density residential and commercial uses harmonious with the downtown business environment, within developments that facilitate convenient pedestrian and other links to the Downtown area. The General Land Use Plan of the 2013 Comprehensive Plan calls for the property to be mixed use. The Comprehensive Plan describes Mixed Use as zones where the City encourages development of a moderate or high intensity, and where a variety of uses will be permitted, including many commercial uses, residential uses, and some limited research and manufacturing where appropriate. The property is designated as Mixed-Use Urban Corridor (Transect T5) in the Regulating Plan of the SIA Plan. The SIA Plan states Transect T5 should have low- and mid-rise buildings of approximately four to five stories in height with buildings set close to the sidewalk. Staff recommends the Planning Commission consider the following items: Erosion affecting the structural integrity of the critical slopes, adjacent properties, or environmentally sensitive areas. Both the Environmental Sustainability and Engineering Departments have expressed concern regarding impacts to the 60% critical slopes and subsequent effects on adjacent properties and Pollocks Branch. Erosion and sediment control measures can be conservatively designed to minimize the risk for discharge to the critical slopes remaining on the adjacent parcel. For example, wire reinforced silt fence or super-silt fence could be prescribed. Staff recommends storm water impacts to adjacent properties or environmentally sensitive areas. Both departments have expressed concern regarding impacts to the 60% critical slopes areas and subsequent effects on adjacent properties and Pollocks Branch. All water quality and quantity requirements associated with site development can be required to be completed on-site, without claiming the 1% rule for water quantity compliance, to ensure additional storm water will not leave the site with increased velocity and have the potential to cause increased pollutant loading and erosion and sedimentation in Pollocks Branch. Staff recommends considering loss of tree canopy and wildlife habitat that contribute to the natural beauty and visual quality of the community. The site currently has significant tree canopy coverage, including on the critical slopes, which is largely proposed to be removed. In addition, wildlife habitat is likely to be reduced by the clearing of existing mature canopy and understory growth on the site. The Virginia Department of Game and Inland Fisheries recommends varying levels of vegetation like herbaceous layer, shrub layer, sapling layer, and canopy to promote a diversity of species. The planting of locally native woody and herbaceous

vegetation can be required to both stabilize remaining slopes and minimize impacts to vegetative canopy and wildlife habitat. Staff has provided a series of recommended conditions that address those three items, should the Planning Commission recommend approval of the critical slope waiver request.

## COMMISSIONER QUESTIONS

**Commissioner Dowell:** What is the current health status of Pollocks Branch? What are the potential impacts from this development are proposed to the waterway and the quality of the waterway?

**Ms. Rainey:** There isn't a specific number to provide. Pollocks Branch has been noted as in need of improvements and repair to the system, but if there is a numerical system, staff is unaware of it. The potential impacts could be increased erosion to the waterway of Pollocks Branch and adjacent properties if not properly controlled during construction, which regards the erosion and sediment control measures and at a longer term stance. This is why staff recommends the condition to treat all storm water onsite. The 1% exemption, which is an allowance by the state for exceedingly small sites to not treat the water onsite, which could get down to Pollocks Branch and create additional erosion of the slopes and sediment into Pollocks Branch to decrease the health.

**Commissioner Lahendro:** How does the present design comply with zoning? Are we meeting the required setbacks, side yards, and building heights under present zoning?

**Ms. Rainey:** Yes. There is a minimum 35' height and a maximum of 101' for Downtown extended for mixed use projects. 6<sup>th</sup> Street SE is a primary street, which has a maximum setback of 15'. 2<sup>nd</sup> Street SE is not designated in the corridors as a primary or linking street so there isn't a required setback there, but the applicant has shown the building close to the street in line with the SIA plan. Along 2<sup>nd</sup> Street the building height is proposed to be 49' and 38' on 6<sup>th</sup> Street.

**Chairman Green:** Isn't this an overlay of the SIA?

**Ms. Creasy:** The SIA is a guide so it is not zoning-based. It is one of multiple elements that can be reviewed. Ms. Rainey included a lot of information in the staff report because that is what we are striving for and the applicant has kept that in mind, but that is not the word of law at the moment.

**Commissioner Stolzenberg:** The SIA plan map shows Rayon extending up to Blenheim, which it doesn't seem like this plan conflicts with that in that there is no building in the way. How would that street be envisioned to be built? Given that there would be a downhill there, does this change any of that?

**Ms. Rainey:** There wasn't any detailed envisioning of how that street would be constructed during the SIA process when the plan was discussed and passed. It would entail great regrading to meet slopes. There also isn't any building proposed in that area. It would be surface parking lot, which could potentially be revisited if the City was looking to include streets.

**Commissioner Lahendro:** We heard earlier than storm water requirements for a site is not controlled locally and it is a state regulation. Can it be required that we have all the storm water treated on the site?

**Ms. Rainey:** Council has approved similar conditions on other critical slopes waivers, but this requirement is not based on the storm water process itself, but as a special condition allowing you to impact slopes that the City has determined to be critical and not otherwise allowed to be impacted. It is not a storm water requirement per the code, but it is related to storm water as a potential condition.

**Applicant – Peter Russell, Shimp Engineering:** The project is .77 acres and the existing use is a single family house. The proposed use is 28 1-2 bedroom residential units for rent with a possible commercial use along the 2<sup>nd</sup> Street façade. The total critical slopes is .26 and the total critical slopes to be disturbed is .21 acres. On the General Land Use Plan in draft form, the parcel is designated high intensity, which is defined primarily as most intense urban areas within the City. The parcel also currently faces two different zoning areas. Regarding the critical slopes, the contiguous slopes from the critical slope continue down 2<sup>nd</sup> Street, but they are interrupted by housing and staircases along the street. In the late 1970s Pollocks Branch was covered and developed and street connections were made, which drastically widened the grade to allocate spaces for parking in the street. Overall, this complies with the Comprehensive Plan and draft versions of the General Land Use Plan, as well as the SIA.

#### **COMMISSIONER QUESTIONS:**

**Chairman Green:** Have you reviewed this based off of what is approved in the Comprehensive Plan?

**Mr. Russell:** Yes. It complies with the 2013 Comprehensive Plan.

**Commissioner Solla-Yates:** Why not 4-5 stories?

**Mr. Russell:** It is 5 stories along 2<sup>nd</sup> Street and 3 stories along 6<sup>th</sup> Street. The idea there is to have the more commercial side (2<sup>nd</sup> Street) match the existing use. The 6<sup>th</sup> Street side is decreased to help transition more easily into the single family homes across the street.

**Commissioner Lahendro:** How tall is the grade elevation difference on the north side of the parking area?

**Mr. Russell:** It is varied and depending on the variation it would be 6-10' tall at the highest point. It will be sloped rather than a continuous face of 10'.

**Commissioner Lahendro:** At the bottom of the retaining wall, will the critical slope stay the way it is now?

**Mr. Russell:** Yes. We are trying to grade as little as possible past the retaining wall.

**Commissioner Lahendro:** For the buildings facing 2<sup>nd</sup> Street, can they be pulled back so their footprint is not within the critical slope, either by making them taller or pushing them to the south property line and letting the sidewalk be on the north side that is elevated post grade? It would let the critical slopes continue underneath. Is there a design way to push the footprint of the buildings on 2<sup>nd</sup> Street so that they are outside the critical slope?

**Mr. Russell:** There is a setback on that side because it is next to residential, so we are pushing the building a little further west. The setback is 20', which is why the building is positioned on that side of the site. It does unfortunately push us into the critical slopes more.

**Commissioner Lahendro:** Can you make the building taller to reduce the footprint?

**Mr. Russell:** Making the building taller is an option, but because it is so thin we have to provide the correct amount of parking, which is why the parking is so spread out in the center and the buildings on the ends. Increasing the height on the 2<sup>nd</sup> Street side wouldn't help us in terms of helping to reduce the actual disturbance. We can talk to the developer about that possibility.

**Commissioner Solla-Yates:** The parking is the dominant visual element when looking at the site plan. Directly to the north there is a huge surface parking lot. Is there any way of leveraging that to make this work better?

**Mr. Russell:** In terms of getting people to the 6<sup>th</sup> Street side that becomes less possible because it isn't adequate.

**Commissioner Stolzenberg:** Is there a legal requirement that it has to be that accessible by foot?

**Chairman Green:** Isn't there is an ADA requirement?

**Ms. Creasy:** There are handicapped parking requirements for distance, but there are also allowances within the code for general parking to be within certain distances of developments

**Commissioner Stolzenberg:** Does that include shared parking agreements?

**Ms. Creasy:** There are different options and that is one of the options.

**Chairman Green:** Are you saying that for the commercial, you could access 2<sup>nd</sup> Street and the parking easier than what the residential could be on 6<sup>th</sup> Street?

**Mr. Russell:** Correct, and if the adjacent parcel was developed that would potentially eliminate that parking availability.

**Chairman Green:** Is it possible to do the mitigation recommendation that staff made on this site?

**Mr. Russell:** It is expensive, but it is possible.

## COMMISSIONER DISCUSSION

**Chairman Green:** The housing and commercial are both needed, but the difficulty lies in allowing the critical slopes to be disturbed and cutting down all those trees for parking.

**Chairman Green:** Have you really looked at this design in depth?

**Mr. Russell:** We've look at it and this design with both buildings fronting on both streets and this scale works really well for the site. Disturbing less critical slopes is extremely difficult, especially if we want to address 2<sup>nd</sup> Street.

**Commissioner Lahendro:** There is likely a design way to help reduce the amount of critical slopes being disturbed along the buildings along 2<sup>nd</sup> Street.

Commissioner Stolzenberg moves to recommend approval of the critical slope waiver for Tax Map 27 Parcel 36 based on a finding that the public benefits of allowing the disturbance outweigh the benefits afforded by the existing undisturbed critical slope, per Section 34-1120(b)(6)(d)(i), and due to unusual physical conditions, compliance with the City's critical slopes regulations would prohibit or unreasonably restrict the use or development of the property, per Section 34-1120(b)(6)(d)(ii). And this motion for approval is subject to the following conditions: 1. Require erosion and sediment control measures that exceed minimum requirements in order to mitigate potential impacts to the undisturbed critical slope areas, tributary stream, and adjacent properties during land disturbance activities, per Section 34-1120(b)(1)(a-c); use of super silt fence with wire reinforcing and six (6) feet stake spacing to ensure adequate protection of the aforementioned items, to be detailed on the site plan and approved by the Engineering Department prior to final site plan approval. 2. Require all water quality and quantity requirements associated with site development be completed on-site without claiming the 1% rule for water quantity compliance, in order to mitigate potential storm water impacts to Pollocks Branch and adjacent properties, per Section 34-1120(b)(1)(b-c), to be detailed on the site plan and approved by the Engineering Department prior to final site plan approval. 3. Require a fixed, immovable barrier to protect

root zones of existing trees identified to be preserved on the final site plan at the drip line to remain throughout full completion of the construction, and additional habitat redevelopment in order to mitigate potential impacts to existing tree canopy and wildlife habitat per Section 34-1120(b)(1)(f); and the installation of additional species of native woody and herbaceous plantings in the critical slope areas not to contain buildings, the parking lot, sidewalks, and other built improvements, to be detailed and on the site plan and approved by the Environmental Sustainability Department prior to final site plan approval. Seconded by Commissioner Solla-Yates. Motion ties 3-3.

**Commissioner Lahendro:** Notes that he cannot support the project. It doesn't comply with the Standard of Review, which is to "unreasonably restrict the use, reuse, or redevelopment of such property." It can still be used and redeveloped just fine if we can keep the building out of the critical slope.

**Chairman Green:** Agreed.

**Commissioner Stolzenberg:** It's important to remember the bonus height analysis, which says as soon as we rise above that 5 story mark to switch to concrete and steel, the apartments will get much more expensive.

**Commissioner Lahendro:** That is old thinking. They are now building laminated wood buildings at 10 stories tall.

**Commissioner Stolzenberg:** True, but they are very expensive.

**Commissioner Lahendro:** The recommendation is to redesign the project so that the buildings fall outside of the critical slopes.

**Commissioner Mitchell:** If we do this, the price rises and we begin to defeat our desire to increase our affordable housing stock.

**Chairman Green:** It's also increasing the price by doing the onsite water. If this were affordable housing it would be different.

**Commissioner Dowell:** The only time we talk about affordable housing is with apartments and that should not be the only affordable things being sent our way. Homeownership is one of the biggest ways for generations to come out of poverty.

**Commissioner Stolzenberg:** It's not the case in this case. Homeownership is still possible with apartments and apartments are naturally a more affordable form of housing.

**Chairman Green:** It's not about the rental vs. non-rental. The rates for these apartment rentals is probably going to be \$1400-\$1800. There's not any affordability.

**Commissioner Mitchell:** Mr. Lahendro, do you not think that the mitigations address the things you are worried about?

**Commissioner Lahendro:** They address the storm water issue but it's the slope itself and the fact that it is vegetated with large mature trees on it. It's an important piece of the character of this area and we are protecting the critical slopes for a reason. It's a difficult site but it's not impossible to do that.

**Commissioner Stolzenberg:** It's not rent-regulated affordable but in terms of prices, but as soon as you go from stick built to concrete the cost building goes up 21.5%.

**Commissioner Solla-Yates:** The critical slopes waivers need a public purpose to do it. Could we include an affordable housing element as a requirement?

**Ms. Creasy:** That doesn't seem like it would be directly related to the critical slope portion itself. The condition needs to be related to the slopes.

**Mr. Russell:** We believe this site plan addresses 2<sup>nd</sup> Street and 6<sup>th</sup> Street in a thoughtful way. We are disturbing a substantial amount of critical slopes, but we believe that this plan meets the goals that are set forth in the Comprehensive Plan and the SIA this plan does those things by creating mixed use along 2<sup>nd</sup> Street with residential at a scale that is appropriate for what the vision is for the area and what is there now. We want to create appropriately sized housing and this site plan achieves those goals. Not disturbing critical slopes would require us not to address 2<sup>nd</sup> Street in the way that those documents point towards.

**Chairman Green:** What are the commercial elements there?

**Mr. Russell:** It would be a commercial bottom floor commercial but the tenant hasn't been determined.

**Commissioner Lahendro:** The presentation showed the 1960s when Pollocks Creek was still open. Was that a natural slope down to Pollocks Creek where this site is?

**Mr. Russell:** The furthest end is possibly native slope, but the northern side looks to be completely disturbed with grading and the parking lot of the street.

**Chairman Green:** It looks like the slope has been graded on the IX Park side. While we have this immovable barrier in place to protect trees, what kind of mitigations are there if something accidentally happens?

**Ms. Creasy:** We would shut the site down and make them correct it.

**Chairman Green:** It would be difficult to mitigate a 24" maple. Many of these trees' roots are large and when you cut that into an 8' retaining wall they are not going to last.

**Commissioner Solla-Yates:** Since we are talking about mitigation, can we talk about reducing parking impact as a mitigation effect? Most of this space is surface parking and if we require less surface parking we get more critical slope.

**Commissioner Mitchell:** Where does the parking go and aren't there regulations to follow?

**Ms. Creasy:** They would have to adhere to the regulations, so if the parking onsite decreases, they have other options within the code to work with. It could limit the number of units, the square footage of commercial, among other things.

**Chairman Green:** We've had some places where they are allowed to calculate on-street parking on 2<sup>nd</sup>, which is a commercial corridor anyway. Is there any way to utilize some of the on-street parking to eliminate some of the parking?

**Ms. Creasy:** There is a process that comes into play with that and it is unclear if we can condition that or not. To do that, there is a count done about utilization of parking onsite and approval has to be provided to count it onsite. It might be a tough call, given the proximity to Downtown and levels of parking, but we don't have any of that data.

**Commissioner Stolzenberg:** They could do a cooperative parking arrangement anywhere within 400'. That has no regard to hills and probably doesn't include the ADA requirements but that is a pretty significant distance.

**Commissioner Lahendro:** If the block of building closest to 2<sup>nd</sup> Street was reduced in footprint to avoid destroying the critical slope and letting the next block up be the footprint that it is, that would be a good compromise.

**Chairman Green:** It feels like we have a lot of good alternative ideas that could be looked at by the Engineering firm.

**Commissioner Lahendro:** If we deny this, would that tell them to go back and look at it further?

**Ms. Creasy:** With a recommendation for denial, they would have the opportunity to come back or go straight to Council.

**Commissioner Lahendro moves to recommend denial of the critical slope waiver for Tax Map 27 Parcel 36. Seconded by Chairman Green. Motion is approved 3-2. Commissioner Mitchell abstained.**

**Mr. Russell:** Moving forward in trying to reduce parking, is there a way for us to do that prior to bringing it forward again?

**Ms. Rainey:** The code does have allowances for a certain percentage of spaces required to be reduced through means of off-site parking agreements or reductions based on proximity of bus stops and bike facilities provided onsite. There is a limitation as to how far the applicant can reduce the required parking based on those measures, which are detailed in the site.

**Ms. Creasy:** There is a full code section to review and the applicant has to understand what the uses will be because the amount of parking will be tied to that.

**Commissioner Dowell:** It's not that we don't want any parking so we don't need it reduced to no parking onsite, but we don't want to see the vegetation and the critical slopes disturbed so drastically just for parking when there are other alternatives.

**Commissioner Dowell:** In November we should review how we proceed with our preliminary hearings for joint work sessions with Council. Right now it is not feasible to anyone to change things.

## **V. Adjournment**

**10:15 pm – Chairman Dowell moves to adjourn until the second Tuesday in June 2019.**