

Minutes

PLANNING COMMISSION REGULAR DOCKET
November 12, 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, 2nd Floor, NDS Conference Room

Members Present: Chairman Mitchell, Commissioners Stolzenberg, Solla-Yates, Lahendro, Green

Members Absent: Commissioner Heaton

Staff Present: Patrick Cory, Joe Winter, Missy Creasy, Lisa Robertson, Brian Haluska, Alex Ikefuna

Chair Mitchell called the meeting to order at 5:08pm. He wanted to wait to talk process on DE-SIA until more commissioners arrived. He asked Mr. Winter to provide an overview on 167 Chancellor Street, which he provided. Commissioner Stolzenberg asked about bike racks verses bike parking. Mr. Winter clarified the code requirement and the staff recommendation. There was a brief discussion on this and it was determined that the condition provided by staff would be updated in the regular meeting.

Chair Mitchell asked concerning 218 West Market Street if the applicant has identified how they will address the affordable housing requirement. It was noted that has not been done and is not required until later in the process. Confirmation was provided that the building proposed would be taller than the Omni.

Review occurred of the main issues to review pertaining to DE-SIA. Ms. Robertson outlined what should occur to consider additional T-6 areas. Chair Mitchell noted there were concerns with how to assure affordable housing and it was noted that the attorney's office noted an affordable housing covenant could be required prior to permitting. Commissioner Stolzenberg asked for clarification on how that can be enforced and information was provided.

II. COMMISSION REGULAR MEETING – Meeting called to order at 5:30 PM

A. COMMISSIONER'S REPORT –

Commissioner Green – Not Present at the time of the Commissioner Reports

Commissioner Stolzenberg – Attended a PLACE Task Force meeting. We received an update on the parking on Market Street between and 8th and 9th Street. Still no firm plans on that. We will see how it develops through the CIP process. We also discussed potential changes to the ADU, Affordable Dwelling Unit. We are currently in a program with Portland State University to review those. We should be getting that report sometime this month. We will hopefully be able to make some recommendations.

Commissioner Dowell - No report

Commissioner Solla-Yates – The Barracks Road Emmet Street Steering Committee met on October 30th. We discussed the results of the survey. There was a strong preference for pedestrian safety. We discussed two options for how to do the engineering. One wider than the other, which would provide for a wider, safer pedestrian and bicycle right of way.

Commissioner Lahendro – The Board of Architectural Review met on October 15th. I was unable to attend because I was attending the Form Based Code workshop. The Tree Commission did meet on November 5th. We had a presentation from Brian Wheeler. He reviewed the public meeting requirements. Paul Josey, the chair, reviewed the state of the forest presentation that he had made to City Council. He shared the commission's concerns for inadequate tree preservation from the past year along with highlighting the Charlottesville tree stewardship partnership to plant trees in the Belmont Neighborhood. We had seven tree nominations that were approved for legacy trees. Last Saturday, we planted 25 trees in Belmont. This was done on private property. The tree stewards petitioned property owners in the Belmont neighborhood.

B. UNIVERSITY REPORT –

Commissioner Palmer – No Report

C. CHAIR'S REPORT

Chairman Mitchell – The Director of Parks and Recreation announced that he was leaving. This is a major loss to the Parks and Recreation Department. That group has built a world class parks and rec infrastructure. Todd Brown will be joining us as the Deputy Director of Parks and Rec. Mr. Brown has about 28 years of managing parks in Fairfax. There was a philosophical discussion. There was a question that our leaders are going to have to answer in the next year. Do we want a Parks and Rec organization that enhances the lives of the people that live here in Charlottesville or do we want Parks and Rec to be a revenue generating entity? Or do we want to do both? That debate will become livelier as we begin picking through the budgets that we have.

D. DEPARTMENT OF NDS

Ms. Creasy – We have a work session on November 26th on the CIP. We are going to be preparing for the public hearing that we are going to have in December. We do have a busy December coming up. Our regular meeting is going to include South First Street Phase II and two comprehensive plan amendments for two smart scale projects.

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

Jill Trischman-Marks, McIntire Botanical Gardens – Supported the CIP budgeted item that is being proposed by the Parks and Rec Department for the infrastructure of McIntire Park East. The City of Charlottesville committed to making one of its largest assets, both equitable and accessible. This infrastructure includes ADA restrooms, a park pavilion, a parking lot, underground utilities, and an ADA bridge across the creek to features at the southern end of the park. Because of its proximity, MBG is unable to be constructed until the infrastructure has been implemented. We have just completed the first phase of three design phases for the garden, the schematic plan. Support for the garden has never been greater. We have about 150 volunteers, who have donated over 12,000 hours of time, since we started counting in 2017. Our financial donations are up by 2500%. These statistics are from before it was announced that the schematic design for MBG had just won an American Society of Landscape Architects award. The Parks and Rec Department chose us as their partners to fulfill the city's mission to provide environmental education. In the last month, the MBG Board voted to implement the design and construction of the children's natural play area as its first priority. At this point, the approximate time accumulation between budget, bids, and construction of the park's infrastructure means that we are three years out from the delivery of these services. Every year, this infrastructure is not included in the budget delays these services further. As a part of this schematic plan, the firm of Downey & Scott provided a cost estimate for the construction of the garden. Including proposed visitor center, the cost is estimated at over

\$25 million. This is an ambitious project, but the board of directors is committed to raising the private funds needed to provide this gift from the community to the community. We only ask that you help us to build on the momentum gained thus far and help accelerate because of the ASLA Award.

Lillie McVey – Spoke on the lack of affordable housing in the City of Charlottesville. Where affordable housing can be found, renters have no rights. On Oak Street, a family has purchased five properties in the same neighborhood. They are planning on putting private driveways on the properties, which will take out public spaces. Neighborhood Development informed me that if I was wealthy enough, I could buy my own property. There were two solutions. I could move to a different town or I could ask my landlord to build a driveway. Nobody here can afford to live here. Nothing is being done to address that.

F. CONSENT AGENDA

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

1. Minutes – October 8, 2019 – Pre-Meeting and Regular Meeting
2. Minutes – September 24, 2019 – Work Session
3. Minutes – October 15, 2019 – Work Session

Some slight changes in the wording of the minutes were provided to Ms. Creasy. After the changes in the minutes were made, **Commissioner Solla-Yates moved to approve the consent agenda as presented. Seconded by Commissioner Stolzenberg. The motion was approved 6-0.**

The Chair adjourned the meeting for a five minute recess.

III. JOINT MEETING OF COMMISSION AND COUNCIL

Beginning: 6:00 PM

Continuing: Until all public hearings are complete

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

1.

ZT19-10-02 - (To establish zoning regulations within a new zoning district, “DE-SIA”) – A proposed amendment to the Zoning Ordinance of the City of Charlottesville, 1990, as amended, to add a new zoning district to be known as the Downtown Extended Strategic Investment Area District “DE-SIA”, and within that district to regulate the use of land, buildings, structures and other premises within the district; to regulate the size, height, area, bulk, location, alteration, repair, construction, maintenance or removal of buildings and structures; to regulate the areas and dimensions of land and air space to be occupied by buildings structures and uses, and of courts, yards and other open spaces to be left unoccupied by uses and structures. The proposed DE-SIA zoning district regulations will establish three subclassifications of property: T4 (3 stories of building height by right, 1 additional story available by bonus), T5 (4 stories of building height by right, 2 additional stories available by bonus) and T6 (5 stories of building height by right, 4 additional stories available by bonus). Within the proposed DE-SIA, the term “density” refers to a combination of the area(s) of land to be occupied by buildings and structures, and the overall size of buildings with regard to height and mass. The DE-SIA regulations will differ from the current DE-Mixed Use District regulations, in that the DE-MU regulations allow only 4 stories of building height by right (with up to 5 bonus stories allowed if mixed uses are provided within a building). The uses allowed within the proposed DE-SIA district are of similar character and intensity as those allowed currently within the Downtown Extended Mixed Use Corridor District (“DE”); some uses currently available in DE may not be available in all of the T4, T5, and T6 subclassifications, in order to provide reasonable transitions between areas of different density and different street types. The DE-SIA regulations are proposed to implement the

recommendations, goals and objectives of the Strategic Investment Area Plan (2013) and the Streets That Work Design Guidelines (2016) within the City's Comprehensive Plan.

The mayor gavelled in the City Council.

i. **Staff Report**

Brian Haluska, City Planner – This is the downtown SIA zoning text proposal and zoning map proposal. The SIA process starts back with the SIA Plan that started review in 2011. There was a lot of public outreach that was done at that time. The plan was adopted as an amendment into the comprehensive plan in 2014. The first step of that process was breaking down the overall strategic investment area into phases. Those phases could be individually reviewed for potential zoning changes. We selected a consultant for Phase I in 2017. That draft was delivered in 2018. We have done some additional outreach since the initial draft. It is in front of the Commission for review. The main point of a Form Based Code is to focus on the built form in an area, to look at the architectural designs, particularly on the ground floor of buildings, and focus on the actual design and how they interact with the road and the public realm in front of them. Traditional zoning focuses a lot on how we use buildings, not so much the design of the buildings. This flips things around. It focuses more on the buildings and what people experience as they go through an area and less on the actual use of the building. Some concepts that the SIA plan and our comprehensive plan talk about that should be reflected in this map and the text amendment 1. The privacy of Second Street Southeast through this area. The SIA plan talks a lot about Second Street as a perpendicular “spine” of the SIA area that would come down into the public plaza that is shown on the IX property. That becomes a complimentary piece to the downtown mall, a new pedestrian connection. The plan focuses on the vitality of the area on that corridor leading from Main Street all of the way down to the end of Second Street. Some of the regulations speak very much about Second Street and how we get the type of activity we are looking for on that corridor to meet the objectives of our plan. The SIA identified maximum heights in the area are suggested that we keep the heights at around five stories, which is much different than some of the buildings that have been approved and constructed in the downtown extended zone. That's part of the reason why you see a lot of T-5 zoning. It was trying to uphold the SIA plan, our comprehensive plan, and our desired heights in the comp plan. A few other items have come up in the review. There is no maximum density in this zone. We are controlling the buildings for height, controlling ground floor heights, and in some cases there are requirements for commercial use on the ground floors, particularly along that Second Street corridor. There is no maximum density. Developers could size those units however they wanted to, provided that they meet the parking requirements. Currently in the downtown extended, you are capped at 43 dwelling units per acre. We talked about T-5 and T-6. There was some direction about other properties that might be appropriate for T-6. One of the requirements for T-6 zoning in your code is that T-6 buildings are supposed to front on a public open space. That open space is plazas or squares. The limited area for T-6 is contemplated around one of those square. Any other property that were to be zoned T-6 would also need to identify where public space is going to be. We would have that shown on the map so that people can adhere to those regulations. The proposal that you have in front of you is what staff is recommending, with the opportunity to look at properties in the future where there is potential tradeoff for height for additional open space in those areas. We followed your directive for affordable housing bonuses. This is the new table within the draft that you are looking at tonight. Fifty to sixty percent AMI gets you the bonus stories. There was some discussion on the retail prohibition section in the framework plan. There are certain areas that are mandatory commercial and suggested commercial retail isn't permitted unless you are on Second Street. Staff is recommending that be struck from the code for the final draft. We will require ground floor commercial along that spine. There is a map amendment in front of the Commission that would change the zoning map. There is also

zoning text amendment that would change our zoning text. Those two would work in concert. The map is in front of the Commission. The Commission also has a framework plan. This is just additional guidance for developers in terms of how their buildings front on properties. There are two items in front of the Commission tonight. The first is parking. You asked staff to look at the parking modified zone regulations, and you expressed an interest in a potential reduction or a possible elimination of minimum parking standards. That is not reflected in the draft. The other item was open space, and that has been a big item.

Commissioner Solla-Yates – In the pre-meeting, there was discussion about T-5 versus T-6 zoning and the relative amount of housing each could provide, including that T-6 could reduce housing. Can you clarify that?

Brian Haluska – It's hard to say at this point because you don't know the design of the buildings. It does allow them more flexibility in the T-6 zone in terms of square footage. The T-6 is more of an offset for that public space. The regulations are very much designed that if you are going to build a T-6 building and get that additional 3 stories above 6 stories, there is an open space tradeoff. T-5 is where the SIA ended in terms of that. I know that there was some concern from the commission about whether or not we allow more T-6 so that we get more housing. You could get more overall units, but it depends on how the open space gets applied. That does need to be thought thru, especially on a site specific basis, in terms of what open space makes sense. The IX Property is shown as having required open space. It's an eleven acre site. When you get on a one acre site, what open space makes sense? How can you cite it, so that it is publicly accessible? You almost need to have a Charnet for several surrounding properties to determine what the baseline is allowed?

Commissioner Solla-Yates – How does a synthetic TIF relate to this zoning amendment?

Brian Haluska – Tax increment financing is an exchange of setting a baseline for what are the taxes currently collected in a zone and any redevelopment capturing that value and placing it towards affordable housing. I am not sure how the synthetic works, and I may have to rely on somebody, who knows more about that. That option has been on the table. People, who have looked at it, have said to aim bigger in terms of a bigger area. This relies on people building in it. There is nothing related to TIFs in this. That is a taxation decision that gets made by Council for an area.

Commissioner Stolzenberg – Do you expect the Commission tonight to hash out the different questions and come up with the final wording in place of a vote? What is the expectation of how those issues get resolved?

Brian Haluska – I think that is up to the will of the Commission on that. What you are comfortable doing is ultimately something that you can decide. Staff has been pretty clear. Whenever this gets adopted, there is going to be a certain amount of time prior to it going into effect. There are a lot of policy issues related that the Director of Neighborhood Development Services has been given authority to do. There is a bit of a time period, where we can fine tune things. You want it to be in pretty good shape if you want to put it in your zoning ordinance. You don't want a lot of lingering questions. You want to give that lead time from the adoption to the implementation to find all of the stuff that you haven't already found, which happens with every code.

Commissioner Solla-Yates – In the public comment, there was a concern. There could be a hack slicing up additional floors. The developers could propose one home per floor, and need to get one affordable home for a very large building. Can you address that?

Brian Haluska – The concern was the 10 to 15 percent numbers. The way that it was done was based on units. Ten percent of units or fifteen percent of units in the additional floors shown in that third column. The +1 story in T-4 or the +2 stories in T-5 are larger units that keeps unit count down in those bonus stories. Staff does have a couple of recommendations. One option would be to go through and say that is percentage of square footage. Another option is looking at something with an average of the unit size. If you do ten large units, that's going to get factored into an averaging to the average size of the units. You have to provide the data. Another item is potentially a requirement that those units be dispersed throughout the building. Those are some ways of tackling that. There was a question in the pre-meeting about the bonding of affordable units that's currently in the code and whether or not a developer could post that bond, build the building at market rate, forfeit that bond, and get the additional height without providing any affordable housing. Our attorney's office has recommended that we also do a covenant provision in the code that would require any developer to enter into a covenant prior to getting approval. There would be legal action against them if they fail to provide those units. They have to deliver the units in order to get the bonus heights. It's not just the money. That is a very big concern with these developments

Commissioner Solla-Yates – In the code, there is a provision that says instead of providing affordable housing, there could be an onsite or offsite provision of a computer lab or childcare. Do we have provisions on computer labs?

Brian Haluska – I noticed that too. It's a one unit reduction depending on if you provide that, you can reduce by one unit. This is a support computer lab. I don't know if we have a lot of provisions in the zoning ordinance about that. It's an amenity that would be in a building. I don't have a strong opinion about that. If you were to strike it, I wouldn't complain.

Commissioner Lahendro – In the form based code, there are three small areas that are historic districts. We have pointed that out before and talked about it. I don't see that there has been a resolution. I am hoping that the ADC supersedes the requirements for the form based code for those small areas.

Brian Haluska - There is no proposal in front of the Commission tonight to alter the ADCs in any way. They are still on the map and they don't change. The BAR's authority over those areas are still there. The reason that it is not mentioned anywhere is because we are not proposing any changes to that. You would need to comply with the form based code and get a certificate of appropriateness to get an approved plan.

Commissioner Stolzenberg – I was hoping that you could talk about the flaws of the existing zoning code in place. Can you also talk about how certain projects or proposed projects might have gone differently under this framework versus the existing framework?

Brian Haluska – Concerning flaws in the downtown extended zoning, which is the primary zoning for this entire area. There was no definition of mixed use. It led to this weird situation in the zoning where you can get a 61 foot bonus by doing a mixed use building with no restriction on what the proportions of that use are. The definition of a mixed use building at that time was a building that had residential and non-residential uses. You have two structures going up that have between them 3 residential units. That was one of the flaws. There was a definition of mixed use that allowed for

increased residential density if you hit the 25/75 ratio. It wasn't in the height. That was one of the major flaws. You get 43 DUA by right. If you do a mixed use building, an applicant can ask for up to 240 DUA. Another one that I would mention is the ground floor condition along 2nd Street in the Gleason Building is oriented towards Garrett. That side of the building does not interface that much with 2nd Street. There is an entrance there, but there is not a lot of permeability or transparency. It turns its back on Friendship Court, which is across the street. That is an example where this code would have made a big difference. Similarly, that brings us to 323 2nd Street, which is oriented towards 2nd Street. We are beginning to see what that façade is going to look like on Garrett. No requirements to do any kind of permeability, any kind of addressing the street at all. We have these buildings that turn their back to the surrounding area. The Apex Building and 323 2nd Street are too tall at this point. Under this code, they would be capped at 50 feet. The only way to get additional height would have been to do affordable housing. The internal mix of those buildings would be very different. You would have a 5 story office building with no housing, and it would continue to be commercial. Friendship Court had this draft when they were doing their plan. They were well aware of it. They are confident that what they have complies with this. They are not asking for heights above 50 feet for the most part on their buildings because of the cost of construction. Some of the stuff that you see in the framework plan is in the Friendship Court plan. There was a suggestion to Hinton carrying all the way through the site. They're not doing it all of the way through Hinton. There is a pedestrian accessible path through that part of the site. The 4th Street connection is in the current plan. There is open space in keeping with what is there now. They have done a pretty good job of getting close to what is proposed here. Depending on the pricing of those studios, they have been able to use the additional height. It would have been T-5. They could not have gone to nine stories. They would have only been able to go to six under this. They would have been able to get that bonus as a matter of right. They would not be appearing in front of the Planning Commission asking for a Special Use Permit.

Commissioner Stolzenberg – How did that go last time? They needed a Special Use Permit because they wanted to have more studios for under \$1000?

Brian Haluska – They needed a Special Use Permit for the residential density that they were looking for. They went to the Council. Council asked them to return to the Commission because the plan brought forward to Council had been too aggressive. They withdrew the project.

Commissioner Lehandro – I also would like to point out some of the disadvantages of the downtown extended zone. I went back and reviewed our zoning and the map. You could have 101 foot tall building anywhere on 6th Street, on Dice Street, and be across the street from single family dwellings. That's the current zoning. That's by right.

Brian Haluska – The by right is fifty feet. We have an incentive in there for mixed use buildings. That's a very low bar to get over. It's tougher to do now. A mixed use building gets 101 feet. If they get that, that is ministerial review. It does not come in front of the Planning Commission for a Special Use Permit. The density does, but not the height.

Commissioner Stolzenberg – You can make that nine story building, but you are limited to a small number of apartments that need to be very large like at Water House.

Brian Haluska – Based on the current zoning, you can do two floors of residential fairly moderately sized apartments, potentially on the top two floors of the larger building, and get the bonus four floors. You would get two floors of office for doing that residential. You could hit 43 DUA in two floors. You would do the bare minimum of residential at 43 and the rest would be commercial.

Commissioner Solla-Yates – Pedestrian streets may not exceed 20% of the total street center line length with the framework plan. Why 20%?

ii. **Applicant**

Marta Goldsmith, Consultant-Form Based Codes Institute – I am knowledgeable about form based codes. I am not a code writer. I think that the idea in defining and setting a standard is to maintain the scale. If they are narrower than that, then they don't feel safe. There is not light that comes through. If they get extended, it becomes un-appealing, scary, and dangerous. If they are long and narrow, they are out of scale with the pedestrian environment. They are not inviting.

Brian Haluska – The concern is why cap it at 20% and why not more? From the code writer's perspective, one of the issues is you need to maintain all abilities to get through there. The more pedestrian streets you have, you now have the potential for business spaces may be tough to activate. They have no ability to get deliveries. That may be a percentage that they have seen in the past. If you go above 20%, you start having some of these issues. We have had issues in some of the smaller commercial areas with deliveries. I am not too concerned about this because we are talking about new streets. We are talking about one property with the new street network. Friendship Court has their plan. We are talking about the IX Property at this point. That's the only one where you are going to see breaking it up a little bit. You could potentially see some really nice pedestrian streets. You almost have a transferrable pedestrian street right coming to the IX Property, where they can take all 20%.

Marta Goldsmith – It is a number that can go higher or lower. It's not written in stone. If you have a lot more than that, then you have an access problem. You can go 25 to 30 percent but there is an impact once you get up to a certain level of the ability for other modes of transportation to circulate within the entire area. By pedestrian, it's meant pedestrian exclusively.

Commissioner Solla-Yates – I have a question about the shared parking table. What is this?

Marta Goldsmith – Different uses need parking at certain times of the day. The idea is that if you can allow different property owners, who have different uses, to share the count. A commercial property owner can use that space during the day, and the residential property owner can count that space during the night. Overall, you end up with fewer parking spaces and a more efficient use. What of the equation that you use to decide how many total spaces you need. This came out of the Urban Land Institute, who has done many years of research and analysis on this topic. They publish a report every few years that updates this table. It looks at what is the optimum. It's a standard analysis and generally used in mixed use properties, not so much across properties.

Commissioner Solla-Yates – Would this be an alternate instead of a fixed parking requirement?

Marta Goldsmith – Yes. It would be an alternate for how you count parking stalls.

Commissioner Solla-Yates – I see a sample required minimum to changes needed. Is this the final recommendation?

Marta Goldsmith – I think that it is an example. This is an example of what is often used.

Commissioner Solla-Yates – Would you recommend that this be passed as written here or does it need more work?

Marta Goldsmith – This gives a lot of guidance. This is used in some instances. It could be collaborated to the particular uses, and then it would be more accurate.

Commissioner Stolzenberg – This is a sample because it has specific numbers for each use and shows the percentages. Are the percentages in this table the thing that actually is the rule the table is communicating?

Marta Goldsmith – The percentages are what is driving it on large mixed use properties versus small mixed use properties. The percentages are generally instructive. It could be collaborated, but you have to do a lot of analysis to collaborate to your particular set of uses.

Commissioner Stolzenberg – I had a question about the use matrix. Is it typical for a form based code have a three page use matrix listing out all of the uses and how they are regulated?

Marta Goldsmith – Typically, there is a continuum from use based codes all the way down to pure form based codes. Every form based code that I have ever looked at or worked on has a use table. You want to separate out certain uses. This divides it into categories, and we tried to reduce it from your current space use table as much as we could. This is where we ended up, as we talked to staff about how far they were comfortable going, given what the city is accustomed to right now. Over time, this could become more and more general. This is what the staff was comfortable doing by grouping these and reducing some. You could condense these.

Commissioner Lahendro – By comparison, our present zoning use matrix for this district is eleven pages long.

Marta Goldsmith – That is pretty typical. To go from eleven pages to one page is pretty scary.

Commissioner Green – You're a consultant and you have done this for other localities.

Marta Goldsmith – I have worked with firms. I do not write code. I manage projects with code writers.

Commissioner Green – Can you give us some examples of some successful localities with affordable housing?

Marta Goldsmith – The closest example is the Columbia Pike Corridor in Arlington County, Virginia where they adopted two form based codes. The first form based code was the commercial properties along Columbia Pike itself. That was primarily focused on the commercial form. The second form based code that they adopted focused on the neighborhoods that are adjacent, mostly single family neighborhoods that are adjacent to the corridor. They were very intentional about primarily retaining market rate affordable housing, which some existed in the corridor, but was outdated. It was at risk of being torn down. They have a significant amount of new affordable housing because of the increased densities. In that commercial corridor, they are now getting multi-family affordable housing.

Commissioner Green – When you say affordable housing, what is the range of affordability?

Marta Goldsmith – I don't have it in front of me. We have done presentations on Columbia Pike to the Commission. I don't have those numbers in front of me. I can get those numbers for you. It's a wide range. I don't know how far down it goes.

Commissioner Green – Form based code is one of those trigger words where people really don't know what it is. Is this typical for other localities to have this fear of form based code?

Marta Goldsmith – I think so. I am seeing many communities recognize the desire to have mixed use, walkable, urban form in their downtowns. What I am seeing is that communities to want that form and they are updating their comp plans to talk about these districts, where they want walkable urban form. They take a look at their zoning. They say 'this zoning is not going to work for this plan. We want this kind of development. We have re-written our comp plan. We now have to rewrite the zoning.' They recognize to get that plan in place, they need to have form based standards in their zoning code.

Commissioner Green – As a professional looking at this, do you think this is going get us close to the numbers that we need in low income to medium income?

Marta Goldsmith – No, it is not going to get you anywhere near the 4,000 needed units. But neither is the current zoning. I don't know if you want all 4000 units to go in this area. This code was written to create a place that people wanted to live and where a lot of people already live. They want to stay there. You have a housing bill of rights that commits to having those people stay. You also have a commitment to increasing affordable housing city-wide. Some of those units will go in this area. This area will have its share of those units. In order to do that, you are going to need multiple layers in the housing strategy to do that. We have talked with the staff, the Council, and with the Commission about doing that. We were tasked with figuring out what kinds of provisions we could put in this code that would incentivize the private sector to build affordable units. Other than your SUP process, your zoning has no incentives to get the private sector to build affordable units. That's why we wrote in the height bonuses. By focusing on form, you can increase the number of units in these areas. If you can only do 43 units per acre, none of them are going to be affordable. This is two tools in the toolbox. Focusing on shaping the behavior of a private developer. I think that you have some excellent nonprofits. Your Piedmont Housing Alliance and Housing Authority are big players in this area. They are working hard to retain and increase the number of affordable units in a variety of levels. This code is intended to create a framework to do that. We met with the Friendship Court folks and looked over their site plan. We made some changes in the code to meet their site plan, which was ground up they developed themselves. We felt, while retaining the character, that there were things that we could change in the code to be consistent with their site plan. We sat down and worked it out.

iii. **Public Comment**

David Trisler – Spoke out against the Form Based Code. Dependent on the Salvation Army for meals. New zoning would hamper the ability for him to get his meals from the Salvation Army. Also reliant on the Greyhound bus station.

Mary Joy Scala – A former city planner. Worked in NDS for 15 years and retired 2 years ago. Spoke out against the FBC and the disconnect between the code and SIA plan. Albemarle County wrote their own Form Based Code. They understand what the code is going to look like that Albemarle County code is recommended to be optional. Council should delay consideration of the plan until an affordable housing strategy and comp plan have been addressed.

Elizabeth Stark – Implementation of FBC in the SIA could lead to zero or nearly zero affordable housing in a neighborhood with low income housing and rental housing. Need additional housing and density. Priorities should be affordable housing. Need places where the community can live and thrive.

Fran Joseph – Slow down the process in the context of the comp plan. Half of the houses on Goodman Street are rentals. Don't see how the streets can handle more traffic and density. There is no need to rush without addressing the comp plan. The streets are not ADA compliant and it is difficult for people to walk down the sidewalk.

Caitlin Fitzmaurice – Concerned that this plan would allow for a 6 story building to be built in the backyard. Most of the block are two story detached houses. Our block touches land that would be rezoned. It should be rezoned to T-4. The rezoning could damage the property values of the entire block.

Travis Pieteila – Appreciate the work that the consultants and staff have done with the Form Based Code. Key pieces of the code need to be nailed down before the code comes to Council for a vote. Code should provide clear direction on affordable housing. We would like the City to close the loopholes within the code. The mandatory open space should be a park or a green. We would require every development greater than one acre to have an open space.

Lloyd McMahon – Code appears to be incoherent. It is unclear as to what is implied in the code. It does not make a whole lot of sense.

Joy Johnson – We have asked City Council to delay this until the Comp Plan is completed. We asked staff what the impact was going to be for poor people. That question was never answered. We have asked the consultants. They still had no answers for us. We need true affordable housing in the City. This plan can wait.

Anna Mala – Oppose the Form Based Code as written and is premature. We are asking to delay this for three months. I have spent the last two years studying Form Based Code, and I still don't understand it. This does not feel like a fix for sustainable and affordable housing.

Maynard Sipe – Representing Monticello Associates LLC, the owners of the IX Property. This is a significant down zoning. Reducing the density means a reduction in housing. The plan targets only a few properties in the area. This will not result an increase in affordable housing. The economics do not add up under this plan. There needs to be public involvement. My client does not oppose Form Based Code and wants to see it done right but with options. We need flexibility and not more restrictions.

Stacy Miller – I have been following the SIA plan since the beginning. I have noticed zero investment in the cycling and sidewalk infrastructure. That will become more of the case during the Belmont Bridge project. Why are we waiting for developer investment? Why is this area being used as a guinea pig for developers and form based code? Don't feel like this is a community process.

Michael Payne – The timeline is fast tracked to happen before January before the new City Council is sworn in. Myself and the newly elected councilors want to be proactive in working with the Planning Commission. We want to work with the Form Based Code Institute and all relevant stakeholders. The incoming Council wants to be a partner with that.

Dan Gathers – Should not rush through a process in a haphazard way. There are so many questions that are unanswered. Does nothing to address the affordable housing crisis. This will encompass the whole city. Once it is in, the public cannot speak about it when there's a new project. Don't need to do this in the immediacy.

Kimber Hawkey – This area has historically been a lower income area. Those, who do want to live here, their wants and needs do not take precedent over the people that already live here. I am concerned about our historic neighborhoods.

Liz Russell – I echo everyone’s concern. This does seem rushed and does not address the need for affordable housing. My house is over 100 years old, and I renovated it. On my street, there are three properties that are B&B, but not owner occupied. That is a real problem for affordable housing.

Walt Hyeneke – There are so many moving parts. You don’t know how these moving parts are going to work together. It seems completely irrational and incoherent that you would consider doing this now without considering the other moving parts. Why is there no equity report or racial impact with this Form Based Code? It is probably going to increase the house prices and drive people out of this area.

Mark Cabot – Been following Form Based Code for many years. We are going to need more housing. We have been talking about this for many years. It is time to move on this. You are not going to achieve affordable housing with new construction.

Lillie McVeigh – I would hope that you would focus on the displacement of people. This would not help with affordable housing and what is affordable housing. I would hope that you delay this.

Wande Johnson – I would ask that you finish the housing strategy and the zoning. There is so much work to be done with zoning. Please delay this and get the zoning in order.

Bebe Stevens – Going to speak with regards to the Dairy Building. Attended the groundbreaking and found out that it was for UVA, after being told that it was not for UVA. They are going for people, who are not from here, and pushing those people out. How is the gridlock of downtown parking and traffic being addressed?

Valerie Long – Represent the owner of 310 Avon Street property. The area north of Garrett Street should be zoned for T-6 zoning. T-6 is where most of the employment opportunities can be accomplished.

iv. **Commissioner Discussion & Motion**

Commissioner Green – We are definitely in need of affordable housing. I have heard a lot of people say that they want affordable housing, but they don’t want the height. We are going to have to go high to get affordable housing. We are also going to have to increase density in some areas. We are going to have look throughout the whole city and not just one area. The buildings on West Main Street are a symptom of the current zoning. The Commission and Council voted to increase height to get one or two units. I hear a lot of the frustration that people have with the infrastructure. When we start processes like this, we are going to have some hurt. We are going to have to make some changes to get the infrastructure and pedestrian that we need. It’s not going to magically happen overnight. I am part of an organization that is doing Form Based Code differently. I see too much draft on this one, and I am not comfortable. I know that we have to start somewhere. Once we get to a place where we do start and we get to the zoning and the comp plan, you all may not like the comp plan. It is going to have to be a citywide thing if we are going to put enough housing in here to get the affordability. We are going to see higher density and more height. There is no other way to do this. There is going to be some traffic. We are going to have to go through some

growing pains together. I am not going to be able to vote for this as it is. It's too much draft. I want us to get to a form based code, where we are comfortable. There are too many unknowns.

Commissioner Stolzenberg – There does need to be tradeoffs with height and other things. I think that there is a lot weariness of what Form Based Code is in general. It is a scary new thing that is different from the old thing. That may make it bad. Use based zoning is really bad. Use based zoning is where we are saying that you can build a nine story building on Garrett Street, but if you put 233 studios that rent from under \$1000 a month, you can't do that. Moving towards Form Based Code is a good idea. I have some serious concerns with this particular form based code in the way that it is written and structured. It seems to provide for less potential housing than in the existing thing where there is a lot less building you are allowed to do, which in theory means a lot less housing. In the existing framework, you have to go ask Council for that housing. There is something worthwhile to be said about everyone coming together and giving public input in the form of a broad vision or a plan. Everybody is talking in the abstract about what we would like to see in the future. What we see in practice is the public input system is completely rigged in favor of rich homeowners. That is what you get in that project based input format. I do think there is a lot of value in the way we're trying to make a plan from the beginning. It is too early with this plan. I do think that this has flown under the radar. I think that in some ways that is a consequence of it being a consultant driven process. I think that when it is a process that the community shows up for and is involved in, you can have good results. It's not just having consultants. If we defer this, I hope that you will come out to the next session where we talk about what should go into this. At this point, I see lot of empty holes in the plan that we're supposed to flush out. I see serious limitations on how much building you can put in there. All of the affordable housing we get is on those upper floors. At this point, I would prefer to defer. We have 100 days until we have to give a recommendation to Council from today. If we vote today, I will give it 'no.'

Commissioner Green – We do need to work on this zoning, and we need to get the comp plan done. We are in a really good spot with our state legislation to get some things moved forward. We don't know what we need for affordable housing to put in place. We are not going to know what to ask legislators to get us in place. Right now is the time.

Commissioner Dowell – I am so glad to see so many people out especially those, who are long term city residents. We share a lot of the same concerns. Per the work session that we had in October, I want stand to my original comments that I made. We need affordable housing. We do not need affordable housing at 80% AMI, and clearly tonight we hear that 50 and 60 is not going to get it done either. We also need affordable housing where you work 40+ hours a week, and have to come get a voucher in order to be able to live. With so many pieces of the framework in play, I am going to stand fast. We need to finish our comprehensive plan and our housing strategy before we move forward with any other strategies. I would be OK with deferring this plan or denying it.

Commissioner Solla-Yates – There has been good work that has gone into this that I see and appreciate. I appreciate the staff's work on this. I appreciate the consultant's work on this. So many people in the community have contributed to make this something that will eventually be worthwhile. We are not there. There is so much here that is in draft. There are good ideas that are not filled out. There are exciting tools that don't work yet. We are not there tonight. I am very comfortable deferring, but I don't see a 'yes' vote tonight.

Commissioner Lahendro – I am conceptually in favor of the Form Based Code. There are a number of things in this particular draft that I would like to work on that I am not in favor of. I think that it is workable, and I think that we could do it in the short time. I would defer tonight, and I am not really optimistic about it happening in a few months. I fear for this community. I have sat

up here for six years now. The last three have been towards a comprehensive plan. My term ends in two years, and I can almost guarantee that the comprehensive plan is not going to be done in two years. In the meantime, we have this existing zoning in this area. I fear for this area.

Mayor Walker – There have been multiple opportunities for the public to speak about Form Based Code. We have spent a lot of money with hiring the consultant. I am encouraging the public to be there.

Commissioner Palmer – I have heard a lot comments for and against this, mostly against this. Getting the affordable housing component right is very important. I am not seeing the green space aspect flushed out in the diagrams. I haven't heard a whole lot about transitions between the different zones. Might you be able to break up the lots like you have done with the IX Park?

Chairman Mitchell – I believe that Commissioner Lahendro is right regarding the comprehensive plan. It's going to be at least 18 months. I think that it's going to be a couple of years. We cannot put development on hold in Charlottesville for two years. We cannot put the redevelopment of our housing authority properties on hold for two years waiting for a comp plan. I don't want to throw out the DE-SIA. There are a number of things with the DE-SIA that do concern me. It's the current nature of the DE-SIA. When you read through the ordinances, there are a lot of "shoulds" and "mays." We need to go through that and clean it up. The other piece that concerns me is the amount of affordable housing stock that will be built. The Council has come up with a wonderful idea to have the developer put in a bond that says if I don't build the amount of affordable housing that I committed to, then the bond is released to the city. The City Attorney has recommended that we build a covenant into the deal that says there will be a penalty greater than the loss of the bond. I am not ready to throw this out yet because I am not ready to stop development in Charlottesville. I am certainly not ready to stop redevelopment. I do want to fix these little things that may sacrifice our ability to be certain that we are going to get that affordable housing that we need. If we have 100 days, my idea is that we think about it longer. I am not willing to vote against it outright tonight. I would be willing to entertain a motion to defer.

Councilor Galvin – This process has been going for a very long time. The SIA plan was approved in 2014 and we are talking about the zoning five years later. We need to discuss it publicly. This is the greatest turnout that we have seen. The draft was ready a year ago. The goal was to get it out into the public. The existing zoning is doing what everybody has feared. The zoning needs to be changed.

Motion: Commissioner Stolzenberg moved to defer the Form Based Code. (Seconded by Commissioner Dowell). The motion was passed 6-0.

The Chair called for a five minute recess. The meeting adjourned for a five minute recess.

2. SP19-00006 - 218 West Market Street - Landowner Market Street Promenade, LLC is requesting a Special Use Permit (SUP) pursuant to City Code Sec. 34-557, 34-560 & 34-796 to authorize a specific mixed-use development at 218 West Market Street ("Subject Property") having approximately 145 feet of frontage on West Market Street and 164 feet of frontage on Old Preston Road. The Subject Property is further identified on City Real Property Tax Map 33 as Parcel 276 (City Real Estate Parcel ID 330276000). The Subject Property is zoned Downtown Mixed Use Corridor (D), subject to the Downtown Architectural Design Control Overlay District and the Parking Modified Zone Overlay District. The application seeks approval of additional building height and residential density than is allowed by right within the Downtown zoning district. The specific development proposed by the applicant is a 101-foot mixed-use building with

ground floor commercial space, and up to 134 residential dwelling units above the ground floor (up to 240 DUA). In the Downtown zoning district, mixed use buildings are allowed by-right, up to a height of 70 feet, with residential density up to 43 dwelling units per acre (DUA) The City's ADC architectural guidelines state that height should be within 130 percent of the prevailing average of both sides of the block and should relate to adjacent contributing buildings; this proposed development would fit within the 130% guidelines; the relationship to adjacent buildings would be a matter for the City's BAR to determine at a later date. The Comprehensive Land Use Map for this area calls for Mixed Use, but no density range is specified by the Comprehensive Plan.

i. Staff Report

Brian Haluska – This is a special use permit for property located at 218 West Market Street. This request is for additional height and density. The by right on this property is 70 feet. You can ask by code for up to 101 feet by special use. Additionally, the by right residential density is 43 dwelling units per acre, which calculates out to about 24 units on this site. The applicant is asking for the maximum allowable density under the code, which is 240 dwelling units per acre. That would yield 134 residential units. Several items to draw your attention in your review. With an increase in residential density, we look at the automotive impact on this area. This property has frontage on two roads: Old Preston Road and Market Street. The current conceptual plan for this site talks of using Old Preston access as the way cars would enter and exit the site. The traffic engineer has looked at this and has no concerns about the demand on Old Preston. The traffic engineer did say that, we would be taking another look at the Old Preston and Market intersection to make sure the additional trips don't create any conflicts. We want to draw your attention to parking. That always comes up in these situations. The parking regulations here are in the urban parking corridor, which is rarely seen. We don't see that many developments in that zone. This is what remains of the old parking exempt zone. By right projects are not required to provide any parking in this zone. They do have to account for loading and unloading. Other than that, there is no parking required at the by right level. By asking for a Special Use Permit, there is the requirement that they meet the parking requirements for the additional units on the site via the means provided in the parking modified zone. For every additional unit above 24 dwelling units per acre, they have to provide a parking space per unit. That could be met under the provisions of the parking modified zone, on site or off site within a certain distance. That will drive some of the design considerations that the BAR will have to deal with. This project does qualify for our affordable housing section under 34-12. The applicant has made no indication how they intend to meet that. They will have to meet that prior to final site plan approval. They will have to designate how they will meet that. Additionally, there is an adjacent historic building that is structurally impacted by this one. You will notice a very familiar condition to deal with it. The applicant has already had discussions with the adjacent property owner. It's going to take some care in terms of how this is done. It is of great concern with the applicant and adjacent property owner. We do have a condition that does address that. Staff recommends that the application be approved with the conditions in the staff report.

Commissioner Stolzenberg – I had a question about the single building requirement. We are talking about breaking up the massing.

Brian Haluska – Given the size of the site and the programming that we are talking about, it is going to be one structure. We do run into this occasionally with projects of a much smaller scale than this one in terms of what constitutes a structure. It is possible. Given the scale, the location, and the sale price of the land, you are going to see a lot of open breezeways between two buildings. I don't think the applicant has any problem with it. I think that the BAR is going to want it as one and use some strategies on how they break up the mass.

Commissioner Solla-Yates – One item that came up in the work session was the connection to the history with the nearby Vinegar Hill neighborhood. What do we know?

Brian Haluska – I don't know anything beyond what we talked about in the work session. Certainly, the BAR, as a part of their review, would have the staff put forward whatever they have. The adjacent buildings, in particular, add more to this design. If the demolition of this building is to occur, then something could be offered by the applicant. I don't know if that gets to the discussion that we are having tonight, in terms of height and scale. It's been noted by the Planning Commission.

Commissioner Stolzenberg – I had a question about waivers in the urban core parking zone. The applicant is allowed to request a waiver from the minimums imposed. It's exempt from parking, except for SUP increments. They are allowed to ask for those to be waived. Do they have to ask?

Brian Haluska – There is no language in the request but they do have to ask usually.

Lisa Robertson, Assistant City Attorney – A request for waivers, where they are provided by code, have to come in with the application.

Brian Haluska – The SUP process permits modifications of parking requirements. It's similar to the way setbacks come up. The applicant has to request that change to the setbacks as a part of the application

Commissioner Stolzenberg – If we were, hypothetically, to change the code to exempt all parking in the downtown core zone. Would that be possible within this application? Or is condition 1-C that mandates a parking structure conflict with that?

Brian Haluska – There is no number assigned to it. To go back to the old parking modified zone, any large project that was done at that time would still have parking. That didn't mean people weren't building buildings with no parking at all. Most people, through conventional financing, are not going to be able to pull that off. It certainly does say that they would have to have a parking structure. Hypothetically speaking, if they get to 134, I don't think that there is any way that floor plate is going to support 134. They're going to have to look at alternatives. If you were to remove that from the code, that would allow them to get rid of all the offsite. They could let those leases to go, whenever they came up for termination.

Commissioner Solla-Yates – We have gotten a lot of public input about shadows. Can you address that issue?

Brian Haluska – The applicant has provided updated shading studies. There is a required 25 foot step back on West Market Street after a certain amount of space. I think that it's 40 to 45 feet. That takes the bulk of that building, whether it is 70 feet or 101 feet tall, off of the street. A lot of that shading falls on the building itself. There is some impact. It's probably going to be felt later in the day, particularly in the winter. How impactful is subjective. The bulk of the height is in the middle of the site per zoning. That mitigates some of those concerns.

Mayor Walker – We should know the affordability piece up front before the site plan comes in front of the Council.

ii. **Applicant**

LJ Lopez, Milestone Partners – We understand what the application request is. I just want to touch on a couple of points that were raised for further clarification. In the staff report, the protective plan is a carbon copy from what we thoughtfully crafted for 612 West Main. I would request the opportunity, with your consent, to recommend some proposed changes to that.

Lisa Robertson – The Commission is entitled to have the ability to review what is being proposed. If they have some changes, it would be a good idea to enlighten you to what those requested changes might be, so you can tell Council whether or not you would support that.

Chairman Mitchell – The recommendation is that Council would revisit this with the Commission.

Lisa Robertson – If they have changes to the conditions proposed by staff, it is appropriate for this Commission to be told what those requested changes can be so that you can weigh in on it.

LJ Lopez – We take no exception to the protective plan. We think it's appropriate, and it is the right thing to do. The specific property conditions are in the contextual relationship. There is an adjacent party wall. At 612 West Main, we had a ten foot alley easement and an adjacent building that was not common property. We would like to enhance the language and make it more specific to the property conditions that better address the protective plan and codify that. There are no objections to it. We are not seeking to remove that. We would like to make some refinements to make it more applicable to the specific conditions.

Lisa Robertson – I am still of the opinion that even if it's promised that changes will be an enhancement, it's the job of this commission to review the application and the conditions so you can make your recommendations to Council. You should be able to make your own assessment of whether the revised conditions will be better or more tailored to this site than the conditions that were previously developed. It should be fairly simple to tell what those enhancements are in a more specific way.

LJ Lopez – That being the case, we take no exception to what was here, and we take it as it exists.

Commissioner Green – If you make changes between now and then, will you have another public hearing so that public has an opportunity to weigh in? That's what we are here for. If you are not ready, Mr. Lopez, we can defer this.

LJ Lopez – I am ready, and I don't take exception to the second public hearing. The second issue is on the parking waiver, which was suggested as a waiver. The net density increases to 110 spaces, and that's what we would have to satisfy in parking. That's a matrix of both BAR review and what the floor plates and what we craft and sculpt the building to what gets approved and what density could be included and incorporated within that. A mix between 1, 2, and 3 bedroom units yields the parking ratio. It's unclear what that ratio will be, without having gone through and finalize that process. That's one of the challenges and the desire to know that. The intent at this stage is to satisfy our parking per the ordinance, utilizing the onsite floor plate. We will have to take advantage of offsite parking. What those specific numbers are is not clear. It will become clear as we work through with the BAR and have that on the final site plan. To address the historical context, we had involvement with the Jefferson School through that process and the historical context. We have reached out to the African American Heritage Center and requested their partnership and input on the historical context for the City and Vinegar Hill and what might be an appropriate way to address the historical context of the neighborhood in what would be a redevelopment project. That process is not concluded and we don't know what form it will take.

We have reached out towards that and continue that. That's something the BAR would carry forward in their purview of future reviews of the building. It is something that I don't have a final plan to present to the Commission, but will evolve over a period of time.

Jeff Dreyfus, Bushman and Dreyfus Architects – We did include sun studies as part of the initial application. Those were overhead view, so you can see how far the shadow will be cast by right or with the SUP. We did the study at ground level looking up West Market Street. The only noticeable difference between the by right height and the SUP height, is when the shadow is cast. On the shortest day of the year, there is a bit of shadow cast at 4 in the afternoon on one of the McGuffey condo buildings. There is no difference throughout the rest of the day.

Commissioner Stolzenberg – Based on those reductions in massing, how much housing is actually being lost to that?

LJ Lopez – We couldn't be conclusive on that because of variables such as the unit mix and the will of the BAR. Those are variables that are hard to quantify. We would be giving very broad ranges of that to which we were uncomfortable committing ourselves to or sharing.

Commissioner Dowell – How am I supposed to make a clear and sound decision when I don't have clear and sound information?

LJ Lopez – The request is for additional height and density. That density yield within the building is dependent on unit mix, the size of the units, and how sculpted the building is. Both are variables that have not been defined. That's a function of the process. The request is to understand what the yield is and what we are working with from a use standpoint prior to going through that process to make value judgements from a building and BAR standpoint as we work through the architectural piece of that.

Commissioner Stolzenberg – Do you know what the pathway through is going to look like?

LJ Lopez – It was unclear. At the BAR hearing, it was thought of as the current parking lot in its current configuration is that kind of access. There is not necessarily a sidewalk that connects unless you are walking under the promenade cover access of the building. It's not clear at this point.

Commissioner Green – What do you know about this project?

LJ Lopez – The request is height and density within a by right.

Commissioner Green – How is that going to benefit the city?

LJ Lopez – Within the application, the additional units from a housing standpoint. The housing study indicates units' at all affordable levels and within the SUP, there are three options per the zoning ordinance for an SUP request for residential density. We know that the max unit density is 134. We know there is a formula to satisfy onsite, offsite, or payment into a fund. Those are required to be identified at the site plan level along with parking. Those are the rules that exist in the zoning ordinance today.

Commissioner Green – Mr. Lahendro, how close are we to having some kind of resolution from the BAR?

Commissioner Lahendro – We have to see a design. We haven't set the parameters of the project. We can't expect all of the architecture and engineering to be done and come with a full design to get our approval for how many units.

Commissioner Green – I understand that. I am expecting something. We have just had a conversation about changing things between here and the Council. This is the public's only opportunity to speak.

Commissioner Lahendro - The request for the maximum number allowable with an SUP for this site is being requested and has been deemed by the BAR to not be an adverse impact on the site. We are not expecting the maximum number of units that can be built on this site with the SUP to be there. We are allowing the maximum so that they can be reduced to provide the kind of architecture, sculptured building, broken up masses that are compatible with this historic district. That's as far as it has gone. I agreed at the BAR to allow this maximum number with the understanding that we aren't going to see the maximum number when it comes to us for approval of the design.

Chairman Mitchell – What authority does the BAR have to enforce that if we approve up to 134 units? Does the BAR have the ability to call that back by altering the design?

Commissioner Lahendro – The BAR doesn't care how many units are in it. Its guidelines affecting the aesthetics, the design, and the compatibility of the building within the neighborhood.

Chairman Mitchell – I am pretty comfortable with the application. A lot of the objections we heard from the community can be addressed through the aesthetic review that the BAR is going to do. I am pretty comfortable giving my approval to proceed with the height and density.

Commissioner Stolzenberg – Why so much parking? Why are you not asking for a waiver?

LJ Lopez – At this stage, there is the practical reality of parking within the city's downtown use and the additional development of adjacent projects within the district of downtown. There is a practical parking understood with the zoning ordinance and what's required. If we were to take advantage of the parking waiver, we would do so as a future amendment.

Commissioner Stolzenberg – And these are rental apartments?

LJ Lopez – The intent is rental apartments.

Commissioner Green – Could you rent them out cheaper without a parking space?

LJ Lopez – That certainly reduces cost and floor plate. The items that you have suggested in the past and your comment earlier about building volume and floor plate. That would certainly open up more availability.

iii. **Public Comment**

Nancy Union – Homeowner at McGuffey and spoke on behalf of the homeowners. The height of the building is going to be higher than the Omni Hotel. There is also going to be an increase in the amount of traffic, which is going to be a safety issue. One hundred and one feet on that corner does not enhance the beauty of that area.

Linda Abbey – A building of 101 feet would have an adverse impact on the neighborhood. Parking would be an incredible problem. The development of the comprehensive plan needs to be finished before this project is approved.

Mark Kavif – There is zoned parking north of High Street. This was discussed at the North Downtown Board meeting. Parking was a big concern. We were concerned that parking could spill into the surrounding neighborhoods. I felt that the 101 feet is way too high. Is this project going to create a wind tunnel? The building of a 9 story building is going to have an impact on the property values.

Eric Stumpf – I echo the sentiments of the other residents. I have commuted back and forth to UVA as part of my job. I have concerns about the increased traffic that this building is going to create. I am concerned about not seeing Charlottesville, but seeing apartments.

Barbara Bode – I am a new resident of Charlottesville. One of the attractions was the sunlight into my window. You have taken away the sunshine and decreased my property values.

John Zworling – I moved down here from Alexandria, Virginia. I fell in love with Charlottesville. I found a very charming city in Charlottesville. The downtown mall is fabulous and the areas around the courthouses are wonderful. You need to consider what is happening to the downtown mall.

iv. **Commissioner Discussion and Motion**

Mayor Walker – This is for the applicant. What is your intention for forming the partnership with The Heritage Center?

LJ Lopez – The objective is to understand what the historical context is and what would be appropriate from a physical recognition. It's unclear what form that would take. We hope to establish that partnership to understand and evaluate the historic significance and what shape that would take with the BAR's input and how that would be incorporated into the building.

Mayor Walker – There would be nothing more appropriate than having those displaced having a place to live. You know who once occupied that space. For the increase in units, which helps your bottom line. How are you enhancing the community?

LJ Lopez – We are the contract purchaser. I cannot speak for the owner of the property, Promenade LLC. The questions that you have asked are much deeper than what I can give a thoughtful response to on the spot. They are ones that will carry forward and have continued dialogue with the African American Heritage Center through the relationship that we formed in assisting in the redevelopment of the Jefferson School and the preservation of that historic building.

Chairman Mitchell – With relationship to affordable housing, there are three options to the developer?

Ms. Creasy – There is onsite or offsite. Those are provisions are part of the code based on the state legislation that we have been provided.

Commissioner Dowell – I have a question for Mr. Lahendro. If the SUP is approved at the 134 units, how is the BAR able to scale that back?

Commissioner Lahendro – We would look for a design that has the kind of broken up forms and masses that make it compatible with the historic buildings in that context. We would be looking at the design. A building filling up the entire space that can be built in by right, even with the SUP, that kind of block is not going to be compatible with that district. That’s what we will be looking for. I am concerned about massing, the breakup of the masses of the building. I will be looking for materiality to know that the materials are compatible with the other materials in that area and permeability. I am looking for at the pedestrian level, to be able to go in and out of the building, to have views, to have activity that is happening between the mall and the building. Those are things that I am going to look for. You have to reduce the number of units to get the kind of building design that we will be looking for. We are an advisor to the Council just like the Planning Commission.

Commissioner Green – Mr. Lahendro, wouldn’t the BAR look at this whether there was an SUP or not?

Commissioner Lahendro – They would because it is in a control district. The reason that they came to the BAR the first time. The question was whether the increased density would have an adverse impact on this district.

Chairman Mitchell – What do the traffic engineers have to say about the traffic?

Brian Haluska – The traffic engineer is not concerned about the impact on Old Preston Avenue. Turning movements are something covered under a site plan process. One of the things that is looked at is whether you can get into the entrances. That is something covered by the site plan submission. The traffic volumes are noted on the site plan. On a preliminary level, the traffic engineer didn’t indicate any concerns about impact of Old Preston. He was interested in seeing more information about what might occur at the intersection of Old Preston and West Market Street.

Commissioner Stolzenberg – Can you explain the origin of the 101 foot rule?

Brian Haluska – Originally, the maximum height was higher than 101 feet. The maximum height was 150 feet. The 101 maximum height comes from the pediment height of the Jefferson National Bank building, which is now the Wells Fargo Building on the downtown mall.

Commissioner Green – Is there any talk about the traffic count that currently exists? Are we looking at things comprehensively?

Brian Haluska – If your impact of traffic reaches a certain threshold, it triggers an additional traffic study requirement that has to be done. It would take into all the counts on nearby streets, projected increases, daily counts, and the morning and afternoon peak hours. All of that comes in a traffic study. With 100 units, a traffic study would have to be done as part of the site plan review.

Commissioner Green – With 134 units, what would that give us with affordable housing? How many units would that give us?

Brian Haluska – It depends on the square footage of the building. I don’t know the formula off the top of my head.

Commissioner Green – What prevents this from going to nine multi-million dollar condos? Nothing.

Brian Haluska – They wouldn't ask for the density. They get 24 units by right.

Commissioner Green – We are giving them height with this SUP. We had that with the new distillery. They wanted to do nine stories with each story being a million dollar condo. What is preventing that from happening?

Brian Haluska – Nothing.

Commissioner Green – We don't have any guarantees. We have seen a lot of promises made, and there are too many unknowns. Make a commitment.

Chairman Mitchell – I don't think that we can solicit a proffer.

Lisa Robertson – In the zoning code, a property owner has to provide 5% of the floor area that's above 1 FAR. Assuming that they are over 1 FAR with their residential component, 5% of that square footage over 1 FAR, would have to be affordable if they choose the units instead of paying into the fund.

Commissioner Green – This is the exact conversation that we had with the application before about giving away the farm for a small number of units. We are not going to get nine units. The maximum that we could get is nine units.

Commissioner Stolzenberg – Do we have an estimate of what the tax revenue is going to be from this building? As more floor area is cut from the top, that disproportionately taking off from the square footage because that is the part above the 1 FAR?

Lisa Robertson - They would have to have floor area in excess of 24,480 square feet before the Affordable Dwelling Unit Ordinance would kick in.

Chairman Mitchell – I think that it's unlikely we're going to get any affordable units out of this. I think that they are going to contribute to the affordable housing fund. I don't see where we are going to get the units, unfortunately.

Commissioner Stolzenberg – We have a choice between 130 households living in this downtown area, which is the one place in the city where it is easy to live without a car. I think that everyone, who gave a public comment tonight, should be ashamed because you have the privilege of living in this great place. You see these potential neighbors coming in, and you say 'hell no, keep them out.' When the BAR is going to take off a lot off the top of this building, we are going to get less for it. We are all getting less. We are getting less apartments, and especially less affordable housing. We are getting less tax to put into the affordable housing fund. The BAR has aesthetic concerns that they need to address to make this project worse, and to make it 24 units by right. It's going to have enormous apartments. I think that it's a huge mistake to make that kind of choice.

Motion: Commissioner Solla-Yates – I move to recommend approval of a Special Use Permit allowing the specific development proposed within the application materials for SP19-00006 subject to the following reasonable conditions and safeguards, which are listed in the Staff Report. (Seconded by Commissioner Stolzenberg). Motion passed 5-1.

Chairman Mitchell – We will recommend moving forward with the SUP to Council.

2.

SP19-00007 – 167 Chancellor Street – Landowner Alpha Omicron of Chi Psi Corporation is requesting a Special Use Permit (SUP) pursuant to City Code Sec. 34-420, to authorize a specific land use (fraternity house with up to 16 residents) at 167 Chancellor Street (“Subject Property”). The Subject Property is identified on City Tax Map 9 as Parcel 126 (City Real Estate Parcel ID No. 090126000). The Subject Property is zoned R3-H (Residential, medium density "Multifamily"), subject to the Corner Architectural Design Control Overlay District. The Subject Property has an area of approximately 0.138 acres, and it has frontage on both Chancellor Street and Madison Lane. The Comprehensive Land Use Map for this area calls for High Density residential development which is specified as greater than 15 dwelling units per acre.

i. **Staff Report**

Joey Winter, City Planner - This item is a Special Use Permit request for a fraternity with up to 16 residents at 167 Chancellor Street. The Chi Psi fraternity is proposing to expand and renovate their existing chapter house at this location. In addition, modifications to yard regulations are being requested. The Subject Property is zoned R-3H and lies in the Corner Architectural Design Control District. In 1985, City Council approved a Special Use Permit to allow a “sorority complex” with a maximum of 33 residents on the properties at 165 and 167 Chancellor Street. That’s the Subject Property and the adjacent property to the south. The 1985 SUP also modified the setback requirement along Madison Lane for both properties. At the time of that 1985 SUP, both properties shared a single owner and a single use. This is no longer the case. The sorority use at 165 Chancellor Street has been abandoned. 165 Chancellor Street is currently owned by WADS HOLDINGS, LLC and used as a multi-family residence. 167 Chancellor Street – the property we’re focusing on tonight – is currently owned by Chi Psi and used as a fraternity house. I give you this information because the 1985 SUP will come up later in the proposed conditions, but the application before you tonight really only pertains to 167 Chancellor Street. Tonight’s SUP Request for 167 Chancellor Street seeks authorization for a fraternity house with up to 16 residents and modified yard regulations. Detailed analysis is in my staff report, but a fraternity use in this location conforms to the Comprehensive Plan, Future Land Use Plan, and Zoning Ordinance. A maximum of 16 fraternity residents is appropriate if certain conditions are placed on the Special Use Permit. The site lies in the Corner Parking Zone, so off-street vehicle parking is not required. Additional bicycle storage facilities should be required. Proposed sidewalk improvements shown on the preliminary site plan associated with this SUP request should be required. Repairs to an elevated sidewalk on Chancellor St. should be required. Additional improvements to increase ADA accessibility should also be required. City Code Section 34-162 allows City Council to modify yard regulations as an SUP Condition. Modifications to yard regulations are being requested by the applicant to allow architecture more in keeping with the neighborhood and due to the unique geography of the lot. The Subject Property lies in an Architectural Design Control District, so the Board of Architectural Review made a recommendation on this request. B.A.R. recommends that granting this SUP will NOT have an adverse impact on the Corner ADC District. B.A.R. also had no concerns about the modified yard regulations. **CONDITION 1** – Would set the maximum number of fraternity residents at 16. **CONDITION 2** – *This is a tricky one:*

FIRST: It would make clear that the sorority use at 165 Chancellor Street has been abandoned.

SECOND: It would allow the setback along Madison Lane to remain as modified by the 1985 SUP.

The setback along Madison Lane needs to remain modified so the structure at 165 Chancellor Street does not become non-conforming. **CONDITION 3** – Would modify the yard regulations for 167 Chancellor Street as requested by the applicant and recommended by B.A.R. **CONDITION 4**– Would clarify that the only specific provisions of the zoning code are being modified by this SUP. **CONDITION 5** – Would require that bicycle storage facilities be provided at a rate of one per resident. The language of this proposed condition has been modified from what is in your packet. The stipulation that ALL bicycle storage facilities be “bicycle lockers or a sheltered, secure enclosure” has been removed at the request of Commissioner Stolzenberg. **CONDITION 6** – Would require extension of the sidewalk along Madison Lane. **CONDITION 7** – Would require installation of a curb ramp at the end of the sidewalk on Madison Lane. **CONDITION 8** – Would require repair of the elevated sidewalk along Chancellor Street. **CONDITION 9** – Would require an accessible route from the public sidewalk to 167 Chancellor Street. The language of this proposed condition has been modified from what is in your packet. A reference to the “primary entrance” has been removed at the request of the City’s ADA Coordinator. PLEASE ALSO NOTE THAT a new Special Use Permit will “amend and supersede” the 1985 SUP for 165 and 167 Chancellor Street. Some questions to consider with this request tonight: What is the impact of allowing a fraternity with up to 16 residents at 167 Chancellor Street? What is the impact of granting modifications to yard regulations? Are there measures the applicant can take to mitigate any adverse impact on the neighborhood? More specifically, are there measures that can be taken to improve pedestrian traffic, site accessibility, and/or bicycle storage? In conclusion: General Standards for Issuance of a Special Use Permit are found in City Code Section 34-157 and are included in your packet. City Code Section 34-162 which allows the modification of yard regulations as a condition of a Special Use Permit is also included in your packet.

Commissioner Green – Could you go into depth on what Commissioner Stolzenberg asked you to remove?

Joey Winter – The original staff language, which can be found in your packet, specified the bicycle storage facilities all be secured enclosures that are “secured and covered.” That is automatically required by code, which is 34-881. The rest of those bike storage facilities, under the original condition, would not be permitted to be bike racks. That is specifically banned by the code. If this condition is modified, whatever is required by code still has to be secured bike storage facilities, but anything additional that is required by this SUP, would not have to be secured. The requirement of the code is 1 per 500 square feet of bedroom space. This SUP would impose additional requirements. What those additional requirements are, whether they are covered or bike racks, would not be specified with the modified condition. The suggested language be “bicycle storage facilities shall be provided at a rate of one bicycle storage facility per resident and all such facilities shall be permitted by the zoning ordinance.”

Commissioner Dowell – Why would we have the requirement of some of them to be secured bicycle storage facilities and others not?

Joey Winter – The requirement that they be secured facilities is in the code, and we cannot change that. Staff has proposed the additional bike parking be required due to the lack of vehicle parking at

the site and the heavy amount of pedestrian traffic. That additional amount of bicycle parking, the code does not specify what it has to be.

Commissioner Dowell – If we are going to have bike rack facilities and they have to be secured, why would we not be consistent, regardless if it is required by code or not?

Commissioner Stolzenberg – My thought was that the required ones are for the residents of the house. The additional ones can be used by the public.

Commissioner Lahendro – I do want to be clear what was approved at the BAR meeting. I believe that this came to the last BAR meeting. What was approved? I am reading that general design and building footprint will not have an adverse impact, with the understanding that the final design details will require future BAR review and approval.

Joey Winter – The BAR made a recommendation based on these materials.

ii. Public Comment

Thomas Susa, House Manager for the fraternity – Asked to speak with you about the Chi Psi reputation within the University and the Charlottesville community. We continued to work on providing education for alcohol. Over 50% of Chi Psi brothers have volunteered within the community.

iii. Applicant

Kevin Eller, President Chi Psi Alumni Corporation – We are the driving force behind this project. When we bought this property in 2015, we knew that we were going to need some improvement to it. We thought about what we could do with this property to make it a top notch place, to make it better, while preserving the historical presence in the neighborhood. We partnered with Design Develop.

Kevin Schafer, Project Manager – I would like to acknowledge the city staff, who have been working on this project. I would like to explain the entitlement process to date for Chi Psi and touch on what lies ahead. On October 31, 2017, we presented a very preliminary submission to the BAR, which attempted to accommodate this desired expansion through minimal footprint disturbance and a vertical expansion. In this BAR review, this submission changed the scale of the historic Chancellor Street façade. In our attempts to retain the historic characteristics of the front porch and the three sided asymmetrical bump out were overshadowed by vertical dormers and stair tower addition. The BAR mandated this at the October meeting that the historic characteristics of 167 Chancellor Street must remain. These historic characteristics, as defined by the City of Charlottesville, include the asymmetrical three sided bump out, the front porch, the historic dormers, and the low hipped roof. All of those occur on the Chancellor Street side. The BAR provided specific direction at this preliminary meeting that encouraged us to expand into our setbacks, targeting an area of land towards Madison Lane and towards the intersection of Chancellor Street and Madison Lane. At this direction of the BAR, the revised design shifted into those areas for the addition to more legibly separate itself from the defining characteristics of this

historic structure, while complimenting the massing, fenestration, and material palette already established. On March 27, 2018, we resubmitted to the BAR for massing and concept approval. The design garnered a 6-0 unanimous for massing and concept in the April, 2018 BAR meeting. This unanimous approved concept is what is presented in the Special Use Permit application. Since that time, the Chi Psi Corporation took 18 months off to pursue more fundraising. With that time to fundraise complete, we initiated the entitlement process again, which prompted an October, 2019 BAR hearing. At that hearing, it was again determined, that the approach that we were taking was a sound one and the proposed Special Use Permit for 167 Chancellor Street would not have an adverse impact on The Corner ADC District. The Board reiterated its support of the project by approving the motion unanimously with a 6-0 vote. If we are able to secure a Special Use Permit, the BAR will have a third and final review. This parcel is under the purview of an existing Special Use Permit from 1987 that is linked to the adjacent parcel at 165 Chancellor Street. While our application is for a new Special Use Permit, another way to vocalize our request is that we are amending the existing SUP and separating it into two parcels. We are not requesting to change the use and we are not requesting to increase the density. We are requesting additional setback variances accommodate this new addition, which has been separated from the historic structure and positioned towards Madison Lane and the intersection of the two streets. The existing structure already steps outside of the allowable setbacks. This additional variance is not without precedent. We believe that the proposal in front of you positively effects the neighborhood by meeting all of the requirements for standards of issuance. The use is keeping with adjacent uses. Given the corner lot condition, the house has the opportunity to address both street fronts, creating a project that will be harmonious with existing patterns of development within the neighborhood. This project celebrates and preserves the defining historic Chancellor Street façade elements, which are more in keeping with the existing patterns of development found in adjacent structures along Chancellor Street. The proposal responds to and harmonizes with existing patterns of development found in adjacent structures along Madison Lane. The proposal conforms to the City of Charlottesville comprehensive plan, which outlines this site for high density residential. The proposal is in harmony with this specific zoning district, which encourages more high density residential. The proposed addition and renovation will comply with all applicable building codes, while eliminating third floor bedrooms. The proposal will not result in additional parking and traffic congestion, noise, light, & dust, will not displace any residents or businesses, will not discourage any economic activities, and will not reduce the availability of affordable housing. The BAR has determined that the proposed project does not destruct or encroach upon conservation or historic districts or structures. The proposed project will not have an impact on public school population or public facilities. The proposal has data, which outlines even with the new addition, our project will be below that of the precinct square foot average. Our project is shorter than that of many of its contexts. We are happy to fulfill all staff conditions, including extending the sidewalk to the intersection of Madison Lane and Chancellor Street. Currently, there is no sidewalk at this location, and pedestrians are forced to walk on the street. Existing overgrown landscape will be removed and replanted with new street trees, improving pedestrian safety and the overall look of the parcel. We are happy to repair the sidewalk on Chancellor Street side and provide an ADA accessible route from a public right of way. A boundary line adjustment has been proposed to give that back to the City of Charlottesville.

Commissioner Solla-Yates – Why not higher?

Kevin Schafer – Higher creates egress challenges. We are trying to be respectful of the defining historic characteristics found on the Chancellor Street side. The BAR would like for us to retain the low hipped roof.

Commissioner Palmer – Did you look at continuing the sidewalk on Chancellor Street?

Kevin Schafer – There are some really extreme grade challenges. There is a very steep bank that drops off towards the road. There is a new sidewalk on the other side of Chancellor Street. Directly across Madison Lane, there is an existing curb cut. One of the conditions for approval was to make sure that our sidewalk aligned with that.

Motion: Commissioner Dowell – **On the basis that the proposal will serve as public necessity convene general welfare and good zoning practice, I move to recommend approval of this application for a Special Use Permit to authorize a boarding a fraternity or sorority house use with up to 16 residents at 167 Chancellor Street within a building of general size and location depicted within the proposed preliminary site plan dated September 17, 2019, subject to the following conditions: the nine modified conditions presented in the staff report tonight. (Seconded by Commissioner Green). Motion passed 6-0.**

Motion to adjourn at 10:15 PM until the second Tuesday in December.

IV. COMMISSION'S ACTION ITEMS